

## **Title 1 GENERAL PROVISIONS**

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### **Chapter 1.01 CODE ADOPTION**

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**1.01.010 Adoption.**

Pursuant to the provisions of Sections 50022.1 through 50022.8 and 50022.10 of the Government Code, there is hereby adopted the "San Carlos Municipal Code," published by Book Publishing Company, Seattle, Washington, together with those secondary codes previously adopted by reference as authorized by the California State Legislature, save and except those portions of the secondary codes as are deleted or modified by the provisions of the "San Carlos Municipal Code." (Ord. 1037 § 1, 1989)

**1.01.020 Title—Citation—Reference.**

This Code shall be known as the "San Carlos Municipal Code" in any prosecution for the violation of any provision thereof or in any proceeding at law or equity. It shall be sufficient to designate any ordinance adding to, amending, correcting or repealing all or any part or portion thereof as an addition to, amendment to, correction or repeal of the "San Carlos Municipal Code." Further reference may be had to the titles, chapters, sections and subsections of the "San Carlos Municipal Code" and such references shall apply to that numbered title, chapter, section or subsection as it appears in the Code. (Ord. 1037 § 2, 1989)

**1.01.030 Codification authority.**

This Code consists of all the regulatory and penal ordinances and certain of the administrative ordinances of the City of San Carlos, California, codified pursuant to the provisions of Sections 50022.1 through 50022.8 and 50022.10 of the Government

Code. (Ord. 1037 § 3, 1989)

**1.01.040 Ordinances passed prior to adoption of the Code.**

The last ordinance included in this Code was Ordinance 1019, passed February 27, 1989. The following ordinances, passed subsequent to Ordinance 1019, but prior to adoption of this Code, are adopted and made a part of this Code: Ordinances 1020 through 1035. (Ord. 1037 § 4, 1989)

**1.01.050 Reference applies to all amendments.**

Whenever a reference is made to this Code as the "San Carlos Municipal Code" or to any portion thereof, or to any ordinance of the City of San Carlos, California, the reference shall apply to all amendments, corrections and additions heretofore, now or hereafter made. (Ord. 1037 § 5, 1989)

**1.01.060 Title, chapter and section headings.**

Title, chapter and section headings contained in this Code shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning or intent of the provisions of any title, chapter or section hereof. (Ord. 1037 § 6, 1989)

**1.01.070 References to specific ordinances.**

The provisions of this Code shall not in any manner affect matters of record which refer to, or are otherwise connected with ordinances which are therein specifically designated by number or otherwise and which are included within the Code, but such reference shall be construed to apply to the corresponding provisions contained within this Code. (Ord. 1037 § 7, 1989)

**1.01.080 Effect of Code on past actions and obligations.**

Neither the adoption of this Code nor the repeal or amendment hereby of any ordinance or part or portion of any ordinance of the City shall in any manner affect the prosecution for violations of ordinances, which violations were committed prior to the effective date of this Code, nor be construed as a waiver of any license, fee or penalty at said effective date due and unpaid under such ordinances, nor be construed as affecting any of the provisions of such ordinances relating to the collection of any such license, fee or penalty, or the penal validity of any bond or cash deposit in lieu thereof required to be posted, filed or deposited pursuant to any ordinance; and all rights and obligations thereunder appertaining shall continue in full force and effect. (Ord. 1037 § 8, 1989)

**1.01.090 Effective date.**

This Code shall become effective on the date the ordinance adopting this Code as the "San Carlos Municipal Code" becomes effective. (Ord. 1037 § 9, 1989)

**1.01.100 Constitutionality.**

If any section, subsection, sentence, clause or phrase of this Code is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Code. The Council hereby declares that it would have passed this Code, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases had been declared invalid or unconstitutional; and if for any reason this Code should be declared invalid or unconstitutional, then the original ordinance or ordinances shall be in full force and effect. (Ord. 1037 § 10, 1989)

**Chapter 1.04  
GENERAL PROVISIONS**

Sections:

**1.04.010 Construction.**

**1.04.020 Interpretation of language.**

**1.04.030 Reference to acts or omissions within City.**

**1.04.040 Prohibited acts include causing and permitting.**

**1.04.050 Acts by agents.**

**1.04.060 Grammatical interpretation.**

**1.04.070 Reference applies to amendments.**

**1.04.080 Notice—Method of service.**

**1.04.090 Notice—Proof by affidavit.**

**1.04.100 Definitions.****1.04.010 Construction.**

Unless the context of the provisions otherwise requires, general provisions of this Code and all proceedings under it are to be construed with a view to effect its objects and promote justice. (Prior code § 1300)

**1.04.020 Interpretation of language.**

Article and section headings contained in this Code shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning or intent of the provisions of any article or section of this Code. (Prior code § 1301)

**1.04.030 Reference to acts or omissions within City.**

This Code shall refer only to the omission or commission of acts within the territorial limits of the City and to that territory outside of the City over which the City has jurisdiction or control by virtue of the Constitution, or any law, or by reason of ownership or control of property. (Prior code § 1302)

**1.04.040 Prohibited acts include causing and permitting.**

Whenever in this Code any act or omission is made unlawful, it shall include causing, permitting, aiding, abetting, suffering or concealing such act or omission. (Prior code § 1303)

**1.04.050 Acts by agents.**

Whenever a power is granted to, or a duty is imposed upon a public officer, or employee, the power may be exercised, or the duty may be performed by a deputy of such officer or employee or by a person otherwise duly authorized pursuant to law or ordinance, unless the Code expressly provided otherwise. (Prior code § 1304)

**1.04.060 Grammatical interpretation.**

Writing includes any form of recorded message capable of comprehension by ordinary visual means. Whenever any notice, report, statement or record is required or authorized by this Code, it shall be made in writing in the English language unless expressly provided otherwise. (Prior code § 1305)

**1.04.070 Reference applies to amendments.**

Whenever a reference is made to any portion of this Code, or to any ordinances of the City of San Carlos, California, the reference applies to all amendments and additions now or hereafter made. (Prior code § 1306)

**1.04.080 Notice—Method of service.**

Whenever a notice is required to be given under this Code, unless different provisions are otherwise specifically made in this Code, such notice may be given either by personal delivery thereof to the person to be notified or by deposit in the United States Mail, in a sealed envelope, postage prepaid, addressed to such person to be notified, at his last known business or residence address as the same appears in the public records of the City or other records pertaining to the matter to which such notice is directed. Service by mail shall be deemed to have been completed at the time of deposit in the Post Office. (Prior code § 1307)

**1.04.090 Notice—Proof by affidavit.**

Proof of giving any notice may be made by the certificate of any officer or employee of the City, or by affidavit or any person over the age of eighteen years, which shows service in conformity with this Code, or other provisions of law applicable to the subject matter concerned. (Prior code § 1308)

**1.04.100 Definitions.**

For the purposes of this Code, unless the context clearly indicates otherwise, certain words and phrases used throughout this Code are defined as follows:

1. "City" means the City of San Carlos, California.
2. "City Council" means the City Council of the City of San Carlos, California.
3. "City Hall" means the public building 666 Elm Street, San Carlos, California.
4. "City manager" means the appointed official of the City who occupies the position as the Chief Administrative Officer of the City of San Carlos, California.
5. "County" means San Mateo County.
6. Gender. The masculine gender includes the feminine and neuter.

7. "Goods" means all things (including specially manufactured goods) which are movable; investment securities and things in action. "Goods" also means and includes the unborn young animal and growing crops and other identified things attached to realty as described in Section 2107 of the Commercial Code.

8. Number. The singular number includes the plural, and the plural, the singular.

9. "Oath" means and includes affirmation.

10. Office. The use of the title of any officer, employee, officer or ordinance shall mean such officer, employee, office or ordinance of the City.

11. "Operate" means and includes to carry on, keep, conduct or maintain.

12. "Owner," as applied to a building or land, means that person or those persons whose real property taxes are assessed as stated in the last equalized assessment roll or that person or those persons to whom the aforesaid owner has transferred his interest or that person or those persons entitled to possession and/or control of the property.

13. "Person" means and includes any persons, partnership, corporation or unincorporated association.

14. "Sale" means and consists of the passing of title from the seller to the buyer for a price as defined in Section 2401 of the Commercial Code.

15. Shall and May. Shall is mandatory and may is permissive.

16. "State" means the State of California.

17. "Street" means and includes all streets, highways, avenues, lanes, alleys, courts, places, squares, sidewalks, parkways, curbs or other public ways in the City of San Carlos which have been or may hereafter be dedicated and open to public use, or such other public property so designated in any law of the State of California.

18. "Tenant" or "occupant," applied to a building or land means and includes any person who occupies the whole or part of such building or land, whether alone or with others.

19. Tenses. The present tense includes the past and future tenses, and the future, the present. (Amended during 1989 recodification; prior code §§ 1400 — 1417)

## Chapter 1.08 CITY SEAL

Sections:

**1.08.010 Content of seal.**

**1.08.020 Color and design.**

**1.08.030 Impression seal—Purpose.**

**1.08.040 Other designated uses.**

**1.08.010 Content of seal.**

The following described seal is adopted for the City: A seal circular in form with a diameter of two and one-eighth inches, and which shall have inscribed thereon a pictorial representation of a white oak tree in the center of the seal with an industrial structure shown on one side and a typical residence on the other, and bearing beneath it the inscription: "The City of Good Living." This shall constitute the center portion of the seal and shall be surrounded by a convex scalloped border. The central theme shall be surrounded by a band at the top of which shall be inscribed "City of San Carlos," and at the base thereof shall be inscribed "California." (Ord. 1322 § 1, 2003: Ord. 264 § 1 (part), 1950)

**1.08.020 Color and design.**

The coloring of all seals of the City, excepting the impression seal, shall be as follows: All inscriptions and outlines shall be in black, the white oak foliage shall be green, and the background shall be in gold and white. (Ord. 264 § 1 (part), 1950)

**1.08.030 Impression seal—Purpose.**

The impression seal shall be used for all official business of the City of San Carlos. (Ord. 264 § 2, 1950)

**1.08.040 Other designated uses.**

The design of the seal shall be used upon all stationery of the City and shall be placed upon at least one visible place on all vehicles and movable street equipment with the exception of vehicles which shall be designated by the Chief of Police, and shall be for the use of the Police Department in crime detection; and such seals shall be of such size and proportion as may be selected from time to time by the City Council. (Ord. 446 § 2, 1958)

## **Chapter 1.16 ARREST PROCEDURE**

Sections:

**1.16.010 Notice to appear—Required when.**

**1.16.020 Notice to appear—Violation.**

**1.16.030 Warrant for arrest.**

**1.16.010 Notice to appear—Required when.**

If any person is arrested for the violation of any ordinance of the City and such person is not immediately taken before a magistrate as prescribed in the State Penal Code, the arresting officer shall prepare in duplicate a written notice to appear in court, containing the name and address of such person, the offense charged, and the time and place where and when such person shall appear in court. (Ord. 490 § 1 (part), 1959)

**1.16.020 Notice to appear—Violation.**

Any person wilfully violating his written promise to appear in court is guilty of a misdemeanor regardless of the disposition of the charge upon which he was originally arrested. (Ord. 490 § 1 (part), 1959)

**1.16.030 Warrant for arrest.**

When a person signs a written promise to appear at the time and place specified in the written promise to appear and has not posted bail as provided in Section 853.1 of the State Penal Code, the magistrate shall issue and have delivered for execution a warrant for his arrest within twenty days after his failure to appear as promised, or if such person promises to appear before an officer authorized to accept bail other than a magistrate and fails to do so on or before the date which he promises to appear, then within twenty days after the delivery of such written promise to appear by the officer to a magistrate having jurisdiction over the offense. (Ord. 490 § 1 (part), 1959)

## **Chapter 1.20 PENALTIES**

Sections:

**1.20.010 Compliance with Code provisions required.**

**1.20.020 General penalty.**

**1.20.030 Separate offense for each violation.**

**1.20.040 Permitted or existing violations deemed public nuisance.**

**1.20.050 Administrative provision violations.**

**1.20.060 Violation—Abatement.**

**1.20.070 Administrative and abatement costs.**

**1.20.080 Code compliance process.**

**1.20.090 Enforcement authority.**

**1.20.100 Notice of recordation.**

**1.20.110 Mediation.**

**1.20.010 Compliance with Code provisions required.**

No person shall violate any provision, or fail to comply with any of the requirements of this Code. (Ord. 490 § 1 (part), 1959)

**1.20.020 General penalty.**

A. Any person violating any of the provisions or failing to comply with any of the mandatory requirements of the ordinances of the City, is guilty of a misdemeanor, unless the violation is made an infraction by ordinance.

B. Except in cases where a different punishment is prescribed by any ordinance of the City, any person convicted of a misdemeanor for violation of an ordinance of the City is punishable by a fine of not more than one thousand dollars, or by imprisonment not to exceed six months, or by both such fine and imprisonment.

C. Any person convicted of an infraction for violation of an ordinance of the City is punishable by:

1. A fine not exceeding one hundred dollars for a first violation;

2. A fine not exceeding two hundred dollars for a second violation of the same ordinance within one year; or

3. A fine not exceeding five hundred dollars for each additional violation of the same ordinance within one year.

D. Each person is guilty of a separate offense for each and every day during any portion of which any violation of any provision of this Code is committed, continued or permitted by any such person, and he shall be punishable accordingly.

E. In addition to the penalties set out in this Code, any condition caused or permitted to exist in violation of any of the provisions of this Code shall be deemed a public nuisance and may be, by the City, summarily abated as such, and each day such condition continues shall be regarded as a new and separate offense.

F. Notwithstanding any other provision of this Code, whenever violation of any section of this Code is punishable as a misdemeanor, the Prosecuting Attorney may specify that the offense is an infraction and proceed with prosecution as an infraction unless the defendant, at the time of arraignment or plea, objects to the offense being an infraction, in which event the complaint shall be amended and the case shall proceed on a misdemeanor complaint. (Ord. 1113 § 1, 1992; Ord. 978 § 2 (part), 1987)

**1.20.030 Separate offense for each violation.**

Each such person shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of this Code is committed, continued or permitted by such person, and he shall be punished accordingly. (Ord. 490 § 1 (part), 1959)

**1.20.040 Permitted or existing violations deemed public nuisance.**

In addition to the penalties provided for in this chapter, any condition caused or permitted to exist in violation of any of the provisions of this Code shall be deemed a public nuisance and may be, by the City, summarily abated as such, and each day such condition continues shall be regarded as a new and separate offense. (Ord. 490 § 1 (part), 1959)

**1.20.050 Administrative provision violations.**

The violation of any administrative provision of this Code by any officer or employee of the City may be deemed a failure to perform the duties under, or observe the rules and regulations of, the department, office or board within the meaning of the Civil Service Ordinance, codified in Chapter 2.44 of this Code and rules and regulations of the City. (Ord. 490 § 1 (part), 1959)

**1.20.060 Violation—Abatement.**

A. Violations as a Misdemeanor or Infraction. In addition to the penalties provided for in this chapter, any condition caused or permitted to exist in violation of any of the provisions of the Code may, in the City Attorney's discretion, constitute either a misdemeanor, an infraction pursuant to Section 1.20.020(F) of this code, or may constitute a citable offense or any combination thereof. In addition, violations of this chapter may result in the payment of fines and fees by the property owner or responsible party as established by City Council resolution for the recovery of administrative expenses and abatement costs.

B. Chapter Provisions Not Exclusive. Notwithstanding the enforcement procedures as set forth in this chapter, the City may proceed to enforce any violation of its Code in any manner authorized by law. (Ord. 1179 § 5 (part), 1995)

**1.20.070 Administrative and abatement costs.**

A. Whenever a public nuisance as defined in this chapter is found to exist as a result of an inspection, the reasonable administrative expenses as determined by the City Council and actual abatement costs as set by City Council resolution, shall be paid by the property owner. The City Council shall, from time to time, determine and fix an amount to be assessed as administrative expenses and abatement costs for violations of this chapter.

B. Pursuant to Section 38773.5 of the California Government Code, in any action, administrative proceeding, or special proceeding brought by the City to abate a public nuisance, the prevailing party shall be entitled to reasonable attorney's fees. Recovery of attorney's fees shall be limited as follows:

1. To those actions or proceedings where the City has elected to recover attorney's fees at the initiation of such actions or proceedings.
2. The amount of attorney's fees in any action, administrative action, or special proceeding awarded to a prevailing party shall not exceed the amount of reasonable attorney's fees incurred by the City in the action or proceeding. (Ord. 1222 § 1, 1996; Ord. 1179 § 5 (part), 1995)

**1.20.080 Code compliance process.**

The Council adopts the following basic principles to guide the City's Code compliance process:

- A. It is the responsibility of the property owner and his/her builder or contractor or other responsible person to understand and comply with all applicable provisions of this Code.
- B. The City has a duty and responsibility to investigate, enforce and prioritize Code violations in order to obtain compliance with City Code provisions. The City requires written and signed complaints from members of the public for the enforcement of violations which are not visible from the public right-of-way.
- C. When a Code violation is discovered, any related construction or demolition work activity shall cease immediately.
- D. No City official has the authority to waive the need for a permit required by the City Code unless expressly given that right by the City Code or court order.
- E. When a Code violation occurs, the person responsible for the violation shall be responsible for the City's costs of obtaining compliance with the City's regulations. (Ord. 1201 § 1, 1996)

**1.20.090 Enforcement authority.**

The City Manager or his/her designee, as Code Enforcement Officer, shall enforce the violations of this Code. (Ord. 1201 § 2, 1996)

**1.20.100 Notice of recordation.**

A. In addition to any other remedy provided for violations of the provisions of this Code, or any other ordinance of the City, or the provisions of any Code adopted by reference by this Code, whenever the City has knowledge of an alleged violation that relates in any way to the occupation of real property within the City, it may provide a notice of Code violation to the owner of the property upon which the alleged violation is located, or where different from the owner, to the person(s) responsible for causing or maintaining such alleged violation. Notice shall be provided to the property owner by U.S. mail at the address shown on the latest assessment roll or at any other address of the owner known to the Code Enforcement Officer. In the event the owner's address is unknown, notice shall be conspicuously posted on or in front of the property, in a form to be approved by the Code Enforcement Officer. Notice to any responsible person shall be by U.S. mail to the street address of the property or by posting notice on the property.

B. The notice shall specify the property address, the owner's name, any responsible party's name, and the nature of the alleged violation(s), including reference to the pertinent Code section(s). The notice shall provide a list of corrections needed to bring the property into compliance, a deadline or specific date to correct the violations, and an indication of the potential consequences should the property remain in violation, including, but not limited to: criminal prosecution, civil injunction, civil penalties, administrative costs, recordation of the notice, and withholding of future permits and inspections. The potential consequences listed should be commensurate with the nature and severity of the alleged violation.

C. The notice shall also state that within twenty days after the date of the notice, the owner and/or any responsible person may request a hearing by the City Manager to present evidence that a Code violation does not exist. If a hearing is requested, the City Manager shall set a date and time for a hearing with the owner and/or responsible person to discuss the alleged violation, its substance, compliance procedures, remedies and potential consequences of failure to remedy, as soon as possible after receipt of request for such hearing. At the time and place set for a hearing before the City Manager, he or she shall hear evidence for and against the alleged Code violation. The City Manager may continue any hearing from time to time. Within a reasonable time, but not more than ten working days after the conclusion of the hearing, the City Manager shall determine whether or not a Code violation exists, which in his or her opinion is supported by the evidence presented at the hearing. Notice of the decision of the City Manager shall be mailed to the applicant and to any other person requesting such notice.

D. In the event a hearing is not requested and the alleged violation has not been corrected or a corrective plan of action is not approved by the Code Enforcement Officer within thirty days of notice or in the event that, after consideration of evidence, the City Manager determines that a violation of one or more of said City Codes or ordinances in fact exists, the Code Enforcement

Officer shall issue a notice of intent to record the notice of Code violation. A copy of the notice of intent shall be provided by personal delivery or certified U.S. mail to the property owner and to any responsible person.

E. If the owner or the responsible person disagrees with the determination of the City Manager, either party may appeal the decision to the City Council pursuant to Chapter 1.25 of this Code.

F. In the event that the Code violation has not been corrected within forty-five days of the date of the notice of intent, and there has been no appeal filed, the Code Enforcement Officer shall record the notice of violation with the Office of the County Recorder of San Mateo County. If there has been an appeal filed, the City Council has found that a violation exists, and the Code violation has not been corrected within forty-five days of the final determination, the Code Enforcement Officer shall record the notice of violation with the Office of the County Recorder of San Mateo County. The recorded notice of violation shall include the name of the property owner, assessor's parcel number, the parcel's legal description, and a requirement that the Code violation be corrected prior to sale of the residence. A copy of the notice of violation shall be provided by certified U.S. mail to the property owner and any responsible person.

G. Upon the correction of any violation noticed pursuant to this section, the Code Enforcement Officer shall issue a notice of release of Code violation. A notice of release of Code violation shall be issued and recorded by the Code Enforcement Officer only if:

1. All violations listed in the notice of violation have been corrected;
2. All necessary permits have been issued and finalized;
3. Any required civil penalties or administrative penalties have been paid.

H. Notwithstanding the foregoing provision, however, the City may pursue such violations where the Code Enforcement Officer determines that a health and/or safety hazard exists from the violation. (Ord. 1201 § 3, 1996)

#### **1.20.110 Mediation.**

At any stage of a Code compliance proceeding, including during a civil action, the matter may be referred to mediation by the City, or by a court that has jurisdiction over the matter. The mediation shall be held before a neutral third party agreed to by the parties or appointed by the Presiding Judge of the Superior Court in and for the County of San Mateo. Fees incurred during the mediation process shall be shared equally by all parties involved. (Ord. 1201 § 4, 1996)

## **Chapter 1.25 APPEALS**

Sections:

**1.25.010 Right to appeal.**

**1.25.020 Time for filing.**

**1.25.030 Hearings—Notices.**

**1.25.040 Hearings—Action.**

#### **1.25.010 Right to appeal.**

Except where an appeals procedure is otherwise specifically set forth in this Code, any person excepting to the denial, suspension or revocation of a permit applied for or held by him pursuant to any of the provisions of this Code, or to any administrative decision made by any official of the City, if the denial, suspension or revocation of such permit or the determination of such administrative decision involves the exercise of administrative discretion or personal judgment exercised pursuant to any of the provisions of this Code, may appeal in writing to the Council by filing with the City Clerk a written notice of such appeal, setting forth the specific grounds thereof.

No right of appeal to the Council from any administrative decision made by an official of the City pursuant to any of the provisions of this Code shall exist when such decision is ministerial and thus does not involve the exercise of administrative discretion or personal judgment exercised pursuant to any of the provisions of this Code, whether the administrative decision involves the denial, suspension or revocation of a permit or any other administrative decision. (Ord. 1062 § 1 (part), 1991)

#### **1.25.020 Time for filing.**

The appellant shall file a notice of appeal with the City Clerk within ten days after notice of the administrative decision concerned. (Ord. 1062 § 1 (part), 1991)

**1.25.030 Hearings—Notices.**

Upon the filing of the notice of appeal in proper form, the City Clerk shall place the matter on a Council agenda at least ten days, and no more than sixty days, after the date of the filing of the notice of appeal. The City Clerk shall cause a written notice of the hearing to be given to the appellant not less than ten days prior to such hearing. (Ord. 1062 § 1 (part), 1991)

**1.25.040 Hearings—Action.**

At the hearing before the City Council, the appellant shall show cause on the grounds set forth in the notice of appeal why the action appealed from should not be approved. The Council may continue the hearing from time to time, and its findings on the appeal shall be final and conclusive in the matter. (Ord. 1062 § 1 (part), 1991)

## **Chapter 1.26 PROCEDURE AND LIMITATIONS PERIOD FOR FILING CLAIMS**

Sections:

**1.26.010 Authority.****1.26.020 Claims required.****1.26.030 Presentment of claims.****1.26.040 Form of claim.****1.26.050 Claim prerequisite to suit.****1.26.060 City action on claim.****1.26.010 Authority.**

This chapter is enacted pursuant to California Government Code Section 935. (Ord. 1293 § 1 (part), 2001)

**1.26.020 Claims required.**

All claims against the City for money, damages or tax or assessment refunds, not otherwise governed by the Tort Claims Act, California Government Code Sections 900, et seq., or any other law of the State of California (hereinafter "claims") shall be governed by the provisions of this chapter. (Ord. 1293 § 1 (part), 2001)

**1.26.030 Presentment of claims.**

Claims against the City governed by this chapter shall be presented not later than one year after the accrual of the claim. A tax or assessment refund claim shall be deemed to accrue as of the date of payment of the tax or assessment. (Ord. 1293 § 1 (part), 2001)

**1.26.040 Form of claim.**

All claims shall be made in writing and verified by a claimant or by the claimant's guardian, conservator, executor or administrator. No claim may be filed on behalf of a class of persons unless verified by every member of the class. In addition, all claims shall contain the information required by California Government Code Section 910. Claims shall be made on a form provided by the City Clerk and shall be filed with the City Clerk. (Ord. 1293 § 1 (part), 2001)

**1.26.050 Claim prerequisite to suit.**

All claims shall be presented as provided in this chapter and acted upon by the City Council prior to the filing of any lawsuit or action on such claim, and no lawsuit or action shall be maintained by a person or entity that has not complied with this chapter. (Ord. 1293 § 1 (part), 2001)

**1.26.060 City action on claim.**

The City Council shall act to approve or deny a claim within forty-five days of its presentment as required under this chapter. Failure of the City Council to act within the time required shall be deemed a denial of the claim. (Ord. 1293 § 1 (part), 2001)

## **Chapter 1.30 DEVELOPER INDEMNIFICATION**

Sections:

**1.30.010 Purpose.****1.30.020 Definitions.****1.30.030 Indemnity required.**

**1.30.010 Purpose.**

- A. The City presently requires developers and other applicants for permits to develop real property to pay fees to mitigate the fiscal impact of processing applications.
- B. The costs associated with defending a legal action brought by a third party challenging the City's approval of a permit or entitlement for development should be a cost burden of the real party-in-interest who is the applicant for such development and not the City. (Ord. 1309 § 1 (part), 2002)

**1.30.020 Definitions.**

- A. "Developer" means any applicant for a permit or entitlement for development.
- B. "Development" means a land use permit or entitlement under this code and shall include determination under the California Environmental Quality Act (CEQA), including but not limited to General Plan or zoning modification, use permit, variance exception, site development, and site design permits, and building permits. The term shall not include a subdivision. (Ord. 1309 § 1 (part), 2002)

**1.30.030 Indemnity required.**

Any developer issued a permit for development by the City shall, as a condition of such permit, indemnify, defend and hold harmless the City, its officers, employees and agents, from any and all claims and lawsuits from third party(ies) involving or related to the City's approval of the developer's application for development. (Ord. 1309 § 1 (part), 2002)

**Title 2  
ADMINISTRATION AND PERSONNEL Revised 3/24**

**Chapters:****2.04 City Manager****2.08 City Council Revised 3/24****2.09 City Clerk****2.10 City Treasurer****2.11 City Attorney****2.12 Finance Director****2.16 Department of Planning****2.24 Commissions****2.28 Emergency Organization and Preparedness****2.36 Elections****2.40 Redevelopment Agency****2.44 Personnel System**

**Chapter 2.04  
CITY MANAGER**

**Sections:****2.04.010 Office created.****2.04.020 Residence.****2.04.030 Bond.****2.04.040 Acting City Manager.****2.04.050 Compensation.****2.04.060 Powers and duties.**

**2.04.070 Emergency authority.****2.04.080 Political participation.****2.04.090 Council-Manager relations.****2.04.100 Relations with commissions and boards.****2.04.110 City Manager relations with State and Federal elected officials.****2.04.120 Removal.****2.04.130 Agreement on employment.****2.04.010 Office created.**

The office of City Manager is created and established. The City Manager shall be appointed by the City Council on the basis of administrative and executive ability and qualifications, and shall hold office at the pleasure of the City Council. Where the term "City Administrator" is found in the Municipal Code, it shall be considered the same position as "City Manager." (Ord. 1457 § 2 (part), 2013: Ord. 1094 § 1 (part), 1991)

**2.04.020 Residence.**

Residence in the City shall not be required as a condition of the City Manager's employment, although residency is encouraged where feasible as determined by the City Manager. (Ord. 1457 § 2 (part), 2013: Ord. 1094 § 1 (part), 1991)

**2.04.030 Bond.**

A. The City Manager shall be bonded with a corporate surety bond to be approved by the City Council, in such sum as may be determined by the Council, which shall be conditioned upon the faithful performance of the duties imposed upon the City Manager as prescribed in this chapter. Any premium for the required bond shall be a proper charge against the City.

B. The City Manager shall adhere to the Code of Ethics of the International City/County Management Association (ICMA). (Ord. 1457 § 2 (part), 2013: Ord. 1268 § 1 (part), 1999; Ord. 1094 § 1 (part), 1991)

**2.04.040 Acting City Manager.**

The City Manager shall designate a qualified City employee or those persons who fill City positions pursuant to an employment or consulting contract, to exercise the powers and perform the duties of City Manager during his/her temporary absence or disability. In the event of the City Manager's absence or disability extending more than one month, or in the event of the City Manager's permanent separation from the City, the City Council may appoint an acting or interim City Manager. (Ord. 1457 § 2 (part), 2013: Ord. 1306 § 1, 2002: Ord. 1094 § 1 (part), 1991)

**2.04.050 Compensation.**

The City Manager shall receive such compensation as the City Council shall from time to time determine. In addition, the City Manager shall be reimbursed for all actual and reasonable expenses incurred in the course of official City business. (Ord. 1457 § 2 (part), 2013: Ord. 1094 § 1 (part), 1991)

**2.04.060 Powers and duties.**

The City Manager shall be the administrative head of the government of the City under the direction of the City Council. The City Manager shall be responsible for the efficient administration of all the affairs of the City that are under his/her control. It is the City Manager's duty to put aside personal views and implement City Council policy and direction at all times. The City Manager shall keep all Councilmembers informed of key issues and developments affecting the City. In addition to general powers as administrative head, and not as a limitation thereon and except as otherwise provided in a written agreement with the City, it shall be the City Manager's duty and he or she shall have the following powers:

A. Enforcement of Laws. It shall be the duty of the City Manager to enforce all laws and ordinances of the City, and to see that all franchises, contracts, permits and privileges granted by the City Council are fulfilled;

B. Authority over Employees. The City Manager shall have the authority to supervise, develop, motivate, evaluate, manage and generally give directions to all nonelected heads of departments, and to subordinate officers and employees of the City, including those who fill positions pursuant to an employment or consulting contract, except the City Attorney, who shall answer directly to the City Council;

C. Powers of Appointment and Removal. It shall be the duty of the City Manager to appoint, remove, promote and demote any and all nonelected employees of the City, subject to applicable ordinances, personnel rules and regulations, which the City

Manager amends, revises and administers, and, on behalf of the City, prepare and enter into separation agreements with officers and employees, except the City Attorney, who is appointed and removed directly by the City Council;

D. Administrative Reorganization of Offices. It shall be the duty and responsibility of the City Manager to effect such administrative reorganization of offices, positions or units under his/her direction as may be indicated in the interest of efficient, effective and economical conduct of the City's business. Such reorganizations or changes of positions shall become effective after being approved by the City Council;

E. Attendance at Council Meetings. It shall be the duty of the City Manager to attend all meetings of the City Council unless he/she is excused therefrom by the Mayor individually or the City Council;

F. Recommend to the City Council for adoption such measures and ordinances as he or she deems necessary;

G. Labor Negotiator. The City Manager, his or her designee, and/or a consultant under a duly executed consulting contract for this purpose shall act as labor negotiator for the City;

H. Financial Reports. It shall be the duty of the City Manager to keep the City Council at all times fully advised as to the financial condition and needs of the City;

I. Budget. It shall be the duty of the City Manager to prepare and submit the proposed annual or biennial budget and proposed employee compensation plans subject to the direction and approval of the City Council;

J. Expenditure Control and Purchasing. It shall be the duty of the City Manager to recommend expenditures to the City Council. The City Manager or his or her designee shall be responsible for the purchase of all supplies for all the departments or divisions of the City;

K. Investigations and Complaints. It shall be the duty of the City Manager to make investigations into the affairs of the City and any employee, department or division thereof, any contract or the proper performance of any obligations of the City and in regard to the service maintained by public utilities in the City. Further, it shall be the duty of the City Manager to investigate all complaints in relation to matters concerning the administration of the City government;

L. Supervision over Public Property. Exercise general supervision over all public buildings, public parks and all other public properties which are under the control and jurisdiction of the City Council;

M. Authority to Execute Documents. Have the same authority as the Mayor, as may be prudent and convenient, to sign documents specified in Section 40602 of the Government Code of the State whenever such documents have been approved by the City Council for execution by resolution, motion, minute order or other appropriate action; and

N. Additional Duties. It shall be the duty of the City Manager to perform such other duties and exercise such other powers as may be delegated to him/her from time to time by ordinance or resolution or other official action of the City Council. (Ord. 1457 § 2 (part), 2013: Ord. 1094 § 1 (part), 1991)

#### **2.04.070 Emergency authority.**

A. Emergency Defined. For the purposes of this chapter, "emergency" shall be as defined in Section 2.28.020.

B. Managing Authority in an Emergency. In the event of an emergency requiring the expenditure of City funds before a special City Council meeting can be convened to authorize that expenditure, the City Manager shall have the authority to authorize the expenditure of City funds and to otherwise obligate the City as he or she, in his or her sole discretion, determines to be necessary or appropriate to combat the effects of such emergency as provided in Chapter 2.28, Emergency Organization and Preparedness. (Ord. 1457 § 2 (part), 2013: Ord. 1094 § 1 (part), 1991)

#### **2.04.080 Political participation.**

The City Manager shall not participate directly, indirectly or through an intermediary in any political activity that is related to the City unless in support of a policy position taken by the City Council. (Ord. 1457 § 2 (part), 2013: Ord. 1094 § 1 (part), 1991)

#### **2.04.090 Council-Manager relations.**

The City Council and its members, whenever possible, shall deal with the administrative services of the City only through the City Manager, except for the purpose of inquiry, advice, information or follow-up. (Ord. 1457 § 2 (part), 2013: Ord. 1094 § 1 (part), 1991)

#### **2.04.100 Relations with commissions and boards.**

The City Manager may attend any and all meetings of the commissions, boards or committees created by the City Council. At such meetings which the City Manager attends, he or she shall be heard by such commissions, boards or committees as to all matters upon which he/she wishes to address the members thereof, and he/she shall inform the members as to the status of any matter being considered by the City Council, and he or she shall cooperate to the fullest extent with the members of all commissions, boards or committees appointed by the City Council. The City Manager shall not vote with, give orders to or give direction to any such commissions, boards or committees. (Ord. 1457 § 2 (part), 2013: Ord. 1094 § 1 (part), 1991)

#### **2.04.110 City Manager relations with State and Federal elected officials.**

The City Manager shall provide each Councilmember with copies of all written communications to or from the City and State and Federal elected officials and their staffs. All verbal communications by the City Manager with the State and Federal elected officials and their staff shall be reported to the Councilmembers. Whenever possible, the City Manager shall seek the Mayor's concurrence in any comments the Manager intends to make. The City Manager's reports to the City Council shall include the topic of conversation and any City position taken, and the State and Federal official's response. (Ord. 1457 § 2 (part), 2013: Ord. 1167 § 1, 1994: Ord. 1094 § 1 (part), 1991)

#### **2.04.120 Removal.**

A. Required Vote—Notice. The City Manager serves at the will of the City Council. The removal of the City Manager, with or without cause, shall be effected only by a majority vote of the entire City Council as then constituted, convened in a City Council meeting. In case of his/her intended removal by the City Council, the City Manager shall be furnished with a written notice stating the City Council's intention to remove him/her, at least thirty days before the effective date of removal. In the event of removal of the City Manager for cause, he/she shall be terminated immediately without the right to compensation accruing after the date of termination.

1. As used herein, the term "for cause" shall mean the following:

- a. Misappropriating any funds or property from the City;
- b. Failure or refusal to comply with City Council's official policies and direction in effect, or to perform the duties assigned to him/her by the City Council, or as stated in the Municipal Code;
- c. Being convicted of a felony.

B. Hearing. Within two working days after the delivery to the City Manager of a notice of intended removal, he/she may, by written notification to the City Clerk, request a hearing before the City Council. Thereafter, the City Council shall fix a time for a hearing, in closed session, prior to the effective date contained in the notice of intended removal, at which the City Manager shall appear and be heard.

C. Suspension Pending Hearing. After furnishing the City Manager with written notice of intended removal, or concurrent therewith, the City Council may suspend him/her from duty, but his/her compensation shall continue until the effective date of the removal hearing.

D. Discretion of Council. In removing the City Manager, the City Council shall use its uncontrolled discretion and its action shall be final and shall not depend upon any particular showing or degree of proof at the hearing, the purpose of such hearing being to allow the City Manager to present to the City Council his/her grounds of opposition to removal prior to its action. (Ord. 1457 § 2 (part), 2013: Ord. 1094 § 1 (part), 1991)

#### **2.04.130 Agreement on employment.**

The City Manager's compensation, benefits and additional terms and conditions of employment shall be set forth in a written agreement between the City Manager and the City, which agreement shall be consistent with the terms of this chapter. (Ord. 1457 § 2 (part), 2013: Ord. 1094 § 1 (part), 1991)

### **Chapter 2.08 CITY COUNCIL Revised 3/24**

Sections:

#### **2.08.010 Meetings—Time and location.**

#### **2.08.020 Compensation.** Revised 3/24

#### **2.08.030 Filling council vacancies.**

#### **2.08.010 Meetings—Time and location.**

A. The regular meetings of the City Council shall be held on the second and fourth Mondays of each calendar month unless such day is a holiday, in which case the meeting may be held on Tuesday of the same week unless another business day is designated by the City Council or the meeting is canceled. All regular meetings shall occur at the hour of seven p.m. at City Hall, 600 Elm Street, the San Carlos Library, 610 Elm Street, or at locations within the City specified in a resolution of the City Council.

B. A regular meeting of the City Council may be canceled (1) by notice at a prior City Council meeting, or (2) by notice to all of the City Council members of not less than twenty-four hours prior to the meeting date and by notice to the newspapers of general circulation in the City and by posting a notice of cancellation at all locations where public notices are regularly posted by the City.

C. All meetings (including special meetings) shall be adjourned not later than the hour of ten-thirty p.m., unless the City Council by a majority vote of all Councilmembers present at the meeting elect to continue the meeting to a later hour or to reconvene at a later date. (Ord. 1459 § 2, 2013: Ord. 1449 § 2 (part), 2012: Ord. 1334 § 1, 2004: Ord. 754 § 1, 1974)

#### **2.08.020 Compensation. Revised 3/24**

Effective December 9, 2024, City Councilmembers shall receive a monthly salary of nine hundred fifty dollars (\$950.00) per month in accordance with Government Code Section 36516. (Ord. 1610 § 2, 2024; Ord. 1534 § 2, 2018: Ord. 1449 § 2 (part), 2012: Ord. 996 § 1, 1988: Ord. 896 § 1, 1981)

#### **2.08.030 Filling council vacancies.**

A. Purpose. From time to time vacancies occur during the term of a City Councilmember that require the City Council to fill the vacancy either by appointment or special election pursuant to Government Code Section 36512(b). Pursuant to Government Code Section 36512(c) the City Council by ordinance may provide that a person filling a vacancy on the City Council holds office only until the date of a special election which shall be called to fill the remainder of the term. The Government Code further provides that the special election may be held on the date of the next regularly established election or regularly scheduled municipal election to be held throughout the City not less than one hundred fourteen days from the call of the special election.

B. Filling a Vacancy. When a vacancy occurs in the elective office of City Councilmember, during the term thereof, the vacancy shall be filled as follows:

1. A special election shall be called within sixty days of the occurrence of the vacancy (Government Code Section 36512(b)).
2. The City Council may within sixty days of the occurrence of a vacancy appoint a person to fill the vacancy who is qualified to hold the office, and that person shall hold the office until the time of the special election (Government Code Sections 36512(b) and (c)(3)).
3. The special election shall be held on the next regularly established election date, or date of the regularly established general municipal election to be held throughout the City, not less than one hundred fourteen days from the call of the special election (Government Code Section 36512(c)(3)). (Ord. 1449 § 2 (part), 2012: Ord. 1273 § 1, 1999)

### **Chapter 2.09 CITY CLERK**

Sections:

#### **2.09.010 Office created—Term.**

#### **2.09.020 Compensation.**

#### **2.09.030 Functions.**

#### **2.09.010 Office created—Term.**

The office of City Clerk is created and established. The City Clerk shall be appointed by the City Manager. (Ord. 1457 § 3 (part), 2013)

#### **2.09.020 Compensation.**

The City Clerk shall receive such compensation and expense allowance as the City Manager shall from time to time determine. (Ord. 1457 § 3 (part), 2013: Ord. 1313 § 1, 2002: Ord. 1258 § 1, 1999: Ord. 1059 § 1, 1990. Formerly 2.09.010)

#### **2.09.030 Functions.**

A. The City Clerk shall have all of the powers, duties and responsibilities granted to and imposed upon the office of the City Clerk by the applicable provisions of the Government Code, other general laws of the State, the provisions of this code, and the ordinances and resolutions of the Council.

B. The principal functions of the City Clerk shall be to:

1. Attend all regular meetings of the City Council except when excused by the City Manager, and be responsible for the timely recording and maintaining of a record of all the actions of the City Council;
2. Keep all ordinances and resolutions of the City Council in such a manner that the information contained therein will be readily accessible and open to the public. The City Clerk shall attest to each resolution and ordinance adopted by the City Council and, as to ordinances requiring publication, that the ordinance has been published or posted in accordance with law;
3. Prepare requirements, schedule and maintain all records of the Council and of the office of the City Clerk, and prepare the records retention schedule for City departments in such manner that the information contained therein will be readily accessible and open to the public pursuant to the California Public Records Act, Government Code Section 6250 et seq., until such time as any of the records may be destroyed or reproduced and the original destroyed, in accordance with State law;
4. Serve as the official custodian of all City records;
5. Receive, organize, prepare and reply to requests regulated by the California Public Records Act;
6. Serve as custodian of the seal of the City;
7. Prepare the City Council agendas, in conjunction with and under the direction of the City Manager;
8. Perform the duties prescribed by the Elections Code in conducting municipal elections;
9. Perform the duties imposed upon city clerks by the California Political Reform Act;
10. Be responsible for the maintenance and distribution of the City's Municipal Code;
11. Receive and forward to appropriate departments all claims filed against the City and its officers, agents or employees, pursuant to the provisions of the Tort Claims Act, Government Code Section 900 et seq., and 26 of this code;
12. Administer all official oaths of office;
13. Certify all official records of the City;
14. Display decorum and conduct befitting a holder of a public office; work cooperatively and positively with employees, managers, commissioners and members of the public; maintain exceptional customer service at all times; and
15. Perform such other duties as assigned. (Ord. 1457 § 3 (part), 2013)

## **Chapter 2.10 CITY TREASURER**

Sections:

**2.10.010 Compensation for City Treasurer.**

**2.10.010 Compensation for City Treasurer.**

Monthly compensation for the City Treasurer, effective November 23, 2018, shall be five hundred and sixty dollars (\$560.00) per month. (Ord. 1535 § 2, 2018: Ord. 996 § 2, 1988)

## **Chapter 2.11 CITY ATTORNEY**

Sections:

**2.11.010 Office created—Term.**

**2.11.020 Compensation.**

**2.11.030 Functions.**

**2.11.040 Agreements with the City Council.****2.11.010 Office created—Term.**

- A. The office of the City Attorney is established. It shall consist of the City Attorney, who shall be appointed by the City Council.
- B. The City Attorney shall administer the office and be responsible for the successful performance of its functions. He or she shall serve under the direct supervision and control of the City Council as its legal advisor.
- C. The City Council may enter into a contract with a private law firm to perform the services of City Attorney and, in that connection, may designate a City Attorney and approve of Assistant City Attorneys as are deemed necessary, as may be recommended by the City Attorney, and references in this chapter to City Attorney or the office of City Attorney will include any applicable law firm and performance of the functions by any of its members or employed attorneys.
- D. The City Attorney may retain or employ other attorneys, assistants or special counsel as may be needed to provide services in any litigation or legal matters or assist the City Attorney therein. (Ord. 1457 § 4 (part), 2013)

**2.11.020 Compensation.**

The City Attorney shall receive such compensation and expense allowance as the City Council shall from time to time determine pursuant to his or her written agreement for services with the City. (Ord. 1457 § 4 (part), 2013)

**2.11.030 Functions.**

Except as otherwise provided for in an agreement for services with the City, the functions of the office of the City Attorney shall be to:

- A. Advise the City Council and all City officers in all matters of laws pertaining to their offices;
- B. Furnish legal service at all regular meetings of the City Council, except when excused by the Mayor or the City Council, and give advice or opinions on the legality of all matters under consideration by the City Council or by any of the boards and commissions or officers of the City;
- C. Prepare and/or approve as to form all ordinances, resolutions, agreements, contracts, and other legal instruments as shall be required for the proper conduct of the business of the City;
- D. Prosecute on behalf of the people cases for violation of City ordinances when not otherwise prosecuted by the District Attorney of San Mateo County; and
- E. Perform such other legal duties as may be required by the City Council or as may be necessary to complete the performance of the foregoing functions. (Ord. 1457 § 4 (part), 2013)

**2.11.040 Agreements with the City Council.**

Nothing in this chapter shall be construed as a limitation on the power or authority of the City Council to enter into any supplemental written agreement with the City Attorney delineating additional terms and conditions of employment not inconsistent with any provisions of this chapter. (Ord. 1457 § 4 (part), 2013)

**Chapter 2.12  
FINANCE DIRECTOR**

Sections:

**2.12.010 Office created.****2.12.020 Appointment by City Manager.****2.12.030 Qualifications.****2.12.040 Corporate surety bond required.****2.12.050 Powers and duties.****2.12.060 Compensation.****2.12.070 Absence or vacation from office.****2.12.010 Office created.**

The Office of Director of Finance is created and established. The Director of Finance shall be the chief accounting officer of the City and shall consolidate all accounting matters of the City in this office, as an entirely separate and distinct entity from all other departments. (Ord. 442 § 2 (part), 1957)

**2.12.020 Appointment by City Manager.**

The Office of Finance Director shall be appointive. The Director of Finance shall be appointed by the City Manager. (Ord. 1001 § 1, 1988; Ord. 442 § 2 (part), 1957)

**2.12.030 Qualifications.**

The Director of Finance shall be qualified by sufficient technical accounting training, skill and experience to be proficient in the office. The Director of Finance shall also show evidence of his executive ability. (Ord. 442 § 2 (part), 1957)

**2.12.040 Corporate surety bond required.**

The Director of Finance shall furnish to the City a corporate surety bond to be approved and paid for by the City Council, in the sum of fifty thousand dollars and shall be conditioned upon the faithful performance of the duties imposed on the Director of Finance as prescribed by this chapter. The bond fee shall be a proper charge against such funds as the City Council shall designate. (Ord. 442 § 2 (part), 1957)

**2.12.050 Powers and duties.**

The Director of Finance shall be the head of the finance department of the City and shall have the power and is required to do the following:

- A. Have charge of the administration of the financial affairs of the City under the direction of the City Council.
- B. Budget. Compile the budget expense and income estimates for the City Council, and submit them to the City Manager.
- C. Accounting System. Maintain a general accounting system for the City Government and of each of the offices, departments and agencies.
- D. Disbursements. Supervise and be responsible for the disbursement of all moneys and have control of all expenditures; audit all purchase orders before issuance; audit and approve before payment by the City Council and Treasurer all bills, invoices, payrolls, demands or other charges against the City Government and with the advice of the City Attorneys, when necessary, determine the regularity, legality and correctness of such claims, demands or charges to insure that budget appropriations are not exceeded.
- E. Financial Reports. Submit to the City Council a monthly statement of all receipts and disbursements in sufficient detail to show the exact financial condition of the City; and, as of the end of each fiscal year, submit a complete financial statement and report.
- F. Property Inventory. Supervise the keeping of current inventories of all property of the City by all City departments, offices and agencies.
- G. Other Delegated Duties. Assume all functions of the City Clerk as to the sales tax as provided for in Chapter 3.16 of this code, regarding the sales and use tax.
- H. Other Delegated Duties. Perform all the financial and accounting duties heretofore imposed upon the City Clerk, and the City Clerk shall be, and he is relieved of all such duties including all such duties imposed upon the City Clerk by Article I of Chapter 4, Part 2, Division 3, Title 4, and by Sections 40802 through 40805 inclusive of the Government Code of the State.
- I. Other Functions. Perform such other functions as the City may from time to time specify. (Ord. 442 § 2 (part), 1957)

**2.12.060 Compensation.**

The Director of Finance shall receive as compensation as the City Council shall from time to time determine and fix by budget or resolution, and such compensation shall be a proper charge against such funds of the City as the City Council shall designate. (Ord. 442 § 2 (part), 1957)

**2.12.070 Absence or vacation from office.**

Should the Director of Finance be absent or disabled, or should the office be vacant, the City Council shall designate a temporary acting Director of Finance. (Ord. 442 § 2 (part), 1957)

**Chapter 2.16  
DEPARTMENT OF PLANNING**

Sections:

**2.16.010 Created.**

**2.16.020 Membership—Exempt from Civil Service.**

**2.16.030 Functions and duties.**

**2.16.040 Director of Planning—Appointment.**

**2.16.050 Acting Director of Planning—Appointment—Powers and duties.**

**2.16.010 Created.**

There is established a Department of Planning for the City. (Ord. 788 § 1 (part), 1976)

**2.16.020 Membership—Exempt from Civil Service.**

The Department of Planning shall consist of the Director of Planning and such staff as may be required. The position of Director of Planning shall be exempt from Civil Service. (Ord. 788 § 1 (part), 1976)

**2.16.030 Functions and duties.**

The functions of the Department of Planning shall include the following:

A. To furnish staff work for the Planning Commission or any agency or commission established by the City Council upon the Council's or City Manager's request;

B. To provide the City Manager or department head with staff work of a technical nature pertaining to planning matters and to present information and recommendations to the Council on planning matters;

C. To obtain or generate data, maps, reports, charts and analysis for graphic and written presentation for revision and updating the General Plan, subdivision ordinance, building code and other related ordinances;

D. To assist the public where time permits with advice and guidance relating to the development and use of property;

E. To assist in the preservation of ecology of the City. (Ord. 788 § 1 (part), 1976)

**2.16.040 Director of Planning—Appointment.**

The Director of Planning shall be appointed by, and be responsible to, the City Manager. (Ord. 788 § 1 (part), 1976)

**2.16.050 Acting Director of Planning—Appointment—Powers and duties.**

The Director of Planning shall, subject to the approval of the City Manager, designate a member of the department as Acting Director of Planning to perform the duties and exercise the powers of the Director of Planning in his disability or absence. (Ord. 788 § 1 (part), 1976)

## **Chapter 2.24 COMMISSIONS**

Sections:

**2.24.010 Creation of commissions.**

**2.24.020 Membership.**

**2.24.030 Appointment—Removal—Vacancies.**

**2.24.040 Terms of office.**

**2.24.050 Terms of present members.**

**2.24.060 Length of service.**

**2.24.080 Meetings—Frequency.**

**2.24.090 Meetings—Quorum.**

**2.24.100 Appointment of officers.**

**2.24.110 Secretary—Duties.**

**2.24.120 Expenses—Clerical support.****2.24.130 Rules of procedure.****2.24.140 Planning and Transportation Commission—Powers and duties.****2.24.150 Planning and Transportation Commission—Delegation of authority.****2.24.155 Residential Design Review Committee—Powers and duties.****2.24.160 Parks, Recreation and Culture Commission—Powers and duties.****2.24.260 Economic Development Advisory Commission.****2.24.010 Creation of commissions.**

There are established the following commissions and boards in the City and outside agencies that the City has appointees on:

- A. Planning and Transportation Commission;
- B. Parks, Recreation and Culture Commission;
- C. Youth Advisory Council;
- D. Residential Design Review Committee;
- E. Economic Development Advisory Commission;
- F. Museum of San Carlos History Board of Directors;
- G. San Mateo County Mosquito and Vector Control District Board of Trustees. (Ord. 1587 § 2, 2022; Ord. 1522 § 1 (part), 2017: Ord. 1465 § 1 (Exh. A (part)), 2013: Ord. 1454 § 2 (part), 2013: Ord. 1404 § 1 (part), 2009; Ord. 1369 § 1 (part), 2006: Ord. 1339 § 1(a), 2004; Ord. 1308 § 1(a), 2002; Ord. 921 § 1, 1983; Ord. 892 § 2 (part), 1981: Ord. 864 (part), 1980)

**2.24.020 Membership.**

Each commission or board established in Section 2.24.010 shall have five (5) members, unless otherwise designated in this chapter or in the resolution, ordinance, or by-laws establishing the commission. The term “commission” shall include commissions, boards and committees. All commission members shall be residents living in the incorporated area of the City of San Carlos unless otherwise specified by the City Council in the ordinance or resolution establishing the commission.

The City Council may also designate an alternate member to the following commissions:

- A. Economic Development and Advisory Commission;
- B. Parks, Recreation and Culture Commission.

Alternates serve as a voting, participating member only in the event of an absence of a voting member or in the event that a member abstains from a matter due to a conflict of interest. (Ord. 1587 § 2, 2022; Ord. 1567 § 2 (part), 2020; Ord. 1555 § 2 (Exh. A (part)), 2019: Ord. 1522 § 1 (part), 2017: Ord. 1454 § 2 (part), 2013: Ord. 1369 § 1 (part), 2006: Ord. 1292 § 1 (part), 2001; Ord. 1152 § 1, 1994; Ord. 1139 § 1(A), 1993; Ord. 930 § 1, 1984: Ord. 902 § 1, 1981: Ord. 892 § 2 (part), 1981: Ord. 864 (part), 1980)

**2.24.030 Appointment—Removal—Vacancies.**

A. Commission and board members shall be appointed by majority vote of the City Council and no commissioner or board member may be appointed to or serve concurrently on more than one commission or board at the same time. Any commission or board member may be removed from office prior to the expiration of his or her term, with or without cause, by majority vote of the City Council.

B. Unscheduled vacancies on any commission or board shall be filled as specified in the Commissioners' Handbook as adopted by Council.

C. A member appointed to fill a vacancy prior to expiration of the term for which his or her predecessor was appointed shall serve for such unexpired term.

D. Unauthorized absence of a commission or board member from meetings, as specified in the Commissioners' Handbook adopted by Council resolution, shall be deemed cause for removal. (Ord. 1567 § 2 (part), 2020; Ord. 1555 § 2 (Exh. A (part)), 2019: Ord. 1522 § 1 (part), 2017: Ord. 1472 § 2, 2014: Ord. 1454 § 2 (part), 2013: Ord. 892 § 2 (part), 1981: Ord. 864 (part), 1980)

#### **2.24.040 Terms of office.**

A commissioner shall hold office for a term of three years which shall commence on July 1st, and end on June 30th, unless otherwise designated in this chapter or in the resolution, ordinance or by-laws establishing the commission. At the initial appointment of commission members, two shall be appointed for a term of two years and three shall be appointed for a term of three years. Determination of which of the first five members appointed shall be for the two-year term and for the three-year term shall be determined by lot. The original appointees shall determine by chance the length of the original terms of each appointee. Appointments will be staggered, so that no more than three members' terms shall expire at the same time. (Ord. 1555 § 2 (Exh. A (part)), 2019: Ord. 1522 § 1 (part), 2017: Ord. 1454 § 2 (part), 2013: Ord. 1404 § 1 (part), 2009; Ord. 907 § 1, 1981: Ord. 892 § 2 (part), 1981: Ord. 864 (part), 1980)

#### **2.24.050 Terms of present members.**

The present members of each commission covered by this chapter shall continue to hold office after the adoption of the ordinance codified in this chapter until the expiration date of the term for which they were originally appointed, or June 30th of the year of the end of their current term, unless, prior to such expiration date, they voluntarily resign or are removed from office in the manner prescribed in Section 2.24.030. Upon the expiration date of the term of office of each such present member of each commission, the duly appointed successor to each such office shall hold office for a period of three years. (Ord. 1555 § 2 (Exh. A (part)), 2019: Ord. 1454 § 2 (part), 2013: Ord. 1404 § 1 (part), 2009; Ord. 907 § 2, 1981: Ord. 892 § 2 (part), 1981: Ord. 864 (part) 1987)

#### **2.24.060 Length of service.**

A. Except as set forth herein, time of service by a member on any of the City Council appointed commissions, committees and boards (hereafter "commissions") mentioned in Section 2.24.010 shall not exceed six years of consecutive service. If a commissioner is appointed to another commission by the City Council, their time of service on the first commission shall not be counted as cumulative service. Former commission members who have not served for one year or more shall be eligible for appointment to a commission, subject to a new limitation of six years of consecutive service.

B. Notwithstanding the above limitation, in order to meet the intent of staggered membership, to avoid subsequent mid-term changes to commissions and for implementation of this chapter:

1. Initial appointees and members currently appointed to a commission as of adoption of the ordinance codified in this chapter may serve up to seven years; and
2. Time served after appointment to fill unexpired terms shall not be counted as a term or against the overall limit of six years of consecutive service.

C. Alternate Member. If an alternate member fills an unscheduled vacancy, their time served as an alternate member does not count towards the overall limit of six years. Additionally, the time served filling the unscheduled vacancy shall not be counted as a term or against the overall limit of six years of consecutive service. (Ord. 1555 § 2 (Exh. A (part)), 2019: Ord. 1454 § 2 (part), 2013: Ord. 1425 § 2 (part), 2010: Ord. 1378 § 1, 2006: Ord. 973 § 1 (part), 1987)

#### **2.24.080 Meetings—Frequency.**

Each commission or board shall hold regular meetings, not less than one each month, at the Council chambers of the City Hall of San Carlos or at such other place as may be convenient and necessary. The time and day of such meetings shall be as set from time to time by each commission or board. Each commission or board shall hold such additional meetings as it deems advisable. If at any time any regular meeting falls on a holiday, such regular meeting shall be held on the next business day. The Parks, Recreation and Culture Commission shall be required to meet only quarterly. (Ord. 1555 § 2 (Exh. A (part)), 2019: Ord. 1465 § 1 (Exh. A (part)), 2013: Ord. 1454 § 2 (part), 2013: Ord. 1404 § 2, 2009; Ord. 921 § 2, 1982; Ord. 892 § 2 (part), 1981: Ord. 881 § 1, 1981: Ord. 864 (part), 1980)

#### **2.24.090 Meetings—Quorum.**

A majority of the members of a commission or board shall constitute a quorum for purposes of transacting the business of that commission or board.

Alternate members may serve as a participating member in the absence of a voting member or in the event that a member abstains from a matter due to a conflict of interest. (Ord. 1555 § 2 (Exh. A (part)), 2019: Ord. 1454 § 2 (part), 2013: Ord. 892

§ 2 (part), 1981: Ord. 864 (part), 1980)

#### **2.24.100 Appointment of officers.**

At their first regular meeting after June, each commission shall appoint a chair, and, if required, a secretary thereof, who shall serve at the pleasure of the commission or board for a period of one year or until their successors have been appointed. Such officers of such body shall be appointed from among those members then serving on such body. Upon creation of a board or commission, it shall choose at the first meeting a chair and, if required, a secretary, whose terms shall expire the following June or until their successors have been appointed. (Ord. 1555 § 2 (Exh. A (part)), 2019: Ord. 1454 § 2 (part), 2013: Ord. 892 § 2 (part), 1981: Ord. 864 (part), 1980)

#### **2.24.110 Secretary—Duties.**

A secretary may be appointed by the commission to keep a record of all proceedings, resolutions, findings, determinations and transactions of the commission or board, which shall be a public record. A copy of the record shall be filed with the commission's designated department. (Ord. 1555 § 2 (Exh. A (part)), 2019: Ord. 1454 § 2 (part), 2013: Ord. 892 § 2 (part), 1981: Ord. 864 (part), 1980)

#### **2.24.120 Expenses—Clerical support.**

The City Manager may make available to the commissions adequate facilities and necessary clerical help for the fulfillment of their duties. The commissions shall not incur, allow or permit to accrue any debt or liability, or expend any funds, except as provided for in the budget theretofore approved by the City Council. (Ord. 1555 § 2 (Exh. A (part)), 2019: Ord. 1454 § 2 (part), 2013: Ord. 864 (part), 1980)

#### **2.24.130 Rules of procedure.**

Each commission may adopt, by resolution, rules for the election and terms of its officers, and for the transaction of business.

The recruitment process for commission members and their attendance policy is specified in the Commissioners' Handbook, which is adopted by Council resolution. (Ord. 1555 § 2 (Exh. A (part)), 2019: Ord. 1454 § 2 (part), 2013: Ord. 864 (part), 1980)

#### **2.24.140 Planning and Transportation Commission—Powers and duties.**

The Planning and Transportation Commission shall have the following powers and duties:

- A. Prepare and recommend a comprehensive General Plan for the future development of the City, and, from time to time, review the provisions of such plan and make a report of its findings and recommendations to the City Council.
- B. Initiate, from time to time, a review of the zoning ordinances codified in Title 18 and make a report of its findings and recommendations to the City Council.
- C. Receive and act upon applications authorized and specified in Title 18.
- D. Hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by any City official in the interpretation and enforcement of Title 18.
- E. Appoint one (1) member to serve on the Residential Design Review Committee.
- F. Receive and evaluate complaints and other matters having to do with traffic and circulation, including pedestrian and bicycling matters.
- G. Recommend to the City Council and staff ways and means for improving traffic and circulation conditions, including bicycle and pedestrian conditions, and encourage use of alternative modes of transportation in the City.
- H. Review and comment on preliminary plans for all capital improvement programs related to any and all modes of transportation.
- I. Perform such other duties as are now or may hereafter be designated by State statutes or this Code.
- J. At the initial meeting of the Planning and Transportation Commission, and yearly thereafter, the members shall elect the Chairperson and Vice Chairperson. The Vice Chairperson shall perform the duties of the Chairperson when the Chairperson is absent. In the event of a vacancy in the Chairperson's position, the Vice Chairperson shall succeed as Chairperson for the balance of the Chairperson's term and the Commission shall elect a successor to fill the vacancy of the Vice Chairperson. The Commission shall also annually appoint one (1) member of the Planning and Transportation Commission as a member of the Residential Design Review Committee, who shall serve as Chair of the Committee.

K. The Planning and Transportation Commission is subject to the California Brown Act (Government Code Section 56900 et seq.), and all meetings shall be open to the public, except as provided by law. All meetings of a quorum of the Commission must be held pursuant to the noticing provisions of the Brown Act, and are open to the public. A majority of the members shall constitute a quorum. Meeting minutes shall be taken of each official meeting of the Commission. (Ord. 1587 § 2, 2022; Ord. 1555 § 2 (Exh. A (part)), 2019: Ord. 1454 § 2 (part), 2013: Ord. 1431 § 2 (part), 2011: Ord. 864 (part), 1980)

#### **2.24.150 Planning and Transportation Commission—Delegation of authority.**

Nothing in this chapter shall be construed as delegating to the Planning and Transportation Commission any function or authority not delegated or authorized by State law pursuant to Title 7 of Chapter 3 of the Government Code, beginning at Section 65100 as it may be amended. (Ord. 1587 § 2, 2022; Ord. 1555 § 2 (Exh. A (part)), 2019: Ord. 1454 § 2 (part), 2013: Ord. 892 § 2 (part), 1981: Ord. 864 (part), 1980)

#### **2.24.155 Residential Design Review Committee—Powers and duties.**

The Residential Design Review Committee (RDRC) shall have the following powers and duties:

- A. The Residential Design Review Committee is established to conduct design review of proposed residential development pursuant to Title 18 and any adopted residential design review guidelines.
- B. Nothing in this chapter shall be construed as restricting or curtailing any of the powers of the City Council, or as delegation to the Committee of any of the authority or discretionary powers vested and imposed by law in the City Council. The City Council declares that the public interest, convenience, welfare and necessity require the appointment of a Residential Design Review Committee to act in an advisory capacity to the Planning and Transportation Commission for the purposes enumerated in this section.
- C. The composition of the Residential Design Review Committee shall be established by City Council resolution.
- D. The Residential Design Review Committee is subject to the California Brown Act (Government Code Section 56900 et seq.), and all meetings shall be open to the public, except as provided by law. All meetings of a quorum of the Committee must be held pursuant to the noticing provisions of the Brown Act, and are open to the public. A majority of the members shall constitute a quorum. Meeting minutes shall be taken of each official meeting of the Committee. (Ord. 1587 § 2, 2022; Ord. 1555 § 2 (Exh. A (part)), 2019: Ord. 1530 § 3 (Exh. A (part)), 2018: Ord. 1454 § 2 (part), 2013: Ord. 1431 § 2 (part), 2011)

#### **2.24.160 Parks, Recreation and Culture Commission—Powers and duties.**

A. The Parks, Recreation and Culture Commission shall have the power and it shall be the duty of the Commission to make recommendations to the City Council and to advise the Council regarding:

- 1. All matters pertaining to the establishment, operation, maintenance, management and control of the public recreation activities of the City, of the parks and other properties and facilities owned and controlled, or which may hereafter be owned and controlled, by the City for such purposes.
  - 2. Advise the City Council concerning the use or acquisition of such other properties, not now owned or controlled by the City, that in its judgment may be suitable for public parks, facilities and recreational activities.
  - 3. All matters affecting the historical, artistic and scientific affairs of San Carlos and its environs and provide assistance to groups in the fields of history, arts and science of the area.
- B. Nothing in this chapter shall be construed as restricting or curtailing any of the powers of the City Council, or as delegation to the Commission of any of the authority or discretionary powers vested and imposed by law in the City Council. The City Council declares that the public interest, convenience, welfare and necessity require the appointment of a Parks, Recreation and Culture Commission to act in an advisory capacity to the City Council for the purposes enumerated in this section.
- C. The Parks, Recreation and Culture Commission shall have the authority to act as an advisory body to any committee or group in the City that is engaged in supervision and promotion of recreation for the general welfare.
- D. Commission Composition. The Parks, Recreation and Culture Commission shall consist of five voting members approved by the City Council and may include an alternate member. All members have one vote. The alternate member participates as a voting, participating member only in the event of an absence of a voting member or in the event that a member abstains from a matter due to a conflict of interest.
- E. Organization and Terms of Office.

1. The members of the Parks, Recreation and Culture Commission shall annually elect the Chairperson and Vice Chairperson. The Vice Chairperson shall perform the duties of the Chairperson when the Chairperson is absent. In the event of a vacancy in the Chairperson's position, the Vice Chairperson shall succeed as Chairperson for the balance of the Chairperson's term and the Commission shall elect a successor to fill the vacancy of the Vice Chairperson.
2. The Commission shall annually appoint one member of the Parks, Recreation and Culture Commission to serve as a member of the Museum of San Carlos History Board of Directors.
3. The Parks, Recreation and Culture Commission shall establish rules and regulations for its own procedures and shall meet quarterly at a minimum.
4. The Parks, Recreation and Culture Commission is subject to the California Brown Act. All meetings of a quorum of the Commission must be held pursuant to the noticing provisions of the Brown Act, and are open to the public. A majority of the total members of the Commission shall constitute a quorum. Meeting minutes shall be taken at each meeting of the Commission.
5. The terms of each member of the Parks, Recreation and Culture Commission shall be as set forth in Section 2.24.040. (Ord. 1555 § 2 (Exh. A (part)), 2019: Ord. 1465 § 1 (Exh. A (part)), 2013: Ord. 1454 § 2 (part), 2013: Ord. 864 (part), 1980)

**2.24.260 Economic Development Advisory Commission.**

A. The City Council establishes the Economic Development Advisory Commission (hereinafter EDAC) to advise the City Council and other City agencies on economic development strategies within the City of San Carlos including the following:

1. Ensure City-wide economic development sustainability.
2. Maintain a successful business climate.
3. Ensure a diverse job base.
4. Ensure adequate range of housing for employees.
5. Such other matters as the City Council assigns to EDAC for review.

B. Commission Composition. EDAC shall consist of seven voting members approved by the City Council and may include an alternate member. In the selection of Commissioners, it is desirable to have San Carlos business representatives on EDAC. Business representatives need not be residents of the City of San Carlos; however, the majority of EDAC members shall be residents. All members have one vote. The alternate member participates as a voting, participating member only in the event of an absence of a voting member or in the event that a member abstains from a matter due to a conflict of interest.

C. Organization and Terms of Office.

1. At the initial meeting of EDAC, and yearly thereafter, the Commissioners shall elect the Chairperson, Vice Chairperson, a Secretary and other such officers as deemed necessary by the Commissioners. The Chairperson shall preside at all meetings of EDAC. The Vice Chairperson shall perform the duties of the Chairperson when the Chairperson is absent. In the event of a vacancy in the Chairperson's position, the Vice Chairperson shall succeed as Chairperson for the balance of the Chairperson's term and the Commission shall elect a successor to fill the vacancy of the Vice Chairperson.
2. EDAC shall establish rules and regulations for its own procedures and shall meet a minimum of four times per year, and whenever else it determines to be necessary.
3. EDAC is subject to the California Brown Act (Government Code Section 56900 et seq.), and all meetings shall be open to the public, except as provided by law. All meetings of a quorum of the Commission must be held pursuant to the noticing provisions of the Brown Act, and are open to the public. A majority of the members shall constitute a quorum. Meeting minutes shall be taken of each official meeting of the Commission.
4. The terms of each member of EDAC shall be as set forth in Section 2.24.040. (Ord. 1555 § 2 (Exh. A (part)), 2019: Ord. 1454 § 2 (part), 2013: Ord. 1359 § 1, 2005)

**Chapter 2.28  
EMERGENCY ORGANIZATION AND PREPAREDNESS**

Sections:

**2.28.010 Purposes.**

**2.28.020 Definitions.**

**2.28.030 Disaster Council membership.**

**2.28.040 Disaster Council powers and duties.**

**2.28.050 Director and Assistant Director of Emergency Services.**

**2.28.060 Powers and duties of the Director and Assistant Director of Emergency Services.**

**2.28.070 Emergency organization.**

**2.28.080 Emergency plan.**

**2.28.090 Expenditures.**

**2.28.100 Punishment of violations.**

**2.28.110 Repeal of conflicting ordinances.**

**2.28.010 Purposes.**

The declared purposes of this chapter are to provide for the preparation and carrying out of plans for the protection of persons and property within this jurisdiction in the event of an emergency; the direction of the emergency organization; and the coordination of the emergency functions with all other public agencies, corporations, organizations, and affected private persons. (Ord. 1456 § 1 (part), 2013)

**2.28.020 Definitions.**

As used in this chapter, "emergency" shall mean the actual or threatened existence of conditions of disaster or of extreme peril to the safety of persons and property within this jurisdiction caused by such conditions as air pollution, fire, flood, storm, epidemic, riot, or earthquake, or other conditions, including conditions resulting from war or imminent threat of war, but other than conditions resulting from a labor controversy, which conditions are or are likely to be beyond the control of the services, personnel, equipment, and facilities, requiring the combined forces of other political subdivisions to combat. (Ord. 1456 § 1 (part), 2013)

**2.28.030 Disaster Council membership.**

The City of San Carlos Disaster Council is hereby created and shall consist of the following:

A. The Mayor, who shall be Chair.

B. The Director of Emergency Services, who shall be Vice Chair.

C. The Assistant Director of Emergency Services.

D. Such chiefs of emergency services as are provided for in a current emergency plan of this jurisdiction, adopted pursuant to this chapter.

E. Such representatives of civic, business, labor, veterans, professional, or other organizations having an official emergency responsibility as may be appointed by the Director with the advice and consent of the City Council. (Ord. 1456 § 1 (part), 2013)

**2.28.040 Disaster Council powers and duties.**

It shall be the duty of the City of San Carlos Disaster Council, and it is hereby empowered, to develop and recommend for adoption by the City Council, emergency and mutual aid plans and agreements and such ordinances and resolutions and rules and regulations as are necessary to implement such plans and agreements. The Disaster Council shall meet upon call of the Chair or upon call of the Vice Chair (in the absence of the Chair). (Ord. 1456 § 1 (part), 2013)

**2.28.050 Director and Assistant Director of Emergency Services.**

A. There is hereby created the office of Director of Emergency Services (hereinafter also referred to as Director). The City Manager shall be the Director of Emergency Services.

B. There is hereby created the office of Assistant Director of Emergency Services, who shall be appointed by the Director. (Ord. 1456 § 1 (part), 2013)

**2.28.060 Powers and duties of the Director and Assistant Director of Emergency Services.**

A. The Director is hereby empowered to:

1. Request the City Council to proclaim the existence or threatened existence of a "local emergency" if the City Council is in session, or to issue such proclamation if the City Council is not in session. Whenever a local emergency is proclaimed by the Director, the City Council shall take action to ratify the proclamation within seven days thereafter or the proclamation shall have no further force or effect. Thereafter, the Director shall request the City Council determine whether the facts and circumstances require the continuation of the declaration of emergency at least once every thirty days until the City Council terminates the local emergency, pursuant to Government Code Section 8630.
2. Request the Governor to proclaim a "state of emergency" when, in the opinion of the Director, the locally available resources are inadequate to cope with the emergency.
3. Control and direct the effort of this emergency organization for the accomplishment of the purposes of this chapter.
4. Direct cooperation between and coordination of services and staff of this emergency organization; and resolve questions of authority and responsibility that may arise between them.
5. Represent this jurisdiction in all dealings with public or private agencies on matters pertaining to emergencies as defined herein.
6. In the event of the proclamation of a "local emergency" as herein provided, the proclamation of a "state of emergency" by the Governor or the Secretary of the California Emergency Management Agency, or the existence of a "state of war emergency," the Director is hereby empowered:
  - a. To make and issue rules and regulations on matters reasonably related to the protection of life and property as affected by such emergency; provided, however, such rules and regulations must be confirmed at the earliest practicable time by the City Council;
  - b. To obtain vital supplies, equipment, and such other properties found lacking and needed for the protection of life and property and to bind the jurisdiction for the fair value thereof and, if required immediately, to commandeer the same for public use;
  - c. To require emergency services of any officer or employee and, in the event of the proclamation of a "state of emergency" in the County in which this City is located or the existence of a "state of war emergency," to command the aid of as many citizens of this community as deemed necessary in the execution of duties; such persons shall be entitled to all privileges, benefits, and immunities as are provided by State law for registered disaster services workers;
  - d. To requisition necessary personnel or material of the departments or agencies; and
  - e. To execute all ordinary power as City Manager, all of the special powers conferred by this chapter or by resolution or emergency plan pursuant hereto adopted by the governing body, all powers conferred by any statute, by any agreement approved by the City Council, and by any other lawful author.

B. The Director of Emergency Services shall designate the order of succession to that office, to take effect in the event the Director is unavailable to attend meetings and otherwise perform duties during an emergency. Such order of succession shall be approved by the City Council.

C. The Assistant Director shall, under the supervision of the Director and with the assistance of emergency service chiefs, develop emergency plans and manage the emergency programs of this jurisdiction, and shall have such other powers and duties as may be assigned by the Director. (Ord. 1456 § 1 (part), 2013)

**2.28.070 Emergency organization.**

All officers and employees, together with those volunteer forces enrolled to aid them during an emergency, and all groups, organizations, and persons who may by agreement or operation of law, including persons impressed into service under the provisions of Section 2.28.060, be charged with duties incident to the protection of life and property during such emergency, shall constitute the emergency organization of the City of San Carlos. (Ord. 1456 § 1 (part), 2013)

**2.28.080 Emergency plan.**

The City of San Carlos Disaster Council shall be responsible for the development of the emergency plan, which plan shall provide for the effective mobilization of all of the resources of this jurisdiction, both public and private, to meet any condition constituting a local emergency, state of emergency, or state of war emergency, and shall provide for the organization, powers and duties, services, and staff of the emergency organization. Such plan shall take effect upon adoption by resolution of the City Council. (Ord. 1456 § 1 (part), 2013)

#### **2.28.090 Expenditures.**

Any expenditure made in connection with emergency activities, including mutual aid activities, shall be deemed conclusively to be for the direct protection and benefit of the inhabitants and property of the City of San Carlos. (Ord. 1456 § 1 (part), 2013)

#### **2.28.100 Punishment of violations.**

It shall be a misdemeanor, punishable by a fine of not to exceed one thousand dollars, or by imprisonment for not to exceed six months, or both, for any person, during an emergency, to:

- A. Willfully obstruct, hinder, or delay any member of the emergency organization in the enforcement of any lawful rule or regulation issued pursuant to this chapter, or in the performance of any duty imposed upon him by virtue of this chapter.
- B. Do any act forbidden by any lawful rule or regulation issued pursuant to this chapter, if such act is of such a nature as to give or be likely to give assistance to the enemy or imperil the lives or property of inhabitants of this City, or to prevent, hinder, or delay the defense or protection thereof.
- C. Wear, carry, or display, without authority, any means of identification specified by the emergency agency of the State. (Ord. 1456 § 1 (part), 2013)

#### **2.28.110 Repeal of conflicting ordinances.**

The ordinance codified in this chapter shall repeal and replace Ordinance 279, enacted in 1951. (Ord. 1456 § 1 (part), 2013)

### **Chapter 2.36 ELECTIONS**

Sections:

#### **2.36.010 General municipal election date established.**

#### **2.36.020 City officers' election and terms of office.**

#### **2.36.030 Electronic filing system.**

#### **2.36.010 General municipal election date established.**

Pursuant to Elections Code Section 1301 and 10403.5, the general municipal election in the City of San Carlos for the offices of City Councilmembers and City Treasurer shall be the first Tuesday following the first Monday in November of even-numbered years commencing in November 2018. (Ord. 1519 § 2 (part), 2017)

#### **2.36.020 City officers' election and terms of office.**

Pursuant to Elections Code Section 10403.5, due to the change of election date, the terms of office of the City Treasurer and City Councilmembers presently serving shall be extended by twelve months (one year) as follows:

- A. Those Councilmembers of the City of San Carlos whose terms of office would have, prior to the adoption of the ordinance codified in this chapter, expired following the November 2017 general municipal election shall, instead, continue in their offices until certifications of the results and administration of the oaths of office after the November 2018 general municipal election of the City of San Carlos.
- B. Those Councilmembers of the City of San Carlos whose terms of office would have, prior to the adoption of the ordinance codified in this chapter, expired following the November 2019 general municipal election shall, instead, continue in their offices until certifications of the results and administration of the oaths of office after the November 2020 general municipal election of the City of San Carlos.
- C. The City Treasurer of the City of San Carlos whose term of office would have, prior to the adoption of the ordinance codified in this chapter, expired following the November 2019 general municipal election shall, instead, continue in office until certificates of the results and administration of the oaths of office after the November 2020 general municipal election of the City of San Carlos.

The terms of City officers elected in November 2018, and in each subsequent general municipal election shall be, in accordance with State law, for a term of four years, from the Tuesday succeeding their election and until their successors are elected and qualified. (Ord. 1519 § 2 (part), 2017)

**2.36.030 Electronic filing system.**

A. Required Use of Electronic Filing System.

1. Except as set forth in subsection B of this section, any elected officer, candidate, committee, other person required to file specified statements, reports, forms, or other documents with the City Clerk as required by Chapter 4 (commencing with Section 84100 of Title 9 of the California Government Code, also known as the Political Reform Act), and that has received contributions or made expenditures of two thousand dollars (\$2,000) or more in a calendar year, may electronically file such statements using the City's online system according to procedures established by the City Clerk. However, to ensure reporting continuity, once a statement, report, form, or other document is filed electronically on behalf of any elected officer, candidate, committee, or other person, all future statements, reports, forms, and other documents filed on behalf of that officer, candidate, committee, or other person must be filed electronically.

2. An elected officer, candidate, committee, or other person may choose not to use the electronic filing system by filing all original statements, reports, forms, or other documents in paper format with the City Clerk, until such time as the City Council determines that electronic filing is mandatory for all filers.

B. Paper Filing Not Required After Electronic Filing. Any elected officer, candidate, committee, or other person who has electronically filed a statement, report, form, or other document using the City's online system is not also required to file a copy of that document in a paper format with the City Clerk.

C. Filing Options When a Copy Must Be Filed with City Clerk. In any instance in which an original statement, report, form, or other document must be filed with the Secretary of State or other agency, and a copy of that document is required to be filed with the City Clerk, the filer may electronically file a copy with the City Clerk, or may file in a paper format.

D. Paper Filing When Cannot File Electronically. If, for technical reasons, the City's system is not capable of accepting a particular type of statement, report, form or other document, an elected officer, candidate, committee, or other person shall timely file that document in paper format with the City Clerk.

E. Internet Posting of Data. The City Clerk shall ensure that the City's system makes all electronically filed statements, reports, forms, or other documents available on the internet in an easily understood format that provides the greatest public access. The data shall be made available free of charge and as soon as possible after receipt/deadline. The data made available on the internet shall not contain the street name of the persons or entity representatives listed on the electronically filed forms or any bank account number required to be disclosed by the filer. The City Clerk's office shall also make a complete, unredacted copy of the statement, report, form, or other document available to the Fair Political Practices Commission for Government Code Section 87200 filers.

F. Records Retention. The City Clerk's office shall maintain records according to the City's records retention schedule and applicable State law commencing from the date filed, a secured, official version of each online or electronic statement, report, form, or other document, which shall serve as the official version of that record. (Ord. 1569 § 2, 2021)

**Chapter 2.40  
REDEVELOPMENT AGENCY**

Sections:

**2.40.010 Established.**

**2.40.020 Authority—Powers.**

**2.40.030 City Council to perform duties.**

**2.40.040 Implementation of Community Redevelopment Law.**

**2.40.010 Established.**

It is found, determined and declared that there is a need for a redevelopment agency to function in the City in accordance with the provisions of the Community Redevelopment Law. (Ord. 956 § 1, 1985)

**2.40.020 Authority—Powers.**

The Redevelopment Agency is established pursuant to Section 33101 of the Community Redevelopment Law to be known as the Redevelopment Agency. The Redevelopment Agency is authorized to transact business and exercise its power under provisions of the Community Redevelopment Law. (Ord. 956 § 2, 1985)

**2.40.030 City Council to perform duties.**

Pursuant to the provisions of Section 33200 of the Community Redevelopment Law, the City Council declares itself to be the Redevelopment Agency of the City. This declaration is based upon the finding that the City Council currently has the greatest ability to expedite and facilitate the requirements of the California Community Redevelopment Law in a timely manner consistent with needs, goals and objectives of the community. (Ord. 956 § 3, 1985)

**2.40.040 Implementation of Community Redevelopment Law.**

The City Council finds and determines that the designation of the City Council as the Redevelopment Agency will serve the public interest and promote the public health, safety and welfare in an effective manner in that this public body is best able to serve the needs of the community to implement the purposes of the Community Redevelopment Law. (Ord. 956 § 4, 1985)

**Chapter 2.44  
PERSONNEL SYSTEM**

Sections:

**2.44.010 Adoption of personnel system.**

**2.44.020 Definitions.**

**2.44.030 Administration.**

**2.44.040 Competitive service.**

**2.44.050 Adoption and amendment of rules.**

**2.44.060 Appointments.**

**2.44.070 Probationary period.**

**2.44.080 Status of present employees.**

**2.44.090 Demotion, dismissal, reduction in pay, suspension, reprimand.**

**2.44.100 Right of appeal.**

**2.44.110 Layoff and reemployment.**

**2.44.120 Political activity.**

**2.44.130 Contracts for services.**

**2.44.010 Adoption of personnel system.**

In order to establish an equitable and uniform system for dealing with personnel matters and to comply with applicable laws relating to the administration of the personnel process, the following personnel system is adopted. (Ord. 1197 (part), 1995)

**2.44.020 Definitions.**

The terms used to administer the personnel system shall be defined in the Personnel Rules and Regulations. (Ord. 1197 (part), 1995)

**2.44.030 Administration.**

The City Manager shall administer the City personnel system and may delegate the City Manager's powers and duties under this chapter to the Personnel Director or the Assistant City Manager (except for the power to appoint department head positions). The City Manager, or his/her designee shall:

- A. Act as the appointing authority for the City, as to all employees except elective officers and the City Attorney;
- B. Administer all the provisions of this chapter and of the Personnel Rules and Regulations not specifically reserved to the City Council;
- C. Prepare and recommend to the City Council personnel rules and revisions and amendments to such rules;

- D. Prepare or cause to be prepared a position classification plan, including job classification specifications, and revisions of the plan;
- E. Have the authority to discipline employees in accordance with this chapter and the Personnel Rules and Regulations of the City and the governing memoranda of understanding;
- F. Provide for the publishing or posting of notices of tests for positions in the competitive service; the receiving of applications therefor; the conducting and grading of tests; the certification of a list of all persons eligible for appointment to the appropriate position in the competitive service; and performing any other duty that may be required to administer the personnel system. (Ord. 1197 (part), 1995)

#### **2.44.040 Competitive service.**

The provisions of the chapter relating to the competitive service shall apply to all offices, positions and employment in the service of the City, except:

- A. Elective officers;
- B. The City Manager and Assistant City Manager;
- C. The City Attorney and any assistant or deputy city attorneys;
- D. Members of appointive boards, commissions and committees;
- E. Certain positions, filled by employees, consultants or contract services firms as listed: Members of the Management Unit as defined in appendix A of the City of San Carlos Management Unit Salary and Benefit Resolution as amended from time to time;
- F. Persons engaged under contract to supply expert, professional, technical or any other services;
- G. Volunteer personnel;
- H. All Council-appointed City officers;
- I. Emergency employees who are hired to meet the immediate requirements of an emergency condition, such as extraordinary fire, flood or earthquake which threatens life or property;
- J. Employees, part-time employees and seasonal employees, who are not regularly employed in permanent positions. "Regularly employed in permanent positions" means an employee hired for an indefinite term into a budgeted position, who is regularly scheduled to work no less than two thousand and eighty hours per year, and has successfully completed the probationary period and been retained as provided in this chapter and the Personnel Rules and Regulations;
- K. Any position primarily funded under a State or Federal employment program;
- L. Employees not included in the competitive service under this chapter shall serve at the discretion of their appointing authority. (Ord. 1460 § 1, 2013: Ord. 1349 § 1, 2004: Ord. 1292 § 1 (part), 2001; Ord. 1197 (part), 1995)

#### **2.44.050 Adoption and amendment of rules.**

Personnel Rules and Regulations shall be adopted by resolution of the City Council and shall apply to all employees unless otherwise stated. The rules may establish regulations governing the personnel system, including but not limited to:

- A. Preparation, installation, revision and maintenance of a position classification plan covering all positions in the competitive service, including employment standards and qualifications for each class;
- B. Establishment of probationary testing periods;
- C. Evaluation of employees during the probationary testing period and thereafter;
- D. Transfer, promotion, demotion, reinstatement, disciplinary action and layoff of employees in the competitive service;
- E. Separation of employees from the City service;
- F. The establishment and maintenance of adequate personnel records for purposes of accounting and legal requirements;
- G. The establishment of any necessary appeal procedures. (Ord. 1197 (part), 1995)

**2.44.060 Appointments.**

Appointments to vacant positions in the competitive service shall be made in accordance with the Personnel Rules and Regulations. Appointments and promotions shall be based on merit and fitness to be ascertained so far as practicable by competitive examination. Examinations may be used and conducted to aid the selection of qualified employees and shall consist of selection techniques which will test fairly the qualifications of candidates such as achievement and aptitude tests, written tests, personal interviews, performance tests, physical agility tests, evaluation of daily work performance, work samples or any combinations of these or other tests. The probationary period shall be considered an extension of the examination process. Physical, medical and psychological tests may be given as a part of any examination.

In any examination the City Manager or his/her designee may include, in addition to competitive tests, a qualifying test or tests, and set minimum standards therefor.

The appointing authority or employees in the competitive service is the City Manager. The City Manager may delegate the appointing authority to any other officer or employee of the City except he/she shall not delegate the appointment of department heads to any other officer or employee. (Ord. 1197 (part), 1995)

**2.44.070 Probationary period.**

All regular appointments, including promotional appointments, shall be for a probationary period as determined by the governing memorandum of understanding. The appointing authority may extend such probationary period up to twelve additional months. The probationary period shall commence from the date of appointment. In the event of illness or injury requiring absence from work, the number of days absent shall be added to the length of the probationary period. During the probationary period, the employee may be rejected at any time without the right of appeal, hearing or grievance procedure, except for specific circumstances covered in the appropriate memorandum of understanding. The probationary period shall include time served in a temporary appointment if the temporary employee qualified as an eligible employee and is appointed while in the temporary position.

If the service of the probationary employee has been satisfactory to the appointing authority, the appointing authority shall file with the Personnel Director a statement in writing to such effect and stating that the retention of such employee in the position is desired. If such a statement is not filed, the employee will be deemed to be unsatisfactory and his or her employment terminated at the end of the probationary period, and the notice of termination shall be served on the terminated employee by the Personnel Director. The Personnel Director shall not terminate a probationary employee without prior consultation with the appropriate department head.

An employee rejected during the probationary period from a position to which he or she has been promoted shall be reinstated to a position in the class from which he or she was promoted if such a position is available, and may serve a probationary period at the discretion of the appointing authority, unless due to the conduct of the employee the employee is discharged in the manner provided in the appropriate memorandum of understanding, or in its absence, in the manner provided in this chapter and the Personnel Rules and Regulations. (Ord. 1292 § 1 (part), 2001; Ord. 1197 (part), 1995)

**2.44.080 Status of present employees.**

Any person holding a position included in the competitive service who, on the effective date of the ordinance codified in this chapter, shall have served continuously in such position, or in some other position in the competitive service, for a period prescribed in the existing personnel rules or in an applicable memorandum of understanding for his or her classification, shall assume regular status in the competitive service in the position held on such effective date without qualifying test, and shall thereafter be subject in all respects to the provisions of this chapter and the Personnel Rules and Regulations.

Any other persons holding positions in the competitive service shall be regarded as probationers who are serving out the balance of their probationary periods as prescribed in the rules before obtaining regular status. The probationary period shall be calculated from the date of appointment or employment. (Ord. 1197 (part), 1995)

**2.44.090 Demotion, dismissal, reduction in pay, suspension, reprimand.**

The City Manager shall have the authority to demote, discharge, reprimand, reduce in pay, or suspend any employee in the competitive service for cause as defined in, and in accordance with, procedures set forth in the Personnel Rules and Regulations, City policies, or the appropriate memorandum of understanding. (Ord. 1197 (part), 1995)

**2.44.100 Right of appeal.**

Any regular employee in the competitive service shall have the right to appeal a demotion, reduction in pay, suspension, or discharge for disciplinary or other reasons, except in those instances where the right to appeal is specifically prohibited by this chapter, the Personnel Rules and Regulations, or the appropriate memorandum of understanding. All appeals shall be

conducted in accordance with the requirements and procedures set forth in the Personnel Rules and Regulations or the appropriate memorandum of understanding. (Ord. 1197 (part), 1995)

**2.44.110 Layoff and reemployment.**

Layoff and reemployment actions shall follow the process outlined in the Rule XI of the Personnel Rules and Regulations or the appropriate memorandum of understanding. (Ord. 1197 (part), 1995)

**2.44.120 Political activity.**

The political activities of City employees shall conform to pertinent provisions of State law and any local provision adopted pursuant to State law. Notwithstanding, City employees shall not participate in political activity while on duty, or on the premises of City property. (Ord. 1197 (part), 1995)

**2.44.130 Contracts for services.**

The City Manager shall determine the extent to which the City should contract for the performance of technical services in connection with the establishment or operation of the personnel system.

The City may contract with any qualified person or public or private agency to assist in the performance of all or any of the duties imposed by this chapter, including but not limited to the following:

- A. The preparation of Personnel Rules and Regulations and subsequent revisions and amendments thereof;
- B. The preparation of a position classification plan, and subsequent revisions and amendments thereof;
- C. The preparation, conduct and grading of competitive tests;
- D. The conduct of employee training programs;
- E. Special and technical services of advisory or informational character on matters relating to personnel administration. (Ord. 1197 (part), 1995)

**Title 3  
REVENUE AND FINANCE**

**Chapters:**

- 3.04 Transfer of Tax Collection Duties**
- 3.08 Procedure for Payment of Warrants**
- 3.12 Purchasing of City Supplies and Services**
- 3.14 Public Projects**
- 3.16 Uniform Local Sales and Use Tax**
- 3.20 Real Property Transfer Tax**
- 3.24 Uniform Transient Occupancy Tax**
- 3.25 Parcel Tax for Long-Term Capital Improvement of Parks and Park Facilities**
- 3.28 Special Gas Tax Street Improvement Fund**
- 3.32 Departmental Fee Schedule**
- 3.34 Park Facility Development Fees**
- 3.36 Parking Exception Fund**

**Chapter 3.04  
TRANSFER OF TAX COLLECTION DUTIES**

**Sections:**

- 3.04.010 Collection and assessment transfer to County.**
- 3.04.020 City Assessor's duties transferred to City Clerk—Exceptions.**

**3.04.010 Collection and assessment transfer to County.**

The City Council elects to proceed under Title 5, Division 1, Part 2, Chapter 2, Article 1 (Sections 51500 through 51519) of the Government Code of the State and transfers the assessment and tax collection duties of the City Assessor and Tax Collector to the Assessor and Tax Collector of the County. (Ord. 556 § 1, 1962)

**3.04.020 City Assessor's duties transferred to City Clerk—Exceptions.**

All other duties performed by the City Assessor other than the assessing of property in the City and all duties performed by the City Tax Collector other than the collection of ad valorem taxes on property and the collection of assessments on municipal improvements are transferred to and are to be performed by the City Clerk effective July 1, 1963. (Ord. 556 § 2, 1962)

### **Chapter 3.08 PROCEDURE FOR PAYMENT OF WARRANTS\***

Sections:

**3.08.010 Warrants defined.****3.08.020 Payment authorizations and the warrant list.****3.08.030 Issuance of checks and electronic payments.**

\* Prior ordinance history: Ords. 499 and 997.

**3.08.010 Warrants defined.**

A. A "warrant" is an authorization to pay money from the treasury of the City of San Carlos.

B. A "warrant list" is a list of payroll, or invoices and other payment demands which have been approved for payment. (Ord. 1373 § 1 (part), 2006)

**3.08.020 Payment authorizations and the warrant list.**

A. The Administrative Services Director, or the Finance Officer, shall certify in writing, or electronically, the accuracy of the City's payroll and all invoices and other demands for payment, and post such approved payments on a "warrant list."

B. The City Treasurer, or Deputy City Treasurer, shall review and approve in writing, or electronically, or ratify within fourteen days of payment of payroll, monies or other demands, all items on each warrant list. A copy of each warrant list approved by the City Treasurer shall be provided to each member of the City Council, in a timely manner. (Ord. 1373 § 1 (part), 2006)

**3.08.030 Issuance of checks and electronic payments.**

A. Payment may be made for all payroll, invoices and other demands which have been approved in writing by the Administrative Services Director or Finance Officer.

B. Payments shall be made electronically or by the issuance of checks.

C. All checks shall contain the signature of the City Treasurer, or in his absence, any one of the following signatures: Deputy City Treasurer, Administrative Services Director, Finance Officer, City Manager, Assistant City Manager or City Clerk.

D. All officials who are authorized to sign checks shall be bonded with a minimum of one hundred thousand dollars.

E. All signatures on checks may be made by mechanical means. (Ord. 1373 § 1 (part), 2006)

### **Chapter 3.12 PURCHASING OF CITY SUPPLIES AND SERVICES**

Sections:

**3.12.010 Purpose.****3.12.020 Application.****3.12.030 Definitions.****3.12.040 Establishment.****3.12.050 Duties.****3.12.060 Operational procedures.**

- 3.12.070 Delegation/request for proposals by City staff.**
- 3.12.080 Factors to consider in purchasing supplies and nonprofessional services.**
- 3.12.090 Justification for acceptance of a high bid.**
- 3.12.100 Preference given to bidder within the City when bids are equal.**
- 3.12.110 Brand names or equal specification.**
- 3.12.120 Preference given to bidder(s) supplying recycled paper and paper products.**
- 3.12.130 Preference given to bidder(s) supplying or utilizing environmentally sustainable materials, products or methods.**
- 3.12.140 Purchases of less than one thousand dollars.**
- 3.12.150 Purchase of one thousand dollars to ten thousand dollars.**
- 3.12.160 Purchase of ten thousand and one dollars to seventy-five thousand dollars made through formal written quote.**
- 3.12.170 Purchase of seventy-five thousand and one dollars or more made by the City Council through competitive bid.**
- 3.12.180 Emergency authority of City Manager and Administrative Services Director.**
- 3.12.190 Waiver of informalities—Rejection of bids.**
- 3.12.200 Purchase through a governmental entity.**
- 3.12.210 Competitive bids—Notice.**
- 3.12.220 Competitive bids—Consideration.**
- 3.12.240 Faithful performance deposits.**
- 3.12.250 Additional powers and duties of Administrative Services Director.**
- 3.12.260 Service contracts—Professional services.**
- 3.12.290 Sufficient funds must be available.**
- 3.12.300 Department head responsible for checking quality.**
- 3.12.340 Disposal of personal property valued at one thousand dollars or less.**
- 3.12.360 Disposal of more than one thousand dollars.**
- 3.12.370 Exclusions from chapter.**

**3.12.010 Purpose.**

The purpose of this chapter is to maximize the purchasing value of public funds in procurement, and to provide safeguards for maintaining a procurement system of quality and integrity. (Ord. 1451 § 2 (part), 2012)

**3.12.020 Application.**

Except as otherwise provided herein, this chapter applies to contracts for the procurement of supplies and services entered into by the City. When the procurement involves the expenditure of State or Federal assistance or contract funds, the procurement shall be conducted in accordance with mandatory applicable State or Federal law and regulations. Nothing in this chapter shall prevent any public agency from complying with the terms and conditions of any grant, gift or bequest that is otherwise consistent with law. The purchase of all supplies and services by the City shall be made pursuant to this chapter. (Ord. 1451 § 2 (part), 2012)

**3.12.030 Definitions.**

As used in this chapter:

- A. "Architect-engineer and land surveying services" means those professional services within the scope of practice of architecture, professional engineering, or land surveying, as defined by the laws of the State.
- B. "Brand name or equal specification" means a specification limited to one or more items by manufacturers' names or catalogue numbers to describe the standard of quality, performance, and other salient characteristics needed to meet City requirements, and which provides for the submission of equivalent products.

C. "Brand name specification" means a specification limited to one or more items by manufacturers' names or catalogue numbers.

D. "Business" means any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture, or any other private legal entity.

E. "City" means the City of San Carlos.

F. "Invitations for bids" means all documents, whether attached or incorporated by reference, utilized for soliciting bids.

G. "Person" means any business, individual, union, committee, club, or other organization, or group of individuals.

H. "Procurement" means the buying, purchasing, renting, leasing, or otherwise acquiring of any supplies or services. It also includes all functions that pertain to the obtaining of any supply or service, including description of requirements, selection, and solicitation of sources, preparation and award of contract, and contract administration.

I. "Quote," "quotation," "bid" and "proposal" shall be synonymous as used in this chapter. A "formal" quote shall be obtained in writing (or e-mail) and an "informal" quote is one obtained verbally or simply by price-checking.

J. "Services" means the furnishing of labor, time or effort, not involving the delivery of a specific end product other than reports which are merely incidental to the required performance. This term shall not include employment agreements or collective bargaining agreements. "Professional services" shall be as defined in and governed by Section 3.12.260. All other services shall be considered nonprofessional.

K. "Specification" means any description of the physical or functional characteristics or of the nature of a supply, service or construction item. It may include a description of any requirement for inspecting, testing or preparing a supply or service for delivery.

L. "Supplies" means all property (including but not limited to equipment and materials) except as otherwise provided herein.

M. "Surplus supplies" means supplies which are worn out, obsolete or unsuitable for continued City use. (Ord. 1451 § 2 (part), 2012)

#### **3.12.040 Establishment.**

Purchasing for the City shall be managed by the Administrative Services Director. In all cases where the Administrative Services Director is authorized to act in this chapter, the City Manager or his/her designee is also authorized. (Ord. 1451 § 2 (part), 2012)

#### **3.12.050 Duties.**

In accordance with this chapter, the Administrative Services Director shall:

- A. Procure or supervise the procurement of all supplies and services needed by the City, except as otherwise provided herein;
- B. Exercise direct supervision over the City central stores and general supervision over all other inventories of supplies belonging to the City;
- C. Sell, trade or otherwise dispose of surplus supplies belonging to the City; and
- D. Establish and maintain programs for specifications development, contract administration and inspection and acceptance, in cooperation with the City departments and the public agencies using such supplies and services. (Ord. 1451 § 2 (part), 2012)

#### **3.12.060 Operational procedures.**

Consistent with this chapter, operational procedures may be adopted by written order of the City Manager or the City Manager's designee, which may then be reviewed or modified by the City Council. (Ord. 1451 § 2 (part), 2012)

#### **3.12.070 Delegation/request for proposals by City staff.**

A. The Administrative Services Director may delegate authority to purchase supplies or services, and to dispose of surplus supplies, to other City officials if such delegation is deemed necessary for the effective procurement or disposal of those items, and is authorized by the City Manager.

B. Where the City determines to select a professional consultant's services and any staff member or City consultant has been involved in the preparation of, and/or implementation of, a request for proposals (RFP) for such services, said City staff member and any City consultant shall not be allowed to solicit proposals for services under such RFP. (Ord. 1451 § 2 (part), 2012)

**3.12.080 Factors to consider in purchasing supplies and nonprofessional services.**

In every case, purchases of supplies and nonprofessional services shall be awarded on the basis of the bid or bids most advantageous to the City. In determining whether a bid is most advantageous to the City, in addition to price, the following factors shall be considered:

- A. The ability, capacity and skill of the bidder to perform the contract or provide the supplies or service required;
- B. Whether the bidder can perform the contract or provide the supplies or service promptly, or within the time specified, without delay or interference;
- C. The previous and existing compliance by the bidder with applicable laws and regulations in previous public contract projects;
- D. The bidder's reputation, experience, and the quality of performance of previous contracts for supplies or services;
- E. The quality, availability and adaptability of the supplies or services to the particular use required;
- F. The ability of the bidder to provide future maintenance and service for the use of the subject of the contract;
- G. The number and scope of conditions attached to the bid;
- H. Factors and preferences in Sections 3.12.120 and 3.12.130. (Ord. 1486 § 1 (part), 2015: Ord. 1451 § 2 (part), 2012)

**3.12.090 Justification for acceptance of a high bid.**

In cases where the purchase of supplies or nonprofessional services is awarded to the most advantageous bid and not the lowest bid, the Administrative Services Director shall prepare and place on file with the records of the department a written statement of his or her opinion and the reasons therefor. Such statements shall be open to public inspection at all times during regular office hours. (Ord. 1451 § 2 (part), 2012)

**3.12.100 Preference given to bidder within the City when bids are equal.**

A bidder with a permanent place of business within the City shall be preferred over a bidder without a permanent place of business within the City, in cases where two or more bids are judged to be equal. (Ord. 1451 § 2 (part), 2012)

**3.12.110 Brand names or equal specification.**

A. Use. Brand name or equal specifications may be used when the Administrative Services Director determines that:

- 1. No other design or performance specification or qualified products list is available;
- 2. Time does not permit the preparation of another form of purchase description, not including a brand name specification;
- 3. The nature of the product or the nature of the City's requirements makes use of a brand name or equal specification suitable for the procurement; or
- 4. Use of a brand name or equal specification is in the City's best interest.

B. Designation of Several Brand Names.

- 1. Brand name or equal specifications shall state that substantially equivalent products to those designated will be considered for award.
- 2. Where a brand name or equal specification is used in a solicitation, the solicitation shall contain explanatory language that the use of a brand name is for the purpose of describing the standard of quality, performance and characteristics desired and is not intended to limit or restrict competition. (Ord. 1451 § 2 (part), 2012)

**3.12.120 Preference given to bidder(s) supplying recycled paper and paper products.**

The Administrative Services Director and other City departments shall provide a preference to the suppliers of recycled paper or paper products as defined in Section 12209 of the Public Contract Code equal to five percent of the lowest bid or price quoted by suppliers offering nonrecycled paper or paper products, provided the recycled paper is compatible with City equipment and when fitness and quality are comparable to nonrecycled paper products. (Ord. 1486 § 1 (part), 2015: Ord. 1451 § 2 (part), 2012)

**3.12.130 Preference given to bidder(s) supplying or utilizing environmentally sustainable materials, products or methods.**

The Administrative Services Department and other City departments shall provide a preference to suppliers utilizing environmentally preferable products and/or vendors consistent with the City's environmentally preferred purchasing policy adopted by the City Council so long as such products or vendors utilizing such products meet performance standards and are available in a reasonable time consistent with City objectives and needs and at reasonable cost. Nothing in this section shall be construed as requiring the City to procure products or utilize vendors that do not perform adequately for their intended use, exclude adequate competition, or are not available at a reasonable price or in a reasonable time period. (Ord. 1486 § 1 (part), 2015)

**3.12.140 Purchases of less than one thousand dollars.**

Where the cost is less than one thousand dollars, the purchase of supplies or nonprofessional services or professional services may be made without an informal or formal quote or bid process. (Ord. 1451 § 2 (part), 2012)

**3.12.150 Purchase of one thousand dollars to ten thousand dollars.**

Where the cost is from one thousand and one dollars and up to ten thousand dollars, the purchase of supplies or nonprofessional services or professional services shall be made by the Administrative Services Director by informal quote. At least three vendors shall be contacted or three price checks made, except where three or more vendors are found not to exist. (Ord. 1451 § 2 (part), 2012)

**3.12.160 Purchase of ten thousand and one dollars to seventy-five thousand dollars made through formal written quote.**

Where the cost involved is at least ten thousand and one dollars and up to seventy-five thousand dollars, the purchase of supplies or nonprofessional services shall be made by the Administrative Services Director through formal written quotation with at least three quotes obtained for a proper comparison of prices, except where three or more vendors are found not to exist. (Ord. 1451 § 2 (part), 2012)

**3.12.170 Purchase of seventy-five thousand and one dollars or more made by the City Council through competitive bid.**

Where the cost involved is at least seventy-five thousand and one dollars, the purchase of supplies or nonprofessional services shall be made by the City Council through competitive bid, upon notice as hereafter required in Section 3.12.210 of this chapter, with at least three bids being obtained for a proper comparison of prices, except where three or more vendors are found not to exist. Provided, however, the Council may elect to make any purchase without competitive bid in any amount (except as the laws of the State of California otherwise require) in the following cases:

- A. By affirmative vote of three Councilpersons upon a determination that competitive bids upon notice would cause unnecessary expense or delay under the circumstances.
- B. By affirmative vote of three Councilpersons on a finding that a purchase may be made through a governmental entity, as provided in Section 3.12.200.
- C. By affirmative vote of three Councilpersons upon a finding that there is only one source for the required supply or service based on a review of available sources by the Administrative Services Director and he/she making a written recommendation therefor.
- D. By majority vote of a quorum of Councilpersons present at a Council meeting upon a determination that the immediate preservation of the public peace, health or safety requires said purchase be made without competitive bids upon notice. (Ord. 1451 § 2 (part), 2012)

**3.12.180 Emergency authority of City Manager and Administrative Services Director.**

- A. In an emergency requiring the immediate preservation of the public peace, health and/or safety, the City Manager or Administrative Services Director may purchase supplies or services up to seventy-five thousand dollars without complying with the purchasing procedures set forth in Sections 3.12.150 and 3.12.160.
- B. Where emergency conditions as set forth in subsection A of this section exist and the amount(s) in question exceeds seventy-five thousand dollars, and the City Council is unable or unavailable to meet in the time necessary to act, then the City

Manager or the City Manager's designee shall have the authority to purchase supplies or services in excess of seventy-five thousand dollars without complying with the provisions of Section 3.12.170.

C. At the next succeeding Council meeting following such an emergency, the City Manager or the Administrative Services Director shall submit to the Council a written statement of the circumstances of such emergency, a description of the supplies or services purchased, and the prices thereof. (Ord. 1451 § 2 (part), 2012)

**3.12.190 Waiver of informalities—Rejection of bids.**

Where the Administrative Services Director or City Council is required to make purchases of nonprofessional supplies or services upon competitive bids, the Administrative Services Director or Council may waive any informalities or minor irregularities, or may reject any and all bids (anything herein contained to the contrary notwithstanding) if said Administrative Services Director or Council deems said rejection to be in the best interests of the City. Said rejection shall be at the sole discretion of the Administrative Services Director or Council, as the case may be. (Ord. 1451 § 2 (part), 2012)

**3.12.200 Purchase through a governmental entity.**

Purchases may be made on behalf of the City through any governmental entity (including, but not limited to, the State of California or the County of San Mateo) pursuant to authority granted by any statute or ordinance or pursuant to contractual arrangement between the City and said governmental entity. The City is authorized and empowered to enter into contracts with other governmental entities providing for purchases to be made on behalf of the City. (Ord. 1451 § 2 (part), 2012)

**3.12.210 Competitive bids—Notice.**

Where notice is required, notice shall be given at least fifteen days prior to bid opening as follows:

A. For purchase under Section 3.12.170 of supplies or nonprofessional services, by:

1. Posting notice at City Hall.
2. Placing the notice on the City's website.
3. Sending (by e-mail or regular mail) notice to any person or entity requesting such notices and to whom the Administrative Services Director determines such notice should be sent.
4. Publishing a notice in a newspaper of general circulation in the City of San Carlos at least fifteen days prior to the date set for final receipt of bids.

B. The notice shall give such information as to the proposed purchase or disposal as the Administrative Services Director deems sufficient but shall include the following:

1. A general description of the supplies or services to be purchased or personal property to be disposed;
2. Date, time and place of bid opening;
3. Whether bid deposit or bond and faithful performance bond will be required. (Ord. 1451 § 2 (part), 2012)

**3.12.220 Competitive bids—Consideration.**

Where competitive bids are required, they shall be submitted in writing in a sealed envelope at the office of the Administrative Services Director no later than the final time and date for the receipt of bids as set forth in the notice and opened publicly.

Where competitive bids are required, the purchase shall be made on the basis of three or more of said bids unless the Administrative Services Director shall certify in writing that less than three prospective vendors or purchasers have submitted bids or that, to the best of the Administrative Services Director's knowledge, there are less than three prospective vendors from whom the supplies or services are available and that bids were invited from all of said vendors. Any bid may be withdrawn by a written request signed by the bidder and received by the Administrative Services Director prior the final time and date for the receipt of bids.

A. Opening. Bids shall be opened in public at the time and place stated in the public notices.

B. Tabulation. A tabulation of all bids received shall be available for public inspection. (Ord. 1451 § 2 (part), 2012)

**3.12.240 Faithful performance deposits.**

When deemed necessary by the Administrative Services Director or City Council, any person entering into a contract with the City may be required to furnish a faithful performance deposit or bond in an amount determined by the Administrative Services

Director or Council. Said person (and his or her surety, if a bond is furnished) shall be liable for any damages upon said person's failure to faithfully perform the terms of his or her contract. (Ord. 1451 § 2 (part), 2012)

**3.12.250 Additional powers and duties of Administrative Services Director.**

A. The Administrative Services Director is empowered to invite bids by telephone, e-mail or by regular mail or fax when deemed in the best interests of the City.

B. The Administrative Services Director shall keep a record of all purchases of supplies and services made and the bids, if any, submitted thereon. Said records shall be open to public inspection. (Ord. 1451 § 2 (part), 2012)

**3.12.260 Service contracts—Professional services.**

A. **Solicitation and Selection Criteria.**

1. Solicitation and selection of professional services, including but not limited to private architectural, landscape architectural, professional engineering, environmental, land surveying, and construction project management, legal, accounting or planning firms, shall be on the basis of demonstrated competence and on the professional qualifications necessary for the satisfactory performance of the services required and on fair and reasonable prices.

2. The City Council may, by resolution, prescribe specific procedures, rules and regulations governing the solicitation and selection of firms.

B. **Contracts for Major Services (More Than Seventy-Five Thousand Dollars).**

1. Solicitation of professionals shall be by written or published requests for proposals and at least three proposals shall be obtained for comparison purposes except where three proposers for the services required cannot be found to exist.

2. Proposals shall be reviewed and ranked by a Selection Committee composed of staff members competent to judge the qualifications of firms for the category of services to be provided, and appointed by the City Manager.

3. Contracts shall be reviewed and awarded by the City Council.

C. **Contracts for Minor Services (Seventy-Five Thousand Dollars or Less).**

1. Solicitation of professionals shall be by verbal, written or published requests for which at least three proposals shall be obtained for comparison purposes except where three proposals for the services requested cannot be found to exist.

2. The City Manager, or his/her designee, shall review and rank proposals.

3. The City Manager may award and execute contracts for minor services.

D. **Contract Incentives.** Service contracts may include monetary or other incentives for superior performance or early completion of the services rendered.

E. **Exceptions to the Procedures Prescribed in This Chapter.**

1. Contracts utilizing funding or other participation from agencies which require conformance with State, Federal or other contracting regulations shall be exempt from provisions of this chapter, and any resolutions established pursuant thereto, which would jeopardize the availability of the funding or participation.

2. Solicitation and selection of firms and award of contracts for public works design/build projects shall not be subject to the provisions of this chapter.

3. The City Council may authorize award and execution of service contracts in excess of seventy-five thousand dollars with no competitive proposals where experience with the proposed service provider has demonstrated competence and satisfactory performance or in the renewal or renegotiation of existing contracts for continuing services.

4. The City Manager or City Manager's designee may authorize the solicitation, selection, award, and execution of service contracts by the most expeditious method where time is of the essence to prevent an emergency lack of critically needed services or otherwise to protect the public health, safety or welfare of the City and its residents. If the contract is for major services, it shall be submitted for ratification at the next regular City Council meeting.

F. **Peer Review.** Where a consultant is to be engaged for the purpose(s) of performing a peer review of a decision or work product of a member of City staff or another City consultant, the consultant shall be an independent third party, properly

qualified for the task, and the scope of services for peer review shall be properly defined. (Ord. 1451 § 2 (part), 2012)

**3.12.290 Sufficient funds must be available.**

No purchase order for services or supplies shall be issued until the Administrative Services Director has ascertained that there is a sufficient unencumbered appropriated balance in excess of all unpaid obligations to defray the amount of such order. (Ord. 1451 § 2 (part), 2012)

**3.12.300 Department head responsible for checking quality.**

Upon receipt by any department of supplies or services, the department head shall be responsible for the making of a careful check of the quality, condition and quantity received. (Ord. 1451 § 2 (part), 2012)

**3.12.340 Disposal of personal property valued at one thousand dollars or less.**

Except as otherwise provided by State law or City ordinance, the Administrative Services Director shall be empowered to dispose of personal property of the City which cannot be used by any department of the City at public or private sale or by renting or destroying the same (all with or without notice, competitive bid or necessity of posting bid bonds, at the Administrative Services Director's discretion, and upon such terms as he or she deems best), provided any single item of property involved does not exceed one thousand dollars in current market value. (Ord. 1451 § 2 (part), 2012)

**3.12.360 Disposal of more than one thousand dollars.**

In the event any single item of property exceeds one thousand dollars in current market value, the City Council shall be required to empower the Administrative Services Director to dispose of it (in accordance with the same terms and conditions and subject to the same discretion and limitations as if it were under one thousand dollars in value). Alternatively, the City Council may elect to sell, rent or destroy the same in accordance with whatever provisions, terms and conditions the Council may, in its discretion, decide. (Ord. 1451 § 2 (part), 2012)

**3.12.370 Exclusions from chapter.**

The provisions of this chapter shall not apply:

- A. To public works projects (governed by the provisions of the California Public Contracts Code);
- B. To franchises governed by the provisions of the California Public Utilities Code or other statute of the State of California;
- C. Where State or Federal law requires a different procedure;
- D. To franchises, rights, privileges, licenses and permits granted by the City;
- E. To the purchase of insurance;
- F. To the leasing, purchase or sale of land or any interest therein;
- G. To the hiring of or contracting for personnel whether as temporary, seasonal or permanent employees;
- H. To the purchase of utilities, including, but not limited to, telephone service, gas, electricity or water. (Ord. 1451 § 2 (part), 2012)

## **Chapter 3.14 PUBLIC PROJECTS**

Sections:

**3.14.010 Definitions.**

**3.14.020 Formal bid—Public projects more than one hundred seventy-five thousand dollars.**

**3.14.030 Informal bid—Public projects of one hundred seventy-five thousand dollars or less.**

**3.14.040 Public projects—Forty-five thousand dollars or less.**

**3.14.010 Definitions.**

A. "Public facility" means any plant, building, structure, ground facility, utility system, real property, streets and highways or other public work improvement, owned, leased, or operated by the City of San Carlos, a municipal corporation.

B. "Public project" means any of the following:

1. Construction, reconstruction, erection, alteration, renovation, improvement, demolition and repair work involving any publicly owned, leased or operated facility.
2. Painting or repainting any publicly owned, leased or operated facility.
3. "Public project" does not include maintenance work such as routine, recurring work for the preservation of a publicly owned facility; minor repainting; landscape maintenance; or resurfacing streets at less than one inch. (Ord. 1452 § 2 (part), 2012)

**3.14.020 Formal bid—Public projects more than one hundred seventy-five thousand dollars.**

Public projects with an estimated value exceeding one hundred seventy-five thousand dollars shall be by written contract with the lowest responsible bidder, except as otherwise provided herein. (Ord. 1452 § 2 (part), 2012)

**3.14.030 Informal bid—Public projects of one hundred seventy-five thousand dollars or less.**

Public projects with a value in the amount of one hundred seventy-five thousand dollars or less shall be governed by the informal bid procedures as follows:

A. A list of qualified contractors, identified according to categories of work, shall be developed and maintained by the Director of Public Works in accordance with the provisions of Section 22034 of the Public Contract Code and criteria promulgated from time to time by the California Uniform Construction Cost Accounting Commission.

B. Where a public project is to be performed, a notice inviting informal bids shall be mailed to all contractors for the category of work to be bid, as shown on the list developed in accordance with subsection A of this section, and to all construction trade journals as specified by the California Uniform Construction Cost Accounting Commission in accordance with Section 22036 of the Public Contract Code; provided, however:

1. If there is no list of qualified contractors maintained by the City for the particular category of work to be performed, the notice inviting bids shall be sent only to the construction trade journals specified by the California Uniform Construction Cost Accounting Commission.

2. If the product or service is proprietary in nature such that it can be obtained only from a certain contractor or contractors, the notice inviting informal bids may be sent exclusively to such contractor or contractors.

3. Notices shall be mailed at least ten calendar days before bids are due.

4. The notice shall describe the project in general terms; how to obtain more information; and state the time and place for submission of bids.

5. The City Manager, Administrative Services Director and Director of Public Works or their designees shall have the authority to award informal bids.

C. If all bids received are in excess of one hundred seventy-five thousand dollars, the City Council may by four-fifths vote pass a resolution awarding the informal contract to the lowest responsible bidder, provided:

1. The Council determines that the original cost estimate by the City was reasonable.

2. The contract is for one hundred eighty-seven thousand five hundred dollars or less. (Ord. 1452 § 2 (part), 2012)

**3.14.040 Public projects—Forty-five thousand dollars or less.**

Public projects of forty-five thousand dollars or less may be performed by the employees of the City by force account, by negotiated contract, or by purchase order without formal or informal bid procedures. (Ord. 1452 § 2 (part), 2012)

**Chapter 3.16  
UNIFORM LOCAL SALES AND USE TAX**

Sections:

**3.16.010 Short title.**

**3.16.020 Purpose.**

**3.16.030 Adoption of State Statutes—General requirements.**

**3.16.040 Adoption of State Statutes—Limitations.**

**3.16.050 Permit required when.****3.16.060 Administration and operation.****3.16.070 Sales tax imposed.****3.16.080 Determination of sale—Exceptions.****3.16.090 Use tax imposed.****3.16.100 Exclusions and exemptions.****3.16.110 Exclusions and exemptions.****3.16.120 Revenue and Tax Code amendments.****3.16.130 Enjoining collection forbidden.****3.16.140 Rates.****3.16.150 Operative date of chapter.****3.16.160 Violation—Penalty.****3.16.010 Short title.**

This chapter shall be known as the "Uniform Local Sales and Use Tax Ordinance." (Ord. 742 § 2 (part), 1973)

**3.16.020 Purpose.**

The City Council declares that the ordinance codified in this chapter is adopted to achieve the following, among other purposes, and directs that the provisions of this chapter be interpreted in order to accomplish those purposes:

A. To adopt a sales and use tax ordinance which complies with the requirements and limitations contained in Part 1.5 of Division 2 of the Revenue and Taxation Code;

B. To adopt a sales and use tax ordinance which incorporates provisions identical to those of the sales and use tax law of the State insofar as those provisions are not inconsistent with the requirements and limitations contained in Part 1.5 of Division 2 of the Revenue and Taxation Code;

C. To adopt a sales and use tax ordinance which imposes a tax and provides a measure therefor that can be administered and collected by the State Board of Equalization in a manner that adapts itself as fully as practicable to and requires the least possible deviation from the existing statutory and administrative procedures followed by the State Board of Equalization in administering and collecting the State sales and use taxes;

D. To adopt a sales and use tax ordinance which can be administered in a manner that will, to the degree possible consistent with the provisions of Part 1.5 of Division 2 of the Revenue and Taxation Code, minimize the cost of collecting City sales and use taxes and at the same time minimize the burden of recordkeeping upon persons subject to taxation under the provisions of this chapter. (Ord. 742 § 2 (part), 1973)

**3.16.030 Adoption of State Statutes—General requirements.**

Except as otherwise provided in this chapter and except insofar as they are inconsistent with the provisions of Part 1.5 of Division 2 of the Revenue and Taxation Code, all of the provisions of Part 1 of Division 2 of the Revenue and Taxation Code are hereby adopted and made a part of this chapter as though fully set forth in this chapter. (Ord. 742 § 2 (part), 1973)

**3.16.040 Adoption of State Statutes—Limitations.**

In adopting the provisions of Part 1 of Division 2 of the Revenue and Taxation Code, wherever the State is named or referred to as the taxing agency, the name of the City shall be substituted therefor. The substitution, however, shall not be made when the word "State" is used as part of the title of the State Controller, the State Treasurer, the State Board of Control, the State Board of Equalization, the State Treasury or the Constitution of the State; the substitution shall not be made when the result of that substitution would require action to be taken by or against the City, or any agency thereof rather than by or against the State Board of Equalization, in performing the functions incident to the administration or operation of the ordinance codified in this chapter, the substitution shall not be made in those sections, including, but not necessarily limited to, sections referring to the exterior boundaries of the State, where the result of the substitution would be to provide an exemption from this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not otherwise be exempt from

this tax while such sales, storage, use or other consumption remain subject to tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not be subject to tax by the State under the provisions of that code; the substitution shall not be made in Sections 6701, 6702 (except in the last sentence thereof), 6711, 6715, 6737, 6797 or 6828 of the Revenue and Taxation code; and the substitution shall not be made for the word "State" in the phrase "retailer engaged in business in this State" in Section 6203 or in the definition of that phrase in Section 6203. (Ord. 742 § 2 (part), 1973)

### **3.16.050 Permit required when.**

If a seller's permit has been issued to a retailer under Section 6067 of the Revenue and Taxation Code, an additional seller's permit shall not be required by this chapter. (Ord. 742 § 2 (part), 1973)

### **3.16.060 Administration and operation.**

Prior to the operative date the City shall contract with the State Board of Equalization to perform all functions incident to the administration and operation of the ordinance codified in this chapter; provided, that if the City shall have contracted with the State Board of Equalization prior to the operative date, it shall nevertheless so contract and in such a case the operative date shall be the first day of the first calendar quarter following the adoption of the ordinance codified in this chapter. (Ord. 742 § 2 (part), 1973)

### **3.16.070 Sales tax imposed.**

For the privilege of selling tangible personal property at retail, a tax is imposed upon all retailers in the City at the rate stated in Section 3.16.140 of this chapter of the gross receipts of the retailer from the sale of all tangible personal property sold at retail in the City on and after the operative date. (Ord. 742 § 2 (part), 1973)

### **3.16.080 Determination of sale—Exceptions.**

For the purposes of this chapter, all retail sales are consummated at the place of business of the retailer unless the tangible personal property sold is delivered by the retailer or his agent to an out-of-State destination or to a common carrier for delivery to an out-of-State destination. The gross receipts from such sales shall include delivery charges, when such charges are subject to the State sales and use tax, regardless of the place to which delivery is made. In the event a retailer has no permanent place of business in the State or has more than one place of business, the place or places at which the retail sales are consummated shall be determined under rules and regulations to be prescribed and adopted by the State Board of Equalization. (Ord. 742 § 2 (part), 1973)

### **3.16.090 Use tax imposed.**

An excise tax is imposed on the storage, use or other consumption in the City of tangible personal property purchased from any retail on and after the operative date for storage, use or other consumption in the City at the rate stated in Section 3.16.140 of this chapter of the sales price of the property. The sales price shall include delivery charges when such charges are subject to State sales or use tax regardless of the place to which delivery is made. (Ord. 742 § 2 (part), 1973)

### **3.16.100 Exclusions and exemptions.**

A. The amount subject to tax shall not include any sales or use tax imposed by the State upon a retailer or consumer.

B. The storage, use or other consumption of tangible personal property, the gross receipts from the sale of which have been subject to tax under a sales and use tax ordinance enacted in accordance with Part 1.5 of Division 2 of the Revenue and Taxation Code by any City and County, or City, in the State shall be exempt from the tax due under this chapter.

C. There are exempted from the computation of the amount of the sales tax the gross receipts from the sale of tangible personal property to operators of aircraft to be used or consumed principally outside the City in which the sale is made and directly and exclusively in the use of such aircraft as common carriers of persons or property under the authority of the laws of the State, the United States or any foreign government.

D. In addition to the exemptions provided in Sections 6366 and 6366.1 of the Revenue and Taxation Code the storage, use or other consumption of tangible personal property purchased by operators of aircraft and used or consumed by such operators directly and exclusively in the use of such aircraft as common carriers of persons or property for hire or compensation under a certificate of public convenience and necessity issued pursuant to the laws of the State, the United States, or any foreign government is exempted from the use tax.

E. This section shall be operative January 1, 1984. (Ord. 931 §§ 1, 3, 1983: Ord. 742 § 2 (part), 1973)

### **3.16.110 Exclusions and exemptions.**

A. The amount subject to tax shall not include any sales or use tax imposed by the State upon a retailer or consumer.

B. The storage, use or other consumption of tangible personal property, the gross receipts from the sale of which have been subject to tax under a sales and use tax ordinance enacted in accordance with Part 1.5 of Division 2 of the Revenue and Taxation Code by any City and County, County, or City in the State shall be exempt from the tax due under this chapter.

C. There are exempted from the computation of the amount of the sales tax the gross receipts from the sale of tangible personal property to operators of waterborne vessels to be used or consumed principally outside the City in which the sale is made and directly and exclusively in the carriage of persons or property in such vessels for commercial purposes.

D. The storage, use or other consumption of tangible personal property purchased by operators of waterborne vessels and used or consumed by such operators directly and exclusively in the carriage of persons or property such vessels for commercial purposes is exempted from the use tax.

E. There are exempted from the computation of the amount of the sales tax the gross receipts from the sale of tangible personal property to operators of aircraft to be used or consumed principally outside the City in which the sale is made and directly and exclusively in the use of such aircraft as common carriers of persons or property under the authority of the laws of the State, the United States, or any foreign government.

F. In addition to the exemptions provided in Section 6366 and 6366.1 of the Revenue and Taxation Code the storage, use or other consumption of tangible personal property purchased by operators of aircraft and used or consumed by such operators directly and exclusively in the use of such aircraft as common carriers of persons or property for hire or compensation under a certificate of public convenience and necessity issued pursuant to the laws of the State, the United States or any foreign government is exempted from the use tax.

G. This section shall be operative on the operative date of any act of the Legislature of the State which amends Section 7202 of the Revenue and Taxation Code or which repeals and reenacts Section 7202 of the Revenue and Taxation Code to provide an exemption from City sales and use taxes for operators of waterborne vessels in the same, or substantially the same, language as that existing in subdivisions (l) (7) and (l) (8) of Section 7202 as those subdivisions read on October 1, 1983. (Ord. 931 §§ 2, 4, 1983; Ord. 742 § 2 (part), 1973)

**3.16.120 Revenue and Tax Code amendments.**

All subsequent amendments of the Revenue and Taxation Code which relate to the sales and use tax and which are not inconsistent with Part 1.5 of Division 2 of the Revenue and Taxation Code shall automatically become part of this chapter. (Ord. 742 § 2 (part), 1973)

**3.16.130 Enjoining collection forbidden.**

No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action or proceeding in any court against the State or the City, to prevent or enjoin the collection under this chapter, or Part 1.5 of Division 2 of the Revenue and Taxation Code, of any tax or any amount of tax required to be collected. (Ord. 742 § 2 (part), 1973)

**3.16.140 Rates.**

The rate of sales tax and use tax imposed by this chapter shall be 95/100 of one percent. (Ord. 742 § 2 (part), 1973)

**3.16.150 Operative date of chapter.**

The ordinance codified in this chapter shall be operative on January 1, 1974. (Ord. 742 § 2 (part), 1973)

**3.16.160 Violation—Penalty.**

A. Any person violating any of the provisions or failing to comply with any of the mandatory requirements of the ordinances of the City is guilty of a misdemeanor, unless the violation is made an infraction by ordinance.

B. Except in cases where a different punishment is prescribed by any ordinance of the City, any person convicted of a misdemeanor for violation of an ordinance of the City is punishable by a fine of not more than one thousand dollars, or by imprisonment not to exceed six months, or by both such fine and imprisonment.

C. Any person convicted of an infraction for violation of an ordinance of the City is punishable by:

1. A fine not exceeding one hundred dollars for a first violation;
2. A fine not exceeding two hundred dollars for a second violation of the same ordinance within one year; or
3. A fine not exceeding five hundred dollars for each additional violation of the same ordinance within one year.

D. Each person is guilty of a separate offense for each and every day during any portion of which any violation of any provision of this chapter is committed, continued or permitted by any such person, and he shall be punishable accordingly.

E. In addition to the penalties set out in this chapter, any condition caused or permitted to exist in violation of any of the provisions of this chapter shall be deemed a public nuisance and may be, by the City, summarily abated as such, and each day such condition continues shall be regarded as a new and separate offense. (Ord. 978 § 2 (part), 1987: Ord. 742 § 2 (part), 1973)

## **Chapter 3.20 REAL PROPERTY TRANSFER TAX**

Sections:

**3.20.010 Short title—Authority.**

**3.20.020 Tax imposed—Rate.**

**3.20.030 Parties responsible for tax.**

**3.20.040 Exemptions—Debt instruments.**

**3.20.050 Exemptions—Governmental entities.**

**3.20.060 Exemptions—Reorganization or adjustment conveyances.**

**3.20.070 Exemptions—Securities and Exchange Commission conveyances.**

**3.20.080 Exemptions—Partnership interest transfers.**

**3.20.090 Administration.**

**3.20.100 Refund claims.**

**3.20.110 Operative date.**

**3.20.010 Short title—Authority.**

The ordinance codified in this chapter shall be known as the "Real Property Transfer Tax Ordinance of the City of San Carlos." It is adopted pursuant to the authority contained in Part 6.7 (commencing with Section 11901) of Division 2 of the Revenue and Taxation Code of the State of California. (Ord. 651 § 1, 1967)

**3.20.020 Tax imposed—Rate.**

There is imposed on each deed, instrument or writing by which any lands, tenements or other realty sold within the City shall be granted, assigned, transferred or otherwise conveyed to, or vested in, the purchaser or purchasers, or any other person or persons, by his or their direction, when the consideration or value of the interest or property conveyed (exclusive of the value of any lien or encumbrances remaining thereon at the time of sale) exceeds one hundred dollars, a tax at the rate of twenty-seven and one-half cents for each five hundred dollars, or fractional part thereof. (Ord. 651 § 2, 1967)

**3.20.030 Parties responsible for tax.**

Any tax imposed pursuant to Section 3.20.020 of this chapter shall be paid by any person who makes, signs or issues any documents or instruments subject to the tax, or for whose use or benefit the same is made, signed or issued. (Ord. 651 § 3, 1967)

**3.20.040 Exemptions—Debt instruments.**

Any tax imposed pursuant to this chapter shall not apply to any instrument in writing given to secure a debt. (Ord. 651 § 4, 1967)

**3.20.050 Exemptions—Governmental entities.**

The United States or any agency or instrumentality thereof, any State or territory or political subdivision thereof, or the District of Columbia shall not be liable for any tax imposed pursuant to this chapter with respect to any deed, instrument or writing to which it is a party, but the tax may be collected by assessment from any other party liable therefor. (Ord. 651 § 5, 1967)

**3.20.060 Exemptions—Reorganization or adjustment conveyances.**

A. Any tax imposed pursuant to this chapter shall not apply to the making, delivering or filing of conveyances to make effective any plan of reorganization or adjustment:

1. Confirmed under the Federal Bankruptcy Act, as amended;
2. Approved in an equity receivership proceeding in a court involving a railroad corporation, as defined in subdivision (m) of Section 205 of Title II of the United States Code, as amended;
3. Approved in an equity receivership proceedings in a court involving a corporation, as defined in subsection (3) of Section 506 of Title II of the United States Code, as amended; or
4. Whereby a mere change in identity, form or place of organization is effected.

B. Subsections A1 through A4 of this section inclusive, shall only apply if the making, delivery or filing of instruments of transfer or conveyances occurs within five years from the date of such confirmation, approval or change. (Ord. 651 § 6, 1967)

**3.20.070 Exemptions—Securities and Exchange Commission conveyances.**

Any tax imposed pursuant to this chapter shall not apply to the making or delivery of conveyances to make effective any order of the Securities and Exchange Commission, as defined in subdivision (a) of Section 1083 of the Internal Revenue Code of 1954, but only if:

- A. The order of the Securities and Exchange Commission in obedience to which such conveyance is made recites that such conveyance is necessary or appropriate to effectuate the provisions of Section 79k of Title 15 of the United States Code, relating to the Public Utility Holding Company Act of 1935;
- B. Such order specifies the property which is ordered to be conveyed;
- C. Such conveyance is made in obedience to such order. (Ord. 651 § 7, 1967)

**3.20.080 Exemptions—Partnership interest transfers.**

A. In the case of any realty held by a partnership, no levy shall be imposed pursuant to this chapter by reason of any transfer of an interest in a partnership or otherwise, if:

1. Such partnership (or another partnership) is considered a continuing partnership within the meaning of Section 708 of the Internal Revenue Code of 1954; and
  2. Such continuing partnership continues to hold the realty concerned.
- B. If there is a termination of any partnership within the meaning of Section 708 of the Internal Revenue Code of 1954, for purposes of this chapter, such partnership shall be treated as having executed an instrument whereby there was conveyed, for fair market value (exclusive of the value of any lien or encumbrance remaining thereon) all realty held by such partnership at the time of such termination.
- C. Not more than one tax shall be imposed pursuant to this chapter by reasons of a termination described in subsection B of this section, and any transfer pursuant thereto, with respect to the realty held by such partnership at the time of such termination. (Ord. 651 § 8, 1967)

**3.20.090 Administration.**

The County Recorder shall administer this chapter in conformity with the provisions of Part 6.7 of Division 2 of the Revenue and Taxation Code and the provisions of any County ordinance adopted pursuant thereto. (Ord. 651 § 9, 1967)

**3.20.100 Refund claims.**

Claims for refund of taxes imposed pursuant to this chapter shall be governed by the provisions of Chapter 5 (commencing with Section 5096) of Part 9 of Division 1 of the Revenue and Taxation Code of the State of California. (Ord. 651 § 10, 1967)

**3.20.110 Operative date.**

The ordinance codified in this chapter shall become operative upon the operative date of any ordinance adopted by the County, pursuant to Part 6.7 (commencing with Section 11901) of Division 2 of the Revenue and Taxation Code of the State of California, or upon the effective date of the ordinance codified in this chapter, whichever is the later. (Ord. 651 § 11, 1967)

**Chapter 3.24  
UNIFORM TRANSIENT OCCUPANCY TAX**

Sections:

**3.24.010 Short title.**

**3.24.020 Definitions.****3.24.030 Tax imposed—Rate.****3.24.040 Collection—Receipt required for payment.****3.24.050 Certificate of registration required—Form—Fee.****3.24.060 Reporting requirements—Form of returns—Payments.****3.24.070 Delinquent returns and nonpayment.****3.24.080 Failure to file returns.****3.24.090 Recordkeeping.****3.24.100 Overpayments—Refunds.****3.24.110 Debt deemed owed to City.****3.24.120 Appeal procedures.****3.24.130 Violation—Penalty.****3.24.010 Short title.**

This chapter shall be known as and may be cited as "The Uniform Transient Occupancy Tax Ordinance of the City of San Carlos." (Ord. 1532 § 1 (Exh. A (part)), 2018: Ord. 722 § 1 (part), 1972)

**3.24.020 Definitions.**

Except where the context otherwise requires, the definitions given in this section shall govern the construction of this chapter:

A. "Hotel" means any structure, or any portion of any structure, which is occupied or intended or designed for occupancy by transients for dwelling, lodging or sleeping purposes, and includes any hotel, inn, tourist home or house, motel, studio hotel, bachelor hotel, lodging house, rooming house, apartment house, dormitory, public or private club, short-term rental reserved through an online service, mobile home or house trailer at a fixed location, or other similar structure or portion thereof. "Hotel" does not mean any of the following: any hospital, sanitarium, medical clinic, convalescent home, rest home, home for aged people, foster home or other similar facility operated for the care or treatment of human beings; any asylum, jail, prison, orphanage or other facility in which human beings are detained and housed under legal restraint; any housing owned or controlled by any educational institution and used exclusively to house students, faculty or other employees, and any fraternity or sorority house or similar facilities occupied exclusively by students and employees of such educational institution, and officially recognized or approved by it; any housing operated or used exclusively for religious, charitable or educational purposes by any organization having qualifications for exemption from property taxes under the laws of the State; any housing owned by a governmental agency and used to house its employees or for governmental purposes; any camp as defined in the Labor Code or other housing furnished by an employer exclusively for employees.

B. "Occupancy" means the use or possession, or the right to the use or possession of any room or rooms or portion thereof, in any hotel for dwelling, lodging or sleeping purposes.

C. "Operator" means the person who is proprietor of the hotel, whether in the capacity of owner, lessee, sublessee, mortgagee in possession, licensee or any other capacity. Where the operator performs his or her functions through a managing agency of any type or character other than an employee, the managing agent shall also be deemed an operator for the purposes of this chapter, and shall have the same duties and liabilities as his principal. Compliance with the provisions of this chapter by either the principal or the managing agency shall, however, be considered to be compliance by both.

D. "Person" means any individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate or any other group or combination acting as a unit.

E. "Rent" means the consideration charged, whether or not received, for the occupancy of space in a hotel valued in money, whether to be received in money, goods, labor or otherwise, including all receipts, cash, credits and property, parking charges and services of any kind or nature, without any deduction therefrom whatsoever.

F. "Tax Administrator" means the Administrative Services Director of the City or his or her designee.

G. "Transient" means any person who exercises occupancy or is entitled to occupancy by reason of concession, permit, right of access, license or other agreement for a period of thirty consecutive calendar days or less, counting portions of calendar days as full days. Any such person so occupying space in a hotel shall be deemed to be a transient until the period of thirty days has expired. A person is not a transient who continues to occupy space beyond the thirty-day period. In determining whether a person is a transient, uninterrupted periods of time extending both prior and subsequent to the effective date of the ordinance codified in this chapter may be considered. (Ord. 1532 § 1 (Exh. A (part)), 2018: Ord. 722 § 1 (part), 1972)

### **3.24.030 Tax imposed—Rate.**

For the privilege of occupancy in any hotel, each transient is subject to and shall pay a tax in the amount of twelve percent of the rent charged by the operator, effective January 1, 2019. This rate shall automatically increase each January 1st after the effective date at a rate of one-half of one percent tax per year up to a maximum rate of fourteen percent of the rent charged by the operator. The tax constitutes a debt owed by the transient to the City, which is extinguished only by payment to the operator or to the City. The transient shall pay the tax to the operator of the hotel at the time rent is paid. If rent is paid in installments, a proportionate share of the tax shall be paid with each installment. The unpaid tax shall be due upon the transient's ceasing to occupy space in the hotel. If for any reason the tax due is not paid to the operator of the hotel, the Tax Administrator may require that such tax shall be paid directly to the Tax Administrator. (Ord. 1532 § 1 (Exh. A (part)), 2018: Ord. 1014 § 1, 1988; Ord. 815 § 1, 1977: Ord. 722 § 1 (part), 1972)

### **3.24.040 Collection—Receipt required for payment.**

Each operator shall collect the tax imposed by this chapter to the same extent and at the same time as the rent is collected from every transient. The amount of tax shall be separately stated from the amount of the rent charged, and each transient shall receive a receipt for payment from the operator. No operator of a hotel shall advertise or state in any manner, whether directly or indirectly, that the tax or any part thereof will be assumed or absorbed by the operator, or that it will not be added to the rent, or that, if added, any part will be refunded except in the manner hereinafter provided. (Ord. 1532 § 1 (Exh. A (part)), 2018: Ord. 722 § 1 (part), 1972)

### **3.24.050 Certificate of registration required—Form—Fee.**

A. Within thirty days after the effective date of the ordinance codified in this chapter, or within thirty days after commencing business, whichever is later, each operator of any hotel renting occupancy to transients shall register such hotel with the City Clerk and obtain from her/him a transient occupancy registration certificate to be at all times posted in a conspicuous place on the premises. The certificate shall, among other things, state the following:

1. The name of the operator;
2. The address of the hotel;
3. The date upon which the certificate was issued;
4. The following statement:

This Transient Occupancy Registration Certificate signifies that the Person named on the face hereof has fulfilled the requirements of the Uniform Transient Occupancy Tax Ordinance by registering with the City Clerk of San Carlos for the purpose of collecting from Transients the Transient Occupancy Tax and remitting said tax to the Tax Administrator. The certificate does not authorize any Person to conduct any unlawful business or to conduct any lawful business in an unlawful manner, nor to operate a Hotel without strictly complying with all local applicable laws, including but not limited to those requiring a permit from any board, commission, department or office of this City. This certificate does not constitute a permit.

B. There shall be no fee for such certificate. (Ord. 1532 § 1 (Exh. A (part)), 2018: Ord. 722 § 1 (part), 1972)

### **3.24.060 Reporting requirements—Form of returns—Payments.**

Each operator shall, on or before the last day of the month following the close of each calendar quarter, or at the close of any shorter reporting period which may be established by the Tax Administrator, make a return to the Tax Administrator, on forms provided by her or him, of the total rents charged and received and the amount of tax collected for transient occupancies for that calendar quarter or reporting period. At the time the return is filed, the full amount of the tax collected shall be remitted to the Tax Administrator. The Tax Administrator may establish shorter reporting periods for any certificate holder if he/she deems it necessary in order to insure collection of the tax and he/she may require further information in the return. Returns and payments are due immediately upon cessation of business for any reason. All taxes collected by operators pursuant to this chapter shall be held in trust for the account of the City until payment thereof is made to the Tax Administrator. Failure to pay the tax when due shall automatically shorten the time for filing of the return and payment of tax from quarterly to weekly. (Ord. 1532 § 1 (Exh. A (part)), 2018: Ord. 722 § 1 (part), 1972)

### **3.24.070 Delinquent returns and nonpayment.**

A. Late Payment Penalty. Any operator who fails to remit any tax imposed by this chapter within the time required shall pay a penalty of ten percent of the amount of the tax in addition to the amount of the tax.

B. Second Delinquency Penalty. Any operator who fails to remit any delinquent remittance on or before a period of thirty days following the date on which the remittance first became delinquent shall pay a second delinquency penalty of ten percent of the amount of the tax in addition to the amount of the tax and the ten percent penalty first imposed.

C. Penalty for Fraud. If the Tax Administrator determines that the nonpayment of any remittance due under this chapter is due to fraud, a penalty of twenty-five percent of the amount of the tax shall be added thereto in addition to the penalties stated in subsections A and B of this section.

D. Interest. In addition to the penalties imposed, any operator who fails to remit any tax imposed by this chapter shall pay interest at the rate of one percent per month or fraction thereof on the amount of the tax, exclusive of penalties, from the date on which the remittance first became delinquent until paid.

E. Penalty Part of Tax. Every penalty imposed and such interest as accrues under the provisions of this section shall become a part of the tax required to be paid by this chapter.

F. Recording Certificate—Lien. If any amount required to be paid to the City under this chapter is not paid when due, the Tax Administrator may, within three years after the amount is due, file for record in the office of the County Recorder a certificate specifying the amount of tax, penalties and interest due, the name and address as it appears on the records of the Tax Administrator of the operator liable for the same and the fact that the Tax Administrator has complied with all provisions of this chapter in the determination of the amount required to be paid. From the time of the filing for record, the amount required to be paid, together with penalties and interest, constitutes a lien upon all real property in the County owned by the operator or afterwards and before the lien expires acquired by it, her or him. The lien has the force, effect and priority of a judgment lien and shall continue for ten years from the time of filing of the certificate unless sooner released or otherwise discharged.

G. Priority and Lien of Tax.

1. The amounts required to be paid by any operator under this chapter with penalties and interest shall be satisfied first in any of the following cases:

- a. Whenever the person is insolvent;
- b. Whenever the person makes a voluntary assignment of his/her assets;
- c. Whenever the estate of the person in the hands of executors, administrators or heirs is insufficient to pay all the debts due from the deceased;
- d. Whenever the estate and effects of an absconding, concealed or absent person required to pay any amount under this chapter are levied upon by process of law. This chapter does not give the City a preference over any recorded lien which attached prior to the date when the amounts required to be paid became a lien.

2. The preference given to the City by this subsection shall be subordinate to the preferences given to claims for personal services by Sections 1204 and 1206 of the Code of Civil Procedure.

H. Warrant for Collection of Tax. At any time within three years after any operator is delinquent in the payment of any amount required in this chapter to be paid or within three years after the last recording of a certificate of lien under California Revenue and Taxation Code Section 6011(b), the Tax Administrator may issue a warrant for the enforcement of any liens and for the collection of any amount required to be paid to the City under this chapter. The warrant shall be directed to any Sheriff, Marshal or Constable and shall have the same effect as a writ of execution. The warrant shall be levied and sale made pursuant to it in the same manner and with the same effect as a levy of and a sale pursuant to a writ of execution. The Tax Administrator may pay or advance to the Sheriff, Marshal or Constable the same fees, commissions and expenses for his services as are provided by law for similar services pursuant to a writ of execution. The Tax Administrator, and not the court, shall approve the fees for publication in a newspaper.

I. Seizure and Sale. At any time within three years after any operator is delinquent in the payment of any amount, the Tax Administrator may forthwith collect the amount in the following manner: The Tax Administrator shall seize any property, real and/or personal, of the operator and sell the property, or a sufficient part of it, at public auction to pay the amount due together with any penalties and interest imposed for the delinquency and any costs incurred on account of the seizure and sale. Any

seizure made to collect occupancy taxes due shall be only of the property of the operator not exempt from execution under the provisions of the Code of Civil Procedure.

J. Successor's Liability—Withholding by Purchaser. If any operator liable for any amount under this chapter sells out his/her business or quits the business, his/her successor or assignee shall withhold sufficient of the purchase price to cover such amount until the former owner produces a receipt from the Tax Administrator showing that it has been paid or a certificate stating that no amount is due.

K. Liability of Purchaser—Release. If the purchaser of a hotel fails to withhold purchase price as required, he/she shall become personally liable for the payment of the amount required to be withheld by him/her to the extent of the purchase price, valued in money. Within sixty days after receiving a written request from the purchaser for a certificate, or within sixty days from the date the former owner's records are made available for audit, whichever period expires later, but in any event not later than ninety days after receiving the request, the Tax Administrator shall either issue the certificate or mail notice to the purchaser at his/her address as it appears on the records of the Tax Administrator of the amount that must be paid as a condition of issuing the certificate. Failure of the Tax Administrator to mail the notice will release the purchaser from any further obligation to withhold purchase price as above provided. The time within which the obligation of the successor may be enforced shall start to run at the time the operator sells his/her business or at the times that the determination against the operator becomes final, whichever event occurs later. (Ord. 1532 § 1 (Exh. A (part)), 2018: Ord. 722 § 1 (part), 1972)

#### **3.24.080 Failure to file returns.**

If any operator fails or refuses to collect the tax and to make, within the time provided in this chapter, any report and remittance of such tax or any portion thereof required by this chapter, the Tax Administrator shall proceed in such manner as he/she may deem best to obtain facts and information on which to base his/her estimate of the tax due. As soon as the Tax Administrator procures such facts and information as he/she is able to obtain upon which to base the assessment of any tax imposed by this chapter and payable by any operator who has failed or refused to collect the same to make such report and remittance, she or he shall proceed to determine and assess against such operator the tax, interest and penalties provided for by this chapter. In case such determination is made, the Tax Administrator shall give a notice of the amount so assessed by serving it personally or by depositing it in the United States mail, postage prepaid, addressed to the operator so assessed at his/her last known place of address. Such operator may within ten days after the serving or mailing of such notice make application in writing to the Tax Administrator for a hearing on the amount assessed. If application by the operator for a hearing is not made within the time prescribed, the tax, interest and penalties, if any, determined by the Tax Administrator shall become final and conclusive and immediately due and payable. If such application is made, the operator shall first pay the tax as determined by the Tax Administrator. After receipt of the payment, the Tax Administrator shall give not less than five days' written notice in the manner prescribed in this chapter to the operator to show cause at a time and place fixed in such notice why such amount specified therein should not be fixed for such tax, interest and penalties. At such hearing, the operator may appear and offer evidence why such specified tax, interest and penalties should not be so fixed. After such hearing the Tax Administrator shall determine the proper tax to be remitted and shall thereafter give written notice to the person in the manner prescribed in this chapter of such determination and the amount of such tax, interest and penalties. The amount determined to be due shall be payable within fifteen days unless an appeal is taken as provided in Section 3.24.120. (Ord. 1532 § 1 (Exh. A (part)), 2018: Ord. 722 § 1 (part), 1972)

#### **3.24.090 Recordkeeping.**

It shall be the duty of every operator liable for the collection and payment to the City of any tax imposed by this chapter to keep and preserve, for a period of three years, all records as may be necessary to determine the amount of such tax as he/she may have been liable for the collection of and payment to the City, which records the Tax Administrator shall have the right to inspect at all reasonable times. (Ord. 1532 § 1 (Exh. A (part)), 2018: Ord. 722 § 1 (part), 1972)

#### **3.24.100 Overpayments—Refunds.**

A. Whenever the amount of any tax, interest or penalty has been overpaid or paid more than once or has been erroneously or illegally collected or received by the City under this chapter, it may be refunded as provided in subsections B and C of this section, provided a claim in writing therefor, stating under penalty of perjury the specific ground upon which the claim is founded, is filed with the Tax Administrator within three years of the date of payment. The claim shall be on forms furnished by the Tax Administrator.

B. An operator may claim a refund or take as credit against taxes collected and remitted the amount overpaid, paid more than once or erroneously or illegally collected or received when it is established in a manner prescribed by the Tax Administrator that the person from whom the tax has been collected was not a transient; provided, however, that neither a refund nor a credit shall

be allowed unless the amount of the tax so collected has either been refunded to the transient or credited to rent subsequently payable by the transient to the operator.

C. A transient may obtain a refund of taxes overpaid or paid more than once or erroneously or illegally collected or received by the City by filing a claim in the manner provided in subsection A of this section, but only when the tax was paid by the transient directly to the Tax Administrator, or when the transient, having paid the tax to the operator, establishes to the satisfaction of the Tax Administrator that the transient has been unable to obtain a refund from the operator who collected the tax.

D. No refund shall be paid under the provisions of this section unless the claimant establishes his/her right thereto by written records showing entitlement thereto. (Ord. 1532 § 1 (Exh. A (part)), 2018: Ord. 722 § 1 (part), 1972)

#### **3.24.110 Debt deemed owed to City.**

Any tax required to be paid by any transient under the provisions of this chapter shall be deemed a debt owed by the transient to the City. Any such tax collectible by an operator which has not been paid to the City shall be deemed a debt owed by the operator to the City. Any person owing money to the City under the provisions of this chapter shall be liable to an action brought in the name of the City of San Carlos for the recovery of such amount. (Ord. 1532 § 1 (Exh. A (part)), 2018: Ord. 722 § 1 (part), 1972)

#### **3.24.120 Appeal procedures.**

Any operator aggrieved by a decision of the Tax Administrator with respect to the amount of such tax, interest and penalties, if any, may appeal to the City Council by filing a notice of appeal with the City Clerk within fifteen days of the serving or mailing of the determination of tax due. The City Council shall fix a time and place for hearing such appeal, and the City Clerk shall give notice in writing to such operator at his/her last known place of address. The findings of the City Council shall be final and conclusive and shall be served upon the appellant in the manner prescribed above for service of notice of hearing. Any unpaid amount found to be due shall be immediately due and payable upon the service of notice. (Ord. 1532 § 1 (Exh. A (part)), 2018: Ord. 722 § 1 (part), 1972)

#### **3.24.130 Violation—Penalty.**

A. Any person violating any of the provisions of this chapter is guilty of a misdemeanor and shall be punishable therefor as provided in Chapter 1.20.

B. Any operator or other person who fails or refuses to register as required in this chapter, or to furnish any return required to be made, or who fails or refuses to furnish a supplemental return or other data required by the Tax Administrator, or who renders a false or fraudulent return or claim, is guilty of a misdemeanor, and is punishable as provided in Chapter 1.20.

C. Any person required to make, render, sign or verify any report or claim, who makes any false or fraudulent report or claim with intent to defeat or evade the determination of any amount due required by this chapter to be made, is guilty of a misdemeanor and is punishable as set out in Chapter 1.20. (Ord. 1532 § 1 (Exh. A (part)), 2018: Ord. 722 § 1 (part), 1972)

### **Chapter 3.25 PARCEL TAX FOR LONG-TERM CAPITAL IMPROVEMENT OF PARKS AND PARK FACILITIES**

**(Expired)\***

\* Code reviser's note: Chapter 3.25, as set out by Ordinance 1266 in 1999, expired after ten years of operation pursuant to the provisions of Section 3.25.070 as set out in that ordinance.

### **Chapter 3.28 SPECIAL GAS TAX STREET IMPROVEMENT FUND**

Sections:

**3.28.010 Created.**

**3.28.020 Disposition of State funds.**

**3.28.030 Expenditures.**

**3.28.010 Created.**

To comply with the provisions of Article 5 of Chapter 1 of Division I of the Streets and Highways Code, with particular reference to the amendments made thereto by Chapter 642, Statutes of 1935, there is created in the Town Treasury a special fund to be known as the Special Gas Tax Street Improvement Fund. (Ord. 98 § 1, 1935)

**3.28.020 Disposition of State funds.**

All moneys received by the City from the State of California, under the provisions of the Streets and Highways Code for the acquisition of real property or interests therein for, or the construction, maintenance or improvement of streets or highways other than State highways shall be paid into the Special Gas Tax Street Improvement Fund. (Ord. 98 § 2, 1935)

**3.28.030 Expenditures.**

All moneys in the Special Gas Tax Street Improvement Fund shall be expended exclusively for the purpose authorized by and subject to all of the provisions of Article 5, Chapter 1, Division I of the Streets and Highways Code. (Ord. 98 § 3, 1935)

## **Chapter 3.32 DEPARTMENTAL FEE SCHEDULE**

Sections:

**3.32.010 Established by resolution.****3.32.010 Established by resolution.**

The City Council shall establish by resolution the fees to be charged to the public for use of manpower and facilities of the various departments of the City. (Ord. 797 § 1, 1976)

## **Chapter 3.34 PARK FACILITY DEVELOPMENT FEES**

Sections:

**3.34.010 Title for citation.****3.34.020 Definitions.****3.34.030 Payment prerequisite to occupancy.****3.34.040 Imposition of in-lieu fee—Amount—Delinquency.****3.34.050 Exceptions.****3.34.060 Operative date.****3.34.070 Who must pay—Collection—Deemed debt to City.****3.34.080 Proceeds—Deposit and use restrictions.****3.34.090 Refund conditions.****3.34.100 Violation—Misdemeanor.****3.34.010 Title for citation.**

This chapter shall be known as the "Park Facility Development Fee Law of the City of San Carlos." (Ord. 1007 § 1 (part), 1988)

**3.34.020 Definitions.**

For the purposes of this chapter, unless otherwise apparent from the context, certain words and phrases used in this chapter are defined as follows:

A. "Bedroom" means any room containing a closet of a size sufficient to hold clothing, excluding therefrom one living room with entry closet per dwelling.

B. "Mobilehome park" means any area of one or more lots or spaces to be occupied by a house trailer.

C. "Residential unit" means a single-family dwelling, a dwelling unit in a duplex, apartment house or dwelling group, or any other place designed for human occupancy which contains a kitchen, and any space in a mobilehome park designed or intended for a house trailer, mobilehome, camper or similar vehicle. (Ord. 1007 § 1 (part), 1988)

**3.34.030 Payment prerequisite to occupancy.**

No occupancy permit shall be issued for, and no person shall occupy or offer for occupancy any residential unit or building, or any space in a mobilehome park in the City, unless the fee and any penalty and interest imposed upon the construction and occupancy thereof by this chapter has been paid. (Ord. 1007 § 1 (part), 1988)

**3.34.040 Imposition of in-lieu fee—Amount—Delinquency.**

A. In-Lieu Fee Imposed. A fee is hereby imposed for revenue purposes upon the construction of each residential unit in the City, irrespective of whether the developer is required to dedicate land or pay fees in lieu of land dedication under Chapter 17.32 of this code.

B. Fees. The fee hereby imposed is as follows:

1. Every person constructing any residential unit in the City shall pay to the City the following fee: The sum of one thousand dollars for each bedroom contained therein; and
2. Mobilehome parks shall pay one thousand dollars for each trailer space.

C. Date Due. The amount of the fee due under this chapter shall be determined at the time a building permit is sought for the construction of residential units or buildings or for the construction or reconstruction of any mobilehome park, and the full amount of such fee shall be due and payable concurrently with the application for such permit. If such fee is not fully paid on or before the date the permit is issued, the fee or the amount thereof not paid, shall thereupon become delinquent.

D. Delinquency Penalty—Interest. There shall be added to the fee for any unit, or so much of such fee as becomes delinquent, a penalty of twenty-five percent, which shall thereupon become payable in the same manner as the fee. The fee and penalty shall bear interest at the rate of ten percent per year until paid.

E. Annual Increase. The fee set forth in subsection B of this section shall be increased annually by the percentage increase of park construction costs cited in the Engineering News Record, for the San Francisco Bay Area, as determined by the City Engineer. (Ord. 1007 § 1 (part), 1988)

**3.34.050 Exceptions.**

There is excepted from the fee imposed by this chapter the construction and occupancy of a residential unit which is a replacement for a unit being removed from the same lot or parcel of land. The exception shall be equal but shall not exceed the fee which would be payable under this chapter if the unit being replaced were being newly constructed. (Ord. 1007 § 1 (part), 1988)

**3.34.060 Operative date.**

The fee imposed by this chapter shall apply to the construction of all residential units for which a building or construction permit is issued on or after the effective date of the ordinance codified herein, being November 24, 1988. (Ord. 1007 § 1 (part), 1988)

**3.34.070 Who must pay—Collection—Deemed debt to City.**

The fee imposed by this chapter shall be due from the person by or on behalf of whom a residential unit or building, or a mobilehome park, is constructed, whether such person is the owner or lessee of land upon which the construction is to occur. The Director of Finance shall collect such fee and any penalty and interest due. The full amount due under this chapter shall constitute a debt to the City, and an action for the collection thereof may be commenced in the name of the City in any court having jurisdiction of the cause. (Ord. 1007 § 1 (part), 1988)

**3.34.080 Proceeds—Deposit and use restrictions.**

All proceeds from the fees, penalty and interest collected under this chapter shall be paid into a special fund of the City, which fund shall be used only for the acquisition, development, renovation and replacement of parks and recreational areas and their development, including equipment for recreational purposes. (Ord. 1007 § 1 (part), 1988)

**3.34.090 Refund conditions.**

Any fee, penalty and interest paid to the City under this chapter for any building, unit of a building or mobilehome park, which is not constructed, shall be refunded upon application of the payor and a showing to the satisfaction of the Director of Finance that such building or unit has not been constructed or construction commenced, and that the building permit issued for such building or unit has been cancelled or surrendered or otherwise does not authorize the construction of such building or unit. (Ord. 1007 § 1 (part), 1988)

**3.34.100 Violation—Misdemeanor.**

No person shall begin the construction of any residential unit or building or any mobilehome park in the City without first having paid the fee and any penalty and interest due the City under this chapter. (Ord. 1007 § 1 (part), 1988)

**Chapter 3.36  
PARKING EXCEPTION FUND**

Sections:

**3.36.010 Parking fund.**

**3.36.020 Parking space—Value determination.****3.36.040 In-lieu certificate—Disposition of funds.****3.36.010 Parking fund.**

There is created the parking fund for the purpose of depositing and disbursing of funds received under the provisions of this chapter. The funds deposited therein shall be used only for programs to reduce parking impacts that are specified under Section 18.20.060(B). When funds are received and deposited from parking in-lieu fees collected where a parking assessment district has been established, such funds shall be used consistent with Section 18.20.060(B) and within the same parking assessment district from which they were received. (Ord. 1481 (Exh. A (part)), 2015: Ord. 1159 § 3, 1994: Ord. 701 § 1 (part), 1970)

**3.36.020 Parking space—Value determination.**

The City Council shall establish the cost of an in-lieu parking certificate in the Uniform Fee Schedule based on the value of a fully improved off-street parking space. The value shall be based on the Parking Study dated June 11, 1999, and shall reflect cost of living increases. (Ord. 1481 (Exh. A (part)), 2015: Ord. 1270 § 2, 1999: Ord. 701 § 1 (part), 1970)

**3.36.040 In-lieu certificate—Disposition of funds.**

All funds received from the purchase of in-lieu certificates shall be deposited in the parking fund provided for in Section 3.36.010. (Ord. 1481 (Exh. A (part)), 2015: Ord. 701 § 1 (part), 1970)

**Title 4  
(RESERVED)**

**Title 5  
BUSINESS TAXES, LICENSES AND REGULATIONS**

**Chapters:****5.04 General Business Registration Requirements****5.08 Adult Entertainment****5.13 Firearms and Ammunition Retail Establishments****5.14 Indoor Shooting Ranges****5.20 Billiard Rooms, Poolrooms and Bowling Alleys****5.24 Bingo****5.28 Cable Television Regulation****5.29 State Video Franchises****5.30 Fortunetelling****5.32 Franchises****5.40 Massage Businesses****5.43 Sidewalk Vending****5.44 Solicitation****5.45 Delivery of Unsolicited or Unsubscribed Paper, Plastic or Composite Materials on Private Property****5.56 Tow Cars**

**Chapter 5.04  
GENERAL BUSINESS REGISTRATION REQUIREMENTS**

**Sections:****5.04.010 Purpose.****5.04.020 Registration and fees—Required when—Exemptions.**

**5.04.030 Posting required.****5.04.040 No fixed location of business—Possession of registration required.****5.04.050 Trade names and separate locations.****5.04.060 Businesses requiring certificate of occupancy, zoning clearance and commercial cannabis business permit.****5.04.070 Other fees.****5.04.090 Annual increase and maximum fee.****5.04.100 Ordinance review.****5.04.110 Definitions.****5.04.120 Registration categories and amount of fees.****5.04.130 Fee deemed debt to City—Liability.****5.04.140 Renewal notices.****5.04.150 Refunds permitted when.****5.04.160 Enforcement.****5.04.170 Penalties—Nonpayment.****5.04.180 Penalties—Waivers.****5.04.190 Continuing violations.****5.04.200 Violation—Penalty.****5.04.010 Purpose.**

This chapter is enacted to raise revenue for municipal purposes and is not intended for regulation of businesses. (Ord. 1188 § 1 (part), 1995)

**5.04.020 Registration and fees—Required when—Exemptions.**

A. General Requirements. Every person or entity on a trade, calling, business, exhibition, avocation or occupation within the City limits of the City shall have a business registration certificate. All business registration fees shall be payable in advance, on or before the anniversary date of the issuance of the registration certificate. Doing business shall include but not be limited to all individuals and firms who hold a fictitious business statement, a State Board of Equalization resale permit, a listing in commercial directories such as the Yellow Pages, local business guide, real estate multiple listing book, reverse phone directory from Pacific Bell or similar listing. Determinations that a firm or individual is doing business in San Carlos may be appealed to the Finance Director.

B. Fee Exemptions. The Finance Director shall have the authority to waive registration fees for service clubs or charitable organizations operating as temporary vendors.

C. Nonprofit Festivals. Vendors selling items at weekend festivals conducted by nonprofit organizations shall also be exempt from the provisions of this chapter.

D. Child and Adult Care Exemptions. Small and large in-home child care facilities and residential care facilities for children or adults which serve six (6) or fewer persons shall not be subject to the provisions of this chapter. (Ord. 1568 § 1 (Exh. A), 2021; Ord. 1188 § 1 (part), 1995)

**5.04.030 Posting required.**

Every person, firm or corporation having a registration certificate under the provisions of this chapter and carrying on a trade, calling, business, profession, exhibition, avocation or occupation at a particular fixed and permanent place of business shall keep such registration certificate posted and exhibited while the same is in force, in some conspicuous place therein. (Ord. 1188 § 1 (part), 1995)

**5.04.040 No fixed location of business—Possession of registration required.**

Every person, firm or corporation having a registration certificate under the provisions of this chapter who does not carry on a trade, calling, business, profession, exhibition, avocation or occupation at a particular fixed and permanent place of business shall carry his registration certificate with him at all times while carrying on such business for which the registration certificate is issued and shall exhibit the same to any police officer of the City or any person authorized by the City to issue registration certificates or to collect fees for the same. (Ord. 1188 § 1 (part), 1995)

#### **5.04.050 Trade names and separate locations.**

The business registration application must include each trade name and separate location in San Carlos used in the conduct of any business, delivery, etc., within the limits of the City. (Ord. 1188 § 1 (part), 1995)

#### **5.04.060 Businesses requiring certificate of occupancy, zoning clearance and commercial cannabis business permit.**

A. All commercial, industrial and miscellaneous buildings within the City, which are going to be used for a business requiring a registration certificate under this chapter, must have a certificate of occupancy issued by the Building Division, and a zoning clearance issued by the Planning Department, before a business registration certificate may be issued. Existing buildings which are structurally altered and which are used for a business requiring a registration certificate under this chapter must also have a certificate of occupancy issued by the Building Division before a business registration certificate may be issued.

B. Businesses that handle hazardous materials and chemicals must receive a Fire Department clearance before a business registration certificate may be issued.

C. Businesses that require a commercial cannabis business permit per Chapter 8.09, Regulation of Commercial Cannabis Activities—Permit Required, must receive a commercial cannabis business permit before a business registration certificate may be issued. (Ord. 1525 § 2(2) (Exh. B (part)), 2017: Ord. 1188 § 1 (part), 1995)

#### **5.04.070 Other fees.**

A. Businesses which have a change of address must file for an amended business registration certificate. They will be subject to a new zoning clearance and Fire Department review prior to issuance of the amended business registration certificate.

B. Businesses which require an immediate duplicate copy of their business registration certificate shall pay a fee set by the City fee schedule. (Ord. 1188 § 1 (part), 1995)

#### **5.04.090 Annual increase and maximum fee.**

A. All business registration taxes hereinafter referred to as business registration fees and charges, including base and unit charges and minimum and maximum charges in this chapter, shall be increased annually by four percent commencing January 1, 2003.

B. Notwithstanding the other provisions of this chapter, the minimum annual fee for a business in the City shall be one hundred eight dollars.

C. In no event shall a business pay a fee in excess of one thousand three hundred seventy three dollars for a business registration certificate during the first year that this chapter is in effect. (Ord. 1296 § 1 (part), Election 2001; Ord. 1188 § 1 (part), 1995)

#### **5.04.100 Ordinance review.**

To keep the provisions of this chapter current, the chapter shall be reviewed by the City Council during the fifth year of its being in effect. Any failure by the City Council to review, or to revise this chapter, shall have no effect on its enforceability. (Ord. 1188 § 1 (part), 1995)

#### **5.04.110 Definitions.**

As used in this chapter:

A. "Contractor" means an individual or entity, as defined by and as required to be licensed under the California Business and Professions Code, generally involved in any aspect of design, construction, maintenance or repair of structures, and improvement to real property.

B. "Employee" means any individual, owner, agent, full-time or part-time employee who is working at the firm or business on the date that the business registration certificate is issued or renewed.

C. "Space" means a table, booth or location that is rented by an individual, dealer or consignee in an antique or goods outlet on the date that the business registration fee is due. (Ord. 1188 § 1 (part), 1995)

**5.04.120 Registration categories and amount of fees.**

Business registration certificates shall be issued based on the following rate categories and amounts of business registration fees:

A. Group I—Manufacturing, Wholesale and Retail. All businesses in the manufacturing, wholesale and retail categories shall pay annual business registration fees in the sum of ninety-four dollars base fee plus twenty-nine dollars per employee or space. In no event will this annual fee be less than the minimum annual fee. The fees shall continue to be adjusted annually by four percent pursuant to Section 5.04.090. Businesses not covered by other business registration rate categories will also be assessed according to this rate schedule. Businesses in this group include:

Antique and consignment dealers

Bakeries

Bookstores

Candy stores

Car dealers

Clothes stores

Commercial cannabis businesses

Computer stores

Department stores

Distributors

Donut shops

Drug stores

Flower shops

Furniture stores

Gardening supplies

Gas station and car wash

Grocery stores

Hardware, cabinet and paint stores

Jewelers

Liquor stores

Manufacturing

Manufacturer's representative

Printing, copying and publishing

Restaurants and delis

Retail merchants

Shoe stores

Sporting goods

Stationery and office supplies

Wholesalers

Other similar businesses not specified

Other businesses not specified in this chapter.

B. Group II—Services, Contractors, Property Rental, Entertainment and Utilities. All businesses in the services, contractors, property rental, entertainment and utilities categories shall pay an annual business registration fee in the sum of ninety-four dollars base fee plus thirty-five dollars per employee. In no event will the annual fee be less than the minimum annual fee. The fees shall continue to be adjusted annually by four percent pursuant to Section 5.04.090. Businesses in this group include:

Agents with no fixed location

Aircraft leasing

Athletic clubs and gyms

Auto repair, paint and body shops

Beauty, nail and hair salons

Child care (seven or more)

Computer services and programming

Contractors

Delivery services (based in San Carlos)

Dry cleaners and laundry

Gardening services

Hotels and motels

Locksmiths and security

Mailing services

Mobile food facilities (not having a registered retail business location)

Photography

Property management

Property repair

Real estate offices and agents

Rental (car and equipment)

Repair

Schools and instruction (for profit)

Services

Tailors

Travel agents

Tree services

Other similar businesses not specified.

C. Group III—Professions. All businesses in the professions category shall pay an annual business registration fee in the sum of ninety-four dollars base fee plus forty-five dollars per employee. The fees shall continue to be adjusted annually by four percent pursuant to Section 5.04.090. In no event will the annual base fee be less than the minimum annual fee. Businesses in this group include:

Accountants  
Advertising  
Appraisers  
Architects and landscape architects  
Artists  
Attorneys-at-law  
Bookkeeping services  
Business and Professions Code  
Chiropractors  
Consultants  
Dentists  
Doctors  
Engineers  
Geologists  
Health care services and labs  
Medical practitioners  
Psychologists  
Surveyors  
Tax counselors  
Other similar businesses not specified.

D. Group IV—Amusement Devices. The operator of any amusement device defined by Section 9.05.010(A) shall pay a fee in the sum of two hundred thirty-six dollars per machine per year for the first two machines, and for any machine in excess of two shall pay the sum of three hundred fifty-seven dollars per machine per year, for the privilege of operating such machines. The fees shall continue to be adjusted annually by four percent pursuant to Section 5.04.090.

E. Group V—Billiard Rooms and Poolrooms. The operator engaged in the operation of a billiard room or poolroom shall pay a registration fee of one hundred seventy-nine dollars for the first pool table or billiard table and forty-five dollars for each additional table. The fees shall continue to be adjusted annually by four percent pursuant to Section 5.04.090.

F. Group VI—Amusement Places, Bingo, Theaters or Exhibition Halls. The operator, firm or corporation engaged in the carrying on of an amusement place, bingo, theater, or exhibition place, excepting circuses, carnivals and outdoor shows, having a seating capacity of less than five hundred persons, shall pay a registration fee in the sum of two hundred thirty-seven dollars per year. All operators, firms or corporations engaged in a like business, having a seating capacity of more than five hundred persons, shall pay an additional fee of one dollar per seat over five hundred. The fees shall continue to be adjusted annually by four percent pursuant to Section 5.04.090.

G. Group VII—Apartment Houses.

1. Every person or entity engaged in the business of conducting, managing or operating an apartment house consisting of a building or buildings in the same ownership, constructed upon one parcel or upon adjoining parcels of land and comprised of three or more units per building shall pay an annual registration fee computed as follows:
  - a. Zero to and including two units: no charge;
  - b. Three units and over: a base fee of eighty-four dollars plus twenty-six dollars per unit after the first two units.
2. In computing the unit count, a unit occupied by the owner himself or herself personally shall be excluded from the registration fee due.
3. In no event shall the annual fee be less than the minimum annual fee.
4. The fees shall continue to be adjusted annually by four percent pursuant to Section 5.04.090.

H. Group VIII—Contractors and Mobile Food Facilities (Out of Town). Contractors and mobile food facilities who are headquartered outside of San Carlos shall pay a flat fee of one hundred seventy-nine dollars for an annual registration certificate. Contractors and mobile food facilities who are headquartered outside of San Carlos and wish to purchase a limited-term registration certificate can obtain a six-month registration for one hundred six dollars. The fees shall continue to be adjusted annually by four percent pursuant to Section 5.04.090.

I. Group IX—Seasonal and Specialized. All businesses in the seasonal and specialized category shall pay an annual registration fee of seven hundred eighty-five dollars per year. The fees shall continue to be adjusted annually by four percent pursuant to Section 5.04.090. Businesses in this group include:

Adult entertainment

Auctions

Auto wrecking

Carnival, circus, rodeo, outdoor shows

Christmas trees and pumpkin patches

Cocktail lounges

Massage parlors

Parking lots

Public dancehalls

Street vendors and solicitors

Temporary vendors and businesses. (Ord. 1525 § 2(2) (Exh. B (part)), 2017; Ord. 1487 § 1, 2015; Ord. 1296 § 1 (part), 2001; Ord. 1188 § 1 (part), 1995)

#### **5.04.130 Fee deemed debt to City—Liability.**

The amount of such business registration fee required under this chapter shall be a debt to the City, and such person or entity required to have such business registration shall be liable to the City for the amount of the business registration fee, together with costs of suit, and any attorney's fees incurred in a civil action brought to collect the fee; provided, however, that criminal prosecution, including arrest and conviction hereunder, shall not be construed as a waiver of the right of the City to bring a civil action to collect a business registration fee. (Ord. 1188 § 1 (part), 1995)

#### **5.04.140 Renewal notices.**

The City shall send out an annual notice to all business registration certificate holders in confirming to them that a renewal payment is due. The City shall send out a second notice prior to the registration certificate due date reminding the business that a renewal payment is due. Both of these notices are sent as a courtesy only and receipt of the notice is not required before payment of the renewal fee is due. (Ord. 1188 § 1 (part), 1995)

#### **5.04.150 Refunds permitted when.**

Where an application and fees have been submitted and because of administrative, legal, procedural or substantive requirements, the applicant has never started the business, the applicant's fees may be returned to the applicant subject to the approval of the Finance Director. (Ord. 1188 § 1 (part), 1995)

**5.04.160 Enforcement.**

The Chief of Police, the Finance Director and the City Attorney shall enforce this chapter. (Ord. 1188 § 1 (part), 1995)

**5.04.170 Penalties—Nonpayment.**

A. Whenever a person, firm or corporation fails to pay a business registration fee within fifteen days after the same becomes due, there shall be added a twenty percent penalty to the business registration fee on the last day of each month after the due date thereof; provided, that the amount of the penalty to be added shall in no event exceed one hundred percent of the amount of the business registration fee due; such penalty to be collected in the same manner as the business registration fee.

B. The City can collect business registration fees for up to three prior years if the business has been in operation and unregistered during that period of time. However, in no case will the penalty amount exceed one hundred percent of the amount of the business registration fee due. (Ord. 1188 § 1 (part), 1995)

**5.04.180 Penalties—Waivers.**

Penalties may be waived in full or in part by the Finance Director for good cause, which shall include, but not be limited to, an unintentional error or omission in compliance by a business with this chapter. (Ord. 1188 § 1 (part), 1995)

**5.04.190 Continuing violations.**

Each and every day, or fractional part of a day, that such trade, calling, business, profession, exhibition, avocation or occupation specified in this chapter is conducted, carried on or engaged in, or such thing done, without such registration, shall constitute a violation of this chapter. (Ord. 1188 § 1 (part), 1995)

**5.04.200 Violation—Penalty.**

A. Any person or entity violating any of the provisions, or failing to comply with any of the requirements of this chapter shall be guilty of a misdemeanor. The City Attorney shall have discretion to prosecute any such violation of this chapter as an infraction.

B. Except in cases where a different punishment is prescribed by any ordinance of the City, any person convicted of a misdemeanor for violation of an ordinance of the City is punishable by a fine of not more than one thousand dollars, or by imprisonment not to exceed six months, or by both such fine and imprisonment.

C. Any person convicted of an infraction for violation of an ordinance of the City is punishable by:

1. A fine not exceeding one hundred dollars for a first violation;
2. A fine not exceeding two hundred dollars for a second violation of the same ordinance within one year; or
3. A fine not exceeding five hundred dollars for each additional violation of the same ordinance within one year.

D. Each person is guilty of a separate offense for each and every day during any portion of which any violation of any provision of this chapter is committed, continued or permitted by any such person, and he shall be punishable accordingly.

E. In addition to the penalties set out in this chapter, any condition caused or permitted to exist in violation of any of the provisions of this chapter shall be deemed a public nuisance and may be, by the City, summarily abated as such, and each day such condition continues shall be regarded as a new and separate offense. (Ord. 1188 § 1 (part), 1995)

## **Chapter 5.08 ADULT ENTERTAINMENT**

Sections:

**5.08.010 Purpose of chapter.****5.08.020 Definitions.****5.08.030 Facility License—Required.****5.08.040 Facility License—Application—Form—Investigation of applicant.****5.08.050 Facility License—Application—Fee.****5.08.060 Facility License—Display required.**

**5.08.070 Facility License—Denial—Appeals.****5.08.080 Facility License—Reapplication after denial.****5.08.090 License violations—Grounds.****5.08.100 License violations—Hearing—Appeals.****5.08.110 License violations—Hearing—Right to counsel—Rules of evidence.****5.08.120 License fees—Refunds or rebates.****5.08.130 Disposition of revoked or canceled licenses.****5.08.140 Facility operation requirements.****5.08.150 Inspections.****5.08.160 Operating name restrictions.****5.08.170 Change of locations.****5.08.180 Transfer of interest.****5.08.190 Applicability to existing facilities.****5.08.200 Violation—Penalty.****5.08.010 Purpose of chapter.**

It is the purpose and intent of this chapter to provide for the orderly regulation of adult entertainment facilities, as defined in this chapter, in the interests of the public health, safety and welfare by providing certain minimum standards and regulations for adult entertainment facilities and by providing standards for operators of adult entertainment facilities. (Ord. 891 § 1 (part), 1981)

**5.08.020 Definitions.**

A. For the purpose of this chapter, unless the context clearly requires a different meaning, the following words, terms and phrases have the meanings given to them in this section:

1. "Adult bookstore," "adult entertainment facility," "adult motion picture arcade," "adult motion picture theater," "cabaret," "massage establishment," "model studio," "other sex business," "sexual encounter center," "specified anatomical areas" and "specified sexual activities" have the same meanings as those terms are defined in Section 18.96.030 of this Code.
2. "Employee" means every owner, partner, manager, supervisor and worker, whether paid or not, who renders personal services of any nature in the conduct of an adult entertainment facility.
3. "License" means the license required by this chapter to operate an adult entertainment facility.
4. "Person" means any individual, firm, association, partnership, corporation, joint venture or combination thereof.

B. The following are specifically excluded from the meaning of the term "adult entertainment facility":

1. Physicians, surgeons, chiropractors, osteopaths or physical therapists who are duly licensed to practice their respective professions in the State;
2. Nurses registered under the laws of the State;
3. Barbers and beauticians who are duly licensed under the laws of the State;
4. Any activity conducted or sponsored by any school district or other public agency; and
5. Any activity conducted by a person pursuant to any license issued by the State or any agency thereof charged with the responsibility of licensing, prescribing standards for and supervising such activity or profession. (Ord. 893 § 1, 1981; Ord. 891 § 1 (part), 1981)

**5.08.030 Facility License—Required.**

It is unlawful for any person to engage in, conduct or carry on or permit to be engaged in, conducted or carried on in or upon any premises within the City, the operation of an adult entertainment facility without a license obtained from the Finance Director after investigation by the Chief of Police as required by this chapter. A license shall be issued to any person who has complied with the requirements of this chapter, unless:

- A. The applicant made a material misstatement in the application for a license; or
- B. The applicant or any of its officers, directors or employees, has, within five years immediately preceding the date of the filing of the application, been convicted in a court of competent jurisdiction of an offense involving conduct which requires registration under California Penal Code Section 290, or any violation of Chapters 1, 7.5 or 8 of Title IX of Part I of the Penal Code of the State, or of subdivisions (a), (b) or (d) of Section 647 of the Penal Code of the State, or any offense involving theft of property or violence, or any conviction involving the sale of a controlled substance specified in Sections 11054, 11055, 11056, 11057 or 11058 of the California Health and Safety Code. (Ord. 1110 § 1 (A) (part), 1992; Ord. 891 § 1 (part), 1981)

**5.08.040 Facility License—Application—Form—Investigation of applicant.**

Any application for a license shall be made with the Finance Director. Within sixty working days following receipt of a completed application and the completion of investigation to the satisfaction of the Chief of Police, the Finance Director shall either issue the license or mail a written statement of his reasons for denial thereof. The application shall set forth the exact nature of the activities proposed to be conducted, the proposed place of business and facilities therefor, and the name and address of each applicant. The Chief of Police shall require the applicant to allow fingerprints to be taken for the purpose of establishing identification. In addition to the foregoing, the applicant shall furnish the following information:

- A. The previous address of each applicant for a period of three years immediately prior to the date of the application and the dates of residence at each address;
- B. Written proof that the applicant is at least eighteen years of age;
- C. The applicant shall allow the public official who processes the application to take photographs of the applicant;
- D. The applicant's height, weight, color of eyes and hair;
- E. Business, occupation or employment history of the applicant for the three years immediately preceding the date of the application;
- F. If the applicant is a corporation, the name of the corporation shall be set forth exactly as shown in its articles of incorporation, together with the names and addresses of each of its officers, directors and each stockholder holding more than five percent of the stock of the corporation along with the amount of stock held. If the applicant is a partnership, the application shall set forth the name and residence address of each of the partners, including the limited partners. If one or more of the partners is a corporation, the provisions of this section pertaining to a corporate applicant shall apply;
- G. As to each person currently employed or intended to be employed in the adult entertainment facility, regardless of the nature of the employment, the name and residence address, the proposed or actual nature of the work performed to be performed, and recent passport size photographs suitable to the Chief of Police. The Chief of Police shall require each such employee to allow fingerprints to be taken for the purpose of identification. Each applicant or licensee shall notify the City in writing of the names and addresses and shall supply photographs of any new employees within five days of such employment. Each new employee shall allow fingerprints to be taken for identification purposes;
- H. The Finance Director, and any other officials of the City involved in processing the license application, shall have the authority to seek, obtain and use criminal history information for each licensee and for each employee or proposed employee of each licensee, for purposes of the investigation. Each City official involved in the processing of license applications, discipline and suspension shall have access to all such criminal history information;
- I. Such other information as may be deemed necessary by the Finance Director or by the Chief of Police. (Ord. 1110 § 1 (A) (part), 1992; Ord. 891 § 1 (part), 1981)

**5.08.050 Facility License—Application—Fee.**

Each application for a license shall be accompanied by a business license fee, as specified in Section 5.04.120(I)(Group IX), of this Code. The City may, by resolution, set a fee for the processing of the application. (Ord. 1110 § 1 (B), 1992)

**5.08.060 Facility License—Display required.**

The owner or operator of an adult entertainment facility shall display the facility license in an open and conspicuous place on the premises. Passport size photographs of the licensee shall be affixed to the license on display pursuant to this section. (Ord. 891 § 1 (part), 1981)

#### **5.08.070 Facility License—Denial—Appeals.**

- A. Authority. The grounds for denial of an application are those stated in Section 5.08.030 of this chapter.
- B. Transmittal of Decision. The license or decision to deny the application shall be given to the applicant in writing, setting forth specifically the ground or grounds upon which the decision is based, the pertinent Code section or sections, and a brief statement of the factual matters in support thereof. The decision shall be mailed, postage prepaid, addressed to the applicant at his last known address, or it shall be delivered to the applicant personally.
- C. Appeal to City Council. Within ten days from the deposit of the decision in the mail or from its receipt by the applicant, whichever occurs first, the applicant may appeal in writing to the City Council setting forthwith particularly the ground or grounds for the appeal.
- D. Hearing on Appeal. The City Council shall set a time and place for the hearing on the appeal not later than ten days from the date the appeal was received by the City Council.
- E. Disposition of Appeal. After the hearing on appeal, the City Council may refer the matter back to the Finance Director or Chief of Police for a new investigation and decision, may affirm the denial of the application by the Finance Director, or may approve the application. The decision of the City Council shall be final. (Ord. 1110 § 1 (A) (part), 1992; Ord. 891 § 1 (part), 1981)

#### **5.08.080 Facility License—Reapplication after denial.**

An applicant whose application for a license has been denied may reapply for such license after a period of not less than one year has elapsed from the date such denial was deposited in the mail or received by the applicant, whichever occurs first. An earlier reapplication may be made if accompanied by evidence satisfactory to the Finance Director that the ground or grounds for the denial of the application no longer exist. (Ord. 1110 § 1 (A) (part), 1992; Ord. 891 § 1 (part), 1981)

#### **5.08.090 License violations—Grounds.**

A licensee may be subjected to disciplinary action for any of the following causes arising from the acts or omissions of the licensee, or of his employee or agent:

- A. Fraud, misrepresentation or false statement in applying for a new or renewed license;
- B. Fraud, misrepresentation or false statement in conducting the business or occupation;
- C. Violation of this Code;
- D. Conviction of any crime listed in Section 5.08.030 of this chapter within the past five years;
- E. Conducting the business, occupation or activity for which the license is issued in an unlawful manner;
- F. Conducting the business, occupation or activity for which the license is issued in a manner determined to constitute a menace to the health, safety or general welfare of the public. Failure to correct conditions constituting a public nuisance within a reasonable time after lawful notice from a government entity shall be *prima facie* proof thereof;
- G. Failure to abide by any disciplinary action previously imposed by the appropriate City officer;
- H. Being committed or adjudged insane, mentally ill or incompetent by a court of competent jurisdiction until a subsequent adjudication of competency or restoration to capacity. (Ord. 891 § 1 (part), 1981)

#### **5.08.100 License violations—Hearing—Appeals.**

- A. Grounds. The ground or grounds for disciplinary action against a licensee shall be those specified in Section 5.08.080 of this chapter.
- B. Notice of Hearing. A notice of the hearing shall be given to the licensee by the Finance Director in writing, setting forth the time and place of the hearing, the ground or grounds upon which the hearing is based, the pertinent Code section or sections, and a brief statement of the factual matters in support thereof. The notice shall be mailed, postage prepaid, addressed to the licensee at the last known address, or it shall be delivered to the licensee personally, at least ten days prior to the hearing date.

C. Suspension Prior to Hearing. Whenever the Finance Director finds that the public health or safety requires it, he immediately may suspend any license pending a hearing or a notice of a hearing upon twenty-four hours' written notice served in the same manner as the notice of the hearing.

D. Disciplinary Action.

1. If the Finance Director, after the hearing finds that the cause exists for disciplinary action, he shall impose one of the following:

- a. A warning;
- b. Suspension of the license for a specified period not to exceed six months;
- c. A revocation of the license.

2. Within ten days of the hearing the Finance Director shall render his opinion in writing, stating his findings and the action taken, if any. This opinion shall be mailed, postage prepaid, to the licensee at his last known address, or delivered to the licensee personally.

E. Appeal to City Council. Within ten days from the deposit of the decision in the mail or from its receipt by the applicant, whichever occurs first, the applicant may appeal in writing to the City Council, setting forth with particularity the ground or grounds for the appeal.

F. Hearing on Appeal. The City Council shall set a time and place for the hearing on appeal at a regular Council meeting not later than thirty days from the date the appeal was received by the City Council. The hearing shall be conducted in accordance with the provisions of this chapter.

G. Disposition of Appeal. After the hearing on the appeal, the City Council may refer the matter back to the Finance Director for a new investigation and decision, may affirm the decision of the Finance Director, may dismiss the disciplinary action, or may impose any discipline provided in this section. The decision of the City Council shall be final. (Ord. 1110 § 1 (A) (part) 1992; Ord. 891 § 1 (part), 1981)

**5.08.110 License violations—Hearing—Right to counsel—Rules of evidence.**

The following rules apply to any hearing required by this chapter. All parties involved shall have the right to offer testimonial, documentary and tangible evidence bearing on the issues, to be represented by counsel and to confront and cross-examine witnesses. Any hearing under this chapter may be continued for a reasonable time for the convenience of a party or a witness. (Ord. 891 § 1 (part), 1981)

**5.08.120 License fees—Refunds or rebates.**

No refund or rebate of a license fee shall be allowed by reason of the fact that the licensee discontinues the activity prior to the expiration of the term or that the license is suspended or revoked prior to the expiration of the term. (Ord. 891 § 1 (part), 1981)

**5.08.130 Disposition of revoked or canceled licenses.**

In the event that a license is canceled, suspended, revoked or invalidated, the licensee shall forward it to the officer who issued it not later than the end of the third business day after notification of such cancellation, suspension, revocation or invalidation. (Ord. 891 § 1 (part), 1981)

**5.08.140 Facility operation requirements.**

All adult entertainment facilities shall comply with the following facilities and operating requirements:

A. Such facilities shall comply with all Code requirements;

B. Each service offered, the price thereof, and the minimum length of time such service is to be performed shall be posted in a conspicuous public location in each facility. All letters and numbers shall be capitals, and not less than one-half inch in height. (Ord. 891 § 1 (part), 1981)

**5.08.150 Inspections.**

Any and all investigating officials of the City shall have the right to enter adult entertainment facilities from time to time during regular business hours to make reasonable inspections to observe and enforce compliance with building, fire, electrical, plumbing and health regulations or provisions of this chapter. A warrant shall be obtained whenever required by law. (Ord. 891 § 1 (part), 1981)

**5.08.160 Operating name restrictions.**

No person licensed to operate an adult entertainment facility shall operate it under any name or conduct business under any designation not specified in the license. (Ord. 891 § 1 (part), 1981)

**5.08.170 Change of locations.**

Before changing the location of an adult entertainment facility, an application to the Finance Director shall be made, and such application shall be granted, provided all applicable provisions of this Code are complied with and a change of location fee of one hundred fifty dollars to defray, in part, the administrative costs incurred has been paid. (Ord. 1110 § 1 (A) (part), 1992; Ord. 891 § 1 (part), 1981)

**5.08.180 Transfer of interest.**

No license issued pursuant to the provisions of this chapter shall be assigned or transferred in any manner, nor shall any person other than those therein mentioned engage in the enterprise for which the license is issued. As used in this section, "transfer" means and includes, but is not limited to, any modification of a business entity operating an enterprise, or otherwise required to be disclosed pursuant to Section 5.08.040 of this chapter, including transfer of more than ten percent of the stock of any corporation. (Ord. 891 § 1 (part), 1981)

**5.08.190 Applicability to existing facilities.**

Each operator of a facility subject to the provisions of this chapter and legally doing business on the effective date of the ordinance codified in this chapter, shall comply with all application and other requirements within sixty days of the effective date of the ordinance codified in this chapter. Any such use, which at the expiration of such period is not in compliance with the provisions of this chapter and in possession of a validly issued license, shall at that time discontinue and abate the operation of such use. (Ord. 891 § 1 (part), 1981)

**5.08.200 Violation—Penalty.**

The operation of any adult entertainment facility contrary to the provisions of this chapter is declared to be a public nuisance and subject to abatement as such. (Ord. 891 § 1 (part), 1981)

## **Chapter 5.13 FIREARMS AND AMMUNITION RETAIL ESTABLISHMENTS**

Sections:

**5.13.010 Purpose of chapter.****5.13.020 Definitions.****5.13.030 Law enforcement permit—Required.****5.13.040 Law enforcement permit—Application.****5.13.050 Law enforcement permit—Application fee.****5.13.060 Investigation of applicant by Sheriff.****5.13.070 Grounds for permit denial or revocation.****5.13.080 On-site security requirements.****5.13.090 Liability insurance.****5.13.100 Restricted admittance of minors and other prohibited purchasers.****5.13.110 Inventory reports.****5.13.120 Display of law enforcement permit.****5.13.130 Issuance of law enforcement permit—Duration.****5.13.140 Nonassignability.****5.13.150 Compliance by existing business.****5.13.160 Law enforcement inspections.**

**5.13.170 Posted warnings.****5.13.180 Violations.****5.13.190 Report of permit revocation to Federal and State authorities.****5.13.200 Hearing for permit denial or revocation.****5.13.010 Purpose of chapter.**

It is the purpose and intent of this chapter to establish a local program for the license and regulation of the sale, lease, or transfer of firearms or ammunition. The provisions of this chapter are not intended to contradict or duplicate any applicable State or Federal law. (Ord. 1541 § 1 (part), 2019)

**5.13.020 Definitions.**

For the purpose of this chapter, unless the context clearly requires a different meaning, the following words, terms and phrases have the meanings given to them in this section:

“Ammunition” means ammunition or cartridge cases, primers, bullets, or propellant powder designed for use in any firearm, and any component thereof, but shall not include blank cartridges or ammunition that can be used solely in an “antique firearm” as that term is defined in 18 U.S.C. Section 921(a)(16).

“Applicant” means any person who applies for a law enforcement permit, or the renewal of such a permit, to sell, lease or transfer firearms or ammunition.

To “engage in the business of selling, leasing, or otherwise transferring any firearm or ammunition” means to conduct a business by the selling, leasing or transferring of any firearm or ammunition, or to hold one’s self out as engaged in the business of selling, leasing or otherwise transferring any firearm or ammunition, or to sell, lease or transfer firearms or ammunition in quantity, in series, or in individual transactions, or in any other manner indicative of trade.

“Firearm” means any device designed to be used as a weapon or modified to be used as a weapon, from which is expelled through a barrel a projectile by the force of explosion or other means of combustion; provided, that the term “firearm” shall not include an “antique firearm” as defined in 18 U.S.C. Section 921(a)(16).

“Permittee” means any person, corporation, partnership or other entity engaged in the business of selling, leasing, or otherwise transferring any firearm or ammunition, which person or entity has obtained a law enforcement permit to sell, lease or transfer firearms or ammunition.

“Sheriff” means the San Mateo County Sheriff or the Sheriff’s designated representative. (Ord. 1541 § 1 (part), 2019)

**5.13.030 Law enforcement permit—Required.**

It is unlawful for any person, corporation, partnership or other entity to engage in the business of selling, leasing, or otherwise transferring any firearm or ammunition within the City without a law enforcement permit, as required by this chapter, and a land use permit, as required by Chapter 18.23. (Ord. 1541 § 1 (part), 2019)

**5.13.040 Law enforcement permit—Application.**

An applicant for a permit or renewal of a permit under this chapter shall file with the Sheriff an application in writing, signed under penalty of perjury, on a form prescribed by the City. The applicant shall provide all relevant information requested to demonstrate compliance with this chapter, including:

- A. The applicant’s name, including any aliases or prior names, age and address;
- B. The applicant’s Federal firearms license and California firearms dealer numbers, if any;
- C. A photocopy of the applicant’s driver’s license, passport, or other government-issued identification card bearing a photograph of the applicant;
- D. The address of the proposed location for which the permit is sought, together with the business name, and the name of any corporation, partnership or other entity that has any ownership in, or control over, the business;
- E. The names, ages and addresses of all persons who will have access to or control of workplace firearms or ammunition, including, but not limited to, the applicant’s employees, agents and/or supervisors, if any;

F. A certificate of eligibility from the California Department of Justice under Penal Code Section 26710 for the applicant and for each individual identified in subsection E of this section demonstrating that the person is not prohibited by State or Federal law from possessing firearms or ammunition;

G. Proof of a possessory interest in the property at which the proposed business will be conducted, as owner, lessee or other legal occupant, and, if the applicant is not the owner of record of the real property upon which the applicant's business is to be located and conducted, the written consent of the owner of record of such real property to the applicant's proposed business;

H. A floor plan of the proposed business which illustrates the applicant's compliance with the security provisions outlined in Section 5.13.080;

I. Proof of compliance with all applicable Federal, State and local licensing and other business laws;

J. Information relating to every license or permit to sell, lease, transfer, purchase or possess firearms or ammunition which was sought by the applicant, or by any individual identified in subsection E of this section, from any jurisdiction in the United States, including, but not limited to, the date of each application and whether it resulted in the issuance of a license, and the date and circumstances of any revocation or suspension;

K. The applicant's agreement to indemnify, defend and hold harmless the City, its officers, elected officials, agents and employees from and against all claims, losses, costs, damages and liabilities of any kind pursuant to the operation of the business, including attorneys' fees, arising in any manner out of the negligence or intentional or willful misconduct of (1) the applicant; (2) the applicant's officers, employees, agents and/or supervisors; or (3) if the business is a corporation, partnership or other entity, the officers, directors or partners;

L. Certification of satisfaction of insurance requirements, for applicants applying for a permit to sell firearms; and

M. The date, location and nature of all criminal convictions of the applicant, if any, in any jurisdiction in the United States. (Ord. 1541 § 1 (part), 2019)

**5.13.050 Law enforcement permit—Application fee.**

Each application for a law enforcement permit shall be accompanied by a nonrefundable fee for administering this chapter as established by City Council resolution. (Ord. 1541 § 1 (part), 2019)

**5.13.060 Investigation of applicant by Sheriff.**

A. The Sheriff shall conduct an investigation of the applicant and the applicant's employees, agents, and/or supervisors, if any, to determine, for the protection of the public health and safety, whether the law enforcement permit may be issued or renewed.

B. Prior to engaging in the business of selling, leasing, or otherwise transferring any firearm or ammunition, the applicant must first submit directly to the Sheriff:

1. A complete set of the applicant's fingerprints and a signed authorization for release of records pertinent to the investigation;
2. The names, ages and addresses of all individuals identified in Section 5.13.040(E); and
3. A complete set of fingerprints and a signed authorization for release of records pertinent to the investigation for each individual identified in Section 5.13.040(E).

C. Prior to issuance or renewal of the permit, the Sheriff shall inspect the premises to ensure compliance with this chapter.

D. The Sheriff may grant or renew a law enforcement permit if the applicant or permittee is in compliance with this chapter and all other applicable Federal, State and local laws. (Ord. 1541 § 1 (part), 2019)

**5.13.070 Grounds for permit denial or revocation.**

A. The Sheriff shall deny the issuance or renewal of a law enforcement permit, or shall revoke an existing permit, if the operation of the business would not or does not comply with Federal, State or local law, or if any of the following conditions exist:

1. The applicant, or any individual identified in Section 5.13.040(E), is under twenty-one years of age;
2. The applicant is not licensed as a dealer in firearms under all applicable Federal, State and local laws;

3. The applicant does not obtain an approved land use permit for the proposed location;
4. The applicant has failed to fully comply with the application requirements, such as by refusing or failing to provide all of the requested information or refusing to agree to indemnify, defend, and hold harmless the City of San Carlos, its elected and appointed officials, officers, and employees, against claims arising from operation of the business;
5. The applicant has made a false or misleading statement of a material fact or omission of a material fact in the application for a law enforcement permit, or in any other documents submitted to the Sheriff pursuant to this chapter. If a permit is denied on this ground, the applicant is prohibited from reapplying for a permit for a period of five years;
6. The applicant, or any individual identified in Section 5.13.040(E), has had a license or permit to sell, lease, transfer, purchase or possess firearms or ammunition from any jurisdiction in the United States revoked, suspended or denied for good cause within the immediately preceding five years;
7. The applicant, or any individual identified in Section 5.13.040(E), has been convicted of:
  - a. An offense which disqualifies that person from owning or possessing a firearm under Federal or California law, including, but not limited to, the offenses listed in Penal Code Sections 29800-29875 and 29900-29905;
  - b. An offense relating to the manufacture, sale, possession or use of a firearm or dangerous or deadly weapon or ammunition therefor;
  - c. An offense involving the use of force or violence upon the person of another;
  - d. An offense involving theft, fraud, dishonesty or deceit; or
  - e. An offense involving the manufacture, sale, possession or use of a controlled substance as defined by the State Health and Safety Code;
8. The applicant is within a class of persons defined in Welfare and Institutions Code Sections 8100 or 8103; or
9. The applicant is currently, or has been within the past five years, an unlawful user of or addicted to a controlled substance as defined by the Health and Safety Code.

B. The law enforcement permit of any person or entity found to be in violation of any of the provisions of this chapter may be revoked. (Ord. 1541 § 1 (part), 2019)

**5.13.080 On-site security requirements.**

- A. If the proposed or current business location is to be used at least in part for the sale of firearms, the permitted place of business shall be a secure facility within the meaning of Penal Code Section 17110.
- B. If the proposed or current business location is to be used at least in part for the sale of firearms, all heating, ventilating, air-conditioning, and service openings shall be secured with steel bars or metal grating.
- C. If the proposed or current business location is street level, concrete or hardened steel bollards, or other barriers, such as security planters or other devices with a similar structural integrity to bollards, shall be installed to protect the location's front entrance, any floor-to-ceiling windows, and any other doors, that could be breached by a vehicle.

1. The bollards or other barriers shall meet the following requirements:
  - a. Be no less than four inches in diameter and thirty-six inches in height from the ground;
  - b. Be spaced so as not to obstruct accessible routes or accessible means of egress in compliance with Standard 206.8 of Chapter 2 of the Federal Americans with Disabilities Act of 1990 (42 U.S.C. Sections 12101 et seq.), and have a clear width of not less than thirty-six inches but no more than sixty inches; and
  - c. Be capable of stopping a five-thousand-pound vehicle traveling at thirty miles per hour, in compliance with ASTM International Standard Test Method F3016.
2. This subsection C shall not apply to elevated loading docks or to locations of a licensee's premises that are fitted with steel roll-down doors.

3. Bollards installed prior to the effective date of this chapter shall be considered compliant with this section if they are composed of concrete or hardened steel, do not obstruct accessible routes or accessible means of egress in compliance with Standard 206.8 of Chapter 2 of the Federal Americans with Disabilities Act of 1990 (42 U.S.C. Section 12101 et seq.), and have a clear width of not less than thirty-six inches but no more than sixty inches.
- D. Any time a permittee is not open for business, every firearm shall be stored in a locked fireproof safe or vault in the licensee's business premises that meets the standards for a gun safe implemented by the Attorney General pursuant to Penal Code Section 23650.
- E. Any time a permittee is open for business, every firearm shall be unloaded, inaccessible to the public and secured using one of the following three methods, except in the immediate presence of and under the direct supervision of an employee of the permittee:
1. Secured within a locked case so that a customer seeking access to the firearm must ask an employee of the permittee for assistance;
  2. Secured behind a counter where only the permittee and the permittee's employees are allowed. During the absence of the permittee or a permittee's employee from the counter, the counter shall be secured with a locked, impenetrable barrier that extends from the floor or counter to the ceiling; or
  3. Secured with a hardened steel rod or cable of at least one-fourth inch in diameter through the trigger guard of the firearm. The steel rod or cable shall be secured with a hardened steel lock that has a shackle. The lock and shackle shall be protected or shielded from the use of a bolt cutter and the rod or cable shall be anchored in a manner that prevents the removal of the firearm from the premises. No more than five firearms may be affixed to any one rod or cable at any time.
- F. Any time a permittee is open for business, all ammunition shall be stored so that it is inaccessible to the public and secured using one of the methods mentioned in subsection (E)(1) or (2) of this section, except in the immediate presence of and under the direct supervision of an employee of the permittee.
- G. The permitted business location shall be secured by an alarm system that is installed and maintained by an alarm company operator licensed pursuant to the Alarm Company Act, Business and Professions Code Sections 7590 et seq. The alarm system must be monitored by a central station listed by Underwriters Laboratories, Inc., and covered by an active Underwriters Laboratories, Inc. alarm system certificate with a No. 3 extent of protection.
- H. The permitted business location shall be monitored by a video surveillance system that meets the following requirements:
1. The system shall include cameras, monitors, digital video recorders and cabling, if necessary;
  2. The interior and exterior of the permitted business location shall be monitored. The number and location of the cameras are subject to the approval of the Sheriff. At a minimum, the cameras shall be sufficient in number and location to monitor the critical areas of the business premises, including, but not limited to, all places where firearms or ammunition are stored, handled, sold, transferred, or carried, including, but not limited to, all counters, safes, vaults, cabinets, cases, entryways, and parking lots. Interior cameras shall be capable of recording the faces of the buyer and recipient of the firearm or ammunition and of the person selling the firearm or ammunition;
  3. The video surveillance system shall operate continuously, without interruption, whenever the permittee is open for business. Whenever the permittee is not open for business, the system shall be triggered by a motion detector and begin recording immediately upon detection of any motion within the monitored area;
  4. In addition, the sale or transfer of a firearm or ammunition shall be recorded by the video surveillance system in such a way that the facial features of the purchaser or transferee are clearly visible;
  5. When recording, the video surveillance system shall record continuously and store color images of the monitored area at a frequency of not less than fifteen frames per second. The system must produce retrievable and identifiable images and video recordings on media approved by the Sheriff that can be enlarged through projection or other means, and can be made a permanent record for use in a criminal investigation. The system must be capable of delineating on playback the activity and physical features of persons or areas within the premises;
  6. The stored images shall be maintained on the business premises of the permittee for a period not less than three years from the date of recordation and shall be made available for inspection by Federal, State or local law enforcement upon request; and

7. The video surveillance system must be maintained in proper working order at all times. If the system becomes inoperable, it must be repaired or replaced within fourteen calendar days. The permittee must inspect the system at least weekly to ensure that it is operational and images are being recorded and retained as required.

I. Business operating hours shall be limited to eight a.m. to eight p.m., seven days a week.

J. The applicant shall comply with all California laws regulating the sales of firearms and ammunition, including but not limited to Penal Code Sections 26815, 26885, 32000, 32310 and 30363.

K. The Sheriff may impose security requirements in addition to those listed in this section prior to issuance of the law enforcement permit. Failure to fully comply with the requirements of this section shall be sufficient cause for denial or revocation of the law enforcement permit by the Sheriff. (Ord. 1541 § 1 (part), 2019)

**5.13.090 Liability insurance.**

A. If the proposed or current business location is to be used for the sale of firearms, no law enforcement permit shall be issued or reissued unless there is in effect a policy of insurance in a form approved by the City and executed by an insurance company approved by the City, insuring the applicant against liability for damage to property and for injury to or death of any person as a result of the theft, sale, lease or transfer or offering for sale, lease or transfer of a firearm or ammunition, or any other operations of the business. The policy shall also name the City and its officials, officers, employees and agents as additional insureds. The limits of liability shall not be less than one million dollars for each incident of damage to property or incident of injury or death to a person; provided, however, that increased limits of liability may be required by the City Attorney if deemed necessary.

B. The policy of insurance shall contain an endorsement providing that the policy shall not be canceled until written notice has been given to the City Manager at least thirty days prior to the time the cancellation becomes effective.

C. Upon expiration of the policy of insurance, and if no additional insurance is obtained, the law enforcement permit is considered revoked without further notice. (Ord. 1541 § 1 (part), 2019)

**5.13.100 Restricted admittance of minors and other prohibited purchasers.**

A. Where firearm sales activity is the primary business performed at the business premises, no permittee or any of his or her agents, employees, or other persons acting under the permittee's authority shall allow the following persons to enter into or remain on the premises unless accompanied by his or her parent or legal guardian:

1. Any person under twenty-one years of age, if the permittee sells, keeps or displays only firearms capable of being concealed on the person; provided, that this provision shall not prevent a supervisory agent or employee who has the authority to control activities on the business premises from keeping a single firearm capable of being concealed on the person on the business premises for purposes of lawful self-defense; or

2. Any person under eighteen years of age, if the permittee sells, keeps or displays firearms other than firearms capable of being concealed on the person.

B. Where firearm sales activity is the primary business performed at the business premises, the permittee and any of his or her agents, employees, or other persons acting under the permittee's authority shall be responsible for requiring clear evidence of age and identity of persons to prevent the entry of persons not permitted to enter the premises pursuant to subsection A of this section by reason of age. Clear evidence of age and identity includes, but is not limited to, a motor vehicle operator's license, a State identification card, an armed forces identification card, or an employment identification card which contains the bearer's signature, photograph and age, or any similar documentation which provides reasonable assurance of the identity and age of the individual.

C. Where firearm sales activity is the primary business performed at the business premises, no permittee or any of his or her agents, employees, or other persons acting under the permittee's authority shall allow any person to enter into or remain on the premises who the permittee or any of his or her agents, employees, or other persons acting under the permittee's authority knows or has reason to know is prohibited from possessing or purchasing firearms pursuant to Federal, State, or local law. (Ord. 1541 § 1 (part), 2019)

**5.13.110 Inventory reports.**

A. Within the first five business days of April and October of each year, the permittee shall cause a physical inventory to be taken that includes a listing of each firearm held by the permittee by make, model and serial number, together with a listing of

each firearm the permittee has sold since the last inventory period. In addition, the inventory shall include a listing of each firearm lost or stolen that is required to be reported pursuant to Penal Code Section 26885.

B. Immediately upon completion of the inventory, the permittee shall forward a copy of the inventory to the address specified by the Sheriff, by such means as specified by the Sheriff. With each copy of the inventory, the permittee shall include an affidavit signed by an authorized agent or employee on behalf of the permittee under penalty of perjury stating that within the first five business days of that April or October, as the case may be, the signer personally confirmed the presence of the firearms reported on the inventory.

C. The permittee shall maintain a copy of the inventory on the premises for which the law enforcement permit was issued for a period of not less than five years from the date of the inventory and shall make the copy available for inspection by Federal, State or local law enforcement upon request. (Ord. 1541 § 1 (part), 2019)

**5.13.120 Display of law enforcement permit.**

The law enforcement permit, or a certified copy of it, shall be displayed in a prominent place on the business premises where it can easily be seen by those entering the premises. (Ord. 1541 § 1 (part), 2019)

**5.13.130 Issuance of law enforcement permit—Duration.**

A. A law enforcement permit expires one year after the date of issuance.

B. A permit may be renewed for additional one-year periods if the permittee submits a timely application for renewal, accompanied by a nonrefundable renewal fee established by City Council resolution. Renewal of the permit is contingent upon the permittee's compliance with the terms and conditions of the original application and permit, as detailed in this chapter. Sheriff's Department personnel shall inspect the permitted business premises for compliance with this chapter prior to renewal of the permit. The renewal application and the renewal fee must be received by the Sheriff's Department no later than forty-five days before the expiration of the current permit.

C. A decision regarding issuance, renewal or revocation of the law enforcement permit may be appealed in the manner provided in Section 5.13.200. (Ord. 1541 § 1 (part), 2019)

**5.13.140 Nonassignability.**

A law enforcement permit issued under this chapter is not assignable. Any attempt to assign a law enforcement permit shall result in revocation of the permit. (Ord. 1541 § 1 (part), 2019)

**5.13.150 Compliance by existing business.**

A person engaged in the business of selling, leasing, or otherwise transferring any firearm or ammunition on the effective date of this chapter shall, within ninety days of the effective date, comply with this chapter. (Ord. 1541 § 1 (part), 2019)

**5.13.160 Law enforcement inspections.**

Permittees shall have their places of business open for inspection by Federal, State and local law enforcement during all hours of operation. The Sheriff shall conduct periodic inspections of the permittee's place of business without notice to assess the permittee's compliance with this chapter. The inspections shall be of the parts of the permittee's place of business that are used to store or sell firearms, ammunition, records, and/or documents. The Sheriff shall conduct no more than two inspections of a single place of business during any six-month period, except that the Sheriff may conduct follow-up inspections that exceed two in a six-month period if he or she has good cause to believe that a permittee is violating this chapter. Permittees shall maintain all records, documents, firearms and ammunition in a manner and place accessible for inspection by Federal, State and local law enforcement. (Ord. 1541 § 1 (part), 2019)

**5.13.170 Posted warnings.**

A. A permittee shall comply with Penal Code Section 26835 and post all signs required by that section. A permittee shall also post conspicuously the following warnings in block letters not less than one inch in height:

1. Within the licensed premises:

WITH FEW EXCEPTIONS, IT IS A CRIME TO SELL OR GIVE A FIREARM TO SOMEONE WITHOUT COMPLETING A DEALER RECORD OF SALE FORM AT A LICENSED FIREARMS DEALERSHIP;

2. Within the licensed premises:

IF YOU ARE STRUGGLING EMOTIONALLY OR THINKING OF SUICIDE, CALL 1-800-273-TALK (1-800-273-8255). FREE AND CONFIDENTIAL; and

3. At each entrance to the licensed premises:

THESE PREMISES ARE UNDER VIDEO SURVEILLANCE. YOUR IMAGE MAY BE RECORDED.

- B. If a permittee sells, keeps or displays only firearms capable of being concealed on the person, the permittee shall post conspicuously at each entrance to the premises a sign stating:

FIREARMS ARE KEPT, DISPLAYED OR OFFERED ON THE PREMISES, AND PERSONS UNDER THE AGE OF 21 ARE EXCLUDED UNLESS ACCOMPANIED BY A PARENT OR LEGAL GUARDIAN.

- C. If a permittee sells, keeps or displays firearms other than firearms capable of being concealed on the person, the permittee shall post conspicuously at each entrance to the premises a sign stating:

FIREARMS ARE KEPT, DISPLAYED OR OFFERED ON THE PREMISES, AND PERSONS UNDER THE AGE OF 18 ARE EXCLUDED UNLESS ACCOMPANIED BY A PARENT OR LEGAL GUARDIAN.

- D. Where firearm sales activity is the primary business performed at the business premises, the permittee shall post conspicuously at each entrance to the premises a sign stating:

FIREARMS ARE KEPT, DISPLAYED OR OFFERED ON THE PREMISES, AND PERSONS PROHIBITED FROM POSSESSING OR PURCHASING FIREARMS PURSUANT TO FEDERAL, STATE, OR LOCAL LAW ARE EXCLUDED.

(Ord. 1541 § 1 (part), 2019)

**5.13.180 Violations.**

- A. The Sheriff may revoke the permit of any permittee found to be in violation of any of the provisions of this chapter.
- B. In addition to any other penalty or remedy, the City Attorney may commence a civil action to seek enforcement of these provisions. (Ord. 1541 § 1 (part), 2019)

**5.13.190 Report of permit revocation to Federal and State authorities.**

In addition to any other penalty or remedy, the City Attorney shall report any person or entity whose law enforcement permit is revoked pursuant to this chapter to the Bureau of Firearms of the California Department of Justice and the Bureau of Alcohol, Tobacco, Firearms and Explosives within the U.S. Department of Justice. (Ord. 1541 § 1 (part), 2019)

**5.13.200 Hearing for permit denial or revocation.**

- A. Within ten days of the Sheriff mailing a written denial of an application or mailing a written revocation of a permit, the applicant may appeal by requesting a hearing before the Sheriff. The request must be made in writing, setting forth the specific grounds for appeal. If the applicant submits a timely request for an appeal, the Sheriff shall within thirty days of receipt of the request set a time and place for the hearing.
- B. The Sheriff shall provide a written decision regarding the appeal within fourteen calendar days of the hearing. An applicant may appeal the decision of the Sheriff to the City Council pursuant to Chapter 1.25. (Ord. 1541 § 1 (part), 2019)

**Chapter 5.14  
INDOOR SHOOTING RANGES**

Sections:

**5.14.010 Purpose of chapter.**

**5.14.020 Definitions.**

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**5.14.170 Report of permit revocation to Federal and State authorities.**

**5.14.180 Hearing for permit denial or revocation.**

**5.14.010 Purpose of chapter.**

It is the purpose and intent of this chapter to establish a local program for the license and regulation of indoor shooting ranges. Such facilities, due to their potential noise impacts and safety concerns, merit careful review to minimize adverse effects on adjoining properties. The provisions of this chapter are not intended to contradict or duplicate any applicable State or Federal law. (Ord. 1542 § 1 (part), 2019)

**5.14.020 Definitions.**

For the purpose of this chapter, unless the context clearly requires a different meaning, the following words, terms and phrases have the meanings given to them in this section:

“Applicant” means any person, corporation, partnership, club, or other entity who applies for a law enforcement permit, or the renewal of such a permit, to operate a shooting range.

“Building Official” means the Building Official of the City of San Carlos or his or her designee.

“Firing point/position” means the location from which an individual fires at an associated target down range.

“Indoor shooting range” means a totally enclosed facility designed to offer a totally controlled shooting environment that includes impenetrable walls, floor and ceiling, adequate ventilation and lighting systems, and acoustical treatment for sound attenuation suitable for the range’s approved use.

“Permittee” means any person, corporation, partnership, club or other entity engaged in the ownership or operation of an indoor shooting range.

“Range safety officer” means a person or persons appointed by the operator of a shooting range to oversee the safe discharge of firearms in accordance with any conditions of permit approval and the indoor shooting range’s safety and management plan. Range safety officers shall be certified by the National Rifle Association Range Safety Officer Program or equivalent training program (such as law enforcement programs).

“Sheriff” means the San Mateo County Sheriff or the Sheriff’s designated representative acting as Chief of Police for the City of San Carlos.

“Shooting range” or “range” means a place designed and operated for the safe discharge of firearms for individuals wishing to practice, improve upon, or compete as to their shooting skills. (Ord. 1542 § 1 (part), 2019)

**5.14.030 Law enforcement permit—Required.**

It is unlawful for any person, corporation, partnership, club or other entity to own or operate a shooting range within the City without a law enforcement permit, as required by this chapter, and a land use permit, as required by Chapter 18.23. This chapter does not apply to any governmental facilities which provide training for police and other law enforcement entities. If the shooting range will include ancillary retail space for the sale, transfer, exchange, rental, or vending of firearms or ammunition, the applicant shall comply with the requirements of Chapter 5.13, in addition to the requirements herein. The applicant may submit a single law enforcement permit application for consideration under both chapters. No law enforcement permit will be issued under this chapter for an establishment that is not an indoor shooting range. (Ord. 1542 § 1 (part), 2019)

**5.14.040 Law enforcement permit—Application.**

An applicant for a permit or renewal of a permit under this chapter shall file with the Sheriff an application in writing, signed under penalty of perjury, on a form prescribed by the City. The applicant shall provide all relevant information requested to demonstrate compliance with this chapter, including:

- A. The applicant's name, including any aliases or prior names, age and address;
- B. The applicant's Federal firearms license and California firearms dealer numbers, if any;
- C. A photocopy of the applicant's driver's license, passport, or other government-issued identification card bearing a photograph of the applicant;
- D. The address of the proposed location for which the permit is sought, together with the indoor shooting range name, and the name of any corporation, partnership or other entity that has any ownership in, or control over, the range;
- E. The names, ages and addresses of the applicant's employees, agents, and/or supervisors, if any, who will have access to or control of any firearms to be rented or sold, and to any employees who will act as a range safety officer;
- F. A certificate of eligibility from the California Department of Justice under Penal Code Section 26710 for the applicant and for each individual identified in subsection E of this section, demonstrating that the person is not prohibited by State or Federal law from possessing firearms or ammunition;
- G. Proof of a possessory interest in the property at which the indoor shooting range will be conducted, as owner, lessee or other legal occupant, and, if the applicant is not the owner of record of the real property upon which the indoor shooting range is to be located and conducted, the written consent of the owner of record;
- H. A site plan showing that the indoor shooting range is properly designed, constructed, and equipped for the safe discharge of firearms within the facility, to the satisfaction of the Building Official. The site plan shall include, at a minimum:
  - 1. The complete layout of the indoor shooting range, including the locations of firing points/positions, target areas, shot fall zones, impact areas including any backstops, berms, and containment structures, and any other significant elements of the shooting range;
  - 2. A depiction of adjacent streets, access roads, and parking areas for the indoor shooting range;
  - 3. Features demonstrating that the indoor shooting range is designed to reduce sound impacts on neighboring communities, to the maximum extent feasible; and
  - 4. Any other information necessary to illustrate applicant's compliance with the security provisions outlined in this chapter, and in Section 5.13.080 if applicable;
- I. A safety and management plan with detailed standard operating procedures for range safety and conformance with environmental laws. The plan must be in full compliance with the National Shooting Sports Foundation Five-Star Assessment, the NRA Range Source Book: A Guide to Planning and Construction, and/or a guidebook or rating system deemed comparable by the Sheriff and the Building Official. The safety and management plan shall include, at a minimum, the following:
  - 1. Firearms handling and range safety rules, specifically defining the safety requirements to be utilized by users of the shooting range;
  - 2. Protocols for the safe display and storage of firearms and ammunition, if applicable;
  - 3. Protocols to ensure open lines of communication exist between the indoor shooting range and the San Mateo County Sheriff's Office;
  - 4. A detailed description of the types and uses of firearms and ammunition used or proposed to be used at the indoor shooting range;
  - 5. Protocols to ensure that firearms and ammunition deemed unsafe will not be discharged within the indoor shooting range;
  - 6. Protocols to prevent suicides within the indoor shooting range;
  - 7. Protocols to prevent the theft of rented firearms;
  - 8. An evacuation plan;
  - 9. A plan to reduce exposure to hazardous waste, provide clean air, and decrease noise for all employees and customers in accordance with Preventing Occupational Exposure to Lead and Noise at Indoor Shooting Ranges,

published by the Centers for Disease Control and Prevention; and

10. A hazardous waste diversion and disposal plan in accordance with California Department of Toxic Substances Control regulatory standards. The removal of lead, and any waste materials and liquids that are contaminated with lead, must be addressed in this plan. This plan shall also include the recycling of spent lead bullets consistent with applicable State and Federal law;

J. Proof of compliance with all applicable Federal, State and local licensing and other business laws;

K. Information relating to every license or permit to sell, lease, transfer, purchase, or possess firearms or ammunition which was sought by the applicant, or by any individual identified in subsection E of this section, from any jurisdiction in the United States, including, but not limited to, the date of each application and whether it resulted in the issuance of a license, and the date and circumstances of any revocation or suspension;

L. The applicant's agreement to indemnify, defend and hold harmless the City, its officers, elected officials, agents and employees from and against all claims, losses, costs, damages and liabilities of any kind pursuant to the operation of the indoor shooting range, including attorneys' fees, arising in any manner out of the negligence or intentional or willful misconduct of: (1) the applicant; (2) the applicant's officers, employees, agents and/or supervisors; or (3) if the business is a corporation, partnership or other entity, the officers, directors or partners; and

M. The date, location and nature of all criminal convictions of the applicant, if any, in any jurisdiction in the United States. (Ord. 1542 § 1 (part), 2019)

**5.14.050 Law enforcement permit—Application fee.**

Each application for a law enforcement permit shall be accompanied by a nonrefundable fee for administering this chapter as established by City Council resolution. (Ord. 1542 § 1 (part), 2019)

**5.14.060 Investigation of applicant by Sheriff.**

A. The Sheriff shall conduct an investigation of the applicant and the applicant's employees, agents, and/or supervisors, if any, to determine, for the protection of the public health and safety, whether the law enforcement permit may be issued or renewed.

B. With the application for a new law enforcement permit or renewal thereof, the applicant shall submit to the Sheriff:

1. A complete set of the applicant's fingerprints and a signed authorization for release of records pertinent to the investigation;
2. The names, ages and addresses of all individuals identified in Section 5.14.040(E); and
3. A complete set of fingerprints and a signed authorization for release of records pertinent to the investigation for each individual identified in Section 5.14.040(E).

C. Prior to issuance or renewal of the permit, the Sheriff shall inspect the premises to ensure compliance with this chapter.

D. The Sheriff may grant or renew a law enforcement permit if the applicant or permittee is in compliance with this chapter and all other applicable Federal, State and local laws. (Ord. 1542 § 1 (part), 2019)

**5.14.070 Grounds for permit denial or revocation.**

A. The Sheriff shall deny the issuance or renewal of a law enforcement permit, or shall revoke an existing permit, if the operation of the indoor shooting range would not or does not comply with Federal, State or local law, or if any of the following conditions exist:

1. The applicant, or any individual identified in Section 5.14.040(E), is under twenty-one years of age;
2. If the applicant intends to rent or sell firearms at the indoor shooting range and the applicant is not licensed as a dealer in firearms under all applicable Federal, State and local laws;
3. The applicant does not obtain an approved land use permit for the proposed location;
4. The applicant has failed to fully comply with the application requirements, such as by refusing or failing to provide all of the requested information or refusing to agree to indemnify, defend and hold harmless the City of San Carlos, its

elected and appointed officials, officers and employees, against claims arising from operation of the indoor shooting range;

5. The applicant has made a false or misleading statement of a material fact or omission of a material fact in the application for a law enforcement permit, or in any other documents submitted to the Sheriff pursuant to this chapter. If a permit is denied on this ground, the applicant is prohibited from reapplying for a permit for a period of five years;

6. The applicant, or any individual identified in Section 5.14.040(E), has had a license or permit to sell, lease, transfer, purchase or possess firearms or ammunition from any jurisdiction in the United States revoked, suspended or denied for good cause within the immediately preceding five years;

7. The applicant, or any individual identified in Section 5.14.040(E), has been convicted of:

a. An offense which disqualifies that person from owning or possessing a firearm under Federal or California law, including, but not limited to, the offenses listed in Penal Code Sections 29800-29875 and 29900-29905;

b. An offense relating to the manufacture, sale, possession or use of a firearm or dangerous or deadly weapon or ammunition therefor;

c. An offense involving the use of force or violence upon the person of another;

d. An offense involving theft, fraud, dishonesty or deceit; or

e. An offense involving the manufacture, sale, possession or use of a controlled substance as defined by the State Health and Safety Code;

8. The applicant is within a class of persons defined in Welfare and Institutions Code Sections 8100 or 8103; or

9. The applicant is currently, or has been within the past five years, an unlawful user of or addicted to a controlled substance as defined by the Health and Safety Code.

B. The law enforcement permit of any person or entity found to be in violation of any of the provisions of this chapter may be revoked. (Ord. 1542 § 1 (part), 2019)

#### **5.14.080 On-site security requirements.**

Indoor shooting ranges shall demonstrate compliance with the following on-site security requirements upon application for a law enforcement permit, and shall remain in compliance with the following requirements for the duration of the permit:

A. If the indoor shooting range includes an ancillary retail space for the sale, transfer, exchange, rental or vending of firearms or ammunition, the range shall comply with the on-site security requirements in this section, except that requirements regarding the storage of firearms and ammunition while a permittee is open for business shall not apply to firearms or ammunition in the possession of or being used by a customer of the indoor shooting range;

B. The indoor shooting range shall be monitored by a video surveillance system that meets the following requirements:

1. The system shall include cameras, monitors, digital video recorders, and cabling, if necessary;

2. The interior and exterior of the indoor shooting range location shall be monitored. The number and location of the cameras are subject to the approval of the Sheriff. At a minimum, the cameras shall be sufficient in number and location to monitor the critical areas of the premises, including, but not limited to, all places where firearms or ammunition are stored, handled, sold, rented, transferred, or carried, including, but not limited to: shooting booths or firing points/positions; the target line; spaces related to the use, cleaning, and storage of firearms; entryways; and parking lots;

3. The video surveillance system shall operate continuously, without interruption, whenever the indoor shooting range is open to the public;

4. When recording, the video surveillance system shall record continuously and store color images of the monitored area at a frequency of not less than fifteen frames per second. The system must produce retrievable and identifiable images and video recordings on media approved by the Sheriff that can be enlarged through projection or other means, and can be made a permanent record for use in a criminal investigation. The system must be capable of delineating on playback the activity and physical features of persons or areas within the premises;

5. The stored images shall be maintained on the shooting range premises for a period not less than thirty days from the date of recordation and shall be made available for inspection by Federal, State or local law enforcement upon request; and
  6. The video surveillance system must be maintained in proper working order at all times. If the system becomes inoperable, it must be repaired or replaced within fourteen calendar days. The permittee must inspect the system at least weekly to ensure that it is operational and images are being recorded and retained as required;
- C. The indoor shooting range shall be secured by an alarm system that is installed and maintained by an alarm company operator licensed pursuant to the Alarm Company Act, Business and Professions Code Section 7590 et seq. The alarm system must be monitored by a central station listed by Underwriters Laboratories, Inc., and covered by an active Underwriters Laboratories, Inc. alarm system certificate with a No. 3 extent of protection. The Sheriff may waive this requirement if, in his or her sole discretion, the premises is otherwise sufficiently secure to meet the public safety objectives of this chapter;
- D. The Sheriff may impose security requirements in addition to those listed in this section prior to issuance of the law enforcement permit. Failure to fully comply with the requirements of this section shall be sufficient cause for denial or revocation of the law enforcement permit by the Sheriff. (Ord. 1542 § 1 (part), 2019)

**5.14.090 Liability insurance.**

- A. No law enforcement permit shall be issued or reissued unless there is in effect a policy of insurance in a form approved by the City and executed by an insurance company approved by the City, insuring the applicant against liability for damage to property and for injury to or death of any person as a result of the operation of the shooting range or any other operations of the business. The policy shall also name the City and its officials, officers, employees and agents as additional insureds. The limits of liability shall not be less than one million dollars for each incident of damage to property or incident of injury or death to a person; provided, however, that increased limits of liability may be required by the City Attorney if deemed necessary;
- B. The policy of insurance shall contain an endorsement providing that the policy shall not be canceled until written notice has been given to the City Manager at least thirty days prior to the time the cancellation becomes effective;
- C. Upon expiration of the policy of insurance, and if no additional insurance is obtained, the law enforcement permit is considered revoked without further notice; and
- D. The insurance liability limits required in this section may be increased based on the Consumer Price Index in the San Francisco Bay Area region since adoption of this chapter, every three years, as determined by the City. (Ord. 1542 § 1 (part), 2019)

**5.14.100 Indoor shooting range operating requirements.**

- A. Indoor shooting range operating hours shall be limited to eight a.m. to eight p.m., seven days a week.
- B. A minimum of one range safety officer shall be on duty during all operating hours, and shall be responsible for:
  1. Inspection of all firearms and ammunition for proper function and operation;
  2. Enforcement of the safety rules and regulations of the indoor shooting range; and
  3. Ensuring that all firearms and ammunition at the indoor shooting range remain securely stored at all times, and in compliance with all applicable laws and regulations.
- C. The firearms handling and range safety rules shall be prominently posted in a general area of the shooting range and made available to all customers.
- D. Any weapon that is not a legal firearm, or any firearm or ammunition that is deemed not safe by the range safety officer, shall not be discharged within the indoor shooting range.
- E. No person, employee, member, or customer of an indoor shooting range shall be allowed to enter or leave the premises with a loaded firearm, unless permitted or exempted by State or Federal law.
- F. No alcohol or illegal drugs shall be sold or consumed on the property of the indoor shooting range. Individuals deemed by any employee of the indoor shooting range to be under the influence of drugs and/or alcohol, and as such to present a safety concern, shall be prohibited from utilizing the indoor shooting range.

G. Individuals believed by any employee of the indoor shooting range to pose a threat to themselves or others shall be prohibited from utilizing the indoor shooting range. The San Mateo County Sheriff's Office shall be contacted immediately if the range safety officer, or any other indoor shooting range employee, reasonably believes that a person on the premises may be a threat to themselves or others.

H. Individuals under eighteen years of age will be allowed to utilize the indoor shooting range, provided:

1. They are at least eight years of age; and
2. They are accompanied by a parent or legal guardian, or are under adult supervision and a signed release and waiver of liability by the parent or guardian is provided.

I. The sale and rental of firearms, ammunition, and associated accessories on site are permitted, subject to applicable State and Federal laws. All such uses shall be clearly documented and considered as part of the law enforcement permit application. (Ord. 1542 § 1 (part), 2019)

**5.14.110 Display of law enforcement permit.**

The law enforcement permit, or a certified copy of it, shall be displayed prominently in a general area of the indoor shooting range where it can easily be seen by those entering the premises. (Ord. 1542 § 1 (part), 2019)

**5.14.120 Issuance of law enforcement permit—Duration.**

A. A law enforcement permit expires one year after the date of issuance.

B. A permit may be renewed for additional one-year periods if the permittee submits a timely application for renewal, accompanied by a nonrefundable renewal fee established by City Council resolution. Renewal of the permit is contingent upon the permittee's compliance with the terms and conditions of the original application and permit, as detailed in this chapter. Sheriff's Department personnel shall inspect the permitted indoor shooting range for compliance with this chapter prior to renewal of the permit. The renewal application and the renewal fee must be received by the Sheriff's Department no later than forty-five days before the expiration of the current permit.

C. A decision regarding issuance, renewal, or revocation of the law enforcement permit may be appealed in the manner provided in Section 5.14.180. (Ord. 1542 § 1 (part), 2019)

**5.14.130 Nonassignability.**

A law enforcement permit issued under this chapter is not assignable. Any attempt to assign a law enforcement permit shall result in revocation of the permit. (Ord. 1542 § 1 (part), 2019)

**5.14.140 Compliance by existing range.**

A person engaged in the operation of an indoor shooting range on the effective date of this chapter shall, within ninety days of the effective date, comply with this chapter. (Ord. 1542 § 1 (part), 2019)

**5.14.150 Law enforcement inspections.**

Permittees shall have their indoor shooting range open for inspection by Federal, State and local law enforcement during all hours of operation. The Sheriff shall conduct periodic inspections of the permittee's indoor shooting range without notice to assess the permittee's compliance with this chapter. The inspections shall be of the parts of the indoor shooting range that are open to the public for use, and that are used to store, rent or sell firearms, ammunition, records, and/or documents. The Sheriff shall conduct no more than two inspections of a single indoor shooting range during any six-month period, except that the Sheriff may conduct follow-up inspections that exceed two in a six-month period if he or she has good cause to believe that a permittee is violating this chapter. Permittees shall maintain all records, documents, firearms and ammunition in a manner and place accessible for inspection by Federal, State and local law enforcement. (Ord. 1542 § 1 (part), 2019)

**5.14.160 Violations.**

A. The Sheriff may revoke the permit of any permittee found to be in violation of any of the provisions of this chapter.

B. In addition to any other penalty or remedy, the City Attorney may commence a civil action to seek enforcement of these provisions. (Ord. 1542 § 1 (part), 2019)

**5.14.170 Report of permit revocation to Federal and State authorities.**

In addition to any other penalty or remedy, the City Attorney shall report any person or entity whose law enforcement permit is revoked pursuant to this chapter to the Bureau of Firearms of the California Department of Justice and the Bureau of Alcohol, Tobacco, Firearms and Explosives within the U.S. Department of Justice. (Ord. 1542 § 1 (part), 2019)

**5.14.180 Hearing for permit denial or revocation.**

A. Within ten days of the Sheriff mailing a written denial of an application or mailing a written revocation of a permit, the applicant may appeal by requesting a hearing before the Sheriff. The request must be made in writing, setting forth the specific grounds for appeal. If the applicant submits a timely request for an appeal, the Sheriff shall within thirty days of receipt of the request set a time and place for the hearing.

B. The Sheriff shall provide a written decision regarding the appeal within fourteen calendar days of the hearing. An applicant may appeal the decision of the Sheriff to the City Council pursuant to Chapter 1.25. (Ord. 1542 § 1 (part), 2019)

**Chapter 5.20  
BILLIARD ROOMS, POOLROOMS AND BOWLING ALLEYS**

Sections:

**5.20.010 License—Required.**

**5.20.020 License—Payable when.**

**5.20.030 License—Procurement and payment.**

**5.20.050 License—Form.**

**5.20.060 License—Fee.**

**5.20.070 Permit—Required.**

**5.20.080 Permit—Issuance conditions.**

**5.20.090 License and permit—Violation of terms—Forfeiture.**

**5.20.100 Chief of Police—Duties.**

**5.20.110 Citizen complaints—Filing.**

**5.20.120 Citizen complaints—Preparation for service.**

**5.20.130 Citizen complaints—Service.**

**5.20.140 Citizen complaints—Council investigation.**

**5.20.150 Citizen complaints—Revocation after investigation.**

**5.20.160 Back rooms or partitions unlawful—Exceptions.**

**5.20.170 Card playing prohibited.**

**5.20.180 Frontage specifications.**

**5.20.190 Loitering prohibited.**

**5.20.200 Relocation of businesses.**

**5.20.210 Violation—Penalty.**

**5.20.010 License—Required.**

It is unlawful for the owner, manager, proprietor or other person having charge of any public billiard room, public poolroom or public bowling alley or other place open to the public where billiards, pool or bowling are played, to keep the same open or to allow or permit the same to be kept open, or to allow such games or amusements to be played or carried on therein without having a license therefor in this chapter provided, and by this chapter required. (Ord. 76 § 1, 1931)

**5.20.020 License—Payable when.**

All licenses shall be paid for in advance in lawful money of the United States, to the Finance Director. (Ord. 1110 § 3(A) (part), 1992; Ord. 76 § 2, 1931)

**5.20.030 License—Procurement and payment.**

The license required in this chapter must be procured from the Finance Director and payments of the license tax must be made to the Finance Director before the commencement of the business required in this chapter to be licensed. (Ord. 1110 § 3(A) (part), 1992; Ord. 76 § 3 (part), 1931)

#### **5.20.050 License—Form.**

A. Every license issued under the provisions of this chapter shall specify the name of the person, persons, firm or corporation to whom it is issued, and the particular place and building in which the business is to be conducted, and also the date of its issuance, the term for which it is issued, a description of the business to be carried on thereunder, and every license shall contain, as part thereof, the following stipulation:

"This license is hereby received and accepted subject to all terms and conditions of Ordinance No. 76 of the City of San Carlos under which it is issued."

B. The stipulation must be signed by the person, persons, firm or corporation named in the license before any business is authorized to be done under the license. The license shall at all times be kept conspicuously posted up in the place of business specified therein. (Ord. 76 § 4 (part), 1931)

#### **5.20.060 License—Fee.**

The license fee for billiard rooms, pool halls and bowling alleys shall be as set forth in Section 5.40.120(E). (Ord. 1110 § 3(C), 1992)

#### **5.20.070 Permit—Required.**

No license required by any of the provisions of this chapter shall be issued by the clerk to any person, persons, firm or corporation, or, if so issued, shall be valid for any purpose unless such person, persons, firm or corporation shall have been first granted a permit by the Council to obtain the license, and the permit must be in force and unrevoked at the time such license is issued. (Ord. 76 § 4 (part), 1931)

#### **5.20.080 Permit—Issuance conditions.**

No permit to obtain the license required by any of the provisions of this chapter shall be granted by the City Council, or if so granted, shall be valid for any purpose, unless the following conditions have been strictly complied with: Each applicant shall file with the Finance Director at least five days prior to any regular meeting of the Council at which the applicant desires to be heard, a written application to the Council for a permit to obtain the license required in this chapter, which such application shall state and set forth:

- A. The name and residence of the person, partnership, corporation or unincorporated association making such application;
- B. The place and building in which the business is to be conducted. (Ord. 1110 § 3(A) (part), 1992; Ord. 76 § 4 (part), 1931)

#### **5.20.090 License and permit—Violation of terms—Forfeiture.**

Every person, persons, firm or corporation to whom a permit has been granted and a license issued under the terms of this chapter, who does not conduct the business for which such permit has been granted and issued, in a quiet, orderly and reputable manner, or who permits any disturbance of the public peace or order by any noisy or disorderly conduct, or who permits any minor under the age of eighteen years to be or remain in and about the place where such business is being conducted, unless accompanied by their parent or parents or guardian, shall forfeit all permits and licenses theretofore granted or issued to such person, persons, firm or corporation under the provisions of this chapter and shall also be liable to arrest and punishment as in this chapter hereinafter provided. (Ord. 451 § 1, 1958)

#### **5.20.100 Chief of Police—Duties.**

It shall be the duty of the Chief of Police and he is directed to file with the Finance Director a complaint against any person, persons, firm or corporation who he has reason to believe is guilty of any of the acts or neglects specified in this chapter. (Ord. 1110 § 3(A) (part), 1992; Ord. 76 § 6 (part), 1931)

#### **5.20.110 Citizen complaints—Filing.**

The complaint may be made by any resident or citizen of the City and must state the facts alleged to constitute a breach of the ordinance codified in this chapter and the date, or dates on which they occurred. (Ord. 76 § 6 (part), 1931)

#### **5.20.120 Citizen complaints—Preparation for service.**

Upon a complaint being filed, it shall be the duty of the Chief of Police, and he is directed and required to at once prepare a copy thereof together with a notice to such person, persons, firm or corporation directing such person, persons, firm or corporation to appear before the Council on the day of its next regular meeting to show cause, if any there is, why the permit and license should not be revoked. (Ord. 76 § 6 (part), 1931)

**5.20.130 Citizen complaints—Service.**

A copy of the complaint and notice shall be served on the person, persons, firm or corporation by the Chief of Police by delivering the same to such person, persons, firm or corporation at the place where the business is transacted, or if the person or some member of the firm or some stockholder of the corporation cannot be found at such place of business, then by leaving it with some person in charge of the place of business or, if no such person be found thereat, then by posting such copy of complaint and such notice on the front door of the place of business. The Chief of Police shall report to the Council the date when and the method by which such papers were served. (Ord. 76 § 6 (part), 1931)

**5.20.140 Citizen complaints—Council investigation.**

The Council shall, if possible, investigate a complaint at the next regular meeting thereof, and not later than the second regular meeting of the Council subsequent to the filing of such complaint. (Ord. 76 § 6 (part), 1931)

**5.20.150 Citizen complaints—Revocation after investigation.**

If, upon investigation the Council, or a majority of the members thereof, find that the complaint is well founded and the charge made therein is true, it shall be so declared and the Council shall also, by the same resolution, revoke the permit theretofore granted to the person, persons, firm or corporation, and revoke all licenses theretofore issued to such person, persons, firm or corporation under the terms of this chapter, which licenses shall forthwith be without force or effect. (Ord. 76 § 6 (part), 1931)

**5.20.160 Back rooms or partitions unlawful—Exceptions.**

No place of business for which a permit and license is issued under the provisions of this chapter shall have any back room partitioned off that is not open to the public, except toilets or lavatories. (Ord. 76 § 8, 1931)

**5.20.170 Card playing prohibited.**

No card playing of any kind shall be permitted in any place of business for which a permit and license is issued under the provisions of this chapter. (Ord. 76 § 9, 1931)

**5.20.180 Frontage specifications.**

All front windows in any place of business for which a permit and license is issued under this chapter shall be so arranged with clear glass so that people passing along the front of such place of business may be able to look in from the outside at any time. (Ord. 76 § 10, 1931)

**5.20.190 Loitering prohibited.**

Any proprietor or person in charge of any place of business for which a permit and license is issued under this chapter shall not allow persons to loiter around the front door of such place of business. (Ord. 76 § 11, 1931)

**5.20.200 Relocation of businesses.**

No person to whom a permit and license has been granted under the provisions of this chapter shall move such place of business without permission and authority of the City Council. (Ord. 76 § 12, 1931)

**5.20.210 Violation—Penalty.**

Any person, persons, firm or corporation violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding three hundred dollars, or by imprisonment in the County Jail, not exceeding ninety days, or by both such fine and imprisonment, and each day upon which a violation of this chapter continues shall be deemed a separate and distinct offense under this chapter. (Ord. 76 § 13, 1931)

**Chapter 5.24  
BINGO**

Sections:

**5.24.010 Statutory authority.****5.24.020 Chapter provisions supplement State Statutes.****5.24.030 Bingo defined.****5.24.040 Organizations permitted to conduct games.****5.24.050 Permit—Required.****5.24.060 Permit—Application.****5.24.070 Application—Investigative authority.**

**5.24.080 Application—Review by other departments.**

5.24.090 Application—Public hearing.

5.24.100 Application—Final approval.

5.24.110 Application—Denial.

5.24.120 License—Required.

5.24.130 License—Fee.

5.24.150 Permits and licenses—Nontransferable.

5.24.160 Permits and licenses—Revocation or suspension—Conditions.

5.24.170 Permits and licenses—Revocation or suspension—Notice.

5.24.180 Financial interests prohibited.

5.24.190 Games—Location.

5.24.200 Games—Physical presence required.

5.24.210 Games—Minors.

5.24.220 Staff—Notification and investigation of change.

5.24.230 Staff—Conduct and operation.

5.24.240 Staff—No compensation.

5.24.250 Profits, wages and salaries.

5.24.260 Public accessibility.

5.24.270 Disposition of profits.

5.24.280 Recordkeeping.

5.24.290 Prize limitations.

5.24.300 Annual reporting requirements.

5.24.310 Inspection authority.

5.24.320 Violation—Penalty.

**5.24.010 Statutory authority.**

Pursuant to the authority provided in Section 19(c) of Article IV of the State Constitution and Section 326.5 of the Penal Code, the City establishes the requirements contained in this chapter for the conduct of bingo games by nonprofit charitable organizations. (Ord. 824 (part), 1977)

**5.24.020 Chapter provisions supplement State Statutes.**

The provisions of this chapter are not intended to conflict with, but shall supplement all laws of the State relating to lotteries, gaming or gambling. (Ord. 824 (part), 1977)

**5.24.030 Bingo defined.**

As used in this chapter, "bingo" means a game of chance in which prizes are awarded on the basis of designated numbers or symbols on a card which conform to numbers or symbols selected at random. (Ord. 824 (part), 1977)

**5.24.040 Organizations permitted to conduct games.**

No person, organization or other legal entity shall be permitted to conduct bingo games in the City unless such persons, organizations or other legal entities possess a valid certificate or letter from the Franchise Tax Board evidencing that they are exempted from the payment of the Bank and Corporation Tax by Sections 23701-a, 23701-b, 23701-d, 23701-e, 23701-f,

23701-g and 23701-l of the Revenue and Taxation Code, or is a senior citizen's organization; provided, that the proceeds of such games are used only for charitable purposes; provided further, that the organization possesses a valid permit and license issued pursuant to the provisions of this chapter. (Ord. 824 (part), 1977)

**5.24.050 Permit—Required.**

No organization shall conduct a bingo game without first obtaining a permit from the Planning Commission to do so. (Ord. 824 (part), 1977)

**5.24.060 Permit—Application.**

Written application for a permit required by this chapter shall be made by affidavit under penalty of perjury and filed with the City Planning Department. Such application shall contain:

- A. Name of organization;
- B. Days and hours of operation of bingo games;
- C. Attached copies of certificates or letters evidencing exempt status under the appropriate section of the Revenue and Taxation Code of the State, designated in Section 5.24.040 of this chapter, received from the Franchise Tax Board;
- D. Address of the premises where such bingo game will be conducted;
- E. Statement of ownership or lease of premises;
- F. Purposes for which such premises is used by the organization;
- G. Name of each individual, corporation, partnership or other legal entity which has a financial interest in the conduct of the bingo game;
- H. Names and birthdates of each staff member or person operating or assisting in the operation of the bingo game;
- I. Such further information as may be required by the Planning Commission. (Ord. 824 (part), 1977)

**5.24.070 Application—Investigative authority.**

- A. The Planning Department shall submit each application to the Chief of Police for investigation and approval.
- B. The Chief of Police shall have the authority to obtain criminal history information for each person operating or assisting in the operation of a bingo game for purposes of his investigation. If he finds that such operators or persons assisting in the operation of a bingo game have been convicted of any felony and/or crimes in the past five years, involving lotteries, gambling, larceny, perjury, bribery or fraud, he may without further proceedings, disapprove issuance of the permit in question. (Ord. 824 (part), 1977)

**5.24.080 Application—Review by other departments.**

The City Planning Department shall submit each application to the following departments for investigation and approval:

- A. Fire Chief as to any fire hazard on the premises in question;
- B. County Health Officer as to the health and sanitary conditions of the premises in question;
- C. Building Department as to compliance with City building regulations. (Amended during 1989 recodification; Ord. 824 (part), 1977)

**5.24.090 Application—Public hearing.**

- A. The Planning Commission shall hold a public hearing on each application for a bingo permit and shall mail notice thereof to the applicant and to any other person who has filed a written request for such notice.
- B. Each applicant shall have the opportunity to review all records, papers, files and any other evidence related to the application for a bingo permit at least five days prior to the time set for public hearing on such application. (Ord. 824 (part), 1977)

**5.24.100 Application—Final approval.**

- A. At the time and place set for public hearing on the application for a bingo permit, the Commission shall consider the records, papers, files and any other evidence it deems relevant and shall render its decision either granting or denying the permit.

B. If the permit is approved, the Commission may include such restrictions and conditions in the permit as it deems reasonable and necessary under the circumstances to insure compliance with the purposes and intent to this chapter. Such restrictions and conditions, without limiting the discretion and authority of the Commission in this regard, may include limitations on the days and hours of operations of bingo games. (Ord. 824 (part), 1977)

**5.24.110 Application—Denial.**

The Commission may deny a permit if, after consideration of the application and any other papers, records and files it deems relevant, it is determined that the operation of a bingo game would be injurious to the health, safety and morals of the people of the City, or that the permit application or proposed mode of operation of the bingo game is not in compliance with the provisions of this chapter. (Ord. 824 (part), 1977)

**5.24.120 License—Required.**

In addition to obtaining a permit as required by this chapter, each organization conducting a bingo game shall obtain a license from the Finance Director. No license shall be issued until the applicant therefor has a valid permit covering the organization and the premises. (Ord. 1110 § 4 (A) (part), 1992; Ord. 824 (part), 1977)

**5.24.130 License—Fee.**

The fee for a business license shall be as set forth in Chapter 5.04 of this Code, Section 5.04.120(F). (Ord. 1110 § 4 (B), 1992)

**5.24.150 Permits and licenses—Nontransferable.**

Permits and licenses granted under this chapter shall not be transferable, either to the license or to the location. Any attempt to transfer shall render the permit and license in question invalid. (Ord. 824 (part), 1977)

**5.24.160 Permits and licenses—Revocation or suspension—Conditions.**

Any permit and license issued under this chapter may be suspended or revoked by the Planning Commission on its own motion or on application of the Chief of Police or District Attorney for violation of any of the provisions of this chapter, or any provisions of this Code or Federal or State law. (Ord. 824 (part), 1977)

**5.24.170 Permits and licenses—Revocation or suspension—Notice.**

The holder of a bingo license shall be given prompt notice of revocation or suspension of such permit and license and shall immediately desist from conducting or operating any bingo game. The notice shall fix a time and place, not less than ten, nor more than forty-five days after service thereof, at which time the holder of such license may appear before the City Council and be granted a hearing upon the merits of such suspension or revocation. (Ord. 824 (part), 1977)

**5.24.180 Financial interests prohibited.**

No individual corporation, partnership or other legal entity, except the organization authorized to conduct a bingo game shall hold a financial interest in the conduct of such bingo game. (Ord. 824 (part), 1977)

**5.24.190 Games—Location.**

An organization authorized to conduct bingo games shall conduct such games only on property owned or leased by it, and which property is used by such organization for an office or for performance of the purposes for which the organization is organized. Nothing in this section shall be construed to require that the property owned or leased by the organization be used or leased exclusively by such organization. (Ord. 824 (part), 1977)

**5.24.200 Games—Physical presence required.**

No person shall be allowed to participate in a bingo game unless such person is physically present at the time and place at which the bingo game is being conducted. (Ord. 824 (part), 1977)

**5.24.210 Games—Minors.**

No person, either organizing, operating, staffing or supervising any bingo game, shall allow any minor to participate in any bingo game, nor shall any minor participate in any bingo game. For the purpose of this chapter, a "minor" means any person under the age of eighteen years. (Ord. 824 (part), 1977)

**5.24.220 Staff—Notification and investigation of change.**

A. Any changes as to the staff operating or assisting in the operation of a bingo game made subject to the issuance of a bingo permit shall be reported to the Police Department for further investigation.

B. If, after such investigation, the Police Department finds that the changes require suspension or revocation of the bingo permit and license, such determination shall be transmitted to the Commission for appropriate action. (Ord. 824 (part), 1977)

**5.24.230 Staff—Conduct and operation.**

A bingo game shall be operated and staffed only by members of the authorized organization which organized it. Such members shall not receive a profit, wage or salary from any bingo game. Only an organization authorized to conduct a bingo game by permit and license issued pursuant to this chapter shall operate such game, or engage in the promotion, supervision or any other phase of such game. (Ord. 824 (part), 1977)

**5.24.240 Staff—No compensation.**

Staff members or persons operating or assisting in the operation of the bingo games shall not receive a profit, wage or salary from the proceeds of any such bingo games. (Ord. 824 (part), 1977)

**5.24.250 Profits, wages and salaries.**

No person or agent of such person shall receive a profit, wage or salary or other income from any bingo game authorized by this chapter, except as a bona fide prize(s) received as a participant in such bingo game; nor shall any person directing, operating, organizing, staffing or supervising any bingo game pay to any other person any profit, wage or salary derived from any such game. (Ord. 824 (part), 1977)

**5.24.260 Public accessibility.**

All bingo games shall be open to the public, not just to the members of the nonprofit charitable organization. (Ord. 824 (part), 1977)

**5.24.270 Disposition of profits.**

All profits derived from a bingo game shall be kept in a special fund or account and shall not be commingled with any other fund or account. (Ord. 824 (part), 1977)

**5.24.280 Recordkeeping.**

Each organization conducting a bingo game shall maintain detailed records of all profits, expenditures, prizes and other expenses associated with the operation of bingo games. The records shall be retained for such period of time as required by State and Federal law, and for a period of three years for purposes of this chapter. (Ord. 824 (part), 1977)

**5.24.290 Prize limitations.**

The total value of prizes awarded during the conduct of any bingo games shall not exceed the amount authorized by State law for each separate game which is held. (Ord. 1053 § 1, 1990; Ord. 824 (part), 1977)

**5.24.300 Annual reporting requirements.**

At the end of each fiscal year during the term of the permit and license, each nonprofit charitable organization which has been issued a permit and license shall file a report made under penalty of perjury with the Finance Director containing the following information:

- A. Any changes in or additions to the information required under Section 5.24.110 of this chapter;
- B. The total amount of money received from operation of the bingo game in the previous fiscal year;
- C. The total amount paid out in prizes;
- D. Detailed costs to the organization for the operation of the bingo game. (Ord. 1110 § 4 (A) (Part), 1992; Ord. 824 (part), 1977)

**5.24.310 Inspection authority.**

- A. The Chief of Police or his designated representative(s) shall have the authority to inspect the premises in order to insure that the operation of bingo games at the premises would not constitute a violation of any State law or provision of this Code.
- B. The Police Department may inspect the records of any organizations conducting bingo games whenever deemed reasonable and appropriate to insure compliance with the provisions of this chapter. (Ord. 824 (part), 1977)

**5.24.320 Violation—Penalty.**

- A. Any person who violates Sections 5.24.180 through 5.24.210, 5.24.230, 5.24.240 and 5.24.260 through 5.24.290 of this chapter is guilty of a misdemeanor.
- B. A violation of Section 5.24.250 of this chapter constitutes a misdemeanor and shall be punishable by a fine not to exceed ten thousand dollars, which fine shall be deposited in the City's general fund. (Ord. 824 (part), 1977)

**Chapter 5.28  
CABLE TELEVISION REGULATION**

Sections:

**5.28.010 Definitions.****5.28.020 Grant of authority.****5.28.030 Establishment of franchise requirements.****5.28.040 Franchise area.****5.28.050 Use of public rights-of-way.****5.28.060 Franchise term.****5.28.070 Franchise nonexclusive.****5.28.080 Transfer of ownership or control.****5.28.090 Franchise renewal.****5.28.100 Police powers.****5.28.110 Preemption.****5.28.120 Reimbursement of franchise processing costs.****5.28.130 Franchise agreement.****5.28.010 Definitions.**

As used in this chapter:

A. "Agreement" means a franchise award ordinance, or a contractual agreement, containing the specific provisions of the franchise granted, including referenced specifications, franchise applications, franchise requirements, ordinances and other related materials, and all amendments thereof.

B. "Cable television system," also referred to as "system" or "cable system," means a facility, consisting of transmission paths and associated signal generation, reception and control equipment that is designed to provide cable service which includes video programming and which is provided to multiple subscribers within a community, but such term does not include:

1. A facility that serves only to retransmit the television signals of one or more television broadcast stations;
2. A facility that serves only subscribers in one or more multiple unit dwellings under common ownership, control or management, unless such facility or facilities uses any public right-of-way;
3. A facility of a common carrier, except that such facility shall be considered a cable system to the extent such facility is used in the transmission of video programming directly to subscribers; or
4. Any facilities of any electric utility used solely for operating its electric utility systems.

C. "City" means the City of San Carlos, California, in its present incorporated form or in any later reorganized, consolidated, enlarged or reincorporated form.

D. "Franchise" means a franchise award ordinance, or a contractual agreement, containing the specific provisions of the franchise granted, including referenced specification, franchise applications, franchise requirements, ordinances and other related materials. Any such authorization, in whatever form granted, shall not mean and include any license or permit required for the privilege of transacting and carrying on a business within the City as required by other ordinances and laws of this City.

E. "Grantee" means any "person" receiving a franchise pursuant to this chapter and its lawful successor, transferee or assignee. (Ord. 1069 § 2 (part), 1991)

**5.28.020 Grant of authority.**

A. Franchise Grants. The City may at any time in accordance with applicable law grant one or more nonexclusive revocable franchises to construct, operate, maintain and reconstruct a cable system within a franchise area defined by the City. The franchise shall constitute both a right and an obligation to provide a cable system as required by the provisions of the agreement, which may include those provisions of the grantee's "franchise proposal" which are finally negotiated and accepted by the City and grantee.

B. Any franchise granted under the terms and conditions contained herein shall be consistent with federal laws and regulations and state general laws and regulations.

C. Any franchise granted is made subject to the general ordinance provisions in effect as of the effective date of the ordinance codified in this chapter or thereafter made effective. Nothing in this chapter shall be deemed to waive the requirements of other codes and ordinances of the City regarding permits, fees to be paid or manner of construction.

D. This chapter shall apply to all franchises and franchise renewals granted or renewed after the effective date of the ordinance codified in this chapter. It shall further apply to the extent permitted by applicable federal or state law to all existing franchises granted or renewed prior to the effective date of the ordinance codified in this chapter.

E. No cable system shall be allowed to occupy or use the streets within the limits of the City or in any franchise area within the City or be allowed to operate without a franchise in accordance with the provisions of this chapter and the agreement. (Ord. 1069 § 2 (part), 1991)

**5.28.030 Establishment of franchise requirements.**

The City may establish appropriate requirements for new franchises or franchise renewals, and may modify these requirements from time to time to reflect changing conditions and state of the art in the cable television industry. Such requirements shall not be retroactive to franchises then in effect, except for franchise obligations which are subject to periodic review as provided in the agreement. (Ord. 1069 § 2 (part), 1991)

**5.28.040 Franchise area.**

The franchise area to be served shall be the entire territory within the geographic boundaries of the City, as defined in the agreement, subject to any line extension policies set forth in the agreement. (Ord. 1069 § 2 (part), 1991)

**5.28.050 Use of public rights-of-way.**

For the purpose of operating and maintaining a cable television system in the franchise area, the grantee may erect, install, construct, repair, replace, reconstruct, and retain in, on, over, under, upon, across and along the public rights-of-way and public cables, conductors, ducts, conduits, vaults, manholes, amplifiers, property and equipment as are necessary and appurtenant to the operations of the cable system. The grantee shall comply with all applicable City construction codes and procedures.

Nothing in the agreement shall abrogate the right of the City to perform any public work or public improvement of any description, including, without limitation, all work authorized by applicable law. In the event that the system interferes with the construction, operation, maintenance or repair of any such public work or improvement, the grantee, after reasonable notice from the City, shall, at its own cost and expense, promptly protect, alter or relocate the system, or any part thereof, as directed by the City.

In the event that the grantee refuses or neglects to so protect, alter or relocate all or any part of the system, the City shall have the right in connection with the performance of such public work or public improvement to break through, remove, alter or relocate all or any part of the system without any liability to the grantee except for the City's wilful misconduct and the grantee shall promptly pay to the City the costs incurred by such breaking through, removal, alteration or relocation. (Ord. 1069 § 2 (part), 1991)

**5.28.060 Franchise term.**

The term of any franchise granted under this chapter and all rights, privileges, obligations and restrictions pertaining thereto shall not exceed fifteen years from the effective date of the franchise. (Ord. 1069 § 2 (part), 1991)

**5.28.070 Franchise nonexclusive.**

Any franchise granted shall be nonexclusive. The City reserves the right to grant, at any time, such additional franchises for a cable system as it deems appropriate. (Ord. 1069 § 2 (part), 1991)

**5.28.080 Transfer of ownership or control.**

A. Any franchise granted under this chapter cannot be sold, transferred, assigned or disposed of, in whole or in part, either by forced or involuntary sale, or by voluntary sale, merger, consolidation or otherwise, without the prior consent of the Council expressed by resolution, and then only under such reasonable conditions as may therein be prescribed. In the event that the grantee is a corporation, such prior approval of the Council shall be required where there is an actual change in control. The word "control" as used herein is not limited to major stockholders but includes actual working control in whatever manner exercised.

B. The grantee shall promptly notify the City of any proposed change in, or transfer of, or acquisition by any transfer, or acquisition of control of the grantee and such occurrence shall make the franchise subject to cancellation unless and until the

grantor has consented thereto, which consent shall not be unreasonably withheld.

C. In seeking the City's consent to any change in ownership or control, the grantee shall be required to show to the satisfaction of the City that the proposed transferee is legally, technically and financially qualified to maintain and operate the cable system for the remaining term of the franchise under the existing franchise terms. (Ord. 1069 § 2 (part), 1991)

**5.28.090 Franchise renewal.**

Franchise renewal shall be in accordance with applicable law. (Ord. 1069 § 2 (part), 1991)

**5.28.100 Police powers.**

In accepting a franchise, the grantee acknowledges that its rights under this chapter are subject to the police power of the City to adopt and enforce general ordinances necessary to the health, safety and welfare of the public, and it agrees to comply with all applicable general laws and ordinances enacted by the City pursuant to such power. (Ord. 1069 § 2 (part), 1991)

**5.28.110 Preemption.**

If any area of regulatory authority is preempted from local regulation by federal or state law, and such preemption later ceases, the grantor reserves the right to resume local regulation to the extent permitted; provided, that such regulation shall not conflict with the express terms and conditions of any existing franchise agreement, nor impose additional material financial burden upon the grantee. (Ord. 1069 § 2 (part), 1991)

**5.28.120 Reimbursement of franchise processing costs.**

For either an initial franchise grant, a franchise renewal or a franchise transfer, the grantee shall reimburse the grantor, within sixty days of receipt of an itemization of costs from the grantor, for the grantor's reasonable out-of-pocket processing costs, including but not limited to consultant and special legal costs. (Ord. 1069 § 2 (part), 1991)

**5.28.130 Franchise agreement.**

All other terms, conditions, procedure, rights and obligations of the City and the grantee for any franchise granted pursuant to this chapter shall be specified in an agreement between the City and the grantee. (Ord. 1069 § 2 (part), 1991)

**Chapter 5.29  
STATE VIDEO FRANCHISES**

Sections:

**5.29.010 Purpose and application.**

**5.29.020 State video franchise fees.**

**5.29.030 PEG support fees.**

**5.29.040 PEG channels.**

**5.29.050 Audit authority.**

**5.29.060 Customer service penalties.**

**5.29.070 City response to State video franchise applications.**

**5.29.080 Public rights-of-way.**

**5.29.090 Reservation of rights.**

**5.29.010 Purpose and application.**

This chapter is designed to regulate video service providers holding State video franchises and operating within the City pursuant to that franchise. On January 1, 2007, the State of California became the sole authority with power to grant State video franchises pursuant to the Digital Infrastructure and Video Competition Act of 2006 (DIVCA), codified at Public Utilities Code Section 5800 et seq. under the California Public Utilities Commission final rulemaking decision dated March 1, 2007. Pursuant to DIVCA, the City of San Carlos shall receive a franchise fee and a fee for public, educational and/or government (PEG) purposes from all State video franchise holders operating within the City. Additionally, the City acquired the responsibility to establish and enforce penalties, consistent with State law, against all State video franchise holders operating within the City for violations of customer service standards pursuant to DIVCA. (Ord. 1426 § 2 (part), 2010)

**5.29.020 State video franchise fees.**

Any State video franchise holder operating within the boundaries of the City shall pay a fee to the City equal to five percent of the gross revenue of that State video franchise holder. "Gross revenue," for the purposes of this chapter, shall have the definition set forth in California Public Utilities Code Section 5860. The State franchise fee shall be remitted to the applicable local entity quarterly, within forty-five days after the end of the quarter for that calendar quarter. Each payment shall be accompanied by a summary explaining the basis for the calculation of the State franchise fee. If the holder does not pay the franchise fee when due, the holder shall pay a late payment charge at a rate per year equal to the highest prime lending rate during the period of delinquency, plus one percent. If the holder has overpaid the franchise fee, it may deduct the overpayment from its next quarterly payment. (Ord. 1426 § 2 (part), 2010)

#### **5.29.030 PEG support fees.**

A. Any State video franchise holder operating within the boundaries of the City shall pay a PEG fee to the City or the City's designee for capital support of public, educational, and/or governmental (PEG) purposes that are consistent with State and Federal law equal to no more than one percent of gross revenues, as defined by Section 5870(n).

B. Upon the expiration of the current local cable franchise, every State franchisee operating within the City shall pay a PEG capital support fee of equal to one percent of gross revenues per subscriber per month.

C. Pursuant to Section 5870(l) of the California Public Utilities Code, every State franchisee operating within the boundaries of the City shall be responsible for a pro rata, per subscriber share of any outstanding capital grant payments. (Ord. 1426 § 2 (part), 2010)

#### **5.29.040 PEG channels.**

A. The current franchise with Comcast provides for four public, educational and governmental channels for PEG programming. Local franchisees and holders of a State franchise under DIVCA shall provide four PEG channels.

B. All State franchisees shall comply with the provisions of DIVCA related to PEG channels. Without limiting the foregoing, the PEG channels shall be carried on the basic service tier. To the extent feasible, the PEG channels shall not be separated numerically from other channels carried of the basic service tier and the channel numbers for the PEG channels shall be the same channel numbers used by the incumbent cable operator as defined in Public Utilities Code Section 5830(i) unless prohibited by Federal law and shall provide video and sound quality, recording capability, channel accessibility and location equal to, or substantially equal to, that provided by the incumbent cable providers. After the initial designation of PEG channel numbers, the channel numbers shall not be changed without agreement from the local entity unless the change is required by Federal law.

C. A State franchise holder shall have three months from the date City requests the PEG channels to designate the capacity. However, the three-month period shall be tolled by any period during which the designation or provision of PEG channel capacity is technically infeasible, including any failure or delay of the incumbent cable operator to make adequate interconnection available, as required by DIVCA. Any State franchise holder who believes that the designation or provision of PEG channel capacity is technically infeasible, shall provide to City, in writing, its reasons therefor and its plan for correcting or solving the infeasibility. City may hold a hearing on the claim of infeasibility and, thereafter, take such action as City deems proper to require the designation and provision of the PEG channels on the State franchise holder's system. (Ord. 1426 § 2 (part), 2010)

#### **5.29.050 Audit authority.**

Not more than once annually, the City Manager or the Manager's designee may examine and perform an audit of the business records of a holder of a State video franchise to ensure compliance with Section 5860. (Ord. 1426 § 2 (part), 2010)

#### **5.29.060 Customer service penalties.**

A. The holder of a State video franchise shall comply with all applicable State and Federal customer service and protection standards pertaining to the provision of video service.

B. The City Manager or the Manager's designee shall monitor the compliance of State video franchise holders with respect to State and Federal customer service and protection standards. The City Manager or the Manager's designee will provide the State video franchise holder written notice of any material breaches of applicable customer service standards, and will allow the State video franchise holder thirty days from the receipt of the notice to remedy the specified material breach. Material breaches not remedied within the thirty-day time period will be subject to the following penalties to be imposed by the City:

1. For the first occurrence of a violation, a fine of up to five hundred dollars may be imposed for each day the violation remains in effect, not to exceed one thousand five hundred dollars for each violation.

2. For a second violation of the same nature within twelve months, a fine of up to one thousand dollars may be imposed for each day the violation remains in effect, not to exceed three thousand dollars for each violation.
3. For a third or further violation of the same nature within twelve months, a fine of up to two thousand five hundred dollars may be imposed for each day the violation remains in effect, not to exceed seven thousand five hundred dollars for each violation.

C. A State video franchise holder may appeal a penalty assessed by the City Manager to the City Council within sixty days of the initial assessment. The City Council shall hear all evidence and relevant testimony and may uphold, modify or vacate the penalty. The City Council's decision on the imposition of a penalty shall be final.

As used herein, "material breach" is defined as set forth in DIVCA as Section 5900. (Ord. 1426 § 2 (part), 2010)

**5.29.070 City response to State video franchise applications.**

A. Applicants for State video franchises within the boundaries of the City must concurrently provide complete copies to the City of any application or amendments to applications filed with the California Public Utilities Commission (PUC). One complete copy must be provided to the City Manager.

B. Within thirty days of receipt, the City Manager will provide any appropriate comments to the PUC regarding an application or an amendment to an application for a State video franchise. (Ord. 1426 § 2 (part), 2010)

**5.29.080 Public rights-of-way.**

All State video franchisees shall comply with the provisions of Public Utilities Code Section 5885, including but not limited to those provisions that govern the installation, construction and maintenance of its network in the public rights-of-way, the applicability of the California Environmental Quality Act (CEQA) to projects by a State franchisee in the City of San Carlos, the approval or denial of applications for encroachment permits under Section 5885(c). State franchisees shall apply for City encroachment permits. (Ord. 1426 § 2 (part), 2010)

**5.29.090 Reservation of rights.**

The City of San Carlos reserves the right to enact an ordinance or to enforce Chapter 5.28 of the Municipal Code to regulate cable television services within the City should it be determined by State or Federal law, regulation or rule that City may enter into a local franchise with providers of cable television or video services within the City. (Ord. 1426 § 2 (part), 2010)

**Chapter 5.30  
FORTUNETELLING**

Sections:

**5.30.010 Permit required.**

**5.30.020 Application for permit.**

**5.30.030 Permit term and renewal.**

**5.30.040 Fees.**

**5.30.010 Permit required.**

A. It is unlawful for any person, whether as principal, servant, agent or employee, to engage in the business, profession, occupation or calling of clairvoyance, palmistry, astrology, spiritism or fortune telling of any kind or nature, by whatsoever name called, without first procuring the permit provided for by this chapter.

B. It is unlawful for any person, whether as principal, servant, agent or employee, to advertise or solicit by newspaper, advertisement, public display, circular, sign, letter or card or otherwise in behalf of any business, profession, occupation or calling mentioned in subsection A of this section, unless said person shall have first procured the permit provided for by this chapter. (Ord. 1272 § 2 (part), 1999)

**5.30.020 Application for permit.**

A. Application for the permit required by this chapter shall be filed with the Chief of Police, together with the fee set forth in the City's master fee resolution, verified by the oath of the applicant and shall contain the following information:

1. The full true name under which the business will be conducted.
2. The present or proposed address where the business is to be conducted.

3. The applicant's full, true name, and other names used, date of birth, California driver's license number or California identification number, Social Security number, present residence address and telephone number. The sex, height, weight, color of hair, and color of eyes. Such other identification and information shall be provided as required by the Chief of Police or his representative, necessary to discover the truth of the matters specified and required in the application.
4. The applicant's residences inclusive of dates at each address, for the last five years.
5. The applicant's business, occupation, and employment history for five years preceding the date of application, and the inclusive dates of same.
6. The permit history of the applicant, whether such person has ever had any permit or license issued by any agency, board, city, county, territory, or state; the date of issuance of such a permit or license, whether the permit or license was revoked or suspended; or if a vocational or professional license or permit was issued, revoked, or suspended and the reason therefor.
7. All convictions for any crime involving conduct which requires registration under California Penal Code Section 290, or convictions of California Penal Code Sections 314, 315, 316, 318, 647(b), (as now written or as amended), or convictions of crimes designated in Government Code Section 51032(b), or any crime involving dishonesty, fraud, deceit, violence or moral turpitude. Convictions under the laws of other states or countries which proscribe the same conduct as the afore designated California crimes shall be provided. Convictions that have been expunged must be reported.
8. A complete definition of all services to be provided.
9. Acceptable written proof that the applicant is at least eighteen years of age.
10. If the applicant is a corporation, the name of the corporation shall be set forth exactly as shown in its articles of incorporation or charter together with the state and date of incorporation and the names and residence addresses of each of its current officers and directors, and of each stockholder holding more than five percent of the stock of that corporation.
11. If the applicant is a partnership, the application shall set forth the names and residence address of each of the partners, including limited partners. If the applicant is a limited partnership, it shall furnish a copy of its certificate of limited partnership as filed with the County Clerk. If one or more of the partners is a corporation, the provisions of this subsection pertaining to corporate applicants shall apply to the corporate partner.
12. The applicant, corporation or partnership shall designate one of its officers or general partners to act as its responsible managing officer/employee. Such person shall complete and sign all application forms required of an individual applicant under this chapter. The corporation's or partnership's responsible managing officer must, at all times, meet all of the requirements set for permittees by this chapter or the corporation or partnership permit shall be suspended until a responsible managing officer who meets such requirements is designated. If no such person is found within ninety days, the corporation or partnership permit is deemed canceled and a new application for permit must be filed.
13. The Chief of Police or his/her authorized representative may require the applicant to furnish fingerprints when needed for the purpose of establishing identification. Fingerprinting will be taken at a place designated by the Chief of Police. Any required fingerprinting fee will be the responsibility of the applicant.
14. Two photographs of the applicant and managing responsible officer to be taken by the police department.
15. A description of any other business to be operated on the same premises, or on adjoining premises, owned, or controlled by the applicant.
16. The name and address of the owner and lessor of the real property upon or in which the business is to be conducted. In the event the applicant is not the legal owner of the property, the application must be accompanied by a copy of the lease and a notarized acknowledgment from the owner of the property that a fortune telling establishment will be located on his/her property.
17. Authorization for the City, its agents and employees, to seek information and conduct an investigation into the truth of the statements set forth in the application and into the background of the applicant and the responsible managing officer.
18. The applicant shall submit any change of address or fact which may occur during the procedure of applying for a permit.

B. The Chief of Police or authorized representative shall have up to sixty days, after submission of all required information, including the required certificates of compliance, to investigate the application and the background of the applicant. Upon the completion of the investigation, the Chief of Police, or authorized representative, shall grant the permit, with or without conditions, if the Chief finds in the exercise of discretion all of the following:

1. The required fee has been paid.
2. The application conforms in all respects to the provisions of this chapter.
3. The applicant has not made a material misrepresentation in the application.
4. The applicant, if an individual, or any of the stockholders of the corporation, or any officers or director, if the applicant is a corporation; or a partner if the applicant is a partnership, or the managing responsible officer has not been convicted within five years preceding application in a court of competent jurisdiction of an offense involving conduct which requires registration under California Penal Code Section 290, or of conduct which is a violation of the provisions of California Penal Code Sections 314, 315, 316, 318, 647(b), (as now written or as amended), or of crimes that are designated in Government Code Section 51032(b), or any other crime involving dishonesty, fraud, deceit, violence or moral turpitude. Convictions under the laws of other states or countries which proscribe the same or similar conduct as the afore designated California crimes shall be considered.
5. The applicant is at least eighteen years of age.
6. The fortune telling business as proposed by the applicant would comply with all applicable laws, including, but not limited to, health, zoning, fire and safety requirements and standards.

C. If the Chief of Police or authorized representative, following investigation of the applicant, in the exercise of discretion, fails to make the findings stated in subsection B of this section, the Chief shall deny said application by written notice to the applicant. (Ord. 1272 § 2 (part), 1999)

#### **5.30.030 Permit term and renewal.**

The permit issued under this chapter shall be valid for one year, and shall thereafter expire unless renewed within thirty days of expiration date. The renewal process shall be processed and investigated as though it was an initial application. (Ord. 1272 § 2 (part), 1999)

#### **5.30.040 Fees.**

The applicant shall pay all permit and processing fees as set forth in the City's master fee resolution. (Ord. 1272 § 2 (part), 1999)

## **Chapter 5.32 FRANCHISES**

Sections:

#### **5.32.010 Franchise required for street or highway use.**

#### **5.32.020 Laws regulating grant of franchises.**

#### **5.32.030 Transfer or assignment conditions.**

#### **5.32.040 Use or installation—Notice to City.**

#### **5.32.050 Liability limitations.**

#### **5.32.060 First payment and fee computation.**

#### **5.32.070 Annual franchise payments.**

#### **5.32.010 Franchise required for street or highway use.**

Any person or corporation, except those granted special privileges by law of the State, desiring to make use of any street or City highway within the City for the purpose of erecting or installing thereby or thereon any facility, shall be required to obtain a franchise authorizing such use, unless the same has been previously obtained. (Ord. 640 § 1, 1967)

#### **5.32.020 Laws regulating grant of franchises.**

Every franchise or privilege whatsoever hereafter proposed to be granted by the City Council shall be granted subject to the laws regulating the activity of the applicant therefor and the laws granting the franchise or privileges by the City Council, and the grantee of any such franchise or privilege shall have the right as against all persons to make use of the City streets and City highways as provided in the franchise or privilege granted by the City Council, to the full extent of the lawful authority of the City to permit such use. (Ord. 640 § 2, 1967)

#### **5.32.030 Transfer or assignment conditions.**

The grantee of any franchise granted by the City Council shall not sell, transfer or assign any franchise or any of the rights or privileges granted thereby, except by a duly executed instrument in writing; provided, however, that no such sale, transfer or assignment may be made without the consent of the City Council thereto, except that no provision of any franchise shall require any such consent, and no consent shall be required for any transfer by the grantee in trust or by way of mortgage or hypothecation covering all and any part of the grantee's property, which transfer, mortgage or hypothecation shall be for the purpose of securing an indebtedness of grantee, or for the purpose of renewing, extending, refunding, retiring, paying or canceling in whole or in part any such indebtedness at any time or from time to time. (Ord. 641 § 1, 1967)

#### **5.32.040 Use or installation—Notice to City.**

Before any use, operation or installation under any franchise shall be permitted, notification shall be made to the City Engineer. (Ord. 641 § 2, 1967)

#### **5.32.050 Liability limitations.**

The grantee of any franchise shall be responsible for and save the City free and harmless from all damages or liability arising from the use, operation or possession of the franchise, and from the use, operation or maintenance of the facilities erected, constructed or maintained thereunder. (Ord. 641 § 3, 1967)

#### **5.32.060 First payment and fee computation.**

A. The first annual payment provided for in any franchise shall be made by submitting two copies of a report, verified by the oath of a duly authorized representative of the grantee, setting forth the length of pipelines in the public highways and the total amount due, insofar as such information is known to the grantee.

B. In the event new pipelines have been laid in public highways, subsequent to the previous report, there shall be included with the grantee's report a statement showing the fact that a notice was presented to the City Engineer as provided herein, the date the pipe was laid, the feet specified in the notice, and the feet laid. A complete computation of the license fee shall also be submitted with this report.

C. The City Finance Director or his deputies or agents shall have the right to inspect the maps, records and physical properties of the grantee necessary to determine the number, location, extent and the period of maintenance of such pipelines. Such officers may, upon reasonable notice being given, inspect at the offices of the grantee reports or maps which reasonably affect any franchise, and the grantee shall promptly supply the same; provided that, in the event the grantee refuses any such request, the grantee or the City Finance Director shall have the right of appeal to the City Council, and the decision as to the reasonableness of such request thus obtained shall be final and binding upon the grantee and the City. (Ord. 641 § 4, 1967)

#### **5.32.070 Annual franchise payments.**

All payments for the preceding calendar year shall be due and payable annually on the first day of February following such year. (Ord. 641 § 5, 1967)

### **Chapter 5.40 MASSAGE BUSINESSES\***

Sections:

**5.40.010 Purpose and intent.**

**5.40.020 Definitions.**

**5.40.030 CAMTC certification and local registration required.**

**5.40.040 Massage business registration.**

**5.40.050 Operating requirements.**

**5.40.060 Inspection by officials.**

**5.40.070 Notifications.**

**5.40.080 Exemptions.**

**5.40.090 Violation—Penalties—Unlawful business practices may be enjoined—Remedies cumulative.**

**5.40.100 Administrative fines.**

**5.40.110 Denial, suspension and revocation of City registration certificates.**

**5.40.120 Outcall massage prohibited.**

**5.40.130 Public nuisance.**

\* Prior legislation: Ord. 1447.

**5.40.010 Purpose and intent.**

A. In enacting this chapter, the City Council recognizes that commercial massage therapy is a professional pursuit which can offer the public valuable health and therapeutic services. The City Council further recognizes that, unless properly regulated, the practice of massage therapy and the operation of massage businesses may be associated with unlawful activity and pose a threat to the quality of life in the local community. Accordingly, it is the purpose and intent of this chapter to protect the public health, safety and welfare by providing for the orderly regulation of businesses providing massage therapy services, discouraging prostitution, human trafficking and related illegal activities carried on under the guise of massage therapy, and establishing certain sanitation, health, and operational standards for massage businesses.

B. Furthermore, it is the purpose and intent of this chapter to address the negative impacts identified in the City Council's findings to reduce or prevent neighborhood blight and to protect and preserve the quality of City neighborhoods and commercial districts and to enhance enforcement of criminal statutes relating to the conduct of operators and employees of massage businesses.

C. It is the Council's further purpose and intent to rely upon the uniform statewide regulations applicable to massage therapists and establishments that were enacted by the State Legislature in 2008 as Business and Professions Code Section 4600 et seq., by Senate Bill 731, and amended in 2011 by Assembly Bill 619 and in 2014 by Assembly Bill 1147, to restrict the commercial practice of massage in the City to those persons duly certified to practice by the California Massage Therapy Council and to provide for the registration and regulation of massage businesses for health and safety purposes to the extent allowed by law. (Ord. 1548 § 1 (part), 2019)

**5.40.020 Definitions.**

For the purposes of this chapter, unless the particular provision or the context otherwise clearly requires, the definitions in this section shall govern the construction, meaning, and application of words and phrases used in this chapter:

A. "Business" includes, but not by way of limitation, everything about which a person can be employed, and means that which occupies the time, attention, and labor of individuals for the purpose of producing a livelihood or profit, and connotes the efforts of individuals, by varied and diverse methods of dealing with each other, to improve their individual economic conditions, and for the purposes of this chapter shall include, without limitation, the advertising and soliciting of massages. The term "business" includes, but is not limited to, a massage therapist who is the sole owner, operator and employee of a massage business operating as a sole proprietorship, as well as a massage establishment which employs massage therapists and therapists.

B. "California Massage Therapy Council" or "CAMTC" means the massage therapy organization formed pursuant to Business and Professions Code Section 4600.5.

C. "Certified massage therapist" means any individual certified by the California Massage Therapy Council as a certified massage therapist or as a certified massage therapist pursuant to California Business and Professions Code Section 4600 et seq.

D. "City Manager" means the City Manager or his or her designee.

E. "Client" means the customer or patron who pays for or receives massage services.

F. "Compensation" means the payment, loan, advance, donation, contribution, deposit, exchange, or gift of money or anything of value.

G. "City registration certificate" means a registration certificate issued by the Certification Officer upon submission of satisfactory evidence that a massage business employs or uses only certified massage therapists pursuant to this chapter.

H. "Certification Officer" means a representative of the San Mateo County Sheriff's Office, San Carlos Bureau or San Carlos Police Department or either of their designees.

I. "Employee" means any person employed by a massage business who may render any service to the business, and who receives any form of compensation from the business.

J. "Health Officer" means a representative from the County Department of Environmental Health.

K. "License Board" means the License Board of the City of San Carlos, which shall consist of the Chief of Police, the Community Development Director, and the Administrative Services Director, or their designees.

L. "Massage" or "massage therapy," means and refers to any method of treating the external parts of the body for remedial, health, or hygienic purposes for any form of compensation by means of pressure on or friction against, or stroking, kneading, rubbing, tapping, pounding, or stimulating the external parts of the body, with or without the aid of any mechanical or electrical apparatus or appliances; or with or without supplementary aids, such as rubbing alcohol, liniments, antiseptics, oils, powders, creams, lotions, ointments, or other similar preparations commonly used in this practice; or by baths, including, but not limited to, Turkish, Russian, Swedish, Japanese, vapor, shower, electric tub, sponge, mineral, fomentation, or any other type of bath.

M. "Massage business" means any business that offers massage therapy in exchange for compensation. Any business that offers any combination of massage therapy and bath facilities including, but not limited to, showers, baths, wet and dry heat rooms, pools and hot tubs shall be deemed a massage business under this chapter. The term "massage business" includes a certified massage therapist who is the sole owner, operator and employee of a massage business operating as a sole proprietorship.

N. "Operator" or "massage business operator" means any and all owners of a massage business.

O. "Outcall massage" means the engaging in or carrying on of massage therapy for compensation in a location other than the business operations address set forth in the massage business's City registration certificate.

P. "Owner" or "massage business owner" means any of the following persons:

1. Any person who is a general partner of a general or limited partnership that owns a massage business;
2. Any person who has a five percent or greater ownership interest in a corporation that owns a massage business;
3. Any person who is a member of a limited liability company that owns a massage business; or
4. Any person who has a five percent or greater ownership interest in any other type of business association that owns a massage business.

Q. "Person" means any individual, firm, association, partnership, corporation, joint venture, limited liability company, or combination of individuals.

R. "Therapist," "massage therapist" or "massage practitioner" shall be used interchangeably and mean any person who administers massage to another person, for any form of consideration (whether for the massage, as part of other services or a product, or otherwise).

S. "Reception and waiting area" means an area immediately inside the front door of the massage business dedicated to the reception and waiting of patrons of the massage business and visitors, and which is not a massage therapy room or otherwise used for the provision of massage therapy services.

T. "Registration" means the registration required by this chapter to operate a massage business.

U. "School of massage" means any school or institution of learning that is recognized as an approved school pursuant to Business and Professions Code Division 2, Chapter 10.5, as currently drafted or as may be amended.

V. "Sole proprietorship" means and includes any legal form of business organization where the business owner (sometimes referred to as the sole proprietor) is the only person employed by that business to provide massage services.

W. "Solicit" means to request, ask, demand or otherwise arrange for the provision of services. (Ord. 1548 § 1 (part), 2019)

**5.40.030 CAMTC certification and local registration required.**

- A. Individuals. On and after the effective date of the ordinance codified in this chapter, it is unlawful for any individual to practice massage therapy for compensation as a sole proprietorship or employee of a massage business or in any other capacity within the City unless that individual is a certified massage therapist.
- B. Businesses. On and after the effective date of the ordinance codified in this chapter, it is unlawful for any business to provide massage for compensation within the City unless all individuals employed by the massage business to perform massage, whether as an employee, independent contractor, or sole proprietorship, are certified massage therapists and said business has obtained a valid City registration certificate as provided in this chapter. (Ord. 1548 § 1 (part), 2019)

**5.40.040 Massage business registration.**

- A. Application. The registration application for a City registration certificate shall include all of the following:

1. Legal name of the massage business;
2. Address and telephone number of the massage business;
3. Legal names of all owners of the massage business;
4. A list of all of the massage business's employees and independent contractors who are performing massage and their CAMTC certification;
5. Residence address and telephone number of all owners of the massage business;
6. Business address and telephone number of all owners of the massage business;
7. The form of business under which the massage business will be operating (i.e., corporation, general or limited partnership, limited liability company, or other form);
8. Each owner or operator of the massage business who is not a CAMTC-certified massage therapist shall submit an application for a background check, including the following: the individual's business, occupation, and employment history for the five years preceding the date of the application; the inclusive dates of such employment history; the name and address of any massage business or similar business owned or operated by the individual whether inside or outside the County of San Mateo and its incorporated cities;
9. For all owners, a valid and current driver's license and/or identification issued by a State or Federal governmental agency or other photographic identification bearing a bona fide seal by a foreign government; and
10. For all owners, a signed statement that all of the information contained in the application is true and correct under penalty of perjury; that all owners shall be responsible for the conduct of the business's employees or independent contractors providing massage services; and acknowledging that failure to comply with California Business and Professions Code Section 4600 et seq., any local, State, or Federal law, or the provisions of this chapter may result in revocation of the business's City registration certificate.

- B. Issuance. Upon provision by the massage business of the foregoing documentation, the Certification Officer shall issue the massage business a City registration certificate, which shall be valid for two years from the date of issuance. No reapplication will be accepted within one year after an application or renewal is denied or a certificate is revoked. The Certification Officer may decline to issue a City registration certificate if any of the required information is not true, complete, or correct, or if an individual required to submit to a background check pursuant to subsection (A)(8) of this section fails to pass such background check. City registration certificates may not be issued to a massage business seeking to operate at a particular location if:

1. Another massage business is or was operating at that particular location and that massage business is currently serving a suspension or revocation pursuant to Section 5.40.110, during the pendency of the suspension or one year following revocation;
2. Another massage business is or was operating at that particular location and that massage business has received a notice of suspension, revocation or fine issued pursuant to Sections 5.40.100 and 5.40.110, during the ten-day period following receipt of the notice or while any appeal of a suspension, revocation or fine is pending; or
3. Another massage business is or was operating at that particular location and that massage business has outstanding fines issued pursuant to Section 5.40.100 that have not been paid.

C. Amendment. A massage business shall apply to the City to amend its City registration certificate within thirty days after any change in the registration information, including, but not limited to, the hiring or termination of certified massage therapists, the change of the business's address, or changes in the owner's addresses and/or telephone numbers.

D. Renewal. A massage business shall apply to the City to renew its City registration certificate at least thirty days prior to the expiration of said City registration certificate. If an application for renewal of a City registration certificate and all required information is not timely received and the certificate expires, no right or privilege to provide massage shall exist.

E. Fees. There shall be no fee for the registration application or certificate, or any amendment or renewal thereof. The provisions of this section shall not prevent the City from establishing fees for safety inspections as may be conducted from time to time, and for the background checks, fingerprinting, and subsequent arrest notifications for owners of a massage business who are not CAMTC certified and who are subject to such background checks pursuant to this chapter. There are certain fees for appeals as described in Section 5.40.110(E)(2).

F. Transfer. A City registration certificate shall not be transferred except with the prior written approval of the Certification Officer. A written request for such transfer shall contain the same information for the new ownership as is required for applications for registration pursuant to this section. In the event of denial, notification of the denial and reasons therefor shall be provided in writing and shall be provided to the applicant by personal delivery or by registered or certified mail. A City registration certificate may not be transferred during any period of suspension or one year following revocation pursuant to Section 5.40.110, during the ten-day period following a massage business's receipt of a notice of suspension, revocation or fine issued pursuant to Sections 5.40.100 and 5.40.110 or while any appeal of a suspension, revocation or fine is pending. Further, a City registration certificate may not be transferred until all outstanding fines issued pursuant to Section 5.40.100 have been paid. (Ord. 1548 § 1 (part), 2019)

#### **5.40.050 Operating requirements.**

On or after the effective date of the ordinance codified in this chapter, no person shall engage in, conduct, carry on, or permit any massage within the City unless all of the following requirements are met:

A. CAMTC certification shall be worn by and clearly visible on the massage therapist's person during working hours and at all times when the massage therapist is inside a massage business.

B. Massage shall be provided or given only between the hours of seven a.m. and nine p.m. No massage business shall be open and no massage shall be provided between nine p.m. and seven a.m. A massage commenced prior to nine p.m. shall nevertheless terminate at nine p.m., and, in the case of a massage business, all clients shall exit the premises at that time. It is the obligation of the massage business to inform clients of the requirement that services must cease at nine p.m.

C. A list of the services available and the cost of such services shall be posted in the reception area within the massage premises and shall be described in readily understandable language. Outcall service providers shall provide such a list to clients in advance of performing any service. No owner, manager, operator, or responsible managing employee shall permit, and no massage therapist shall offer or perform, any service other than those posted or listed as required herein, nor shall an operator or a massage therapist request or charge a fee for any service other than those on the list of services available and posted in the reception area of the business.

D. A copy of the CAMTC certificate of each and every massage therapist employed in the business shall be displayed in the reception area or similar open public place on the premises. CAMTC certificates of former employees and/or contractors shall be removed as soon as those massage therapists are no longer employed by or offering services through the massage business.

E. For each massage service provided, every massage business shall keep a complete and legible written record of the following information: the date and hour that service was provided; the service received; the name or initials of the employee entering the information; and the name of the massage therapist administering the service. Such records shall be open to inspection and copying by police officers or deputies, or other City officials charged with enforcement of this chapter. These records may not be used by any massage therapist or operator for any purpose other than as records of service provided and may not be provided to other parties by the massage therapist or operator unless otherwise required by law. Such records shall be retained on the premises of the massage business for a period of two years and be immediately available for inspection during business hours.

F. Massage businesses shall at all times be equipped with an adequate supply of clean sanitary towels, coverings, and linens. Clean towels, coverings, and linens shall be stored in enclosed cabinets. Towels and linens shall not be used on more

than one client, unless they have first been laundered and disinfected. Disposable towels and coverings shall not be used on more than one client. Soiled linens and paper towels shall be deposited in separate, approved receptacles.

G. Wet and dry heat rooms, steam or vapor rooms or cabinets, toilet rooms, shower and bath rooms, tanning booths, whirlpool baths, and pools shall be thoroughly cleaned and disinfected as needed, and at least once each day the premises are open, with a disinfectant approved by the Health Officer. Bathtubs shall be thoroughly cleaned after each use with a disinfectant approved by the Health Officer. All walls, ceilings, floors, and other physical facilities for the business must be in good repair and maintained in a clean and sanitary condition.

H. Instruments utilized in performing massage shall not be used on more than one client unless they have been sterilized, using approved sterilization methods.

I. All massage business operators and their employees, including massage therapists, shall wear clean, nontransparent outer garments. Said garments shall not expose their genitals, pubic areas, buttocks, or chest, and shall not be worn in such manner as to expose the genitals, pubic areas, buttocks, or chest. For the purposes of this section, "outer garments" means a garment worn over other garments and does not include garments like underwear, bras, lingerie, or swimsuits.

J. No person shall enter, be, or remain in any part of a massage business while in possession of an open container of alcohol, or consuming or using any alcoholic beverage, cannabis or drugs except pursuant to a prescription for such drugs. The owner, operator, responsible managing employee, or manager shall not permit any such person to enter or remain upon such premises.

K. No massage business shall operate as a school of massage or use the same facilities as that of a school of massage.

L. No massage business shall place, publish or distribute, or cause to be placed, published or distributed, any advertising matter that depicts any portion of the human body that would reasonably suggest to prospective clients that any service is available other than those services listed as an available service pursuant to subsection C of this section, nor shall any massage business employ language in the text of such advertising that would reasonably suggest to a prospective client that any service is available other than those services as described in compliance with the provisions of this chapter.

M. No massage shall be given unless the client's genitals are, at all times, fully covered. A massage therapist shall not, in the course of administering any massage, make physical contact with the genitals, female breasts, or buttocks of any other person regardless whether the contact is over or under the person's clothing.

N. Where the business has staff available to assure security for clients and massage staff behind closed doors, the entry to the reception area of the massage business shall remain unlocked during business hours when the business is open for business or when clients are present.

O. No massage business located in a building or structure with exterior windows fronting a public street, highway, walkway, or parking area shall, during business hours, block visibility into the interior reception and waiting area through the use of curtains, closed blinds, tints, or any other material that obstructs, blurs, or unreasonably darkens the view into the premises. For the purpose of this subsection, there is an irrebuttable presumption that the visibility is impermissibly blocked if more than ten percent of the interior reception and waiting area is not visible from the exterior window.

P. All signs shall be in conformance with the current ordinances of the City.

Q. Minimum lighting consisting of at least one artificial light of not less than forty watts shall be provided and shall be operating in each room or enclosure where massage services are being performed on clients, and in all areas where clients are present.

R. Ventilation shall be provided in accordance with applicable building codes and regulations.

S. Hot and cold running water shall be provided at all times.

T. Adequate dressing, locker and toilet facilities shall be provided for clients.

U. A minimum of one wash basin for employees shall be provided at all times. The basin shall be located within or as close as practicable to the area devoted to the performing of massage services. Sanitary towels shall also be provided at each basin.

V. Pads used on massage tables shall be covered with material acceptable to the Health Officer.

W. All massage businesses shall comply with all State and Federal laws and regulations for disabled clients.

X. A massage therapist shall operate only under the name specified in his or her CAMTC certificate. A massage business shall operate only under the name specified in its City registration certificate.

Y. No massage business shall allow any person to reside within the massage business or in attached structures owned, leased or controlled by the massage business.

Z. Other than custodial or maintenance staff, no persons shall be permitted within the premises of a massage business between the hours of eleven p.m. and six a.m. (Ord. 1548 § 1 (part), 2019)

**5.40.060 Inspection by officials.**

The investigating and enforcing officials of the City, including, but not limited to, representatives of the Sheriff's Office or Police Department, County Health Officer, Community Development Director, and Building Official, or their designees, shall have the right to enter the premises from time to time during regular business hours for the purpose of making reasonable inspections to observe and enforce compliance with building, fire, electrical, plumbing or health regulations, and to enforce compliance with applicable regulations, laws, and statutes, and with the provisions of this chapter. The Building Division may charge a fee for any safety inspections. (Ord. 1548 § 1 (part), 2019)

**5.40.070 Notifications.**

A. A massage business shall notify the Certification Officer, or designee, of any changes described in Section 5.40.040 pursuant to the timelines specified therein.

B. A registrant shall report to the Certification Officer any of the following within ninety-six hours of the occurrence:

1. Arrests of any employees or owners of the registrant's massage business for an offense other than a misdemeanor traffic offense;
2. Resignations, terminations, or transfers of therapists employed by the registrant's massage business; and
3. Any event involving the registrant's massage business or the massage therapists employed therein that constitutes a violation of this chapter or State or Federal law.

C. This provision requires reporting to the Certification Officer even if the massage business believes that the Certification Officer has or will receive the information from another source. (Ord. 1548 § 1 (part), 2019)

**5.40.080 Exemptions.**

The provisions of this chapter shall not apply to the following classes of individuals or businesses while engaged in the performance of their duties:

A. Physicians, surgeons, chiropractors, osteopaths, nurses or any physical therapists who are duly licensed to practice their respective professions in the State of California and persons working directly under the supervision of or at the direction of such licensed persons, working at the same location as the licensed person, and administering massage services subject to review or oversight by the licensed person.

B. Barbers and beauticians who are duly licensed under the laws of the State of California while engaging in practices within the scope of their licenses, except that this provision shall apply solely to the massaging of the neck, face and/or scalp, hands or feet of the clients.

C. Hospitals, nursing homes, mental health facilities, or any other health facilities duly licensed by the State of California, and employees of these licensed institutions, while acting within the scope of their employment.

D. Accredited high schools, junior colleges, and colleges or universities whose coaches and trainers are acting within the scope of their employment.

E. Trainers of amateur, semiprofessional or professional athletes or athletic teams while engaging in their training responsibilities for and with athletes; and trainers working in conjunction with a specific athletic event.

F. Individuals administering massages or health treatment involving massage to persons participating in single-occurrence athletic, recreational or festival events, such as health fairs, road races, track meets, triathlons and other similar events; provided, that all of the following conditions are satisfied:

1. The massage services are made equally available to all participants in the event;

2. The event is open to participation by the general public or a significant segment of the public, such as employees of sponsoring or participating corporations;
3. The massage services are provided at the site of the event and either during, immediately preceding, or immediately following the event;
4. The sponsors of the event have been advised of and have approved the provisions of massage services; and
5. The persons providing the massage services are not the primary sponsors of the event. (Ord. 1548 § 1 (part), 2019)

**5.40.090 Violation—Penalties—Unlawful business practices may be enjoined—Remedies cumulative.**

Unless otherwise exempted by the provisions of this chapter, every person, whether acting as an individual, owner, employee or agent of the owner, or operator, who gives massages or conducts a massage business in violation of this chapter shall be guilty of a misdemeanor. The City Attorney may reduce the penalty to an infraction.

Any massage business operated, conducted, or maintained contrary to the provisions of this chapter shall constitute an unlawful business practice pursuant to Business and Professions Code Section 17200 et seq., and the City Attorney or District Attorney may, in the exercise of discretion, in addition to or in lieu of taking any other action permitted by this chapter, commence an action or actions, proceeding or proceedings in the Superior Court of San Mateo County, seeking an injunction prohibiting the unlawful business practice and/or any other remedy available at law, including, but not limited to, fines, attorneys' fees and costs. All remedies provided for in this chapter are cumulative. (Ord. 1548 § 1 (part), 2019)

**5.40.100 Administrative fines.**

- A. Violations. Upon a finding by the Certification Officer that a business has violated any provision of this chapter, the Certification Officer may issue an administrative fine of up to five hundred dollars.
- B. Separate Violations. Each violation of any provision of this chapter shall constitute a separate violation. Each client to whom massage is provided or offered in violation of this chapter shall also constitute a separate violation. Each day upon which a massage business remains open for business in violation of this chapter shall also constitute a separate violation.
- C. Fine Procedures. Notice of the fine shall be served by certified mail with the legal violation and supporting facts. The notice shall contain an advisement of the right to file an appeal with the City Manager or his or her designee contesting the imposition of the fine.
- D. Appeals. Appeals must be requested in writing and shall provide facts disputing the violation and may be accompanied by declarations and exhibits. Appeals must be addressed to the City Clerk and must be received within ten days of the date appearing on the notice of the fine and a copy of the appeal and any supporting materials must be sent to the Certification Officer, who may respond to the appeal in writing within ten days of receipt of the appeal and may provide additional evidence in support of the fine.

The City Manager may request, in writing, additional evidence from either the appellant or the Certification Officer. The decision of the City Manager shall be based on the materials submitted by the appellant, City staff, credible information provided by interested parties and the Certification Officer and be provided in person or by certified mail. The City Manager may sustain the fine, overrule the fine, or decrease the amount of the fine. However, the total fine shall not be reduced below five hundred dollars. The decision will constitute a final administrative order with no additional administrative right of appeal.

- E. Failure to Pay Fine. If said fine is not paid within thirty days from the date appearing on the notice of the fine or of the notice of determination from the City Manager after the decision, the fine may be referred to a collection agency within or external to the City. In addition, any outstanding fines must be paid prior to the issuance or renewal of any registration. (Ord. 1548 § 1 (part), 2019)

**5.40.110 Denial, suspension and revocation of City registration certificates.**

- A. Reasons. City registration certificates may be denied, suspended, or revoked by the Certification Officer upon finding any of the following grounds:
  1. A massage therapist is no longer in possession of current and valid CAMTC certification. This subsection shall apply to a sole proprietor or a person employed or used by a massage business to provide massage;
  2. An owner or sole proprietor is required to register under the provisions of California Penal Code Section 290 (sex offender registration); is convicted of California Penal Code Section 266i (pandering), 315 (keeping or residing in a house of ill-fame), 316 (keeping disorderly house), 318 (prevailing upon person to visit a place for prostitution), 647(b) (engaging

in or soliciting prostitution), 653.22 (loitering with intent to commit prostitution), or 653.23 (supervision of prostitute); has a business permit or license denied, revoked, restricted, or suspended by any agency, board, city, county, territory, or state; is subject to an injunction for nuisance pursuant to California Penal Code Sections 11225 through 11235 (red light abatement); is convicted of a felony offense involving the sale of a controlled substance; is convicted of any crime involving dishonesty, fraud, deceit, violence, or moral turpitude; or is convicted in any other state of an offense which, if committed in this State, would have been punishable as one or more referenced offenses in this subsection;

3. The City determines that a material misrepresentation was included on the application for a certificate of registration or renewal; or

4. Violations of any of the following occurred on the premises of a massage business or were committed by a massage therapist: California Business and Professions Code Section 4600 et seq.; any local, State, or Federal law; or the provisions of this chapter.

B. Procedures. Written notice of the denial, suspension or revocation shall be served on the sole proprietor or owners by certified mail with the legal violation and supporting facts. The notice shall contain an advisement of the right to request an appeal hearing before the City Council.

C. Time Period of Suspension. The Certification Officer may suspend a City registration certificate for a period between five days and the end of the license term, at his or her discretion.

D. Effective Date of Suspension or Revocation. Suspension or revocation issued pursuant to subsection B of this section will be effective ten days from the date appearing on the order, unless a timely appeal is filed in accordance with subsection E of this section.

E. Appeal.

1. The decision of the Certification Officer is appealable to the City Council.

2. An appeal must be in writing and be hand-delivered or mailed to the City Clerk and accompanied by the current filing fee for appeals.

3. An appeal must be received by the City Clerk on or before the effective date of suspension or revocation provided by subsection D of this section.

4. The filing of a timely appeal will stay a suspension or revocation pending a decision on the appeal by the City Council.

5. A hearing shall be scheduled before the City Council within forty-five days. Either the appellant or the Certification Officer may request, in writing directed to the chair of the City Council, a continuance of the hearing. Such requests must be supported by good cause. The decision whether to grant a continuance is at the discretion of the Mayor, who shall consider whether granting the continuance poses a threat to public health or safety in light of the severity of the violations alleged.

6. The decision of the City Council shall be a final administrative order, with no further administrative right of appeal or reconsideration. The City Council may sustain a denial, suspension or revocation, overrule a denial, suspension or revocation, reduce a revocation to a suspension and/or reduce the length of a suspension. However, no revocation or suspension shall be reduced to a length of less than a five-day suspension. Further, the City Council may stay the effective date of any suspension for a reasonable time following a hearing.

F. Reapplication. No reapplication will be accepted within one year after a certificate is revoked.

G. Evidence. The following rules shall apply to any hearing required by this section. All parties involved shall have the right to offer testimonial, documentary, and tangible evidence bearing on the issues, to be represented by counsel, and to confront and cross-examine witnesses. Any relevant evidence may be admitted if it is the sort of evidence upon which reasonable persons are accustomed to rely in the conduct of serious affairs. Formal rules of evidence and discovery do not apply to proceedings governed by this chapter. Unless otherwise specifically prohibited by law, the burden of proof is on the registrant in any hearing or other matter under this chapter. (Ord. 1548 § 1 (part), 2019)

#### **5.40.120 Outcall massage prohibited.**

It is unlawful for any person to engage in, conduct, or carry on outcall massage services. (Ord. 1548 § 1 (part), 2019)

#### **5.40.130 Public nuisance.**

It is unlawful and a public nuisance for a massage business to be operated, conducted, or maintained contrary to the provisions of this chapter. The City may exercise its discretion, in addition to or in lieu of prosecuting a criminal action, to commence proceedings for the abatement, removal, and enjoinderment of that business in any manner provided by law. (Ord. 1548 § 1 (part), 2019)

## **Chapter 5.43 SIDEWALK VENDING**

Sections:

**5.43.010 Definitions.**

**5.43.020 Permit required.**

**5.43.030 Permit application.**

**5.43.040 Criteria for issuance or denial of permit.**

**5.43.050 Denial of permit.**

**5.43.060 Conditions imposed on permit.**

**5.43.070 Permit expiration.**

**5.43.080 Permits nontransferable.**

**5.43.090 Revocation of permit.**

**5.43.100 Notice of hearing and grounds for rescission.**

**5.43.110 Emergency temporary suspension of permit.**

**5.43.120 Conduct of hearing on suspension or rescission.**

**5.43.130 Decision of hearing on suspension or rescission.**

**5.43.140 Appeal to Council.**

**5.43.150 Operating requirements.**

**5.43.160 Identification card.**

**5.43.170 Administrative citations.**

**5.43.010 Definitions.**

A. For purposes of this chapter, the following definitions apply unless the context in which they are used clearly requires otherwise:

“Certified farmers’ market” means a location operated in accordance with Chapter 10.5 (commencing with Section 47000) of Division 17 of the California Food and Agricultural Code and any regulations adopted pursuant to that chapter.

“Civic center” means the grounds, buildings, structures and open areas bounded by Elm Street to the northeast, Chestnut Street to the southwest, Cherry Street to the southeast and San Carlos Avenue to the northwest.

“Director” means the Administrative Services Director of the City or his or her designee.

“Downtown area” means that real property within the City that is circumscribed by the northerly and southerly sidewalks of the 1100, 1200 and 1300 blocks of San Carlos Avenue and the sidewalks lining both sides of the 600, 700, 800, 900 and 1000 blocks of Laurel Street.

“Fire station” means any facility where fire engines and other equipment of the City’s Fire Department are housed.

“Food” means any type of raw, cooked, or processed edible substance, including any food product or beverage.

“Merchandise” means any tangible goods or items that are not food.

“Park” means a park facility described in Chapter 12.12.

"Police station" means any facility where police vehicles and other equipment of the City's Police Department are housed.

"Roaming sidewalk vendor" means a sidewalk vendor who moves from place to place and stops only to complete a transaction.

"Sidewalk" means a public sidewalk or paved pedestrian path or walkway specifically designed for pedestrian travel.

"Sidewalk vendor" means a person who vends from a vending cart or from one's person upon a sidewalk.

"Stationary sidewalk vendor" means a sidewalk vendor who vends from a fixed location.

"Swap meet" means a location operated in accordance with Article 6 (commencing with Section 21660) of Chapter 9 of Division 8 of the California Business and Professions Code, and any regulations adopted pursuant to that article.

"Temporary special permit" means a permit issued by the City for the temporary use of, or encroachment on, the sidewalk or other public area, including but not limited to an encroachment permit, special event permit, or temporary event permit, for purposes including, but not limited to, filming, parades, City-sponsored holiday events, outdoor concerts, festivals, carnivals, and street fairs.

"Vend or vending" means to barter, exchange, sell, offer for sale, display for sale, or solicit offers to purchase food or merchandise, or to require someone to negotiate, establish, or pay a fee before providing food or merchandise, even if characterized as a donation.

"Vending cart" means a pushcart, stand, display, pedal-driven cart, wagon, showcase, rack, or other nonmotorized conveyance used for vending, that is not a vehicle as defined in the California Vehicle Code. (Ord. 1545 § 3 (part), 2019)

**5.43.020 Permit required.**

No person shall engage in, conduct, or carry on the business of vending on a sidewalk without a permit issued under the provisions of this chapter. (Ord. 1545 § 3 (part), 2019)

**5.43.030 Permit application.**

Every person, prior to engaging in, conducting, or carrying on the business of vending on a sidewalk, shall file an application for a permit with the Director or his or her designee, accompanied by a nonrefundable processing fee in an amount established by resolution of the City Council. The application shall be in a form prescribed by the Director and shall contain, at a minimum, the following:

- A. The legal name, current mailing address and telephone number of the applicant;
- B. If the applicant is an agent of an individual, company, partnership, corporation, or other entity, the name and business address of the principal;
- C. A copy of a California driver's license or identification number, an individual taxpayer identification number, or a Social Security number. The number collected shall not be available to the public for inspection, is confidential, and shall not be disclosed except as required to administer the permit or comply with a State law or State or Federal court order;
- D. A description of the food and/or merchandise for vending;
- E. A description, map, or drawing of the areas in which the sidewalk vendor proposes to operate;
- F. The dimensions of the vending cart;
- G. The hours per day and the days per week during which the sidewalk vendor proposes to operate, and whether the sidewalk vendor intends to operate as a stationary sidewalk vendor or a roaming sidewalk vendor;
- H. A current valid business tax registration certificate issued pursuant to Chapter 5.04;
- I. A current valid California seller's permit number pursuant to Section 6067 of the California Revenue and Taxation Code;
- J. Proof of a policy or policies of comprehensive general liability insurance with minimum limits of one million dollars per occurrence, combined single limit coverage and two million dollars in the aggregate against any injury, death, loss or damage as a result of wrongful or negligent acts or omissions by the permittee, with an endorsement naming the City as an additional insured. In addition, the permittee is required to carry workers' compensation and automobile coverage sufficient to meet requirements of the State of California.

- K. If a vendor of food, certification of completion of a food handler course and proof of all required approvals from the San Mateo County Department of Health, including all permits required under County regulations;
- L. An agreement by the applicant to indemnify and hold harmless the City, its officers and employees for any damage or injury caused to the City as a result of the sidewalk vending conduct or activity. The form of indemnification shall conform to the standard indemnification provisions of City agreements as amended from time to time, approved by the City Attorney;
- M. Certification by the applicant, under penalty of perjury, that the information contained in the application is true to his or her knowledge and belief; and
- N. Any other reasonable information regarding the time, place, and manner of the proposed sidewalk vending activities.

Applications for permits shall be filed a minimum of thirty days prior to the date requested for issuance of the permit. Renewal permit applications shall be filed a minimum of thirty days prior to the expiration of any existing permit. (Ord. 1545 § 3 (part), 2019)

**5.43.040 Criteria for issuance or denial of permit.**

The Director shall approve the issuance of a permit unless he or she determines that:

- A. The applicant has been convicted of a felony or misdemeanor involving moral turpitude, and has not subsequently demonstrated rehabilitative characteristics;
- B. The applicant has made a material misrepresentation in the application;
- C. The applicant has failed to demonstrate an ability to conform to the operating requirements set forth in Section 5.43.150;
- D. The applicant has failed to provide a complete application, after having been notified of the requirement to produce supplemental information or documents;
- E. The conduct of the sidewalk vendor will unduly interfere with traffic or pedestrian movement, or tend to interfere with or endanger the public peace or rights of nearby residents to the quiet and peaceable enjoyment of their property;
- F. If the application is for the renewal of a permit or a subsequent permit, the applicant has failed to pay all previous administrative fines, completed all community service or completed any other alternative disposition associated in any way with a previous violation of this chapter; or
- G. If the application is for the renewal of a permit or a subsequent permit, the applicant has had a permit issued under this chapter rescinded within the last twelve months. (Ord. 1545 § 3 (part), 2019)

**5.43.050 Denial of permit.**

Where the permit is denied, the applicant shall be notified in writing in accordance with Chapter 1.20 of the denial and the reasons therefor. (Ord. 1545 § 3 (part), 2019)

**5.43.060 Conditions imposed on permit.**

Any person issued a permit pursuant to this chapter shall comply with all operating requirements that are imposed as part of the permit pursuant to Sections 5.43.150 and 5.43.160. (Ord. 1545 § 3 (part), 2019)

**5.43.070 Permit expiration.**

A permit issued pursuant to this chapter shall be effective for a period of one year from the date of issuance. (Ord. 1545 § 3 (part), 2019)

**5.43.080 Permits nontransferable.**

No permit issued pursuant to this chapter shall be transferable. (Ord. 1545 § 3 (part), 2019)

**5.43.090 Revocation of permit.**

The Director may rescind a permit issued under this chapter for any of the following reasons:

- A. The sidewalk vendor has made a material misrepresentation in the application;
- B. The sidewalk vendor has committed violations of this chapter on four or more separate days;
- C. The sidewalk vendor has failed to maintain the insurance required by this chapter;
- D. The sidewalk vendor has failed to comply with Federal, State or local laws and regulations; or

- E. The sidewalk vendor has conducted the vending in a manner which endangers the public health or safety. (Ord. 1545 § 3 (part), 2019)

**5.43.100 Notice of hearing and grounds for rescission.**

Prior to the rescission of a permit issued under this chapter, the permittee shall be notified in writing of the grounds for the rescission of the permit and a hearing shall be held thereon. The City Clerk shall cause a written notice of the hearing to be given to the appellant not less than ten days prior to such hearing. (Ord. 1545 § 3 (part), 2019)

**5.43.110 Emergency temporary suspension of permit.**

Where the conduct or the activity of the permittee creates an imminent peril to the public health or safety, a permit issued pursuant to this chapter may be summarily suspended upon notice to the permittee; provided, that the permittee shall be entitled to a hearing within three days thereafter and any emergency suspension shall not exceed fifteen days pending a hearing under Section 5.43.100. (Ord. 1545 § 3 (part), 2019)

**5.43.120 Conduct of hearing on suspension or rescission.**

The Director shall promulgate rules of procedure for such hearings, which shall recognize the right of the permittee to be heard and to call witnesses on the permittee's behalf. (Ord. 1545 § 3 (part), 2019)

**5.43.130 Decision of hearing on suspension or rescission.**

The decision of the Director or his or her designee shall be rendered within five days of the close of the hearing. The decision shall be in writing and shall set forth the findings and reasons for the decision, and the permittee shall be notified in writing in accordance with Chapter 1.20. (Ord. 1545 § 3 (part), 2019)

**5.43.140 Appeal to Council.**

Any final decision of the Director to issue, deny, revoke or suspend a permit pursuant to this chapter may be appealed to the City Council in accordance with Chapter 1.25. (Ord. 1545 § 3 (part), 2019)

**5.43.150 Operating requirements.**

- A. Except as otherwise permitted in this chapter or this Code, no sidewalk vendor shall vend in the following locations:

1. Any public property other than a sidewalk, including, without limitation, streets, alleys, plazas, pathways, trails and City-owned parking structures;
2. Within two hundred feet of any other sidewalk vendor;
3. Within five hundred feet of the nearest property line of any property on which a place of worship or a large or general child day care facility is located while the same is in use;
4. Within five hundred feet of the nearest property line of any property on which a school building or facility, including an athletic field, is located while the same is in use, including for afterschool child care, enrichment classes and sports;
5. Within one hundred feet of a public picnic area, playground area or playground equipment while the same is in use;
6. Within one hundred feet of a public community center, athletic field, softball/baseball diamond, basketball court, handball court, pickleball court, tennis court, soccer field, or volleyball court while the same is in use;
7. Within one hundred feet of a police officer, firefighter, or emergency medical personnel who is actively performing his or her duties or providing services to the public;
8. If a stationary sidewalk vendor, within any sidewalk that is not a minimum width of eight feet, exclusive of curb width;
9. Within one hundred feet of a street intersection or traffic signal;
10. Within one hundred feet of any entrance to a park;
11. Within twenty-five feet of a litter receptacle, bike rack, or restroom;
12. Within fifteen feet of a fire hydrant, fire call box, police call box, traffic signal controller, or streetlight controller;
13. Within twenty-five feet of a door or emergency exit of any business during the hours that the business is open to the public or to persons having or conducting lawful business within the premises;
14. Within twenty-five feet of a pedestrian entrance/exit or elevator lobby of a City-owned parking structure;

15. With four feet of parking along a curb;
16. Within three feet of a red curb or loading zone or a curb if posted for permanent no parking;
17. Within one hundred feet of an alley, parking lot or parking garage vehicle entrance/exit;
18. Within ten feet of any driveway or driveway approach;
19. Within ten feet of a marked crosswalk;
20. Within ten feet of the curb return of an unmarked crosswalk;
21. Within any median strip or dividing section;
22. Within forty feet of a bus loading zone or staging zone during the time posted;
23. Within twenty-five feet of a bus stop, taxi stand, bus bench, or bus shelter;
24. Within twenty-five feet of a space lawfully used by an automobile parking service pursuant to a valid valet parking permit during any time when such automobile parking service is authorized to operate valet parking operations;
25. Within two hundred feet of a police station or fire station;
26. Within two hundred feet of the Caltrain station entrances or exits;
27. Within fifteen feet of an automated teller machine;
28. If a stationary sidewalk vendor, within a park owned or operated by the City if the City has signed an agreement for concessions that exclusively permits the sale of food or merchandise by the concessionaire;
29. Within two hundred feet of the Civic Center;
30. Within two hundred feet of a backup City Emergency Operations Center, identified in the City's Emergency Operations Plan, during the operational period;
31. Within the downtown area for the duration of the special event permit for each of the Hometown Days parade, Chamber of Commerce Art and Wine Faire, the Halloween Goblin Walk, and the Night of Holiday Lights; provided, that any notice provided by the City to affected businesses or property owners under such special event permits is also provided to sidewalk vendors with a valid current sidewalk vending permit issued pursuant to this chapter;
32. Within the downtown area for the duration of the special event permit for any large-scale special event which includes a street closure; provided, that any notice provided by the City to affected businesses or property owners under such special event permit is also provided to sidewalk vendors with a valid current sidewalk vending permit issued pursuant to this chapter;
33. If a stationary sidewalk vendor, within areas zoned exclusively for residential use or within one hundred seventy feet of any areas zoned exclusively for residential use;
34. Within five hundred feet of a permitted certified farmers' market or a permitted swap meet within the hours of operation;
35. Within five hundred feet of an area designated for a temporary special event permit for the duration of the temporary special permit; provided, that any notice provided by the City to affected businesses or property owners under such special event permit is also provided to sidewalk vendors with a valid current sidewalk vending permit issued pursuant to this chapter;
36. Within fifty feet of a public art installation;
37. Within one hundred feet of an open air dining area;
38. Within twenty-five feet of a public pathway, hiking trailhead or entrance; or
39. On any public hiking trail or public pathway.

B. Sidewalk vendors shall ensure that all required insurance is maintained for the duration of the permit and shall show proof of insurance to a City official upon request.

C. Sidewalk vendors must at all times maintain a clearance of not less than forty-eight inches on all sidewalks so as to enable persons to freely pass while walking, running, or using mobility assistance devices.

D. In areas not zoned exclusively for residential use, sidewalk vending is permitted only between the hours of seven a.m. and ten p.m., except that the hours of operation shall not be more restrictive than the hours of operation imposed on other businesses or uses on the same street.

E. In areas zoned exclusively for residential use or within one hundred seventy feet of any areas zoned exclusively for residential use, sidewalk vending is permitted only between the hours of nine a.m. and eight p.m.

F. If a sidewalk vendor of food other than solely prepacked food, the vendor shall possess hand sanitizer for use by the sidewalk vendor and patrons.

G. If a stationary sidewalk vendor, the vendor shall maintain a clearly designated litter receptacle in the immediate vicinity, marked with a sign requesting use by patrons. The litter receptacle must be large enough to accommodate customer litter without resort to existing litter receptacles located on any block for use by the general public. The vendor's litter receptacle may not be left on the sidewalk upon leaving any vending location. The vendor shall not empty its litter receptacle into a City refuse container.

H. If a roaming sidewalk vendor vending from a vending cart, the vendor shall maintain a litter receptacle attached to the vending cart large enough to accommodate customer litter without resort to existing litter receptacles located on any block for use by the general public and marked with a sign requesting use by patrons. The vendor shall not empty its litter receptacle into a City refuse container.

I. Sidewalk vendors shall maintain a neat, sanitary, hazard- and trash-free ten-foot radius of the vending location during hours of operation, and prior to leaving any vending location, the sidewalk vendor shall pick up, remove, and dispose of all litter generated by the vending operations within a ten-foot radius of the vending location in the sidewalk vendor's litter receptacle. Sidewalk vendors shall not throw, deposit, or leave, or permit to be thrown, deposited, or left, any litter, food, or other discarded or abandoned objects, in or upon any street, sidewalk, gutter, storm drain, inlet, catch basin, or other drainage structure, or upon any public or private land in the City, so that the same might be or become a pollutant.

J. Sidewalk vendors shall immediately clean up any food, grease or other fluid or item related to sidewalk vending activities that falls on public property.

K. If a stationary sidewalk vendor remains in place for one hour or longer, the sidewalk vendor must be located within one hundred feet of a publicly accessible restroom.

L. Sidewalk vendors must ensure that food and merchandise are securely fastened to the vending cart in such a manner that the food or merchandise does not fall off or extend outside of the frame of the vending cart.

M. All food and merchandise shall be stored either inside or affixed to the vending cart or carried by the sidewalk vendor.

N. Vending carts shall not be placed on any public property other than a sidewalk.

O. Vending carts shall not touch, lean against or be affixed at any time to any building or structure including, but not limited to, poles, signs, trees, lampposts, parking meters, mailboxes, traffic signals, fire hydrants, benches, bus shelters, newsstands, trashcans or traffic barriers, or other objects on public property or in the public right-of-way.

P. All signage and advertising related in any way to the sidewalk vendor must be attached to the vending cart or the sidewalk vendor's person, and shall not be electrical, flashing, wind-powered or animated.

Q. A vending cart approved by the San Mateo County Health Department to vend one type or types of food may not be used to vend a different type of food.

R. Sidewalk vendors shall possess at all times, while vending, a copy of a valid current permit issued pursuant to this chapter, as well as any other permit required by any other appropriate governmental agency. The sidewalk vendor permit shall be displayed conspicuously at all times on the vending cart or the sidewalk vendor's person. If multiple sidewalk vendors are staffing a vending cart or working as roaming sidewalk vendors, each person shall wear their permit on their person in a

conspicuous manner. With respect to all other required permits, the sidewalk vendor shall display a copy of the permit upon request by authorized City employees.

S. If a sidewalk vendor of food, the vendor shall possess and display in plain view on the vending cart a valid current mobile food facility permit from the San Mateo County Health Department and, if issued by the San Mateo County Health Department, a grade.

T. Sidewalk vendors shall comply with all applicable State and local laws, as amended from time to time, including without limitation Title 18 (Noise Regulations), the County Health Code, State food labeling and preparation requirements, fire codes and regulations, and the Americans with Disabilities Act of 1990 (Public Law 101-336) and other disability access standards (both State and Federal).

U. Not including an attached litter receptacle, vending carts shall not exceed a length of four feet, a width of four feet, or a height, including a roof, umbrella, or awning, of ten feet; provided, that any umbrella or awning shall be no less than seven feet above the surface of the sidewalk.

V. Vending carts shall not be accompanied by accessories, including, but not limited to, tables, chairs, benches and umbrellas, except that one chair and one umbrella may be provided for the purpose of allowing the vendor or an employee to be seated in shade.

W. Vending carts for merchandise, if stored in the City, shall be fully enclosed by a structure with walls and a roof when not in use for sidewalk vending.

X. Vending carts for food shall be stored in accordance with all requirements of the San Mateo County Department of Public Health.

Y. Vending carts shall have locking wheels to prevent uncontrolled movement.

Z. Vending carts shall not be left unattended.

AA. Vending carts shall not be left overnight on any public property or rights-of way.

BB. Sidewalk vendors shall not engage in any of the following activities:

1. Using verbal or physical conduct that would cause a reasonable person to fear for his or her safety;

2. Intentionally causing physical contact with any member of the public;

3. Following a person who walks away after expressing a desire to not be vended to;

4. Approaching a person on a bicycle or occupying a motor vehicle other than a commercial vehicle or emergency vehicle offering services to the public;

5. Approaching a person standing in line, seated in an outdoor dining area, or similarly stationary for a specific purpose, so that, to a reasonable person, it is apparent that the purpose would be frustrated by relocation to avoid the sidewalk vendor;

6. Intentionally blocking the path of the person being vended to or who has expressed a desire to not be vended to;

7. Impeding or obstructing ingress to or egress from any private property or any structure, parking space or loading facility;

8. Renting merchandise to customers;

9. Vending lottery tickets, alcohol, cannabis, adult-oriented material, or tobacco or electronic cigarette products;

10. Knowingly making false statements or misrepresentations during the course of vending;

11. Vending illegal or counterfeit merchandise;

12. Bartering, exchanging, selling, offering for sale, displaying for sale, or soliciting offers to purchase services;

13. In parks, interfering in any way with anyone engaged in a physical activity or entering onto any playing field, sport or similar facility for use by participants or approaching spectators who are watching a sporting activity to vend;

14. To prevent dangerous distractions, making any outcry, blowing a horn, ringing a bell, or using any sound devices or musical instrument for the purpose of attracting the attention of potential patrons;
15. Damaging public or private property, including trees, shrubs, grass, flowers, plants or vegetation;
16. Causing vehicles to stop in traffic lanes or persons to stand in traffic lanes or parking spaces; or
17. Vending in a manner that blocks or obstructs the free movement of vehicles, including parked vehicles. (Ord. 1545 § 3 (part), 2019)

**5.43.160 Identification card.**

Every sidewalk vendor shall obtain a business registration certificate and pay the required fee issued under Chapter 5.04 and shall have a valid and current registration certificate in their possession at all times when engaged in sidewalk vending. Such certificate shall be displayed to any police officer, deputy or other authorized City employee upon request of such police officer, deputy or authorized City employee. (Ord. 1545 § 3 (part), 2019)

**5.43.170 Administrative citations.**

A. A violation of this chapter by a sidewalk vendor who has a valid current permit issued by the City pursuant to this chapter is punishable only by an administrative citation, in amounts not to exceed the following:

1. One hundred dollars for a first violation.
2. Two hundred dollars for a second violation within one year of the first violation.
3. Five hundred dollars for each additional violation within one year of the first violation.
4. The City may revoke a permit issued to a sidewalk vendor for the term of that permit upon the fourth violation or subsequent violations.

B. A person engaged in sidewalk vending without a valid current permit issued pursuant to this chapter is punishable only by an administrative citation pursuant to Article 3 of Chapter 3 of Title 1, in amounts not to exceed the following, in lieu of the amounts set forth in subsection A of this section:

1. Two hundred fifty dollars for a first violation.
2. Five hundred dollars for a second violation within one year of the first violation.
3. One thousand dollars for each additional violation within one year of the first violation.
4. Upon proof of a valid permit issued by the City pursuant to this chapter, the administrative citations set forth in this subsection B shall be reduced to the amounts set forth in subsection A of this section.

C. It shall constitute a new and separate offense for each and every hour during any portion of which a violation of, or failure to comply with, any provision or requirement of this chapter is committed, continued, or permitted by any person.

D. A violation of this chapter shall not be punishable as an infraction or misdemeanor and a person alleged to have violated any provision of this chapter shall not be subject to arrest except when permitted under law. Further, failure to pay an administrative citation issued pursuant to this chapter shall not be punishable as an infraction or misdemeanor. Additional fines, fees, assessments, or any other financial conditions beyond those authorized herein shall not be assessed.

E. When assessing administrative citations pursuant to this chapter, the administrative hearing officer shall take into consideration the person's ability to pay the fine. The administrative hearing officer shall provide the person with notice of his or her right to request an ability-to-pay determination and shall make available instructions or other materials for requesting an ability-to-pay determination. The person may request an ability-to-pay determination at adjudication or while the judgment remains unpaid, including when a case is delinquent or has been referred to a comprehensive collection program.

F. If the person meets the criteria described in subdivision (a) or (b) of California Government Code Section 68632, the City shall accept, in full satisfaction, twenty percent of an administrative citation imposed pursuant to this chapter.

G. The administrative hearing officer may allow a person to complete community service in lieu of paying the total administrative citation, may waive the administrative citation, or may offer an alternative disposition. (Ord. 1545 § 3 (part), 2019)

**Chapter 5.44  
SOLICITATION**

Sections:

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**5.44.140 Permissible hours for soliciting.**

**5.44.150 Enforcement.**

**5.44.010 Findings and purpose.**

A. This chapter is based on the following findings:

1. The City Council finds that persons and organizations have been visiting and continue to visit private residential properties, as well as privately owned businesses, for the purposes of soliciting goods, wares, merchandise or services.
2. Some residents and business owners find these activities to be intrusive upon their privacy and a concern for the safety of their family members and employees.
3. The City Council further finds that a variety of misrepresentations and other frauds are at times employed in such activities.
4. Solicitors and organizations are bringing young people from all over the country to solicit goods and magazines in San Carlos with stories of their earning trips, claiming to be nonprofit organizations, with claims they are earning scholarships and other rewards, if residents purchase goods or wares from them. These young people are potentially being exploited because they are so far from home and are dependent on the persons delivering them to the City. Those transporting young people or other persons have no interest in applying for permits and have no concern whatsoever that they are exposing such young people and persons to legal process and violations of law.
5. Residents of the City have been threatened in their homes by persons claiming to be solicitors.
6. Unregulated door-to-door solicitation constitutes a serious concern for the City and is the subject of ongoing enforcement.
7. The goal of protecting residents from fraud and crime and thereby promoting the safety and privacy of residences within the City is a legitimate, urgent and substantial governmental interest.
8. The City has a substantial and compelling interest in preventing fraudulent, exploitative and/or criminal activities which may result from unregulated solicitation.

9. The City has a substantial and compelling interest in protecting individuals' safety and privacy by reasonably limiting the hours of solicitation and requiring permits in a content neutral manner.

10. The City has a substantial and compelling interest in allowing individuals to determine their level of comfort with privacy and whether or not they want to be solicited.

11. Noncommercial speech is entitled to broader protection under the First Amendment to the United States Constitution than commercial speech, affording the City greater flexibility in the reasonable regulation of commercial speech.

12. All of these goals and interests may properly be served by this narrowly tailored regulation which requires solicitors to obtain a City-issued permit prior to soliciting within the City, reasonably limits the hours of activities and prohibits solicitation on residential properties bearing a posted sign prohibiting such activities.

B. The purpose of this chapter is to balance free speech and expression with the health, safety and welfare of the residents of the City. (Ord. 1484 § 2 (part), 2015)

**5.44.020 Definitions.**

For the purpose of this chapter only, the following words and phrases shall, when used in this chapter, have the meaning respectively ascribed to them by this section:

A. "Charitable" means the purpose of an organization which has received a letter of determination approving tax exempt status under Title 26 of the United States Code Section 501(c)(3).

B. "Commercial" means the purpose of solicitation is not for charitable, nonprofit, or other noncommercial purposes, as defined in this section.

C. "Corporation" means a legal entity with a legal personality distinct from those of its members, and which has filed articles of incorporation with the California Secretary of State.

D. "Limited liability company" means a legal entity with a legal personality distinct from those of its members, and which has filed articles of organization with the California Secretary of State.

E. "Noncommercial" means the purpose of solicitation is not for commercial purposes, which includes charitable and nonprofit purposes, as defined in this section.

F. "Person" means any individual, firm, partnership, joint venture, association, social club, league, fraternal organization, joint stock company, estate, trust, business trust, receiver, trustee, syndicate or any other group acting as a unit. The word "person" shall include the definition of corporation or limited liability company.

G. "Solicitation" includes the act of any person, whether a resident of the City or not, traveling by foot, vehicle or any other type of conveyance, who goes from residence to residence, business to business, place to place or along any highway, street or sidewalk within the City, that amounts to any of the following: (1) requesting, either directly or indirectly, money, credit, funds, contributions, personal property or anything of value; (2) taking or attempting to take orders for the sale of any goods, wares, merchandise or services of any kind or description, for future delivery or for services to be performed in the future, either in person or by distributing flyers or leaflets; (3) selling and making immediate delivery of any goods, wares, merchandise or services of any kind or description, commonly referred to as "peddling"; (4) sidewalk vending; and (5) delivering persons to the City by vehicle or otherwise for the purpose of solicitation. Solicitation shall not include a person engaged in, conducting or carrying on the business of vending on a sidewalk pursuant to a valid permit issued pursuant to Chapter 5.43.

Solicitation shall not include the following so long as the person is not requesting, either directly or indirectly, money, credit, funds, contributions, personal property or anything of value: (1) a person communicating or otherwise conveying ideas, views or beliefs or otherwise disseminating oral or written information to another person willing to directly receive such information; provided, that such information is of a political, religious or charitable nature; (2) a person seeking or offering goods or services from a sidewalk or public right-of-way; (3) a person seeking to influence the personal belief of the occupant of any residence or business in regard to any political or religious matter; (4) a person seeking to obtain, from an occupant of any residence or business, an indication of the occupant's belief in regard to any political or religious matter; and (5) a person conducting a poll, survey or petition drive in regard to any political matter.

H. "Solicitor" means any person, whether a resident of the City or not, engaged in solicitation, employer of such persons or a person who engages in the act of transporting persons to the City for the purpose of solicitation, who is not engaged in sidewalk vending authorized by Government Code Section 51036 et seq. or Chapter 5.43.

- I. "Vehicle" means the definition as set forth in the California Vehicle Code. (Ord. 1545 § 6, 2019; Ord. 1484 § 2 (part), 2015)

**5.44.030 Permit—Required.**

- A. The following provisions shall apply to permits for commercial solicitation:

1. If a person is soliciting on behalf of, or is employed to solicit by, another person as defined in Section 5.44.020(F), the person engaged in the soliciting and the employer or other person upon whose behalf solicitation is being made must have valid solicitation permits as set forth in this chapter and business registration as set forth in Chapter 5.04, even if such persons are exempt from payment of any business registration fee.
2. All persons who engage in solicitation shall comply with the following:
  - a. Carry a valid photo identification and a copy of a valid permit issued pursuant to this chapter, and if acting on behalf of or employed by another person as defined in Section 5.44.020(F) to solicit, in addition carry written authorization to act on behalf of such employer or person and a copy of a valid permit issued to such employer or person; and
  - b. Immediately present a valid solicitation permit, photo identification and authorization to act on behalf of another person, if applicable, upon request by any person engaged for solicitation purposes or by any law enforcement official.
3. A valid solicitation permit shall contain the name, permanent residence address, a brief physical description, and the photograph of such person who seeks to solicit within the City.
4. Permits are not assignable or transferable.
5. Written authorizations to act on behalf of another person as defined in Section 5.44.020(F) are not assignable or transferable.

- B. The following provisions shall apply to permits for noncommercial solicitation:

1. If a person is soliciting on behalf of, or is employed to solicit by, another person as defined in Section 5.44.020(F), only the employer or the person on whose behalf the solicitation is made shall be required to have a valid solicitation permit as set forth in this chapter.
2. If a person is soliciting on behalf of, or is employed to solicit by, another person as defined in Section 5.44.020(F), the person engaged in soliciting shall carry a valid photo identification and written authorization to act on behalf of the employer or the other person.

- C. A person under the age of twelve engaged in solicitation shall be accompanied by a competent person over the age of eighteen. (Ord. 1484 § 2 (part), 2015)

**5.44.040 Permit—Application—Generally.**

- A. Applications for a permit for commercial solicitation are subject to the following provisions:

1. The application for a permit required by Section 5.44.030(A) shall be made upon a form prescribed by the City Manager, or his or her designee, available at the City Clerk or San Carlos Police Bureau and shall include, but not be limited to, the following information:
  - a. The name, permanent residence address, a brief physical description, and a photo of all persons who will be engaging in solicitation under the permit;
  - b. Proof of live scan fingerprinting. Fingerprinting must be done at a facility approved by the City's Chief of Police, or his or her designee;
  - c. Complete employment history all persons who will be engaging in solicitation under the permit for the past three years;
  - d. Disclosure of any and all criminal convictions, probation, infraction or misdemeanor citations received, including any and all municipal code violations and criminal or civil matters pending anywhere in a court of competent jurisdiction of all persons who will be engaging in solicitation under the permit. This shall include any matters dismissed or expunged pursuant to California Penal Code Section 1203.4;

- e. A sworn statement that such person is not currently under investigation for any crimes related to solicitation or other criminal offense including, but not limited to, violent crimes, sexual assault, crimes against minors, possession of controlled substances, theft, fraud or burglary;
  - f. Names and addresses of all affiliated persons as defined in Section 5.44.020(F) who are or will be employing, employed by, working with or on behalf of the applicant;
  - g. Proof of insurance as required by the City;
  - h. Requested starting date, time and place to solicit within the City; and
  - i. Such other information as the Chief of Police may require in order to discover the truth of the matters herein specified and as required to be set forth in the application.
2. The application, upon completion by the applicant, shall truthfully set forth all such information as shall be required by the Chief of Police.
3. The application under subsection (A)(1) of this section shall be submitted under penalty of perjury and be submitted to the Police Department at least twenty calendar days prior to the starting date and time the applicant requests to engage in solicitation.
4. The application shall be submitted with payment of any applicable fee. The permit application fee shall be established by resolution of the City Council and may be amended from time to time.
5. The Chief of Police shall issue the permit to solicit if the following requirements have been met, subject to the criminal background check in Section 5.44.050:
- a. The applicant has properly completed and filed his or her application together with any applicable fee;
  - b. The applicant has obtained all other registration or permit that may be required under the San Carlos Municipal Code;
  - c. The applicant has provided all information required by the application and the Chief of Police; and
  - d. The applicant has not made any misrepresentation of any fact presented in the application.
6. The Chief of Police may issue a solicitation permit subject to reasonable conditions as may be deemed necessary for the public health, safety, peace and welfare.
7. Applicants shall at all times maintain accurate application information with the City. In the event there is any change or modification to the information provided in the first or previous application, it is the applicant's sole responsibility to provide written notification of such change or modification to the Chief of Police within fifteen calendar days of the change or modification. Failure to do so may result in the revocation of the permit.
- B. Applications for a permit for noncommercial solicitation are subject to the following provisions:
- 1. An application for a permit required by Section 5.44.030(B) shall be made upon a form prescribed by the City Manager, or his or her designee, available at the City Clerk or San Carlos Police Bureau and shall include, but not be limited to, the following information:
    - a. The name of the organization on whose behalf soliciting is to be made, its permanent address and telephone number. If the organization does not have a local telephone number, the name and telephone number of a local person for contact shall be supplied;
    - b. The complete name, driver's license or another valid form of identification acceptable to the Chief of Police, permanent residence address and a brief physical description of the person making the application on behalf of the organization shall be included in the application;
    - c. Complete name, permanent residence address, and telephone number of the person or persons who will be engaged in solicitation on behalf of the organization;
    - d. Requested starting date, time and place to solicit within the City;

- e. If for charitable purposes, a letter of determination from the California Franchise Tax Board approving tax exempt status under Title 26 of the United States Code Section 501(c)(3); and
  - f. A statement that the person is not currently under investigation for any crimes related to solicitation or other criminal offense including, but not limited to, violent crimes, sexual assault, crimes against minors, possession of controlled substances, theft, fraud or burglary.
2. The application shall be submitted to the Police Department at least twenty calendar days prior to the starting date and time the applicant requests to engage in solicitation.
  3. The Chief of Police shall issue the permit to solicit if all of the following requirements have been met:
    - a. The applicant has properly completed and filed his or her application;
    - b. The applicant has provided all the information required by the application; and
    - c. The applicant has not made any misrepresentation of any fact presented in the application.
  4. The Chief of Police may issue the permit subject to reasonable conditions as may be deemed necessary for the public health, safety, peace and welfare.
  5. Applicants shall at all times maintain accurate application information with the City. In the event there is any change or modification to the information provided in the first or previous application, it is the applicant's sole responsibility to provide written notification of such change or modification to the Chief of Police within fifteen calendar days of the change or modification. Failure to do so may result in the revocation of the permit.
  6. All information required in subsection (B)(1) of this section shall be submitted under penalty of perjury. (Ord. 1484 § 2 (part), 2015)

**5.44.050 Permit—Criminal background check.**

- A. This section shall only apply to commercial solicitation.
- B. The Chief of Police shall initiate criminal history record background checks of prospective solicitors, including those persons acting on behalf of an employer or other person as defined in Section 5.44.020(F).
- C. A criminal history record background check shall not be initiated pursuant to this section without the written consent of the applicant. The consent required under this section shall be in the manner and form prescribed by the Chief of Police and shall include, but not be limited to, the signature, name, address and fingerprints of the applicant.
- D. The Chief of Police shall not certify a person subject to the provisions of this chapter who refuses to consent to or cooperate in the securing of a criminal history record background check.
- E. A person whose criminal history record background check reveals a conviction for any criminal offense including, but not limited to, violent crimes, sexual assault, possession of controlled substances, theft, fraud or burglary shall be disqualified from receiving a permit to solicit within the City, subject to the provisions in Section 5.44.060(A)(2)(b).
- F. The Chief of Police is authorized to receive criminal history record information from any agency or department of the State of California or the United States government, including but not limited to the California Department of Justice and the Federal Bureau of Investigation, regarding applicants for permits to solicit within the City.
- G. The Police Department shall promptly notify an applicant whose criminal history record background check reveals a disqualifying criminal conviction.
- H. The applicant shall have thirty calendar days from the receipt of that notice to petition the Police Department for a review and to cite reasons substantiating the review.
- I. If the applicant successfully challenges the accuracy of the criminal history record information or demonstrates affirmatively to the governing body clear and convincing evidence of rehabilitation, the Chief of Police may issue a certificate indicating the applicant has successfully cleared a background check. (Ord. 1484 § 2 (part), 2015)

**5.44.060 Permit—Expiration—Renewal—Revocation.**

- A. The following provisions shall apply to permits for commercial solicitation:

1. All permits granted under the provisions of this chapter shall be valid for up to ninety days and may be renewed thereafter, unless sooner revoked.
2. Prior to the expiration of a permit, and upon application for renewal of the permit, the Chief of Police shall determine if the applicant or solicitor has acted in compliance with the applicable provisions of this chapter and conditions of the permit.
  - a. If determined to have been in substantial compliance, the permit shall be renewed upon payment of any applicable renewal fee.
  - b. If the applicant or solicitor is found not to be in substantial compliance by the Chief of Police, the permit shall not be renewed, and no other permit shall be issued under the provisions of this chapter to the same applicant within one year of the date of cancellation or expiration of the permit.
3. Renewal fees shall be established by resolution of the City Council and may be amended from time to time.
4. The Chief of Police may revoke any permit granted under the provisions of this chapter for any of the following reasons:
  - a. The applicant provided false, misleading or misrepresented information in procuring said permit;
  - b. The applicant or any person as defined in Section 5.44.020(F) who employs, is employed by, or works on behalf of or with the applicant failed to comply with the requirements, regulations, laws and conditions of approval applicable to the permit;
  - c. The applicant or any person as defined in Section 5.44.020(F) who employs, is employed by, or works on behalf of or with the applicant is convicted of violating any Federal, State or local law during the course of operating under the permit; or
  - d. The activities for which the permit was granted were or are being conducted in a manner that is detrimental to the public health, safety, peace or welfare.
5. When a permit has been revoked, no other permit shall be issued under the provisions of this chapter to the same applicant within one year of the date of revocation.

B. The following provisions shall apply to permits for noncommercial solicitation:

1. All permits granted under the provisions of this chapter shall be valid for up to one year and may be renewed thereafter.
2. Upon application for renewal of the permit, an applicant claiming nonreligious, nonpolitical, charitable status shall resubmit the materials described in Section 5.44.040(B)(1). (Ord. 1484 § 2 (part), 2015)

**5.44.070 Permit—Denial—Revocation—Appeal—Hearing Officer.**

- A. Any applicant aggrieved by any decision by the Chief of Police, or his or her designee, on an application for, renewal or revocation of a permit may appeal such decision within ten calendar days after the notice is given of the decision pursuant to subsection D of this section.
- B. The appeal shall be filed on forms provided by the City together with any applicable fee established by resolution of the City Council, which may be amended from time to time.
- C. The appeal request shall set forth the appellant's reasons for asserting the decision was in error or in violation of this chapter or other applicable law.
- D. The appeal shall be referred to the City Manager who may appoint a hearing officer or body to conduct a hearing on the matter. Upon the filing of the notice of appeal in proper form, the City Clerk or hearing officer shall cause a written notice of the hearing to be mailed via first class mail to the appellant not less than ten calendar days prior to such hearing. The City Manager or the hearing officer or body may continue the hearing from time to time.
- E. The hearing officer or body may affirm, dismiss or modify the decision of the Chief of Police or his or her designee.
- F. Any action or decision made by the City Manager, hearing officer or hearing body resulting from the hearing shall be final, except that a decision of a hearing officer or hearing body may be appealed to the City Manager by providing written notice to

the City Clerk within ten calendar days of mailing of the notice of a hearing officer decision. (Ord. 1484 § 2 (part), 2015)

**5.44.080 "Do Not Knock" registry.**

- A. The City Clerk, or his or her designee, shall prepare a list of addresses of those premises where the owner and/or occupant has notified the City that soliciting is not permitted on the premises (hereinafter referred to as the "Do Not Knock" registry).
- B. Notification shall be by completion of a form available at City Hall during normal business hours and shall be valid for two years.
- C. The list shall be updated at a minimum of every thirty days and shall be effective on the first day of each month.
- D. The City Clerk or his or her designee shall post the "Do Not Knock" registry addresses on the City's website and distribute the current "Do Not Knock" registry to solicitors who have been issued active permits to solicit pursuant to the provisions of this chapter.
- E. Solicitors shall review the online "Do Not Knock" registry, review the list at the City Police Bureau at City Hall or obtain an updated version of the "Do Not Knock" registry from the City Clerk prior to any solicitation efforts.
- F. Solicitors shall not solicit at any premises identified on the then current "Do Not Knock" registry. (Ord. 1484 § 2 (part), 2015)

**5.44.090 Solicitation operating requirements.**

- A. It is unlawful for any person to engage in solicitation within the City without a valid solicitation permit issued by the San Carlos Chief of Police.
- B. It is unlawful for any person to engage in commercial solicitation within the City without both a valid solicitation permit issued by the San Carlos Chief of Police and a valid business registration issued by the City pursuant to Chapter 5.04.
- C. Solicitors shall review the online "Do Not Knock" registry or a current registry provided by the City Clerk, as specified in Section 5.44.080(E).
- D. It is unlawful for any person to solicit at any premises identified on the then current "Do Not Knock" registry, engage in unlawful solicitations, engage in abusive behavior while soliciting, violate the sound-making and sound-amplification device prohibition, solicit at a prohibited location, violate the permissible hours for solicitation or solicit from a vehicle, as provided in Sections 5.44.080 and 5.44.100 through 5.44.150.
- E. A permit granted under this chapter is not an endorsement by the City of the solicitor or of any goods, wares, merchandise, services or information that may be sold or distributed by the solicitor, and it is unlawful for any person to represent that such an endorsement has been made. (Ord. 1484 § 2 (part), 2015)

**5.44.100 Unwanted solicitations prohibited.**

- A. It is unlawful for any person to go upon, ring the bell, knock on the door of or attempt to gain admission to the premises of any residence, dwelling or apartment in the City where the owner, adult occupant or other person in control thereof has expressed his or her objection to such activity either by explicit instructions, oral or written, or by posting a sticker or sign indicating the location is listed on the City's "Do Not Knock" registry pursuant to Section 5.44.080, or by posting a sign or decal bearing the words "No Solicitation" or words of similar import, unless prior to such entry, bell ringing or knocking, such person has been requested or invited by the owner or adult occupant or other person in control of the premises to be thereupon for such purpose.
- B. Activities related to a service requested by the owner or occupant of the property and undertaken in the ordinary course of business, including but not limited to deliveries of utility notices, telephone directory deliveries, regular newspaper deliveries, work order notices and service inquiries, are presumed to be requested or invited for the purpose of this section. (Ord. 1484 § 2 (part), 2015)

**5.44.110 Abusive activity prohibited.**

No person shall engage in abusive solicitation. Such abusive activity shall mean to do one or more of the following while soliciting or immediately thereafter:

- A. Coming closer than three feet to the person solicited unless and until the person solicited indicates he or she wishes to make a purchase or otherwise receive the solicitation;

- B. Blocking or impeding the passage of the person solicited;
- C. Repeating the solicitation after the person solicited has indicated his or her objection to the solicitation;
- D. Following the person solicited by proceeding behind, ahead or alongside such person after the person has indicated his or her objection to the solicitation;
- E. Threatening the person solicited with physical harm by word or gesture;
- F. Abusing the person solicited with words that are offensive and inherently likely to provoke an immediate violent reaction; or
- G. Touching the solicited person without the solicited person's verbal consent. (Ord. 1484 § 2 (part), 2015)

**5.44.120 Sound-making and sound-amplification devices prohibited.**

- A. It is unlawful for any person, while soliciting, to shout, make any outcry, blow a horn, ring a bell or use any sound device, including any loud speaking radio or sound-amplifying system upon any public streets, alleys, parks or public places of the City or upon any private property where such sound exceeds the City's noise standards as set forth in Section 18.21.050.
- B. No person who uses an automobile or other vehicle for purposes of soliciting shall operate or permit the operation of any sound-amplification system which can be heard outside the automobile or other vehicle to advertise, to draw attention to the presence of the automobile or other vehicle, or to communicate commercial information to the general public when such automobile or vehicle is moving, stopped, idling or parked upon any public or private street, except to request emergency assistance or warn of a hazardous situation.
- C. This section shall not apply to authorized emergency vehicles or vehicles operated by public utilities or to vehicles participating in a special event authorized by the City. (Ord. 1484 § 2 (part), 2015)

**5.44.130 Locations—Solicitations prohibited.**

It is unlawful for any person to solicit when the person solicited is in any of the following locations:

- A. A marked bus stop;
- B. Public transportation vehicles or facilities;
- C. Public parking lots or parking structures;
- D. Outdoor dining areas of restaurants or other dining establishments serving food for immediate consumption; or
- E. Within fifty feet of an automated teller machine. (Ord. 1484 § 2 (part), 2015)

**5.44.140 Permissible hours for soliciting.**

It is unlawful for any person, while soliciting, to go upon, ring the bell, knock on the door or attempt to gain admission to the premises of any residence, dwelling or apartment in the City after eight p.m., or earlier than nine a.m., unless such person has been requested or invited by the owner or adult occupant of the premises to be thereupon for such purposes. (Ord. 1484 § 2 (part), 2015)

**5.44.150 Enforcement.**

- A. The applicant or solicitor shall be responsible for the conduct of all persons as defined in Section 5.44.020(F) acting with or on the behalf of the applicant or solicitor during the course of operating under the permit. All persons found working, helping, volunteering or in any way assisting in the activities for which the permit was granted shall be considered employees of the applicant or solicitor. Any act or omission of any person acting with or on the behalf of the applicant or solicitor constituting a violation of the provisions of this chapter shall be deemed the act or omission of the applicant or solicitor for purposes of determining whether the applicant's or solicitor's permit shall be granted, denied, renewed or revoked.
- B. Any violation of this chapter is a misdemeanor as provided in Chapter 1.20. The City Attorney may elect to charge such violations as an infraction as provided in Chapter 1.20.
- C. Violations shall result in revocation of a solicitation permit and such person as defined in Section 5.44.020(F) shall be ineligible to receive a new solicitation permit for a period of one year from the date of revocation.
- D. If any section, subsection, clause or phrase or portion of this chapter is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of all other provisions of this chapter. (Ord. 1484 § 2 (part), 2015)

**Chapter 5.45****DELIVERY OF UNSOLICITED OR UNSUBSCRIBED PAPER, PLASTIC OR COMPOSITE MATERIALS ON PRIVATE PROPERTY**

Sections:

**5.45.010 Purpose of regulation.**

**5.45.020 Definitions.**

**5.45.030 Distribution of unsubscribed or unsolicited handbills or literature to unwilling recipients.**

**5.45.040 Notice to distributors of unsolicited or unsubscribed handbills or literature to unwilling recipients.**

**5.45.050 Noncompliance with refusal of consent filed with City Clerk.**

**5.45.060 Littering forbidden and declared a nuisance.**

**5.45.070 Methods of distribution.**

**5.45.080 Exemptions.**

**5.45.090 Presumptions, removal and costs required.**

**5.45.100 Penalties.**

**5.45.110 Severance clause.**

**5.45.010 Purpose of regulation.**

The purpose of these regulations is to acknowledge and achieve the following:

A. The distribution of unsolicited and unsubscribed commercial advertising material and other unwanted literature or materials upon residential property in the City creates widespread litter, which is unsightly, unhealthy and, for many elderly and disabled residents, unable to be removed or disposed of when accumulated, which becomes a nuisance when blown around neighborhoods by wind or when wet and destroyed by the elements or run over by vehicles.

B. The distribution of unsolicited and unsubscribed commercial advertising material and other unwanted literature or materials upon residential property in the City creates a security concern for residents when unwanted literature and handbills accumulate, sending a signal to nefarious persons that the resident is not home, thereby increasing the risk of burglary of homes and robbery of residents.

C. Recipients who request or desire to receive handbills and literature expect to receive them on their property in such a way that they do not create widespread litter, which is unsightly or unhealthy or which become a nuisance when blown around neighborhoods by wind or when wet and destroyed by the elements or run over by vehicles.

D. Unsolicited and unsubscribed commercial advertising material, literature, or written materials also accumulate, degrade, blow and scatter from the force of wind, slowly decompose and enter into and clog the City storm drains and drainage facilities, which can contribute to and cause street flooding. Such materials further enter into private and public creeks and waterways, sloughs, the San Francisco Bay, the Don Edwards Wildlife Refuge, the San Francisco State Game Refuge and Watershed lands, and other nearby open space areas.

E. Certain exemptions are included for legally required processes and notices, and other disseminators whose deliveries are infrequent or do not significantly contribute to the litter and security issues identified by the City Council and public. Moreover, such disseminator's deliveries are less bulky, less likely to clog or impede the City storm water collection system and are less likely to accumulate and lead to litter and security issues. In addition, to address the security, nuisance and litter issues, all disseminators must secure the handbills and literature in such a way that they will not blow in the wind and will be out of clear view from the public street.

F. Vendors and disseminators who operate in the City have a history of ignoring their own refusal of consent registry or programs.

G. The Brown Act provides that notice of public meetings and agendas must be posted at City Hall and on the City's website, and access to the City website and refusal of consent registry under this chapter will be available at City Hall.

H. All of these goals and interests may properly be served by this narrowly tailored regulation which requires those who desire to deliver handbills and literature comply with reasonable, clear, open and accessible information regarding resident's refusal of consent to receive such materials, reduces or prohibits the unwanted, unsolicited and unsubscribed handbills and literature from being delivered to residences in the City and reasonably requires all such deliveries comply with provisions to reduce litter.

I. A content-neutral annual exclusion also does not unreasonably lead to additional litter or security issues, and provides additional opportunities for delivery of literature for those who do not have access to the refusal of consent registry or other methods of notice, provided they comply with the anti-litter and security provisions in this chapter. (Ord. 1483 § 1 (part), 2015)

**5.45.020 Definitions.**

A. "Handbill" means an item of printed materials on paper or plastic medium typically one page, single- or double-sided, which may be unfolded or folded.

B. "Literature" means multipage bounded or unbounded printed or reproduced written materials of any kind, including but not limited to pamphlets, telephone directories, books, magazines, newspapers, handbills, circulars, dodgers, announcements, or any other paper literature on any medium or material.

C. "Person" means any individual, firm, partnership, joint venture, association, social club, league, fraternal organization, corporation, limited liability company, limited liability partnership, estate, trust, business trust, receiver, trustee, syndicate or any other group acting as a unit. The word "person" shall include the definition of corporation.

D. "Unsolicited" means handbills or literature for which the recipient has not requested, given permission or has refused to receive.

E. "Unsubscribed" means handbills or literature for which the recipient does not have a paying subscription or other agreement to receive. (Ord. 1483 § 1 (part), 2015)

**5.45.030 Distribution of unsubscribed or unsolicited handbills or literature to unwilling recipients.**

It shall be unlawful for any person to distribute, deposit, place, throw, scatter, cast, peddle, pass out, give away, or circulate any unsolicited or unsubscribed handbills or literature of any kind whatsoever within the City when the intended recipient thereof, or the owner, occupant, or resident of any property where such literature is left or intended to be left, has notified the distributor or disseminator of such material that they do not wish to receive any handbills or literature of any kind, as provided in this chapter. (Ord. 1483 § 1 (part), 2015)

**5.45.040 Notice to distributors of unsolicited or unsubscribed handbills or literature to unwilling recipients.**

The notice referred to in Section 5.45.030 may be given to a distributor or disseminator of printed or written handbills or literature by an owner, occupant, or resident of property by one or more of the following methods:

A. By posting on the property or near the front door or main entrance thereof a sign at least sixteen square inches in surface area stating, in effect, "No Handbills," "No Unsubscribed or Unsolicited Written Materials or Literature," or words of similar meaning describing a clear desire not to receive handbills or literature at the property;

B. By written or electronic communication to the distributor or disseminator of such handbills or literature at the address or email address provided by the distributor; and/or

C. By filing a refusal of consent described in Section 5.45.050 with the City Clerk, who shall post the refusal on the City website. (Ord. 1483 § 1 (part), 2015)

**5.45.050 Noncompliance with refusal of consent filed with City Clerk.**

A. It is unlawful for any person to distribute, deposit, place, throw, scatter, cast, peddle, pass out, give away, or circulate any handbill or literature, for which no charge is made to the recipient thereof, or any substance, at any place on the grounds, yards, lawns, driveways, steps, porches, or in front of, or upon the front entry door, or door knob, of any single-family residential building, or of any residential building having more than one dwelling unit, or in any entry or hallway or on any stairs, or at or upon the front entry door, or door knob, of any dwelling unit, in any such multiple-unit residential building, in the City, at any time there is on file in the office of the City Clerk an affidavit or a declaration under the penalty of perjury that the person subscribing the same is an owner, manager or occupant of such building or dwelling unit described therein and stating that such person refuses consent for any of said items to be left at the place so described, where the owner, manager or occupant of such building or dwelling unit has posted a sign as provided in Section 5.45.040(A) or where the owner, manager or occupant has notified the distributor or disseminator as provided in Section 5.45.040(B).

B. Such an affidavit or declaration may be filed with the City Clerk without charge at any time and upon the filing thereof the same shall be open to inspection by the public, with the addresses of those refusing consent posted on the City website and available at City Hall at all times. Refusals of consent filed with the City Clerk shall become effective sixty days after such filing, so as to provide reasonable opportunity for distributors and disseminators to respond to additions and deletions to the refusal of consent registry on the City website or at City Hall.

C. Refusals of consent may be revoked by filing with the City Clerk a written statement signed by the owner, manager or occupant or by an affidavit or declaration under the penalty of perjury that such person is no longer an owner, manager, or occupant of the building or dwelling unit described therein. Such revocation may be filed with the City Clerk at any time without charge and shall be effective upon such filing. Any such refusal of consent filed with the signature of an owner or manager of, and any such revocation pertaining to, such a multiple-unit residential building shall not apply to the front entry door of any dwelling unit in such a building.

D. Any such refusal of consent filed with the signature of an owner or occupant of, and any such revocation pertaining to, a dwelling unit in such a building shall apply only to the dwelling unit owned or occupied by such person or to which such revocation pertains. No such refusal of consent shall be effective after the person who signed it has ceased to be an owner, manager or occupant of the premises described in such refusal of consent.

E. No person shall leave any such item at any such place in the City, unless such person has first examined all refusals of consent filed with the City Clerk. Refusals of consent shall be valid for five years without limit on the number of refusals of consent that may be requested for each residence, apartment or dwelling unit. (Ord. 1483 § 1 (part), 2015)

**5.45.060 Littering forbidden and declared a nuisance.**

It shall be unlawful and a nuisance for any person to throw, cast or scatter any handbill, literature, printed or written material of any type into the yard or on the grounds or on the doorstep, porch or vestibule of any residence, apartment or dwelling unit, or upon any vacant lot or any other private property within the City, except as provided in this chapter. This provision shall not affect violations for littering asserted or charged under other chapters of the municipal code, State or Federal law. (Ord. 1483 § 1 (part), 2015)

**5.45.070 Methods of distribution.**

Any literature or handbills which may be distributed in the City, pursuant to law, shall be done only in the manner described in the following:

A. Placed in the hand of the intended recipient;

B. Bound, folded, boxed or weighted in such a manner that the material cannot be blown away, scattered, or fragmented by the action of the elements and/or normal pedestrian or vehicular traffic; or

C. Deposited on the premises for which it is intended by being tied to, affixed, slipped over a doorknob or other protrusion, or placed through a slot or opening in a front entry door or within a receptacle for such items located upon the property, or placed on the front porch next to the front entry door; provided, however, the item being distributed first shall have been rolled up and secured with a rubber band or in some other manner so as to prevent the materials from being blown away, scattered, or fragmented by the action of the elements and/or normal pedestrian or vehicular traffic. As used in this section, "receptacle" means a container made of a stiff material containing the words "For Papers," or similar words. (Ord. 1483 § 1 (part), 2015)

**5.45.080 Exemptions.**

The foregoing provisions of this chapter shall not apply to the following:

A. Mail deliveries by the United States Postal Service;

B. Deliveries by private postal or package delivery services;

C. Literature delivered by Federal, State or local governmental agencies;

D. Notice of any lien, foreclosure, or sale of the real property on which such notice is placed;

E. Legally authorized notice or process;

F. Literature delivered no more frequently than one time per calendar year by any person;

G. Literature or handbills delivered by a person on behalf of a nonprofit organization, a registered campaign committee, a federal, state or local candidate or a state or local initiative or referendum, provided said delivery complies with the provisions

of Section 5.45.070; and

H. The distribution or delivery of any subscription literature, newspaper, magazine, pamphlet, handbill or other paper to any person pursuant to his or her oral or written order or consent has been provided, or to any hotel, inn, motel or other such public accommodations, provided said delivery complies with the provisions of Section 5.45.070. (Ord. 1483 § 1 (part), 2015)

**5.45.090 Presumptions, removal and costs required.**

A. Handbills and literature distributed in violation of this chapter are subject to summary removal by the owner of the property upon which the handbill or literature is placed or affixed, or by the City Manager or his or her designee. The costs of removal may be assessed in accordance with law or as provided in the municipal code against the person responsible for the violation. It shall be a rebuttable presumption that any person whose information is displayed on the handbill or literature is the party responsible for the dissemination or distribution.

B. Distribution of literature or handbills requested by the owner or occupant of the property and undertaken in the ordinary course of business, including but not limited to deliveries of utility notices, telephone directory deliveries, regular newspaper deliveries, work order notices and service inquiries, are presumed to be requested or invited for the purpose of this section, but must comply with the requirements of Section 5.45.070.

C. It shall be a rebuttable presumption that a person distributing or disseminating literature or handbills has received actual notice of a refusal of consent where an owner, occupant, or resident of property appears on the refusal of consent registry or has provided notice as provided in Section 5.45.040. (Ord. 1483 § 1 (part), 2015)

**5.45.100 Penalties.**

Any violation of this chapter may be prosecuted as an infraction as provided in Section 1.20.020 or subject to administrative proceedings and penalties as provided in Section 1.20.060. (Ord. 1483 § 1 (part), 2015)

**5.45.110 Severance clause.**

If any section, subsection, clause or phrase or portion of this chapter is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of all other provisions of this chapter. (Ord. 1483 § 1 (part), 2015)

**Chapter 5.56  
TOW CARS**

Sections:

**5.56.010 Solicitation restrictions at the scene of accidents.**

**5.56.010 Solicitation restrictions at the scene of accidents.**

A. It is unlawful and contrary to the terms of this title for anyone operating a tow car business or a business in which tow car operation is incidental thereto, to solicit at the scene of an accident the towing or repairing of any motor vehicle or motor vehicles involved in such accident; and it is further declared that the appearance of a tow car at the scene of an accident shall be considered unlawful solicitation of such business, unless such tow car has been called to the scene of the accident by the driver or owner of a motor vehicle involved in the accident, or a representative of such driver or owner, or by a member of the Police Department of the City.

B. Any violation of this section shall result in revocation of the business license of the violator, and shall subject the violator to the terms of the penal section of Chapter 1.20 of this code. (Ord. 306 § 1 (part), 1952: Ord. 167 § 25(a), 1946)

**Title 6  
ANIMALS Revised 3/24**

Chapters:

**6.04 Animal Control Revised 3/24**

**Chapter 6.04  
ANIMAL CONTROL Revised 3/24**

Sections:

**6.04.010 Definitions.** Revised 3/24

**6.04.020 Animal Control Program.** Revised 3/24

- 6.04.030 Rabies vaccinations.** Revised 3/24
- 6.04.040 Dog and cat licenses.** Revised 3/24
- 6.04.050 Public protection from dogs.** Revised 3/24
- 6.04.060 Prohibited conduct.** Revised 3/24
- 6.04.070 Protection of animals in motor vehicles.** Revised 3/24
- 6.04.080 Release from confinement.** Revised 3/24
- 6.04.090 Declaration of dangerous animal.** Revised 3/24
- 6.04.100 Dangerous animal permit requirements.** Revised 3/24
- 6.04.110 Revocation or modification of dangerous animal permit.** Revised 3/24
- 6.04.120 Possession of animals after revocation of dangerous animal permit.** Revised 3/24
- 6.04.130 Declaration of vicious animals.** Revised 3/24
- 6.04.140 Providing false information.** Revised 3/24
- 6.04.150 Administrative hearing procedures.** Revised 3/24
- 6.04.160 Animals to be impounded.** Revised 3/24
- 6.04.170 Stray animals.** Revised 3/24
- 6.04.180 Epidemics.** Revised 3/24
- 6.04.190 Bite reporting requirements.** Revised 3/24
- 6.04.200 Administrative citations.** Revised 3/24
- 6.04.210 Appeal of administrative citation.** Revised 3/24
- 6.04.220 Payment of administrative fines.** Revised 3/24
- 6.04.230 Amount of administrative fines.** Revised 3/24
- 6.04.240 Misdemeanor violations.** Revised 3/24
- 6.04.250 Violation of chapter a public nuisance; remedies cumulative.** Revised 3/24
- 6.04.260 Service of documents and notices.** Revised 3/24
- 6.04.270 Field return fee.** Revised 3/24
- 6.04.280 Redemption and spay/neuter fee.** Revised 3/24
- 6.04.290 Quarantine fee.** Revised 3/24
- 6.04.350 Schedule of fees and charges.** Revised 3/24
- 6.04.360 Keeping of other animals prohibited.** Revised 3/24
- 6.04.360A Keeping of domestic fowl and rabbits.** Revised 3/24
- 6.04.370 Keeping of other animals permitted.** Revised 3/24
- 6.04.380 Sanitary keeping of animals.** Revised 3/24
- 6.04.390 Permit required.** Revised 3/24
- 6.04.400 Permit—Application—Issuance.** Revised 3/24

**6.04.410 Permit—Fee.** Revised 3/24

**6.04.420 Permit—Revocation.** Revised 3/24

**6.04.430 Housing and keeping of pets—Regulations.** Revised 3/24

**6.04.440 Inspection.** Revised 3/24

**6.04.450 Kennels and shops—Sales records.** Revised 3/24

**6.04.460 Pet shops, aviaries, hatcheries.** Revised 3/24

**6.04.470 Pet shops—Notice of person to contact.** Revised 3/24

**6.04.480 Selling animals on streets.** Revised 3/24

**6.04.490 Aid to animals or persons in distress.** Revised 3/24

**6.04.500 Herding and grazing animals.** Revised 3/24

**6.04.510 Livestock—On inhabited lots.** Revised 3/24

**6.04.520 Tying animals to trees.** Revised 3/24

**6.04.530 Livestock—Herding and corral restrictions.** Revised 3/24

**6.04.540 Livestock—Enclosure at night.** Revised 3/24

**6.04.550 Authorized dog runs.** Revised 3/24

**6.04.560 Dogs in outdoor dining areas.** Revised 3/24

**6.04.010 Definitions.** Revised 3/24

The following words and phrases, when used in this chapter, shall have the meaning set forth below:

“Animal Control Officer” means any person designated as the Animal Control Program Manager for the County, as well as the head of the County’s animal control contractor and their duly authorized officers or deputies. In the event the County has no animal control contractor to provide animal control officers, or in cases of emergency in which additional animal control officers are needed, “animal control officer(s)” may include persons so designated by the Animal Control Program Manager.

“Animal Control Program” means that program established by the County and participating cities, and the Program’s animal control contractor(s), if any, which contractor is specifically charged with regulating and enforcing laws dealing with animal control within the participating jurisdictions. “Animal Control Program” includes the Licensing Program.

“Animal Control Program Manager” means that person employed by the County to oversee the Animal Control Program or designee.

“Animal control shelter” means a San Mateo County facility operated by the County, or by another public entity, an accredited, tax-exempt humane nonprofit organization contracted with the County, or a for-profit business contracted with the County for the purpose of impounding, sheltering, adopting, or euthanizing seized, stray, distressed, homeless, abandoned, or unwanted animals.

“Caretaker” means any person eighteen (18) years of age, or older, who has assumed responsibility for the care, custody, or control of an animal(s).

“Dangerous animal” means any animal, except a trained animal assisting a peace officer engaged in law enforcement duties, that constitutes a danger to persons or animals, and/or demonstrates any of the following behavior(s):

1. Behavior that results in bodily harm that is less serious than a “severe injury,” or constitutes a substantial threat of bodily harm to a person; or
2. An attack on another animal which results in an injury that is sufficient to require veterinary care even if not received.

An animal which has been declared by an out-of-county jurisdiction as “potentially dangerous,” “dangerous,” “vicious,” or any other similar designation, may be deemed a dangerous or vicious animal for the purposes of this chapter, as determined by an

Animal Control Officer.

"Health Officer" means that person so designated by the County of San Mateo.

"Humane Officer" means any person who is qualified and appointed pursuant to California Corporations Code Section 14502, and who is an employee of the County and designated as such by the County or an employee of a society for prevention of cruelty to animals or humane society that has contracted with the County to provide animal control services.

"Licensing Program" means that program within San Mateo County Health, including, but not limited to, any County contractor specifically charged with regulating and selling animal licenses in the County of San Mateo.

"Owner" means any person eighteen (18) years of age or older who:

1. Holds the license to the animal; or
2. If the animal is not licensed, is legally entitled to possession of the animal; or
3. Has exercised primary responsibility for the care of the animal for thirty (30) or more consecutive calendar days.

"Person" means any individual, partnership, corporation, organization, trade or professional association, firm, limited liability company, joint venture, association, trust, estate, or any other legal entity, and any officer, member, shareholder, director, employee, agent, or representative thereof.

"Service animal" means any animal defined as such by Federal or State law.

"Severe injury" means any physical injury to a human caused by an animal attack that involves tooth-derived muscle tears, disfiguring wounds or laceration(s), multiple bites requiring sutures, broken bones and/or requires corrective surgery.

"Vicious animal" means any animal, except a trained animal assisting a peace officer engaged in law enforcement duties, which meets any or all of the following criteria:

1. Any animal that, at the time of the attack, is already designated as a dangerous animal and/or is the subject of a dangerous animal permit, and which is found to have engaged in any of the following:
  - a. Behavior that results in bodily harm, or constitutes a substantial threat of bodily harm, to a person; or
  - b. An attack on another animal which results in an injury that is sufficient to require veterinary care, whether or not received.
2. Any animal that inflicts severe injury to or kills a person.
3. Any animal which cannot be safely maintained with a dangerous animal permit.
4. Any animal designated by another governmental jurisdiction as "dangerous," "vicious," or any other similar designation, if that prior designation is based on behavior which would meet the definition of "vicious" under this chapter, as determined by an Animal Control Officer. (Ord. 1609 § 2 (Exh. A), 2024)

#### **6.04.020 Animal Control Program. Revised 3/24**

A. The Animal Control Program is responsible for the enforcement of this chapter.

The duties of the Animal Control Program shall include, but not be limited to, the following:

1. Provide animal control, sheltering services, and a rabies control program to carry out and enforce all provisions of this chapter and California Health and Safety Code Section 121690, and keep such records as may be required by law or contract.
2. Enforce the provisions of this chapter and all applicable State and local laws relating to the care, treatment, and impounding of animals, and specifically to issue citations and to make arrests for violations of the provisions of this chapter and related State laws, to the extent authorized by law.
3. Impound animals found to be in violation of this chapter in the interest of protecting public health and safety.
4. Investigate animals pursuant to this chapter or applicable State law and, if deemed appropriate, designate any such animals as dangerous or vicious pursuant to this chapter. Impound animals which are in imminent or ongoing danger, or

which are in need of safekeeping in order to protect the health and safety of the animal.

5. Impound animals that are causing a threat to public safety.
  6. Where authorized under the law, to enter upon any premises upon which any animal is kept in order to seize or impound any animal if reasonable cause exists to believe that such animal is being kept or has behaved in violation of the provisions of this chapter.
  7. To remove and dispose of the carcass of any animal(s) found on any public right-of-way, except freeways or other areas maintained by Caltrans.
  8. Quarantine animals under the direction of the County Health Officer to ensure public health and safety.
  9. Euthanize and/or dispose of animal(s) humanely and in accordance with the law.
  10. Place for adoption, when appropriate, properly impounded animals if such animals are not redeemed after due notice to known owners in accordance with the law.
  11. Provide and hold vaccination clinics in strategic locations throughout the County pursuant to Health and Safety Code Section 121690.
  12. Provide, or make available at low cost, spay/neuter surgeries to dogs, cats, and rabbits.
  13. Provide for issuance of an animal license for a period not to exceed the term of the anti-rabies vaccination, as provided by State law.
  14. To collect any fees or charges provided for in this chapter for the licensing, impounding and/or keeping of any animal, or for the enforcement of this chapter.
- B. Animal Control Officers qualified under Penal Code Section 830.9, who are either employees of the County designated as such by the County, or employee(s) of and designated as such by a society for prevention of cruelty to animals or humane society which has contracted with the County to provide animal control services, shall have the authority to issue citations and/or notices to appear in court, and obtain and execute search warrants to the maximum extent allowed by law, for violations of State and local animal control laws. Animal Control Officers shall have the authority provided by State law including, but not limited to, that described by Penal Code Section 830.9. Animal Control Officers must complete Penal Code Section 832 training.
- C. Those employees of a society for prevention of cruelty to animals or humane society under contract with the County to provide animal control services, who have been appointed and qualify as Humane Officers under California Corporations Code Section 14502, or its successor statute, shall have the authority to issue citations and/or notices to appear in court, and obtain and execute search warrants, to the maximum extent allowed by law, for violations of State and local animal control laws.
- D. The County may contract for animal control services to be performed countywide, including within cities, provided agreement is made with the participating jurisdictions. (Ord. 1609 § 2 (Exh. A), 2024)

#### **6.04.030 Rabies vaccinations. Revised 3/24**

- A. Every dog or cat owner shall ensure their animal is vaccinated for rabies by a licensed veterinarian in the manner prescribed or approved by State law and the State of California Department of Public Health, after the dog or cat attains the age of three (3) months of age and/or within ten (10) calendar days of acquiring an unvaccinated animal. This vaccination shall be obtained prior to issuing a license for the dog or cat. In addition, proof of vaccination shall be provided by the owner or veterinarian to the Licensing Program or the County's animal control contractor.
- B. Every veterinarian who vaccinates or causes or directs to be vaccinated in the County any dog or cat with rabies vaccine shall certify that such animal has been vaccinated. Every veterinarian shall submit to the licensing authority a copy of the County-approved rabies vaccination form, within ten (10) calendar days of the beginning of each month, for any dog or cat which they vaccinate or direct to be vaccinated with anti-rabies during the previous month. An Animal Control Officer or animal licensing staff shall have the right to inspect records of rabies vaccinations during normal business hours.
- C. Upon receipt of a written request from a licensed veterinarian to exempt a microchipped pet from receiving a one (1) or three (3) year vaccination, for medical reasons, the County Health Officer and/or designee shall review the basis for the request for exemption and approve or/deny said request. (Ord. 1609 § 2 (Exh. A), 2024)

**6.04.040 Dog and cat licenses. Revised 3/24****A. Licensing requirements for dogs and cats shall be as follows:**

1. An annual license shall be obtained, and an annual license fee shall be paid by the owner for every dog or cat over the age of three (3) months owned or kept in unincorporated San Mateo County, and all cities within the County which adopt this chapter. Said annual license fee shall be first due when the animal reaches three (3) months of age or within sixty (60) calendar days after the dog or cat is acquired, and due on the expiration date of the rabies vaccination and each year thereafter.
2. New residents shall have sixty (60) calendar days in which to acquire such license.
3. Persons renewing their license shall have thirty (30) calendar days following their due date before being found delinquent and assessed a late penalty.
4. The fee for such license shall be as set forth in Section 6.04.350. The fee paid for the licensing of altered dogs and cats shall be less than said license fee for unaltered cats or dogs upon presentation of the proper certification. The license fee paid by persons over the age of sixty (60) shall be at a discount.
5. An owner may obtain a three (3) year license for a cat or dog by submitting to the Licensing Program adequate proof of a three (3) year rabies vaccination of the animal to be licensed and payment of the applicable fees, as set forth in Section 6.04.350.
6. Any person who fails to pay such license fee after said fee is due or said dog or cat is required to be licensed, in addition to paying any past due license fee(s), may also be required to pay a late fee in accordance with Section 6.04.350 or may receive an administrative citation.
7. A license shall be obtained, but no license fee shall be payable, by the owner of any dog being raised, trained or used as a service animal, or for dogs that have served as a member of the armed forces of the United States of America, or any dog used by a local law enforcement agency for the purposes of law enforcement.
8. Animals with microchip implants or other permanent identification acceptable to the Animal Control Program are not exempt from the mandatory licensing requirements.

**B. The licensing provisions in this chapter are not applicable to the following:**

1. Dogs or cats used for diagnostic purposes or research, the use having been approved by the California State Department of Health Services pursuant to Section 1666 of the Health and Safety Code.
2. Dogs or cats used for teaching purposes in recognized educational institutions.
3. Dogs or cats owned by veterinarians licensed by the State and kept on the premises used by said veterinarians in their practice.

**C. Tags for dogs and cats shall be issued as follows:**

1. The Licensing Program shall procure and, when licensing fee is paid, issue a lifetime tag which shall bear the number of the license. A record shall be kept with the name of the owner together with a description of the dog or cat for which the license is issued and the number of the license, and a tag shall be provided to such person upon payment for such license as provided by this chapter.
2. Whenever a tag has been lost or stolen, the owner of the animal may request a duplicate tag upon payment of the required fee.
3. The owner of a licensed dog or cat shall affix such tag to a suitable collar, which collar shall remain on the dog or cat at all times.
4. When an animal has been designated as a service animal, the owner may obtain a lifetime service tag and shall be required to follow the requirements in Section 6.04.030(A). Said tag will replace a regular dog license.
5. The owner or operator of any kennel, animal breeding facility, pet shop, or any place or establishment where animals are sold, adopted, or given away shall keep a permanent record of the name, address, and phone number of the purchaser of any dog or cat, along with the breed, color, sex, and age of each animal sold, adopted, or given away, and

shall forward such information to Animal Control Services within thirty (30) calendar days thereafter. An Animal Control Officer, County representative, or employee of the County's animal control contractor shall have the right to inspect such records during normal business hours, with forty-eight (48) hours' prior notice to the owner or operator. (Ord. 1609 § 2 (Exh. A), 2024)

#### **6.04.050 Public protection from dogs. Revised 3/24**

- A. No owner or possessor of a dog shall cause or allow such dog to bite or physically threaten or harass any person unless necessary to protect the physical safety of a person.
- B. Every owner or possessor of a dog shall prevent such dog from causing injury to another animal while such animal is lawfully upon public or private property. The failure of the owner of a victim animal to have the animal on a leash shall not, in itself, constitute a mitigating factor in any attack.
- C. No owner or possessor of a dog shall command or provoke such dog to attack, sic or threaten a person unless such action is necessary to protect the physical safety of a person.
- D. No owner or possessor of a dog that resides in another county and is found to have violated this section shall thereafter allow such dog to be brought into San Mateo County unless the dog is fully enclosed in a vehicle and passing through to another location without stopping at any public or private premises within the County. (Ord. 1609 § 2 (Exh. A), 2024)

#### **6.04.060 Prohibited conduct. Revised 3/24**

No owner or other person having care, custody or control of any animal shall cause or permit it to do any of following:

- A. To be upon any public street, sidewalk, park, school ground, any public property, or upon any unenclosed premises in this jurisdiction unless:
  - 1. The animal is properly licensed, if such licensing is necessary hereunder; and
  - 2. The animal is controlled by a chain, lead rope, or leash, which is connected to the animal's collar, saddle, harness, or halter. This requirement is not applicable to cats, or to service animals under the complete control of the owner or caretaker.
- An electric or invisible fence does not constitute an enclosure for the purposes of this requirement.
- B. To trespass upon any private property without the consent of the owner thereof, and to knowingly permit the animal to remain upon the property, or to habitually continue to trespass thereon.
- C. To suffer or permit such animal to habitually bark or meow or otherwise act to disturb the peace of any citizen or to be a public nuisance.
- D. To be without proper and adequate food, water, shelter, care, and attention.
- E. No person shall possess within San Mateo County any animal designated by another jurisdiction as "potentially dangerous," "dangerous," or "vicious," or other designation based on the animal's potential danger to humans and/or animals, without previously notifying Animal Control and receiving express written permission from the Animal Control Program Manager for the animal's presence or residence in San Mateo County. A failure to receive prior permission is in itself a sufficient basis for an Animal Control Officer or peace officer to seize and impound such animal. (Ord. 1609 § 2 (Exh. A), 2024)

#### **6.04.070 Protection of animals in motor vehicles. Revised 3/24**

- A. No person shall leave or confine an animal in any unattended motor vehicle under conditions that endanger the health or well-being of said animal due to heat, cold, lack of adequate ventilation, lack of water, or other circumstances that could reasonably be expected to cause suffering, disability, or death of said animal.
- B. An Animal Control Officer, Humane Officer or peace officer may remove an animal from a motor vehicle if the animal's safety reasonably appears to be in immediate danger from heat, cold, lack of adequate ventilation, lack of water, or other circumstances that could reasonably be expected to cause suffering, disability, or death to the animal. An Animal Control Officer, Humane Officer or peace officer is authorized to take all steps that are necessary for the removal of such animal from the motor vehicle, including, but not limited to, breaking into the motor vehicle, after a reasonable effort has been made to locate the owner or other person responsible.
- C. If an animal is removed from a motor vehicle as set forth herein, the removing officer shall, if deemed necessary by the officer, take it to an animal shelter, veterinary hospital, or other place of safekeeping.

D. An Animal Control Officer or peace officer who removes an animal from a motor vehicle shall, in a conspicuous location on or within the motor vehicle, leave written notice bearing their name and office, and the address of the location where the animal can be claimed. The animal may be released to the owner only after payment of all fees that have accrued for the maintenance, care, medical treatment, or impoundment of the animal.

E. Nothing in this section shall preclude prosecution under both this section and California Penal Code Section 597 or any other provision of State or local law. (Ord. 1609 § 2 (Exh. A), 2024)

**6.04.080 Release from confinement. Revised 3/24**

No person other than the owner, or person authorized by the owner of the animal, shall release any animal from any confinement, vehicle, or restraint unless such release is necessary for the immediate health and safety of the animal. This section shall not apply to Animal Control Officers, Humane Officers, and/or peace officers. (Ord. 1609 § 2 (Exh. A), 2024)

**6.04.090 Declaration of dangerous animal. Revised 3/24**

A. No person shall knowingly keep, have, maintain, sell, trade, or let for hire an animal designated as dangerous under this chapter without obtaining a dangerous animal permit from the Animal Control Officer. The animal owner shall comply with all conditions of the dangerous animal permit including, but not limited to, all requirements of Section 6.04.100. Any animal which is determined to be dangerous under this chapter and for which a permit has not been obtained shall be surrendered to an Animal Control Officer, peace officer, or a County animal control contractor agency for appropriate disposition, which may include humane euthanasia.

B. In determining whether or not an animal shall be designated as dangerous, the Animal Control Officer, peace officer, or hearing officer may consider any relevant facts and circumstances, including but not limited to:

1. The alleged attacking animal's prior history.
2. The alleged attacking animal's owner(s)' ability to comply with this chapter, and/or compliance with any prior dangerous animal permits held by the alleged attacking animal's owner(s).
3. Whether any of the animals involved were previously deemed by a governmental jurisdiction as "potentially dangerous," "dangerous," "vicious" or any other similar designation.

C. In determining whether or not an animal shall be designated as dangerous, the Animal Control Officer, peace officer, or hearing officer may consider the following mitigating factors:

1. Whether at the time of the injury, attack or molestation, the person or animal suffering the injury, attack or molestation:
  - a. Provoked, tormented, teased, abused or assaulted the animal, thereby causing or contributing to the alleged behavior;
  - b. Committed a willful trespass or other tort upon the private property of the owner or caretaker of the animal in the presence of the animal;
  - c. Threatened or committed an unjustified attack or assault against the owner, caretaker or other person in control of the animal in the presence of the animal.
2. Any other mitigating factor relevant to whether the animal poses a threat to public health or safety. The failure of the owner or person in control of a victim animal to have the victim animal on a leash shall not, in itself, constitute a mitigating factor in any attack.

D. The unwillingness of a victim or a particular witness to testify at a hearing shall not prevent designation of an animal as a dangerous animal, as long as sufficient evidence exists to support the designation.

E. In the event that an Animal Control Officer or peace officer determines it necessary to protect the health or safety of the public, or of any animal, they may immediately impound any animal according to the procedures set forth in this chapter.

F. If an Animal Control Officer or peace officer has investigated and determined that an animal is dangerous, the Animal Control Officer or peace officer shall deliver written notice of such determination to the owner of the animal pursuant to Section 6.04.260.

G. Should the owner of the animal wish to contest the dangerous animal designation, the owner may request a hearing, which hearing shall be conducted according to the procedures set forth in Section 6.04.150. The owner shall submit a written

request for a dangerous animal hearing to the Animal Control Officer within seven (7) calendar days of the written notification by the Animal Control Officer and/or peace officer that the animal has been declared dangerous.

1. Should the animal owner not submit a request for an administrative hearing within the required time frame, the administrative hearing process shall be deemed waived, the dangerous animal designation will be final, and the animal owner shall obtain a dangerous animal permit within seven (7) calendar days of the written notification that the animal has been declared dangerous.
  2. If the animal owner requested a hearing and the hearing officer confirms the determination that the animal is dangerous, the owner must obtain the dangerous animal permit and meet the conditions required by such permit within seven (7) calendar days of notice of such decision, unless the time is extended by an Animal Control Officer.
  3. If an animal is designated as Dangerous, but the owner fails to obtain a dangerous animal permit within the required time frame, the animal will be deemed abandoned, and will be subject to disposition as deemed appropriate, including potential euthanasia by the County's animal control contractor, at the discretion of the Animal Control Officer, peace officer or City or County representative. If not already impounded, the animal will be promptly impounded. The owner of the animal shall be responsible for all costs of impoundment of the animal incurred prior to such abandonment.
- H. If after investigation by an Animal Control Officer or peace officer, that officer determines that the animal is not dangerous, the victim or an owner of a victim animal may appeal that determination, within seven (7) calendar days of notice of the decision given pursuant to Section 6.04.260, by submitting to the Animal Control Officer or peace officer a written request for a hearing and paying the required fee. The Animal Control Officer or peace officer shall prepare a written report documenting its reasons for determining the animal not dangerous and shall include evidence it has considered for and against the designation in its report. The hearing shall be conducted according to the procedures set forth in Section 6.04.150 of this chapter.
- I. No animal designated by the County as a dangerous animal may be transferred to a new place of residence or to a new owner or caretaker without prior written approval of the Animal Control Program Manager. Prior to the relocation, a written request for the relocation must be delivered to the Animal Control Program Manager and the County's animal control contractor, if any, at least thirty (30) calendar days prior to the relocation.
- J. If an Animal Control Officer declares an animal as dangerous which has already been declared potentially dangerous or dangerous by another jurisdiction located outside of the County of San Mateo, the owner of such animal must obtain and comply with a dangerous animal permit at least seven (7) calendar days prior to moving the animal into the County. The animal shall not reside in the County of San Mateo until the dangerous animal permit has been issued by the Animal Control Program and the owner meets the conditions of said permit.
- K. A permit issued under this section is subject to renewal annually. An annual inspection of the location where the animal resides will be performed by an Animal Control Officer. Inspections may occur at any reasonable hour and will occur at least annually. The fee for such permit and inspection shall be as set forth in Section 6.04.350. Fees shall not be refundable. If the registered owner fails to pay the permit fee and/or comply with the requirements of the permit within ten (10) calendar days of the annual inspection date, the permit may be revoked and the animal may be impounded for appropriate disposition, as determined by an Animal Control Officer, peace officer, County-contracted agency or City designee, including humane euthanasia.
- L. A dangerous animal designation is a designation that remains with that animal for its lifetime, unless terminated as provided by this subsection. A dangerous animal designation may be terminated if all of the following criteria have been met, as determined by an Animal Control Officer or peace officer and the Animal Control Program Manager and/or City designee:

1. The owner has complied with all dangerous animal permit requirements for a period of three (3) years and the animal has not been found to have committed any violations of the requirements of the permit, or of this chapter, or any other applicable animal control laws, for the duration of that period.
2. The animal has remained current on all rabies or similar required vaccinations and has remained current on its licensing and paid all fees for the duration of the three (3) year period.

If an animal owner disputes a finding that the dangerous animal designation will not be terminated, the animal owner may request an administrative hearing to be held according to the procedures set forth in Section 6.04.150. (Ord. 1609 § 2 (Exh. A), 2024)

#### **6.04.100 Dangerous animal permit requirements. Revised 3/24**

A. Any owner of a dangerous animal shall ensure compliance with the following rules and regulations which shall be mandatory requirements for any dangerous animal permit:

1. When the animal is off the property of its owner, ensure that the animal is not kept upon any unenclosed premises unless said animal is leashed and muzzled with a cage or basket muzzle, or any other muzzle approved by the Animal Control Officer. The leash shall not exceed four (4) feet in length and have a minimum tensile strength of three hundred (300) pounds and shall be under the direct control and supervision of the owner or a person of such age, size, and strength as can easily control such animal. Extraordinary care shall be taken by the owner and/or caretaker to ensure that such restraint is sufficient to control the animal in a manner in which it will not endanger other persons or animals.
2. Ensure said animal is never kept on any unenclosed premises even if tethered, tied or staked.
3. Ensure said animal is kept in a fenced yard, kennel, dog run or other enclosure, sufficient to prevent the escape of the animal or entry of young children, as approved by the Animal Control Officer or peace officer. An electric or invisible fence is not an acceptable means of enclosure for the purpose of this requirement.
4. Maintain the animal so that it is not a threat to any mail carrier, sanitation worker, meter person, or other person who has the lawful right to enter the property.
5. Ensure that all structures used to confine the animals are locked with a key or combination lock when such animals are within the fenced yard, kennel, run or enclosure.
6. Regularly inspect the fenced yard, kennel, dog run or enclosure to ensure that it is secure to maintain the animal and keep young children out.
7. Allow inspections by any Animal Control Officer or peace officer at any reasonable hour of the premises or premises upon which the animal is maintained.
8. Pay permit and property inspection fees as set forth in Section 6.04.350 within ten (10) calendar days of the permit issuance or renewal.
9. Obtain and post approved sign(s) from the Animal Control Program after payment of a nonrefundable fee as set forth in Section 6.04.350. Sign(s) shall be conspicuously posted in a manner visible to the public at all entrances to the property where the animal is kept, warning persons of the presence of a dangerous animal as directed by the Animal Control Officer or peace officer. Such sign(s) must be surrendered in the event of the revocation of the permit, death of animal, or approved relocation of the animal.
10. Advise all members who reside in the same household and on the same premises of the conditions established by the permit for keeping or maintaining said dangerous animal.
11. Ensure said animal wears, at all times, a separate dangerous animal tag issued by the Animal Control Program in addition to complying with license requirements as defined in Section 6.04.040.
12. Ensure said animal be microchipped and inform the Animal Control Officer with the microchip number within thirty (30) calendar days from the date the dangerous animal permit was issued.
13. Within forty-five (45) calendar days from the date the dangerous animal permit was issued, unless this period is extended by the Animal Control Program Manager or City representative at their sole discretion, said animal shall be spayed or neutered by a California-licensed veterinarian, at owner expense, and, within those forty-five (45) days, the owner shall also present written proof to the Animal Control Officer that the surgery was performed. In the event an animal cannot be safely altered, due to a medical reason, the owner shall present the Animal Control Program Manager and Animal Control Officer with a written request from a California-licensed veterinarian stating the medical reason(s) that the animal should not be altered. The County Health Officer or designee will approve or deny the request. If said request is denied, the animal shall be altered by a California-licensed veterinarian within fifteen (15) calendar days from the date of notification that the request was not approved, and within those fifteen (15) calendar days provide such written proof to the Animal Control Officer that the surgery was performed.
14. Notify an Animal Control Officer and the Animal Control Program Manager of the animal's death within twenty-four (24) hours and produce the animal's body for verification upon request.

15. Notify an Animal Control Officer and the Animal Control Program Manager immediately in the event the animal becomes lost, stolen, or escapes from its fenced yard, kennel run, or enclosure.
  16. Pay all reoccurring or additional fees within ten (10) calendar days of service of the invoice or annual permit. Nonpayment of fee may result in the permit being revoked unless a payment plan has been approved by the County or City.
  17. Comply with all other permit conditions or requirements imposed by an Animal Control Officer, peace officer, or hearing officer pursuant to this chapter.
  18. Comply with all local and State laws regarding the care, use, control, and maintenance of animals.
- B. Any owner of a dangerous animal shall ensure compliance with the following additional requirements, if directed to do so by an Animal Control Officer, peace officer and/or hearing officer:
1. Prove financial responsibility by posting a bond or certificate of insurance for an amount of three hundred thousand dollars (\$300,000) per animal within thirty (30) calendar days from the date of the dangerous designation. Bond or certificate of insurance will be provided to the Animal Control Program Manager annually prior to expiration of said bond or certificate.
  2. Provide private behavioral and obedience training to the animal, at the owner's expense and within the time set forth by the hearing officer or an Animal Control Officer following the issuance of a dangerous animal permit. Proof of participation, a report of behavioral assessment, and/or a certificate of satisfactory completion from an animal behaviorist or organization approved by an Animal Control Officer shall be provided to the Animal Control Officer and Program Manager of Animal Control within seven (7) calendar days following the completion of the mandatory training, but not more than ninety (90) calendar days from the date of the dangerous designation.
  3. Comply with any other permit requirements determined to be reasonably necessary to protect the public's health or safety and/or the health or safety of other animals.

C. No more than two (2) dangerous animals may be kept by any person(s) at any one (1) household, residence, business, or other location, without prior written approval of the designee of the appropriate jurisdiction. (Ord. 1609 § 2 (Exh. A), 2024)

#### **6.04.110 Revocation or modification of dangerous animal permit. Revised 3/24**

- A. Any dangerous animal permit issued pursuant to this chapter may be revoked or modified by the inclusion of additional requirements or otherwise, if the Animal Control Officer or peace officer has reasonable cause to believe any of the following to be true:
1. The dangerous animal owner or any person to whom the owner has given care, custody, or control of the animal has violated any local or State laws relating to the keeping, care or use of any animals.
  2. The owner or any person to whom the owner has given care, custody, or control of the animal has violated any dangerous animal permit conditions, or any requirement imposed by the Animal Control Officer, peace officer, or hearing officer.
  3. The owner or any person to whom the owner has given care, custody, or control changed the location of his/her residence or his/her place of business or sells, assigns, transfers, donates, leases, or otherwise disposes of the animal for which the permit was issued without first notifying an Animal Control Officer as outlined in Section 6.04.090.
  4. The owner or any person to whom the owner has given care, custody or control of the animal has changed the residence or premises where the animal is maintained without first complying with the guidelines set forth in Section 6.04.090.
  5. The owner or any person to whom the owner has given care, custody, or control of the animal is unable or unwilling to comply with the conditions of the dangerous animal permit.

- B. In the event that it is reasonably necessary to protect the public or an animal's health and safety, the Animal Control Officer or peace officer may impound or cause to be impounded the animal while an investigation is taking place.
- C. If, after investigation, the Animal Control Officer or peace officer concludes that there is probable cause to believe that one (1) or more of the above conditions for revocation or modification of the permit has occurred, the officer shall deliver written notice of revocation or modification to the owner. Said notice shall specify the grounds of revocation or modification of the

permit. Should the owner of the animal wish to contest the revocation or modification of the permit, the owner may request an administrative hearing to be held before a hearing officer, as designated by the Animal Control Program Manager, within seven (7) calendar days of receiving the notice of revocation. Said administrative hearing date shall be not less than seven (7) calendar days or no more than (20) twenty calendar days after the date the request for hearing is received by the Animal Control Program Manager. The administrative hearing shall be conducted as set forth in Section 6.04.150. The hearing officer conducting the hearing may either modify the terms of the permit or revoke the permit.

Any party to the hearing has the right to appeal the administrative hearing decision to the County of San Mateo Superior Court by filing a petition for a writ of administrative mandate pursuant to California Code of Civil Procedure, Sections 1094.5 and 1094.6.

D. Upon written notice by the Animal Control Officer, peace officer, or hearing officer, if a hearing was held, if any modifications to a dangerous animal permit are made, the owner shall immediately comply with such modified permit requirements.

E. Upon written notice from an Animal Control Officer, peace officer or hearing officer of the revocation of a dangerous animal permit, the owner of such animal shall, within two (2) calendar days of such notification, surrender said animal to an Animal Control Officer. The dangerous animal shall be impounded and humanely euthanized unless the County designee or City designee has approved a different disposition. At the sole discretion of the appropriate City or County representative, such animal may be permanently removed from the County of San Mateo to another jurisdiction with written approval from that jurisdiction. (Ord. 1609 § 2 (Exh. A), 2024)

#### **6.04.120 Possession of animals after revocation of dangerous animal permit. Revised 3/24**

No person who has been determined to be in possession of or had ownership of a dangerous animal for which a permit has been revoked under this chapter shall be granted any dangerous animal permit for a period of three (3) years following such determination or revocation. (Ord. 1609 § 2 (Exh. A), 2024)

#### **6.04.130 Declaration of vicious animals. Revised 3/24**

A. No person shall keep, have, maintain, sell, trade, or let for hire an animal which has been designated as vicious under the provisions of this chapter.

B. If an Animal Control Officer and/or peace officer has investigated and determined that an animal is vicious, the Animal Control Officer or peace officer shall deliver written notice of such determination to the owner of the animal. Service of notice shall be made in accordance with Section 6.04.260(A). An Animal Control Officer and/or peace officer shall immediately impound, or cause to be impounded, the animal according to the procedures set forth in Section 6.04.160. The animal shall be deemed abandoned and shall be humanely euthanized unless the County designee or City designee has approved a different disposition or unless the owner timely requests an administrative hearing.

C. In determining whether an animal shall be designated vicious, in addition to any other facts and circumstances of the incident(s), the applicable decision-maker may consider the following potentially mitigating factors:

1. Whether at the time of the injury, attack or molestation, the person or animal suffering the injury, attack, or molestation:
  - a. Provoked, tormented, teased, abused, or assaulted the animal, thereby causing or contributing to the alleged behavior;
  - b. Committed a willful trespass or other tort upon the private property of the owner or caretaker of the animal; and/or
  - c. Threatened or committed an unjustified attack or assault against the owner, caretaker, or other person in control of the charged animal.

The failure of the owner or other person in control of a victim animal to have the animal on a leash shall not, in itself, constitute a mitigating factor in any attack.

2. Whether the owner is willing and able to comply with the conditions of a dangerous animal permit, and whether the animal can be safely maintained on a dangerous animal permit considering the nature of the attack and cooperativeness and abilities of the owner.

D. The decision-maker may also consider, among any other relevant facts and circumstances, the following factors:

1. Whether any of the animals involved were previously deemed by any governmental jurisdiction as "dangerous," "vicious," or any other similar designation, and/or the animal owner's prior compliance or lack thereof with any applicable dangerous animal permit requirements or this chapter;
  2. The attacking animal's history of attacks, bites or threatening behavior;
  3. Whether the animal demonstrated such aggressive behavior that it is reasonable to conclude that the animal cannot be safely maintained with a dangerous animal permit; and
  4. Whether the owner is unable or unwilling to comply with the conditions of a dangerous animal permit.
- E. Should the owner of the animal wish to contest the vicious animal designation, the owner may request an administrative hearing to be conducted according to the procedures set forth in Section 6.04.150. The owner shall submit a written request for a vicious animal hearing to the Animal Control Officer within seven (7) calendar days of the written notification by the Animal Control Officer and/or peace officer that the animal has been declared vicious.
- F. Should the owner not submit a request for an administrative hearing within the required time frame, the administrative hearing process shall be deemed waived, the vicious animal designation will be considered final for purposes of exhaustion of administrative remedies, and the animal will be subject to disposition by the Animal Control Officer, peace officer, or City or County designee. The owner shall lose all rights of ownership and control of the animal, and the animal will be subject to humane euthanasia, unless another disposition is deemed appropriate by a City and/or County designee, without further notice to the owner.
- G. The unwillingness of a victim or a particular witness to testify at a hearing shall not prevent designation of an animal as vicious as long as sufficient evidence exists to support the designation.
- H. If, after investigation, an Animal Control Officer and/or peace officer determines that the animal is not vicious, the officer will prepare a written decision upon request by any victim suffering physical injury or an owner of a victim animal, either of whom may appeal that determination. Any victim suffering physical injury as a result of the attack, or owner of a victim animal, may appeal the determination that an animal is not vicious by submitting, within seven (7) calendar days of the service of the decision pursuant to Section 6.04.260, a written request to the Animal Control Officer for an administrative hearing and paying the required fee as set forth in Section 6.04.350. The administrative hearing shall be conducted according to the procedures set forth in Section 6.04.150. (Ord. 1609 § 2 (Exh. A), 2024)

#### **6.04.140 Providing false information. Revised 3/24**

It shall be unlawful for a person to willfully and knowingly provide false or misleading information to Animal Control Program staff, including but not limited to an Animal Control Officer, peace officer, Animal Control Program Manager, and/or hearing officer, regarding animal ownership, licensing, rabies vaccination, medical treatment and condition, and/or any other matter pertaining to the enforcement of State or local law. (Ord. 1609 § 2 (Exh. A), 2024)

#### **6.04.150 Administrative hearing procedures. Revised 3/24**

- A. Administrative hearings held under this chapter shall be conducted by a hearing officer or designated representative appointed by the Director or designee of the San Mateo County Health Department. Any city contracting with the County for animal control services may elect to utilize the services of any San Mateo County designated hearing officer to conduct hearings on behalf of the City pursuant to that City's animal control ordinances. The hearings shall be scheduled no less than seven (7) calendar days and no more than fifteen (15) calendar days from the receipt of the request for the hearing unless the hearing officer finds good cause for continuance.
- B. The Animal Control Officer or peace officer conducting the investigation shall provide their investigation report and any evidence gathered by the officer to the Animal Control Program Manager or designee no less than seventy-two (72) hours prior to said administrative hearing. The Animal Control Program Manager or designee will promptly provide the report to the parties to the case, including the owner of the subject dog and the owner of the victim dog.
- C. The administrative hearing shall be conducted in an informal manner consistent with due process of law. Any party may be represented by counsel. The parties may present relevant evidence including witnesses. The strict rules of evidence shall not be applicable. Any relevant evidence, including but not limited to hearsay evidence, may be admitted if it is the sort of evidence on which reasonable persons are accustomed to rely on in the conduct of serious affairs. The hearing officer shall decide the matter based on preponderance of the evidence presented at the hearing. The administrative hearing shall be recorded, and all documentary evidence submitted at the administrative hearing shall be preserved by the Animal Control Program Manager for

a period of no less than two (2) years. Any party may arrange for a court reporter to be present. Any party desiring the presence of a court reporter shall make all necessary arrangements and shall be responsible for payment of all costs.

D. The hearing officer may exclude disorderly or disruptive persons from the hearing or make other orders as necessary to ensure the fair and orderly conduct of the administrative hearing.

E. The hearing officer may decide all issues for or against the owner(s) of the involved animal(s) even if the owner(s) fail to appear at the hearing.

F. Within seven (7) calendar days of the administrative hearing, the hearing officer shall render a written decision, which shall be final for the purposes of exhaustion of administrative remedies upon the date of mailing. The Animal Control Program Manager or designee shall mail the written decision and affidavit/certificate of mailing showing the date of mailing, on behalf of the hearing officer, by first class mail, postage prepaid. The decision will be mailed to the owner of the alleged dangerous or vicious animal, the victim or owner of the victim animal, and the investigating Animal Control Officer or peace officer.

G. If the animal is designated dangerous, the owner must apply for and obtain a dangerous animal permit as provided by this chapter within seven (7) calendar days of the decision letter in order to maintain the animal and the owner must comply with all mandatory dangerous animal permit rules and regulations as defined in Section 6.04.100. A hearing officer may impose additional permit requirements as set forth in this chapter.

H. If the animal is designated vicious, the owner of such animal shall lose all rights of ownership and control of the animal, and the animal will be subject to humane euthanasia, unless another disposition is deemed appropriate by a City and/or County designee, without further notice to the owner. An animal designated as vicious will be held at the animal shelter for a minimum of seven (7) calendar days from the date of the hearing officer's decision, prior to any proposed euthanasia.

I. Unless the hearing officer for good cause otherwise determines, the party requesting the administrative hearing is liable for all costs related to such hearing. A determination by the hearing officer that the animal is not dangerous or vicious shall constitute good cause.

J. Hearing officer decisions are appealable to the San Mateo County Superior Court by filing a petition for writ of administrative mandate pursuant to California Code of Civil Procedure, Sections 1094.5 and 1094.6.

K. The procedures and/or definitions pertaining to potentially dangerous and vicious dogs set forth in the California Food and Agricultural Code Chapter 9, beginning with Section 31601, are not adopted and do not apply within San Mateo County. As authorized by Food and Agricultural Code Section 31683, the County has adopted its own program for regulation of dangerous and vicious dogs as contained in this chapter. (Ord. 1609 § 2 (Exh. A), 2024)

#### **6.04.160 Animals to be impounded. Revised 3/24**

A. The Animal Control Program may impound any animal kept or found under conditions that constitute a violation of this chapter or other State or local law. The animal's owner shall be responsible for all costs incurred or fees applicable with respect to such impoundment and maintenance in the shelter.

B. An Animal Control Officer or peace officer may impound or cause to be impounded an animal when there is reasonable cause to believe that such animal posed, or poses, a threat to the public's health and safety, or the health and safety of another animal. The animal may remain impounded for a period not to exceed fifteen (15) calendar days in order to investigate, and to determine whether or not said animal is dangerous or vicious as defined by this chapter. In calculating the fifteen (15) calendar days, the first day of impoundment is not included. If an animal is not impounded within fifteen (15) calendar days after an investigation began, the Animal Control Officer or peace officer shall make a determination whether or not the animal is vicious or dangerous and shall notify the owner of said animal as soon as reasonably practical thereafter.

C. Within twenty-four (24) hours of the impoundment of any animal, the impounding Animal Control Officer shall serve the owner of the animal with notice of the impoundment.

D. No impounded animal may be redeemed unless and until any required license fee and/or other applicable charges and fees have been paid. In the event such animal is not redeemed within the time set forth by State law, it shall be deemed abandoned and may be adopted, transferred to a rescue, or disposed of in the manner determined by the Animal Control Program. The Animal Control Program shall issue to the owner or person responsible of the care, custody, and control of said animal a receipt showing an itemized description and the amount of the fee(s) paid.

E. The Animal Control Program shall keep a record of all animals impounded, which record shall include a description of the animal, the date of its receipt, the date and manner of disposal, the name of the person redeeming, adopting, or purchasing,

the fees and/or charges related to the animal. Said records shall be kept for a period of seven (7) years. (Ord. 1609 § 2 (Exh. A), 2024)

#### **6.04.170 Stray animals. Revised 3/24**

Any person who finds or picks up a stray or lost animal shall report the same to the animal control shelter within twenty-four (24) hours thereafter and shall release such animal to the animal control shelter upon demand. (Ord. 1609 § 2 (Exh. A), 2024)

#### **6.04.180 Epidemics. Revised 3/24**

The San Mateo County Health Officer may determine and declare that rabies or other contagious diseases are epidemic or that other health and safety hazards exist among dogs or other animals within the County. Upon the making of such a declaration, the Health Officer shall prepare and promulgate such orders, rules, and regulations as are necessary for appropriate control of all the animals concerned within the County. Said rules and regulations of the Health Officer may include, but are not limited to, impoundment, quarantine, vaccination, or destruction. It shall be the duty of the Animal Control Officers to assist the Health Officer in carrying out such rules and regulations. (Ord. 1609 § 2 (Exh. A), 2024)

#### **6.04.190 Bite reporting requirements. Revised 3/24**

A. Any owner or other person who is responsible for the care, custody, or control of an animal that bites a human or other animal shall provide their name and current residence address and telephone number and shall present their driver's license or other form of identification and any information regarding any rabies vaccination for the biting animal to the person bitten or the owner of the animal bitten. If the person bitten is a minor, the owner or person in control of the biting animal shall provide the required information to the parent or guardian of the minor.

B. In addition to the above requirements, it shall be the duty of any person having knowledge of any animal which has bitten a human being or other animal within the County to immediately, in no case later than the end of the next calendar day, report the bite to an Animal Control Officer or peace officer and to furnish as much information as possible, including date, time and location of bite, description of animal or person bitten, name and license number of the biting animal, and rabies vaccination history of the biting animal. (Ord. 1609 § 2 (Exh. A), 2024)

#### **6.04.200 Administrative citations. Revised 3/24**

A. Should an Animal Control Officer, Humane Officer or peace officer determine that a person has violated any provision of this chapter, that enforcement officer shall have authority to issue and serve notice of an administrative citation, as set forth in Section 6.04.260, to the person violating this chapter.

B. Each administrative citation shall contain the following information:

1. The name and address of the owner or other person to be cited.
2. The date(s) of the violation.
3. The address or a specific description of the location where the violation occurred.
4. The section, subsection, and/or provision of this chapter violated by the person cited and a description of that violation.
5. A prohibition of the continuation or repetition of the violation described in the administrative citation.
6. If applicable, a description of the potential consequence(s) should the violation continue or be repeated.
7. Either:
  - a. The amount of the administrative fine charged and to be paid by the person cited as a result of the violation; or
  - b. A notice to correct a certain violation within a reasonable time, and the amount of an administrative fine that may occur if the violation is not corrected or remedied by the date specified.
8. A description of the procedure to pay the fine, to include the time period for and place of payment, and the process by which the County may collect any unpaid amount owed.
9. A description of the administrative citation review process, including the time within which the administrative citation may be appealed and how to appeal the administrative citation, including any form to do so.
10. The name and signature of the citing Animal Control Officer, Humane Officer or peace officer or County designee.

- C. An administrative citation may be any format, including letter, which conveys the information set forth above. (Ord. 1609 § 2 (Exh. A), 2024)

**6.04.210 Appeal of administrative citation. Revised 3/24**

A. A recipient of an administrative citation may contest the citation including, but not limited to, on the basis that the underlying violation did not occur, or that the recipient is not the party responsible for the violation and thus was the improper recipient of the administrative citation. The recipient must contest the citation on the form provided by the Animal Program Manager or Animal Control Officer and file the appeal with the Animal Control Program Manager within twelve (12) calendar days from the date of service of the administrative citation. Any appeal not timely filed will be rejected.

B. The appeal shall contain the following, provided by the person appealing the citation:

1. The name, mailing address, and telephone number of the party requesting the appeal;
2. A copy of the administrative citation or a reference number thereto;
3. A statement of the grounds for the contest, including a description of the evidence to be presented in support of the contest and copies of any statements or documents to be submitted at the hearing in support of the appeal;
4. The signature of the appealing party;
5. A deposit of the fine assessed as set forth in the citation(s), to be refunded if the appeal is successful.

C. Should an appeal be properly and timely requested, the requesting party shall be provided a hearing before a hearing officer to be held pursuant to the procedures set forth in Section 6.04.150 as applicable. The Animal Control Program shall notify the person requesting the appeal hearing of the time and place set for the hearing pursuant to Section 6.04.260. (Ord. 1609 § 2 (Exh. A), 2024)

**6.04.220 Payment of administrative fines. Revised 3/24**

A. In the absence of an appeal by the recipient of the administrative citation, the person cited shall pay the administrative fine in full within thirty (30) calendar days from the date of service of the notice of citation. In the event of an appeal, after which the violation is upheld, if not already paid, the fine shall be paid in full within ten (10) calendar days after the date that the decision of the hearing officer was served on the recipient.

B. Payment of any fine shall not excuse the failure to correct the violation, nor shall it bar further enforcement of the same or any similar violation or any other violation by any applicable means.

C. Failure to pay any fines assessed within the guidelines set forth in this chapter will result in a late charge pursuant to Section 6.04.230, which will be collected by the Animal Control Program Manager. (Ord. 1609 § 2 (Exh. A), 2024)

**6.04.230 Amount of administrative fines. Revised 3/24**

A. Any person issued an administrative citation for a violation of, and pursuant to, this chapter shall be assessed and pay a fine as follows:

1. One hundred dollars (\$100.00) for a first citation.
2. Two hundred dollars (\$200.00) for a second citation for the same violation within a one (1) year period.
3. Five hundred dollars (\$500.00) for each additional citation for the same violation within a one (1) year period. (Ord. 1609 § 2 (Exh. A), 2024)

**6.04.240 Misdemeanor violations. Revised 3/24**

A. A person violating any provision of this chapter shall be guilty of an infraction except as otherwise specifically provided.

B. A person violating any provision of Section 6.04.050, 6.04.090(A) or 6.04.130(A) shall be guilty of a misdemeanor.

C. This section shall not limit any other available criminal, civil or administrative remedies. Any or all applicable remedies shall remain available for violation of the provisions of this chapter. (Ord. 1609 § 2 (Exh. A), 2024)

**6.04.250 Violation of chapter a public nuisance; remedies cumulative. Revised 3/24**

A. Violation of this chapter is a public nuisance subject to any and all applicable civil, administrative, and criminal remedies, according to the provisions and procedures set forth in this chapter and other applicable State and local law.

B. This section is not intended to limit any other available criminal, civil or administrative remedies. Any or all applicable administrative, civil and/or criminal remedies shall be available for violation of the provisions of this chapter.

C. Each day a violation continues shall constitute a separate violation. (Ord. 1609 § 2 (Exh. A), 2024)

#### **6.04.260 Service of documents and notices. Revised 3/24**

A. Unless otherwise specified herein, the appropriate representative of the Animal Control Program shall provide any required notice or service of documents in one (1) of the following manners: (1) by personal delivery to the person to be notified or served; or (2) by posting on the property at the address where the subject animal is licensed or the owner of such animal resides; or (3) by depositing in the United States mail, in a sealed envelope, first class postage prepaid, and addressed to such person to be notified or served at their last known business or residence address or as the same appears in the last equalized County assessment roll. Service by mail shall be deemed complete at the time of deposit in the United States mail receptacle and shall include a declaration or affidavit of service which shall include notice of the date mailed. If agreed in writing by the person to be served, notices or documents may be served electronically at the address provided by the person to be served, to be effective upon being sent.

B. Failure to receive any notice specified herein does not affect the validity of proceedings conducted hereunder. (Ord. 1609 § 2 (Exh. A), 2024)

#### **6.04.270 Field return fee. Revised 3/24**

A fee shall be charged for any animal impounded by a representative of the Animal Control Program and returned by an Animal Control Officer in the field to the owner or person who is responsible for the care, custody, or control of the animal. The fee charged shall be paid by the owner or person who is responsible for the care, custody, or control of said animal. Such fee shall be set forth in Section 6.04.350. (Ord. 1609 § 2 (Exh. A), 2024)

#### **6.04.280 Redemption and spay/neuter fee. Revised 3/24**

A. Upon redemption of any impounded unaltered animal, the person responsible for the care, custody or control of any animal will be required to pay a spay or neuter fee in the amount of one hundred dollars (\$100.00) in addition to the impound fees imposed under Section 6.04.350. Such fee shall be refundable upon proof of spay and neuter of the animal within thirty (30) calendar days following the date of redemption.

B. Any unaltered animal impounded twice or more within a three (3) year period shall be altered at a cost to be paid by the owner/caretaker or person responsible for the care, custody, or control of said animal prior to redemption. At the option of the owner/caretaker or person responsible for the care, custody or control of said animal, required spaying or neutering may be performed by a private veterinarian within thirty (30) calendar days

C. Any owner or caretaker of an impounded animal subject to mandatory spay/neuter under subsection B of this section may appeal this requirement by submitting a written request for an administrative hearing to the Animal Control Program Manager. The administrative hearing will be conducted according to the provisions of Section 6.04.150.

D. The Animal Control Program Manager may waive any County or City fee for County or City spay/neuter, vaccination or impoundment of an animal, if the animal is a feral or stray cat and the person bringing the animal to the shelter agrees that the person shall have no rights in the animal or any right to direct or control treatment or disposition of the animal by the Animal Control Program which will retain sole discretion in determining the disposition of the animal, which may include but not be limited to treatment and/or adoption, or euthanasia. (Ord. 1609 § 2 (Exh. A), 2024)

#### **6.04.290 Quarantine fee. Revised 3/24**

A quarantine fee, as set forth in Section 6.04.350, shall be paid by the owner or caretaker of any animal involved, or potentially involved, in a bite. Such quarantine fee is in addition to any other fees charged set forth in Section 6.04.350 to recover costs incurred by the Animal Control Program for the sheltering and caring of the quarantined animal. (Ord. 1609 § 2 (Exh. A), 2024)

#### **6.04.350 Schedule of fees and charges. Revised 3/24**

This section sets forth the fees for the Animal Control Program and Licensing Program. No animal shall be released to its owner, or other person responsible for the care, custody, or control of the animal, unless applicable fees have been paid.

Animal control and licensing fees and charges established by this code are as follows:

A. License Fees.

Dogs	
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Unaltered dog	
1-year license	\$55.00
3-year license	\$160.00
Unaltered dog senior pet owner (over 60 years)	
1-year license	\$23.00
3-year license	\$64.00
Altered dog	
1-year license	\$25.00
3-year license	\$70.00
Altered dog senior pet owner (over 60 years)	
1-year license	\$10.00
3-year license	\$25.00
Miscellaneous dog fees	
Late fee	\$20.00
Duplicate tag	\$10.00
<b>Cats</b>	
Unaltered cat	
1-year license	\$20.00
3-year license	\$55.00
Unaltered cat senior pet owner (over 60 years)	
1-year license	\$12.00
3-year license	\$31.00
Altered cat	
1-year license	\$8.00
3-year license	\$19.00
Altered cat senior pet owner (over 60 years)	
1-year license	\$5.00
3-year license	\$12.00
Miscellaneous cat fees	
Late fee	\$7.00
Duplicate tag	\$5.00

B. Redemption Charges.

<b>Types A and B (large or medium size animals—horses, cows, hogs, sheep, etc.)</b>	
Impound cost	\$100.00
Board cost per day	\$30.00
Trailering cost (per use)	\$100.00
<b>Type C (dogs and cats)</b>	
<b>Impound Costs—First Impound</b>	
Altered—licensed, wearing tag	\$40.00

Unaltered—licensed, wearing tag	\$65.00
Altered—unlicensed, no tag	\$55.00
Unaltered—unlicensed, no tag	\$85.00
<b>Impound Costs—Second Impound</b>	
Altered—licensed, wearing tag	\$90.00
Unaltered—licensed, wearing tag	\$125.00
Altered—unlicensed, no tag	\$105.00
Unaltered—unlicensed, no tag	\$140.00
<b>Impound Costs—Third Impound</b>	
Altered—licensed, wearing tag	\$135.00
Unaltered—licensed, wearing tag	\$155.00
Altered—unlicensed, no tag	\$155.00
Unaltered—unlicensed, no tag	\$180.00
<b>Impound Costs—Fourth Impound</b>	
Altered—licensed, wearing tag	\$180.00
Unaltered—licensed, wearing tag	\$215.00
Altered—unlicensed, no tag	\$200.00
Unaltered—unlicensed, no tag	\$240.00
<b>Impound Costs—Fifth Impound and Up</b>	
Altered—licensed, wearing tag	\$225.00
Unaltered—licensed, wearing tag	\$260.00
Altered—unlicensed, no tag	\$245.00
Unaltered—unlicensed, no tag	\$285.00
Board charges (per day)	
Altered—dogs	\$25.00
Unaltered—dogs	\$35.00
Altered—cats	\$16.00
Unaltered—cats	\$22.00
<b>Type D (small size animals, e.g., birds, hamsters, or other)</b>	
Impound cost	\$20.00
Board cost	\$10.00
Unaltered—licensed, wearing tag	\$260.00
Altered—unlicensed, no tag	\$245.00
Unaltered—unlicensed, no tag	\$285.00
<b>Board charges (per day)</b>	
Altered—dogs	\$25.00
Unaltered—dogs	\$35.00
Altered—cats	\$16.00
Unaltered—cats	\$22.00

<b>Type D (small size animals, e.g., birds, hamsters, or other)</b>	
Impound cost	\$20.00
Board cost	\$10.00

C. Surrender, Euthanasia and DOA (Dead on Arrival) Disposal Fees.

<b>Dog—Licensed or unlicensed</b>	
Surrender	\$60.00
Euthanasia	\$50.00
DOA disposal	\$30.00
<b>Cat—Licensed or unlicensed</b>	
Surrender	\$60.00
Euthanasia	\$50.00
DOA disposal	\$30.00
<b>Rabbit/Small Animal</b>	
Surrender	\$40.00
Euthanasia	\$30.00
DOA disposal	\$15.00
<b>Litter of Three or More</b>	
Surrender	\$50.00
Euthanasia	\$40.00
DOA disposal	\$20.00
<b>Bird/Fowl</b>	
Surrender	\$20.00
Euthanasia	\$15.00
DOA disposal	\$20.00
<b>All Other Companion Animals (reptiles, amphibians, etc.)</b>	
Surrender	\$25.00
Euthanasia	\$25.00
DOA disposal	\$20.00
<b>Farm Animals</b>	
Surrender	\$60.00
Euthanasia: under 100 pounds	\$60.00
over 100 pounds	\$125.00
DOA disposal: under 100 pounds	\$30.00
over 100 pounds	\$100.00

D. Other Animal Control Fees.

Quarantine Fee	\$60.00
Dangerous animal permit (DAP) fee	\$300.00
DAP inspection fee	\$100.00
DAP signage	\$15.00

Field retrieval/return fee	\$40.00
Breeding permit fee	\$150.00
Fancier permit and/or exotic pet fee	\$100.00
Return check fee	\$25.00
Service dog application processing fee	\$50.00

E. Miscellaneous Fee Provisions.

1. The Animal Control Program, and/or Licensing Program, may establish license discounts for recognized animal rescue organizations.
2. License fees include a one dollar (\$1.00) annual surcharge on all licenses for the animal population trust fund.
3. At the discretion of the Animal Control Program Manager, a payment plan for all fees outstanding may be permitted upon a showing of good cause. If a person is in compliance with an agreed-upon payment plan, their outstanding balance shall never be considered "nonpayment" as that term is used in this chapter.
4. The animal control fees for any animal-related service not specified in this section shall be reviewed by the Chief of Health or their designee for reimbursement of costs. The Chief of Health or their designee shall have the authority to determine the fee charged for said services. The fee charged shall be paid by the owner or caretaker of the animal(s) for which said service(s) have been provided.
5. Each calendar year, the Animal Control Program Manager shall designate one (1) month as an amnesty period for payment of cat and dog license late fees and for compliance with Section 6.04.020, as provided herein. During the amnesty period, applicants for cat and dog licenses shall not be assessed any late penalty fee or any other penalty for failure to obtain such license or pay any applicable license fee, notwithstanding Sections 6.04.040 and 6.04.350.
6. All revenue derived from the fees, fines, forfeitures, and penalties related to the enforcement of this chapter shall be used to offset the cost of enforcement and administration of this chapter.
7. If the Animal Control Program Manager determines that payment of any fees by the owner or caretaker for an impounded animal would cause extreme financial difficulty to the owner or caretaker, and that it is in the best interests of the County to allow release of the animal upon these terms, the Animal Control Program Manager may, at their discretion, set up a payment plan or waive all or part of the fees incurred for the animal. (Ord. 1609 § 2 (Exh. A), 2024)

**6.04.360 Keeping of other animals prohibited. Revised 3/24**

It is unlawful to keep any of the following: any fowl, reptile, or animal which normally lives in a wild habitat and is a curiosity to the local community, whether wild or domesticated at the time of its keeping. (Ord. 1609 § 2 (Exh. A), 2024)

**6.04.360A Keeping of domestic fowl and rabbits. Revised 3/24**

It is unlawful to keep or maintain or cause to be kept or maintained within the City any live domestic fowl (defined as chickens, ducks, geese, turkeys, pigeons, doves, or squabs), or any rabbits, except under the following conditions, namely:

- A. Cannot Run at Large. Such domestic fowl or rabbits shall under no circumstances be permitted to run or be at large, upon any premises other than those of the person in the immediate possession or control of such domestic fowl or rabbits.
- B. Location of Enclosures. Such domestic fowl or rabbits must at all times be kept within the confines of a cage or coop on a property. The enclosure shall not be within thirty-five (35) feet of any adjacent dwelling or within thirty-five (35) feet of any street lines.
- C. Enclosure to Be Kept Clean. All yards, cages, coops, cotes, warrens, or similar structures or enclosures for such domestic fowl or rabbits shall be cleaned once a week and otherwise kept in a sanitary condition and free from offensive odors.
- D. Roosters. No rooster shall be kept, enclosed, maintained, or allowed within the City.
- E. Limitation Upon Number of Domestic Fowl or Rabbits. It is unlawful for any person in any event to keep or maintain more than a total number of four (4) poultry or rabbits upon any single lot, parcel, or piece of land within the City.

F. It shall be unlawful and a public nuisance to keep within the City any domestic fowl which by any sound or cry shall disturb the peace and quiet of any neighborhood so as to interfere with the reasonable and comfortable enjoyment of life and property. (Ord. 1609 § 2 (Exh. A), 2024)

#### **6.04.370 Keeping of other animals permitted. Revised 3/24**

The following animals may be kept:

- A. Not more than two (2) dogs and two (2) cats of more than four (4) months of age are subject to the licensing requirements of this chapter unless a permit is obtained under Section 6.04.390.
- B. The offspring of dogs and cats of the household up to the age of six (6) months.
- C. Other household pets which are not kept outside.

Duly licensed veterinarians and dog kennel operators are exempt from this requirement. (Ord. 1609 § 2 (Exh. A), 2024)

#### **6.04.380 Sanitary keeping of animals. Revised 3/24**

- A. It is unlawful for any person in the City to keep any animal in any animal quarters, kennel, animal hospital, house, apartment, or yard which is not at all times kept reasonably clean and sanitary to the satisfaction of the County Health Officer.
- B. It is unlawful and shall constitute a public nuisance for any person to keep within the limits of the City any animal which unreasonably disturbs the peace and comfort of the inhabitants of the neighborhood in which such animal is kept, or interferes with any person in the reasonable and comfortable enjoyment of life or property, creates a condition likely to lead to infestation of rodents, insects or other vectors for disease, or creates a significant risk of injury to life or property. The person who in any instance under the authorization of this chapter is engaged in enforcing the provisions of this chapter shall utilize the citation method of enforcement provided in this chapter if that procedure is reasonably and practicably available to abate the nuisance in preference to the summary abatement procedure of enforcement provided in this chapter. (Ord. 1609 § 2 (Exh. A), 2024)

#### **6.04.390 Permit required. Revised 3/24**

It is unlawful for any person to keep, maintain or cause to be kept or maintained any household pets, bees, or other animals not otherwise permitted herein without having first obtained a permit as provided herein. (Ord. 1609 § 2 (Exh. A), 2024)

#### **6.04.400 Permit—Application—Issuance. Revised 3/24**

- A. Each application for a permit required under Section 6.04.390 shall be accompanied by an accurate plot plan showing the location of the proposed facilities, building drawings showing the type of any kind of enclosure proposed, and the location of surrounding buildings. Each application shall state the number, species, and the kind of household pets, other animals or bees to be contained and such other and further information as the Department shall require.
- B. The Animal Control Officer, Building Official, Police Chief or his/her/their designee shall inspect the premises upon which the household pet, animal or bees are to be located and determine that the premises meet the conditions of this title, and that the issuance of a permit hereunder will not be detrimental to the public health, safety, and welfare.
- C. If, in the opinion of the Animal Control Officer, Building Official, Police Chief or his/her/their designee, it appears that the applicant will be in full conformance with this chapter and any other applicable ordinances upon payment of the required fee, a permit expiring on June 30th next succeeding the date of application shall be issued. (Ord. 1609 § 2 (Exh. A), 2024)

#### **6.04.410 Permit—Fee. Revised 3/24**

The permit fee shall be established and adopted by resolution of the City Council. (Ord. 1609 § 2 (Exh. A), 2024)

#### **6.04.420 Permit—Revocation. Revised 3/24**

Any permit granted under this chapter may be revoked or suspended in the following manner: A notice of intention to revoke shall be mailed to the permittee specifying wherein he has failed to comply with this chapter or any other law, or with any terms or conditions specified in the permit, and requiring him to appear before the City Manager at a date and hour specified not less than five (5) days after the mailing of such notice to the permittee, and show cause why the permit should not be revoked or suspended. At such time and place, the permittee shall have the right to appear in person or by counsel and introduce such evidence as he may desire. A permittee dissatisfied with the decision may appeal to the City Council, which shall hold a public hearing on the matter. The City Council may continue the hearing from time to time. The decision of the City Council shall be final. (Ord. 1609 § 2 (Exh. A), 2024)

#### **6.04.430 Housing and keeping of pets—Regulations. Revised 3/24**

- A. Any outside structure for the housing of household pets shall not exceed eight (8) feet in height.

B. The housing shall be located so that its nearest point is twenty (20) feet or more distant from any dwelling, excluding that of the permittee, except as the permit may otherwise provide, for good cause shown.

C. The housing shall not be located within ten (10) feet of any property line, except as the permit may otherwise provide for good cause shown.

D. The housing shall be constructed of material and in a manner satisfactory to the Health Officer so that the housing is free from infestation of rats and other harmful and/or disease-carrying rodents and insects.

E. All such housing shall be sprayed with a standard disinfectant approved by the Health Officer or the Animal Control Officer at least three (3) times a year; once in March, July, and October, and such other times as they may require.

F. All housing shall be kept in a clean and sanitary condition and all droppings or other debris shall be removed at least twice a week, or more frequently, if found necessary.

G. Feed bins and trays shall be provided in a manner not to attract insects, rodents, or wild animals.

H. For bees and beehives, regulations adopted by resolution of the City Council shall apply to the keeping of bees and beehives on private property in the City. (Ord. 1609 § 2 (Exh. A), 2024)

#### **6.04.440 Inspection. Revised 3/24**

The Animal Control Officer, Building Official, or his/her/their designee shall inspect the premises of each "dangerous" animal permittee, at least once each year and at such additional times as they deem necessary. The refusal of a permittee hereunder to permit the Animal Control Officer a reasonable right of inspection of the permittee's premises and the structure for the housing of such household pet shall be just cause for the revocation of the permit. (Ord. 1609 § 2 (Exh. A), 2024)

#### **6.04.450 Kennels and shops—Sales records. Revised 3/24**

The owner or operator of any kennel, animal breeding facility, pet shop, or any place or establishment where animals are sold shall keep a permanent record of the name, address, and phone number of the purchaser of any dog, along with the breed, color, sex, and age of each dog sold or given away, and shall forward such information to the Animal Control Program within thirty (30) days thereafter. An Animal Control Officer shall have the right to inspect such records during normal business hours. (Ord. 1609 § 2 (Exh. A), 2024)

#### **6.04.460 Pet shops, aviaries, hatcheries. Revised 3/24**

This chapter shall not be construed to prohibit the display or sale of animals, birds, fish, or reptiles legally for sale in licensed pet shops, kennels, aviaries, or fish hatcheries. (Ord. 1609 § 2 (Exh. A), 2024)

#### **6.04.470 Pet shops—Notice of person to contact. Revised 3/24**

Every person maintaining a pet shop shall cause a notice, framed and enclosed under glass, containing the names, addresses, and telephone numbers of persons to be notified during any hour of the day or night who will proceed immediately to the location so as to permit entry to the premises by representatives of the Poundmaster, to be posted on the premises near the entrance, such notice to be in such a position as to be legible from the sidewalk or ground level adjacent to the building. (Ord. 1609 § 2 (Exh. A), 2024)

#### **6.04.480 Selling animals on streets. Revised 3/24**

It is unlawful for any person to display, sell, offer for sale, barter, or give away, upon any street or sidewalk of the City, as pets or novelties:

A. Any fish, turtle, snake, lizard, chameleon, or other reptile;

B. Any bird, cat, dog, fowl, guinea pig, rodent, or other animal. (Ord. 1609 § 2 (Exh. A), 2024)

#### **6.04.490 Aid to animals or persons in distress. Revised 3/24**

Police officers may go to the aid of all persons or animals in distress or danger and render them such help and assistance that lie within their power. Police officers of the City are empowered to enforce all provisions of this chapter in the absence of or in assistance to the Animal Control Officer. (Ord. 1609 § 2 (Exh. A), 2024)

#### **6.04.500 Herding and grazing animals. Revised 3/24**

No person shall stake out, herd, or graze any animal, except cats or licensed dogs, upon any unenclosed lot or land in any manner so that the animal may be or go beyond the boundary line of such lot or land without a permit from the Police Department to do so, which permit shall be revocable at any time it shall be made to appear to the Police Department that the keeping thereof is or may become detrimental to the public health, safety, or general welfare. An appeal may be made to the

Police Chief of the granting or denial of any permit. The decision of the Police Chief upon an appeal shall be final and conclusive. (Ord. 1609 § 2 (Exh. A), 2024)

**6.04.510 Livestock—On inhabited lots. Revised 3/24**

No person shall stake or tie or leave staked or tied, within one hundred (100) feet of an inhabited residence, any horse, cattle, sheep, or goat in an open lot without the written consent of the occupant of such residence. (Ord. 1609 § 2 (Exh. A), 2024)

**6.04.520 Tying animals to trees. Revised 3/24**

No person shall tie any animal to any shrub or tree growing upon or along any sidewalks or streets of the City. (Ord. 1609 § 2 (Exh. A), 2024)

**6.04.530 Livestock—Herding and corral restrictions. Revised 3/24**

No sheep, cattle, horses, or other stock shall be herded or corralled within the City within five hundred (500) feet of any residence without a permit from the Police Department to do so, which permit shall be revocable at any time it shall be made to appear to the Police Department that the keeping thereof is or may become detrimental to the public health, safety, or general welfare. An appeal may be made to the Police Chief of the granting or denial of any permit. The decision of the Police Chief upon an appeal shall be final and conclusive. (Ord. 1609 § 2 (Exh. A), 2024)

**6.04.540 Livestock—Enclosure at night. Revised 3/24**

All horses, cattle, sheep, and goats within the City, when not in use, shall be kept inside of enclosures at night. (Ord. 1609 § 2 (Exh. A), 2024)

**6.04.550 Authorized dog runs. Revised 3/24**

The City Council may, by resolution, authorize identified public facilities as dog runs within the City. Upon the designation of an authorized dog run, the following shall apply:

A. The use of the identified public facility as a dog run is for the recreation and/or exercise of dogs only, which may or may not be restrained by a leash, rope, or other physical restraint while the dog is within the designated dog run.

B. During the transportation of a dog or dogs to and from designated dog runs, the dog or dogs must be restrained by leash, rope, or other physical restraint which shall be continuously held by a competent person.

C. All dogs within a designated dog run must be licensed and vaccinated pursuant to this title.

D. Unrestrained dogs within a designated dog run must be under the supervision and control of a competent person. Dogs may not be left unattended within any designated dog run.

E. The days and hours of operation of the public facility as a dog run, and other such limiting conditions, shall be established by resolution of the City Council and posted upon a conspicuous place within the designated dog run.

F. In permitting a designated area to be operated as a dog run within the public facility, neither the City nor the facility owner, nor any employee, officer or agent of the City, nor the facility owner assumes responsibility or liability for any personal injury, injury to other animals, or property damage occasioned by a leashed or unleashed dog within the designated dog run area. The dog owner and/or custodian of the dog assumes actual liability for any such injury so occasioned.

G. It is the responsibility of each dog owner or controller to remove, contain, and properly dispose of his or her animal's excreta, trash, and litter prior to leaving the designated area.

H. The City Council finds and declares that the creation of a dog run area may potentially cause disruption to the users of the facility by the occasional animal owner who is unwilling or unable to keep their dog from disrupting other facility users. The City Council further finds that appropriate officials need the ability to preserve the health, safety, and welfare of the community in general and of the dog run facility users in particular by empowering such officials to remove those animal owners who are unable or unwilling to control their animals.

1. When any Animal Control Officer, police officer, or other employee designated by either the City Manager or Chief of Police declares that an animal within a designated dog run is either unsupervised, or such animal owner either is unable or unwilling to control their animal, the officer or employee may direct the animal owner to leash their animal and leave the designated dog run.

2. No person shall remain in a designated dog run after having been directed to leave beyond an amount of time reasonably necessary to depart from the area. (Ord. 1609 § 2 (Exh. A), 2024)

**6.04.560 Dogs in outdoor dining areas. Revised 3/24**

A. A retail food facility may permit pet dogs in outdoor dining or patio areas if it meets the following conditions:

1. A separate outdoor entrance is present where pet dogs enter without going through the food establishment to reach the outdoor dining area.
2. No food preparation or storage shall be allowed in the pet area, including the dispensing or mixing of drinks and ice. Water may be poured from a vessel brought from inside the establishment.
3. Reusable dishes and utensils shall not be stored, displayed, or pre-set in the outdoor dining area.
4. Dogs may only eat or drink from single-use disposable containers provided by the establishment. No dishes brought by customers are allowed.
5. Food employees are prohibited from having direct contact with pet dogs while on duty. A food employee who does have prohibited direct contact shall wash their hands as required by California Health and Safety Code Section 113953.3.
6. The outdoor dining area is maintained clean. Surfaces that have been contaminated by dog excrement or other bodily fluids shall be cleaned and sanitized.
7. The pet dog is on a leash or confined in a pet carrier and is under the control of the pet dog owner. Dogs are not allowed on chairs, benches, seats, or other fixtures.
8. The food facility owner ensures compliance with local ordinances related to sidewalks, public nuisance, and sanitation issues, as well as all previously applicable health code requirements.

B. Under no circumstances shall dogs that have been designated as dangerous be allowed in any outdoor dining areas. (Ord. 1609 § 2 (Exh. A), 2024)

**Title 7  
(RESERVED)****Title 8  
HEALTH AND SAFETY Revised 10/23****Chapters:****8.02 Sales of Flavored Tobacco Products and Pharmacy Sales of Tobacco Products Prohibited****8.03 Regulation of Smoking in and around Multi-Unit Residences****8.04 Solid Waste****8.05 Recycling and Diversion of Construction and Demolition Debris****8.06 Smoking Control****8.07 Tobacco Retailer Permit Revised 10/23****8.08 Abandoned Vehicles****8.09 Regulation of Commercial Cannabis Activities—Permit Required****8.10 Minimum Wage****8.16 Private Burglar and Fire Alarm Systems****8.18 Residential Storage of Firearms****8.20 Explosives****8.24 Recycling and Collection of Other Wastes****8.25 Mandatory Commercial and Multifamily Residential Recycling****8.26 Feeding Pigeons**

**8.27 Regulating the Use of Disposable Food Service Ware****8.28 Reusable Bags****8.40 Prohibition of Use of Vehicles for Human Habitation and for Overnight Parking****8.41 Prohibition of Boat Trailer and Trailer Overnight Parking****8.44 Adult-Oriented Businesses****8.50 Traffic Impact Fee****8.51 Commercial Linkage Fees****8.52 Child Care Development Impact Fees****8.60 Mandatory Organic Waste Disposal Reduction****Chapter 8.02****SALES OF FLAVORED TOBACCO PRODUCTS AND PHARMACY SALES OF TOBACCO PRODUCTS PROHIBITED**

Sections:

**8.02.010 Application of chapter.****8.02.020 Definitions.****8.02.030 Sale or offer for sale of flavored tobacco products prohibited.****8.02.040 Sale or offer for sale of tobacco products by a pharmacy prohibited.****8.02.050 Enforcement.****8.02.060 Public nuisance.****8.02.070 No conflict with Federal or State law.****8.02.080 Severability.****8.02.010 Application of chapter.**

The provisions of this chapter shall apply within the City of San Carlos. (Ord. 1544 § 2 (part), 2019)

**8.02.020 Definitions.**

For the purposes of this chapter, the following definitions shall govern unless the context clearly requires otherwise:

A. "Characterizing flavor" means a distinguishable taste or aroma or both, other than the taste or aroma of tobacco, imparted by a tobacco product or any byproduct produced by the tobacco product. Characterizing flavors include, but are not limited to, tastes or aroma relating to any fruit, chocolate, vanilla, honey, candy, cocoa, dessert, alcoholic beverage, menthol, mint, wintergreen, herb, or spice. A tobacco product shall not be determined to have a characterizing flavor solely because of the use of additives or flavorings or the provision of ingredient information. Rather, it is the presence of a distinguishable taste or aroma, or both, as described in the first sentence of this definition, that constitutes a characterizing flavor.

B. "Constituent" means any ingredient, substance, chemical, or compound, other than tobacco, water, or reconstituted tobacco sheet, that is added by the manufacturer to a tobacco product during the processing, manufacture, or packing of the tobacco product.

C. "Distinguishable" means perceivable by either the sense of smell or taste.

D. "Flavored tobacco product" means any tobacco product that contains a constituent that imparts a characterizing flavor.

E. "Labeling" means written, printed, pictorial, or graphic matter upon any tobacco product or any of its packaging.

F. "Packaging" means a pack, box, carton, or container of any kind or, if no other container, any wrapping (including cellophane) in which a tobacco product is sold, or offered for sale, to a consumer.

G. "Pharmacy" means any retail establishment in which the profession of pharmacy is practiced by a pharmacist licensed by the State of California in accordance with the Business and Professions Code and where prescription pharmaceuticals are offered for sale, regardless of whether the retail establishment sells other retail goods in addition to prescription pharmaceuticals.

H. "Tobacco product" is defined as set forth in Section 8.06.030.

I. "Tobacco retailer" means any store, stand, booth, concession or any other enterprise that engages in the retail sale of tobacco products, including but not limited to stores that engage in the retail sale of food items. (Ord. 1544 § 2 (part), 2019)

**8.02.030 Sale or offer for sale of flavored tobacco products prohibited.**

A. The sale or offer for sale, by any person or tobacco retailer, of any flavored tobacco product is prohibited and no person or tobacco retailer shall sell, or offer for sale, any flavored tobacco product.

B. There shall be a rebuttable presumption that a tobacco product is a flavored tobacco product if a manufacturer or any of the manufacturer's agents or employees, in the course of their agency or employment, has made a statement or claim directed to consumers or to the public that the tobacco product has or produces a characterizing flavor including, but not limited to, text, color, and/or images on the product's labeling or packaging that are used to explicitly or implicitly communicate that the tobacco product has a characterizing flavor. (Ord. 1544 § 2 (part), 2019)

**8.02.040 Sale or offer for sale of tobacco products by a pharmacy prohibited.**

A. No pharmacy or pharmacy employee or agent shall sell or offer for sale any tobacco product.

B. No new tobacco retailer permit may be issued to a pharmacy under Chapter 8.07.

C. No existing tobacco retailer permit issued under Chapter 8.07 may be renewed by a pharmacy. (Ord. 1544 § 2 (part), 2019)

**8.02.050 Enforcement.**

A. The City Manager, or his or her designee, may enforce this chapter.

B. Violations of this chapter may be criminally prosecuted as infraction(s) or misdemeanor(s) at the discretion of the City Attorney as the interests of justice require.

C. This section shall not be interpreted to limit the applicable civil or administrative remedies available under law.

D. The City Manager, or his or her designee, may adopt administrative rules, regulations, or guidelines for the implementation and enforcement of this chapter. (Ord. 1544 § 2 (part), 2019)

**8.02.060 Public nuisance.**

Any violation of this chapter is hereby declared a public nuisance. (Ord. 1544 § 2 (part), 2019)

**8.02.070 No conflict with Federal or State law.**

Nothing in this chapter shall be interpreted or applied so as to create any requirement, power, or duty that is preempted by Federal or State law. (Ord. 1544 § 2 (part), 2019)

**8.02.080 Severability.**

If any provision, section, subsection, sentence, clause, phrase, or word of this chapter, or any application thereof to any person or circumstance, is held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions or applications of the chapter. The City Council hereby declares that it would have passed this chapter and each provision, section, subsection, sentence, clause, phrase, and word not declared invalid or unconstitutional without regard to whether any other portion of this chapter or application thereof would be subsequently declared invalid or unconstitutional. (Ord. 1544 § 2 (part), 2019)

**Chapter 8.03  
REGULATION OF SMOKING IN AND AROUND MULTI-UNIT RESIDENCES**

Sections:

**8.03.010 Application of chapter – Declaration of nuisance.**

**8.03.020 Definitions.**

**8.03.030 Smoking prohibited in common areas except designated smoking areas.**

**8.03.040 Smoking prohibited in new and existing units of multi-unit residences.****8.03.050 Additional smoking-related prohibitions.****8.03.060 Required signage.****8.03.070 Required and implied lease terms for all new and existing units in multi-unit residences.****8.03.080 Medical marijuana.****8.03.090 Penalties and enforcement.****8.03.110 Interpretation.****8.03.010 Application of chapter – Declaration of nuisance.**

A. The provisions of this chapter shall apply to all multi-unit residences in the City of San Carlos.

B. Smoke produced in violation of this Code or State law is a nuisance, and the uninvited presence of such smoke on property is a nuisance and a trespass. (Ord. 1543 § 2 (part), 2019)

**8.03.020 Definitions.**

For the purposes of this chapter, the following definitions shall govern unless the context clearly requires otherwise:

A. "Common area" means every enclosed area or unenclosed area of a multi-unit residence accessible and usable by residents of different units including, but not limited to, halls and paths, lobbies, courtyards, elevators and stairs, community rooms, playground areas, gym facilities, swimming pool areas, parking garages and parking lots, shared restrooms, shared laundry rooms, shared cooking areas, and shared eating areas.

B. "Common interest development" means a development as defined in California Civil Code Section 4100 et seq. or successor statute, as said provisions may be amended or succeeded, which includes a "condominium project," a "community apartment project," a "stock cooperative," and a "planned development" and also includes a townhouse.

C. "Enclosed area" means:

1. Any full or partially covered area having more than fifty percent of its perimeter walled or otherwise closed to the outside with appropriate openings for ingress or egress ventilation; or
2. Any space open to the sky having more than seventy-five percent of its perimeter walled in or otherwise closed to the outdoors.

D. "Existing unit" means any unit that is not a new unit, including any associated exclusive-use enclosed or unenclosed areas.

E. "Landlord" means any person who owns property let for residential use, any person who lets residential property, and any person who manages such property, except that "landlord" does not include a master tenant who sublets a unit as long as the master tenant sublets only a single unit of a multi-unit residence.

F. "Multi-unit residence" or "multifamily dwelling" means residential property containing two or more units with one or more shared or abutting walls, floors, ceilings or shared ventilation systems including, but not limited to, a common interest development, condominium, townhouse, duplex, triplex, and apartment or other rental complex. A multi-unit residence does not include property owned by the State or Federal government or the following specifically excluded types of housing:

1. A hotel or motel that meets the requirements set forth in California Civil Code Section 1940(b)(2);
2. A residential care facility or assisted living facility governed by Federal or State community care licensing regulations;
3. A detached single-family residence; and/or
4. A detached single-family home with a detached or attached in-law or second unit when permitted pursuant to Government Code Sections 65852.1, 65852.150 and 65852.2 or an ordinance of the County adopted pursuant to those sections.

G. "New unit" means a unit that is issued a certificate of occupancy more than one hundred eighty days after the effective date of the ordinance codified in this chapter and also means a unit that is let for residential use for the first time more than one

hundred eighty days after the effective date of the ordinance codified in this chapter.

H. "Nonsmoking area" means any enclosed area or unenclosed area of a multi-unit residence in which smoking is prohibited by: (1) this chapter or other law; (2) by binding agreement relating to the ownership, occupancy, or use of real property; or (3) by designation of a person with legal control over the area.

I. "Person" means any natural person, partnership, cooperative association, corporation, personal representative, receiver, trustee, assignee, or any other legal entity, including government agencies.

J. "Rental complex" means a property for which fifty percent or more of units are let by or on behalf of the same landlord.

K. "Smoke" (noun) means any vapors, gases, particles or other byproducts released as a result of combustion or electrical ignition, when the apparent or usual purpose of the combustion or electrical ignition is human inhalation of the byproducts, except when the combusting or igniting material both contains no tobacco or nicotine and the usual purpose of inhalation is solely olfactory such as with the burning of incense. "Smoke" does not include combustion of substances regulated by the U.S. Food and Drug Administration and used for medical or therapeutic purposes. "Smoke" specifically includes but is not limited to gases, particles, vapors or other byproducts released by electronic cigarettes, tobacco cigarettes, herbal cigarettes, marijuana cigarettes and any other type of cigarette, pipe or other implement for the purpose of inhalation of vapors, gases, particles or other byproducts released as a result of combustion or ignition.

L. "Smoking" or "to smoke" (verb) means possessing a lighted or ignited tobacco or nicotine product or paraphernalia; or engaging in an act that generates smoke (including, but not limited to, possessing a lighted or ignited pipe, hookah pipe, cigar, or cigarette of any kind including but not limited to an electronic cigarette); or lighting or igniting a pipe, a hookah pipe, a cigar, or a cigarette of any kind including but not limited to an electronic cigarette.

M. "Tobacco or nicotine product" means any substance containing tobacco leaf, including but not limited to cigarettes, cigars, pipe tobacco, hookah tobacco, snuff, chewing tobacco, dipping tobacco, or any other preparation of tobacco; and any electronic cigarette or other electronic device used to generate smoke; and any product or formulation of matter containing biologically active amounts of nicotine that is manufactured, sold, offered for sale, or otherwise distributed with the expectation that the product or matter will be introduced into the human body, but does not include any cessation product specifically approved by the United States Food and Drug Administration for use in treating nicotine or tobacco dependence.

N. "Unenclosed area" means any area that is not an enclosed area. Unenclosed areas include balconies, porches, decks and patios.

O. "Unit" means a personal dwelling space for one or more persons, even where lacking cooking facilities or private plumbing facilities, and includes any associated exclusive-use enclosed area, such as, for example, a private balcony, porch, deck, or patio. (Ord. 1543 § 2 (part), 2019)

**8.03.030 Smoking prohibited in common areas except designated smoking areas.**

A. Smoking is prohibited in all units and in any unenclosed and enclosed common area or any other area, of a multifamily dwelling or multi-unit residence, and within thirty feet of any operable doorway, window, opening, or ventilation system, except that a person with legal control over a common area, or authorized representative of such person, may designate a portion of the common area as a designated smoking area; provided, that at all times the designated smoking area complies with subsection B of this section.

B. A designated smoking area:

1. Shall be an unenclosed and clearly delineated area, as described in this subsection B;
2. Shall be located at least thirty feet in any direction from any operable doorway, window, opening or other vent into an enclosed area that is located at a multi-unit residence and is a nonsmoking area;
3. Shall have a clearly marked perimeter and be identified by conspicuous signs;
4. Shall have receptacles designed for and primarily used for disposal of tobacco waste and shall be maintained free of tobacco-related litter including but not limited to cigarette butts;
5. Shall not include, and shall be at least thirty feet from, unenclosed areas primarily used by children and unenclosed areas with improvements that facilitate physical activity including playgrounds, swimming pools, and school campuses.

C. No person with legal control over a common or other area in which smoking is prohibited by this chapter or other law shall knowingly permit the presence of ashtrays, ash cans, or other receptacles designed for or primarily used for disposal of smoking waste within the area. Such person with legal control over a common or other area in which smoking is prohibited by this chapter or other law shall maintain such area free of tobacco litter or waste. (Ord. 1543 § 2 (part), 2019)

**8.03.040 Smoking prohibited in new and existing units of multi-unit residences.**

A. Smoking is prohibited and no person shall smoke in any new unit or common area of a multi-unit residence, except in a designated smoking area as provided herein.

B. Beginning fourteen months after the effective date of the ordinance codified in this chapter, smoking is prohibited and no person shall smoke in any existing unit or common area of a multi-unit residence, except in a designated smoking area as provided herein. (Ord. 1543 § 2 (part), 2019)

**8.03.050 Additional smoking-related prohibitions.**

A. No person shall smoke in any nonsmoking area.

B. No person with legal control over any nonsmoking area, or authorized representative of such person, shall knowingly permit smoking in any nonsmoking area which is under the person's control. The person with legal control of the nonsmoking areas, or authorized representative of such person, shall keep the area free of any tobacco litter or waste.

C. No person shall intimidate or harass any person who seeks compliance with this chapter. Moreover, no person shall intentionally or recklessly expose another person to smoke in response to that person's effort to achieve compliance with this chapter. Violation of this subsection shall constitute a misdemeanor.

D. Causing, permitting, aiding, or abetting a violation of any provision of this chapter shall also constitute a violation of this chapter. (Ord. 1543 § 2 (part), 2019)

**8.03.060 Required signage.**

"No smoking" signs or the international "no smoking" symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it) shall be clearly, sufficiently and conspicuously posted on the outside of each enclosed building or unenclosed area where smoking is prohibited by this chapter or other law, but are not required inside any unit of a multi-unit residence. Such signs shall be maintained by the person or persons with legal control over the common areas or the authorized representatives of such person. The absence of signs shall not be a defense to a violation of any provision of this chapter. (Ord. 1543 § 2 (part), 2019)

**8.03.070 Required and implied lease terms for all new and existing units in multi-unit residences.**

A. Every lease or other rental agreement for the occupancy of a new unit or existing unit in a multi-unit residence entered into, renewed, or continued month-to-month after the effective date of the ordinance codified in this chapter shall include the following:

1. A clause providing in substance that it is a material breach of the agreement for the tenant, or any other person subject to the control of the tenant or present by invitation or permission of the tenant, to (a) smoke in any common area of the property other than a designated smoking area, (b) smoke in a new unit, (c) smoke in an existing unit fourteen months or more after the effective date of the ordinance codified in this chapter, or (d) violate any law regulating smoking anywhere on the property.
2. A clear description of all areas on the property where smoking is allowed or prohibited.
3. A clause expressly conveying third-party beneficiary status to all tenants and lawful occupants of the multi-unit residence as to the smoking provisions of the agreement.

B. Whether or not a landlord complies with subsection A of this section, the clauses required by that subsection shall be implied and incorporated by law into every agreement to which subsection A of this section applies and shall become effective as of the earliest possible date on which the landlord could have made the insertions pursuant to subsection A of this section.

C. This chapter shall not create liability in a landlord or property manager to any person for a tenant's breach of any smoking provision in a lease or other rental agreement for the occupancy of a unit in a multi-unit residence if the landlord has fully complied with subsection A of this section.

D. Failure to enforce any smoking provision required by this chapter shall not affect the right to enforce such provision in the future, nor shall a waiver of any breach constitute a waiver of any subsequent breach or a waiver of the provision itself. (Ord.

1543 § 2 (part), 2019)

#### **8.03.080 Medical marijuana.**

As stated in California Health and Safety Code Section 11362.3, no person is permitted to smoke cannabis or cannabis products in a location where smoking tobacco is prohibited. Smoking or vaporizing of marijuana is not permitted in any unit of a multi-unit residence by this chapter. Such use of cannabis may be prohibited or regulated by other provisions of this Code, State law, or Federal law. (Ord. 1543 § 2 (part), 2019)

#### **8.03.090 Penalties and enforcement.**

A. Infractions. Any person who violates any provision of this chapter shall be guilty of an infraction, punishable as follows:

1. A fine not exceeding one hundred dollars for a first violation.
2. A fine not exceeding two hundred dollars for a second violation.
3. A fine not exceeding five hundred dollars for each additional violation within one year.

B. Misdemeanors. Any person who violates any provision of this chapter in excess of three times within one year shall be guilty of a misdemeanor.

C. Each day that a violation of this chapter continues shall constitute a separate violation of this chapter.

D. Enforcement of this chapter shall be the responsibility of the Chief Building Official and his or her designees. In addition, any peace officer may also enforce this chapter.

E. The remedies provided for by this chapter are not intended to preclude or otherwise limit any other remedy available by law or equity. (Ord. 1543 § 2 (part), 2019)

#### **8.03.110 Interpretation.**

A. The provisions of this chapter are restrictive only. This chapter establishes no new rights for a person who engages in smoking and shall in no way limit the application of Chapter 8.06. Notwithstanding (1) any provision of this chapter or other provisions of this Code, (2) any failure by any person to restrict smoking under this chapter, or (3) any explicit or implicit provision of this Code that allows smoking in any place, nothing in this Code shall be interpreted to limit any person's legal rights under other laws with regard to smoking, including, for example, rights in nuisance, trespass, property damage, and personal injury or other legal or equitable principles. This chapter is intended and shall be interpreted to be consistent with and at least as stringent as any State statute prohibiting smoking in any unit, common area or other area of a new or existing multi-family dwelling, or any other place.

B. If any provision of this chapter or the application thereof is held to be preempted, unconstitutional or otherwise invalid by a court of competent jurisdiction, such ruling shall not affect any other provision of this chapter which is not specifically included in such ruling or which can be given effect without the preempted, unconstitutional, or invalid provision or application; and to this end, the provisions of this chapter are declared severable. (Ord. 1543 § 2 (part), 2019)

### **Chapter 8.04 SOLID WASTE\***

Sections:

**8.04.010 Title of provisions.**

**8.04.020 Findings.**

**8.04.030 Definitions.**

**8.04.040 Solid waste collection and disposal.**

**8.04.050 Exemptions.**

**8.04.060 Requirements.**

\* Prior ordinance history: Ords. 337, 425 and 699.

**8.04.010 Title of provisions.**

This chapter shall be known as the "Solid Waste Ordinance." (Ord. 1238 § 1 (part), 1998)

**8.04.020 Findings.**

The City Council finds and determines as follows:

- A. The City wishes to maintain a safe, controlled and cost-efficient solid waste collection and disposal system, which serves as a convenience to the community and preserves the public health and safety.
- B. The City wishes to encourage recycling in order to reduce impacts to landfill.
- C. The City has determined that reducing the amount of solid waste entering the waste stream in the overall interest of the community, and is required by State mandates under Assembly Bill 939. (Ord. 1238 § 1 (part), 1998)

**8.04.030 Definitions.**

The following words and phrases, whenever used in this chapter, shall be construed as defined in this section, unless from the context a different meaning is specifically defined and more particularly directed to the use of such words or phrases:

“Animal waste” means manure, fertilizer or any form of solid excrement produced by any and all forms of domestic or commercial animals.

“Bottles and jars” means glass and plastic containers, including container glass covered by Section 14500 et seq. of the Public Resources Code, and including household and kitchen containers.

“Business” means any person or entity that possesses or is required to possess a business registration certificate, as stated in Section 5.04.020.

“Cardboard” means post-consumer waste paper grade corrugated cardboard (No. 11) or solid fiber boxes which have served their packaging purposes and are discarded and can later be reclaimed for collection and recovery for recycling.

“City” means the City of San Carlos.

“Collect” or “collection” means to take physical possession, transport, and remove solid waste, targeted recyclable materials, organic materials, or other materials within and from the City.

“Commercial facility” means any property used for conducting business, including but not limited to a food service establishment, retail facility, office, manufacturing facility, markets, office buildings, hotels, motels, shopping centers, and theaters; any educational, professional, commercial, governmental, institutional, or industrial establishment or facility of any nature whatsoever, except residential, where there is a generation of solid waste, including but not limited to nonresidential sites used by charitable or nonprofit organizations; properties and sites used for special events; or other nonresidential properties located within the boundaries of the Agency.

“Commercial generator” means any legal entity, except a special event, that generates solid waste at a commercial facility, who may include businesses; charitable or nonprofit organizations, including hospitals, educational institutions, and civic or religious organizations; governmental organizations, agencies, or entities; and nonresidential tenants or entities that lease or occupy space. “Commercial generator” also includes the Agency and its facilities and nonresidential properties.

“Composting” means the controlled biological decomposition of organic wastes that are source separated from the solid waste stream. Such organic wastes include vegetable, animal, yard and wood wastes which are not hazardous wastes.

“Construction and demolition debris” and “C&D” mean materials resulting from construction, renovation, remodeling, repair, or demolition operations on any residential, commercial or other structure or pavement.

“Construction waste” means tile rubble resulting from construction, remodeling, repair and demolition activities on housing, commercial or governmental buildings and any other structure and pavement.

“Container” means any bin used to store garbage, recyclable materials, or organic materials and from which solid waste collectors collect these materials. Containers include, but are not limited to, metal or plastic cans, carts, bins, and drop boxes.

“Contamination” means (A) all materials other than those defined as recyclable materials that were placed in a container designated for recyclable materials or were collected by a solid waste collector with recyclable materials; (B) all materials other than those defined as organic materials that were placed in a container designated for organic materials or were collected by solid waste collector with organic materials; or (C) recyclable materials, and organic materials in the case of a food service establishment, that were placed in a container designated for garbage or were collected by a solid waste collector with garbage.

"Discarded material" means solid waste, targeted recyclable materials, and organic materials placed by a generator in a container and/or at a location that is designated for collection pursuant to the Agency's Municipal Code. Discarded material shall become the property of the contractor pursuant to California Public Resources Code Section 41950 until delivery to the designated transfer and processing facility.

"Disposal" means the ultimate disposition of solid waste collected by the contractor at a disposal site.

"Food service establishment" means any and all restaurants, sales outlets, stores, shops, manufacturers, processors, vehicles or other places of business located or operating within the Agency that function primarily to sell, manufacture, process, or distribute foods or beverages to consumers or other businesses.

"Franchisee" means any solid waste collector authorized by the City Council pursuant to the procedures established in this chapter.

"Garbage" means material that is designated for collection by the solid waste collector and does not include recyclable materials or, in the case of food service establishments, organic materials. The term "garbage" does not include hazardous waste, as defined in California Health and Safety Code Sections 25117 and 25141.

"Garbage disposal" means the final disposition of garbage onto land, including at a permitted landfill, or into the atmosphere, including through incineration. "Garbage disposal" does not include recycling or organics processing.

"Multifamily dwelling" means a residential structure with five or more residences.

"Multifamily generator" means tenants, residents, other occupants, and custodians or janitors of multifamily dwellings.

"Noncombustible rubbish" means ashes, bottles, broken crockery, glass, tin cans, metal and metallic substances which will not incinerate through contact with flames of ordinary temperature.

"Occupant" means a person who occupies a premises.

"Organic materials" means biodegradable materials that can be segregated from garbage and recyclable materials for the purpose of composting, anaerobic digestion, or processing with other organics processing methods. "Organic materials" include any materials identified by the Agency that can be feasibly collected and marketed for organics processing, including but not limited to yard waste, plant trimmings, food scraps, and paper and paper products that can be composted but not recycled.

"Organic materials collector" means any person or persons, firm, partnership, joint venture, association or corporation engaged in the collection or transportation of organic materials generated in the City.

"Organics processing" means the composting, anaerobic digestion, or other beneficial use, as defined by the City, of organic materials.

"Owner" means the person holding legal title to the real property constituting the premises to which solid waste, targeted recyclable materials, and/or organic materials collection service is provided.

"Person" means any individual, firm, corporation, association, or group or any combination thereof acting as a unit.

"Place of business" means any hotel, motel, trailer court, restaurant, cafeteria, market, hospital or any educational, professional, commercial or industrial establishment of any nature whatsoever where there is a generation of solid waste.

"Premises" means any land or building where solid waste, recyclable materials, or organic materials are generated or accumulated.

"Receptacle" means a bin used for the temporary collection and storage of solid waste, whose contents are periodically transferred to a larger container from which a solid waste collector directly collects the solid waste.

"Recyclable materials" or "recyclable" means materials that can be segregated from garbage and organic materials prior to collection for the purpose of reusing or returning these materials in the form of raw materials for new, used, or reconstituted products which meet the quality standard necessary to be used in the marketplace. "Recyclable materials" include any materials identified by the Agency that can be feasibly collected and marketed for recycling by the City's franchisee, including, but not limited to, paper and paper products, chipboard, cardboard, plastic food and beverage containers, and glass jars and bottles, aluminum, tin and bi-metal cans.

"Recycle" or "recycling" means the process of collecting, sorting, cleaning, treating, and reconstituting materials that would otherwise be disposed by garbage disposal and then returning these materials for use or reuse in the form of raw materials for new, used, or reconstituted products which meet the quality standard necessary to be used in the marketplace as defined in Public Resources Code Section 40180. "Recycling" does not include burning, incinerating, or thermally destroying solid waste, as defined in Public Resources Code Section 40201. The City shall specify additional materials covered under the ordinance at its discretion.

"Recycling collector" means any person or persons, firm, partnership, joint venture, association or corporation engaged in the collection and transportation of recyclable materials generated in the City.

"Recycling operator" means a person or persons, firm, partnership, joint venture, association or corporation engaged in the collection and recycling of recyclable materials.

"Segregate" means any of the following: the placement of recyclable materials, organic materials, and garbage each in separate and designated containers; the binding of recyclable materials separately from other waste material; the physical separation from each other of recyclable materials, organic materials, and garbage.

"Self haul" means to transport one's own recyclable materials to a recycling facility or organic materials to an organics processing facility by using a vehicle owned by the transporting entity rather than using the hauling services of a solid waste collector.

"Self hauler" means a solid waste customer, commercial generator, multifamily generator, or special event that transports its own recyclable materials to a recycling facility or organic materials to an organics processing facility by using a vehicle owned by that transporting entity rather than using the hauling services of a solid waste collector.

"Solid waste" means all putrescible and nonputrescible solid, semisolid and liquid wastes, including garbage, trash, refuse, paper, rubbish, ashes, industrial wastes, demolition and construction wastes, abandoned vehicles and parts thereof, discarded home and industrial appliances, dewatered, treated or chemically fixed sewage sludge which is not hazardous waste, manure, vegetable or animal solid and semisolid wastes and other discarded solid and semisolid wastes. "Solid waste" does not include hazardous waste as defined in Section 40141 of the Public Resources Code.

"Solid waste collector" means any person or persons, firm, partnership, joint venture, association, or corporation engaged in the collection or transportation, disposal, garbage disposal, recycling, or organic processing of solid waste generated within all or part of the jurisdictional boundaries of the Agency, including franchisees, recycling collectors, and organic materials collectors.

"Solid waste customer" means the legal entity responsible for managing solid waste at a commercial facility or multifamily dwelling, including subscribing to solid waste collection services with a solid waste collector or self hauling solid waste, or the entity to whom the solid waste collector submits billing invoices for collection from a commercial facility or multifamily dwelling.

"Solid waste disposal" includes the collecting, transporting and disposal of solid waste generated within the City.

"Solid waste facility" means any recycling center, materials recovery facility, intermediate processing center, incineration facility or landfill where solid waste may be taken for immediate processing or final disposal. "Solid waste facility" includes a solid waste transfer or processing station and a composting, transformation or disposal facility.

"Special event" means a community, public, commercial, recreational, or social event which may serve food or drink and which may require a permit from the City. "Special events" may include the temporary or periodic use of a public street, publicly owned site or facility, privately owned site or facility, or public park. "Special event" includes the legal entity responsible for the special event, including but not limited to the owner, manager, or organizer, which may be the City.

"Wood wastes" means lumber and wood products but excludes painted wood, wood treated with chemicals and pressure-treated wood.

"Yard wastes" means leaves, grass, weeds and wood materials from trees and shrubs. (Ord. 1418 § 3, 2010: Ord. 1238 § 1 (part), 1998)

#### **8.04.040 Solid waste collection and disposal.**

A. Except as provided in this chapter, no person shall, for another, collect, remove or dispose of any solid waste within the City, nor transport the same over any public street or right-of-way, unless a franchise to do so has first been obtained from the City and a bond has been posted as determined by the City Council; provided, that any person who collects, removes or disposes of only recyclables shall only be required to obtain a City business registration.

B. Except as provided in this chapter, it is unlawful for any person to permit, allow or enter into any agreement for the collection or transportation of solid waste from any location within the City of San Carlos with any person who does not possess a franchise and business registration from the City of San Carlos.

C. No person shall place or cause to be placed any solid waste generated upon any property or by any residential, commercial or industrial use into any container other than those owned or controlled by such person, unless permission for such use is granted by the commercial or residential customer owning or controlling the container.

D. It is unlawful for any person to dispose of solid waste which is not from incidental use by pedestrian or vehicular traffic in or near litter or recycling containers placed by the City or any other agency in public places for incidental use by pedestrian or vehicular traffic, or in recycling containers or enclosures maintained by the City in commercial zones.

E. Other than as herein set forth, it is unlawful for any person to dump, bury, burn, incinerate, or otherwise dispose of or store or accumulate any garbage, combustible or noncombustible rubbish, miscellaneous debris or combined rubbish or solid waste on any private or public property within the City; provided, however, that leaves, grass clippings and the like may be composted.

#### **8.04.050 Exemptions.**

The following types of collection or transportation of solid waste are exempted from the requirements of this chapter:

A. Yard waste removed from a premises by a gardening, landscaping or tree trimming contractor having a City business license and as an incidental part of a total service offered by that contractor rather than as a disposal service, and tree trimmings, clippings and all similar materials generated at parks and other publicly maintained premises;

B. Demolition debris removed from a premises by a licensed contractor as an incidental part of a total service offered by that contractor rather than as a disposal service;

C. The collection of hazardous or dangerous waste as part of a hazardous waste collection activity authorized by the San Mateo County Environmental Health Department, including, without limitation, liquid and dry caustics, acids, bio-hazardous, flammable or explosive materials, insecticides and similar substances;

D. Recyclable materials and yard wastes which are generated at any residential dwelling unit or place of business and which are transported personally by the owner or occupant of such premises (or by his or her full-time employees) to a licensed solid waste or recycling facility in a manner consistent with this chapter and other applicable laws. (Ord. 1238 § 1 (part), 1998)

#### **8.04.060 Requirements.**

A. Unless expressly excepted by this chapter, the owner, occupant or other person responsible for the day-to-day operation of all residential, commercial or industrial properties in the City shall contract with a City franchisee for the removal and disposal of solid waste generated from the use of the property.

B. The franchisee is authorized to charge all customers a fee for the collection and transportation of solid waste, subject to the approval by the City Council of the fee. Such fee may include charges for collection, landfills, recovery or recyclables, composting and may include the cost of preparing and implementing source reduction, recycling elements, household hazardous waste elements, and integrated waste management plans.

C. All recyclables shall be maintained by the person, firm or corporation occupying the premises upon which such recyclables or other matter is created as specified in Chapter 8.24 and to the satisfaction of the franchisee.

D. All garbage shall be maintained by the person, firm or corporation occupying the premises upon which such garbage or other matter is created in receptacles as specified in this chapter.

E. The contents of all garbage containers shall be removed a minimum of at least once a week as outlined in this chapter or as otherwise necessary or mandated by the San Mateo County Health Department.

F. Containers shall be made of metal or plastic if barrels, or plastic, if bags, and of sufficient strength to prevent them from being broken under ordinary conditions.

G. Containers shall be maintained in a clean, safe, sanitary and watertight condition.

H. Garbage or other refuse containing water or other liquids shall be drained before being placed in a container.

I. Animal waste shall not be placed directly in a container for regular collection and disposal, but shall be placed within a secondary containment (i.e., plastic bag) within the container for regular collection and disposal, as required by the franchisee and San Mateo County Health Department.

J. Solid waste shall be kept free of all hazardous materials and placed in a closed container unless other acceptable arrangements are made with the franchisee.

K. Unless provisions to prevent litter are otherwise provided, no person shall so fill any container with garbage or rubbish above the top of the container to such extent as to permit the contents of any container to be blown or otherwise strewn about.

L. Paper bags and cardboard containers shall not be used as containers for the disposal of garbage or rubbish but may be used for recyclables.

M. If rubbish, as defined in this chapter, either from residences or from places of business is of such a nature that it cannot be placed in a container, it shall be carefully placed beside the container in securely tied bundles not to exceed one cubic yard in size and weighing not more than fifty pounds. Tree limbs, trunks, hedge cuttings, brush and lumber shall not exceed four feet in length.

N. Any containers placed for collection along a street, roadway or alley shall be set out only on the day established for the collection on the particular route or after five-thirty p.m. on the day immediately prior to such collection. Containers for residential properties shall not remain thereon for more than twenty-four hours after they have been emptied. Containers for commercial properties shall not remain thereon for more than twelve hours after they have been emptied.

O. Any container placed for collection along a street or roadway shall be placed between the curb line and the property line as close to the curb line or edge of the street or roadway as practicable.

P. No person, including a solid waste collector, shall place or cause to be placed any solid waste or solid waste container in any public street, road, way or alley without an encroachment permit from the City or in any place or in any manner inconsistent with the regulations of this chapter.

Q. Any container placed for collection in any alley shall be placed as close to the property line as practicable.

R. In no event shall containers be located either on private property, public property, or public right-of-way in such a manner as to obstruct emergency, vehicular, pedestrian, wheelchair or other necessary access.

S. Each owner or occupant of a residential dwelling unit or place of business shall maintain supervision and surveillance over the solid waste containers on the premises and shall maintain the same in a sanitary condition. If the containers should not be emptied and the contents removed on the date and time scheduled by the franchisee, they should immediately notify the franchisee and it shall be the duty of the franchisee to, within twenty-four hours thereafter, arrange for the collection and disposal of the solid waste.

T. Solid waste which exceeds the limitations herein above set forth may, in the discretion of the franchisee, be scheduled for special collection upon the application of the owner or occupant of the premises. Special collection charges may be assessed by the franchisee for this service.

U. No person, other than the owner thereof, owner's agents or employees or an officer or employee of the City or any person holding a franchise or license from the City for the collection or disposal of refuse or recyclables shall remove any materials set out for recycling collection or tamper or meddle with any solid waste or recycling container or the contents thereof, or remove the contents of any such container, or remove any such container from the location where the same shall have been placed by the owner thereof or owner's agent.

V. Recyclables placed at the curb of residential properties or placed for collection at other recycling locations for pickup by a franchisee or licensee shall become the property of the franchisee or licensee at the time of their placement in the recycling containers or otherwise set out for collection.

W. Containers for solid waste and recyclables shall also meet the enclosure requirements of Chapters 8.24 and 18.146. (Ord. 1238 § 1 (part), 1998)

## **Chapter 8.05 RECYCLING AND DIVERSION OF CONSTRUCTION AND DEMOLITION DEBRIS**

Sections:

**8.05.010 Findings and purpose.****8.05.020 Definitions.****8.05.030 Deconstruction and salvage and recovery.****8.05.040 Diversion requirements.****8.05.050 Information required before issuance of demolition and/or building permit.****8.05.060 Deposit required.****8.05.070 Administrative fee.****8.05.080 On-site practices.****8.05.090 Reporting.****8.05.100 Violation a public nuisance.****8.05.110 Penalties.****8.05.120 Responsible party.****8.05.010 Findings and purpose.**

A. The City Council finds that the State of California through its California Waste Management Act of 1989, Assembly Bill 939 (AB 939), requires that each local jurisdiction in the State divert fifty percent of solid waste from landfill by December 31, 2000, through source reduction, recycling, and composting activities.

B. The City Council finds that every city and county in California could face fines up to ten thousand dollars a day for not meeting the above mandated goal.

C. The City Council finds and determines that the City is committed to protecting the public health, safety, welfare and environment.

D. In order to meet these goals, it is necessary that the City promote the reduction of solid waste and reduce the stream of solid waste going to landfills.

E. Debris from demolition and construction of buildings represents a significant portion of the volume presently going to landfill from San Carlos and much of said debris is particularly suitable for reuse and recycling.

F. The City finds that reuse and recycling of certain portions of construction and demolition debris is essential to further the City's efforts to reduce solid waste and comply with AB 939 mandates.

G. The City finds that, except in unusual circumstances, it is feasible to divert an average of at least sixty percent of all construction and demolition debris from construction, demolition and renovation covered projects.

H. The City Council recognizes that requiring construction and demolition debris to be recycled and reused may in some respects add modestly to the cost of construction, demolition, or renovation and in other respects may make possible some cost recovery and cost reduction.

I. It is necessary in order to protect the public health, safety and welfare that the following regulations be adopted. (Ord. 1290 § 1 (part), 2001)

**8.05.020 Definitions.**

For purposes of this chapter the following definitions apply:

A. "Applicant" means any individual, firm, limited liability company, association, partnership, government agency, industry, public or private corporation, or any other person or entity whatsoever who applies to the City for the applicable permits to undertake any construction, demolition, or renovation for a covered project within the City.

B. "Contractor" means any person or entity holding, or required to hold, a contractor's license of any type under the laws of the State of California, and who performs (whether as contractor, subcontractor or owner-builder) any construction, demolition, and/or renovation of a covered project in the City of San Carlos.

C. "Construction" means all building, landscaping, remodeling, addition, removal or demolition involving the use or disposal of designated recyclable and reusable materials as defined in subsection J below.

D. "Construction and demolition debris" means:

1. Discarded material generally considered to be not water soluble and non-hazardous in nature, including but not limited to steel, glass, brick, concrete, asphalt material, pipe, gypsum, wallboard, and lumber from the construction or demolition of a structure as part of a construction or demolition project or from the renovation of a structure and/or landscaping, and including rocks, soils, tree remains, trees, and other vegetative matter that normally results from land clearing, landscaping and development operations for a construction project.
2. Clean cardboard, paper, plastic, wood, and metal scraps from any construction and/or landscape project.
3. Non-construction and demolition debris wood scraps.
4. De minimis amounts of other non-hazardous wastes that are generated at construction or demolition projects, provided such amounts are consistent with best management practices of the industry.
5. Mixing of construction and demolition debris with other types of solid waste will cause it to be classified as other than construction and demolition debris.

E. "Conversion rate" means the rate set forth in the standardized conversion rate table approved by the City pursuant to this article for use in estimating the volume or weight of materials identified in a waste management plan.

F. "Covered project" means any construction, demolition, and/or renovation of covered projects within the City, the total costs of which are, or are projected to be, greater than or equal to fifty thousand dollars or which will generate more than five tons of construction and demolition debris.

G. "Deconstruction" means the soft demolition of any facility, structure, or building through a planned dismantling and salvaging of reusable materials and parts.

H. "Demolition" means the decimating, razing, ruining, tearing down or wrecking of any facility, structure, pavement or building, whether in whole or in part, whether interior or exterior and/or the removal of landscaping materials, including green waste.

I. "Deposit" means a cash deposit in the amount of fifty dollars for each estimated ton of construction and/or demolition debris from a covered project, but not less than one thousand dollars.

J. "Designated recyclable and reusable materials" means that portion of construction and demolition debris that includes the following:

1. Masonry building materials including all products generally used in construction including, but not limited to, asphalt, concrete, rock, stone and brick.
2. Wood materials including any and all dimensional lumber, fencing or construction wood that is not chemically treated, creosoted, CCA pressure treated, contaminated or painted.
3. Vegetative materials including trees, tree parts, shrubs, stumps, logs, brush or any other type of plants that are cleared from a site for construction or other use.
4. Earth materials, including dirt and rocks from land clearing activities in preparation for construction.
5. Metals including all metal scrap such as, but not limited to, pipes, siding, window frames, doorframes and fences.
6. Roofing materials including wood shingles as well as asphalt, tile, stone and slate based roofing material.
7. Salvageable materials and structures including, but not limited to, wallboard, doors, cabinets, shelves, furniture, plumbing and electrical fixtures, windows, fixtures, toilets, sinks, bath tubs and appliances. These materials include any painted or otherwise treated wood, such as flooring or decorative woodwork, that can be reused, but may not be acceptable to wood recycling facilities.

K. "Divert" means to use material for any purpose other than disposal in a landfill or transformation facility.

L. "Diversion requirement" means the diversion of at least sixty percent of the total construction and demolition debris generated by a covered project via reuse or recycling.

M. "Project" means any activity which requires an application for a building or demolition permit or any similar permit from the City.

N. "Recovery" means the removal and reclamation of those materials from a project that may have value if reused or recycled.

O. "Recycling" means the process of collecting, sorting, cleansing, treating, and reconstituting materials that would otherwise become solid waste, and returning them to the economic mainstream in the form of raw material for new, reused, or reconstituted products which meet the quality standards necessary to be used in the marketplace.

P. "Renovation" means any change, addition, or modification in an existing structure.

Q. "Reuse" means further or repeated use of construction or demolition debris.

R. "Salvage" means the controlled removal of designated recyclable and reusable materials from construction and demolition debris, from a covered project, for the purpose of recycling, reuse or storage for later recycling or reuse.

S. "Waste management plan" means a completed waste management plan (WMP) form and required attachments, approved by the City for the purpose of compliance with this chapter submitted by the applicant for any covered project.

T. "WMP Compliance Official" means the City Manager or designated staff person(s) authorized and responsible for implementing this article.

U. "Waste tonnage" means the actual weight of either construction and demolition debris, or designated recyclable and reusable materials as used in this chapter.

V. "Waste management report" means a completed waste management report (WMR), approved by the City for the purpose of compliance with this chapter submitted by the applicant for the covered project. (Ord. 1408 §§ 1, 2, 2009; Ord. 1321 §§ 1, 2, 2003; Ord. 1290 § 1 (part), 2001)

#### **8.05.030 Deconstruction and salvage and recovery.**

Every covered project shall be made available for deconstruction, salvage, and recovery prior to demolition. It shall be the responsibility of the applicant to recover the maximum feasible amount of salvageable designated recyclable and reusable materials prior to demolition. In order to provide sufficient time for deconstruction and salvage and recovery to be undertaken, no demolition may commence until a period of at least five working days has elapsed from the date of issuance of the demolition permit. Recovered and salvaged designated recyclable and reusable material from the covered project shall qualify to be counted in meeting the diversion requirements of this chapter. Recovered or salvaged designated recyclable and reusable materials may be given away or sold on the premises, or may be removed to reuse warehouse facilities for storage or sale. Title to designated recyclable and reusable materials forwarded to the operator of recycling facilities will transfer to the service provider upon removal of designated recyclable and reusable materials from the covered project site. (Ord. 1290 § 1 (part), 2001)

#### **8.05.040 Diversion requirements.**

It is required that at least the following specified percentages of the waste tonnage of construction and demolition debris generated from every covered project shall be diverted from going to landfill by using recycling, reuse and diversion programs except where the WMP Compliance Official determines that the percentages are not feasible for an individual project and waives or modifies the percentage required. The percentages required are as follows:

A. Covered projects generating waste comprised of at least ninety-five percent inert materials, including dirt, concrete asphalt, brick, and/or cinderblock, shall be required to divert at least sixty percent of all generated tonnage.

B. Covered projects generating waste comprised of mixed debris, both structural debris (e.g., wood, metal, wallboard) and inert materials (dirt, concrete, asphalt, brick, and/or cinderblock) shall be required to divert at least sixty percent of all generated tonnage. However, at least twenty-five percent of diverted material shall come from generated tonnage that excludes dirt, concrete, asphalt, brick and/or cinderblock. For example: if total tonnage is one hundred tons, the total diverted tonnage should equal sixty tons. Of this amount, the total tonnage through materials excluding dirt, concrete, asphalt, brick and/or cinderblock should equal at least twenty-five tons (twenty-five percent) and the remainder, thirty-five tons (thirty-five percent) can be obtained through diversion of inert materials such as dirt, concrete, asphalt, brick, and/or cinderblock.

C. Covered projects generating waste that does not include inert materials (dirt, concrete, asphalt, brick, cinderblock) shall be required to achieve at least sixty percent diversion of total generated waste. (Ord. 1408 § 3, 2009; Ord. 1321 § 3, 2003; Ord. 1290 § 1 (part), 2001)

**8.05.050 Information required before issuance of demolition and/or building permit.**

A. Every applicant shall submit a properly completed "waste management plan," in a form as prescribed by the WMP Compliance Official, to the Department of Planning and Building, as a portion of the building or demolition permit process. The completed WMP shall indicate, at minimum, all of the following:

1. The estimated volume or weight of project construction and demolition debris, by materials type, to be generated;
2. The maximum volume or weight of such materials that can feasibly be diverted via reuse or recycling;
3. The vendor or facility that the applicant proposes to use to collect or receive that material; and
4. The estimated volume or weight of construction and demolition debris that will be land filled.

B. In estimating the volume or weight of materials identified in the WMP, the applicant shall use the standardized conversion rates approved by the City for this purpose. Approval of the form as complete and accurate shall be a condition precedent to issuance of any building or demolition permit. An on-site inspection and/or meeting with the applicant and/or contractor may also be required by the WMP Compliance Official. If the maximum volume or weight of such materials that can feasibly be diverted via reuse or recycling, as estimated pursuant to subsection (A)(2) of this section, is less than the required diversion requirements, applicant must submit information that supports the lower projected diversion rate, or the WMP shall be considered to be incomplete. (Ord. 1290 § 1 (part), 2001)

**8.05.060 Deposit required.**

As a condition precedent to issuance of any permit for a building or a demolition permit that involves a covered project, the applicant for which a permit is being applied shall post a cash deposit in the amount of fifty dollars for each estimated ton of construction and/or demolition debris, but not less than one thousand dollars (the deposit). The deposit shall be returned, without interest, in total or pro rata, upon proof to the satisfaction of the WMP Compliance Official that no less than the required percentages of the waste tonnage of construction and demolition debris generated by the covered project have been diverted from landfills and have been recycled or reused or stored for later reuse or recycling. If a lesser percentage of waste tonnage of construction and demolition debris than required is diverted, a proportionate share of the deposit will be returned. The deposit shall be forfeited entirely or to the pro rata extent that there is a failure to comply with the requirements of this chapter. The City Council may, by formal resolution, modify the amount of the required deposit. (Ord. 1408 § 4, 2009; Ord. 1321 § 4, 2003; Ord. 1290 § 1 (part), 2001)

**8.05.070 Administrative fee.**

As a condition precedent to issuance of any permit for construction or demolition for a covered project, the applicant shall pay to the City a cash fee sufficient to compensate the City for all expenses incurred in administering the permit. The amount of this fee shall be determined in accordance with the then current fee resolution of the City Council determining the same. (Ord. 1290 § 1 (part), 2001)

**8.05.080 On-site practices.**

During the term of the covered project, the applicant shall recycle or reuse the required percentages of materials, and keep records thereof in tonnage or in other measurements approved by the WMP Compliance Official that can be converted to tonnage. The WMP Compliance Official will evaluate and monitor each covered project to assist in evaluating the percentage and types of materials recycled, salvaged and recycled or reused from the covered project and to provide technical assistance where appropriate. The required diversion of a minimum of the required percentages of the designated recyclable and reusable materials shall be measured separately with respect to the demolition segment and the construction segment of a covered project where both construction and demolition are involved. To the maximum extent feasible, on-site separation of scrap wood and clean green waste in a designated debris box or boxes shall be arranged, in order to permit chipping and mulching for soil enhancement or land cover purposes. In order to protect chipping and grinding machinery, metal and other materials which cannot be chipped or ground shall not be placed in such boxes. On-site separation shall be undertaken for wallboard, dimensional lumber, and cardboard to the extent feasible on new construction. (Ord. 1290 § 1 (part), 2001)

**8.05.090 Reporting.**

A. Within sixty days following the completion of the demolition phase of a covered project, and again within sixty days following the completion of the construction phase of a covered project, the applicant shall, as a condition precedent to final inspection and to issuance of any certificate of occupancy, submit documentation to the WMP Compliance Official which proves

compliance with the requirements of Sections 8.05.030 and 8.05.040. The documentation shall consist of a final completed waste management report (WMR) showing actual data of tonnage of materials salvaged for recycling and reuse, supported by originals or certified photocopies of receipts and weight tags or other records of measurement from recycling companies, deconstruction contractors, and/or landfill and disposal companies. The WMP Compliance Official will use the WMR, receipts and weight tags to assist in verifying whether materials generated from the site have been or are to be recycled, reused, salvaged or otherwise disposed of. Applicant shall make reasonable efforts to ensure that all designated recyclable and reuse materials salvaged or landfilled are measured and recorded using the most accurate method of measurement available. To the extent practical, all construction and demolition debris shall be weighed by measurement on scales. Such scales shall be in compliance with all regulatory requirements for accuracy and maintenance. For construction and demolition debris for which weighing is not practical due to small size, lack of scales at facility, or other considerations, a volumetric measurement shall be used. For conversion of volumetric measurements to weight, the applicant shall use the standardized conversion rates approved by the City for this purpose.

If a covered project involves both demolition and construction, the report and documentation for the demolition project must be submitted and approved by the WMP Compliance Official before issuance of a building permit for the construction phase of a covered project. In the alternative, the applicant may submit a letter stating that no waste or recyclable materials were generated from the covered project, in which case this statement shall be subject to verification by the WMP Compliance Official. Any deposit posted pursuant to Section 8.05.050 shall be forfeited if the applicant does not meet the timely reporting requirements of this section.

B. On an annual basis the Waste Management Compliance Official (or other designee) shall compile a report that, at minimum, describes the number and type of permits issued, the number and type of projects covered by diversion requirements, the total tonnage generated and the estimated diversion resulting from these projects. Within eighteen months the Waste Management Compliance Official (or other designee) shall also review and evaluate the impact of this ordinance for the purpose of making recommendations to improve diversion of waste generated through construction, demolition and renovation activities and improve the cost-effective oversight of the ordinance codified in this chapter. (Ord. 1290 § 1 (part), 2001)

#### **8.05.100 Violation a public nuisance.**

Each violation of the provisions of this chapter shall constitute a public nuisance and be subject to abatement as such. (Ord. 1290 § 1 (part), 2001)

#### **8.05.110 Penalties.**

Each violation of the provisions of this chapter shall constitute a misdemeanor, and shall be punishable by imprisonment in the county jail for not to exceed six months, or by fine not exceeding one thousand dollars, or by both such fine and imprisonment. Each day that a violation continues shall be deemed a new and separate offense. (Ord. 1290 § 1 (part), 2001)

#### **8.05.120 Responsible party.**

Ever applicant and/or owner of property on which a covered project occurs shall be responsible for compliance with the provisions of this chapter. (Ord. 1290 § 1 (part), 2001)

## **Chapter 8.06 SMOKING CONTROL**

Sections:

**8.06.010 Findings and purpose of provisions.**

**8.06.020 Purpose.**

**8.06.030 Definitions.**

**8.06.040 Other applicable laws.**

**8.06.050 Prohibition of smoking in public places.**

**8.06.060 Smoking not controlled—Where.**

**8.06.070 Posting requirements.**

**8.06.080 Nondiscrimination.**

**8.06.100 Enforcement.**

**8.06.110 Violations and penalties.****8.06.120 Private claim/action.****8.06.130 Public education.****8.06.140 Applicability to existing businesses.****8.06.010 Findings and purpose of provisions.**

The City Council finds that:

A. The 1993 Environmental Protection Agency (EPA) report on "Respiratory Health Effects of Passive Smoking: Lung Cancer and Other Disorders," concluded that:

1. The widespread exposure to environmental tobacco smoke (ETS) in the United States presents a serious and substantial public health impact.
2. ETS, casually associated with lung cancer in adults, and ETS by the total weight of evidence belongs in the category of compounds classified by the EPA as Group A (known human) carcinogens.
3. In children, ETS is causally associated with respiratory tract infections and irritations, and asthma.

B. The Americans with Disabilities Act, which requires access of handicapped persons in public places and workplaces, deems impaired respiratory function a disability.

C. Employees subject to the prolonged exposure to secondhand smoke in the workplace have been found in scientifically conducted studies to experience a loss of job productivity and may be forced to take periodic sick leave because of reactions to secondhand smoke. Furthermore, studies have shown higher costs to the employer are associated with smoke in the workplace due to increases in absenteeism, accidents, costs of medical care, insurance, loss of productivity, and cleaning and maintenance requirements.

D. The Surgeon General further found that the simple separation of smokers and nonsmokers within the same air space may reduce, but does not eliminate, the exposure of nonsmokers to carcinogenic secondhand smoke.

E. Smoking in public places and places of employment is a major cause of fires and damage to merchandise and equipment as well as costly repairs to furniture and fixtures.

F. Studies have shown higher costs to the employer are associated with smoking in the workplace due to increases in absenteeism, accidents, costs of medical care, loss of productivity and cleaning and maintenance requirements.

G. Nonsmokers with allergies, respiratory diseases and those who suffer other ill effects of breathing secondhand smoke may experience a loss of job productivity or may be forced to take periodic sick leave because of reactions to environmental tobacco smoke.

H. Studies have shown some nonsmokers cannot dine in restaurants because of adverse reaction or annoyance from environmental tobacco smoke.

I. That the regulations within the California Indoor Clean Air Act of 1976, as amended (Health and Safety Code Section 25940, et seq.) are inadequate to protect the public health, safety and welfare, and that said Act does not preempt local regulation of smoking.

J. Persons have a right to be free from exposure to secondhand smoke if they desire.

K. Opinion surveys show that a majority of both nonsmokers and smokers favor restrictions on smoking in public places and places of employment.

L. The State of California has enacted regulations prohibiting smoking in places of employment including restaurants and bars. (Ord. 1328 § 1 (part), 2003: Ord. 1123 § 2 (part), 1993)

**8.06.020 Purpose.**

This chapter is enacted for the purpose of restricting and regulating smoking in public places in order to protect the public health and welfare against the proven health hazards and harmful effects of secondhand smoke. (Ord. 1328 § 1 (part), 2003: Ord. 1123 § 2 (part), 1993)

**8.06.030 Definitions.**

As used in this chapter, those terms identified in this section shall, unless the context indicates otherwise, be ascribed the meaning contained in this section.

“Bar” means an enclosed area which is devoted to the serving of alcoholic beverages for consumption on the premises, and in which the serving of food, if any, is incidental to the consumption of such beverages.

“Business” means any sole proprietorship, partnership, joint venture, corporation or other entity formed for either charitable or profit-making purposes, including without limitation by reason of enumeration manufacturing concerns, retail or commercial establishments where goods or services are sold, and professional corporations or other entities where legal, medical, dental, engineering, architecture, financial or other professional services are delivered.

“Enclosed” means closed in by a roof and four or more connected floor-to-ceiling walls with appropriate openings for ingress and egress.

“Public building” means a public building owned or operated by the City of San Carlos.

“Public place” means any enclosed area to which the public is invited or in which the public is permitted or invited, where goods or services are sold, including, but not limited to, retail establishments, restaurants (all available seating), retail food markets, enclosed shopping malls, places of employment, professional corporations or other entities where legal, medical, dental, engineering, architectural, financial or other professional services are delivered, educational facilities, health facilities, bingo parlors, public transportation facilities, reception areas, libraries and museums, retail food production and marketing establishments, restrooms, service lines, elevators, escalators, hallways, lobbies, reception areas, stairways, theaters, sports arenas, automobile dealerships, barber or beauty shops, cleaners, laundromats, polling places, and places of public assembly.

“Restaurant” means any eating establishment, organization, club, boardinghouse or guesthouse where the primary function is the serving of food and which gives or offers for sale food to the public, guests, patrons, or employees as well as kitchens in which food is prepared on the premises for serving elsewhere, including catering functions.

“Retail tobacco store” means a retail store primarily used for the sale of tobacco products and accessories.

“Smoking” means inhaling, exhaling, burning or carrying any lighted cigarette, cigar, pipe, weed, plant or other combustible substance in any manner or in any form.

“Tobacco,” “tobacco or smoking product,” or “tobacco or nicotine product” means:

1. Any product containing, made, or derived from tobacco or nicotine that is intended for human consumption, whether smoked, heated, chewed, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, including, but not limited to, cigarettes, cigars, little cigars, chewing tobacco, pipe tobacco, and snuff;
2. Any electronic device that delivers nicotine or other substances to the person inhaling from the device, including, but not limited to, an electronic cigarette, electronic cigar, electronic pipe, or electronic hookah.
3. Notwithstanding any provision of subsections (1) and (2) of this definition to the contrary, “tobacco product” includes any component, part, or accessory intended or reasonably expected to be used with a tobacco product, whether or not sold separately. “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 such product is marketed and sold solely for such an approved purpose. (Ord. 1544 § 3, 2019; Ord. 1328 § 1 (part), 2003; Ord. 1123 § 2 (part), 1993)

**8.06.040 Other applicable laws.**

This chapter shall not be interpreted or construed to permit smoking where it is otherwise restricted by other applicable laws. (Ord. 1328 § 1 (part), 2003; Ord. 1123 § 2 (part), 1993)

**8.06.050 Prohibition of smoking in public places.**

Smoking shall be prohibited in the following public places and other public places similarly situated, including, but not limited to, the following areas:

- A. All enclosed areas available to and customarily used by the general public, including, but not limited to, all “public places” and all “businesses” patronized by the public as defined in this chapter;
- B. Elevators, escalators and stairways;

- C. Buses, taxicabs, and other means of public transit operating under the authority of the City of San Carlos, and ticket areas, indoor or sheltered boarding and waiting areas of public transit depots;
- D. All enclosed areas, including vehicles, owned or operated by the City of San Carlos, or any other government entity within the City of San Carlos, and within twenty feet of the main entrance(s) of any public building owned or operated by the City of San Carlos;
- E. Lobbies, hallways, stairwells and other common areas in apartment buildings, condominiums, senior citizen retirement or residential care houses, nursing homes, licensed community care facilities and other multiresidential facilities and buildings;
- F. All bars and restaurants. (Ord. 1328 § 1 (part), 2003: Ord. 1123 § 2 (part), 1993)

**8.06.060 Smoking not controlled—Where.**

Notwithstanding any other provision of this chapter to the contrary, the following enclosed areas shall not be subject to the provisions of this chapter:

Private residences, except when the residences are utilized as a healthcare facility, childcare facility, licensed community-care facility, or senior citizen or retirement care home; except senior care facilities may set aside an area(s) where smoking is permitted. (Ord. 1328 § 1 (part), 2003: Ord. 1123 § 2 (part), 1993)

**8.06.070 Posting requirements.**

- A. Each owner, operator, manager or other person having control of an enclosed public place within which smoking is regulated by this chapter shall conspicuously post "No Smoking" signs with letters not less than one inch in height or the international "No Smoking" symbol consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it. At least one sign shall be placed at the entrance to every applicable facility.
- B. Hotels and motels required by this chapter to maintain nonsmoking rooms shall prominently post in the lobby a sign notifying patrons of the availability of nonsmoking accommodations. Any room designated as nonsmoking shall have a "No Smoking" sign conspicuously placed in the room. (Ord. 1328 § 1 (part), 2003: Ord. 1123 § 2 (part), 1993)

**8.06.080 Nondiscrimination.**

No person and no employer shall discharge, refuse to hire, or in any manner discriminate or retaliate against any person or any employee seeking to exercise rights afforded by this chapter. (Ord. 1328 § 1 (part), 2003: Ord. 1123 § 2 (part), 1993)

**8.06.100 Enforcement.**

- A. It shall be the responsibility of the City Manager or his/her designee to enforce the provisions of this chapter.
- B. Any owner, manager, operator or employer of any establishment subject to this chapter shall have the responsibility to inform any apparent violator, whether public or employee, about any smoking restrictions in the establishment, and shall request voluntary compliance.
- C. Any citizen who desires to register a complaint under this section shall do so by sending a letter to the City Manager.
- D. Notice of these requirements shall be given to every new business license applicant, and every existing business licensee at the time of business license renewal. (Ord. 1328 § 1 (part), 2003: Ord. 1123 § 2 (part), 1993)

**8.06.110 Violations and penalties.**

- A. It is unlawful for any person who owns, manages, operates or otherwise controls the use of any premises subject to regulation under this chapter to fail to comply with any of its provisions.
- B. It is unlawful for any person to smoke in any area where smoking is prohibited by the provisions of this chapter.
- C. It is unlawful for any person who owns or controls premises subject to the prohibitions of this chapter to fail to post sign(s) as required by this chapter.
- D. Any person who violates any provision of this chapter shall be guilty of an infraction, punishable by:
  1. A fine not exceeding one hundred dollars for a first violation;
  2. A fine not exceeding two hundred dollars for a second violation of this chapter within one year;
  3. A fine not exceeding five hundred dollars for each additional violation of this chapter within one year.

E. Violation of the provisions of this chapter are declared to be a public nuisance which may be abated by appropriate civil action.

F. The remedies provided by this section are cumulative, and are in addition to any other remedy existing at law or in equity. (Ord. 1328 § 1 (part), 2003: Ord. 1123 § 2 (part), 1993)

**8.06.120 Private claim/action.**

Any aggrieved person under this chapter may bring a civil action to compel compliance with this chapter; provided, that the person shall have first requested in writing that the City take appropriate enforcement action and the City shall have failed to do so after forty-five days. (Ord. 1328 § 1 (part), 2003: Ord. 1123 § 2 (part), 1993)

**8.06.130 Public education.**

The City Manager or his/her designee shall engage in a continuing program to explain and clarify the purposes of this chapter to citizens affected by it, and guide owners, operators and managers in their compliance with it. Within ninety days of enactment of the ordinance codified in this chapter, the City Manager shall have prepared a brochure which can be used to explain the provisions of this chapter to businesses and citizens and can be enclosed in letters sent pertaining to complaints. (Ord. 1328 § 1 (part), 2003: Ord. 1123 § 2 (part), 1993)

**8.06.140 Applicability to existing businesses.**

The provisions of Section 8.06.050(F) regulating smoking in bars shall apply to all existing bar businesses, except that a bar qualifying for the owner/operator exemption under state law (presently, Labor Code Section 6404.5), having a certificate of owner/operator exempt status as of the effective date of the ordinance codified in this chapter and continuing to so qualify under state law may retain such exemption. (Ord. 1328 § 1 (part), 2003: Ord. 1123 § 2 (part), 1993)

**Chapter 8.07  
TOBACCO RETAILER PERMIT Revised 10/23**

Sections:

**8.07.100 Definitions.** Revised 10/23

**8.07.110 Requirement for a permit.** Revised 10/23

**8.07.120 Permit is nontransferable.** Revised 10/23

**8.07.130 Permit conveys a limited, conditional privilege.** Revised 10/23

**8.07.140 Application, issuance and renewal procedure.** Revised 10/23

**8.07.150 Display of permit.** Revised 10/23

**8.07.160 Prohibitions regarding coupons, discounts, pharmacies, flavored tobacco, and electronic smoking devices.**  
Revised 10/23

**8.07.170 Packaging and labeling.** Revised 10/23

**8.07.180 Self-service displays prohibited—On-site, in-person sales required.** Revised 10/23

**8.07.190 Notice of minimum age for purchase of tobacco products.** Revised 10/23

**8.07.200 Positive identification required.** Revised 10/23

**8.07.210 Minimum age for individuals selling tobacco products.** Revised 10/23

**8.07.220 Display or offers to sell tobacco products without tobacco retailer permit prohibited.** Revised 10/23

**8.07.230 Limits on eligibility for a permit.** Revised 10/23

**8.07.240 Fees for permit.** Revised 10/23

**8.07.250 Enforcement.** Revised 10/23

**8.07.260 Public nuisance.** Revised 10/23

**8.07.270 Compliance monitoring.** Revised 10/23

**8.07.290 Suspension or revocation of permit.** Revised 10/23**8.07.300 Administrative fine.** Revised 10/23**8.07.310 Enforcement of this chapter in cities.** Revised 10/23**8.07.100 Definitions.** Revised 10/23

A. "Characterizing flavor" means a distinguishable taste or aroma, or both, other than the taste or aroma of tobacco, imparted by a tobacco product or any byproduct produced by the tobacco product. Characterizing flavors include, but are not limited to, tastes or aromas relating to any fruit, chocolate, vanilla, honey, candy, cocoa, dessert, alcoholic beverage, menthol, mint, wintergreen, herb, or spice. A tobacco product shall not be determined to have a characterizing flavor solely because of the use of additives or flavorings or the provision of ingredient information. Rather, it is the presence of a distinguishable taste or aroma, or both, as described in the first sentence of this definition, that constitutes a characterizing flavor.

B. "Constituent" means any ingredient, substance, chemical, or compound, other than tobacco, water, or reconstituted tobacco sheet that is added by the manufacturer to a tobacco product during the processing, manufacture, or packing of the tobacco product.

C. "Consumer" means a person who purchases a tobacco product for consumption.

D. "Coupon" means any voucher, rebate, card, paper, note, form, statement, ticket, image, or other issue, whether in paper, digital, or other form, used for commercial purposes to obtain an article, product, service, or accommodation without charge or at a discounted price.

E. "Director" means the Chief of San Mateo County Health, or designee.

F. "Distinguishable" means perceptible by either the sense of smell or taste.

G. "Electronic smoking device" means any device that may be used to deliver any aerosolized or vaporized substance to the person inhaling from the device, including, but not limited to, an e-cigarette, e-cigar, e-pipe, vape pen, or e-hookah. Electronic smoking device includes any component, part, or accessory of the device, and also includes any substance that may be aerosolized or vaporized by such device, whether or not the substance contains nicotine, and whether natural or synthetic. "Electronic smoking device" 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 such product is marketed and sold solely for such an approved purpose.

H. "Flavored tobacco product" means any tobacco product that contains a constituent that imparts a characterizing flavor.

I. "Full retail price" means the price listed for a tobacco product on its packaging or on any related shelving, advertising, or display where the tobacco product is sold or offered for sale, plus all applicable taxes and fees if such taxes and fees are not included in the listed price.

J. "Labeling" means written, printed, pictorial, or graphic matter upon any tobacco product or any of its packaging.

K. "Packaging" means a pack, box, carton, or container of any kind or, if no other container, any wrapping (including cellophane) in which a tobacco product is sold, or offered for sale, to a consumer.

L. "Permit" or "tobacco retailer permit" means a valid permit issued by the Director to a person to act as a tobacco retailer.

M. "Person" means any natural person, partnership, cooperative association, corporation, personal representative, receiver, trustee, assignee, or any other entity.

N. "Pharmacy" means any retail establishment in which the profession of pharmacy is practiced by a pharmacist licensed by the State of California in accordance with the Business and Professions Code and where prescription pharmaceuticals are offered for sale, regardless of whether the retail establishment sells other retail goods in addition to prescription pharmaceuticals.

O. "Sale" or "sell" means transfer to, exchange, barter, or distribute for a commercial purpose.

P. "Self-service display" shall be defined as the open display or storage of tobacco products in a manner that is physically accessible to the general public without the assistance of the retailer or employee of the retailer and a direct face-to-face transfer between the purchaser and the retailer or employee of the retailer. A vending machine is a form of self-service display.

Q. "Tobacco paraphernalia" means any item designed or marketed for the consumption, use, or preparation of tobacco products.

R. "Tobacco" or "tobacco product(s)" means:

1. Any product containing, made of, or derived from tobacco or nicotine, whether natural or synthetic, that is intended for human consumption or is likely to be consumed, whether inhaled, absorbed, or ingested by any other means, including but not limited to a cigarette, a cigar, pipe tobacco, chewing tobacco, snuff, or snus;
2. Any electronic smoking device and any substances that may be aerosolized or vaporized by such device, whether or not the substance contains nicotine, and whether natural or synthetic; or
3. Any component, part, or accessory of subsection (R)(1) or (R)(2) of this section, whether or not any of these contains tobacco or nicotine, whether natural or synthetic, including but not limited to filters, rolling papers, blunt or hemp wraps, hookahs, mouthpieces, and pipes.
4. "Tobacco product" does not include any product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product or for other therapeutic purposes where such product is marketed and sold solely for such an approved purpose.

S. "Tobacco product flavor enhancer" means a product designed, manufactured, produced, marketed or sold to produce a characterizing flavor when added to a tobacco product.

T. "Tobacco retailer" means any person who sells, or offers for sale, tobacco products. This definition is without regard to the quantity of tobacco products sold or offered for sale.

U. "Youth-populated area" means a parcel of real property that is occupied, in whole or in part, by any of the following:

1. A private or public school that educates children in grades kindergarten through high school;
2. A library that is open to the public;
3. A playground that is open to the public;
4. A youth center, defined as a facility where children ages six (6) to seventeen (17) come together for programs and activities;
5. A recreation facility open to the public, defined as an area, place, structure, or other facility that is used either permanently or temporarily for community recreation, even though it may be used for other purposes. "Recreation facility" includes, but is not limited to, a gymnasium, playing court, playing field, and swimming pool;
6. A public or private college or university that serves as an institution for education beyond the high school level;
7. A licensed child-care facility or preschool, other than a small-family day care home or a large-family day care home as defined in California Health and Safety Code Section 1596.78. (Ord. 1600 § 3 (Exh. A), 2023)

#### **8.07.110 Requirement for a permit. Revised 10/23**

A. No tobacco retailer or other person shall sell or offer for sale any tobacco product without a current and valid tobacco retailer permit from San Mateo County for each location where such activities are conducted.

B. Permits are valid for one (1) year and must be timely renewed annually by the permit holder in order to continue to sell or offer for sale any tobacco product. A retailer must obtain a separate permit for each location at which any tobacco product will be sold, offered for sale or distributed. A permit that is not renewed in a timely manner shall expire at the end of its term, and the tobacco retailer must obtain a new permit prior to any further sale, offer for sale, or distribution of any tobacco product.

C. No tobacco retailer shall violate, or cause or allow the tobacco retailer's agents or employees to violate, any provision of this chapter or any other local, State, or Federal law applicable to tobacco products or tobacco retailing.

D. Tobacco retailers are responsible for the actions of their employees and agents relating to the sale, offer to sell, and furnishing of tobacco products at the retail location. The sale of any tobacco product by an employee shall be considered an act of the tobacco retailer and the permit holder shall be responsible for any monetary penalties levied.

E. Nothing in this chapter shall be construed to penalize the purchase, use, or possession of a tobacco product by any person not engaged in tobacco retailing. (Ord. 1600 § 3 (Exh. A), 2023; Ord. 1401 § 1 (part), 2008. Formerly 8.07.010)

**8.07.120 Permit is nontransferable. Revised 10/23**

A. Tobacco retailer permits are nontransferable as between persons, locations, or otherwise. Any attempted transfer shall render the permit null and void.

B. Notwithstanding any other provision of this chapter, prior violations of this chapter at a location shall continue to be counted against that location and permit ineligibility and suspension periods shall continue to apply to that location unless:

1. One hundred percent (100%) of the interest in the stock, assets, or income of the business, other than a security interest for the repayment of debt, has been transferred to the new owner(s); and

2. The County is provided with clear and convincing evidence, including an affidavit, that the business has been acquired in an arm's length transaction. An arm's length transaction, for the purposes of this section, means a transaction in which two (2) or more unrelated and unaffiliated parties agree on the transfer in question; the parties act independently and in their own self-interest; and the parties have equal bargaining power and symmetric information, leading the parties to agree upon fair-market terms. (Ord. 1600 § 3 (Exh. A), 2023; Ord. 1401 § 1 (part), 2008. Formerly 8.07.050)

**8.07.130 Permit conveys a limited, conditional privilege. Revised 10/23**

Nothing in this chapter shall be construed to grant any person or entity obtaining and maintaining a permit any status or right other than the limited, conditional privilege to sell tobacco products and act as a tobacco retailer at the location in the County identified on the face of the permit for the period of time shown on the permit. All permits are issued subject to the County's right to amend this chapter from time to time, and retailers shall comply with all provisions of this chapter, as amended. (Ord. 1600 § 3 (Exh. A), 2023)

**8.07.140 Application, issuance and renewal procedure. Revised 10/23**

Application for a tobacco retailer's permit or the renewal of a tobacco retailer permit shall be submitted in the name of the person proposing to conduct retail sales of tobacco products, referred to herein as the "applicant," and shall be signed by such person or an authorized agent thereof. All applications shall be submitted to the Director on a form supplied by the Director and contain, at a minimum, the following information:

A. The name, address, and telephone number of the applicant;

B. The business name, address, and telephone number of the location where tobacco products are proposed to be sold, offered for sale or distributed by the applicant; and

C. Proof that the location for which a tobacco retailer's permit is sought has been issued a valid State license for the sale of tobacco products, if the tobacco retailer sells products that require such license;

D. A statement whether or not the tobacco retailer or any agent of the retailer has been found to have violated this chapter or other applicable law governing tobacco products or tobacco retailing and, if so, the dates and locations of all such violations within the previous five (5) years; and

E. Such other information as the Director determines is necessary for implementation of this chapter.

F. An application for a new or renewal permit will be denied if there are any outstanding fines or late fees issued by the Director, or during any period of suspension.

G. It is the responsibility of each permit holder to be informed regarding all laws applicable to tobacco retailing, including those laws affecting the issuance of a tobacco retailer permit. No permit holder may rely on the issuance of a permit as a determination by San Mateo County that the permit holder has complied with all laws applicable to tobacco retailing. A permit issued contrary to this chapter or any other law, or on the basis of false or misleading information supplied by the applicant, shall be revoked. Nothing in this chapter shall be construed to vest in any person or entity obtaining or maintaining a tobacco retailer's permit any status or right to act as a tobacco retailer in contravention of any provision of law. (Ord. 1600 § 3 (Exh. A), 2023; Ord. 1401 § 1 (part), 2008. Formerly 8.07.020)

**8.07.150 Display of permit. Revised 10/23**

Upon receipt of an application for a tobacco retailer permit in compliance with the requirements of this chapter, the Director or designee may issue a permit which, if issued, must be prominently displayed in a publicly visible location at the location where

tobacco product sales are conducted and permitted. (Ord. 1600 § 3 (Exh. A), 2023; Ord. 1401 § 1 (part), 2008. Formerly 8.07.030)

**8.07.160 Prohibitions regarding coupons, discounts, pharmacies, flavored tobacco, and electronic smoking devices. Revised 10/23**

A. No tobacco retailer shall do any of the following:

1. Honor or redeem, or offer to honor or redeem, a coupon to allow a consumer to purchase a tobacco product for less than full retail price;
2. Sell any tobacco product to a consumer through a multiple package discount or otherwise provide any such product to a consumer for less than the full retail price in consideration for the purchase of any tobacco product or any other item; or
3. Provide any free or discounted item to a consumer in consideration for the purchase of any tobacco product.

B. No person, tobacco retailer or other legal entity shall sell or distribute to a person any electronic smoking device that delivers natural or synthetic nicotine or any other substance(s) to the person inhaling from the device. This includes any component, part, or accessory intended or reasonably expected to be used with the electronic device, whether or not sold separately.

C. No person or tobacco retailer shall sell or offer to sell any flavored tobacco product or tobacco product flavor enhancer. There shall be a rebuttable presumption that a tobacco product is a flavored tobacco product if a manufacturer or any of the manufacturer's agents or employees, in the course of their agency or employment, has made a statement or claim directed to consumers or to the public that the tobacco product has or produces a characterizing flavor including, but not limited to, text, color, and/or images on the product's labeling or packaging that are used to explicitly or implicitly communicate that the tobacco product has a characterizing flavor.

D. No pharmacy or pharmacy employee or agent shall sell or offer to sell any tobacco product. The Director shall not issue any new, or renew any existing, tobacco retailer permit for any pharmacy.

E. Subsections B and C of this section shall not apply to the duty-free stores located at the San Francisco International Airport. (Ord. 1600 § 3 (Exh. A), 2023)

**8.07.170 Packaging and labeling. Revised 10/23**

No tobacco retailer or other person shall sell or offer for sale any tobacco product to any consumer unless the tobacco product (A) is sold in the original manufacturer's packaging intended for sale to consumers; (B) conforms to all applicable Federal labeling requirements; and (C) conforms to all applicable child-resistant packaging requirements. (Ord. 1600 § 3 (Exh. A), 2023)

**8.07.180 Self-service displays prohibited—On-site, in-person sales required. Revised 10/23**

A. Tobacco retailing by means of a self-service display is prohibited.

B. All sales of tobacco products and tobacco paraphernalia shall be conducted in person, over the counter, in the permitted location. (Ord. 1600 § 3 (Exh. A), 2023)

**8.07.190 Notice of minimum age for purchase of tobacco products. Revised 10/23**

Tobacco retailers shall post conspicuously, at each point of purchase, a notice stating that selling tobacco products to anyone under twenty-one (21) years of age is illegal and subject to penalties. The form and content of such notice shall be subject to the approval of the Director. (Ord. 1600 § 3 (Exh. A), 2023)

**8.07.200 Positive identification required. Revised 10/23**

No tobacco retailer or other person shall sell or offer to sell a tobacco product to another person without first verifying by means of government-issued photographic identification that the recipient is at least the minimum legal sales age required under State law to purchase a tobacco product. (Ord. 1600 § 3 (Exh. A), 2023)

**8.07.210 Minimum age for individuals selling tobacco products. Revised 10/23**

No tobacco retailer shall allow, at its retail location, any individual who is younger than twenty-one (21) years of age to sell or offer to sell tobacco products. (Ord. 1600 § 3 (Exh. A), 2023)

**8.07.220 Display or offers to sell tobacco products without tobacco retailer permit prohibited. Revised 10/23**

A tobacco retailer without a current valid permit:

- A. Shall keep all tobacco products out of public view. The public display of tobacco products in violation of this provision shall constitute tobacco retailing without a permit.
- B. Shall not display any advertisement relating to tobacco products that offers the sale of such products from the tobacco retailer's location. (Ord. 1600 § 3 (Exh. A), 2023)

**8.07.230 Limits on eligibility for a permit. Revised 10/23**

- A. No tobacco retailer's permit may be issued to authorize tobacco retailing at or from other than a fixed location. For example, sales by persons on foot or from vehicles or other forms of mobile vending are prohibited.
- B. No tobacco retailer's permit may be issued to authorize sales of tobacco products at a temporary event, such as flea markets and farmers' markets.
- C. No new tobacco retailer permit may be issued to authorize tobacco product sales at any location within one thousand (1,000) feet of a youth-populated area, as measured by a straight line from the nearest point of the property line of any parcel on which a youth-populated area is located and any point along the property line of the parcel on which the permit applicant has or proposes to locate the business.
- D. No new tobacco retailer's permit may be issued for a location which is within five hundred (500) feet of a location already occupied by another tobacco retailer, as measured by a straight line from the nearest point of the property line of the parcel on which the applicant's business is located to the nearest point of the property line of the parcel on which an existing tobacco retailer's business is located.
- E. Tobacco retailers with a current and valid permit as of the date of adoption of the ordinance codified in this chapter shall be exempt from subsections C and D of this section unless the existing tobacco retailer fails to timely renew the permit prior to its annual expiration.
- F. The sale of tobacco products and accessories is prohibited in County-owned structures and in any area of a structure leased by the County, wherever located. (Ord. 1600 § 3 (Exh. A), 2023)

**8.07.240 Fees for permit. Revised 10/23**

Tobacco retailers shall pay all applicable fees at the rates set forth in Section 5.64.070 of the San Mateo County Ordinance Code. Fees shall be used by the Director to administer and enforce this chapter. (Ord. 1600 § 3 (Exh. A), 2023; Ord. 1401 § 1 (part), 2008. Formerly 8.07.040)

**8.07.250 Enforcement. Revised 10/23**

- A. The Director or the Director's designee shall enforce this chapter consistent with the provisions herein.
- B. Violations of this chapter may be criminally prosecuted as infraction(s) or misdemeanor(s) at the discretion of the prosecuting attorney as the interests of justice require.
- C. This section shall not be interpreted to limit the applicable civil or administrative remedies available under law. (Ord. 1600 § 3 (Exh. A), 2023; Ord. 1401 § 1 (part), 2008. Formerly 8.07.060)

**8.07.260 Public nuisance. Revised 10/23**

Any violation of this chapter is hereby declared a public nuisance, subject to all applicable civil, administrative, and criminal remedies and penalties according to the provisions and procedures contained in this ordinance code and State law, including but not limited to an action for abatement or injunctive relief. (Ord. 1600 § 3 (Exh. A), 2023)

**8.07.270 Compliance monitoring. Revised 10/23**

- A. Compliance with this chapter shall be monitored by the Director. In addition, any peace officer may enforce the provisions of this chapter. The Director may designate additional persons to monitor and facilitate compliance with this chapter.
- B. Individuals designated to enforce the provisions of this chapter shall inspect each tobacco retailer at least two (2) times during each twelve (12) month period to determine if the tobacco retailer is complying with all applicable laws. Compliance checks shall take place during normal business hours, with or without notice. If a violation has occurred, the tobacco retailer shall be inspected again within three (3) months. All permitted premises must be open to inspection by designated persons during regular business hours.
- C. Nothing in this section shall create a right of action in any tobacco retailer or other person or entity against the County or its agents. (Ord. 1600 § 3 (Exh. A), 2023)

**8.07.290 Suspension or revocation of permit. Revised 10/23****A. Grounds for Suspension or Revocation.**

1. A tobacco retailer permit may be suspended or revoked, as set forth in subsection B of this section, if any court of a competent jurisdiction determines, or the Director finds, based on a preponderance of the evidence after notice and opportunity for the tobacco retailer to be heard, that either of the following violations have occurred:
  - a. After the permit was issued it is determined that the application for the permit is incomplete or inaccurate.
  - b. The tobacco retailer or tobacco retailer's agent has violated any of the requirements, conditions, or prohibitions of this chapter or any applicable local, State, or Federal tobacco-related law.
2. Notwithstanding the foregoing, a tobacco retailer permit shall be suspended or revoked, for the maximum time periods and as set forth in subsection B of this section, if any court of competent jurisdiction determines, or the Director finds, based on a preponderance of evidence and after notice and opportunity for the tobacco retailer to be heard, that the tobacco retailer, or any agent or employee of the tobacco retailer, has sold tobacco products to any person(s) under the age of twenty-one (21) years.

**B. Time Period of Suspension of Permit.**

1. Upon the first violation within any sixty (60) month period, the permit to sell tobacco products may be suspended for up to thirty (30) days.
2. Upon the second violation within any sixty (60) month period, the permit to sell tobacco products may be suspended for up to ninety (90) days.
3. Upon the third violation within any sixty (60) month period, the permit to sell tobacco products may be suspended for up to one (1) year.
4. Upon the fourth violation within any sixty (60) month period, the permit to sell tobacco products shall be revoked. If a permit is revoked, the retailer shall not be eligible for a new permit for a period of five (5) years after the effective date of revocation.

**C. Effective Date of Suspension or Revocation.** Within ten (10) calendar days of the hearing, the Director shall issue written findings and an order regarding the suspension or revocation, which order will be effective ten (10) calendar days from the date such order was sent by certified mail to the retailer, unless a timely appeal is filed in accordance with subsection D of this section.**D. Appeal of Suspension or Revocation.** The decision of the Director is appealable to the San Mateo County Licensing Board and the procedural rules of the San Mateo County Licensing Board shall govern hearings on all appeals of suspensions and revocations.

1. An appeal must be in writing, be addressed to the Director and be hand-delivered to the offices of the Division of Environmental Health.
2. An appeal must be received by the Director before the effective date of suspension or revocation provided by subsection C of this section in order to be considered.
3. The filing of a timely appeal will stay a suspension or revocation pending a decision on the appeal by the San Mateo County Licensing Board.
4. The decision of the San Mateo County Licensing Board shall be a final administrative order, with no further administrative right of appeal. (Ord. 1600 § 3 (Exh. A), 2023; Ord. 1401 § 1 (part), 2008. Formerly 8.07.070)

**8.07.300 Administrative fine. Revised 10/23****A. Grounds for Fine.** A fine shall be imposed on a tobacco retailer upon findings made by the Director, based on a preponderance of the evidence, that any tobacco retailer, or any agent or employee of the tobacco retailer, has violated any of the requirements, conditions, or prohibitions of this chapter. A fine shall be imposed in the maximum amounts set forth in subsection B of this section upon findings made by the Director that the tobacco retailer, or any agent or employee of the tobacco retailer, has sold any tobacco product to any person(s) under the age of twenty-one (21) years. Any administrative fine shall be imposed solely against the tobacco retailer, not the tobacco retailer's employees or agents.

B. Amount of Fine. Upon written findings made by the Director under subsection A of this section, the person or entity holding the tobacco retailer permit shall be subject to an administrative fine for each such violation as follows:

1. A fine not exceeding five hundred dollars (\$500.00) for a first violation within a sixty (60) month period; and
2. A fine not exceeding one thousand dollars (\$1,000) for each subsequent violation within a sixty (60) month period.

C. Each day that tobacco products are sold or offered for sale without a permit or otherwise in violation of this chapter shall constitute a separate violation. A finding of "offered for sale" in violation of this chapter will be made if tobacco products are either actually sold and/or displayed in the retail establishment, or if advertisements offering to sell tobacco products are visible to customers.

D. Fine Procedures. Notice of the fine shall be served on the tobacco retailer by certified mail. The notice shall contain a description of the facts upon which the asserted violation is based and an advisement of the right to request a hearing before the Director contesting the imposition of the fine. Said hearing must be requested within ten (10) calendar days of the date appearing on the notice of the fine. The decision of the Director shall be a final administrative order, with no administrative right of appeal.

E. Failure to Pay Fine. If a fine imposed pursuant to this chapter is not paid within thirty (30) calendar days from the date appearing on the notice of the fine or of the notice of determination of the Director after the review provided for under subsection D of this section, the fine may be referred to a collection agency within or external to the County. In addition, any outstanding fines must be paid prior to the issuance of any new permit or renewal of a permit. (Ord. 1600 § 3 (Exh. A), 2023; Ord. 1401 § 1 (part), 2008. Formerly 8.07.080)

#### **8.07.310 Enforcement of this chapter in cities. Revised 10/23**

The Director is authorized to administer and enforce the provisions of this chapter on behalf of the City of San Carlos as provided in the San Mateo County Ordinance Code at Section 4.98.310(a). (Ord. 1600 § 3 (Exh. A), 2023)

### **Chapter 8.08 ABANDONED VEHICLES**

Sections:

**8.08.010 Public nuisance policy—Statutory authority.**

**8.08.020 Definitions.**

**8.08.030 Chapter provisions not exclusive.**

**8.08.040 Administration and enforcement—Right of entry.**

**8.08.050 Right of entry—Franchised personnel.**

**8.08.060 Abatement—Police Chief authority.**

**8.08.070 Abatement—Notice of intention.**

**8.08.080 Abatement—Public hearing.**

**8.08.090 Public hearing procedures.**

**8.08.100 Appeals.**

**8.08.110 Vehicle removal—Authorized when.**

**8.08.120 Vehicle removal—Notice to State.**

**8.08.130 Abatement—Administrative expenses.**

**8.08.140 Abatement—Cost assessment.**

**8.08.150 Exceptions to chapter applicability.**

**8.08.160 Limitation of filing judicial action.**

**8.08.010 Public nuisance policy—Statutory authority.**

In addition to and in accordance with the determination made and the authority granted by the State under Section 22660 of the Vehicle Code to remove abandoned, wrecked, dismantled or inoperative vehicles or parts thereof as public nuisances, the City Council makes the following findings and declarations:

The accumulation and storage of abandoned, wrecked, dismantled or inoperative vehicles or parts thereof on private or public property, not including highways, is found to create a condition tending to reduce the value of private property, to promote blight and deterioration, to invite plundering, to create fire hazards, to constitute an attractive nuisance creating a hazard to the health and safety of minors, to create a harborage for rodents and insects, and to be injurious to the health, safety and general welfare. Therefore, the presence of an abandoned, wrecked, dismantled or inoperative vehicle or parts thereof, on private or public property, not including highways, except as expressly hereinafter permitted, is declared to constitute a public nuisance which may be abated as such in accordance with the provisions of this chapter. (Ord. 1145 § 1 (part), 1994)

#### **8.08.020 Definitions.**

As used in this chapter:

“Abandoned vehicle” means a vehicle which has been abandoned, wrecked, dismantled or is inoperative, or parts thereof, on private or public property, not including highways.

“Administrative expenses” means the actual expenses and costs of the city in enforcement of this chapter including, but not limited to, preparing notices, specifications and contracts, in conducting inspections, legal fees, and other related costs.

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

“Inoperative vehicle” means a vehicle(s) where one or more of the following findings can be made: (1) the vehicle is unable to drive both forward and backward approximately two hundred fifty feet on the public roadway under the vehicle's own power; (2) the vehicle is unable to conduct a “three point turn” in the driveway; (3) the tires and brakes of the vehicle are not in proper and operating condition to the satisfaction of the Police Chief.

“Owner of the land” means the owner of the land on which the vehicle, or parts thereof, is located, as shown on the last equalized assessment roll.

“Owner of the vehicle” means the last registered owner and legal owner of record.

“Public hearing” means the publication of a notice in a local newspaper of general circulation published in the City of San Carlos and the mailing of the same notice to those property owners immediately adjacent and across the street from the subject property as measured by vertical lines extended from the front, rear and side property lines.

“Public property” does not include “highway.”

“Vehicle” means a device by which any person or property may be propelled, moved or drawn upon a highway, except a device moved by human power or used exclusively upon stationary rails or tracks. (Ord. 1145 § 1 (part), 1994)

#### **8.08.030 Chapter provisions not exclusive.**

This chapter is not the exclusive regulation of abandoned, wrecked, dismantled or inoperative vehicles, or parts thereof, within the City. It shall supplement and be in addition to the other regulatory codes, statutes and ordinances heretofore or hereafter enacted by the City or the State, or any other legal entity or agency having jurisdiction. (Ord. 1145 § 1 (part), 1994)

#### **8.08.040 Administration and enforcement—Right of entry.**

Except as otherwise provided herein, the provisions of this chapter shall be administered and enforced by the Chief of Police. In the enforcement of this chapter, such officer and his deputies may enter upon private or public property to examine a vehicle or parts thereof, obtain information as to the identity of a vehicle declared to be a nuisance pursuant to this chapter. (Ord. 1145 § 1 (part), 1994)

#### **8.08.050 Right of entry—Franchised personnel.**

When the City Council has contracted with or granted a franchise to any person or persons, such person or persons shall be authorized to enter upon private property or public property to remove or cause the removal of a vehicle or parts thereof declared to be a nuisance pursuant to this chapter. (Ord. 1145 § 1 (part), 1994)

#### **8.08.060 Abatement—Police Chief authority.**

Upon discovering the existence of an abandoned, wrecked, dismantled or inoperative vehicle, or parts thereof, on private property or public property within the City, the Chief of Police shall have the authority to cause the abatement and removal

thereof and cause the assessment of administrative expenses and costs of removal against the land in accordance with the procedures prescribed in this chapter. (Ord. 1145 § 1 (part), 1994)

**8.08.070 Abatement—Notice of intention.**

A. A ten-day notice of intention to abate and remove the vehicle, or parts thereof, as a public nuisance shall be mailed by certified mail to the owner of the land and to the owner of the vehicle, unless the vehicle is in such condition that identification numbers are not available to determine ownership. The notices of intention shall be in substantially the following forms:

**NOTICE OF INTENTION TO ABATE AND REMOVE AN ABANDONED, WRECKED, DISMANTLED, OR INOPERATIVE VEHICLE OR PARTS THEREOF AS A PUBLIC NUISANCE AND ASSESS ADMINISTRATIVE EXPENSES AND COSTS OF REMOVAL**

(Name and Address  
of Owner of the Land)

As owner shown on the last equalized assessment roll of the land located at (address), you are hereby notified that the undersigned pursuant to Section 8.08.010 of the ordinance code has determined that there exists upon said land an (or parts of an) abandoned, wrecked, dismantled or inoperative vehicle registered to license number which constitutes a public nuisance pursuant to the provisions of Chapter 8.08 of the ordinance code.

You are hereby notified to abate said nuisance by the removal of said vehicle (or said parts of a vehicle) within 10 days from the date of mailing of this notice, and upon your failure to do so the same will be abated and removed by the City and the costs thereof, together with Administrative expenses, assessed to you as owner of the land on which said vehicle (or said parts of a vehicle) is located.

As owner of the land on which said vehicle (or said parts of a vehicle) is located, you are hereby notified that you may, within 10 days after the mailing of this notice of intention, request a public hearing and if such request is not received by the Police Chief of the City of San Carlos at City Hall, 666 Elm Street, San Carlos California 94070 within such 10-day period, the Chief of Police shall have the authority to abate and remove said vehicle (or said parts of a vehicle) as a public nuisance and assess the costs as aforesaid without a public hearing. You may submit a sworn written statement within such 10-day period denying responsibility for the presence of said vehicle (or said parts of a vehicle) on said land, with your reasons for denial, and such statement shall be construed as a request for hearing at which your presence is not required. You may appear in person at any hearing requested by you or the owner of the vehicle, or, in lieu thereof, may present a sworn written statement as aforesaid in time for consideration at such hearing.

Notice mailed \_\_\_\_\_

(date)

\_\_\_\_\_  
(Chief of Police)

**NOTICE OF INTENTION TO ABATE AND REMOVE AN ABANDONED, WRECKED, DISMANTLED OR INOPERATIVE VEHICLE OR PARTS THEREOF AS A PUBLIC NUISANCE**

(Name and address of last registered and/or legal owner of record of vehicle notice should be given to both if different)

As last registered (and/or legal) owner of record of (description of vehicle — make, model, license, etc.) you are hereby notified that the undersigned pursuant to Section 8.08.010 has determined that said vehicle (or parts of a vehicle) exists as an abandoned, wrecked, dismantled or inoperative vehicle at (describe location on public or private property) and constitutes a public nuisance pursuant to the provisions of Chapter 8.08 of the ordinance code.

You are hereby notified to abate said nuisance by the removal of said vehicle (or said parts of a vehicle) within 10 days from the date of mailing of this notice.

As registered (and/or legal) owner of record of said vehicle (or said parts of a vehicle), you are hereby notified that you may, within 10 days after the mailing of this notice of intention, request a public hearing and if such a request is not received by the Police Chief within such 10-day period, the Chief of Police shall have the authority to abate and remove said vehicle (or said parts of a vehicle) without a hearing.

Notice mailed \_\_\_\_\_

(date)

\_\_\_\_\_  
(Chief of Police)

B. Notice of intention as set forth in this chapter shall not be required if the property owner and the owner of the vehicle have signed releases waiving any further interest in the vehicle or part thereof.

C. Notice of intention as set forth in this chapter is not required for removal of a vehicle (or a part thereof) if it is inoperable due to absence of a motor, transmission or wheels and is incapable of being towed, and is valued at less than two hundred dollars, and is determined to be a public nuisance by the Police Chief presenting an immediate threat to public safety provided the

property owner has signed a release authorizing removal. Notice of removal shall also be provided to the vehicle's legal and registered owners, if readily ascertainable. (Ord. 1145 § 1 (part), 1994)

#### **8.08.080 Abatement—Public hearing.**

A. Upon request by the owner of the vehicle or owner of the land received by the Chief of Police within ten days after the mailing of the notice of intention to abate and remove, a public hearing as defined in Section 8.08.020 of this chapter shall be held by the Zoning Administrator on the question of abatement and removal of the vehicle or parts thereof as an abandoned, wrecked, dismantled or inoperative vehicle, and the assessment of the administrative expenses and the cost of removal of the vehicle or parts thereof against the property on which it is located.

B. If the owner of the land submits a sworn written statement denying responsibility for the presence of the vehicle on the owner's land within such ten-day period, such statement shall be construed as a request for a hearing which does not require the owner's presence. Notice of the hearing shall be mailed, by certified mail, at least ten days before the hearing to the owner of the land and to the owner of the vehicle, unless the vehicle is in such condition that identification numbers are not available to determine ownership. If such a request for hearing is not received within said ten days after mailing of the notice of intention to abate and remove, the City shall have the authority to abate and remove the vehicle or parts thereof as a public nuisance without holding a public hearing. (Ord. 1145 § 1 (part), 1994)

#### **8.08.090 Public hearing procedures.**

A. All hearings under this chapter shall be held before the Zoning Administrator, who shall hear all facts and testimony the Zoning Administrator deems pertinent. Such facts and testimony may include testimony on the condition of the vehicle or parts thereof, and the circumstances concerning its location on such private property or public property. The Zoning Administrator shall not be limited by the technical rules of evidence. The owner of the land may appear in person at the hearing, or present a sworn written statement in time for consideration at the hearing, and deny responsibility for the presence of the vehicle on the land, with their reasons for such denial.

B. The Zoning Administrator may impose such conditions and take such other action as deemed appropriate under the circumstances to carry out the purpose of this chapter. The Zoning Administrator may delay the time for removal of the vehicle or parts thereof if, in the Zoning Administrator's opinion, the circumstances justify the delay. At the conclusion of the public hearing, the Zoning Administrator shall make findings as to whether the vehicle (or parts thereof) has been abandoned, wrecked, dismantled, or is inoperative on private or public property, and order the same removed from the property as a public nuisance and disposed of as hereinafter provided, and determine the administrative expenses and the cost of removal to be charged against the owner of the land. The order requiring removal shall include a description of the vehicle or parts thereof and the correct identification number and license number of the vehicle, if available at the site. Assessment fees and costs of removal shall be determined by the Zoning Administrator.

C. If it is determined at the hearing that the vehicle was placed on the land without the consent of the owner of the land and that the owner has not subsequently acquiesced in its presence, the Zoning Administrator shall not assess the costs of administration or removal of the vehicle against the property upon which the vehicle is located, or otherwise attempt to collect such costs from such owner of the land.

D. If the owner of the land submits a sworn statement denying responsibility for the presence of the vehicle on the owner's land but does not appear, or if an interested party makes a written presentation to the Zoning Administrator but does not appear, he shall be notified in writing of the decision. (Ord. 1145 § 1 (part), 1994)

#### **8.08.100 Appeals.**

A. Any interested party may appeal the decision of the Zoning Administrator to the City Council by filing a written notice of appeal with the City Clerk within five days after the Zoning Administrator's decision.

B. Such appeal shall be heard by the City Council, which may affirm, amend or reverse the order, or take other action deemed appropriate.

C. The City Clerk shall give written notice of the time and place of the hearing to the appellant and those persons specified in Section 8.08.070. In conducting the hearing, the City Council shall not be limited by the technical rules of evidence. The City Council shall review the matter de novo. (Ord. 1145 § 1 (part), 1994)

#### **8.08.110 Vehicle removal—Authorized when.**

Ten days after mailing the notice of intention to abate where no request for a public hearing is filed, or ten days from the date of mailing of notice of decision if such notice is required by Section 8.08.090 of this chapter, or ten days after such action of the

governing body authorizing removal following appeal, the vehicle or parts thereof may be disposed of by removal to a scrapyard or automobile dismantler's yard. (Ord. 1145 § 1 (part), 1994)

**8.08.120 Vehicle removal—Notice to State.**

Within five days after the date of removal of the vehicle or parts thereof, notice shall be given to the State Department of Motor Vehicles, identifying the vehicle or parts thereof removed. At the same time, there shall be transmitted to the Department of Motor Vehicles any evidence of registration available, including registration certificates, certificates of title and license plates. (Ord. 1145 § 1 (part), 1994)

**8.08.130 Abatement—Administrative expenses.**

The City Council shall, from time to time, determine and fix by resolution an amount to be assessed as administrative expenses, legal fees, public hearing fees and abatement costs. (Ord. 1145 § 1 (part), 1994)

**8.08.140 Abatement—Cost assessment.**

If the administrative expenses and the cost of removal which are charged against the owner of a parcel of land pursuant to this chapter are not paid within thirty days of the date of the order, or the final disposition of an appeal therefrom, such costs shall be assessed against the parcel of land pursuant to Section 38773.5 of the Government Code, and shall be transmitted to the Tax Collector for collection. Such assessment shall have the same priority as other City taxes. (Ord. 1145 § 1 (part), 1994)

**8.08.150 Exceptions to chapter applicability.**

A. This chapter shall not apply to a vehicle, or parts thereof, which is completely enclosed within a building in a lawful manner where it is not visible from the street or other public or private property; or

B. Nothing in this section shall authorize the maintenance of a public or private nuisance, as defined under provisions of law other than Chapter 10 (commencing with Section 22650) of Division II of the Vehicle Code, and this chapter. (Ord. 1145 § 1 (part), 1994)

**8.08.160 Limitation of filing judicial action.**

Any person aggrieved by any action of the City Council in affirming, reversing or modifying in whole or in part either the order finding and ordering the abatement of an abandoned vehicle or the order determining the cost and fees of abatement of an abandoned vehicle must bring judicial action to contest such decision within ninety days after the date of such decision of the City Council. Otherwise, all objections to such decision shall be deemed waived. (Ord. 1145 § 1 (part), 1994)

**Chapter 8.09  
REGULATION OF COMMERCIAL CANNABIS ACTIVITIES—PERMIT REQUIRED**

Sections:

**8.09.010 Purpose and intent.**

**8.09.020 Zoning compliance and commercial cannabis business permit required.**

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**8.09.130 Microbusiness commercial cannabis activity.**

**8.09.140 Commercial cannabis business permit selection process.**

**8.09.150 Enforcement.****8.09.160 Limitations on the City's liability.****8.09.170 Fees and taxes.****8.09.180 Severability.**

\* Prior legislation: Ords. 1417 and 1439.

**8.09.010 Purpose and intent.**

It is the purpose and intent of this chapter to:

- A. Regulate commercial cannabis business activities in order to ensure the health, safety and welfare of the residents of San Carlos; and
- B. Establish regulations necessary for a commercial cannabis business to obtain and maintain a commercial cannabis business permit (CCBP); and
- C. Provide that any commercial cannabis businesses operating in the City shall at all times be in compliance with current State law and this chapter; and
- D. Provide that all commercial cannabis facilities shall operate in accordance with the regulations in this chapter and with the conditions of approval associated with the applicable zone for the parcel of real property upon which the commercial cannabis activities are conducted; and
- E. Provide that any commercial cannabis business shall qualify for and receive a CCBP as provided by this chapter, a business registration from the City as provided in Title 5, Business Taxes, Licenses and Regulations, and operate only in a zone as provided in Title 18, Zoning, before commencing any commercial cannabis activity, and that any commercial cannabis business without a CCBP is in violation of this chapter; and
- F. Impose a tax on the privilege of cultivating, transporting, dispensing, manufacturing, producing, processing, preparing, storing, testing, providing, donating, selling, or distributing cannabis or cannabis products by commercial cannabis businesses in the City, pursuant to the State Medicinal and Adult-Use Cannabis Regulation and Safety Act, California Business and Professions Code Section 26000, et seq., which legalized and regulates recreational cannabis in California, and other applicable law as it now exists or may hereafter be adopted; and
- G. The ordinance codified in this chapter, in compliance with the Compassionate Use Act, the Medical Marijuana Program Act, SB 94 (Cannabis: medicinal and adult use), Proposition 64, and the California Health and Safety Code (collectively referred to as "State law"), does not interfere with the right to use cannabis or medical cannabis as authorized under State law, nor does it criminalize the possession or commercial activities of cannabis or medical cannabis as authorized under State law. (Ord. 1533 § 1 (Exh. A (part)), 2018: Ord. 1525 § 2(3) (Exh. C (part)), 2017)

**8.09.020 Zoning compliance and commercial cannabis business permit required.**

Certain commercial cannabis businesses are allowed with a zoning clearance, pursuant to the provisions of Chapter 18.28, Zoning Clearance, or, if required, a minor use permit, pursuant to the provisions of Chapter 18.30, Use Permits, in certain industrial and commercial zoning districts, as well as planned development zones that have the equivalent General Plan land use designations of industrial and commercial; commercial cannabis activities are expressly prohibited in all other zoning districts. No commercial cannabis business may operate in San Carlos without a CCBP. As a requisite for obtaining a CCBP, commercial cannabis businesses shall conduct business only in the appropriate zones as described in Title 18, Zoning. (Ord. 1533 § 1 (Exh. A (part)), 2018: Ord. 1525 § 2(3) (Exh. C (part)), 2017)

**8.09.030 Exceptions.**

No permit for commercial cultivation of cannabis, other than nurseries or as a component of a microbusiness, shall be issued in the City; provided, however, that six plants may be cultivated indoors for personal use in compliance with all applicable local and State regulations as referenced in Section 8.09.010, Purpose and intent. Cannabis cultivation for personal use shall not be visible from any public right-of-way. (Ord. 1533 § 1 (Exh. A (part)), 2018: Ord. 1525 § 2(3) (Exh. C (part)), 2017)

**8.09.040 Definitions.**

The definitions are incorporated herein as fully set forth and are applicable to this chapter. All definitions are intended to comply with those set forth by the State of California for all commercial cannabis activities.

- A. "Applicant" means a person who is required to file an application for a permit under this chapter, including an individual owner, managing partner, officer of a corporation, or any other operator, manager, employee, or agent of a commercial cannabis business.
- B. "Business registration" means an annual tax for doing business within the incorporated area of the City. Every person or entity in a trade, calling, business, exhibition, avocation or occupation within the City limits shall have a business registration certificate in accordance with Title 5, Business Taxes, Licenses and Regulations.
- C. "Cannabis" means all parts of the plant Cannabis sativa Linnaeus, Cannabis indica, or Cannabis ruderalis, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. "Cannabis" also means the separated resin, whether crude or purified, obtained from cannabis. "Cannabis" does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. For the purpose of this chapter, "cannabis" does not mean "industrial hemp" as defined by Section 11018.5 of the California Health and Safety Code.
- D. "Cannabis business" means any natural or legal person, business, corporation, partnership, or collective engaged in commercial cannabis activity.
- E. "Cannabis business operator" means any person issued a CCBP.
- F. "Cannabis waste" means waste that is not hazardous waste, as defined in California Public Resources Code Section 40191, that contains cannabis and that has been made unusable and unrecognizable in the manner prescribed by the State.
- G. "Canopy" means all of the following:
1. The designated area(s) at licensed premises that will contain mature plants at any point in time; and
  2. Canopy shall be calculated in square feet and measured using clearly identifiable boundaries of all area(s) that will contain mature plants at any point in time, including all of the space(s) within the boundaries; and
  3. Canopy may be noncontiguous, but each unique area included in the total canopy calculation shall be separated by an identifiable boundary such as an interior wall or by at least ten feet of open space; and
  4. If mature plants are being cultivated using a shelving system, the surface area of each level shall be included in the total canopy calculation.
- H. "City" means the City of San Carlos.
- I. "Commercial cannabis activity" means the cultivation, possession, manufacture, processing, storing, laboratory testing, labeling, distribution, delivery, or sale of cannabis or a cannabis product, except as set forth in Section 19319 of the California Business and Professions Code, related to qualifying patients and primary caregivers.
- J. "Commercial cannabis business permit (CCBP)" means a permit issued by the City pursuant to this chapter to a commercial cannabis business.
- K. "Commercial vehicle" means a vehicle as defined in California Vehicle Code Section 260.
- L. "Concentrated cannabis product" or "cannabis concentrate" means a consolidation of cannabinoids made by dissolving cannabis in its plant form into a solvent.
- M. "Cultivation" means any activity involving the propagation, planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.
- N. "Delivery" means the commercial transfer of cannabis or cannabis products to a customer. "Delivery" also includes the use by a retailer of any technology platform owned or controlled by the retailer.
- O. "Delivery employee" means an individual employed by a licensed dispensary who delivers cannabis goods from the licensed dispensary premises to a qualified purchaser at a physical address.
- P. "Director" means the Community Development Director of the City of San Carlos or his or her designee.

Q. "Dispensary" means premises where cannabis or cannabis products are offered, either individually or in any combination for retail sale, including an establishment that delivers cannabis or cannabis products as part of a retail sale.

R. "Display" means cannabis goods that are stored in the licensed dispensary's retail area during the hours of operation.

S. "Display case" means a container in the licensed dispensary retail area where cannabis goods are stored and visible to customers.

T. "Distribution" means the procurement, sale, and transport of cannabis or cannabis products between entities licensed pursuant to the Medical and Adult Use of Cannabis Regulation and Safety Act and any subsequent State of California legislation regarding the same.

U. "Distributor" means a person required to be licensed as a distributor pursuant to Division 10 (commencing with Section 26000) of the California Business and Professions Code.

V. "Edible cannabis product" means manufactured cannabis that is intended to be used, in whole or in part, for human consumption. An edible cannabis product is not considered food as defined by Section 109935 of the California Health and Safety Code or a drug as defined by Section 109925 of the California Health and Safety Code.

W. "Free sample" means any amount of cannabis goods provided to a cannabis patient, or purchaser of cannabis, or primary caregiver without cost or payment or exchange of any other thing of value.

X. "Gross receipts," except as otherwise specifically provided, means the total amount actually received or receivable from all sales; the total amount or compensation actually received or receivable for the performance of any act or service, of whatever nature it may be, for which a charge is made or credit allowed, whether or not such act or service is done as a part of or in connection with the sale of materials, goods, wares or merchandise; discounts, rents, royalties, fees, commissions, dividends, and gains realized from trading in stocks or bonds, however designated. Included in "gross receipts" shall be all receipts, cash, credits and property of any kind or nature, without any deduction therefrom on account of the cost of property sold, the cost of materials used, labor or service costs, interest paid or payable, or losses or other expenses whatsoever, except that the following shall be excluded therefrom:

1. Cash discounts allowed and taken on sales;
2. Credit allowed on property accepted as part of the purchase price and which property may later be sold, at which time the sales price shall be included in gross receipts;
3. Any tax required by law to be included in or added to the purchase price and collected from the consumer or purchaser;
4. Such part of the sale price of any property returned by purchasers to the seller as refunded by the seller by way of cash or credit allowances or return of refundable deposits previously included in gross receipts;
5. Receipts from investments where the holder of the investment receives only interest and/or dividends, royalties, annuities and gains from the sale exchange of stock or securities solely for a person's own account, not derived in the ordinary course of a business;
6. Receipts derived from the occasional sale of used, obsolete or surplus trade fixtures, machinery or other equipment used by the taxpayer in the regular course of the taxpayer's business;
7. Cash value of sales, trades or transactions between departments or units of the same business;
8. Whenever there are included within the gross receipts amounts which reflect sales for which credit is extended and such amount proved uncollectible in a subsequent year, those amounts may be excluded from the gross receipts in the year they prove to be uncollectible; provided, however, if the whole or portion of such amounts excluded as uncollectible are subsequently collected, they shall be included in the amount of gross receipts for the period when they are recovered;
9. Transactions between a partnership and its partners;
10. Receipts from services or sales in transactions between affiliated corporations. An affiliated corporation is a corporation:

a. The voting and nonvoting stock of which is owned at least eighty percent by such other corporation with which such transaction is had, or

b. Which owns at least eighty percent of the voting and nonvoting stock of such other corporation, or

c. At least eighty percent of the voting and nonvoting stock of which is owned by a common parent corporation which also has such ownership of the corporation with which such transaction is had;

11. Transactions between a limited liability company and its member(s), provided the limited liability company has elected to file as a Subchapter K entity under the Internal Revenue Code and that such transaction(s) shall be treated the same as between a partnership and its partner(s) as specified in subsection (X)(9) of this section;

12. Receipts of refundable deposits, except that such deposit when forfeited and taken into income of the business shall not be excluded when in excess of one dollar;

13. Amounts collected for others where the business is acting as an agent or trustee and to the extent that such amounts are paid to those for whom collected. These agents or trustees must provide the Finance Department with the names and the addresses of the others and the amounts paid to them. This exclusion shall not apply to any fees, percentages, or other payments retained by the agent or trustees.

Y. "Gross receipts" subject to the cannabis business tax shall be that portion of gross receipts relating to commercial cannabis activity conducted within the City.

Z. "License" means a permit issued by the State of California, or one of its departments or divisions, under the Medical Cannabis Regulation and Safety Act to engage in commercial cannabis activity.

AA. "Licensee" means any partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit to which the State of California, or one of its departments or divisions, has issued a permit under the Medical Cannabis Regulation and Safety Act to engage in commercial cannabis activity.

BB. "Limited-access area" means an area in which cannabis goods are stored or held that is only accessible to a licensee and the licensee's employees and contractors.

CC. "Manufactured cannabis" means raw cannabis that has undergone a process whereby the raw agricultural product has been transformed into a concentrate, an edible product, or a topical product.

DD. "Manufacturer" means a person that conducts the production, preparation, propagation, or compounding of manufactured cannabis, as defined in this section, or cannabis products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis at a fixed location that packages or repackages cannabis or cannabis products or labels or re-labels its container, that holds a valid State license pursuant to the Medical and Adult Use of Cannabis Regulation and Safety Act.

EE. "Medical cannabis goods" means medical cannabis, including dried flower, and manufactured medical cannabis products.

FF. "Medical cannabis patient" shall have the meaning given that term by the California Health and Safety Code and possesses a valid physician's recommendation and is a person whose physician has recommended the use of cannabis to treat a serious illness, including cancer, anorexia, AIDS, chronic pain, spasticity, glaucoma, arthritis, migraine, or any other illness for which cannabis provides relief.

GG. "Microbusiness" means the cultivation of cannabis on an area less than ten thousand square feet and to act as a licensed distributor, Level 1 manufacturer as defined by the State, and retailer, provided such licensee can demonstrate compliance with all requirements imposed by the State on licensed cultivators, distributors, Level 1 manufacturers, and retailers to the extent the licensee engages in such activities. While the State microbusiness permit may allow retail cannabis sales, retail cannabis sales are prohibited in the City.

HH. "Mixed light" means cultivation using a combination of natural and supplemental artificial lighting at a maximum threshold to be determined by the licensing authority only as a component of a microbusiness.

II. "Nursery" means a commercial cannabis licensee that produces only clones, immature plants, seeds, and other agricultural products used specifically for the planting, propagation, and cultivation of cannabis. Retail sales by a cannabis nursery are

prohibited.

JJ. "Operating hours" means the hours within a day during which a licensed business may conduct business.

KK. "Ownership interest" means an interest held by a person who is an owner as defined by State of California commercial cannabis regulations or who has a financial interest in the commercial cannabis business of twenty percent or more.

LL. "Package" and "packaging" mean any container or wrapper that may be used for enclosing or containing any cannabis goods for final retail sale. "Package" and "packaging" do not include a shipping container or outer wrapping used solely for the transport of cannabis goods in bulk quantity to a licensee.

MM. "Permittee" means any partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit to which the City has issued a commercial cannabis business permit.

NN. "Person" means any individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit, and the plural as well as the singular.

OO. "Pest" means undesired insect, rodent, nematode, fungus, bird, vertebrate, invertebrate, weed, virus, bacteria, or other microorganism that is injurious to human health.

PP. "Physician's recommendation" means a recommendation by a physician or surgeon that a patient use cannabis in accordance with the Compassionate Use Act of 1996 (Proposition 215), found at Section 11362.5 of the California Health and Safety Code.

QQ. "Premises" means the designated structure(s) and land specified in the application that are in possession of and used by the applicant or licensee to conduct the commercial cannabis activity.

RR. "Pre-roll" means dried cannabis flower rolled in paper prior to retail sale.

SS. "Primary caregiver" has the same meaning as that term is defined in Section 11362.7 of the California Health and Safety Code.

TT. "Private security officer" has the same meaning as that term is defined in the California Business and Professions Code Section 7574.01.

UU. "Publicly owned land" means any building or real property that is owned by a city, county, State, Federal, or other government entity.

VV. "Purchase" means obtaining cannabis goods in exchange for consideration.

WW. "Purchaser" means a person who is engaged in a transaction with a licensee for purpose of obtaining cannabis goods.

XX. "Quarantine" means the storage or identification of cannabis goods, to prevent distribution or transfer of the cannabis goods, in a physically separate area clearly identified for such use.

YY. "Retail area" means a building, room, or other area upon the licensed dispensary premises in which cannabis goods are sold or displayed.

ZZ. "Security monitoring" means the continuous and uninterrupted attention to potential alarm signals that can be transmitted from a security alarm system for the purpose of summoning law enforcement.

AAA. "Sell," "sale," and "to sell" mean any transaction whereby, for any consideration, title to cannabis is transferred from one person to another, and includes the delivery of cannabis goods pursuant to an order placed for the purchase of the same and soliciting or receiving an order for the same, but does not include the return of cannabis goods by a licensee to the licensee from whom such cannabis goods were purchased.

BBB. "Sublet" means to lease or rent all or part of a leased or rented property.

CCC. "State" means the State of California.

DDD. "Tax Administrator" means the Administrative Services Director of the City or his or her designee.

EEE. "Testing laboratory" means a facility, entity, or site that offers or performs tests of cannabis or cannabis products, and that is accredited as operating to ISO standard 17025 by an accrediting body, and registered with the State Department of Public Health.

FFF. "Vehicle alarm system" is a device or series of devices installed to discourage theft of the commercial vehicle or its contents and is intended to summon general attention or to summon law enforcement as a result of an indication of an attempted breach of the commercial vehicle.

GGG. "Wholesale" means the sale of cannabis goods to a distributor for resale to one or more dispensaries.

HHH. "Zoning Administrator" means the Zoning Administrator of the City of San Carlos, or his or her designee. (Ord. 1533 § 1 (Exh. A (part)), 2018: Ord. 1525 § 2(3) (Exh. C (part)), 2017)

#### **8.09.050 Compliance with State and local licensing requirements.**

A. Any dispensary, cultivation facility, manufacturing facility, distribution facility, testing facility, or any other commercial cannabis activity as defined by the State of California or the City shall operate in conformance with all regulations and standards set forth in this chapter to assure that the operations of the dispensary, cultivation facility, manufacturing facility, distribution facility, testing facility or any other commercial cannabis activity as defined by the State of California or allowed by the City are in compliance with local and State laws, and which have been established to mitigate any adverse secondary effects from its operations.

B. Cannabis operators shall be required to obtain a State license, and shall comply with any applicable State licensing requirements, such as operational standards and zoning criteria.

C. Multiple cannabis uses and licenses proposed on any one site shall occur only if authorized by the State and the City and only if all uses proposed are allowed pursuant to Title 18, Zoning. (Ord. 1533 § 1 (Exh. A (part)), 2018: Ord. 1525 § 2(3) (Exh. C (part)), 2017)

#### **8.09.060 General provisions for commercial cannabis activities.**

A. Commercial Cannabis Business Permit Required.

1. It shall be unlawful for any person, association, partnership, or corporation to engage in, conduct, or carry on, in or upon any premises within the City any commercial cannabis activity without a CCBP. A cannabis business shall register and obtain a CCBP from the City prior to operation. The CCBP applicant shall pay a nonrefundable regulatory fee in an amount and at a frequency established by the City Council.

2. A copy of the CCBP shall be displayed at all times in a place visible to the public.

3. A CCBP shall be valid for one year or until December 31st each year, unless sooner revoked. No permit granted herein shall confer any vested right to any person or for more than the above-referenced period.

4. A CCBP shall not be issued to an individual or a business entity associated with an individual who has violated California Health and Safety Code Section 11590 and its provisions.

5. The CCBP shall be issued to the specific person or persons listed on the CCBP application.

6. A CCBP is not transferable, and does not run with the land or with the business. Any change to the business location, organizational structure, or ownership requires a new application with associated fees.

B. Maintenance of Records and Reporting. All records for the commercial cannabis business of the following activities shall be maintained and available to the City for at least seven years. Records shall be produced within twenty-four hours of a request by an authorized City representative. Records shall be kept in a manner that allows the records to be produced for the City in either hard copy or electronic form, whichever the City requests.

1. The business shall obtain and maintain a valid seller's permit from the State Department of Tax and Fee Administration or any subsequent State successor agency assigned to issue seller's permits.

2. Financial records, including, but not limited to: bank statements; sales invoices; receipts; tax records; audits; and all records required by the California Department of Tax and Fee Administration under Title 18 of California Code of Regulations Section 1968.

3. Personnel records, including each employee's full name, address, phone number, social security, or individual taxpayer identification number, date of beginning employment, confirmation of background check or Live Scan completion, and date of termination of employment, if applicable.
4. Training records, including, but not limited to, the content of the training provided and the names of the employees that received the training.
5. Contracts with other licensees regarding commercial cannabis activity.
6. Permits, licenses, and other local authorizations to conduct the licensee's commercial cannabis activity.
7. Proof of liability and workers' compensation insurance.

C. Operational Standards for All Commercial Cannabis Business Activities.

1. Interior and exterior locations of the business property shall be monitored at all times by closed circuit cameras for security purposes. The cameras and recording system shall be of adequate quality, color rendition and resolution to allow the sufficient identification of any individual committing a crime on the location premises. Cameras shall record twenty-four hours a day at a minimum of twenty frames per second.
2. The surveillance system storage device or cameras shall be transmission control protocol/TCP capable of being accessed through the internet by the local law enforcement. The business shall also provide the local law enforcement with the URL address of any on-site web-based video surveillance to monitor remotely at any time without a warrant, subpoena or court order.
3. All controlled access areas, security rooms, points of ingress/egress to limited access areas, and point of sale (POS) areas shall have fixed camera coverage capable of identifying activity occurring within a minimum of twenty feet. Camera video recordings shall be maintained unaltered in a secure location for a period of not less than thirty calendar days, and be available for inspection at any time.
4. Recorded images shall clearly and accurately display the time and date. Recordings shall be maintained, unaltered, for a period of not less than thirty calendar days and shall be stored digitally. The City or law enforcement may request the recordings in connection with an investigation. If the recordings are not voluntarily provided, the City or law enforcement may seek a warrant or court order for the recordings.
5. All commercial cannabis businesses shall create and maintain an active account within the State's track and trace system prior to commencing any commercial cannabis activity. In the event of system failure, the business shall keep a hard copy record and transfer the information to the track and trace system within twenty-four hours of the system being available.
6. No cannabis dispensary, cultivation facility, manufacturing facility, testing facility or any other commercial cannabis business facility may be located within a six-hundred-foot radius from a school, day care home, recreational center, youth center, library, or public park as required by Section 11362.768 of the California Health and Safety Code.
7. The commercial cannabis business shall provide adequate interior and exterior lighting for safety and security as determined by the local law enforcement.
8. The commercial cannabis business shall minimize nuisances such as trash, litter and graffiti to the greatest extent practicable.
9. Any and all signage, packaging, and facilities shall not be "attractive," as it is defined by the State, to minors.
10. All commercial cannabis facilities shall be required to provide an air treatment system that ensures off-site odors do not result from its operations. This requirement at a minimum means that the facility shall be designed to provide sufficient odor absorbing ventilation and exhaust systems so that any odor generated inside the location is not detected outside the building, on adjacent properties or public rights-of-way, or within any other unit located within the same building as the facility, if the use occupies only a portion of a building.
11. A commercial cannabis business entity that remains inoperative for more than ninety calendar days after commencing business operations shall be deemed "abandoned" and the permit shall be forfeited. A business may

temporarily suspend operations for a period of time as may be reasonably required to affect upgrades, modifications, repairs, or other property issue mitigations as approved by the Director.

12. The cannabis business shall comply with all State and City regulations regarding testing, labeling, and storage of all cannabis products.

13. The cannabis business shall meet all State and local regulations for the disposal of all cannabis materials and materials used in conjunction with processing, distributing, and cultivating of cannabis.

14. The cannabis business shall conform to all State regulations regarding the use of appropriate weighing devices.

15. The cannabis business shall conform to all State and local regulations regarding water usage. No liquids of any kind shall be discharged into a public or private sewage or drainage system, watercourse, body of water or into the ground, except in compliance with applicable regulations of the San Francisco Bay Regional Water Quality Control Board (California Administrative Code, Title 23, Chapter 3).

16. The cannabis business shall comply with the City's most recently adopted version of the California Building Code Series.

17. The cannabis business shall ensure a building permit application is submitted to the Building Division for review and approval prior to commencement of tenant improvement work associated with the cannabis business.

18. The cannabis business shall maintain comprehensive general liability and workers' compensation insurance in amounts consistent with City policy and name the City of San Carlos as additional insured.

19. No free samples of any cannabis or cannabis product may be distributed at any time.

20. All agents, employees, or persons acting for a licensee shall complete a Live Scan background check.

21. All agents, private security officers, or other persons acting for or employed by a licensee shall display a laminated identification badge at least two inches by two inches in size, issued by the licensee. The badge, at a minimum, shall include the licensee's "doing business as" name and license number, the employee's first and last name, and a color photo of the employee that shows the full front of the employee's face.

22. The commercial cannabis business shall have a centrally monitored fire and burglar alarm system that shall include all perimeter entry points and perimeter windows.

23. A licensee shall ensure a licensed alarm company operator or one or more of its registered alarm agents installs, maintains, monitors, and responds to the alarm system. The alarm company shall obtain a City business registration.

24. The commercial cannabis business shall meet all State deadlines for applying for a State license and receive a State license.

25. All persons hiring employees to engage in commercial cannabis activities shall document compliance with employee safety practices including, but not limited to:

- a. Emergency action response planning as necessary;
- b. Employee accident reporting and investigation policies;
- c. Fire prevention;
- d. Hazard communication policies, including maintenance of material safety data sheets;
- e. Materials storage and handling policies;
- f. Personal protective equipment policies;
- g. Operation manager contacts;
- h. Emergency responder contacts; and
- i. Poison control contacts.

26. All cannabis products available for sale shall be securely locked and stored.
27. Exterior signage shall conform to standards set forth in Title 18, Zoning.
28. Shipments of cannabis goods may only be accepted during regular business hours.
29. During nonbusiness hours inventory shall be secured using a lockable storage system approved by local law enforcement.
30. No cannabis product shall be visible from the exterior of the business.
31. All required labeling shall be maintained on all products, as required by State law, at all times.
32. All outdoor lighting used for security purposes shall be shielded and downward facing.
33. The use of vending machines (i.e., a machine that dispenses articles when a coin, bill, or token is inserted) to dispense cannabis is strictly prohibited. (Ord. 1533 § 1 (Exh. A (part)), 2018: Ord. 1525 § 2(3) (Exh. C (part)), 2017)

**8.09.070 Additional regulations for dispensary retail sales.**

Retail cannabis sales and retail cannabis sales facilities, including but not limited to microbusinesses and dispensaries, are prohibited within the City limits, regardless of the location's compliance with any other section specified in this chapter. (Ord. 1533 § 1 (Exh. A (part)), 2018: Ord. 1525 § 2(3) (Exh. C (part)), 2017)

**8.09.080 Additional regulations for commercial cannabis delivery services.**

- A. No commercial cannabis deliveries may originate from the City. Commercial cannabis deliveries may be made only from a commercial cannabis dispensary in compliance with all State regulations.
- B. All employees who deliver cannabis in the City shall have valid identification and a copy of the dispensary's City business registration at all times while making deliveries.
- C. Any commercial cannabis delivery shall be made in compliance with State law and any required documentation shall be made available upon request by local law enforcement officers.
- D. The maximum limit of any cannabis goods carried by a delivery vehicle at any time may not exceed three thousand dollars or as established by City Council resolution. (Ord. 1533 § 1 (Exh. A (part)), 2018: Ord. 1525 § 2(3) (Exh. C (part)), 2017)

**8.09.090 Additional requirements for manufactured cannabis businesses.**

- A. A licensed cannabis manufacturing facility may conduct all activities permitted by the State and local regulations. This includes, but is not limited to, volatile and nonvolatile extractions, repackaging and relabeling, infusions, and extractions.
- B. Any manufacturing activity that will be conducted by the licensee shall be included on the application. No additional manufacturing activity can be conducted without applying for and receiving written permission from the City for that additional activity.
- C. At all times, the cannabis manufacturing facility shall be compliant with all State and local regulations for cannabis manufacturing, including California Health and Safety Code Section 11362.775 and as it may be amended.
- D. Inspections by the City Fire Chief or designee may be conducted anytime during the business's regular business hours.
- E. Cannabis manufacturing facilities shall not contain an exhibition or product sales area or allow for retail distribution of products at that location. (Ord. 1533 § 1 (Exh. A (part)), 2018: Ord. 1525 § 2(3) (Exh. C (part)), 2017)

**8.09.100 Additional requirements for cannabis testing laboratory businesses.**

- A. A licensed cannabis testing facility shall comply with all State and local regulations.
- B. Any cannabis testing facility shall maintain all certifications required by the State.
- C. A licensed cannabis testing facility business, its owners, and employees may not hold an interest in any other cannabis business except another testing business.
- D. Inspections by the City Fire Chief or designee may be conducted anytime during the business's regular business hours. (Ord. 1533 § 1 (Exh. A (part)), 2018: Ord. 1525 § 2(3) (Exh. C (part)), 2017)

**8.09.110 Additional requirements for cannabis distribution businesses.**

- A. A licensed cannabis distribution facility shall comply with all State and local regulations.
- B. Any cannabis distribution facility shall provide proof of a bond to cover the costs of destruction of cannabis or cannabis products if necessitated by a violation of licensing requirements.
- C. Inspections by the City or designee may be conducted anytime during the business's regular business hours. (Ord. 1533 § 1 (Exh. A (part)), 2018: Ord. 1525 § 2(3) (Exh. C (part)), 2017)

**8.09.120 Additional requirements for cannabis cultivation businesses.**

- A. All cannabis cultivation businesses are prohibited in the City except for nurseries and cultivation conducted by the holder of a State microbusiness license. Retail sales by a cannabis nursery are prohibited.
- B. A licensed cannabis cultivation facility shall comply with all State and local regulations.
- C. The cannabis business shall register with the Department of Pesticide Regulation if using any pesticides.
- D. All commercial cannabis cultivation shall occur indoors using artificial lighting or mixed light.
- E. From the public right-of-way, there shall be no exterior evidence of cannabis cultivation.
- F. The City Building Official may require additional specific standards to meet the California Building Code and Fire Code, including, but not limited to, installation of fire suppression sprinklers.
- G. The cannabis business shall comply with Section 13149 of the California Water Code, as enforced by the State Water Resources Control Board.
- H. The use of generators for cultivation is prohibited, except for temporary use in the event of a power outage or emergency.

- I. Inspections by the City or City Fire Chief or designees may be conducted anytime during the business's regular business hours. (Ord. 1533 § 1 (Exh. A (part)), 2018: Ord. 1525 § 2(3) (Exh. C (part)), 2017)

**8.09.130 Microbusiness commercial cannabis activity.**

- A. Under no circumstance shall the holder of a State microbusiness license conduct retail cannabis sales as these facilities are prohibited within the City limits.
- B. Allowable activities for the City, as defined by this chapter, shall be in compliance with all State and local regulations as previously stated. (Ord. 1533 § 1 (Exh. A (part)), 2018: Ord. 1525 § 2(3) (Exh. C (part)), 2017)

**8.09.140 Commercial cannabis business permit selection process.**

- A. Commercial Cannabis Business Permit Selection Process Overview.
  - 1. The CCBP selection process will be conducted in two phases, Phase 1 and Phase 2.
  - 2. In Phase 1, each applicant interested in operating a commercial cannabis business will pay an application fee in an amount established by the City Council and the application will be reviewed for completeness by the Director.
  - 3. In Phase 2, the applicant will pay an application fee in an amount established by the City Council and a complete background check of the business owner and review of the business plans will be conducted by the Zoning Administrator to ensure compatibility with State and local regulations.
  - 4. Prior to issuing a CCBP, the City will provide all public notices and conduct a public hearing as described in California Government Code Sections 65090 and 65091. No CCBP shall be issued otherwise.
  - 5. If any of the items listed in the application process are not met, the Director or Zoning Administrator shall notify the applicant of the deficiency within thirty calendar days, after which the applicant will have ten calendar days from receipt of notice to correct the deficiency. If the deficiency is not corrected within ten calendar days, the Director or Zoning Administrator may deny the permit and notify the applicant of this determination in writing within ten calendar days.
- B. Commercial Cannabis Business Permit Selection—Phase 1—Initial Review.
  - 1. The Director shall determine whether each application demonstrates compliance with the minimum requirements to be eligible and proceed to the Phase 2 selection process. These requirements include, but are not limited to:
    - a. All application documents required in the City's application package;

- b. Application forms are filled out completely;
- c. Business owner(s)/applicant(s) referenced on the application complete a Live Scan;
- d. Phase 1 application fee is paid; and
- e. A signed zoning clearance letter or an application for a minor use permit that has been deemed complete from the Planning Division.

C. Commercial Cannabis Business Permit Selection—Phase 2—Final Review.

1. The Director, after reviewing the applications in Phase 1 and determining they are complete, will forward the applications to the Zoning Administrator.
2. Phase 2 applicants shall pay the Phase 2 application fee in an amount established by the City Council and complete a comprehensive owner background check.
3. Subsequent to the public hearing, the Zoning Administrator will make the final decision of successful applicants.
4. A CCBP will only be issued once the applicant has obtained the appropriate land use authorization. Nothing in this chapter shall prevent a potential applicant from applying for a land use permit prior to any selection process.

D. Appeal of Denial of Commercial Cannabis Business Permit.

1. The Zoning Administrator will complete the final review of all CCBP applications and all other relevant information, and determine if a CCBP should be granted. If the Zoning Administrator determines that the permit shall not be granted, the reasons for denial shall be provided in writing to the applicant.
2. The decision of the Zoning Administrator may be appealed to the Planning Commission. The applicant shall have ten calendar days from the date of the receipt of the written denial to appeal the reasons for denial and request in writing reconsideration of permit issuance. If the Planning Commission determines that the permit shall not be granted, the reasons for denial shall be provided in writing to the applicant.
3. The decision of the Planning Commission may be appealed to the City Council. The applicant shall have ten calendar days from the date of the receipt of the written denial to appeal the reasons for denial and request in writing reconsideration of permit issuance. If the City Council determines that the permit shall not be granted, the reasons for denial shall be provided in writing to the applicant. The decision of the City Council shall be dispositive of the matter subject to judicial review and the applicant shall be notified in writing.

E. Commercial Cannabis Business Permit Annual Renewal.

1. Applications for the renewal of a permit shall be filed with the Director at least sixty calendar days before the expiration of the current permit. Any permittee allowing his or her permit to lapse, or which permit expired during a suspension, shall be required to submit a new application, pay the corresponding original application fees, and be subject to all aspects of the selection process.
2. Any person desiring to obtain a renewal of his or her respective permit shall file a written application under penalty of perjury on the required form with the Director, who will conduct a review. The application shall be accompanied by a nonrefundable filing fee established by the City Council to defray the cost of the review required by this section. An applicant shall be required to update the information contained in his or her original permit application and provide any new and/or additional information as may be reasonably required by the Director to determine whether said permit should be renewed.

F. Appeal of Denial of Commercial Cannabis Business Permit Renewal.

1. The Director will review all CCBP renewal applications and all other relevant information, and determine if a renewal CCBP should be granted. If the Director determines that the permit shall not be granted, the reasons for denial shall be provided in writing to the applicant. The applicant shall have ten calendar days from the date of the receipt of the written denial to correct the reasons for denial and request in writing reconsideration of permit issuance. Following review of the amended permit application, the Director will approve or deny the permit by providing written notice to the applicant.

2. An applicant who disagrees with the Director's decision may appeal such decision to the Zoning Administrator by submitting a written appeal within ten calendar days from receipt of the written denial. Following review of the amended permit application, the Zoning Administrator will approve or deny the permit by providing written notice to the applicant. This shall be the City's final decision in this regard and shall be dispositive of the matter subject to judicial review.

G. Revocation of Commercial Cannabis Business Permit.

1. The Zoning Administrator may suspend or revoke a CCBP when the permittee or the permittee's agent or employee has committed any one or more of the following acts:

- a. Any act that would be considered a ground for denial of the permit in the first instance.
  - b. Violates any other provision of this section or any City or State law, statute, rule, or regulation relating to the business's permitted activity.
  - c. Engages in or permits misconduct substantially related to the qualifications, functions, or duties of the permittee.
  - d. Conducts the permitted business in a manner contrary to the health, safety, or welfare of the public.
  - e. Fails to take reasonable measures to control patron conduct, where applicable, resulting in disturbances, vandalism, or crowd control problems occurring inside or outside the premises, traffic control problems, creation of a public or private nuisance, or obstruction of the operation of another business.
  - f. Violates or fails to comply with the terms and conditions of the CCBP.
2. Prior to suspension or revocation of the CCBP, the Zoning Administrator shall conduct a hearing. Written notice of the time and place of such hearing shall be served upon the permittee at least five calendar days prior to the date set for such hearing. The notice shall contain a brief statement of the grounds to be relied upon for revoking or suspending the permit. Notice may be given either by personal delivery or by certified U.S. mail, postage prepaid.
3. Any permittee aggrieved by the decision of the Zoning Administrator in suspending or revoking a CCBP may, within ten calendar days, appeal to the Planning Commission by filing a written notice with the City Clerk. During the pendency of the appeal to the Commission, the CCBP shall remain in effect. If such appeal is not taken within ten days, the decision of the Zoning Administrator shall be final subject to judicial review as set forth in this section. (Ord. 1533 § 1 (Exh. A (part)), 2018: Ord. 1525 § 2(3) (Exh. C (part)), 2017)

**8.09.150 Enforcement.**

A. A violation of the regulations in this chapter by an act, omission, or failure of an agent, officer, or other person acting for or employed by a licensee within the scope of their employment or office shall be deemed the act, omission, or failure of the licensee or permittee.

B. A permitted commercial cannabis business shall notify the local law enforcement of the City upon discovery of any of the following situations:

1. A discrepancy of more than one thousand dollars in inventory over a period of twenty-four hours or three thousand dollars over a period of seven days.
2. A reason to suspect diversion, loss, theft, or any other criminal activity pertaining to the operation of the business.
3. The loss or alteration of records related to cannabis goods, registered medical cannabis patients, caregivers, or the employees or agents of the licensed cannabis business.
4. Any other reason to suspect any other breach of security.

C. Each and every violation of this chapter shall constitute a separate violation and shall be subject to all remedies and enforcement measures authorized by the municipal code. Additionally, as a nuisance per se, any violation of this chapter shall be subject to injunctive relief, revocation of the business's CCBP, disgorgement and payment to the City of any and all monies unlawfully obtained, costs of abatement, costs of investigation, attorney fees, and any other relief or remedy available at law or equity. The City may also pursue any and all remedies and actions available and applicable under local and State laws for any violations committed by the cannabis business and persons related or associated with the cannabis business.

D. City officials or their designees may enter and inspect the location of any commercial cannabis business during normal business hours to ensure compliance with this chapter. In addition, law enforcement may enter and inspect the location of any cannabis business and the recordings and records maintained as required by this chapter, except that the inspection and copying of private medical records shall be made available to law enforcement only pursuant to a properly executed search warrant, subpoena, or court order. A person engaging in commercial cannabis business without a permit and associated unique identifiers required by this chapter shall be subject to civil penalties of up to twice the amount of the permit fee for each violation, and the department, State or local authority, or court may order the destruction of cannabis associated with that violation. A violator shall be responsible for the cost of the destruction of cannabis associated with the violation, in addition to any amount covered by a bond required as a condition of licensure. Each day of operation shall constitute a separate violation of this section. (Ord. 1533 § 1 (Exh. A (part)), 2018: Ord. 1525 § 2(3) (Exh. C (part)), 2017)

#### **8.09.160 Limitations on the City's liability.**

To the fullest extent permitted by law, the City of San Carlos shall not assume any liability whatsoever with respect to approving any CCBP pursuant to this chapter or the operation of any cannabis facility approved pursuant to this chapter. As a condition of approval of a CCBP as provided in this chapter, the applicant or its legal representative shall:

- A. Execute an agreement indemnifying the City from any claims, damages, injuries, or liabilities of any kind associated with the registration or operation of the commercial cannabis facility or the prosecution of the applicant or licensee or its members for violation of Federal or State laws;
- B. Maintain insurance in the amounts and types that are acceptable to the City Attorney or designee;
- C. Name the City as an additionally insured on all City required insurance policies;
- D. Agree to defend, at its sole expense, any action against the City, its agents, officers, and employees related to the approval of a CCBP; and
- E. Agree to reimburse the City for any court costs and attorney fees that the City may be required to pay as a result of any legal challenge related to the City's approval of a CCBP. The City may, at its sole discretion, participate at its own expense in the defense of any such action, but such participation shall not relieve the operator of its obligation hereunder. (Ord. 1533 § 1 (Exh. A (part)), 2018: Ord. 1525 § 2(3) (Exh. C (part)), 2017)

#### **8.09.170 Fees and taxes.**

All cannabis businesses shall pay applicable fees and taxes, which may include one or more of the following:

- A. Deposit. The cannabis business applicant shall pay a deposit of actual costs as determined by the City, and in line with the City's cost of services fee schedule.
- B. Initial Application Fees. The cannabis business applicant shall submit a deposit to cover the cost of processing an initial application for the commercial cannabis business. These fees may be divided into two fees according to Initial Review (Phase 1) and Final Review (Phase 2).
- C. Application Renewal Fees. The cannabis business operator shall submit a non-refundable fee to cover the cost of processing an application renewal annually.
- D. Business Registration Fee. The cannabis business operator shall at all times maintain a current and valid business registration and pay all business taxes required by Title 5, Business Taxes, Licenses and Regulations.
- E. CEQA Fees. The applicant shall conduct and pay for any required CEQA reviews and analyses, and pay for all costs, including those of the City, associated with project review under CEQA.
- F. Commercial Cannabis Regulatory Fee. The cannabis business operator shall pay an annual regulatory fee ("regulatory fee"), with deposit to cover the costs of monitoring and anticipated enforcement relating to the commercial cannabis operation. The amount of the fee shall be set by resolution of the City Council and be supported by the estimated additional costs of enforcement and monitoring associated with the commercial cannabis operation. The regulatory fee shall be due and payable prior to opening for business and thereafter on or before the anniversary date. The regulatory fee may be amended from time to time based upon actual costs.
- G. Required Taxes. All required taxes including sales and use taxes, business, payroll, etc.

H. Cannabis Business Tax. In addition to the fees and taxes in this section, including but not limited to the business registration fee and business license tax required by Title 5, every person engaged in commercial cannabis activity in the City shall pay a business tax at a rate of up to ten percent of gross receipts. The tax under this chapter shall not be imposed on cannabis businesses unless and until the City Council, by resolution, takes action to set a tax rate not to exceed ten percent of gross receipts. The tax imposed by this paragraph is an excise tax upon commercial cannabis businesses for the privilege of conducting commercial cannabis activities in the City. It is not a sales or use tax and shall not be calculated or imposed as such. A commercial cannabis business may identify the tax on receipts, invoices, or other documents evidencing a transaction.

Notwithstanding the maximum tax rate of ten percent of gross receipts imposed under the above paragraph, the City Council may, in its discretion, at any time by resolution, implement a lower tax rate for all cannabis businesses or establish different tax rates for different categories of cannabis businesses subject to the maximum rate of ten percent of gross receipts. The City Council may, by resolution, also increase any such tax rate from time to time, not to exceed the maximum tax rate of ten percent of gross receipts.

1. When Payment is Due. Each cannabis business shall, on or before the last day of the month following the close of each calendar month, submit a tax return to the Tax Administrator, on forms provided by the Tax Administrator, of the total gross receipts for that calendar month. Tax returns and payments for all outstanding taxes owed the City are immediately due the Tax Administrator upon cessation of the business for any reason.
2. Delinquent Returns and Nonpayment. Taxes required to be paid pursuant to this subsection H shall be deemed delinquent if not paid on or before the due date. Failure to timely pay the cannabis business tax is subject to penalties. Any person or operator who fails or refuses to furnish any tax return required to be made, or who fails or refuses to file a supplemental return or other data required by the Tax Administrator, or who renders a false or fraudulent return or claim, is guilty of a misdemeanor, and is punishable as provided in Chapter 1.20.
  - a. Late Payment Penalty. Any cannabis business operator who fails to remit any cannabis business tax due within the time required shall pay a penalty of ten percent of the amount of the tax in addition to the amount of the tax.
  - b. Second Delinquency Penalty. Any cannabis business operator who fails to remit any delinquent remittance on or before a period of thirty days following the date on which the remittance first became delinquent shall pay a second delinquency penalty of ten percent of the amount of the tax in addition to the amount of the tax and the ten percent penalty first imposed.
  - c. Penalty for Fraud. If the Tax Administrator determines that the nonpayment of any remittance is due to fraud, a penalty of twenty-five percent of the amount of the tax shall be added thereto in addition to the penalties stated in subsections (H)(2)(a) and (b) of this section.
  - d. Interest. In addition to the penalties imposed, any cannabis business operator who fails to remit any portion of the cannabis business tax imposed by this chapter shall pay interest at the rate of one percent per month or fraction thereof on the amount of the tax, exclusive of penalties, from the date on which the remittance first became delinquent until paid.
  - e. Penalty Part of Tax. Every penalty imposed and such interest as accrues under the provisions of this section shall become a part of the cannabis business tax required to be paid by this chapter.
  - f. Recording Certificate—Lien. If any amount of the cannabis business tax required to be paid to the City is not paid when due, the Tax Administrator may, within three years after the amount is due, file for record in the office of the County Recorder a certificate specifying the amount of tax, penalties and interest due, the name and address as it appears on the records of the Tax Administrator of the cannabis business operator liable for the same and the fact that the Tax Administrator has complied with all provisions of this chapter in the determination of the amount required to be paid. From the time of the filing for record, the amount required to be paid, together with penalties and interest, constitutes a lien upon all real property in the County owned by the cannabis business operator or afterwards and before the lien expires acquired by the cannabis business operator. The lien has the force, effect and priority of a judgment lien and shall continue for ten years from the time of filing of the certificate unless sooner released or otherwise discharged.
  - g. Priority and Lien of Tax.
    - i. The amounts required to be paid by any cannabis business operator under this chapter with penalties and interest shall be satisfied first in any of the following cases:

- (A) Whenever the person is insolvent;
  - (B) Whenever the person makes a voluntary assignment of his assets;
  - (C) Whenever the estate of the person in the hands of executors, administrators or heirs is insufficient to pay all the debts due from the deceased; or
  - (D) Whenever the estate and effects of an absconding, concealed or absent person required to pay the cannabis business tax under this chapter are levied by process of law. This chapter does not give the City a preference over any recorded lien which attached prior to the date when the amounts required to be paid became a lien.
- ii. The preference given to the City by this subsection shall be subordinate to the preferences given to claims for personal services by Sections 1204 and 1206 of the Code of Civil Procedure.
- h. Warrant for Collection of Tax. At any time within three years after any cannabis business operator is delinquent in the payment of any amount of cannabis business tax required in this chapter to be paid or within three years after the last recording of a certificate of lien, the Tax Administrator may issue a warrant for the enforcement of any liens and for the collection of any amount required to be paid to the City under this chapter. The warrant shall be directed to any Sheriff, Marshal or Constable and shall have the same effect as a writ of execution. The warrant shall be levied and sale made pursuant to it in the same manner and with the same effect as a levy of and a sale pursuant to a writ of execution. The Tax Administrator may pay or advance to the Sheriff, Marshal or Constable the same fees, commissions and expenses for his services as are provided by law for similar services pursuant to a writ of execution. The Tax Administrator, and not the court, shall approve the fees for publication in a newspaper.
- i. Seizure and Sale. At any time within three years after any cannabis business operator is delinquent in the payment of any amount, the Tax Administrator may forthwith collect the amount in the following manner: The Tax Administrator shall seize any property, real and/or personal, of the cannabis business operator and sell the property, or a sufficient part of it, at public auction to pay the amount due together with any penalties and interest imposed for the delinquency and any costs incurred on account of the seizure and sale. Any seizure made to collect cannabis business taxes due shall be only of the property of the cannabis business operator not exempt from execution under the provisions of the Code of Civil Procedure.
- j. Successor's Liability—Withholding by Purchaser. If any cannabis business operator liable for any amount of cannabis business tax or related interest, fines, or costs under this chapter sells out his or her business or quits the business, his or her successor or assignee shall withhold sufficient of the purchase price to cover such amount until the former owner produces a receipt from the Tax Administrator showing that it has been paid or a certificate stating that no amount is due.
- k. Liability of Purchaser—Release. If the purchaser of a cannabis business fails to withhold purchase price as required, the purchaser shall become personally liable for the payment of the amount required to be withheld by the purchaser to the extent of the purchase price, valued in money. Within sixty days after receiving a written request from the purchaser for a certificate, or within sixty days from the date the former owner's records are made available for audit, whichever period expires the later, but in any event not later than ninety days after receiving the request, the Tax Administrator shall either issue the certificate or mail notice to the purchaser at his address as it appears on the records of the Tax Administrator of the amount that must be paid as a condition of issuing the certificate. Failure of the Tax Administrator to mail the notice will release the purchaser from any further obligation to withhold purchase price as above provided. The time within which the obligation of the successor may be enforced shall start to run at the time the operator sells his business or at the times that the determination against the cannabis business operator becomes final, whichever event occurs later.
3. Refunds. Whenever the cannabis business tax or any related interest or penalty has been overpaid or paid more than once or has been erroneously or illegally collected or received by the City, it may be refunded provided a claim in writing therefor, stating under penalty of perjury the specific ground upon which the claim is founded, is filed with the Tax Administrator within one year of the date of payment. The claim shall be on forms furnished by the Tax Administrator.
4. Appeal Procedures. Any person aggrieved by a decision of the Tax Administrator with respect to the amount of such tax, interest and penalties, if any, may appeal to the City Council by filing a notice of appeal with the City Clerk within fifteen business days of serving or mailing of the determination of tax due. The City Council shall fix a time and place for

hearing such appeal, and the City Clerk shall give notice in writing to such cannabis business operator at his last known place of address. The findings of the City Council shall be final and conclusive and shall be served upon the appellant in the manner prescribed above for service of notice of hearing. Any amount found to be due shall be immediately due and payable upon the service of notice.

5. Administration of Cannabis Business Tax.

- a. The Tax Administrator may promulgate administrative rules and procedures consistent with the purpose, intent, and terms of this chapter as he or she deems necessary to implement or clarify it or aid in its enforcement. He or she shall give notice of those regulations as required for ordinances and such regulations shall take effect upon such notice unless otherwise provided by a particular regulation.
- b. The Tax Administrator may take such administrative actions as needed to administer the tax, including but not limited to any of the enforcement actions listed in this section or authorized by this Code.

I. Any other cannabis-specific taxes approved by the voters of the City.

J. Code Enforcement. The City shall be entitled to recover its cost of enforcement, including but not limited to its attorney's fees, expert witness fees and costs of suit. (Ord. 1533 § 1 (Exh. A (part)), 2018: Ord. 1525 § 2(3) (Exh. C (part)), 2017)

**8.09.180 Severability.**

If any section, subsection, sentence, clause, or phrase of this chapter is for any reason held to be invalid or unconstitutional by a decision of any court of any competent jurisdiction, such decision shall not affect the validity of the remaining portions of this chapter. The City Council hereby declares that it would have passed the ordinance codified in this chapter and adopted this chapter and each and every section, subsection, sentence, clause and phrase thereof not declared invalid or unconstitutional without regard to whether any portion of the chapter would be subsequently declared invalid or unconstitutional. (Ord. 1533 § 1 (Exh. A (part)), 2018: Ord. 1525 § 2(3) (Exh. C (part)), 2017)

**Chapter 8.10  
MINIMUM WAGE**

Sections:

**8.10.010 Application of chapter.**

**8.10.020 Definitions.**

**8.10.030 Minimum wage.**

**8.10.040 Notices, posting and payroll records.**

**8.10.050 Retaliation prohibited.**

**8.10.060 Implementation.**

**8.10.070 Enforcement.**

**8.10.080 Relationship to other requirements.**

**8.10.090 Fees.**

**8.10.010 Application of chapter.**

The provisions of this chapter shall apply within the City of San Carlos. (Ord. 1559 § 6 (part), 2020)

**8.10.020 Definitions.**

For the purposes of this chapter, the following definitions shall govern unless the context clearly requires otherwise:

A. "Calendar week" shall mean a period of seven consecutive days starting on Sunday.

B. "Employee" means any person who:

1. In a calendar week performs at least two hours of work within the geographic boundaries of San Carlos for any employer (as defined below); and

2. Qualifies as an employee entitled to payment of a minimum wage from any employer under the California minimum wage law, as provided in Section 1197 of the California Labor Code and wage orders published by the California Industrial Welfare Commission. Employees shall contain learners as defined in this section.
- C. "Employer" shall mean any person, including corporate officers or executives, as defined in Section 18 of the California Labor Code, who directly or indirectly through any other person, including through the services of a temporary employment agency, staffing agency, or similar entity, employs or exercises control over the wages, hours, or working conditions of any employee and who is either subject to the City's business registration requirements or maintains a business facility in the City.
- D. "Learner" shall mean an employee who is a learner as defined by California Welfare Commission Order No. 4-2001.
- E. "Minimum wage" shall mean the minimum wage set forth in Section 8.10.030. (Ord. 1559 § 6 (part), 2020)

**8.10.030 Minimum wage.**

- A. Employers shall pay employees no less than the minimum wage set forth in this chapter for each hour worked within the geographic boundaries of the City.
- B. On January 1, 2021, the minimum wage shall be an hourly rate of fifteen dollars (\$15.00) plus the lesser of three and one-half percent (3.5%) or the Consumer Price Index for San Francisco-Oakland-San Jose as determined by the United States Department of Labor ("CPI"). On January 1, 2022, and each January 1st thereafter, the prior minimum wage shall be increased by the lesser of three and one-half percent (3.5%) or a percentage amount equal to the prior year's increase, if any, in the CPI. The change is calculated by using the August to August change in the CPI to calculate the annual increase, if any. The hourly rate cannot be decreased even if there is a decrease in the CPI. The City minimum wage schedule is as follows:
1. Beginning on January 1, 2021, an hourly rate of fifteen dollars (\$15.00) plus CPI up to three and one-half percent (3.5%);
  2. Beginning on January 1, 2022, the hourly rate of the previous year, plus CPI up to three and one-half percent (3.5%).
- C. An employee who is a learner shall be paid no less than eighty-five percent (85%) of the applicable minimum wage for the first one hundred sixty (160) hours of employment. Thereafter, the employee shall be paid the applicable minimum wage.
- D. An employer may not deduct an amount from wages due to an employee on account of any tip or gratuity, or credit the amount of any part thereof, of a tip or gratuity, against, or as part of, the wages due the employee from the employer.
- E. No employer may fund increases in compensation required by this chapter, nor otherwise respond to the requirements of this chapter, by reducing the wage rate paid to any employee, nor by increasing charges to any employee for parking, meals, uniforms or other items, nor by increasing the share any employee pays towards his/her benefits, except to the extent such prohibition would be preempted by the Federal Employee Retirement Income Security Act or State law.
- F. A violation for unlawfully failing to pay the minimum wage shall be deemed to continue from the date immediately following the date that the wages were due and payable as provided in Part 1 (commencing with Section 200) of Division 2 of the California Labor Code, to the date immediately preceding the date the wages are paid in full. (Ord. 1561 § 6 (part), 2020: Ord. 1559 § 6 (part), 2020)

**8.10.040 Notices, posting and payroll records.**

- A. By November 1st of each year, the City shall publish a bulletin announcing the adjusted minimum wage rate for the upcoming year and employee rights under this chapter on the City's website and by mailing a notice suitable for posting in the workplace to each employer in the City.
- B. Every employer must give written notification to each current employee, and to each new employee at the time of hire, of his or her rights under this chapter. The notification shall be posted in a conspicuous place at any workplace or job site where any employee works. Failure to post such notice shall constitute a violation of this chapter. The City may provide sample notices for use by employers to comply with this section.
- C. Employers shall retain payroll records pertaining to employees for a period of three (3) years, and shall allow the City or its contractor to access such records, with appropriate notice and a mutually agreeable time, to monitor compliance with the requirements of this chapter. Where an employer does not maintain adequate payroll records or does not allow the City reasonable access to such records, the employee's account of how much he or she was paid shall be presumed to be accurate, absent clear and convincing evidence otherwise. (Ord. 1561 § 6 (part), 2020: Ord. 1559 § 6 (part), 2020)

**8.10.050 Retaliation prohibited.**

A. It shall be unlawful for an employer or any other party to discriminate in any manner or take adverse action against any person in retaliation for exercising rights protected under this chapter. Rights protected under this chapter include, but are not limited to the following: the right to file a complaint or inform any person about any party's alleged noncompliance with this chapter; and the right to inform any person of his or her potential rights under this chapter and to assist him or her in asserting such rights. Protections of this chapter shall apply to any person who mistakenly, but in good faith, alleges noncompliance with this chapter.

B. It is unlawful for an employer to discharge any employee who engaged in any activity described in subsection A of this section within one hundred and twenty days of an employer being notified of such activity, unless the employer has clear and convincing evidence of just cause for such discharge. (Ord. 1559 § 6 (part), 2020)

**8.10.060 Implementation.**

A. Regulations. The City Manager may promulgate regulations for the implementation and enforcement of this chapter. Any regulations promulgated by the City Manager shall have the force and effect of law and may be relied upon by employers, employees, and other parties to determine their rights under this chapter. Any regulations may establish procedures for ensuring the fair, efficient, and cost effective implementation of this chapter, including supplementary procedures for helping inform employees of their rights under this chapter, for monitoring employer compliance with this chapter, and for providing administrative hearings or determining whether an employer or other person has violated the requirements of this chapter.

B. Reporting Violations. An employee or any other person may report to the City, or the City's enforcement service provider, in writing any suspected violation of this chapter. The City shall encourage reporting pursuant to this subsection by keeping confidential, to the maximum extent permissible by applicable laws, the name and other identifying information of the employee or person reporting the violation; provided, however, that with the authorization of such person, the City may disclose his or her name and identifying information as necessary to enforce this chapter or other employee protection laws.

C. Investigation. The City, or its enforcement service provider, shall be responsible for investigating any possible violations of this chapter. The City shall have the authority to inspect workplaces, interview persons, and request the City Attorney to subpoena books, papers, records or other items relevant to the enforcement of this chapter.

D. Informal Resolution. The City shall make every effort to resolve complaints related to this chapter informally and in a timely manner. (Ord. 1559 § 6 (part), 2020)

**8.10.070 Enforcement.**

A. Where prompt compliance is not forthcoming, the City shall take any appropriate enforcement action necessary to secure compliance with this chapter. In addition to other civil remedies, the City may enforce this chapter pursuant to Chapter 1.20. In addition to the applicable code enforcement procedures available in Chapter 1.20 or State law, to secure compliance, the City may use one of the following enforcement measures:

1. The City may issue an administrative citation with a fine of not more than fifty dollars for each day or portion thereof and for each employee or person as to whom the violation occurred or continued.
2. The City may issue an administrative compliance order.
3. The City may initiate a civil action for injunctive relief and damages and civil penalties in a court of competent jurisdiction.

B. Any person aggrieved by a violation of this chapter, any entity a member of which is aggrieved by a violation of this chapter, or any other person or entity acting on behalf of the public as provided for under applicable State law may bring a civil action in a court of competent jurisdiction against the employer or other person violating this chapter. Upon prevailing, the party(s) shall be awarded reasonable attorneys' fees and costs and shall be entitled to such legal or equitable relief as may be appropriate to remedy the violation including, without limitation, the payment of any back wages unlawfully withheld, the payment of an additional sum as a civil penalty in the amount of fifty dollars to each employee or person whose rights under this chapter were violated for each day that the violation occurred or continued, reinstatement in employment, and/or injunctive relief; provided, however, that any person or entity enforcing this chapter on behalf of the public as provided under applicable State law shall, upon prevailing, be entitled only to equitable injunctive or restitution to employees and reasonable attorneys' fees and costs.

C. This section shall not be construed to limit an employee's right to bring legal action for a violation of any other laws concerning wages, hours, or other standards or rights, nor shall exhaustion of remedies under this chapter be a prerequisite to

the assertion of any right.

D. Except where prohibited by State or Federal law, City agencies or departments may revoke or suspend any registration certificates, permits, or licenses held or requested by the employer until such time as the violation is remedied.

E. Relief. The remedies available to employees for violation of this chapter include, but are not limited to:

1. Reinstatement, and the payment of back wages unlawfully withheld, and the payment of an additional sum as a civil penalty in the amount of fifty dollars to each employee or person whose rights under this chapter were violated for each day or portion thereof that the violation occurred or continued, and fines imposed pursuant to other provisions of this code or State law.

2. Interest on all due and unpaid wages at the rate of interest specified in subdivision (b) of Section 3289 of the California Civil Code, which shall accrue from the date that the wages were due and payable as provided in Part 1 (commencing with Section 200) of Division 2 of the California Labor Code, to the date the wages are paid in full.

F. Posted Notice. If a repeated violation of this chapter has been finally determined, the City may require the employer to post public notice of the employer's failure to comply in a form determined by the City. (Ord. 1559 § 6 (part), 2020)

#### **8.10.080 Relationship to other requirements.**

This chapter provides for payment of a local minimum wage and shall not be construed to preempt or otherwise limit or affect the applicability of any other law, regulation, requirement, policy or standard that provides for payment of higher or supplemental wages or benefits, or that extends other protections. This chapter shall not be construed to limit a discharged employee's right to bring a common law cause of action for wrongful termination. (Ord. 1559 § 6 (part), 2020)

#### **8.10.090 Fees.**

Nothing herein shall preclude the City Council from imposing a cost recovery fee on all employers to pay the cost of administering this chapter. (Ord. 1559 § 6 (part), 2020)

### **Chapter 8.16 PRIVATE BURGLAR AND FIRE ALARM SYSTEMS\***

Sections:

#### Article I. Definitions

##### **8.16.010 Definitions.**

#### Article II. Alarm Permit

##### **8.16.020 Permit—Required.**

##### **8.16.030 Application.**

##### **8.16.040 Transfer prohibited.**

##### **8.16.050 Suspension or revocation.**

##### **8.16.060 Reinstatement.**

##### **8.16.070 Rules and regulations.**

#### Article III. Alarm Terminal Facilities

##### **8.16.080 Prohibited installation.**

##### **8.16.090 Prohibited phone and other devices.**

#### Article IV. Audible Alarm Regulations

##### **8.16.100 Timing device/battery backup.**

##### **8.16.110 Sirens.**

**8.16.120 Nuisance.****Article V. Violation and Appeals Procedure****8.16.130 Appeal procedure.****8.16.140 Violation—Penalty.****Article VI. False Alarms****8.16.150 Exceptions.****8.16.160 Notification.****8.16.170 Alarm response fee.****8.16.180 Excessive false alarms.**

\* Prior ordinance history: Ords. 710 and 919.

**Article I. Definitions****8.16.010 Definitions.**

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them:

A. "Alarm company" means any person who sells, leases, maintains, services, repairs, alters, replaces, moves or installs any alarm system, or who causes any alarm system to be sold, maintained, serviced, repaired, altered, moved or installed, in or on any building, place or premises.

B. "Alarm system" means any device designed for the detection of an unauthorized entry on the premises, or for alerting others of the commission of an unlawful act, reporting a fire, and, when activated, emits a sound and/or transmits a signal to a private security company, owner or the Police Department. Fire alarms required by the International Fire Code or the California Fire Code are not included in the definition of alarm system.

C. "Audible alarm" means a device designed for detection of fire or unauthorized entry on the land, building, structure or facility of any alarm owner, and which generates sound audible outdoors when activated. Audible alarms required by the International Fire Code or California Fire Code are not included in the definition of audible alarm.

D. False Alarm. An alarm signal activated intentionally or through inadvertence or negligence, to which personnel of the Police Department respond, when there is no need for such response, shall constitute a false alarm for purposes of this chapter.

E. "Own" means to purchase, rent or lease an alarm system.

F. "Owner" means the person or firm who purchases, rents or leases an alarm system to protect his or her property. "Owner" also means and includes the person or firm who owns the premises on which the alarm system is located.

G. "Police Department" means the San Carlos Police Department or the San Mateo County Sheriff's Office. (Ord. 1444 § 2 (part), 2012: Ord. 1250 § 1 (part), 1998)

**Article II. Alarm Permit****8.16.020 Permit—Required.**

The owner of any alarm system shall first obtain a permit as required by this chapter. No alarm systems or audible alarms may be operated without first obtaining a permit. (Ord. 1444 § 2 (part), 2012: Ord. 1250 § 1 (part), 1998)

**8.16.030 Application.**

Applications for all permits required hereunder shall be filed with the Police Department and shall be accompanied by an initial registration fee and annual fee. The initial registration fee is established to cover costs of investigating and processing the application and permits. Thereafter, a renewal fee for the permit shall be paid in an amount set by resolution of the City Council. Neither fee is refundable. (Ord. 1444 § 2 (part), 2012: Ord. 1250 § 1 (part), 1998)

**8.16.040 Transfer prohibited.**

No permit issued under the provisions of this chapter shall be in any manner transferred or assigned. (Ord. 1444 § 2 (part), 2012: Ord. 1250 § 1 (part), 1998. Formerly 8.16.060)

#### **8.16.050 Suspension or revocation.**

Any permit issued under the provisions of this chapter may be suspended or revoked by the Chief of the Police Department or his/her designated agent when it appears that the permittee has breached the terms and conditions thereof, or has failed to comply with departmental rules or the other provisions of this chapter, or that the privilege so granted has been abused to the detriment of the public. (Ord. 1444 § 2 (part), 2012: Ord. 1250 § 1 (part), 1998. Formerly 8.16.070)

#### **8.16.060 Reinstatement.**

The Chief of the Police Department or his/her designee is authorized to reinstate any alarm system suspended under this chapter, upon payment of any outstanding service charges together with a reinstatement fee in an amount established by resolution of the City Council. (Ord. 1444 § 2 (part), 2012: Ord. 1250 § 1 (part), 1998. Formerly 8.16.080)

#### **8.16.070 Rules and regulations.**

The Chief of the Police Department, or his/her designated agent, is authorized and empowered to adopt such rules as he/she may deem reasonably necessary to fulfill the purposes of this chapter. Such rules shall be in writing and shall be given to each permittee at the time of the issuance or renewal of such permits. (Ord. 1444 § 2 (part), 2012: Ord. 1250 § 1 (part), 1998. Formerly 8.16.090)

### **Article III. Alarm Terminal Facilities**

#### **8.16.080 Prohibited installation.**

Private burglary, robbery, panic and fire alarm systems shall not report an emergency or other event by telephone or Internet directly to the Police Department. (Ord. 1444 § 2 (part), 2012: Ord. 1372 § 2, 2006: Ord. 1250 § 1 (part), 1998. Formerly 8.16.100)

#### **8.16.090 Prohibited phone and other devices.**

No person shall use or cause to be used any telephone device, telephone attachment on any telephone trunk line of the Police Department, or automated e-mail, messaging, texting or similar system which reproduces any tone, signal prerecorded audio message, or other message to report any burglary, robbery, fire or other emergency. (Ord. 1444 § 2 (part), 2012: Ord. 1250 § 1 (part), 1998. Formerly 8.16.110)

### **Article IV. Audible Alarm Regulations**

#### **8.16.100 Timing device/battery backup.**

A. Except for alarms or alarm systems required by the International Fire Code or the California Fire Code, each audible alarm system shall be equipped with a timing device that will silence or turn off such audible signal within fifteen minutes of activation. The owner of each audible alarm system that is not so equipped shall update the alarm system to comply with this regulation.

B. Each alarm system shall also be equipped with a battery backup capable of powering the alarm system for not less than four hours. (Ord. 1444 § 2 (part), 2012: Ord. 1250 § 1 (part), 1998. Formerly 8.16.120)

#### **8.16.110 Sirens.**

It is unlawful to install or maintain any audible alarm which generates a sound similar to sirens used on authorized emergency vehicles or for civil disaster purposes. (Ord. 1444 § 2 (part), 2012: Ord. 1250 § 1 (part), 1998. Formerly 8.16.130)

#### **8.16.120 Nuisance.**

Except for alarms or alarm systems required by the International Fire Code or the California Fire Code, any alarm that is audible for longer than fifteen minutes will be deemed a nuisance and may be disabled by the Police Department. If disabled by the Police Department, all repairs or damages incident to efforts by the Police Department to disable the alarm shall be the responsibility of the owner. (Ord. 1444 § 2 (part), 2012: Ord. 1250 § 1 (part), 1998. Formerly 8.16.140)

### **Article V. Violation and Appeals Procedure**

#### **8.16.130 Appeal procedure.**

Any person aggrieved by the action of the Chief of the Police Department or his/her designated agent in denying a permit, application fee, alarm response fee, or in the suspension or revocation of any permit provided by this chapter, may appeal to the City Administrative Hearing Officer. (Ord. 1444 § 2 (part), 2012: Ord. 1250 § 1 (part), 1998. Formerly 8.16.150)

#### **8.16.140 Violation—Penalty.**

Any person who installs or causes to be installed any device as provided for in this chapter without first obtaining a permit as described herein shall be guilty of a misdemeanor. Alarms that are deemed a nuisance will be required to comply with this chapter. These violations shall be punishable by a fine set forth by resolution of the City Council. (Ord. 1444 § 2 (part), 2012. Formerly 8.16.160)

## **Article VI. False Alarms**

### **8.16.150 Exceptions.**

- A. If the alarm owner or private security company under contract makes contact with the Police Department before responding units arrive at the location of the alarm, the owner will not be charged with a false alarm.
- B. In the event of a natural disaster, i.e., earthquake, power outage, etc., the false alarm generated as a result of this occurrence will not be charged as a false alarm response. (Ord. 1444 § 2 (part), 2012: Ord. 1250 § 1 (part), 1998. Formerly 8.16.170)

### **8.16.160 Notification.**

In the event of a false alarm within the City resulting in a Police Department response from any alarm system or from contact from a private security company under contract with an owner, a notice will be issued by the Police Department to the alarm owner. The notice shall set forth the time and nature of the false alarm. The notice will be mailed to the record alarm owner by regular United States mail, postage prepaid, to the address at which the alarm is installed or by other suitable means as deemed appropriate by the Chief of the Police Department. (Ord. 1444 § 2 (part), 2012: Ord. 1250 § 1 (part), 1998. Formerly 8.16.180)

### **8.16.170 Alarm response fee.**

- A. Each alarm system shall be allowed one false alarm without service charge during each fiscal year from July 1st through June 30th. The alarm owner shall pay a service charge in an amount established by resolution of the City Council for each subsequent false alarm during the fiscal year.
- B. A violation notice will be generated and an invoice sent to the alarm owner at the alarm location. Failing to pay the required fees will result in a suspension of an alarm permit and nonresponse to subsequent alarms by the Police Department.
- C. Private security company personnel are allowed to report an alarm activation to the Police Department or Fire Department. However, false alarms will be assessed as provided in this chapter. (Ord. 1444 § 2 (part), 2012: Ord. 1250 § 1 (part), 1998. Formerly 8.16.190)

### **8.16.180 Excessive false alarms.**

In the event any alarm system within the City activates more than twelve false alarms within any one-year period, such alarm system shall be suspended and shall be deactivated until written verification by the alarm company establishes that the problem causing the false alarms has been corrected. (Ord. 1444 § 2 (part), 2012: Ord. 1250 § 1 (part), 1998. Formerly 8.16.200)

## **Chapter 8.18 RESIDENTIAL STORAGE OF FIREARMS**

Sections:

### **8.18.010 Definitions.**

### **8.18.020 Prohibition.**

### **8.18.030 Exceptions.**

### **8.18.040 Lost or stolen firearms.**

### **8.18.050 Penalty.**

### **8.18.010 Definitions.**

For the purpose of this chapter, unless the context clearly requires a different meaning, the following words, terms and phrases have the meanings given to them in this section:

"Firearm" means any gun, pistol, revolver, rifle, or any other device designed or modified to be used as a weapon, from which is expelled through a barrel a projectile by the force of an explosion or other form of combustion. The term "firearm" does not

include imitation firearms as defined by California Penal Code Section 16700, or BB devices or air rifles as defined in California Penal Code Section 16250.

"Locked container" means a locked container as defined in California Penal Code Section 16850, as amended from time to time, and that is listed on the California Department of Justice Bureau of Firearms roster of approved firearm safety devices.

"Residence" means any structure intended or used for human habitation, including but not limited to houses, condominiums, rooms, second dwelling units, motels, hotels, single-room occupancies, time shares and recreational and other vehicles where human habitation occurs.

"Trigger lock" means a trigger lock that is listed on the California Department of Justice's roster of approved firearms safety devices and that is identified as appropriate for that firearm by reference to either the manufacturer and model of the firearm or to the physical characteristics of the firearm that match those listed on the roster for use with the device under Penal Code Section 23635. (Ord. 1542 § 2 (part), 2019)

#### **8.18.020 Prohibition.**

No person shall keep a firearm within any residence unless the firearm is stored in a locked container or disabled with a trigger lock. (Ord. 1542 § 2 (part), 2019)

#### **8.18.030 Exceptions.**

Section 8.18.020 shall not apply in the following circumstances:

A. The firearm is carried on the person of an individual, or is within the immediate control of an individual, in accordance with all applicable laws; or

B. The firearm is under the control of a person who is a peace officer under Penal Code Section 830 et seq. (Ord. 1542 § 2 (part), 2019)

#### **8.18.040 Lost or stolen firearms.**

In order to encourage reports to law enforcement agencies of lost or stolen firearms, a person who files a report with a law enforcement officer shall not be subject to prosecution for violation of this chapter. (Ord. 1542 § 2 (part), 2019)

#### **8.18.050 Penalty.**

Every violation of this chapter shall constitute a misdemeanor and upon conviction shall be punished by a fine not to exceed one thousand dollars or by imprisonment in the County Jail not to exceed six months, or both. (Ord. 1542 § 2 (part), 2019)

### **Chapter 8.20 EXPLOSIVES**

Sections:

**8.20.010 Permit—Required for use of certain explosives.**

**8.20.020 Permit—Application—Issuance conditions—Revocation and suspension.**

**8.20.030 Definition—Fireworks.**

**8.20.040 Prohibition—General prohibition against possession, use, discharge, or display of dangerous fireworks.**

**8.20.050 Prohibition—General prohibition against possession, use, discharge, or display of safe and sane fireworks.**

**8.20.060 Violation—Penalty.**

**8.20.010 Permit—Required for use of certain explosives.**

It is declared unlawful for any person or persons to use or cause to be used or exploded any dynamite, giant, black or gun powder or other compound or mixture susceptible of explosive chemical reaction without first obtaining a permit from the City Council. (Amended during 1989 recodification; Ord. 34 § 1, 1926)

**8.20.020 Permit—Application—Issuance conditions—Revocation and suspension.**

A. Every applicant for a permit as provided in Section 8.20.010 shall file with the City Clerk an application, setting forth the particular location it is desired to use the explosive or explosives herein mentioned, together with the reason for such use and the time when the same will be used or exploded.

B. The City Council shall have full discretion in the granting of the application and may grant or refuse the same, and their judgment shall be final and conclusive.

C. The City Council may grant an application under this chapter under such terms and conditions as the Council deems proper and just, and the permit may be granted for any length of time the Council deems proper; provided, however, that the Council may, for proper cause, revoke or suspend any permit issued under this chapter for a violation of the terms of this chapter or the terms of the permit, after a hearing thereon. (Amended during 1989 recodification; Ord. 34 § 2, 1926)

#### **8.20.030 Definition—Fireworks.**

The most current adopted definitions set forth in State Fireworks Law (California Health and Safety Code Sections 12500 et seq.) will define terms used in this chapter unless otherwise defined in this code.

A. “Dangerous fireworks” includes all fireworks specified as such in Section 12505 of the California Health and Safety Code or any safe and sane firework altered in any manner that makes them more dangerous.

B. “Safe and sane fireworks” means any fireworks specified as such in Section 12529 of the California Health and Safety Code. (Ord. 1591 § 3, 2022)

#### **8.20.040 Prohibition—General prohibition against possession, use, discharge, or display of dangerous fireworks.**

No person shall possess, use, discharge, or display any dangerous fireworks within the City without a permit issued by the Fire Chief or their designee pursuant to Section 12640 of the California Health and Safety Code. (Ord. 1591 § 3, 2022)

#### **8.20.050 Prohibition—General prohibition against possession, use, discharge, or display of safe and sane fireworks.**

No person shall possess, use, discharge, or display any safe and sane fireworks within the City without a permit issued by the Fire Chief or their designee pursuant to Section 12640 of the California Health and Safety Code. (Ord. 1591 § 3, 2022)

#### **8.20.060 Violation—Penalty.**

A. Any person violating any provisions of this chapter or any of the provisions and conditions of the permit granted under this chapter shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not exceeding one thousand dollars (\$1,000), or by imprisonment of the County Jail of San Mateo not exceeding six (6) months, or by both such fine and imprisonment.

B. Causing, permitting, adding, abetting, or concealing a violation of any provisions of this chapter and conditions of a permit granted under this chapter shall also constitute a violation.

C. The remedies provided by this section are cumulative and in addition to any other remedy provided under Federal, State, or local law including the State Fireworks Law. (Ord. 1591 § 3, 2022)

### **Chapter 8.24 RECYCLING AND COLLECTION OF OTHER WASTES**

Sections:

#### **8.24.010 Purpose of provisions.**

#### **8.24.020 Definitions.**

#### **8.24.030 Recycling requirements—Penalty for violation.**

#### **8.24.010 Purpose of provisions.**

A. The purpose of these regulations is to do the following:

1. Regulate the location, height, size and design features of recycling and trash enclosures and containers in order to provide adequate, convenient space for the collection, storage and loading of recycled material at each proposed and existing communally serviced residential, commercial, institutional and industrial development;

2. Ensure the provision of adequate locations of recycling/trash enclosures;

3. Increase the recycling of reusable materials; and

4. Reduce litter.

B. These regulations are necessary in order to:

1. Lengthen the life span of the landfill and decrease the cost of hauling to the landfill;

2. Encourage the reuse of recyclable material in order to reduce our reliance on and use of virgin materials;
3. Encourage each citizen's choice to dispose of solid waste responsibly; and
4. Decrease the impact of the citizen's consumption of renewable and nonrenewable materials to the environment. (Ord. 1156 § 1, 1994: Ord. 1076 § 1, 1991)

**8.24.020 Definitions.**

- A. "Communally serviced residence" means apartments, quadruplexes, town-homes, condominiums, mobile home parks and other resident occupancies at which wastes from individual resident units are commingled in a common container or a group of containers.
- B. "Curbside collection" means a method of collecting source-separated recyclable materials from the curb of residential waste generation.
- C. "Exterior collection area" means a final building collection area for all recyclable materials.
- D. "Garbage" shall be as defined in Section 8.04.030 of this Code.
- E. "Individually serviced residence" means single-family houses, each dwelling unit of a duplex, triplex, quadruplex, mobile home park, condominium or other residence facility at which wastes are stored and made available for collection by or at each individual residence unit.
- F. "Recyclable materials (recyclables)" shall be as defined in Section 8.04.030 of this Code.
- G. "Recycling" shall be as defined in Section 8.04.030 of this Code. (Ord. 1238 §§ 2—4, 1998: Ord. 1156 § 2, 1994: Ord. 1076 § 2, 1991)

**8.24.030 Recycling requirements— Penalty for violation.**

- A. Individually serviced residences when utilizing the local recycling program may place recyclables at curbside on the day of the week that garbage is collected on the once per week schedule. Each recyclable shall be separately containerized in containers provided by, and in the manner designated by, the recycling collection company.
- B. All existing and proposed development that is communally serviced residential, commercial, institutional, or industrial which produces recyclable materials shall make recycling containers, in the manner designated by the recycling collection company, within required trash enclosures with the following exceptions:
  1. If the existing development does not maintain a trash enclosure, all garbage and recycling containers shall be kept in areas which are not visible from public rights-of-way and neighboring properties and which comply with all health department requirements.
  2. If the existing development is located within the east side industrial area and is not yet required to maintain a trash enclosure, the required recycling containers may be located adjacent to the existing dumpster or other trash container until December 31, 1996, or until an authorized extension is granted and expires, after which time the development must provide a trash enclosure with recycling containers pursuant to this chapter and Chapter 18.146 of this code.
- C. The City recognizes the existence of hardships based upon the unique features inherent in each applicant's complex that may interfere with the goal of siting the recycling containers at each trash enclosure. As such, the Planning Department will work with each applicant and the City's recycling collection company to formulate an acceptable plan that allows for flexibility in the number of containers sited and their locations. The City's primary goal is to institute an accessible recycling collection program at each complex while minimizing undue hardships for the owner(s). The Planning Director or his deligatee shall approve trash/recycling enclosures if they are satisfied that the plan conforms to the requirements and intent of this section and may impose any additional conditions, or make exceptions to parking, landscape or setback requirements where there are no other feasible placement alternatives, deemed necessary to meet the intent of the ordinance codified in this chapter.

1. The applicant shall be notified in writing of the action taken by the Planning Department. An approved plan shall be fully implemented within six months after approval date. Applicants shall resubmit revised plans within one month should a plan be denied.
2. Any determination of the Planning Department may be appealed to the Planning Commission. Appeals shall be initiated only upon written request to the City Clerk for a hearing before the Planning Commission and shall be in accordance with Chapter 18.132 of this code.

**D. Recycling and Trash Enclosure Design Guidelines.**

1. In addition to the requirements of this chapter and Chapter 18.146 of this code, the following regulations shall apply for recycling and trash enclosure materials, construction and design:
  - a. Each recycling and trash enclosure shall be designed to allow convenient access by tenants without having to open the main enclosure gates.
  - b. The enclosures shall be adequate in capacity, number and distribution to serve the development's recycling needs.
  - c. The property owner shall supply (through the local waste removal/recycling entity) and maintain adequate bins and containers for recycling. Location, type and placement of bins and containers shall be reviewed and approved by the Planning Department.
  - d. Maintenance of each recycling and trash enclosure and the bins and containers shall be the responsibility of the property owner.
  - e. Whenever feasible, the recycling collection area and the trash collection area shall be adjacent to one another in one enclosure.
  - f. The design and construction of recycling areas shall be compatible with surrounding land uses.
  - g. Recycling areas shall be secured to prevent the theft of recyclable materials by unauthorized persons, while allowing authorized persons access for disposal of materials.
  - h. Recycling areas or the bins or containers placed therein must provide protection against adverse environmental conditions which might render the collected materials unmarketable.
  - i. There must be unobstructed access for collection vehicles and personnel and a minimum clearance for collection.
  - j. Recycling areas shall not be located in any area required by this code to be constructed or maintained as unencumbered according to fire and other applicable building and/or public safety laws.
2. Instructional Signs. Signs shall be posted on each container listing which material shall be disposed of in that container.

3. Landscaping. The perimeter of the recycling and trash enclosure shall be planted where practical with drought-resistant landscaping, including a combination of shrubs and/or climbing evergreen vines, wherever possible.

4. Distance of Recycling and Trash Enclosure from Community Services Residences. Each recycling and trash enclosure within a community serviced residential development shall be no greater than two hundred fifty feet from the nearest point of each unit.

**E. Special Requirements.**

1. Residential developers and property owners are encouraged to include recycling space or systems within the residence; such as roll-out drawers below the sink for recycling containers; fire-proof, cleanable, secure chutes from the living space to the garage containers, etc.
2. Restaurants, bars and food establishments are encouraged to use reusable soda canisters whenever possible instead of individually packaged glass bottles and cans.

**F. Penalties.**

1. Any violation or failure to comply with any of the requirements of the ordinance codified in this chapter shall be deemed a nuisance and shall be punishable as set forth in Chapter 1.20 of this code.
2. The City Attorney may seek legal, injunctive or other equitable relief to enforce the ordinance codified in this chapter.
3. The remedies and penalties provided in this section are cumulative and not exclusive. (Ord. 1156 § 3, 1994; Ord. 1076 § 3, 1991)

**Chapter 8.25**  
**MANDATORY COMMERCIAL AND MULTIFAMILY RESIDENTIAL RECYCLING**

Sections:

- 8.25.010 Purpose.**
- 8.25.020 Findings.**
- 8.25.030 Definitions.**
- 8.25.040 Solid waste customers.**
- 8.25.050 Commercial generators.**
- 8.25.060 Multifamily generators.**
- 8.25.070 Special events.**
- 8.25.080 Provisions for self haulers.**
- 8.25.090 Solid waste collectors.**
- 8.25.100 Exclusions.**
- 8.25.110 Exemptions.**
- 8.25.120 City authority.**
- 8.25.130 Administrative appeal.**
- 8.25.140 Enforcement goals.**
- 8.25.150 Enforcement for contamination.**
- 8.25.160 Enforcement for other violations.**
- 8.25.170 Penalties.**
- 8.25.180 Implementation schedule.**
- 8.25.190 Other provisions.**
- 8.25.200 Disclaimer of liability.**
- 8.25.210 Duties discretionary.**
- 8.25.220 Severability.**

**8.25.010 Purpose.**

The purpose of this chapter is to:

A. Establish requirements for the collection and recycling of recyclable materials and collection and organics processing of organic materials generated from commercial facilities, multifamily dwellings, and special events. These requirements are intended to accomplish the following:

1. Assist the City in complying with the Integrated Waste Management Act of 1989 (AB 939 passed and signed into law in 1989) and Alternative Compliance Act of 2008 (SB 1016 passed and signed into law in 2008), which requires each local jurisdiction in the State to divert the equivalent of fifty percent of waste from landfill garbage disposal on a per capita basis, and the California Global Warming Solutions Act of 2006 (AB 32 passed and signed into law in 2006), requiring that commercial generators statewide participate in recycling programs.
2. Augment voluntary recycling efforts to further the City's recycling and diversion goals.
3. Reduce greenhouse gas emissions associated with the mining and manufacturing of goods from virgin materials and associated with the disposal of solid waste in landfills.
4. Further protect the natural environment and human health as well as enhance the economy through increased recycling and organics processing activities;

- B. Provide for enforcement through the use of fines for violating the requirements of this chapter;
- C. Establish a schedule for implementing and enforcing this chapter;
- D. Provide exclusions and exemptions for select solid waste customers, commercial generators, and special events who are not included or able to comply with this chapter or for whom this chapter poses an undue burden. (Ord. 1418 § 2 (part), 2010)

**8.25.020 Findings.**

The City Council finds and determines as follows:

- A. The City wishes to maintain a safe, controlled and cost-efficient commercial and multifamily residential recycling program, which serves as a convenience to the community and preserves the public health and safety.
- B. The City wishes to encourage commercial, multifamily and special event recycling in order to reduce impacts to landfill and to reduce greenhouse gas emissions attributable to solid waste.
- C. The City has determined that reducing the amount of solid waste entering the waste stream is in the overall interest of the community, and is required by State mandates under the Integrated Waste Management Act of 1989, the Alternative Compliance Act of 2008 and the California Global Warming Solutions Act of 2006. (Ord. 1418 § 2 (part), 2010)

**8.25.030 Definitions.**

The definitions set forth in Section 8.04.030 shall apply to this chapter. (Ord. 1418 § 2 (part), 2010)

**8.25.040 Solid waste customers.**

Each solid waste customer shall be responsible for ensuring and demonstrating its compliance with the requirements of this chapter. Each solid waste customer shall:

- A. Subscribe to an adequate level of service for recyclable materials and, when applicable, organic materials generated at the commercial facility, multifamily dwelling, or special event if the solid waste customer does not self haul those recyclable materials or organic materials to a recycling or organics processing facility.
- B. Provide, directly or through the solid waste collector, appropriate and sufficient containers, placed in appropriate and accessible locations with adequate signage, to ensure maximum segregation of recyclable materials by all commercial generators, multifamily generators, and special events and to ensure maximum segregation of organic materials by food service establishments.
- C. Post and maintain signs containing information and instructions on the proper segregation and storage of recyclable materials and organic materials in areas where containers are located.
- D. Ensure that all containers used for collecting and storing recyclable materials and organic materials (1) are affixed with or have adjacent to the container signs that display the appropriate information to enable users to clearly differentiate which containers are used for recyclable materials, organic materials, and garbage; (2) display the name of the solid waste collector that provides collection service of the container; and (3) ensure that users of the containers make efforts to minimize the contamination of material placed in the containers.
- E. Distribute chapter requirements and appropriate educational materials to all commercial generators, multifamily generators, and special events at the commercial facility or multifamily dwelling at least once each year. All new commercial generators, multifamily generators, and special events shall receive this information upon occupancy, employment, or contracting. Educational materials shall include (1) the requirement and procedures to ensure the accurate segregation of recyclable materials and organic materials from garbage; (2) the commercial generator's, multifamily generator's, or special event's responsibilities regarding compliance with this chapter; and (3) the types and location of recyclable materials, organic materials, and garbage containers.
- F. Ensure that instructions or training materials provided to commercial generators, multifamily generators, and special events are promptly made available to the City upon request.
- G. Ensure that the contents of the recyclable materials and organic materials containers are not collected for garbage disposal unless the contents of these containers include unacceptable levels of contamination. Solid waste customers shall be assessed a premium fee based on the size of the container for recyclable materials and organic materials containers that are collected for garbage disposal by the franchisee if the contents of their recyclable materials and organic materials containers contain unacceptable levels of contamination. (Ord. 1418 § 2 (part), 2010)

**8.25.050 Commercial generators.**

Each commercial generator shall be responsible for ensuring and demonstrating its compliance with the requirements of this chapter. Each commercial generator shall:

- A. Ensure the segregation of recyclable materials and, for food service establishments, organic materials from garbage by placing each type of material in a separate designated receptacle or container, and ensure that employees, contractors, volunteers, customers, visitors, and other persons on site segregate recyclable materials and, for food service establishments, organic materials.
- B. Provide an adequate number and type of labeled receptacles needed for segregating and storing recyclable materials and, for food service establishments, organic materials, and provide adequate access to these receptacles.
- C. Post and maintain signs containing information and instructions on the proper segregation and storage of recyclable materials and, for food service establishments, organic materials in areas where receptacles are located.
- D. Ensure that all receptacles used for collecting and storing recyclable materials, organic materials, and garbage are affixed with signs or labels that display the appropriate information to enable users to clearly differentiate which receptacles are used for recyclable materials, organic materials, and garbage to minimize the contamination of material placed in receptacles.
- E. Provide adequate instructions to employees, contractors, and volunteers of the requirements of this chapter, including (1) the requirement and procedures to ensure the segregation of recyclable materials and, for food service establishments, organic materials from garbage; (2) the employee's, contractor's, and volunteer's responsibilities regarding compliance with this chapter; and (3) the types and location of receptacles and containers for recyclable materials, organic materials, and garbage.
- F. Ensure that instructions or training materials provided to employees, contractors, and volunteers are promptly made available to the City upon request.
- G. Ensure that the contents of receptacles are deposited in the proper container and ensure that the contents of the receptacles for recyclable materials and organic materials are not delivered to garbage containers. Commercial generators shall be assessed a premium fee based on the size of the container for recyclable materials and organic materials containers that are collected for garbage disposal by the franchisee if the contents of their recyclable materials and organic materials containers contain unacceptable levels of contamination. (Ord. 1418 § 2 (part), 2010)

**8.25.060 Multifamily generators.**

Each multifamily generator shall:

- A. Participate in programs covered by this chapter that require segregating recyclable materials from garbage and depositing them in designated containers provided by the solid waste customer or solid waste collector. (Ord. 1418 § 2 (part), 2010)

**8.25.070 Special events.**

Special events shall be responsible for ensuring and demonstrating compliance with the requirements of this chapter. In addition to other requirements in this chapter and the Municipal Code, each special event shall:

- A. Segregate recyclable materials and, for special events that include food service establishments, organic materials from garbage by placing each type of material in a separate designated receptacle or container, and ensure that employees, contractors, volunteers, customers, visitors, and other persons on site segregate recyclable materials and, for food service establishments, organic materials.
- B. Ensure the special event has access to an adequate number and type of containers needed for collecting and storing recyclable materials and, when applicable, organic materials generated at and by the special event.
- C. Provide or ensure the provision of adequate receptacles throughout the special event location to make the segregation of recyclable materials and organic materials convenient for employees, volunteers, contractors, vendors, exhibitors, presenters, visitors, attendees, customers, and other persons on site.
- D. Provide or ensure the provision of an equal or greater number of receptacles for recyclable materials and, when applicable, organic materials to receptacles for garbage. Individual receptacles for recyclable materials, organic materials, and garbage shall be placed as close together as possible throughout the special event location in order to provide equally convenient access to receptacles for recyclable materials and organic materials as to receptacles for garbage.

E. Ensure that all receptacles used for segregating and storing recyclable materials, organic materials, and garbage are affixed with signs or labels that display the appropriate information to enable users to accurately segregate solid waste and to clearly differentiate which receptacles are used for recyclable materials, organic materials, and garbage, to minimize the contamination of material placed in receptacles. Require food vendors and food service establishments to have at least one separate receptacle each for recyclable materials, organic materials, and garbage for use by employees, contractors, custodians, customers, visitors, and other persons on site.

F. Distribute chapter requirements and appropriate informational materials to all vendors, exhibitors, and other commercial generators during event planning and setup.

G. Ensure that the contents of the receptacles for recyclable materials and organic materials are not delivered to garbage containers unless they include unacceptable levels of contamination. (Ord. 1418 § 2 (part), 2010)

#### **8.25.080 Provisions for self haulers.**

A. Nothing in this chapter shall preclude any person, solid waste customer, commercial generator, multifamily generator, or special event from self hauling recyclable materials or organic materials generated by that entity to a recycling or organics processing facility.

B. Self haulers shall:

1. Comply with the requirements in this chapter by delivering for recycling those items that can be recycled by local recycling facilities; self haulers that are also food service establishments shall comply by delivering for organics processing those items that are accepted by local organics processing facilities.
2. Provide proof of compliance with this chapter, upon request by the City; proof includes but is not limited to a receipt from a recycling or organics processing facility that clearly identifies the type and quantity of material delivered. (Ord. 1418 § 2 (part), 2010)

#### **8.25.090 Solid waste collectors.**

A. Recycling and organic materials collectors shall obtain and maintain a business registration with the City.

B. Solid waste collectors shall keep separate garbage, recyclable materials, and organic materials that have been segregated into separate containers by commercial generators, multifamily generators, or special events.

C. Solid waste collectors shall ensure that segregated recyclable materials are delivered to a recycling facility and that segregated organic materials are delivered to an organics processing facility, except that a container that contains unacceptable levels of contamination may be delivered for garbage disposal if the solid waste collector notifies the City of the occurrence; the date of the occurrence; and the account name, primary contact, phone number, billing address, and service address for the solid waste customer at which the container is located.

D. Within five days of request by the City, solid waste collectors shall provide progress reports providing the following information, at a minimum:

1. Total number of solid waste customers to whom the solid waste collector currently provides garbage, recyclable materials, and organic materials collection service within the City's boundaries;
2. For each solid waste customer, the account name, identifying number, primary contact, phone number, billing address, and service address;
3. Information on the type of collection service provided, such as garbage, recyclable materials, or organic materials services;
4. The weekly volume and type of collection service provided, including the number, type, and size of containers serviced and the days of service for each container;
5. Name and location of the solid waste facilities where materials are delivered for processing;
6. List of accounts not in compliance with this chapter, including whether they are excluded or exempt based on the exemptions in Sections 8.25.100 and 8.25.110. (Ord. 1418 § 2 (part), 2010)

#### **8.25.100 Exclusions.**

Solid waste customers that subscribe to less than two cubic yards of garbage collection service per week shall be excluded from the requirements of this chapter. (Ord. 1418 § 2 (part), 2010)

#### **8.25.110 Exemptions.**

Solid waste customers, commercial generators, and special events that can document using the methods described in subsection C of this section that the circumstances described in subsections A and B of this section pertain to their operations shall be exempt from the requirements of this chapter:

A. No Generation of Recyclable Materials. Solid waste customers, commercial generators, and special events may be exempt from the requirements of this chapter if the solid waste customer, commercial generator, or special event demonstrates to the City that no recyclable materials or organic materials are generated on site.

B. Space Constraints and Zoning Considerations.

1. Solid waste customers may be exempt from the requirements of this chapter if the City determines that either:

a. There is inadequate space for a solid waste customer to store containers for recyclable materials or organic materials on site and that it is infeasible for the solid waste customer to share recyclable materials or organic materials containers with adjacent commercial facilities or multifamily dwellings; or

b. Compliance with this chapter will result in violating City zoning or other regulations.

2. Commercial generators, multifamily generators, and special events may be exempt from the requirements of this chapter if the City determines that either:

a. The solid waste customer that is responsible for managing solid waste for the commercial generator, multifamily generator, or special event is excluded or exempt from providing containers for recyclable materials or, for food service establishments, organic materials; or

b. There is inadequate space for the commercial generator or special event to store receptacles for recyclable materials or organic materials on site and that it is infeasible for the commercial generator or special event to deposit recyclable or organic materials directly into containers without an intermediate receptacle; or

c. Compliance with this chapter will result in violating City zoning or other regulations.

C. Verification of Exemption. The solid waste customer, commercial generator, or special event shall petition the City with a written request for an exemption documenting the circumstances of a claimed exemption. The City may visit the solid waste customer's, commercial generator's, or special event's site; examine the receptacles for garbage, recyclable materials, or organic materials; or take other actions to verify the circumstances identified in the petition. The solid waste customer, commercial generator, or special event requesting an exemption shall not be granted an exemption from the requirements of this chapter if the City determines that (1) recyclable materials or organic materials are generated on site, (2) it is feasible for containers and receptacles for recyclable materials and, as necessary, for organic materials to be placed on site, and (3) it is feasible to share recycling containers with an adjacent commercial facility or multifamily dwelling. The City may impose an administrative fee on petitioning entities to cover the costs of processing such petitions. The City may require the solid waste customer, commercial generator, or special event that is granted an exemption from the requirements of this chapter to submit a renewal of its petition for an exemption every two years from the date the exemption was granted by the City. (Ord. 1418 § 2 (part), 2010)

#### **8.25.120 City authority.**

The City or its designee is authorized to administer and enforce the provisions of this chapter. To the extent permitted by law, the City or its designee may inspect any collection container at a commercial facility, multifamily dwelling, or special event and any solid waste collector's load for garbage, recyclable materials, or organic materials. To the extent permitted by law, the City or its designee may also inspect the premises of any commercial facility, multifamily dwelling, or special event to determine compliance with the provisions of this chapter. (Ord. 1418 § 2 (part), 2010)

#### **8.25.130 Administrative appeal.**

Unless otherwise expressly provided by the City Municipal Code, any person adversely and directly affected by any determination made or action taken by the City pursuant to the provisions of this chapter may file an administrative appeal with the City Clerk. If no appeal is filed within ten days under the Municipal Code City administrative appeal procedures at Chapter 1.25, the determination of the City shall be final. (Ord. 1418 § 2 (part), 2010)

**8.25.140 Enforcement goals.**

The City shall enforce this chapter with the goal of maximizing the amount of recyclable materials and organic materials properly segregated and ensuring that recyclable materials and organic materials that have been properly segregated by the solid waste customer, commercial generator, multifamily generator, or special event are correctly collected and delivered to recycling and organics processing facilities. The City or its designee shall conduct the following activities to enforce this chapter:

- A. Provide details on the requirements of this chapter to affected solid waste customers, commercial generators, multifamily generators, and special events;
- B. Develop and disseminate public education and promotional materials relating to the importance of recycling and organics processing and the availability of recycling and organics processing opportunities available to solid waste customers, commercial generators, multifamily generators, and special events;
- C. Provide technical assistance and training to solid waste customers, commercial generators, multifamily generators, and special events to increase recycling;
- D. Enforce provisions of the franchise agreement for collection of recyclable materials, organic materials, and garbage with the franchisee to stimulate demand for recyclable materials and organic materials collection service. (Ord. 1418 § 2 (part), 2010)

**8.25.150 Enforcement for contamination.**

Enforcement of this chapter regarding contamination in containers for garbage, recyclable materials, and organic materials shall be carried out by the City or its designee in a three-step process, as follows:

- A. Step One—Issuance of a Courtesy Notice. If the City or its designee identifies contamination in a collection container, they shall notify the solid waste customer in writing by affixing to the corresponding container a written “courtesy notice” identifying the contamination and shall provide a copy of this courtesy notice to the City along with the account name, primary contact, phone number, billing address, and service address of the solid waste customer.
- B. Step Two—Issuance of a Warning Notice. If the City or its designee identifies contamination in a collection container a second time, they shall notify the solid waste customer by affixing to the corresponding container a written “warning notice” identifying the contamination and shall provide a copy of this warning notice to the City along with the account name, primary contact, phone number, billing address, and service address of the solid waste customer.
- C. Step Three—Issuance of a Violation Notice. If the City or its designee identifies contamination in a collection container after the City or its designee has issued both a courtesy notice and warning notice to the same solid waste customer, the solid waste collector may refuse to collect the container with contamination, and the solid waste collector or City or its designee must affix to the corresponding container a written “violation notice” identifying the contamination and send a written copy of the violation notice to the solid waste customer, identifying the incorrect materials and describing what action must be taken for the materials to be collected; provided, however, that a solid waste collector may not refuse on this basis to empty containers from commercial facilities with multiple tenants and joint account collection service due to excessive contamination, but the solid waste collector may manage contaminated loads as garbage and charge the solid waste customer accordingly. The solid waste collector or the designee of the City shall also provide a copy of the violation notice to the City, along with the account name, primary contact, phone number, billing address, and service address of the solid waste customer.

Solid waste collectors shall not be held liable for the failure of solid waste customers to comply with this chapter, unless specified in the franchise, contract, registration certificate, or permit issued by the City. (Ord. 1418 § 2 (part), 2010)

**8.25.160 Enforcement for other violations.**

Enforcement of this chapter regarding violations of Section 8.25.090 by solid waste customers, commercial generators, or special events, excluding contamination in containers for garbage, recyclable materials, and organic materials, shall be carried out by the City or its designee as follows:

- A. Step One—Issuance of a Courtesy Notice. If the City or its designee determines that a solid waste customer, commercial generator, or special event has violated the requirements identified in Section 8.25.090, the City or its designee shall provide to that entity a written courtesy notice identifying the violation(s), describing what actions may be taken to correct the violation(s), and providing information on assistance for correcting the violation(s) that may be available from the City or its designee. If the courtesy notice has been issued by a designee, the designee shall provide a copy of the warning notice along with the name, primary contact person, phone number, and address of the entity that was issued the courtesy notice.

B. Step Two—Issuance of a Warning Notice. If the City or its designee determines that a solid waste customer, commercial generator, or special event has violated the requirements identified in Section 8.25.090, after that entity has received a courtesy notice, the City or its designee shall provide to that entity a written warning notice identifying the violation(s), describing what actions may be taken to correct the violation(s), listing the date after which the City or its designee may issue violation notice if the violation(s) have not been corrected, and providing information on assistance for correcting the violation(s) that may be available from the City or its designee. If the warning notice has been issued by a designee, the designee shall provide a copy of the warning notice along with the name, primary contact person, phone number, and address of the entity that was issued the warning notice.

C. Step Three—Issuance of a Violation Notice. If the City or its designee determines that a solid waste customer, commercial generator, or special event has not corrected violation(s) identified in a warning notice by the date specified on the warning notice, the City or its designee shall provide to that entity a written violation notice identifying the violation(s) and describing what actions may be taken to correct the violation(s). If the violation notice has been issued by a designee, the designee shall provide a copy of the warning notice along with the name, primary contact person, phone number, and address of the entity that was issued the violation notice. (Ord. 1418 § 2 (part), 2010)

#### **8.25.170 Penalties.**

The City may issue administrative fines for violating this chapter or any rule or regulation adopted pursuant to this chapter, except as otherwise provided in this chapter. The City's procedures on imposition of administrative fines are hereby incorporated in their entirety and shall govern the imposition, enforcement, collection, and review of administrative citations issued to enforce this chapter and any rule or regulation adopted pursuant to this chapter; provided, however, that the City may adopt regulations providing for lesser penalty amounts for solid waste customers, commercial generators, or special events. No penalty shall be issued to any multifamily generator, unless that entity is also a solid waste customer.

A violation notice shall be issued and served upon the solid waste collector, solid waste customer, commercial generator, or special event for violations of this chapter. No violation notice shall be issued or served upon any multifamily generator, unless that entity is also a solid waste customer. For violations for which a violation notice is served, public nuisance proceedings and/or code enforcement proceedings under the City's Code shall apply, in addition to the administrative penalties approved by resolution of the City governing body, as modified from time to time. The City has the authority to impose administrative penalties for the violation notice. The amount of the administrative fine shall not be more than one hundred dollars for the first occurrence of the violation(s) identified in a violation notice, two hundred fifty dollars for the second occurrence of the violation(s) identified in a violation notice, and five hundred dollars for the third and subsequent occurrences of the violation(s) identified in a violation notice.

All administrative civil penalties collected from actions brought pursuant to this chapter shall be paid to the City and shall be deposited into a special account (or solid waste account) that is available to fund activities to implement the applicable provisions of this chapter.

The City Attorney may seek injunctive relief or civil penalties in the Superior Court in addition to the above remedies and penalties. (Ord. 1418 § 2 (part), 2010)

#### **8.25.180 Implementation schedule.**

The schedule for enforcement of this chapter shall be implemented in accordance with the timeline specified in Table 1:

**Table 1**

Date	Entities Affected	Materials Covered
January 1, 2011	<b>Recyclable Materials:</b> All solid waste collectors and solid waste customers that subscribe to two cubic yards or more of garbage collection service per week.	Recyclable Materials
January 1, 2012	<b>Organic Materials:</b> All solid waste collectors and solid waste customers that subscribe to two cubic yards or more of garbage collection service per week and that serve food service establishments and special events.	Organic Materials

(Ord. 1418 § 2 (part), 2010)

**8.25.190 Other provisions.**

A. No Other Powers Affected. This chapter does not do any of the following:

1. Otherwise affect the authority of the City or its designee to take any other action authorized by any other provision of law.
2. Restrict the power of a City Attorney, District Attorney, or the Attorney General to bring in the name of the people of California any criminal proceeding otherwise authorized by law.
3. Prevent the City or designee from cooperating with, or participating in, a proceeding.
4. Affect in any way existing contractual arrangements including franchises, permits, or licenses previously granted or entered into between the solid waste collectors and City.

B. Cumulative Remedies. Any remedy provided under this chapter is cumulative to any other remedy provided in equity or at law. Nothing in this chapter shall be deemed to limit the right of the City or its solid waste operators to bring a civil action; nor shall a conviction for such violation exempt any person from a civil action brought by the City or its solid waste operators. The fees and penalties imposed under this chapter shall constitute a civil debt and liability owing to the City from the persons, firms, or corporations using or chargeable for such services and shall be collectible in the manner provided by law.

C. Liability. Nothing in this chapter shall be deemed to impose any liability upon the City or upon any of its officers or employees including without limitation under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA). (Ord. 1418 § 2 (part), 2010)

**8.25.200 Disclaimer of liability.**

The degree of protection required by this chapter is considered to be reasonable for regulatory purposes. The standards set forth in this chapter are minimal standards and do not imply that compliance will ensure safe handling of recyclable materials, organic materials, or garbage. This chapter shall not create liability on the part of the City, or any of its officers or employees, for any damages that result from reliance on this chapter or any administrative decision lawfully made in accordance with this chapter. All persons handling solid waste within the boundaries of the City should be and are advised to conduct their own inquiry as to the handling of such materials. In undertaking the implementation of this chapter, the City is assuming an undertaking only to promote the general welfare. It is not assuming, nor is it imposing on its officers and employees, an obligation for breach of which it is liable in money damages to any person who claims that such breach proximately caused injury. (Ord. 1418 § 2 (part), 2010)

**8.25.210 Duties discretionary.**

Subject to the limitations of due process and applicable requirements of State or Federal laws, and notwithstanding any other provisions of this chapter, whenever the words "shall" or "must" are used in establishing a responsibility or duty of the City, its elected or appointed officers, employees or agents, it is the legislative intent that such words establish a discretionary responsibility or duty requiring the exercise of judgment and discretion. (Ord. 1418 § 2 (part), 2010)

**8.25.220 Severability.**

If any section, sentence, clause, or phrase of this chapter is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portion of this chapter. The City hereby declares that it would have passed the ordinance codified in this chapter and adopted this chapter and each section, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid or unconstitutional. (Ord. 1418 § 2 (part), 2010)

## **Chapter 8.26 FEEDING PIGEONS**

Sections:

**8.26.010 Statement of purpose.**

**8.26.020 Definitions.**

**8.26.030 Feeding pigeons on public streets, public property or private property—Nuisance.**

**8.26.040 Violation—Penalty.**

**8.26.010 Statement of purpose.**

The large numbers of wild pigeons in the City have, at the present time, become a nuisance, causing defacement, deterioration, litter, and damage to public and private property. The ordinance codified in this chapter seeks to prohibit the feeding of wild pigeons on public streets and public and private property, and thereby discourage the maintenance and breeding of pigeons in the City. (Ord. 1166 § 1 (part), 1994)

#### **8.26.020 Definitions.**

"Person" means natural person, firm, corporation or association.

"Public property" means any real property owned by any State, County or local governmental entity within the City.

"Public street" means any public thoroughfare, avenue, road, highway, boulevard, parkway, way, drive, lane, alley, court, including the right-of-way for vehicular traffic, gutter, curb, parking, and sidewalk.

"Wild pigeon" means any bird of the family Columbidae, but shall not apply to any pigeon that is under the care and control of any person. (Ord. 1166 § 1 (part), 1994)

#### **8.26.030 Feeding pigeons on public streets, public property or private property—Nuisance.**

It is a nuisance for any person to feed any wild pigeon, as defined in this chapter, on any public street or on any public or private property, within the City. (Ord. 1166 § 1 (part), 1994)

#### **8.26.040 Violation—Penalty.**

Any person violating any of the provisions of the ordinance codified in this chapter is guilty of an infraction and, upon conviction hereof, shall be punishable by a fine of not more than fifty dollars for the first violation; a fine not exceeding one hundred dollars for the second violation of the same section of this chapter within one year; and a fine not exceeding two hundred fifty dollars for each additional violation of the same section of this chapter within one year. (Ord. 1166 § 1 (part), 1994)

### **Chapter 8.27 REGULATING THE USE OF DISPOSABLE FOOD SERVICE WARE**

Sections:

#### **8.27.010 Definitions.**

**8.27.020 Distribution of disposable food service ware accessories and standard condiments.**

**8.27.030 Standards and required use of disposable food service ware.**

**8.27.040 Recordkeeping and inspection.**

**8.27.050 Automatic exemptions.**

**8.27.060 Case-by-case consideration of requests for hardship exemption.**

**8.27.070 Authorization of County enforcement.**

#### **8.27.010 Definitions.**

For purposes of this chapter, the following terms have the following meanings:

A. "Aluminum foil-based" means any disposable food service ware composed entirely of aluminum, including but not limited to aluminum tray liners, aluminum foil, and aluminum foil baskets.

B. "Compostable" means that an item or material:

1. Meets standards for compostability from a certified/approved independent third party approved by the City Manager or designee, in collaboration with local waste processors, haulers, and/or other entities, as needed; and/or
2. Is any variation of acceptable materials that will break down or otherwise become part of usable compost in a safe and timely manner as determined by the City Manager or designee, in collaboration with local waste processors, haulers, and/or other entities, as needed; and
3. Is natural fiber-based. Compostable items may include those that are made entirely of natural fiber or natural fiber-based items that are coated or lined with biologically based polymer, such as, but not limited to, corn or other plant sources (e.g., compostable plastics), if certified/approved by independent third parties approved by the City Manager or designee.

"Compostable" does not include items made entirely/primarily of biologically based polymer (e.g., PLA, PHA, or other compostable plastic), even if labeled or certified as compostable.

C. "Disposable" means designed to be discarded after a single or limited number of uses and not designed or manufactured for long-term multiple reuse.

D. "Food service ware" means food contact products used for serving, distributing, holding, packaging, and/or transporting prepared food including, but not limited to, plates, cups, bowls, trays, clamshell containers, boxes, utensils, straws, lids, and food contact paper (e.g., wraps, bags, tray liners, etc.). The term "food service ware" includes food service ware accessories and standard condiments in disposable packaging.

E. "Food service ware accessories" includes different types of food service ware such as straws, stirrers, utensils, condiment cups and packets, cocktail sticks/picks, toothpicks, napkins, cup spill plugs, cup sleeves, and other similar accessory or accompanying food service ware used as part of food or beverage service or packaging. Detachable lids for beverage cups and food containers are not considered a food service ware accessory.

F. "Perfluoroalkyl and polyfluoroalkyl substances (PFAS)" means a class of fluorinated organic chemicals containing at least one fully fluorinated carbon atom.

G. "Perfluoroalkyl and polyfluoroalkyl substances (PFAS) restrictions" means either of the following:

1. PFAS has not been intentionally added to a product or product component.
2. The presence of PFAS in a product or product component is below one hundred (100) parts per million, as measured in total organic fluorine.

H. "Food facility" means an operation that stores, prepares, packages, serves, vends, or otherwise provides food to the public for human consumption, as defined by the California Health and Safety Code Section 113789 or successor. It includes both permanent and temporary food facilities. Public schools are exempt from the provisions of this chapter.

I. "Food scrap composting method" means (1) self-hauling of food scraps to a permitted composting facility or a transfer station that accepts food scraps that will be transferred to a permitted composting facility for on-site compost processing, (2) food scrap compost collection service provided by a curbside hauler, or (3) on-site food scrap composting.

J. "Healthcare facilities" means places that provide healthcare to the public. "Healthcare facilities" includes, but is not limited to, hospitals, clinics, outpatient care centers, nursing homes, psychiatric care centers, medical offices, hospice homes, mental health and addiction treatment centers, orthopedic and other rehabilitation centers, urgent care, birth centers, etc.

K. "Natural fiber/natural fiber-based" means a plant- or animal-based, nonsynthetic fiber, including but not limited to products made from paper, sugarcane, bamboo, wheat stems/stalk, hay, wood, etc.

L. "Noncompostable" means not meeting the definition of "compostable" set forth in this section.

M. "Polystyrene-based" means and includes expanded polystyrene, which is a thermoplastic petrochemical material utilizing a styrene monomer and processed by any number of techniques including, but not limited to, fusion of polymer spheres (expandable bead polystyrene), injection molding, form molding, and extrusion-blown molding (extruded foam polystyrene). The term "polystyrene" also includes polystyrene that has been expanded or blown using a gaseous blowing agent into a solid foam (expanded polystyrene [EPS]) and clear or solid polystyrene known as oriented polystyrene.

N. "Prepackaged food" means any properly labeled processed food, prepackaged to prevent any direct human contact with the food product upon distribution from the manufacturer and prepared at an approved source.

O. "Prepared food" means food or beverages that undergo a cooking or food preparation technique on the food facility's premises for consumption by the public. Cooking or food preparation technique includes, but is not limited to, the following:

1. Cooking methods, utilizing the application of heat, such as steaming, microwaving, simmering, boiling, broiling, grilling, frying, or roasting.
2. Beverage preparation, such as blending, brewing, steeping, juicing, diluting, or pouring.
3. Food preparation techniques, such as defrosting, rinsing, washing, diluting, cutting, portioning, mixing, blending, assembling, coating, dipping, garnishing, decorating, or icing.

Prepared food does not include raw eggs or raw, butchered meats, fish, and/or poultry sold from a butcher case, a refrigerator case, or similar retail appliance.

P. "Standard condiments" means relishes, spices, sauces, confections, or seasonings that require no additional preparation and that are usually used on a food item after preparation, and includes different types such as ketchup, mustard, mayonnaise, soy sauce, hot sauce, salsa, salt, pepper, and sugar/sugar substitutes.

Q. "Takeout food" means prepared food that is purchased to be consumed off a food facility's premises. "Takeout food" includes prepared food delivered by a food facility or by a third-party takeout food delivery service.

R. "Takeout food delivery service" is a service for online food ordering and delivery of prepared food from a food facility to a customer. This service can be provided directly by the food facility or by a third party.

S. "Utensils" includes different types of instruments used to assist the consumption of food, specifically, forks, knives, spoons, sporks, chopsticks, and tongs. (Ord. 1579 § 2, 2022)

**8.27.020 Distribution of disposable food service accessories and standard condiments.**

A. Except as provided in subsections B and C of this section, food facilities, for on-premises dining and off-premises dining (e.g., takeout food delivery service, catering off-site, etc.), shall not provide any disposable food service ware accessories or standard condiments in disposable packaging to a consumer unless the specific type of disposable food service ware accessory (including different types of utensils) or specific type of standard condiments is requested by the consumer.

B. Food facilities may ask a drive-through consumer if the consumer wants a specific type of disposable food service ware accessory (including different types of utensils) if the item is necessary for the consumer to consume prepared food or to prevent spills of or safely transport prepared food.

C. Food facilities that are located entirely within a public use airport, as defined in Section 77.3 of Title 14 of the Code of Federal Regulations, may ask a walk-through consumer if the consumer wants a specific type of disposable food service ware accessory (including different types of utensils) if the item is necessary for the consumer to consume prepared food or to prevent spills of or safely transport prepared food.

D. Disposable food service ware accessories and standard condiments in disposable packaging provided by food facilities for use by consumers shall not be bundled or packaged in a manner that prohibits a consumer from taking only the type of disposable food service ware accessory (including different types of utensils) or type of standard condiments desired without also having to take a different type of disposable food service ware accessory or type of standard condiments. Food facilities cannot distribute disposable utensils that are bundled or packaged together. Each type of utensil (e.g., fork, spoon, knife, etc.) must be specifically requested by the consumer in order for a food facility to provide the item(s).

E. Nothing in this chapter shall prohibit a food facility from making unwrapped disposable food service ware accessories available to a consumer using refillable self-service dispensers that dispense different types of disposable food service ware accessories one (1) item at a time to allow for disposable food service ware accessories to be obtained.

F. Nothing in this chapter shall prohibit a food facility from making standard condiments available to a consumer using refillable self-service dispensers to allow for standard condiments to be obtained. Food facilities that offer standard condiments are encouraged to use bulk dispensers for the condiments rather than condiments packaged for single-use.

G. Takeout food delivery services shall provide consumers with the option to proactively request the different types of available disposable food service ware accessories (including different types of utensils) and the different types of standard condiments from a food facility serving prepared food. The default option on the digital ordering/point-of-sale platforms of takeout food delivery services shall be that no disposable food service ware accessories or standard condiments are requested.

H. Takeout food delivery services shall provide food facilities the ability to tailor the digital ordering/point-of-sale platforms so that food facilities can customize and itemize the different types of available disposable food service ware accessories (including different types of utensils) and the different types of available standard condiments for consumers to proactively select.

I. If a food facility uses any takeout food delivery service, the food facility shall customize its menu with an itemized list and/or provide options of the different types of available disposable food service ware accessories (including different types of utensils) and the different types of available standard condiments for consumers to proactively select. Only those specific types of disposable food service ware accessories (including different types of utensils) or specific types of standard condiments

proactively requested by the consumer shall be provided by the food facility. If a consumer does not request any disposable food service ware accessories or standard condiments, no disposable food service ware accessories or standard condiments shall be provided by the food facility for delivery of prepared food. Pursuant to subsection D of this section, each type of utensil (e.g., fork, spoon, knife, etc.) offered by the food facility shall also be listed individually, unbundled on the menu and provided by the food facility for delivery along with the prepared food only if requested by the consumer. (Ord. 1579 § 2, 2022)

**8.27.030 Standards and required use of disposable food service ware.**

- A. No food facility shall use polystyrene-based disposable food service ware when providing prepared food.
- B. Food facilities shall only provide disposable straws, stirrers, utensils, and cocktail/toothpicks (and the packaging that these individual items are wrapped in, if any) that are compostable.
- C. Nothing in this chapter shall conflict or be construed to conflict with the Americans With Disabilities Act or any other applicable law concerning the rights of individuals with disabilities. In particular, nothing in this chapter shall restrict, or be construed to restrict, the provision by food facilities of disposable noncompostable straws to individuals who may request the use of disposable noncompostable straws to accommodate medical needs or disabilities. Healthcare facilities may distribute disposable noncompostable straws with or without request by a patient at the discretion of the healthcare facility staff based on the physical or medical needs of the patient.
- D. Food facilities shall use compostable items for the below disposable food service ware when providing prepared food:
  - 1. Plates;
  - 2. Bowls (of all sizes, including, but not limited to, soup and salad bowls);
  - 3. Cups (of all sizes, including, but not limited to, beverage cups and accessory cups for standard condiments);
  - 4. Food trays and food boats;
  - 5. Boxes;
  - 6. Hinged or lidded containers (e.g., clamshells), deli containers, and other containers used for the sale and/or distribution of prepared food.
- E. Commencing on the effective date of this chapter up until December 31, 2022, for the compostable disposable food service ware listed in subsection D of this section, food facilities shall use items that meet perfluoroalkyl and polyfluoroalkyl substances (PFAS) restrictions. To verify the PFAS restrictions, food facilities shall use items that are certified/approved by independent third parties approved by the City Manager or designee, in collaboration with local waste processors and haulers, as needed.
- F. For all other disposable food service ware not listed in subsections B and D of this section, food facilities shall use only disposable food service ware that can be composted by the food scrap composting method utilized by the food facility and/or accepted for recycling by the food facility's recycling collection service, unless a feasible alternative does not exist.
- G. The City shall maintain a list of approved disposable food service ware and/or references to resources that maintain regularly updated lists of products that meet the requirements detailed in subsections A, B, D, and E of this section. This information shall be made public by the Office of Sustainability. If a product is not included on the approved list, the food facility wishing to use a product as disposable food service ware shall establish to the City Manager or designee's satisfaction that the product complies with the requirements detailed in subsections A, B, D, and E of this section. (Ord. 1579 § 2, 2022)

**8.27.040 Recordkeeping and inspection.**

- A. Food facilities shall keep complete and accurate record or documents of the purchase of the acceptable disposable food service ware evidencing compliance with this chapter for a minimum period of three years from the date of purchase.
- B. The record shall be made available for inspection at no cost to the City during regular business hours by City employee or City-designated staff authorized to enforce this chapter. Unless an alternative location or method of review is mutually agreed upon, the records or documents shall be made available at the food facility address.
- C. The provision of false or incomplete information, records, or documents to the City shall be a violation of this chapter. (Ord. 1579 § 2, 2022)

**8.27.050 Automatic exemptions.**

- A. Prepackaged food is exempt from the provisions of this chapter.
- B. Polystyrene coolers and ice chests intended for reuse are exempt from the provisions of this chapter.
- C. Disposable food service ware that is entirely aluminum foil-based is exempt from the provisions of this chapter.
- D. If the City determines that a reasonably feasible disposable food service ware that complies with Sections 8.27.030(A), (B), (D), and (E) does not exist, these items will be exempt from all or select requirements of the above-mentioned provisions of this chapter until the City determines that a reasonably feasible alternative is available on the market for purchase. The County will have a current list of these temporarily exempted disposable food service wares made public by the Office of Sustainability.
- E. Temporary exemptions due to an emergency are automatic without the submission of a request for an exemption. An emergency is defined as a sudden, unexpected occurrence posing a clear and imminent danger that requires immediate action to prevent or mitigate the loss or impairment of life, health, property, or essential public services. Examples of an emergency include, but are not limited to, natural disasters, emergencies due to the release of hazardous materials, emergencies associated with loss of power and/or water, or emergency medical response. (Ord. 1579 § 2, 2022)

**8.27.060 Case-by-case consideration of requests for hardship exemption.**

A. Grounds for an Exemption. An exemption from any of the provisions of this chapter may be granted by the City Manager or designee upon demonstration by a food facility to the satisfaction of the City that strict application of the requirements would cause undue hardship. An "undue hardship" includes, but is not limited to, the following:

- 1. A situation unique to the food facility where a suitable alternative that conforms with the requirements detailed in Sections 8.27.030(A), (B), (D), and (E) does not exist for a specific application.
  - 2. Imposing the provisions of this chapter would cause significant economic hardship. "Significant economic hardship" may be based on, but not limited to, demonstrating that suitable disposable food service ware is not available at a commercially reasonable price and the additional cost associated with providing the disposable food service ware is particularly burdensome to the food facility based on the type of operation(s) affected, the overall size of the business/operation, the number, type and location of its facilities, the impact on the overall financial resources of the food facility, and other factors. Reasonable added cost for a suitable item as compared to a similar item that the food facility can no longer use shall not by itself constitute adequate grounds to support an exemption for such item. In determining whether a significant economic hardship has been established, the City Manager or designee may consider the following information: ability of the food facility to recover the additional expense by increasing its prices; the availability of tax credits and deductions; outside funding; and other options.
- B. Request for an Exemption. A request for an exemption from the requirements of this chapter shall include all information deemed necessary by the City to render a decision, including but not limited to documentation showing the factual support for the requested exemption. A request for an exemption may be approved by the City Manager or designee, in whole or in part, with or without conditions. The duration of the exemption, if granted, shall also be determined by the City Manager or designee. Information about the application process for requesting an exemption will be made available to the public by the Office of Sustainability. (Ord. 1579 § 2, 2022)

**8.27.070 Authorization of County enforcement.**

In addition to the City's enforcement mechanisms set forth in Title 1, the City of San Carlos authorizes the County of San Mateo to enforce this chapter of the municipal code, including, without limitation, the authority to act on requests for undue hardship exemptions, hold hearings, issue administrative fines and retain collected fines. (Ord. 1579 § 2, 2022)

## **Chapter 8.28 REUSABLE BAGS**

Sections:

**8.28.010 Adoption of San Mateo County Code Chapter 4.114 by reference.****8.28.020 Authorization of enforcement by San Mateo County personnel.****8.28.010 Adoption of San Mateo County Code Chapter 4.114 by reference.**

Chapter 4.114, Reusable Bags, of Title 4 of the San Mateo County ordinance code, and any amendments thereto, are hereby adopted and made effective in this City. Certified copies of Chapter 4.114 of Title 4, as adopted hereby, have been deposited with the City Clerk, and shall be at all times maintained by the Clerk for use and examination by the public. (Ord. 1455 § 2 (part), 2013)

**8.28.020 Authorization of enforcement by San Mateo County personnel.**

The County of San Mateo, its officers, employees and agents are hereby authorized to enforce, on behalf of the City, Chapter 4.114, Reusable Bags, of Title 4 of the San Mateo County ordinance code, and any amendments thereto, within the jurisdiction areas of this City. Such enforcement authority includes, but is not limited to, the collection of fees and fines, expending such revenue in the enforcement of the ordinance, holding hearings, suspending permits and issuing administrative fines. (Ord. 1455 § 2 (part), 2013)

**Chapter 8.40****PROHIBITION OF USE OF VEHICLES FOR HUMAN HABITATION AND FOR OVERNIGHT PARKING**

Sections:

**8.40.010 Definitions.****8.40.020 Limitations.****8.40.030 Permit.****8.40.040 Parking on City streets.****8.40.050 Violation—Authority to impound.****8.40.010 Definitions.**

For the purposes of this section, the following words and phrases shall mean and include:

- A. "Camper" means a structure designed to be mounted upon a motor vehicle and to provide facilities for human habitation or camping purposes.
- B. "House car" means a motor vehicle originally designed or permanently or temporarily altered and equipped for human habitation or to which a camper has been permanently or temporarily attached.
- C. "Human habitation" means the intentional establishment of a temporary or permanent place of human occupancy for purposes of overnight lodging or camping.
- D. "Mobile home" means a structure as defined in Section 18008 of the Health and Safety Code of the State.
- E. "Person" means an individual, firm, partnership, joint venture, entity, association, social club, fraternal organization, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate, or any other group or combination acting as a unit, excepting the United States of America, the State and any political subdivision of either thereof.
- F. "Recreational vehicle" means a motor home, trailer, camper, or similar structure as defined in Section 18010 of the Health and Safety Code of the State.
- G. "Trailer or trailer coach" means a structure designed to be drawn by a motor vehicle for human habitation or human occupancy and for carrying persons or property on its own structure. (Ord. 1405 § 1 (part), 2009: Ord. 1291 § 1 (part), 2001)

**8.40.020 Limitations.**

No person shall use, occupy, or permit the use or occupancy of any automobile, truck, camper, house car, mobile home, recreational vehicle, trailer, trailer coach, or similar conveyance for human habitation on any public property, street, avenue, alley, or other public way, within the City of San Carlos, except where use occurs lawfully through issuance of a temporary permit by the Chief of Police, or his/her designee. (Ord. 1405 § 1 (part), 2009: Ord. 1291 § 1 (part), 2001)

**8.40.030 Permit.**

- A. The Chief of Police or his/her designee, by written permit, may allow the temporary use or occupancy of a camper, house car, mobile home, recreational vehicle, or trailer coach on or in any public street or public right-of-way on a finding that the use will not be detrimental to the public health, safety or welfare, and may impose conditions on the permit.
- B. The permit shall be valid for up to fourteen days, or such shorter time as determined by the Chief of Police, and shall not be renewable for a minimum period of six months.
- C. The permit granted hereunder is subject to revocation at any time the Police Chief finds there has been a violation of conditions of the permit.

D. Whenever a permit is granted under the provisions of this section, vehicles shall be exempt from Section 10.32.400 (seventy-two-hour parking) during the permit period and from Section 8.40.040. (Ord. 1405 § 1 (part), 2009; Ord. 1291 § 1 (part), 2001)

**8.40.040 Parking on City streets.**

A. Except as provided in this chapter, the parking of any recreational vehicle on any public street, the definition of which includes any avenue, highway, lane, alley, court or public place, remains subject to regulation of parking pursuant to established City or State traffic and zoning regulations.

B. Except as provided pursuant to subsections C and D of this section, no person shall park or leave standing a recreational vehicle on any public street between the hours of ten p.m. and six a.m. the following day.

C. Notwithstanding subsection B of this section, a person may park a recreational vehicle during the hours of ten p.m. and six a.m. the following day on a public street immediately abutting the lot upon which such resident resides, subject to the following limitations:

1. Such parking shall be for the purpose of convenient departure from or return to the residence by such resident in connection with a planned trip, outing or vacation of the resident and/or the resident's family commencing or ending the same day of such parking, including any loading or unloading of persons and personal effects or for the preparation of the vehicle incidental to such departure or return; and

2. Such parking shall in no event occur on more than two occasions during any seven-day period. (Ord. 1405 § 1 (part), 2009)

**8.40.050 Violation—Authority to impound.**

A. In the event that any recreational vehicle is placed on, located or allowed to stand in any place in the City in violation of the provisions of this chapter, or is used for any purpose in violation of this chapter, a police officer of the City may, at the officer's discretion, impound such recreational vehicle, and cause the same to be taken to an approved storage facility or impound area. The expenses of towing such recreational vehicle to such facility or impound area and the storage of same, as herein provided, shall be paid by the person or persons owning and/or operating such recreational vehicle prior to its release.

B. The fine for a parking violation pursuant to this chapter shall be fifty dollars. (Ord. 1405 § 1 (part), 2009)

**Chapter 8.41  
PROHIBITION OF BOAT TRAILER AND TRAILER OVERNIGHT PARKING**

Sections:

**8.41.010 Definitions.**

**8.41.020 Limitations.**

**8.41.030 Permit.**

**8.41.040 Parking on City streets.**

**8.41.050 Violation—Authority to impound.**

**8.41.010 Definitions.**

For the purposes of this chapter, the following words and phrases shall mean and include:

A. "Boat" means any vessel suitable for and able to float and travel on water, including by paddle, sail, fans, or motorized jet or propeller. This definition includes but is not limited to: hovercraft, fan boats, motor boats, jet skis, personal water craft, canoes, rowboats, sailboats, submarines and submersibles or any vessel required to be registered by the State of California.

B. "Boat trailer" means a trailer or similar conveyance designed for the purpose of carrying or transporting a boat or vessel, whether required to be registered with the State of California or not.

C. "Camper" means a structure on a trailer designed to accommodate persons and equipment, primarily designed and used for "camping."

D. "Person" means an individual, firm, partnership, joint venture, entity, association, social club, fraternal organization, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate, or any other group or combination acting as a unit, excepting the United States of America, the State and any political subdivision of either thereof.

E. "Trailer" means a structure or similar conveyance designed to be drawn, carried or towed by a motor vehicle or required to be registered with the State of California. (Ord. 1488 § 1 (part), 2015)

#### **8.41.020 Limitations.**

No person shall park any boat, camper, trailer or boat trailer, whether registered with the State of California or not, on any public property, street, avenue, alley, or other public way, within the City of San Carlos between the hours of ten p.m. and six a.m. the following day, except where use occurs lawfully through issuance of a temporary permit by the Chief of Police, or his/her designee or as provided in Section 8.41.040(C). (Ord. 1488 § 1 (part), 2015)

#### **8.41.030 Permit.**

A. The Chief of Police or his/her designee, by written permit, may allow the temporary overnight parking of a boat, camper, trailer or boat trailer on or in any public street or public right-of-way on a finding that the use will not be detrimental to the public health, safety or welfare, or unduly impair parking in the street and may impose conditions on the permit.

B. The permit shall be valid for up to fourteen days, or such shorter time as determined by the Chief of Police, and shall not be renewable until a minimum period of six months has passed from the expiration of the prior permit.

C. The permit granted hereunder is subject to revocation at any time the Police Chief finds there has been a violation of conditions of the permit.

D. Whenever a permit is granted under the provisions of this section, vehicles shall be exempt from Section 10.32.400 (seventy-two-hour parking) during the permit period and from Section 8.41.040. (Ord. 1488 § 1 (part), 2015)

#### **8.41.040 Parking on City streets.**

A. Except as provided in this chapter, the parking of any boat, camper, trailer or boat trailer on any public street, the definition of which includes any avenue, highway, lane, alley, court or public place, remains subject to regulation of parking pursuant to established City or State traffic and zoning regulations.

B. Except as provided pursuant to subsection C of this section, no person shall park or leave standing a boat, camper, trailer or boat trailer on any public street between the hours of ten p.m. and six a.m. the following day.

C. Notwithstanding subsection B of this section, a person may park a boat, trailer or boat trailer during the hours of ten p.m. and six a.m. the following day on a public street immediately abutting the lot upon which such resident resides, subject to the following limitations:

1. Such parking shall be for the purpose of convenient departure from or return to the residence by such resident in connection with a use of the boat, camper, trailer or boat trailer commencing or ending the same day of such parking, including any loading or unloading for the preparation of the boat, camper, trailer or boat trailer being conveyed incidental to such departure or return; and

2. The parking set forth in subsection C of this section shall in no event occur on more than two occasions during any thirty-day period. (Ord. 1488 § 1 (part), 2015)

#### **8.41.050 Violation—Authority to impound.**

A. In the event that any boat, trailer or boat trailer is placed on, located or allowed to stand in any place in the City in violation of the provisions of this chapter, or is used for any purpose in violation of this chapter, a police officer of the City may, at the officer's discretion, impound such boat, camper, trailer or boat trailer, and cause the same to be taken to an approved storage facility or impound area. The expenses of towing such boat, camper, trailer or boat trailer to such facility or impound area and the storage of same, as herein provided, shall be paid by the person or persons owning such boat, camper, trailer or boat trailer prior to its release.

B. The fine for a parking violation pursuant to this chapter shall be fifty dollars, per violation. (Ord. 1488 § 1 (part), 2015)

### **Chapter 8.44 ADULT-ORIENTED BUSINESSES**

Sections:

#### **8.44.010 Findings and purpose.**

#### **8.44.020 Definitions.**

#### **8.44.030 Permits and licenses.**

**8.44.040 Standards.****8.44.050 Impounding of newsracks.****8.44.060 Violation a nuisance.****8.44.070 Penalty.****8.44.010 Findings and purpose.**

The City Council finds that certain types of adult-oriented businesses possess certain objectionable operational characteristics which, when concentrated, can have a deleterious effect upon adjacent areas. Locating the adult-oriented businesses covered by this chapter in the vicinity of facilities frequented by minors will increase the likelihood that minors will be exposed to materials intended for adults. In addition, many persons are offended by the public display of certain sexual material. Therefore, special regulation of these uses is necessary to ensure that these adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhood and to an adverse effect on minors. (Ord. 1439 § 4 (Exh. A (part)), 2011)

**8.44.020 Definitions.**

Unless otherwise specifically provided, the terms used in this chapter shall have the following meanings:

A. "Specified sexual activities" means:

1. Actual or simulated sexual intercourse, oral copulation, anal intercourse, oral anal copulation, bestiality, direct physical stimulation of unclothed genitals, flagellation or torture in the context of sexual relationship, or the use of excretory functions in the context of a sexual relationship, and any of the following depicted sexually oriented acts or conduct: analingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piquerism, sapphism or zooerasty;
2. Clearly depicted human genitals in a state of sexual stimulation, arousal or tumescence;
3. Use of human or animal masturbation, sodomy, oral copulation, coitus or ejaculation;
4. Fondling or touching of nude human genitals, pubic region, buttocks or female breast;
5. Masochism, erotic or sexually oriented torture, beating or the infliction of pain;
6. Erotic or lewd touching, fondling or other contact with an animal by a human being;
7. Human excretion, urination, menstruation, vaginal or anal irrigation;
8. Any combination of the items in subsections (A)(1) through (7) of this section.

B. "Specified anatomical areas" means:

1. Less than completely and opaquely covered:
  - a. Mature human genitals;
  - b. Mature human buttock;
  - c. Mature human female breast below a point immediately above the top of the areola;
2. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

C. "Expose to public view" means exposes to the view of persons outside the building in which such adult entertainment facility is located.

D. "Adult-oriented businesses" include but are not limited to the following types of businesses:

1. Adult Newsrack. Any coin-operated machine or device that dispenses material substantially devoted to the depiction of specified sexual activities or specified anatomical areas.
2. Adult Bookstore. An establishment having as a substantial or significant portion of its stock in trade, books, magazines and other periodicals which are substantially devoted to the depiction of specified sexual activities or specified anatomical areas, or an establishment with a segment or section devoted to the sale or display of such material.

3. Adult Motion Picture Theater. A building or portion thereof, or area, whether open or enclosed, used for presenting material in the form of motion picture film, videotape or other means which is substantially devoted to the depiction of specified sexual activities or specified anatomical areas for observation by persons therein.
4. Adult Hotel or Motel. A hotel or motel wherein material is presented which is distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.
5. Adult Motion Picture Arcade. Any place to which the public is permitted or invited wherein coin- or slug-operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing specified sexual activities or specified anatomical areas.
6. Cabaret. A nightclub, theater or other establishment which features live performances by topless and/or bottomless dancers, "go-go" dancers, exotic dancers, strippers or similar entertainers, where such performances are distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.
7. Model Studio. Any business where, for any form of consideration or gratuity, figure models who display specified anatomical areas are provided to be observed, sketched, drawn, painted, sculptured, photographed or similarly depicted by persons paying such consideration or gratuity.
8. Sexual Encounter Center. Any business, agency or person who, for any form of consideration or gratuity, provides a place where two or more persons, not all members of the same family, may congregate, assemble or associate for the purpose of engaging in specified sexual activities or exposing specified anatomical areas.
9. Other Sex Business. Any other business or establishment which offers its patrons goods, services or entertainment, or any combination thereof, characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas, including such types of business known as adult dance studios, men's social clubs and rap studios which meet such definition.
10. Adult Entertainment Facility. An adult newsrack, adult bookstore, adult motion picture theater, adult hotel or motel, adult motion picture arcade, cabaret, massage establishment, model studio, sexual encounter center, or any other sex business, or any combination of two or more of such uses. (Ord. 1439 § 4 (Exh. A (part)), 2011)

**8.44.030 Permits and licenses.**

- A. An adult-oriented business must, prior to commencement or continuation of such business, apply for and receive from the Planning Commission or City Council, upon appeal, a conditional use permit as provided for in Chapter 18.30. Reasonable conditions may be imposed, such as limitation on hours of operation, exterior lighting, display materials, and other similar conditions, as may be necessary to protect the public health, safety and welfare.
- B. Subsequent to receipt of an approved conditional use permit, but prior to establishment of the adult-oriented business, the applicant shall apply for and receive a valid adult entertainment license, as provided for in Title 5. (Ord. 1439 § 4 (Exh. A (part)), 2011)

**8.44.040 Standards.**

Adult-oriented businesses must comply with the following development and operational standards in addition to standards specified in Section 18.23.040:

- A. Display. No adult-oriented business shall display or exhibit any material in a manner which exposes to the public view photographs or illustrations of specified sexual activities or naked adults in poses which emphasize or direct the viewer's attention to the subject's genitals. Adult newstands are subject to this limitation.
- B. Security Program. An on-site security program shall be prepared and implemented as follows:
  1. Exterior Lighting. All off-street parking areas and building entries serving an adult business shall be illuminated during all hours of operation with a lighting system that provides a minimum maintained horizontal illumination of one foot-candle of light on the parking surface and/or walkway.
  2. Interior Lighting. All interior portions of the adult business, except those devoted to mini-motion or motion pictures, shall be illuminated during all hours of operation with a lighting system that provides a minimum maintained horizontal illumination of not less than two foot-candles of light on the floor surface.

3. Security Guards. Security guards for adult businesses may be required if it is determined by the Sheriff's Captain that their presence is necessary in order to prevent any unlawful conduct from occurring on the premises. (Ord. 1439 § 4 (Exh. A (part)), 2011)

#### **8.44.050 Impounding of newsracks.**

A. The provisions of the San Carlos Municipal Code (Title 18) dealing with nonconforming uses shall not be applicable to adult newsracks, and on the effective date of the ordinance adopting the regulations set out in this chapter, all adult newsracks shall be required to comply with the provisions of this section.

B. An adult newsrack found to be in violation of this section may be impounded by the Sheriff's Captain after the following actions have occurred:

1. A notice of violation has been affixed to the adult newsrack stating the section of this chapter which has been violated, and stating that the adult newsrack will be impounded if the violation is not abated within three days;
2. The violation has not been abated within three days of the posting of the notice of violation;
3. The San Carlos Police Bureau has presented to any magistrate affidavits or other evidence sufficient to show a prima facie violation of this section;
4. A magistrate has issued a written order permitting the impounding of the adult newsrack pursuant to this section.

C. Whenever an adult newsrack is impounded, a complaint for violation of the section for which the adult newsrack was impounded must be filed within fourteen days of the impounding. If such action is not commenced within fourteen days, or if a final appealable decision in such action is rendered more than sixty days from filing of the action, the adult newsrack, together with its contents and all moneys, if any, shall be released to any person who provides sufficient proof of ownership of such adult newsrack, without requiring the payment of any impound fees; provided, however, that no adult newsrack shall be released because a final appealable decision was not rendered within sixty days of the filing of the action if the claimant of the adult newsrack is responsible for extending the judicial determination beyond the allowable time limit.

D. The person who provides sufficient proof of ownership of such adult newsrack may have such adult newsrack, together with its contents and all moneys, if any, returned upon paying an impound fee of twenty-five dollars, or upon order of the magistrate, if any, who authorized the seizure of the newsrack, or pursuant to terms of subsection C of this section. Should there be a dismissal of the action charging a violation of this section, or an acquittal of such charges, the court ordering such dismissal or entering such acquittal may provide for the release of any newsrack and its contents, if any, impounded or the return of any impound fee paid for the release of an adult newsrack impounded pursuant to such charges. (Ord. 1439 § 4 (Exh. A (part)), 2011)

#### **8.44.060 Violation a nuisance.**

Every violation of the regulations contained in this chapter shall constitute and is hereby declared to be a public nuisance, which may be abated pursuant to the provisions of Chapter 731 of the Code of Civil Procedure of the State of California. The total cost of abatement shall be made a special assessment against the interest, if any, in the parcel of land upon which such nuisance is maintained, had or possessed by the person determined in such judicial proceeding to be responsible for the operation and maintenance of such nuisance. Upon a judicial determination in a civil action under Civil Code Section 3494 and Code of Civil Procedure Section 731 that a public nuisance did exist, such cost of abatement shall, by special ordinance, be made in lien against such property and a personal obligation against the person responsible for the operation and maintenance of such nuisance, and shall be collected at the same time and in the same manner as ordinary municipal taxes are collected, and shall be subject to the same penalties and the same procedure and sale in the case of delinquency as provided for ordinary municipal taxes. All laws applicable to the levy, collection and enforcement of municipal taxes shall be applicable to such special assessment. This remedy is in addition to any other remedy provided by law. (Ord. 1439 § 4 (Exh. A (part)), 2011)

#### **8.44.070 Penalty.**

Notwithstanding any other provision of this chapter, any person who violates this chapter shall be guilty of a misdemeanor and may be punished as follows:

- A. By imprisonment in the County Jail not to exceed six months;
- B. By forfeiture of the newsrack impounded pursuant to Section 8.44.050, provided the reasonable value of such newsrack does not exceed five hundred dollars;
- C. A fine not exceeding five hundred dollars;

D. A combination of such imprisonment, forfeiture and/or fine; providing, however, that in no event shall any fine imposed, when added to the reasonable value of any impounded newsrack which is forfeited, exceed the sum of five hundred dollars. (Ord. 1439 § 4 (Exh. A (part)), 2011)

## **Chapter 8.50 TRAFFIC IMPACT FEE**

Sections:

**8.50.010 Authority.**

**8.50.020 Application.**

**8.50.030 Intent and purpose.**

**8.50.040 Definitions.**

**8.50.050 Fee requirement.**

**8.50.060 Fee payment.**

**8.50.070 Authority for additional mitigation.**

**8.50.080 Exemptions.**

**8.50.090 Appeal.**

**8.50.100 Refund of fee.**

**8.50.110 Accumulation and use of funds.**

**8.50.120 Annual review.**

**8.50.010 Authority.**

This chapter is enacted pursuant to the Mitigation Fee Act contained in Government Code Sections 66000 et seq. (Ord. 1400 § 1 (part), 2008)

**8.50.020 Application.**

This chapter applies to fees charged as a condition of development approval to defray the cost of certain transportation improvements required to serve new development within the City of San Carlos. This chapter does not replace normal subdivision map exactions or other measures required to mitigate site specific impacts of a development project including, but not limited to, mitigations pursuant to the California Environmental Quality Act; regulatory and processing fees; fees required pursuant to a development agreement; funds collected pursuant to a reimbursement agreement that exceed the developer's share of public improvement costs; or assessment district proceedings, benefit assessments, or taxes. (Ord. 1400 § 1 (part), 2008)

**8.50.030 Intent and purpose.**

The City Council of the City of San Carlos declares that:

- A. Adequate transportation improvements are needed to protect the health, safety, and general welfare of the citizens to facilitate transportation and to promote economic well being within the City;
- B. The City of San Carlos provides transportation improvements and services for residents, businesses, and employees within the City;
- C. Individual transportation improvements are part of an integrated system serving and providing benefits to the entire City;
- D. Mid-level of service "D" (volume-to-capacity ratio of 0.85) is the standard for all street and intersection improvements in the Circulation Element of the City's General Plan;
- E. New development within the City will create an additional burden on the existing transportation system;
- F. Improvements to the existing transportation system in the City are needed to mitigate the cumulative impacts of new development and to accommodate future development by maintaining mid-level of service "D" on all streets and intersections;

- G. All types of urban development require and use the transportation system;
- H. There are not adequate public funds available to maintain mid-level of service "D" at all intersections in the City;
- I. In order to ensure that mid-level of service "D" is maintained, and to promote the health, safety, and general welfare of the community, it is necessary that new development pay a fee representing its share of costs of the necessary improvements;
- J. The traffic impact fee is based upon the evidence that new development generates additional residents, employees, and structures, which in turn place an additional cumulative burden upon the local transportation system and should be expected to pay a share of the new facilities, as more fully described in the City of San Carlos Traffic Impact Fee Plan Nexus Study, dated August 27, 2020, prepared by W-Trans (hereinafter "the Traffic Impact Fee Plan");
- K. The purpose of this fee is to help provide adequate transportation improvements to serve cumulative development within the City. However, the fee does not replace the need for all site-specific transportation improvements that may be needed to mitigate the impact of specific projects upon the City's transportation system;
- L. The transportation improvements for which the fee will be used are identified in the Traffic Impact Fee Plan, specifically Section 4 thereof, and include Holly Street improvements (widening Holly Street by ten feet within the existing right-of-way and making modifications to the 101/Holly Street interchange) and Brittan Avenue improvements, as more fully described in the Traffic Impact Fee Plan. (Ord. 1562 § 2 (part), 2020; Ord. 1400 § 1 (part), 2008)

#### **8.50.040 Definitions.**

The following definitions apply to this chapter:

- A. "Transportation improvements" includes all street and intersection improvements and related facilities and equipment identified in the Traffic Impact Fee Plan.
- B. "Mid-level of service D" means a volume-to-capacity ratio for a given street segment or intersection of 0.85 or better.
- C. Land use categories are defined as follows:
  1. "Single-family residential" use includes a single-family dwelling or small community care facility with six or fewer residents.
  2. "Multifamily residential" use means a secondary unit, duplex, townhouse, apartment, condominium, mobile home, multiple-family dwelling, or community care facility with more than six residents.
  3. "Commercial" use means all retail, office, and service commercial uses. Office uses include facilities primarily used for professional (legal, engineering, accounting), financial, insurance, real estate, and other office-related uses which do not provide primarily walk-in services to the public. Retail/services uses include facilities primarily used for the sale of retail goods and/or personal services, including all retail sales outlets, facilities for the on-site sale of food and/or beverages, and personal services such as laundries, cleaners, copy stores, hairdressers, etc. Service commercial uses include facilities primarily used for providing business- or auto-related services to the public such as auto repair shops, contractor storage and offices, and miscellaneous repair services.
  4. "Manufacturing/warehouse" use means facilities used for the manufacture, processing, or storage of goods.
  5. "Hotel" use means facilities used for the overnight lodging of guests.
  6. "Hospital" use means hospitals and other medical facilities with overnight patient capacity including skilled nursing and intermediate care facilities.
  7. "Entertainment/commercial recreation" use means theaters, health and sports clubs, and museums.
  8. "Churches and places of public assembly" use means church sanctuaries and related facilities, labor union halls, social clubs, fraternal organization facilities, and other places of public assembly.
  9. "Childcare centers serving the public" use means a place where any member of the general public may seek childcare, rather than a childcare facility closed to the general public, solely available to employees of a specific business, or operated by the business itself.
  10. Other Uses. The Zoning Administrator shall determine the appropriate land use category for any use not set forth in subsections (C)(1) through (9) of this section, based on similarity of use and peak hour trip characteristics of the use as

indicated in the most current edition of the International Transportation Engineering Manual. (Ord. 1551 § 2 (part), 2019; Ord. 1400 § 1 (part), 2008)

#### **8.50.050 Fee requirement.**

A. General. The amount of the proposed fee shall be six thousand one hundred ninety-six dollars (\$6,196) per p.m. peak hour trip, adjusted annually based on the Construction Cost Index published by the Engineering News Record, and shall be based upon the following considerations:

1. Development will pay its fair-share cost of road improvements described in the City of San Carlos Traffic Impact Fee Plan (dated August 27, 2020).
2. Each type of development shall contribute to the needed improvements based on trip generation and the formula outlined in the City of San Carlos Traffic Impact Fee Nexus Plan (dated August 27, 2020).

B. Types of Development Subject to the Fee. The fee shall be applicable to new development and redevelopment projects which require a planning application, expansion of floor area of existing uses which require a planning application, new single-family and multifamily dwelling units, and changes of use requiring a special use permit as follows:

1. Residential Construction. Fees shall be charged for each new dwelling unit. No fee is applicable for remodeling or for an addition to an existing unit not resulting in a new dwelling unit.
  2. Nonresidential Construction. Fees shall be charged based on trip generation and the formula established in the Traffic Impact Fee Plan. No fee is applicable for remodeling or restoration only, where the floor area is improved or replaced but not increased. Floor area measurement shall be to the exterior facade of building wall planes or from the center line of party walls. Parking areas and exterior walkways are not included in the trip generation calculation.
  3. Changes of Use Requiring a Special Use Permit. Fees shall be charged upon the incremental difference between the fee calculated for the floor area of a prior legal use and the fee calculated for the floor area of the proposed new use.
- C. Land Use Categories Subject to the Fee. All land use categories identified in the City's Zoning Code, Title 18 of the City's Municipal Code, which generate traffic are subject to the fee.
- D. Formula. The amount of the fee shall be determined by the formula described in the Traffic Impact Fee Plan.
- E. The Zoning Administrator shall have authority to render final determinations regarding the appropriate classification of land use and the correct calculation of gross building floor area for a particular development project. (Ord. 1562 § 2 (part), 2020; Ord. 1400 § 1 (part), 2008)

#### **8.50.060 Fee payment.**

The traffic impact fee shall be paid in full to the City of San Carlos before the first building permit is issued. If no building permit is required, the fee shall be paid before a conversion of use may take place. The fee shall not apply to any project submitted for a building permit as of the date of introduction of this ordinance, except where otherwise subject to an existing development agreement. (Ord. 1400 § 1 (part), 2008)

#### **8.50.070 Authority for additional mitigation.**

Fees collected pursuant to this chapter are not intended to replace or limit requirements to provide mitigation of traffic impacts not mitigated by the traffic impact fee and created by a specific project, and imposed upon development projects as part of the development review process. (Ord. 1400 § 1 (part), 2008)

#### **8.50.080 Exemptions.**

Public park facilities, City buildings, school buildings, childcare centers serving the public, and those public facilities entitled to an exemption under law are exempt from the traffic impact fee. (Ord. 1551 § 2 (part), 2019; Ord. 1400 § 1 (part), 2008)

#### **8.50.090 Appeal.**

The developer of a project subject to this chapter may appeal the imposition and/or calculation of the fee.

- A. The appeal shall be processed in accordance with Chapter 1.25 of this code. An appeal by a developer of a project not requiring a planning application shall be to the zoning administrator.
- B. Notice of the appeal shall be provided in accordance with applicable provisions of this code.

C. The appellant shall state in detail the factual basis for the appeal and shall bear the burden of proof in presenting substantial evidence to support the appeal.

D. The appeal body shall uphold the fee and deny the appeal if it finds that there is a reasonable relationship between the development project's impact on transportation facilities and the amount of the fee. The appeal body shall consider the land use category determination, and the substance and nature of the evidence, including the fee calculation method, supporting technical documentation, and the appellant's technical data. Based on the evidence, the appeal body may also modify the fee. (Ord. 1400 § 1 (part), 2008)

**8.50.100 Refund of fee.**

A. If a building permit or use permit expires, is canceled, or is voided and any fees paid pursuant to this chapter have not been expended, no construction has taken place, and the use has never occupied the site, the Director of Community Development may, upon the written request of the applicant, order return of the fee and interest earned on it, less administrative costs.

B. The City Council shall make a finding with respect to any fee revenue not expended or committed five years or more after it was paid. If the City Council finds that the fee revenue is not committed, it shall authorize a refund to the then owner of the property for which the fee was paid, pursuant to Government Code Section 66001 or successor legislation. (Ord. 1400 § 1 (part), 2008)

**8.50.110 Accumulation and use of funds.**

A. Traffic Impact Fee Fund. The City shall deposit the fees collected under this chapter in a special fund, the traffic impact fee fund, designated solely for transportation improvements.

B. Use of Funds. The fees and interest earned on accumulated funds shall be used only to complete the transportation improvement projects specified, or to reimburse the

City for such construction if funds were advanced by the City from other sources. (Ord. 1400 § 1 (part), 2008)

**8.50.120 Annual review.**

The traffic impact fee authorized by this chapter, implementing Council resolutions, and supporting documentation, including the Traffic Impact Fee Plan, shall be reviewed annually by the City Council in order to make any findings required by State law, and to make any adjustments in the amount of the fee. (Ord. 1400 § 1 (part), 2008)

**Chapter 8.51  
COMMERCIAL LINKAGE FEES**

Sections:

**8.51.010 Purpose.**

**8.51.020 Definitions.**

**8.51.030 Commercial linkage fees.**

**8.51.040 Fee payment.**

**8.51.050 Exemptions.**

**8.51.060 Alternatives.**

**8.51.070 Below market rate fund.**

**8.51.080 Administrative relief/appeal.**

**8.51.090 Enforcement.**

**8.51.010 Purpose.**

The purpose of this chapter is to:

A. Encourage the development and availability of housing affordable to a broad range of households with varying income levels within the city as mandated by State law, California Government Code Section 65580 and following.

B. Offset the demand for affordable housing that is created by new development and mitigate environmental and other impacts that accompany new commercial development by protecting the economic diversity of the City's housing stock;

reducing traffic, transit and related air quality impacts; promoting jobs/housing balance; and reducing the demands placed on transportation infrastructure in the region.

C. Promote the City's policy to provide an adequate number of affordable housing units to the City's housing stock in proportion to the existing or projected need in the community, as identified by the Housing Element.

D. Support the Housing Element goal of assisting in the development of new housing that is affordable at all income levels and the policies and actions that support this goal.

E. Support the Housing Element goal of providing adequate, affordable housing.

F. Support the guiding principle of the Housing Element that housing in San Carlos supports an economically and socially diverse population.

G. Support the guiding principle of the Housing Element that housing in San Carlos creates and supports vibrant neighborhoods and a cohesive sense of community.

H. Meet the housing needs identified by the Housing Element of the General Plan.

I. Encourage the production of the very low, low, and moderate income units planned for in the Housing Element of the General Plan. (Ord. 1514 § 2 (part), 2016)

#### **8.51.020 Definitions.**

As used in this chapter, the following terms shall have the following meanings:

A. "Administrator" means the Housing Manager of the City or other person designated by the City Manager.

B. "Below market rate housing agreement" means a written agreement between a builder and the City as provided by Section 18.16.060(C).

C. "Below market rate housing plan" means a plan for a residential development project submitted by a builder as provided by Section 18.16.060(B).

D. "Builder" means any person, firm, partnership, association, joint venture, corporation, or any entity or combination of entities which seeks City approvals for all or part of a commercial development project.

E. "Building permit" includes full structural building permits as well as partial permits such as foundation-only permits.

F. "Commercial" use includes hotels, retail uses, restaurants, services, and offices.

G. "Commercial development project" means an application for a planning permit or building permit that includes the new construction of gross square feet of commercial space or the conversion of a residential use to a commercial use.

H. "Commercial linkage fee" means the fee paid by builders of commercial development projects to mitigate the impacts that such developments have on the demand for affordable housing in the City.

I. "First approval" means the first discretionary approval to occur with respect to a commercial development project or, for commercial development projects not requiring a discretionary approval, the issuance of a building permit.

J. "Planning permit" means any discretionary approval of a residential project, including but not limited to a comprehensive or specific plan adoption or amendment, rezoning, tentative map, parcel map, conditional use permit, variances, or architectural review. (Ord. 1514 § 2 (part), 2016)

#### **8.51.030 Commercial linkage fees.**

The City Council may from time to time adopt by resolution a commercial linkage fee to be imposed on builders of commercial development projects. Commercial linkage fees shall not exceed the cost of mitigating the impact of the commercial development projects on the need for affordable housing in the city. (Ord. 1514 § 2 (part), 2016)

#### **8.51.040 Fee payment.**

Any commercial linkage fee shall be paid in full prior to the issuance of the first building permit for the commercial development project subject to the fee or at a time otherwise specified by Council resolution. If no building permit is required, the fee shall be paid before a conversion of use may take place. The fee shall be calculated based on the fee schedule in effect at the time the building permit is issued. (Ord. 1514 § 2 (part), 2016)

**8.51.050 Exemptions.**

A. The following commercial development projects are exempt from the provisions of this chapter:

1. Projects adding less than five thousand square feet of net new square footage.
2. City buildings and facilities and those public facilities entitled to an exemption under law.
3. Projects that have established a vested right not to be subject to this chapter.

B. The City Council may elect to waive payment of the commercial linkage fee if it finds that: (1) the commercial development project is dedicated to a public use owned and operated by other public agencies or a nonprofit public benefit corporation; and (2) the benefits to the community provided by such public use exceed those that would be provided by the payment of the commercial linkage fee. If the City Council elects to waive commercial linkage fees pursuant to this provision, the public use of the site shall be guaranteed by a recorded document in a form acceptable to the City Attorney.

C. The City Council by resolution may adopt additional exemptions from time to time. (Ord. 1514 § 2 (part), 2016)

**8.51.060 Alternatives.**

A. A builder may propose the construction of affordable residential units as an alternative to the payment of the commercial linkage fee by submitting a below market housing plan in compliance with Sections 18.16.060 and 18.16.070.

B. The decision-making body for the first approval (either the Planning Commission or the City Council) may approve or conditionally approve such an alternative if it finds that the purposes of this chapter, including the provision of affordable housing, would be better served by implementation of the proposed alternative and that the proposal meets the greatest affordable housing needs at the time the alternative is reviewed. As one of the factors determining whether the purposes of this chapter would be better served under the proposed alternative, the decision-making body shall consider whether implementation of an alternative would overly concentrate below market rate units within any specific area and, if so, shall reject the alternative unless the concentration of below market rate units will not tend to cause residential segregation and is offset by other identified benefits that flow from implementation of the alternative at issue.

C. If the alternative is approved, the builder shall enter into a below market rate affordable agreement with the City as required by Section 18.16.060(C). (Ord. 1514 § 2 (part), 2016)

**8.51.070 Below market rate fund.**

A. Trust Fund. A fund for the deposit of fees established under this and similar prior municipal codes exists as Fund 29 (the "fund"). This fund shall receive all fees contributed under this chapter and may also receive monies from other sources.

B. Purpose and Limitations. Monies deposited in the fund shall be used to increase and improve the supply of housing affordable to moderate, low, very low, and extremely low income households. Monies may also be used to cover reasonable administrative or related expenses associated with the administration of this chapter.

C. Administration. The fund shall be administered by the Administrator, who may develop procedures to implement the purposes of the fund consistent with the requirements of this chapter and subject to any adopted budget of the City.

D. Expenditures. Fund monies shall be used in accordance with the City's Housing Element, or subsequent plans adopted by the City Council to maintain or increase the quantity, quality, and variety of affordable housing units or assist other governmental entities, private organizations or individuals to do so. Permissible uses include, but are not limited to, land acquisition, debt service, parcel assemblage, gap financing, housing rehabilitation, grants, unit acquisition, new construction, and other pursuits associated with providing affordable housing. The fund may be used for the benefit of both rental and owner-occupied housing. (Ord. 1514 § 2 (part), 2016)

**8.51.080 Administrative relief/appeal.**

The builder of a project subject to this chapter may request that the requirements of this chapter be waived or modified by the City Council, as provided by Section 18.16.030. (Ord. 1514 § 2 (part), 2016)

**8.51.090 Enforcement.**

A. Payment of the commercial linkage fee is the obligation of the builder of a commercial development project. The City may institute any appropriate legal actions or proceedings necessary to ensure compliance herewith, including, but not limited to, actions to revoke, deny, or suspend any permit or development approval.

B. The City Attorney shall be authorized to enforce the provisions of this chapter and all below market rate housing agreements, regulatory agreements, and all other covenants or restrictions placed on affordable units, by civil action and any

other proceeding or method permitted by law.

C. Failure of any official or agency to fulfill the requirements of this chapter shall not excuse any builder or owner from the requirements of this chapter. No permit, license, map, or other approval or entitlement for a commercial development project shall be issued, including without limitation a final inspection or certificate of occupancy, until all applicable requirements of this chapter have been satisfied.

D. The remedies provided for in this chapter shall be cumulative and not exclusive and shall not preclude the City from any other remedy or relief to which it otherwise would be entitled under law or equity. (Ord. 1514 § 2 (part), 2016)

## **Chapter 8.52 CHILD CARE DEVELOPMENT IMPACT FEES**

Sections:

**8.52.010 Authority.**

**8.52.020 Purpose.**

**8.52.030 Definitions.**

**8.52.040 Application and payment of fee.**

**8.52.050 Fee payment.**

**8.52.060 Alternative means of satisfying fee obligation.**

**8.52.070 Exemptions.**

**8.52.080 Credits and fee adjustments and appeals.**

**8.52.090 Use of fee.**

**8.52.100 Refund of fee.**

**8.52.110 Annual review.**

**8.52.010 Authority.**

This chapter is enacted pursuant to the Mitigation Fee Act contained in Government Code Section 66000 et seq. (Ord. 1585 § 2, 2022)

**8.52.020 Purpose.**

The purpose of this chapter is to provide funding to expand the number of quality child care spaces available to residents and employees in San Carlos through the use of development fees consistent with State law, in order to implement the child care policies prioritized in the 2022 City Council Strategic Goals. The intent of this chapter is not to raise general revenues. Instead, the intent is to provide for the capital improvements and augmentation to the child care system to help satisfy the child care needs generated by growth from new development, in a balanced and efficient manner which will mitigate the adverse impacts on the child care system and promote the public health, safety, and general welfare. (Ord. 1585 § 2, 2022)

**8.52.030 Definitions.**

As used in this chapter, the following terms shall have the following meanings:

A. "Building permit" includes full structural building permits as well as partial permits such as foundation-only permits.

B. "Child care development impact fee" means the fee charged to new nonresidential development in the City of San Carlos on a per square foot of floor area basis.

C. "Development agreement" means a written agreement with applicants for development projects as provided by Chapter 18.37.

D. "Floor area measurement" includes exterior facade of building wall planes or from the center line of party walls; parking areas and exterior walkways are not included.

E. "Mitigation Fee Act" authorizes a local government agency to impose development impact fees on specific development projects to defray the cost of new or additional public facilities that are needed to serve those developments.

F. "Nonresidential development" includes land uses categories identified in the City's Zoning Code, Title 18, including office/R&D, retail, hotel and industrial.

G. "Nexus study" is the study prepared by Economic and Planning Systems (EPS) on July 14, 2021, that established the maximum child care development impact fees justifiable under the Mitigation Fee Act that could be required of new development in the City of San Carlos.

H. "Use permit" means a discretionary permit, such as a minor use or conditional use permit, which may be granted by the appropriate City of San Carlos authority to provide for the accommodation of land uses with special site or design requirements, operating characteristics, or potential adverse effects on surroundings, which are not permitted as of right but which may be approved upon completion of a review process and, where necessary, the imposition of special conditions of approval by the permit granting authority.

I. "Zoning administrator" means the Zoning Administrator of the City of San Carlos, or his or her designee. (Ord. 1585 § 2, 2022)

#### **8.52.040 Application and payment of fee.**

The child care development impact fee enabled in this chapter is charged to new nonresidential development in the City of San Carlos on a per square foot of floor area basis. Floor area measurement shall be to the exterior facade of building wall planes or from the center line of party walls. Parking areas and exterior walkways are not included in the child care impact fee calculation.

This chapter does not replace normal subdivision map exactions or other measures required to mitigate site specific impacts of a development project including, but not limited to, mitigations pursuant to the California Environmental Quality Act; regulatory and processing fees; fees required pursuant to a development agreement; funds collected pursuant to a reimbursement agreement that exceed the developer's share of public improvement costs; or assessment district proceedings, benefit assessments, or taxes.

A. General. The amount of the proposed fee shall be established by City Council resolution and not exceed the fee established by the adopted Impact Fee Nexus Study dated July 14, 2021, or subsequent nexus studies, which shall be adjusted annually based on the Construction Cost Index published by the Engineering News Record or a reasonable replacement index. The fee imposed under this chapter is based on the consideration that new development contributes to expanding the need for additional quality child care spaces in the City, based on employment generation and employee demand for child care.

B. Types of Development Subject to the Fee. The fee shall be applicable to new development and redevelopment projects which require a planning application, expansion of floor area of existing uses which require a planning application, and changes of use requiring a use permit as follows:

1. Nonresidential Construction. Fees shall be charged based on employment generation and employee demand for child care, as established in the Child Care Impact Fee Nexus Study. No fee is applicable for remodeling or restoration only, where the floor area is improved or replaced but not increased. Floor area measurement shall be to the exterior facade of building wall planes or from the center line of party walls. Parking areas and exterior walkways are not included in the child care need generation calculation.

2. Changes of Use Requiring a Use Permit. Fees shall be charged upon the incremental difference between the fee calculated for the floor area of a prior legal use and the fee calculated for the floor area of the proposed new use.

C. Land Use Categories Subject to the Fee. All nonresidential land use categories identified in the City's Zoning Code, Title 18, which generate employment are subject to the fee.

D. Authority of Zoning Administrator. The Zoning Administrator shall have authority to render final determinations regarding the appropriate classification of land use and the correct calculation of gross building floor area for a particular development project. (Ord. 1585 § 2, 2022)

#### **8.52.050 Fee payment.**

The child care impact fee shall be paid in full to the City of San Carlos before the first building permit is issued. If no building permit is required, the fee shall be paid before a conversion of use may take place. The fee shall not apply to any project submitted for a building permit or to any project application that was submitted and considered complete prior to the effective

date of the ordinance codified in this chapter, except where otherwise subject to an existing development agreement. (Ord. 1585 § 2, 2022)

#### **8.52.060 Alternative means of satisfying fee obligation.**

New nonresidential projects may meet the child care impact fee obligation by building appropriately sized and feasible child care space on site and contracting with a licensed child care provider. For example, a new nonresidential development of fifty thousand (50,000) square feet may meet its fee obligation by building child care space on site at a ratio of ten percent (10%), such that the development provides at least five thousand (5,000) square feet of child care space on site. The dimensions provided in this example are meant to inform a memorandum of understanding or similar agreement between the developer and the City. Other sized on-site child care facilities may be approved if economic and operational feasibility is demonstrated by the developer, consistent with the demand ratios articulated in the nexus study. Any on-site child care provided through this option would need to meet State licensing requirements and local regulatory requirements (as specified in Section 18.23.090) and would need to be mutually agreed upon by the developer and the City.

If mutually agreed upon by the developer and the City, alternative means of satisfying the fee obligation may be identified and articulated in a development agreement, or similar mutually agreed upon agreement. (Ord. 1585 § 2, 2022)

#### **8.52.070 Exemptions.**

The following exemptions from the requirements for fees and exactions are imposed:

- A. Any type of project determined by the City Council to have a reduced or insignificant child care impact.
- B. Residential Uses. Residential uses including single-family, multifamily, senior housing, affordable housing, accessory dwelling units and junior accessory dwelling units.
- C. Repairs or Replacement. No fee is applicable for repairing, remodeling, modifying, reconstructing, replacing only, where the floor area is improved or replaced but not increased. This includes residential and nonresidential square footage being replaced due to natural disaster.
- D. Public Project. Projects undertaken by a public agency except projects undertaken by a private developer on public property, and except property not used exclusively for a governmental purpose.
- E. Project with Complete Application Prior to Effective Date of Ordinance. Project submitted for a building permit or any project application that was submitted and considered complete prior to the effective date of the ordinance codified in this chapter, except for any project which is required to comply with these measures pursuant to the provisions of a development agreement. (Ord. 1585 § 2, 2022)

#### **8.52.080 Credits and fee adjustments and appeals.**

- A. Credits. If a project is changing its use and adding net new square footage, a credit in the amount offsetting the impact of its prior use shall be applied. For example, a development project converting existing industrial square footage into office/R&D will have the fee for the proposed office/R&D space (including any addition) calculated and the fee for the existing industrial space calculated, and the existing industrial space will be credited against the new office/R&D use. In the event that the credit exceeds the new fee, the fee shall be zero and no refunds are applicable. No credits or exemptions will be given to properties that have been vacant for more than three (3) years by the time of applying for building permit.
- B. Fee Adjustments and Appeals. The developer of a project subject to this chapter may appeal the imposition and/or calculation of the fee.

1. The appeal shall be processed in accordance with Chapter 1.25. An appeal by a developer of a project not requiring a planning application shall be to the Zoning Administrator.
2. Notice of the appeal shall be provided in accordance with applicable provisions of this Code.
3. The appellant shall state in detail the factual basis for the appeal and shall bear the burden of proof in presenting substantial evidence to support the appeal.
4. The appeal body shall uphold the fee and deny the appeal if it finds that there is a reasonable relationship between the development project's impact on employee generation and the need for child care spaces and the amount of the fee. The appeal body shall consider the land use category determination, and the substance and nature of the evidence, including the fee calculation method, supporting technical documentation, and the appellant's technical data. Based on the evidence, the appeal body may also modify the fee. (Ord. 1585 § 2, 2022)

**8.52.090 Use of fee.**

Upon receipt, child care impact fees shall be deposited, invested, accounted for, and expended as required per the Mitigation Fee Act, Government Code Section 66001, or successor statute. Revenues, along with any interest earnings on the account, shall be used to fund contributions towards the expansion of new child care spaces in the City, including but not limited to:

- A. Acquiring land on which a new child care facility may be developed;
- B. Funding child care facility development costs;
- C. Providing loans or grants to licensed in-home child care providers; and/or
- D. Other capital expenditures related to expanding child care in the City otherwise consistent with the law. (Ord. 1585 § 2, 2022)

**8.52.100 Refund of fee.**

Under certain circumstances, refund of the fees paid may be warranted.

- A. If a building permit or use permit expires, is canceled, or is voided and any fees paid pursuant to this chapter have not been expended, no construction has taken place, and the use has never occupied the site, the Director of Community Development may, upon the written request of the applicant, order return of the fee and interest earned on it, less administrative costs.
- B. The City Council shall make a finding with respect to any fee revenue not expended or committed five (5) years or more after it was paid. If the City Council finds that the fee revenue is not committed, it shall authorize a refund to the then owner of the property for which the fee was paid, pursuant to Government Code Section 66001 or successor legislation. (Ord. 1585 § 2, 2022)

**8.52.110 Annual review.**

The child care impact fee authorized by this chapter, implementing Council resolutions, and supporting documentation, shall be reviewed annually by the City Council in order to make any findings required by State law, and to make any adjustments in the amount of the fee. (Ord. 1585 § 2, 2022)

## **Chapter 8.60 MANDATORY ORGANIC WASTE DISPOSAL REDUCTION**

Sections:

**8.60.010 Purpose and findings.**

**8.60.020 Title of chapter.**

**8.60.030 Definitions.**

**8.60.040 Requirements for single-family generators.**

**8.60.050 Requirements for commercial businesses.**

**8.60.060 Waivers for generators.**

**8.60.070 Requirements for tier one and tier two commercial edible food generators.**

**8.60.080 Requirements for food recovery organizations and services.**

**8.60.090 Requirements for haulers and facility operators.**

**8.60.100 Self-hauler requirements.**

**8.60.110 Compliance with CALGreen recycling requirements.**

**8.60.120 Model water efficient landscaping ordinance requirements.**

**8.60.130 Procurement requirements for jurisdiction departments, direct service providers, and vendors.**

**8.60.140 Inspections and investigations by jurisdiction.**

**8.60.150 Enforcement.**

**8.60.010 Purpose and findings.**

The jurisdiction finds and declares:

A. State recycling law, Assembly Bill 939 of 1989, the California Integrated Waste Management Act of 1989 (California Public Resources Code Section 40000 et seq., as amended, supplemented, superseded, and replaced from time to time), requires cities and counties to reduce, reuse, and recycle (including composting) solid waste generated in their jurisdictions to the maximum extent feasible before any incineration or landfill disposal of waste, to conserve water, energy, and other natural resources, and to protect the environment.

B. State recycling law, Assembly Bill 341 of 2011 (approved by the Governor of the State of California on October 5, 2011, which amended Sections 41730, 41731, 41734, 41735, 41736, 41800, 42926, 44004, and 50001 of, and added Sections 40004, 41734.5, and 41780.01 and Chapter 12.8 (commencing with Section 42649) to Part 3 of Division 30 of, and added and repealed Section 41780.02 of, the Public Resources Code, as amended, supplemented, superseded and replaced from time to time), places requirements on businesses and multifamily property owners that generate a specified threshold amount of solid waste to arrange for recycling services and requires jurisdictions to implement a mandatory commercial recycling program.

C. State organics recycling law, Assembly Bill 1826 of 2014 (approved by the Governor of the State of California on September 28, 2014, which added Chapter 12.9 (commencing with Section 42649.8) to Part 3 of Division 30 of the Public Resources Code, relating to solid waste, as amended, supplemented, superseded, and replaced from time to time), requires businesses and multifamily property owners that generate a specified threshold amount of solid waste, recycling, and organic waste per week to arrange for recycling services for that waste, requires jurisdictions to implement a recycling program to divert organic waste from businesses subject to the law, and requires jurisdictions to implement a mandatory commercial organics recycling program.

D. SB 1383, the Short-Lived Climate Pollutant Reduction Act of 2016, requires CalRecycle to develop regulations to reduce organics in landfills as a source of methane. The regulations place requirements on multiple entities including jurisdictions, residential households, commercial businesses and business owners, commercial edible food generators, haulers, self-haulers, food recovery organizations, and food recovery services to support achievement of Statewide organic waste disposal reduction targets.

E. SB 1383, the Short-Lived Climate Pollutant Reduction Act of 2016, requires jurisdictions to adopt and enforce an ordinance or enforceable mechanism to implement relevant provisions of SB 1383 regulations. This chapter will also help reduce food insecurity by requiring commercial edible food generators to arrange to have the maximum amount of their edible food, that would otherwise be disposed of, be recovered for human consumption.

F. Requirements in this chapter are consistent with other adopted goals and policies of the jurisdiction including: construction and demolition recovery policy, San Carlos climate mitigation and adaptation plan, water efficient landscaping ordinance, and the City of San Carlos environmentally preferred purchasing policy.

G. Even if the jurisdiction delegates responsibility for enforcement to another public entity, the jurisdiction itself will remain ultimately responsible for compliance with this chapter as required in 14 CCR Section 18981.2(c). (Ord. 1575 (Exh. A § 1), 2021)

**8.60.020 Title of chapter.**

This chapter shall be entitled "Mandatory Organic Waste Disposal Reduction Ordinance." (Ord. 1575 (Exh. A § 2), 2021)

**8.60.030 Definitions.**

A. "Blue container" has the same meaning as in 14 CCR Section 18982.2(a)(5) and shall be used for the purpose of storage and collection of source separated recyclable materials or source separated blue container organic waste.

B. "Black container" has the same meaning as in 14 CCR Section 18982.2(a)(28) and shall be used for the purpose of storage and collection of black container waste.

C. "Black container waste" means solid waste that is collected in a black container that is part of a three (3) container organic waste collection service that prohibits the placement of organic waste or source separated recyclables in the black container as specified in 14 CCR Sections 18984.1(a) and (b), or as otherwise defined in 14 CCR Section 17402(a)(6.5).

D. "CalRecycle" means California's Department of Resources Recycling and Recovery, which is the department designated with responsibility for developing, implementing, and enforcing SB 1383 regulations on jurisdictions (and others).

E. "California Code of Regulations" or "CCR" means the State of California Code of Regulations. CCR references in this chapter are preceded with a number that refers to the relevant title of the CCR (e.g., "14 CCR" refers to Title 14 of CCR).

F. "Commercial business" or "commercial" means a firm, partnership, proprietorship, joint stock company, corporation, or association, whether for-profit or nonprofit, strip mall, industrial facility, or a multifamily residential dwelling, or as otherwise defined in 14 CCR Section 18982(a)(6). A multifamily residential dwelling that consists of fewer than five (5) units is not a commercial business for purposes of implementing this chapter.

G. "Commercial edible food generator" includes a tier one or a tier two commercial edible food generator as defined in this chapter. For the purposes of this definition, food recovery organizations and food recovery services are not commercial edible food generators pursuant to 14 CCR Section 18982(a)(7).

H. "Compliance review" means a review of records by a jurisdiction or its designated entity to determine compliance with this chapter.

I. "Community composting" means any activity that composts green material, agricultural material, food material, and vegetative food material, alone or in combination, and the total amount of feedstock and compost on site at any one (1) time does not exceed one hundred (100) cubic yards and seven hundred fifty (750) square feet, as specified in 14 CCR Section 17855(a)(4), or as otherwise defined by 14 CCR Section 18982(a)(8).

J. "Compost" has the same meaning as in 14 CCR Section 17896.2(a)(4), which states, as of the effective date of the ordinance codified in this chapter, that "compost" means the product resulting from the controlled biological decomposition of organic solid wastes that are source separated from the municipal solid waste stream, or which are separated at a centralized facility.

Compost eligible for meeting the jurisdiction's annual recovered organic waste product procurement target must be produced at a compostable material handling operation or facility permitted or authorized under 14 CCR Chapter 3.1 of Division 7 or produced at a large volume in-vessel digestion facility that composts on site as defined and permitted under 14 CCR Chapter 3.2 of Division 7. Compost shall meet the State's composting operations regulatory requirements.

K. "Container contamination" or "contaminated container" means a container, regardless of color, that contains prohibited container contaminants, or as otherwise defined in 14 CCR Section 18982(a)(55).

L. "C&D" means construction and demolition debris.

M. "Designated source separated organic waste facility," as defined in 14 CCR Section 18982(14.5), means a solid waste facility that accepts a source separated organic waste collection stream as defined in 14 CCR Section 17402(a)(26.6) and complies with one (1) of the following:

1. The facility is a "transfer/processor," as defined in 14 CCR Section 18815.2(a)(62), that is in compliance with the reporting requirements of 14 CCR Section 18815.5(d), and meets or exceeds an annual average source separated organic content recovery rate of fifty percent (50%) between January 1, 2022, and December 31, 2024, and seventy-five percent (75%) on and after January 1, 2025, as calculated pursuant to 14 CCR Section 18815.5(f) for organic waste received from the source separated organic waste collection stream.

a. If a transfer/processor has an annual average source separated organic content recovery rate lower than the rate required in subsection (M)(1) of this section for two (2) consecutive reporting periods, or three (3) reporting periods within three (3) years, the facility shall not qualify as a "designated source separated organic waste facility."

2. The facility is a "composting operation" or "composting facility" as defined in 14 CCR Section 18815.2(a)(13), that pursuant to the reports submitted under 14 CCR Section 18815.7 demonstrates that the percentage of the material removed for landfill disposal that is organic waste is less than the percentage specified in 14 CCR Section 17409.5.8(c)(2) or 17409.5.8(c)(3), whichever is applicable, and, if applicable, complies with the digestate handling requirements specified in 14 CCR Section 17896.5. The definition of composting operation includes in-vessel digestion as regulated in 14 CCR Section 17896.

a. If the percentage of the material removed for landfill disposal that is organic waste is more than the percentage specified in 14 CCR Section 17409.5.8(c)(2) or 17409.5.8(c)(3), for two (2) consecutive reporting periods, or three (3) reporting periods within three (3) years, the facility shall not qualify as a "designated source separated organic waste

facility." For the purposes of this chapter, the reporting periods shall be consistent with those defined in 14 CCR Section 18815.2(a)(49).

N. 1. "Designee" means an entity that a jurisdiction contracts with or otherwise arranges to carry out any of the jurisdiction's responsibilities of this chapter as authorized in 14 CCR Section 18981.2. A designee may be a government entity, a hauler, a private entity, or a combination of those entities.

2. "Designee for edible food recovery" means the San Mateo County Office of Sustainability with which the jurisdiction has a memorandum of understanding for the purposes of edible food recovery including, but not limited to, inspection, investigation, and enforcement of the edible food recovery provisions of this chapter. Contact information for the designee for edible food recovery can be found on the San Mateo County Office of Sustainability website.

O. "Edible food" means food intended for and fit for human consumption and collected or received from a tier one or tier two commercial edible food generator. For the purposes of this chapter "edible food" is not solid waste if it is recovered and not discarded. Nothing in this chapter or in 14 CCR, Division 7, Chapter 12 requires or authorizes the recovery of edible food that does not meet the food safety requirements of the California Retail Food Code.

P. "Edible food recovery" means actions to collect, receive, and/or redistribute edible food for human consumption from tier one and tier two commercial edible food generators that otherwise would be disposed of.

Q. "Enforcement action" means an action of the jurisdiction or San Mateo County Office of Sustainability to address noncompliance with this chapter including, but not limited to, issuing administrative citations, fines, penalties, or using other remedies.

R. "Excluded waste" means hazardous substance, hazardous waste, infectious waste, designated waste, volatile, corrosive, medical waste, infectious, regulated radioactive waste, and toxic substances. "Excluded waste" also includes construction materials, dirt, rock and concrete, electronic waste and batteries, fluorescent lights, hazardous waste, liquids and grease, medicines and sharps and treated wood.

These include material that facility collectors and operator(s), which receive materials from the jurisdiction and its generators, reasonably believe(s) would, as a result of or upon acceptance, transfer, processing, or disposal, be a violation of local, State, or Federal law, regulation, or ordinance, including: land use restrictions or conditions, waste that cannot be disposed of in Class III landfills or accepted at the facility by permit conditions, waste that in jurisdiction's, or its designee's, reasonable opinion would present a significant risk to human health or the environment, cause a nuisance or otherwise create or expose jurisdiction, or its designee, to potential liability; but not including de minimis volumes or concentrations of waste of a type and amount normally found in single-family or multifamily solid waste after implementation of programs for the safe collection, processing, recycling, treatment, and disposal of batteries and paint in compliance with Sections 41500 and 41802 of the California Public Resources Code. "Excluded waste" does not include household batteries placed in a sealed clear plastic bag placed on top of the black can, or any other universal wastes if such materials are defined as allowable materials for collection through the jurisdiction's collection programs and the generator or customer has properly placed the materials for collection pursuant to instructions provided by jurisdiction or its designee for collection services.

S. "Food distributor" means a company that distributes food to entities including, but not limited to, supermarkets and grocery stores.

T. "Food facility" has the same meaning as in Section 113789 of the Health and Safety Code.

U. "Food recovery" means actions to collect, receive and/or redistribute edible food for human consumption from tier one and tier two commercial edible food generators, that otherwise would be disposed of.

V. "Food recovery organization" means an entity that engages in the collection or receipt of edible food from commercial edible food generators and distributes that edible food to the public for food recovery either directly or through other entities or as otherwise defined in 14 CCR Section 18982(a)(25), including, but not limited to:

1. A food bank as defined in Section 113783 of the Health and Safety Code;
2. A nonprofit charitable organization as defined in Section 113841 of the Health and Safety Code; and
3. A nonprofit charitable temporary food facility as defined in Section 113842 of the Health and Safety Code.

A food recovery organization is not a commercial edible food generator for the purposes of this chapter and implementation of 14 CCR, Division 7, Chapter 12 pursuant to 14 CCR Section 18982(a)(7).

If the definition in 14 CCR Section 18982(a)(25) for food recovery organization differs from this definition, the definition in 14 CCR Section 18982(a)(25) shall apply to this chapter.

W. "Food recovery service" means a person or entity that collects and transports edible food from a tier one or tier two commercial edible food generator to a food recovery organization or other entities for edible food recovery. A food recovery service is not a commercial edible food generator for the purposes of this chapter and implementation of 14 CCR, Division 7, Chapter 12 pursuant to 14 CCR Section 18982(a)(7).

X. "Food scraps" means all food such as, but not limited to, fruits, vegetables, meat, poultry, seafood, shellfish, bones, rice, beans, pasta, bread, cheese, and eggshells. "Food scraps" excludes fats, oils, and grease when such materials are source separated from other food scraps.

Y. "Food service provider" means an entity primarily engaged in providing food services to institutional, governmental, commercial, or industrial locations of others based on contractual arrangements with these types of organizations.

Z. "Food-soiled paper" is compostable paper material that has come in contact with food or liquid, such as, but not limited to, compostable paper plates, paper coffee cups, napkins, pizza boxes, and milk cartons and should be placed in the green compost container with food scraps.

AA. "Food waste" means food scraps, food-soiled paper, and bio-plastics labeled "BPI Certified Compostable."

BB. "Green container" has the same meaning as in 14 CCR Section 18982.2(a)(29) and shall be used for the purpose of storage and collection of source separated green container organic waste.

CC. "Greenhouse gas (GHG)" means carbon dioxide (CO<sub>2</sub>), methane (CH<sub>4</sub>), nitrous oxide (N<sub>2</sub>O), sulfur hexafluoride (SF<sub>6</sub>), hydrofluorocarbons (HFC), perfluorocarbons (PFC) and other fluorinated greenhouse gases.

DD. "Greenhouse gas emission reduction" or "greenhouse gas reduction" means a calculated decrease in greenhouse gas emissions relative to a project baseline over a specified period of time, resulting from actions designed to achieve such a decrease.

EE. "Grocery store" means a store primarily engaged in the retail sale of canned food; dry goods; fresh fruits and vegetables; fresh meats, fish, and poultry; and any area that is not separately owned within the store where the food is prepared and served, including a bakery, deli, and meat and seafood departments, or as otherwise defined in 14 CCR Section 18982(a)(30).

FF. "High diversion organic waste processing facility" means a facility that is in compliance with the reporting requirements of 14 CCR Section 18815.5(d) and meets or exceeds an annual average mixed waste organic content recovery rate of fifty percent (50%) between January 1, 2022, and December 31, 2024, and seventy-five percent (75%) after January 1, 2025, as calculated pursuant to 14 CCR Section 18815.5(e) for organic waste received from the "mixed waste organic collection stream" as defined in 14 CCR Section 17402(a)(11.5); or as otherwise defined in 14 CCR Section 18982(a)(33).

GG. "Inspection" means a site visit where a jurisdiction, or its designee, reviews records, containers, and an entity's collection, handling, recycling, or landfill disposal of organic waste or edible food handling to determine if the entity is complying with requirements set forth in this chapter, or as otherwise defined in 14 CCR Section 18982(a)(35).

"Inspection," for the purposes of edible food recovery, means actions to review contracts and other records related to the recovery of edible food and may occur off site via email and other forms of electronic communication, as well as the on-site review of an entity's records and collection, handling and other procedures for the recovery of edible food to determine if the entity is complying with the requirements of this chapter.

HH. "Jurisdiction" is the entity responsible for ensuring solid waste, recycling and organics service is provided in accordance with SB 1383 guidelines.

II. "Jurisdiction enforcement official" means the City Manager, County administrative official, chief operating officer, executive director, or other executive in charge or their authorized designee(s) who is/are partially or wholly responsible for enforcing the chapter. See also "Designee for edible food recovery."

JJ. "Large event" means an event, including, but not limited to, a sporting event or a flea market, that charges an admission price, or is operated by a local agency, and serves an average of more than two thousand (2,000) individuals per day of operation of the event, at a location that includes, but is not limited to, a public, nonprofit, or privately owned park, parking lot, golf course, street system, or other open space when being used for an event. If the definition in 14 CCR Section 18982(a)(38) differs from this definition, the definition in 14 CCR Section 18982(a)(38) shall apply to this chapter.

KK. "Large venue" means a permanent venue facility that annually seats or serves an average of more than two thousand (2,000) individuals within the grounds of the facility per day of operation of the venue facility. For purposes of this chapter and implementation of 14 CCR, Division 7, Chapter 12, "venue facility" includes, but is not limited to, a public, nonprofit, or privately owned or operated stadium, amphitheater, arena, hall, amusement park, conference or civic center, zoo, aquarium, airport, racetrack, horse track, performing arts center, fairground, museum, theater, or other public attraction facility. For purposes of this chapter and implementation of 14 CCR, Division 7, Chapter 12, a site under common ownership or control that includes more than one (1) large venue that is contiguous with other large venues in the site, is a single large venue. If the definition in 14 CCR Section 18982(a)(39) differs from this definition, the definition in 14 CCR Section 18982(a)(39) shall apply to this chapter.

LL. "Local education agency" means a school district, charter school, or county office of education that is not subject to the control of City or County regulations related to solid waste, or as otherwise defined in 14 CCR Section 18982(a)(40).

MM. "Mixed waste organic collection stream" or "mixed waste" means organic waste collected in a black container that is required by 14 CCR Sections 18984.1, 18984.2 or 18984.3 to be taken to a high diversion organic waste processing facility or as otherwise defined in 14 CCR Section 17402(a)(11.5). This definition is only applicable to select commercial and multifamily customers provided with a two (2) container collection system. Three (3) container collection system customers will use the black container waste definition instead.

NN. "Multifamily residential dwelling" or "multifamily" means of, from, or pertaining to residential premises with five (5) or more dwelling units. "Multifamily premises" does not include hotels, motels, or other transient occupancy facilities, which are considered commercial businesses. Under the SB 1383 regulations and in this chapter, multifamily residential dwellings with five (5) or more units are included under the definition of a commercial business per 14 CCR Section 18982(a)(6).

OO. "MWELO" refers to the Model Water Efficient Landscape Ordinance (MWELO), 23 CCR, Division 2, Chapter 2.7.

PP. "Noncompostable paper" includes but is not limited to paper that is coated in a plastic material that will not break down in the composting process, or as otherwise defined in 14 CCR Section 18982(a)(41).

QQ. "Nonlocal entity" means entities that are not subject to the jurisdiction's enforcement authority, or as otherwise defined in 14 CCR Section 18982(a)(42).

RR. "Nonorganic recyclables" means nonputrescible and nonhazardous recyclable wastes including but not limited to bottles, cans, metals, plastics and glass, or as otherwise defined in 14 CCR Section 18982(a)(43).

SS. "Notice of violation (NOV)" means a notice that a violation has occurred that includes a compliance date to avoid an action to seek penalties, or as otherwise defined in 14 CCR Section 18982(a)(45) or further explained in 14 CCR Section 18995.4.

TT. "Organic waste" means solid wastes containing material originating from living organisms and their metabolic waste products, including but not limited to food, green material, landscape and pruning waste, organic textiles and carpets, lumber, wood, paper products, printing and writing paper, manure, biosolids, digestate, and sludges or as otherwise defined in 14 CCR Section 18982(a)(46). Biosolids and digestate are as defined by 14 CCR Section 18982(a).

UU. "Organic waste generator" means a person or entity that is responsible for the initial creation of organic waste, or as otherwise defined in 14 CCR Section 18982(a)(48).

VV. "Paper products" includes, but is not limited to, paper janitorial supplies, cartons, wrapping, packaging, file folders, hanging files, corrugated boxes, tissue, and toweling, or as otherwise defined in 14 CCR Section 18982(a)(51).

WW. "Printing and writing papers" includes, but is not limited to, copy, xerographic, watermark, cotton fiber, offset, forms, computer printout paper, white wove envelopes, manila envelopes, book paper, notepads, writing tablets, newsprint, and other uncoated writing papers, posters, index cards, calendars, brochures, reports, magazines, and publications, or as otherwise defined in 14 CCR Section 18982(a)(54).

**XX. Prohibited Container Contaminants.**

1. For those generators provided with a three (3) container collection system (blue, green and black), "prohibited container contaminants" means the following: (a) discarded materials placed in the blue container that are not identified as acceptable source separated recyclable materials for the jurisdiction's blue container; (b) discarded materials placed in the green container that are not identified as acceptable source separated green container organic waste for the jurisdiction's green container; (c) discarded materials placed in the black container that are acceptable source separated recyclable materials and/or source separated green container organic wastes that belong in jurisdiction's green or blue container; and (d) excluded waste placed in any container.

2. For those (limited commercial and multifamily) generators provided with two (2) container (blue/black) collection service for source separated recyclable materials and mixed materials), "prohibited container contaminants" means the following: (a) discarded materials placed in a blue container that are not identified as acceptable source separated recyclable materials for jurisdiction's blue container; (b) discarded materials placed in the black container that are identified as acceptable source separated recyclable materials, which are to be separately collected in jurisdiction's blue container; and (c) excluded waste placed in any container.

YY. "Recovered organic waste products" means products made from California landfill-diverted recovered organic waste processed in a permitted or otherwise authorized facility, or as otherwise defined in 14 CCR Section 18982(a)(60).

ZZ. "Recovery" means any activity or process described in 14 CCR Section 18983.1(b), or as otherwise defined in 14 CCR Section 18982(a)(49).

AAA. "Recycled-content paper" means paper products and printing and writing paper that consists of at least thirty percent (30%), by fiber weight, postconsumer fiber, or as otherwise defined in 14 CCR Section 18982(a)(61).

BBB. "Regional agency" means the South Bayside Waste Management Authority (SBWMA) as a regional agency as defined in Public Resources Code Section 40181.

CCC. "Remote monitoring" means the use of the internet of things (IoT) and/or wireless electronic devices to visualize the contents of blue containers, green containers, and black containers for purposes of identifying the quantity of materials in containers (level of fill) and/or presence of prohibited container contaminants.

DDD. "Renewable gas" means gas derived from organic waste that has been diverted from a California landfill and processed at an in-vessel digestion facility that is permitted or otherwise authorized by 14 CCR to recycle organic waste, or as otherwise defined in 14 CCR Section 18982(a)(62).

EEE. "Restaurant" means an establishment primarily engaged in the retail sale of food and drinks for on-premises or immediate consumption, or as otherwise defined in 14 CCR Section 18982(a)(64).

FFF. "SB 1383" means Senate Bill 1383 of 2016 approved by the Governor on September 19, 2016, which added Sections 39730.5, 39730.6, 39730.7, and 39730.8 to the Health and Safety Code, and added Chapter 13.1 (commencing with Section 42652) to Part 3 of Division 30 of the Public Resources Code, establishing methane emissions reduction targets in a Statewide effort to reduce emissions of short-lived climate pollutants as amended, supplemented, superseded, and replaced from time to time.

GGG. "SB 1383 eligible mulch" means mulch eligible to meet the annual recovered organic waste product procurement target, pursuant to 14 CCR Chapter 12 of Division 7. This SB 1383 eligible mulch shall meet the following conditions for the duration of the applicable procurement compliance year, as specified by 14 CCR Section 18993.1(f)(4):

1. Produced at one (1) of the following facilities:

- a. A compostable material handling operation or facility, as defined in 14 CCR Section 17852(a)(12), that is permitted or authorized under 14 CCR Division 7, other than a chipping and grinding operation or facility as defined in 14 CCR Section 17852(a)(10).
- b. A transfer/processing facility or transfer/processing operation as defined in 14 CCR Sections 17402(a)(30) and (31), respectively, that is permitted or authorized under 14 CCR Division 7; or
- c. A solid waste landfill as defined in Public Resources Code Section 40195.1 that is permitted under 27 CCR Division 2.

2. Meet or exceed the physical contamination, maximum metal concentration, and pathogen density standards for land application specified in 14 CCR Sections 17852(a)(24.5)(A)(1) through (3), as enforced with this chapter.

HHH. "SB 1383 regulations" or "SB 1383 regulatory" means or refers to, for the purposes of this chapter, the Short-Lived Climate Pollutants: Organic Waste Reduction regulations developed by CalRecycle and adopted in 2020 that created 14 CCR, Division 7, Chapter 12 and amended portions of regulations of 14 CCR and 27 CCR.

III. "SBWMA" means the South Bayside Waste Management Authority, a regional agency, as defined in Public Resources Code Section 40181, serving its member agencies on recycling and waste issues.

JJJ. "Self-hauler" means a person who hauls solid waste, organic waste or recyclable material he or she has generated to another person. "Self-hauler" also includes a person who backhauls waste, or as otherwise defined in 14 CCR Section 18982(a)(66). "Backhaul" means generating and transporting organic waste to a destination owned and operated by the generator using the generator's own employees and equipment, or as otherwise defined in 14 CCR Section 18982(a)(66)(A).

"Self-hauler," for the purposes of edible food recovery, means a commercial edible food generator who holds a contract with and hauls edible food to a food recovery organization or other site for redistribution according to the requirements of this chapter.

KKK. "Single-family" means of, from, or pertaining to any residential premises with fewer than five (5) units.

LLL. "Solid waste" has the same meaning as defined in State Public Resources Code Section 40191, which defines solid waste as all putrescible and nonputrescible solid, semisolid, and liquid wastes, including garbage, trash, refuse, paper, rubbish, ashes, industrial wastes, demolition and construction wastes, abandoned vehicles and parts thereof, discarded home and industrial appliances, dewatered, treated, or chemically fixed sewage sludge which is not hazardous waste, manure, vegetable or animal solid and semisolid wastes, and other discarded solid and semisolid wastes, with the exception that "solid waste" does not include any of the following wastes:

1. Hazardous waste, as defined in the State Public Resources Code Section 40141.
2. Radioactive waste regulated pursuant to the State Radiation Control Law (Chapter 8 (commencing with Section 114960) of Part 9 of Division 104 of the State Health and Safety Code).
3. Medical waste regulated pursuant to the State Medical Waste Management Act (Part 14 (commencing with Section 117600) of Division 104 of the State Health and Safety Code). Untreated medical waste shall not be disposed of in a solid waste landfill, as defined in State Public Resources Code Section 40195.1. Medical waste that has been treated and deemed to be solid waste shall be regulated pursuant to Division 30 of the State Public Resources Code.

MMM. "Source separated" means materials, including commingled recyclable materials, that have been separated or kept separate from the solid waste stream, at the point of generation, for the purpose of additional sorting or processing those materials for recycling or reuse in order to return them to the economic mainstream in the form of raw material for new, reused, or reconstituted products, which meet the quality standards necessary to be used in the marketplace, or as otherwise defined in 14 CCR Section 17402.5(b)(4). For the purposes of this chapter, "source separated" shall include separation of materials by the generator, property owner, property owner's employee, property manager, or property manager's employee into different containers for the purpose of collection such that source separated materials are separated from black container waste or other solid waste for the purposes of collection and processing.

NNN. "Source separated blue container organic waste" means source separated organic wastes that can be placed in a blue container including clean paper and cardboard.

OOO. "Source separated green container organic waste" means source separated organic waste that can be placed in a green container that is specifically intended for the separate collection of organic waste, excluding source separated blue container organic waste, carpets, noncompostable paper, and textiles. Acceptable materials include food scraps, food soiled paper, plants and bio-plastics labeled "BPI Certified Compostable."

PPP. "Source separated recyclable materials" means source separated nonorganic recyclables and source separated blue container organic waste and includes clean paper and cardboard, glass bottles, cans and plastic bottles, tubs and containers.

QQQ. "State" means the State of California.

RRR. "Supermarket" means a full-line, self-service retail store with gross annual sales of two million dollars (\$2,000,000) or more, and which sells a line of dry grocery, canned goods, or nonfood items and some perishable items, or as otherwise defined in 14 CCR Section 18982(a)(71).

SSS. "Tier one commercial edible food generator" means a commercial edible food generator that is one (1) of the following:

1. Supermarket.
2. Grocery store with a total facility size equal to or greater than ten thousand (10,000) square feet.
3. Food service provider.
4. Food distributor.
5. Wholesale food vendor.

If the definition in 14 CCR Section 18982(a)(73) of "tier one commercial edible food generator" differs from this definition, the definition in 14 CCR Section 18982(a)(73) shall apply to this chapter.

TTT. "Tier two commercial edible food generator" means a commercial edible food generator that is one (1) of the following:

1. Restaurant with two hundred fifty (250) or more seats, or a total facility size equal to or greater than five thousand (5,000) square feet.
2. Hotel with an on-site food facility and two hundred (200) or more rooms.
3. Health facility with an on-site food facility and one hundred (100) or more beds.
4. Large venue.
5. Large event.
6. A State agency with a cafeteria with two hundred fifty (250) or more seats or total cafeteria facility size equal to or greater than five thousand (5,000) square feet.
7. A local education agency facility with an on-site food facility.

If the definition in 14 CCR Section 18982(a)(74) of "tier two commercial edible food generator" differs from this definition, the definition in 14 CCR Section 18982(a)(74) shall apply to this chapter.

UUU. "Wholesale food vendor" means a business or establishment engaged in the merchant wholesale distribution of food, where food (including fruits and vegetables) is received, shipped, stored, prepared for distribution to a retailer, warehouse, distributor, or other destination, or as otherwise defined in 14 CCR Section 189852(a)(76). (Ord. 1575 (Exh. A § 3), 2021)

#### **8.60.040 Requirements for single-family generators.**

Single-family organic waste generators shall comply with the following requirements except single-family generators that meet the self-hauler requirements in Section 8.60.100:

A. Shall subscribe to jurisdiction's organic waste collection services for all organic waste generated as described in subsection B of this section. Jurisdiction shall have the right to review the number and size of a generator's containers to evaluate adequacy of capacity provided for each type of collection service for proper separation of materials and containment of materials; and single-family generators shall adjust their service level for their collection services as requested by the jurisdiction. Generators may additionally manage their organic waste by preventing or reducing their organic waste, managing organic waste on site, and/or using a community composting site pursuant to 14 CCR Section 18984.9(c).

B. Shall participate in the jurisdiction's three (3) container organic waste collection service(s) by placing designated materials in designated containers as described below, and shall not place prohibited container contaminants in collection containers.

1. Generator shall place source separated green container organic waste, including food waste, in the green container; source separated blue container organic waste and recyclable materials in the blue container; and black container waste in the black container, per jurisdictional and collector guidelines. Generators shall not place materials designated for the black container into the green container or blue container. (Ord. 1575 (Exh. A § 4), 2021)

#### **8.60.050 Requirements for commercial businesses.**

Note that "commercial businesses" includes multifamily residential dwellings of five (5) and more units.

Generators that are commercial businesses, including multifamily residential dwellings, shall:

A. Subscribe to jurisdiction's three (3) container collection services and comply with requirements of those services as described in subsection B of this section, except commercial businesses that meet the self-hauler requirements in Section 8.60.100. Jurisdiction shall have the right to review the number and size of a generator's containers and frequency of collection to evaluate adequacy of capacity provided for each type of collection service for proper separation of materials and containment of materials; and commercial businesses shall adjust their service level for their collection services as requested by the jurisdiction.

B. Participate in the jurisdiction's organic waste collection service(s) by placing designated materials in designated containers as described below. Commercial businesses that meet the self-hauler requirements in Section 8.60.100 are excluded from this requirement.

1. Generator shall place source separated green container organic waste, including food waste, in the green container; source separated blue container organic waste and source separated recyclable materials in the blue container; and black container waste in the black container. Generator shall not place materials designated for the black container into the green container or blue container.

2. Generators that are offered two (2) container service (this will be limited to a specified number of commercial and multifamily generators on an invitation-only basis, based on waste quantities and type, and availability of new organics to energy processing system) shall place only source separated blue container organic waste and source separated recyclable materials in a blue container and all other materials (mixed waste) in a black container.

C. Supply and allow access to an adequate number, size and location of collection containers with sufficient labels or colors (conforming with subsections (D)(1) and (D)(2) of this section) for employees, contractors, tenants, and customers, consistent with jurisdiction's blue container, green container, and black container collection service or, if self-hauling, per the commercial business's instructions to support its compliance with its self-haul program, in accordance with Section 8.60.100.

D. Excluding multifamily residential dwellings, provide containers for the collection of source separated green container organic waste and source separated recyclable materials in all indoor and outdoor areas where disposal containers are provided for customers, for materials generated by that business. Such containers do not need to be provided in restrooms. If a commercial business does not generate any of the materials that would be collected in one (1) type of container, then the business does not have to provide that particular container in all areas where disposal containers are provided for customers. Pursuant to 14 CCR Section 18984.9(b), the containers provided by the business shall have either:

1. A body or lid that conforms with the container colors provided through the collection service provided by jurisdiction, with either lids conforming to the color requirements or bodies conforming to the color requirements or both lids and bodies conforming to color requirements. A commercial business is not required to replace functional containers, including containers purchased prior to January 1, 2022, that do not comply with the requirements of this subsection prior to the end of the useful life of those containers, or prior to January 1, 2036, whichever comes first.

2. Container labels that include language or graphic images, or both, indicating the primary material accepted and the primary materials prohibited in that container, or containers with imprinted text or graphic images that indicate the primary materials accepted and primary materials prohibited in the container. Pursuant to 14 CCR Section 18984.8, the container labeling requirements are required on new containers commencing January 1, 2022.

E. Multifamily residential dwellings are not required to comply with container placement requirements or labeling requirements in subsection D of this section pursuant to 14 CCR Section 18984.9(b).

F. To the extent practical through education, training, inspection, and/or other measures, excluding multifamily residential dwellings, prohibit employees from placing materials in a container not designated for those materials per the jurisdiction's blue container, green container, and black container collection service or, if self-hauling, per the commercial business's instructions to support its compliance with its self-haul program, in accordance with Section 8.60.100.

G. Excluding multifamily residential dwellings, annually inspect blue containers, green containers, and black containers for contamination and inform employees if containers are contaminated and of the requirements to keep contaminants out of those containers pursuant to 14 CCR Section 18984.9(b)(3).

H. Annually provide information to employees, contractors, tenants, and customers about organic waste recovery requirements and about proper sorting of source separated green container organic waste and source separated recyclable materials.

I. Provide education information before or within fourteen (14) days of occupation of the premises to new tenants that describes requirements to keep source separated green container organic waste and source separated recyclable materials separate from black container waste (when applicable) and the location of containers and the rules governing their use at each property.

J. Provide or arrange access for jurisdiction or its agent to their properties during all inspections conducted in accordance with Section 8.60.140 to confirm compliance with the requirements of this chapter.

K. Accommodate and cooperate with jurisdiction's remote monitoring program for inspection of the contents of containers for prohibited container contaminants, which may be implemented at a later date, to evaluate generator's compliance with subsection B of this section. Should a remote monitoring program be used by the jurisdiction, it shall involve installation of remote monitoring equipment on or in the blue containers, green containers, and black containers.

L. At commercial business's option and subject to any approval required from the jurisdiction, implement a remote monitoring program for inspection of the contents of its blue containers, green containers, and black containers for the purpose of monitoring the contents of containers to determine appropriate levels of service and to identify prohibited container contaminants. Generators may install remote monitoring devices on or in the blue containers, green containers, and black containers subject to written notification to or approval by the jurisdiction or its designee.

M. If a commercial business wants to self haul, meet the self-hauler requirements in Section 8.60.100.

N. Nothing in this section prohibits a generator from preventing or reducing waste generation, managing organic waste on site, or using a community composting site pursuant to 14 CCR Section 18984.9(c).

O. Commercial businesses that are tier one or tier two commercial edible food generators shall comply with edible food recovery requirements, pursuant to the edible food recovery provisions of this chapter in Section 8.60.070. (Ord. 1575 (Exh. A § 5), 2021)

#### **8.60.060 Waivers for generators.**

A. De Minimis Waivers. The jurisdiction may waive a commercial business's obligation (including multifamily residential dwellings) to comply with some or all of the organic waste requirements of this chapter if the commercial business provides documentation that the business generates below a certain amount of organic waste material as described in subsection (A)(2) of this section. Commercial businesses requesting a de minimis waiver shall:

1. Submit an application specifying the services that they are requesting a waiver from and provide documentation as noted in subsection (A)(2)(a) or (b) of this section.

2. Provide documentation that either:

a. The commercial business's total solid waste collection service is two (2) cubic yards or more per week and organic waste subject to collection in the green container comprises less than twenty (20) gallons per week per applicable container of the business's total waste; or

b. The commercial business's total solid waste collection service is less than two (2) cubic yards per week and organic waste subject to collection in the green container comprises less than ten (10) gallons per week per applicable container of the business's total waste.

3. Notify jurisdiction if circumstances change such that commercial business's organic waste exceeds threshold required for waiver, in which case waiver will be rescinded.

4. Provide written verification of eligibility for de minimis waiver every five (5) years, if jurisdiction has approved de minimis waiver.

B. Physical Space Waivers. Jurisdiction may waive a commercial business's or property owner's obligations (including multifamily residential dwellings) to comply with some or all of the recyclable materials and/or organic waste collection service requirements if the jurisdiction has evidence from its own staff, a hauler, licensed architect, or licensed engineer demonstrating

that the premises lacks adequate space for the collection containers required for compliance with the organic waste collection requirements of Section 8.60.050.

A commercial business or property owner may request a physical space waiver through the following process:

1. Submit an application form specifying the type(s) of collection services for which they are requesting a compliance waiver.
2. Provide documentation that the premises lacks adequate space for blue containers and/or green containers including documentation from its hauler, licensed architect, or licensed engineer.
3. Provide written verification to jurisdiction that it is still eligible for physical space waiver every five (5) years, if jurisdiction has approved application for a physical space waiver. (Ord. 1575 (Exh. A § 6), 2021)

**8.60.070 Requirements for tier one and tier two commercial edible food generators.**

- A. Tier one commercial edible food generators must comply with the requirements of this section commencing January 1, 2022, and tier two commercial edible food generators must comply commencing January 1, 2024, pursuant to 14 CCR Section 18991.3.
- B. Large venue or large event operators not providing food services, but allowing for food to be provided by others, shall require food facilities operating at the large venue or large event to comply with the requirements of this section commencing January 1, 2024.
- C. Tier one and tier two commercial edible food generators shall comply with the following requirements:
1. Arrange to recover the maximum amount of edible food that would otherwise be disposed of.
  2. Use the CalRecycle Model Food Recovery Agreement or the contractual elements contained in the requirements for food recovery organizations and food recovery services section of this chapter to contract with, or otherwise enter into a written agreement with, food recovery organizations or food recovery services for:
    - a. The collection of edible food for edible food recovery from the tier one or tier two commercial edible food generator's premises; or
    - b. The acceptance of edible food that the tier one or tier two commercial edible food generator self-hauls to the food recovery organization.
  3. Contract with food recovery organizations and food recovery services able to demonstrate a positive reduction in greenhouse gas emissions from their edible food recovery activity. A list of food recovery organizations and food recovery services is available on the San Mateo County Office of Sustainability website.
  4. Shall not intentionally spoil edible food that is capable of being recovered by a food recovery organization or a food recovery service.
  5. Allow jurisdiction's enforcement entity or their designee for edible food recovery to access the premises and inspect procedures and review records related to edible food recovery and/or provide them electronically if requested by the jurisdiction or the designee for edible food recovery.
  6. Keep records that include the following information:
    - a. A list of each food recovery organization or a food recovery service that collects or receives edible food from the tier one or tier two commercial edible food generator pursuant to a contract or written agreement as required by this chapter.
    - b. A copy of all contracts or written agreements established under the provisions of this chapter.
    - c. A record of the following information for each of those food recovery services or food recovery organizations:
      - i. The name, address and contact information of the food recovery service or food recovery organization.
      - ii. The types of food that will be collected by or self-hauled to the food recovery service or food recovery organization.

- iii. The established schedule or frequency that food will be collected or self-hauled.
  - iv. The quantity of food, measured in pounds recovered per month, collected or self-hauled to a food recovery service or food recovery organization for food recovery.
7. No later than June 30th of each year commencing no later than July 1, 2022, for tier one commercial edible food generators and July 1, 2024, for tier two commercial edible food generators, they shall provide an annual edible food recovery report to the designee for edible food recovery that includes, but is not limited to, the following information: a list of all contracts with food recovery organizations and food recovery services, the amount and type of edible food donated to food recovery organizations and food recovery services, the schedule of edible food pickup by food recovery organizations and food recovery services, a list of all types of edible food categories they generate, such as "baked goods," that are not accepted by the food recovery organizations and food recovery services with whom they contract, the contact information for the manager and all staff responsible for edible food recovery, and certification that all staff responsible for edible food recovery have obtained a food handler card through an American National Standards Institute (ANSI) accredited training provider that meets ASTM International E2659-09 Standard Practice for Certificate Programs, such as ServSafe. With the exception of the food safety and handling training certification, tier one and tier two commercial edible food generators may coordinate with their edible food recovery contractors to supply this information. The designee for edible food recovery will assist in the preparation of these reports by providing guidance and a template located on the San Mateo County Office of Sustainability website.
8. Mandate their edible food recovery staff learn and follow the donation guidelines and attend trainings conducted by food recovery organizations or food recovery services with which they contract regarding best practices and requirements for the timely identification, selection, preparation, and storage of edible food to ensure the maximum amount of edible food is recovered and to avoid supplying food for collection that is moldy, has been improperly stored, or is otherwise unfit for human consumption.
9. Tier one and tier two commercial edible food generators who self-haul edible food shall require those transporting edible food for recovery to obtain a food handler card through an American National Standards Institute (ANSI) accredited training provider that meets ASTM International E2659-09 Standard Practice for Certificate Programs, such as ServSafe and follow the best practices and standards for proper temperature control, methods, and procedures for the safe handling and transport of food.
- D. Nothing in this chapter shall be construed to limit or conflict with the protections provided by the California Good Samaritan Food Donation Act of 2017, the Federal Good Samaritan Act, or share table and school food donation guidance pursuant to Senate Bill 557 of 2017 (approved by the Governor of the State of California on September 25, 2017, which added Article 13 (commencing with Section 49580) to Chapter 9 of Part 27 of Division 4 of Title 2 of the Education Code, and amended Section 114079 of the Health and Safety Code, relating to food safety), as amended, supplemented, superseded and replaced from time to time. (Ord. 1575 (Exh. A § 7), 2021)
- 8.60.080 Requirements for food recovery organizations and services.**
- A. Food recovery services operating in the jurisdiction and collecting or receiving edible food directly from tier one and/or tier two commercial edible food generators via a contract or written agreement established under the requirements of this chapter shall maintain the following records:
- 1. The name, address, and contact information for each tier one and tier two commercial edible food generator from which the service collects edible food.
  - 2. The quantity in pounds of edible food by type collected from each tier one and tier two commercial edible food generator per month.
  - 3. The quantity in pounds of edible food by type transported to each food recovery organization or redistribution site per month.
  - 4. The name, address, and contact information for each food recovery organization or redistribution site that the food recovery service transports edible food to for edible food recovery.
- B. Food recovery organizations operating in the jurisdiction and collecting or receiving edible food directly from tier one and/or tier two commercial edible food generators via a contract or written agreement established under the requirements of this chapter, or receiving edible food from food recovery services or from other food recovery organizations, shall maintain the following records:

1. The name, address, and contact information for each tier one and tier two commercial edible food generator, food recovery service, or other food recovery organization from which the organization collects or receives edible food.
2. The quantity in pounds of edible food by type collected or received from each tier one or tier two commercial edible food generator, food recovery service, or other food recovery organization per month.
3. The name, address, and contact information for other food recovery organizations or redistribution sites that the food recovery organization transports edible food to for edible food recovery.

C. Food recovery organizations and food recovery services operating in the jurisdiction shall inform tier one and tier two commercial edible food generators from which they collect or receive edible food about California and Federal Good Samaritan Food Donation Act protection in written communications, such as in their contract or agreement established as required by this chapter.

D. Commencing no later than July 1, 2022, food recovery organizations and food recovery services operating in the jurisdiction and collecting or receiving edible food from tier one and tier two commercial edible food generators or any other source shall report to the designee for edible food recovery the following: a detailed edible food activity report of the information collected as required under this chapter, including weight in pounds by type and source of edible food, the schedule/frequency of pick-ups/drop-offs of edible food from/to each edible food source or redistribution site, brief analysis of any necessary process improvements or additional infrastructure needed to support edible food recovery efforts, such as training, staffing, refrigeration, vehicles, etc., and an up-to-date list of tier one and tier two commercial edible food generators with whom they have contracts or agreements established as required under this chapter. The designee for edible food recovery will assist in the preparation of these reports by providing guidance and a template located on the San Mateo County Office of Sustainability website. This edible food activity report shall be submitted quarterly, or at the discretion of the designee for edible food recovery, less frequently, and shall cover the activity that occurred since the period of the last submission.

E. Food recovery organizations and food recovery services operating in the jurisdiction shall contact the designee for edible food recovery to discuss the requirements of this chapter before establishing new contracts or agreements with tier one or tier two commercial edible food generators and in order to maintain existing contracts or agreements for the recovery of edible food with tier one and tier two commercial edible food generators.

F. In order to provide the required records to the State, the jurisdiction, or the designee for edible food recovery, and tier one or tier two commercial edible food generators, contracts between food recovery organizations and food recovery services operating in the jurisdiction and tier one and tier two commercial edible food generators shall either:

1. Use the Model Food Recovery Agreement developed by the State of California's Department of Resources Recycling and Recovery (CalRecycle) and include a clause requiring the food recovery organization or food recovery service to report to the tier one and tier two commercial edible food generators with whom they have contracts the annual amount of edible food recovered and to inform them of the tax benefits available to those who donate edible food to nonprofits; or
2. Include in their contracts the following elements:
  - a. List/description of allowable foods the food recovery organization/food recovery service will receive.
  - b. List/description of foods not accepted by the food recovery organization/food recovery service.
  - c. Conditions for refusal of food.
  - d. Food safety requirements, training, and protocols.
  - e. Transportation and storage requirements and training.
  - f. A protocol for informing the tier one or tier two commercial edible food generators of a missed or delayed pickup.
  - g. Notice that donation dumping is prohibited.
  - h. Provisions to collect sufficient information to meet the record-keeping requirements of this chapter.
  - i. Fees/financial contributions/acknowledgment of terms for the pickup and redistribution of edible food.
  - j. Terms and conditions consistent with the CalRecycle Model Food Recovery Agreement.

k. Information supplying the tier one or tier two commercial edible food generators with the annual amount of edible food recovered and informing them of the tax benefits that may be available to those who donate edible food to nonprofits.

l. Contact name, address, phone number, and email for both responsible parties, including the current on-site staff responsible for edible food recovery.

m. Food recovery organizations accepting self-hauling of edible food from tier one and tier two commercial edible food generators must provide a schedule, including days of the week and acceptable times for drop-offs, and information about any limitation on the amount of food accepted, and/or the packaging requirements or other conditions of transport, such as, but not limited to, maintaining proper temperature control, and other requirements for the safe handling and transport of food, the self-hauler must follow for the edible food to be accepted.

G. Food recovery organizations and food recovery services operating in the jurisdiction shall demonstrate that all persons, including volunteers and contracted workers using their own vehicle, involved in the handling or transport of edible food, have obtained a food handler card through an American National Standards Institute (ANSI) accredited training provider that meets ASTM International E2659-09 Standard Practice for Certificate Programs, such as ServSafe.

H. Food recovery organizations and food recovery services operating in the jurisdiction shall use the appropriate temperature control equipment and methods and maintain the required temperatures for the safe handling of edible food recovered from tier one and tier two commercial edible food generators for the duration of the transportation of the edible food for redistribution, including edible food transported by private vehicles.

I. In order to ensure recovered edible food is eaten and to prevent donation dumping, food recovery organizations and food recovery services operating in the jurisdiction shall provide documentation that all redistribution sites which are not themselves food recovery organizations to which they deliver edible food have a feeding or redistribution program in place to distribute, within a reasonable time, all the edible food they receive. Such documentation may include a website address which explains the program or pamphlets/brochures prepared by the redistribution site.

J. Food recovery organizations and food recovery services operating in the jurisdiction unable to demonstrate a positive reduction in GHG emissions for their edible food recovery operational model cannot contract with tier one and tier two commercial edible food generators in the jurisdiction for the purpose of recovering edible food as defined in this chapter. Food recovery organizations and food recovery services contracting to recover edible food from tier one and tier two commercial edible food generators for redistribution shall consult with the jurisdiction's designee for edible food recovery to document that their overall operational model will achieve a greenhouse gas emissions reduction. Such review may analyze route review, miles traveled for pick-up and redistribution, amount of food rescued, and the likelihood of consumption after redistribution.

K. Food recovery organizations and food recovery services operating in the jurisdiction shall visually inspect all edible food recovered or received from a tier one and tier two commercial edible food generator. If significant spoilage is found, or if the food is otherwise found to be unfit for redistribution for human consumption, food recovery organizations and food recovery services shall immediately notify the designee for edible food recovery using the process found on the San Mateo County Office of Sustainability website. The notice shall include:

1. The type and amount, in pounds, of spoiled food or food unfit for redistribution for human consumption, or provide a photographic record of the food, or both.
2. The date and time such food was identified.
3. The name, address and contact information for the tier one or tier two commercial edible food generator which provided the food.
4. The date and time the food was picked up or received.
5. A brief explanation of why the food was rejected or refused.

L. Contracts between tier one or tier two commercial edible food generators and food recovery organizations or food recovery services shall not include any language prohibiting tier one or tier two commercial edible food generators from contracting or holding agreements with multiple food recovery organizations or food recovery services listed on the San Mateo County Office of Sustainability website.

M. Food recovery organizations and food recovery services operating in the jurisdiction shall conduct training and develop educational material such as donation guidelines and handouts to provide instruction and direction to tier one and tier two commercial edible food generators with whom they contract regarding best practices and requirements for the timely identification, selection, preparation, and storage of edible food to ensure the maximum amount of edible food is recovered and to avoid the collection of food that is moldy, has been improperly stored, or is otherwise unfit for human consumption.

N. Edible Food Recovery Capacity Planning.

1. Food Recovery Services and Food Recovery Organizations. In order to support edible food recovery capacity planning assessments or other such studies, food recovery services and food recovery organizations operating in the jurisdiction shall provide information and consultation to the jurisdiction and its designee for edible food recovery upon request, regarding existing, or proposed new or expanded, edible food recovery capacity that could be accessed by the jurisdiction and its tier one and tier two commercial edible food generators. A food recovery service or food recovery organization contacted by the jurisdiction or its designee for edible food recovery shall respond to such requests for information within sixty (60) days.

O. Allow jurisdiction's enforcement entity or their designee for edible food recovery to access the premises and inspect procedures and review records related to edible food recovery and/or provide them electronically if requested by the jurisdiction or the designee for edible food recovery. (Ord. 1575 (Exh. A § 8), 2021)

**8.60.090 Requirements for haulers and facility operators.**

A. Requirements for Haulers.

1. Exclusive franchised hauler providing residential, commercial, or industrial organic waste collection services to generators within the jurisdiction's boundaries shall meet the following requirements and standards as a condition of approval of a contract, agreement, or other authorization with the jurisdiction to collect organic waste:

a. Through written notice to the jurisdiction annually on or before January 31st, identify, for customers with three (3) container collection, the facilities to which they will transport organic waste including facilities for source separated recyclable materials and source separated green container organic wastes and black container waste.

Through written notice to the jurisdiction annually on or before January 31st, identify, for customers with two (2) container collection system, the facilities to which they will transport source separated recyclable materials and black container waste.

b. For customers with three (3) container collection, transport source separated blue container waste to a facility that recovers those materials and source separated green container organic waste to a facility, operation, activity, or property that recovers organic waste as defined in 14 CCR, Division 7, Chapter 12, Article 2.

For customers with two (2) container collection, transport source separated blue container waste to a facility that recovers those materials and black container waste to a high diversion organic waste processing facility.

c. Obtain approval from the jurisdiction to haul organic waste, unless it is transporting source separated organic waste to a community composting site or lawfully transporting C&D in a manner that complies with 14 CCR Section 18989.1, Section 8.60.110, and jurisdiction's C&D ordinance.

2. Franchised hauler with authorization to collect organic waste shall comply with education, equipment, signage, container labeling, container color, contamination monitoring, reporting, and other requirements contained within its franchise agreement, permit, license, or other agreement entered into with jurisdiction.

B. Requirements for Facility Operators and Community Composting Operations.

1. Owners of facilities, operations, and activities that recover organic waste, including, but not limited to, compost facilities, in-vessel digestion facilities, and publicly owned treatment works shall, upon jurisdiction request, provide information regarding available and potential new or expanded capacity at their facilities, operations, and activities, including information about throughput and permitted capacity necessary for planning purposes. Entities contacted by the jurisdiction shall respond within sixty (60) days.

2. Community composting operators, upon jurisdiction request, shall provide information to the jurisdiction to support organic waste capacity planning, including, but not limited to, an estimate of the amount of organic waste anticipated to be

handled at the community composting operation. Entities contacted by the jurisdiction shall respond within sixty (60) days. (Ord. 1575 (Exh. A § 9), 2021)

#### **8.60.100 Self-hauler requirements.**

A. Self-haulers shall source separate all recyclable materials and organic waste (materials that jurisdiction otherwise requires generators to separate for collection in the jurisdiction's organics and recycling collection program) generated on site from solid waste in a manner consistent with 14 CCR Sections 18984.1 and 18984.2, or shall haul organic waste to a high diversion organic waste processing facility as specified in 14 CCR Section 18984.3.

B. Self-haulers shall haul their source separated recyclable materials to a facility that recovers those materials; and haul their source separated green container organic waste to a solid waste facility, operation, activity, or property that processes or recovers source separated organic waste. Alternatively, self-haulers may haul organic waste to a high diversion organic waste processing facility.

C. Self-haulers that are commercial businesses (including multifamily residential dwellings) shall keep a record of the amount of organic waste delivered to each solid waste facility, operation, activity, or property that processes or recovers organic waste; this record shall be subject to inspection by the jurisdiction. The records shall include the following information:

1. Delivery receipts and weight tickets from the entity accepting the waste.
2. The amount of material in cubic yards or tons transported by the generator to each entity.
3. If the material is transported to an entity that does not have scales on site, or employs scales incapable of weighing the self-hauler's vehicle in a manner that allows it to determine the weight of materials received, the self-hauler is not required to record the weight of material but shall keep a record of the entities that received the organic waste.

D. Self-haulers that are commercial businesses (including multifamily self-haulers) shall provide information collected in subsection C of this section to jurisdiction if requested.

E. A residential organic waste generator that self-hauls organic waste is not required to record or report information in subsections C and D of this section. (Ord. 1575 (Exh. A § 10), 2021)

#### **8.60.110 Compliance with CALGreen recycling requirements.**

A. Persons applying for a permit from the jurisdiction for new construction and building additions and alterations shall comply with the requirements of this section and all required components of the California Green Building Standards Code, 24 CCR, Part 11, known as CALGreen, as amended, if their project is covered by the scope of CALGreen. If the requirements of CALGreen are more stringent than the requirements of this section, the CALGreen requirements shall apply.

Project applicants shall refer to jurisdiction's building and/or planning code for complete CALGreen requirements.

B. For projects covered by CALGreen, the applicants must, as a condition of the jurisdiction's permit approval, comply with the following:

1. Where five (5) or more multifamily dwelling units are constructed on a building site, provide readily accessible areas that serve occupants of all buildings on the site and are identified for the storage and collection of blue container, green container and black container materials, consistent with the three (3) container collection program offered by the jurisdiction, or comply with provision of adequate space for recycling for multifamily and commercial premises pursuant to Sections 4.408.1, 4.410.2, 5.408.1, and 5.410.1 of the California Green Building Standards Code, 24 CCR, Part 11 as amended, provided amended requirements are more stringent than the CALGreen requirements for adequate recycling space effective January 1, 2020.
2. New commercial construction or additions resulting in more than thirty percent (30%) of the floor area shall provide readily accessible areas identified for the storage and collection of blue container and green container materials, consistent with the three (3) container collection program offered by the jurisdiction, or shall comply with provision of adequate space for recycling for multifamily and commercial premises pursuant to Sections 4.408.1, 4.410.2, 5.408.1, and 5.410.1 of the California Green Building Standards Code, 24 CCR, Part 11, as amended provided amended requirements are more stringent than the CALGreen requirements for adequate recycling space effective January 1, 2020.
3. Comply with all applicable CALGreen requirements and applicable law related to management of C&D, including diversion of organic waste in C&D from disposal. Comply with jurisdiction's C&D ordinance, Chapter 8.05, and all written

and published jurisdiction policies and/or administrative guidelines regarding the collection, recycling, diversion, tracking, and/or reporting of C&D. Jurisdiction's C&D ordinance can be found in Chapter 8.05. (Ord. 1575 (Exh. A § 11), 2021)

#### **8.60.120 Model water efficient landscaping ordinance requirements.**

- A. Property owners or their building or landscape designers, including anyone requiring a building or planning permit, plan check, or landscape design review from the jurisdiction, who are constructing a new (single-family, multifamily, public, institutional, or commercial) project with a landscape area greater than five hundred (500) square feet, or rehabilitating an existing landscape with a total landscape area greater than two thousand five hundred (2,500) square feet, shall comply with Sections 492.6(a)(3)(B), (C), (D), and (G) of the MWELO, including sections related to use of compost and mulch as delineated in this section.
- B. The following compost and mulch use requirements that are part of the MWELO are now also included as requirements of this chapter. Other requirements of the MWELO are in effect and can be found in 23 CCR, Division 2, Chapter 2.7 and in the jurisdiction's WELO, which can be found in Chapter 18.18.
- C. Property owners or their building or landscape designers that meet the threshold for MWELO compliance outlined in subsection A of this section shall:
  - 1. Comply with Sections 492.6(a)(3)(B), (C), (D) and (G) of the MWELO, which requires the submittal of a landscape design plan with a soil preparation, mulch, and amendments section to include the following:
    - a. For landscape installations, compost at a rate of a minimum of four (4) cubic yards per one thousand (1,000) square feet of permeable area shall be incorporated to a depth of six (6) inches into the soil. Soils with greater than six percent (6%) organic matter in the top six (6) inches of soil are exempt from adding compost and tilling.
    - b. For landscape installations, a minimum three (3) inch layer of mulch shall be applied on all exposed soil surfaces of planting areas except in turf areas, creeping or rooting ground covers, or direct seeding applications where mulch is contraindicated. To provide habitat for beneficial insects and other wildlife, up to five percent (5%) of the landscape area may be left without mulch. Designated insect habitat must be included in the landscape design plan as such.
    - c. Organic mulch materials made from recycled or post-consumer materials shall take precedence over inorganic materials or virgin forest products unless the recycled postconsumer organic products are not locally available. Organic mulches are not required where prohibited by local fuel modification plan guidelines or other applicable local ordinances.
  - 2. The MWELO compliance items listed in this section are not an inclusive list of MWELO requirements; therefore, property owners or their building or landscape designers that meet the threshold for MWELO compliance outlined in subsection A of this section shall consult the full MWELO for all requirements.
- D. If, after the adoption of this chapter, the California Department of Water Resources, or its successor agency, amends 23 CCR, Division 2, Chapter 2.7, Sections 492.6(a)(3)(B), (C), (D), and (G) of the MWELO September 15, 2015, requirements in a manner that requires jurisdictions to incorporate the requirements of an updated MWELO in a local ordinance, and the amended requirements include provisions more stringent than those required in this section, the revised requirements of 23 CCR, Division 2, Chapter 2.7 shall be enforced. (Ord. 1575 (Exh. A §12), 2021)

#### **8.60.130 Procurement requirements for jurisdiction departments, direct service providers, and vendors.**

- A. Jurisdiction departments, and direct service providers to the jurisdiction, as applicable, must comply with the jurisdiction's environmentally preferred purchasing policy.
- B. All vendors providing paper products and printing and writing paper shall:
  - 1. If fitness and quality are equal, provide recycled-content paper products and recycled-content printing and writing paper that consists of at least thirty percent (30%), by fiber weight, postconsumer fiber instead of nonrecycled products whenever recycled paper products and printing and writing paper are available at the same or lesser total cost than nonrecycled items.
  - 2. Provide paper products and printing and writing paper that meet Federal Trade Commission recyclability standard as defined in 16 Code of Federal Regulations (CFR) Section 260.12.
  - 3. Certify in writing, under penalty of perjury, the minimum percentage of postconsumer material in the paper products and printing and writing paper offered or sold to the jurisdiction. This certification requirement may be waived if the

percentage of postconsumer material in the paper products, printing and writing paper, or both can be verified by a product label, catalog, invoice, or a manufacturer or vendor internet website.

4. Certify in writing, on invoices or receipts provided, which may be electronic, that the paper products and printing and writing paper offered or sold to the jurisdiction are eligible to be labeled with an unqualified recyclable label as defined in 16 Code of Federal Regulations (CFR) Section 260.12 (2013).

5. Provide records to the jurisdiction's recovered organic waste product procurement recordkeeping designee, in accordance with the jurisdiction's recycled-content paper procurement policy(ies) of all paper products and printing and writing paper purchases within thirty (30) days of the purchase (both recycled-content and nonrecycled-content, if any is purchased) made by any division or department or employee of the jurisdiction. Records shall include a copy (electronic or paper) of the invoice or other documentation of purchase, written certifications as required in subsections (B)(3) and (B)(4) of this section for recycled-content purchases, purchaser name, quantity purchased, date purchased, and recycled content (including products that contain none), and if nonrecycled-content paper products or printing and writing papers are provided, include a description of why recycled-content paper products or printing and writing papers were not provided.

C. All vendors providing compost to the jurisdiction shall provide compost that meets the definition in Section 8.60.030(J).

D. All vendors providing mulch to the jurisdiction shall provide SB 1383 eligible mulch that meets the definition in Section 8.60.030(GGG). (Ord. 1575 (Exh. A § 13), 2021)

#### **8.60.140 Inspections and investigations by jurisdiction.**

A. Jurisdiction representatives and/or its designated entity, including the designee for edible food recovery are authorized to conduct inspections and investigations, at random or otherwise, of any collection container, collection vehicle loads, or transfer, processing, or disposal facility for materials collected from generators, or source separated materials to confirm compliance with this chapter by organic waste generators, commercial businesses (including multifamily residential dwellings), property owners, tier one and tier two commercial edible food generators, haulers, self-haulers, food recovery services, and food recovery organizations, subject to applicable laws.

This section does not allow jurisdiction to enter the interior of a private residential property for inspection.

For the purposes of inspecting commercial business containers for compliance with Section 8.60.050(B), jurisdiction may conduct container inspections for prohibited container contaminants using remote monitoring, and commercial businesses shall accommodate and cooperate with the remote monitoring pursuant to Section 8.60.050(K).

B. Regulated entity shall provide or arrange for access during all inspections (with the exception of residential property interiors) and shall cooperate with the jurisdiction's employee or its designated entity or designee for edible food recovery during such inspections and investigations. Such inspections and investigations may include confirmation of proper placement of materials in containers, edible food recovery activities, records, or any other requirement of this chapter described herein. Failure to provide or arrange for: (1) access to an entity's premises; (2) installation and operation of remote monitoring equipment; or (3) access to records for any inspection or investigation is a violation of this chapter and may result in penalties described.

C. Any records obtained by a jurisdiction or designee for edible food recovery during its inspections, remote monitoring, and other reviews shall be subject to the requirements and applicable disclosure exemptions of the Public Records Act as set forth in Government Code Section 6250 et seq.

D. Jurisdiction representatives, its designated entity, and/or designee for edible food recovery are authorized to conduct any inspections, remote monitoring, or other investigations as reasonably necessary to further the goals of this chapter, subject to applicable laws.

E. Jurisdiction and designee for edible food recovery shall receive written complaints from persons regarding an entity that may be potentially noncompliant with SB 1383 regulations, including receipt of anonymous complaints. (Ord. 1575 (Exh. A § 14), 2021)

#### **8.60.150 Enforcement.**

A. Violation of any provision of this chapter shall constitute grounds for issuance of a notice of violation and assessment of a fine by a jurisdiction enforcement official, designee for edible food recovery, or representative. Enforcement actions under this chapter are issuance of an administrative citation and assessment of a fine. The jurisdiction's procedures on imposition of

administrative fines are hereby incorporated in their entirety, as modified from time to time, and shall govern the imposition, enforcement, collection, and review of administrative citations issued to enforce this chapter and any rule or regulation adopted pursuant to this chapter, except as otherwise indicated in this chapter.

B. Other remedies allowed by law may be used, including civil action or prosecution as misdemeanor or infraction. Jurisdiction or designee for edible food recovery may pursue civil actions in the California courts to seek recovery of unpaid administrative citations. Jurisdiction or designee for edible food recovery may choose to delay court action until such time as a sufficiently large number of violations, or cumulative size of violations, exists such that court action is a reasonable use of jurisdiction or designee for edible food recovery staff and resources.

C. Responsible Entity for Enforcement.

1. Enforcement pursuant to this chapter may be undertaken by the jurisdiction enforcement official, which may be the City Manager or their designee, legal counsel, or combination thereof, or designee for edible food recovery.
  - a. Jurisdiction enforcement official(s) and designee for edible food recovery (for edible food recovery provisions) will interpret chapter; determine the applicability of waivers, if violation(s) have occurred; implement enforcement actions; and determine if compliance standards are met.
  - b. Jurisdiction enforcement official(s) and designee for edible food recovery (for edible food recovery provisions) may issue notices of violation(s).

D. Process for Enforcement.

1. Jurisdiction enforcement officials or designee for edible food recovery and/or their designee will monitor compliance with this chapter randomly and through compliance reviews, route reviews, investigation of complaints, and an inspection program (that may include remote monitoring). Section 8.60.140 establishes jurisdiction's and designee for edible food recovery's right to conduct inspections and investigations.
2. Jurisdiction or designee for edible food recovery may issue an official notification to notify regulated entities of its obligations under this chapter.
3. For incidences of prohibited container contaminants found in containers, jurisdiction will issue a notice of violation to any generator found to have prohibited container contaminants in a container. Such notice will be provided via a cart tag or other communication immediately upon identification of the prohibited container contaminants or within thirty (30) days after determining that a violation has occurred. If the jurisdiction observes prohibited container contaminants in a generator's containers on more than two (2) consecutive occasions, the jurisdiction may assess contamination processing fees or contamination penalties on the generator.

The jurisdiction or its designee for edible food recovery will issue a notice of violation to any tier one or tier two commercial edible food generator found to have edible food in any waste container or to any food recovery organization or food recovery service found to have edible food recovered from a tier one or tier two edible food generator in a waste collection container which has not been documented by a notice of significant spoilage as required in this chapter. Such notice will be provided by email communication immediately upon identification of the violation or within three (3) calendar days after determining that a violation has occurred. If the jurisdiction or its designee for edible food recovery observes edible food in a tier one or tier two commercial edible food generator, or food recovery organization, or food recovery service waste container on more than two (2) consecutive occasions, the jurisdiction or its designee for edible food recovery may assess an administrative citation and fine, pursuant to the edible food recovery penalties provisions contained in this chapter, on the tier one or tier two commercial edible food generator, food recovery organization, or food recovery service.

4. With the exception of violations of generator contamination of container contents addressed under subsection (D)(3) of this section, jurisdiction or designee for edible food recovery shall issue a notice of violation requiring compliance within sixty (60) days of issuance of the notice.

5. Absent compliance by the respondent within the deadline set forth in the notice of violation, jurisdiction or designee for edible food recovery (for the edible food recovery provisions) shall commence an action to impose penalties via an administrative citation and fine, pursuant to its administrative citation and fine procedures.

For the purposes of edible food recovery, the designee for edible food recovery shall commence an action to impose penalties, via an administrative citation and fine, pursuant to the edible food recovery penalties provisions contained in

this chapter.

Notices shall be sent to "owner" at the official address of the owner maintained by the tax collector for the jurisdiction or, if no such address is available, to the owner at the address of the dwelling or commercial property or to the party responsible for paying for the collection services, depending upon available information.

**E. Penalty Amounts for Types of Violations.** The penalty levels for violations are as follows:

1. For a first violation, the amount of the base penalty shall be one hundred dollars (\$100.00) per violation.
2. For a second violation, the amount of the base penalty shall be two hundred dollars (\$200.00) per violation.
3. For a third or subsequent violation, the amount of the base penalty shall be five hundred dollars (\$500.00) per violation.

**F. Compliance Deadline Extension Considerations.** The jurisdiction or designee for edible food recovery (the County for edible food generator and food recovery organization and services requirements) may extend the compliance deadlines set forth in a notice of violation issued in accordance with Section 8.60.150 if it finds that there are extenuating circumstances beyond the control of the respondent that make compliance within the deadlines impracticable, including the following:

1. Acts of God such as earthquakes, wildfires, flooding, and other emergencies or natural disasters;
2. Delays in obtaining discretionary permits or other government agency approvals; or
3. Deficiencies in organic waste recycling infrastructure or edible food recovery capacity and the jurisdiction is under a corrective action plan with CalRecycle pursuant to 14 CCR Section 18996.2 due to those deficiencies.

**G. Appeals Process.** Persons receiving an administrative citation containing a penalty for an uncorrected violation may request a hearing to appeal the citation. A hearing will be held only if it is requested within the time prescribed and consistent with jurisdiction's or designee for edible food recovery's procedures in the jurisdiction's or designee for edible food recovery's codes for appeals of administrative citations. Evidence may be presented at the hearing. The jurisdiction or designee for edible food recovery will appoint a hearing officer who shall conduct the hearing and issue a final written order.

**H. Education Period for Noncompliance.** Beginning January 1, 2022, and through December 31, 2023, jurisdiction or designee for edible food recovery (for edible food generator and food recovery organization and service requirements) may conduct inspections, remote monitoring, route reviews or waste evaluations, and compliance reviews, depending upon the type of regulated entity, to determine compliance, and if jurisdiction or designee for edible food recovery determines that organic waste generator, self-hauler, hauler, tier one commercial edible food generator, food recovery organization, food recovery service, or other entity is not in compliance, it shall provide educational materials and/or, for the purposes of edible food recovery, training to the entity describing its obligations under this chapter and a notice that compliance is required by January 1, 2022, and that violations may be subject to administrative civil penalties starting on January 1, 2024.

**I. Civil Penalties for Noncompliance.** Beginning January 1, 2024, if the jurisdiction or designee for edible food recovery (designee for edible food determination only for tier 1 and tier 2 commercial edible food generator and food recovery organization and service requirements) determines that an organic waste generator, self-hauler, hauler, tier one or tier two commercial edible food generator, food recovery organization, food recovery service, or other entity is not in compliance with this chapter, it shall document the noncompliance or violation, issue a notice of violation, and take enforcement action pursuant to Section 8.60.150, as needed. (Ord. 1575 (Exh. A § 15), 2021)

**Title 9  
PUBLIC PEACE AND WELFARE**

**Chapters:**

**9.05 Amusement Devices**

**9.10 Intoxicating Beverages**

**9.24 Weapons**

**9.30 Noise Control**

**9.32 Unruly Gatherings**

**9.34 Curfew Regulations****9.40 Public Dances****Chapter 9.05  
AMUSEMENT DEVICES**

Sections:

**9.05.010 Definitions.****9.05.020 Permits required.****9.05.025 Responsibilities of business operator upon whose premises amusement devices are found.****9.05.030 Operator's permit—Application.****9.05.040 Investigation.****9.05.050 Issuance of permits.****9.05.060 Hearing upon denial of permit.****9.05.070 Amusement device tag.****9.05.080 Display of tag or plate.****9.05.085 Display of information concerning distributor.****9.05.086 Untagged devices—Nuisance—Reconnection fees—Administrative fees.****9.05.090 Transfer of permit.****9.05.100 Revocation of permit.****9.05.110 Permit in addition to business license or other permit.****9.05.120 Nonconforming businesses—Amortization.****9.05.130 Development standards.****9.05.140 Development plans required.****9.05.150 Licenses—Amusement device arcades and amusement devices.****9.05.160 Limitations on location of amusement device arcades and amusement devices.****9.05.170 Enforcement.****9.05.180 Violation—Penalty.****9.05.010 Definitions.**

As used in this chapter, the following words shall have the following meanings:

A. "Amusement device" means and includes any device, machine, apparatus or other instrument operated electrically, mechanically or manually, for amusement purposes only (other than those now or hereafter prohibited by the ordinances of the City or the laws of the State, and other than mechanical and electrical musical devices), for the use of which there is required to be deposited in such device, machine, apparatus or instrument a coin, token or other thing of value (for example, a video game or a pinball machine).

B. "Amusement device arcade" means any place of business to which the public is admitted wherein three or more amusement devices are maintained.

C. "Amusement device operator" means any person required to obtain a permit under this chapter.

D. "Person" means any natural person, firm, partnership, corporation or association. The singular use includes the plural. (Ord. 1114 § 2 (part), 1992)

**9.05.020 Permits required.**

A. Amusement Device Operator's Permit. It is unlawful for any person to engage in the business of renting, operating, leasing, selling or maintaining one or more amusement devices in the City without first having secured a permit from the City to do so.

B. Conditional Use Permit. Any business that operates three or more amusement devices shall be considered an "amusement device arcade" and shall acquire an approved conditional use permit, issued by the Planning Commission in accordance with Title 18 of this Code, prior to applying for an amusement device operator's permit. An amusement device arcade shall meet all requirements of Title 18, known as the Zoning Ordinance, City of San Carlos. (Ord. 1114 § 2 (part), 1992)

**9.05.025 Responsibilities of business operator upon whose premises amusement devices are found.**

A. It is unlawful for any person operating any business enterprise within the City to have in operation upon the premises of such person any amusement device, as defined in this chapter, which does not have affixed thereto or posted in a conspicuous place nearby the tag or plate issued under this chapter as required by Section 9.05.080. This section shall not apply to a person owning, operating and maintaining not more than two amusement devices as an incidental business use at a local place of business having the requisite business license pursuant to Title 5 of the San Carlos Municipal Code so long as the person actually owns, operates and maintains the device himself.

B. Any person operating any business enterprise within the City which has in operation upon the premises of such person any amusement device as defined in this chapter shall, at the time of renewal of the annual business license for such business, provide to the City a list of all amusement devices then on the premises and the names and addresses of the distributors of each such device.

C. Each such business operator shall notify the business license section within ten days after any change is made in the number of amusement devices on his premises for which a permit is required or after any change in the name or address of the distributor of any such amusement device is made. Any such person shall also notify the business license section immediately if an untagged amusement device is installed upon his premises. (Ord. 1114 § 2 (part), 1992)

**9.05.030 Operator's permit—Application.**

A. An applicant for an amusement device operator's permit shall submit an application to the Chief of Police on a form furnished by the City. The application shall be accompanied by a fully executed fingerprint card as to each such applicant, prepared under the direction of the Chief of Police. An applicant shall pay a fee established by City Council resolution to cover the costs of the investigation. A permit may be renewed annually upon payment of the annual permit fee as established by the City Council resolution.

B. "Persons financially interested" means and includes all persons who are officers or directors of a corporation or shareholders holding more than three percent of the shares thereof or persons who share in the profits of a noncorporate business on the basis of gross or net revenue, but it does not include persons who receive a portion of such gross or net revenue in return for the privilege of permitting any other person to maintain such amusement device in their place of business. (Ord. 1114 § 2 (part), 1992)

**9.05.040 Investigation.**

The Chief of Police shall carefully investigate the applicant's background and the facts and circumstances concerning the application submitted to him pursuant to Section 9.05.030. (Ord. 1114 § 2 (part), 1992)

**9.05.050 Issuance of permits.**

A. The Chief of Police shall either approve or deny the issuance of the permit to the applicant within forty-five days of the date that a completed application is submitted to him. The Chief of Police may deny a permit on any of following grounds:

1. The operation will not comport with the peace, health, safety, convenience and general welfare of the public;
2. The operation has been or is a public nuisance;
3. The operation would be in violation of a City ordinance, State law or Federal law;
4. The applicant made a false, misleading or fraudulent statement of fact in his application for a permit;
5. The operation by the applicant will be carried on in a building, structure and location which does not comply with and meet all of the health, zoning, fire and safety requirements and standards of the laws of the State and ordinances of the City;

B. The Police Chief shall notify the applicant of the denial of his application for a permit and the reasons therefor. Service of such notice shall be made personally or by certified mail. Such notice shall include a description of the applicant's appeal rights. (Ord. 1114 § 2 (part), 1992)

**9.05.060 Hearing upon denial of permit.**

Within ten days after service upon him of a written notice of the Police Chief's denial of his application for a permit, the applicant may file a request for appeal in writing and signed by or on behalf of the applicant and shall state his mailing address. It need not be verified or follow any particular form. Failure to file such a request for an appeal shall constitute a waiver of the applicant's right to an appeal. No further notice other than notice of the date and place of hearing need be served on the applicant. (Ord. 1114 § 2 (part), 1992)

**9.05.070 Amusement device tag.**

Upon the issuance of any amusement device operator's permit, the applicant therefor shall notify the Finance Department of the City in writing of the location of each amusement device, and in the event of any change in the location of any amusement device the permittee shall notify the Finance Department of the change within ten days including the address of the new location. At the time of issuing a business license for any amusement device, the Finance Department shall issue a tag or plate for each amusement device to be operated by the amusement device operator within the City limits, and such tags or plates shall be given serial numbers consecutively in the order of their issuance. The tags and plates shall be of wear-resistant materials. (Ord. 1114 § 2 (part), 1992)

**9.05.080 Display of tag or plate.**

Every amusement device operator shall at all times have affixed to or posted conspicuously nearby each amusement device regulated under the terms of this chapter the tag or plate issued under this chapter. (Ord. 1114 § 2 (part), 1992)

**9.05.085 Display of information concerning distributor.**

Every amusement device regulated under the terms of this chapter shall at all times have affixed thereto in a conspicuous place thereon a tag, label, owner identification card or other identifying device listing the name, current address and current telephone number of the distributor of such amusement device. (Ord. 1114 § 2 (part), 1992)

**9.05.086 Untagged devices—Nuisance—Reconnection fees—Administrative fees.**

A. Any amusement device not having the tags required by Section 9.05.080 or the information required by Sections 9.05.085 and Subsection B of Section 9.05.025 is declared a nuisance, and shall be subject to disconnection and removal by the City. A representative of the City shall be authorized to disconnect and render the amusement device inoperative, following which the machine shall not be reconnected or returned to operation until the requirements of the City code are met.

B. The Finance Department shall assess the person operating a business enterprise within the City upon whose premises one or more untagged amusement devices are found for each such untagged amusement device, and for each amusement device for which the information required under Section 9.05.085 and Subsection B of Section 9.05.025 has not been provided, an administrative fee set by City Council resolution in an amount computed to cover the average cost of investigating, locating, disconnecting and controlling untagged amusement devices and inadequately identified amusement devices. (Ord. 1114 § 2 (part), 1992)

**9.05.090 Transfer of permit.**

No amusement device operator's permit issued pursuant to this chapter shall be assignable or transferable either voluntarily or by operation or law or otherwise. (Ord. 1114 § 2 (part), 1992)

**9.05.100 Revocation of permit.**

The City Manager shall have the power, for good cause shown, to revoke or suspend any amusement device operator's permit issued under this chapter. Failure to pay any reconnect fee provided for in Section 9.05.086, or any conduct deleterious to the public health, welfare or morals, and the existence of any of the reasons for a denial of a permit as set forth in Section 9.05.050, shall each constitute good cause for suspension or revocation. Any such suspension or revocation shall be subject to appeal to the City Council and the suspension or revocation shall be stayed pending the hearing before the City Council. (Ord. 1114 § 2 (part), 1992)

**9.05.110 Permit in addition to business license or other permit.**

The permit required under the terms of this chapter shall be in addition and supplemental to any business license or any permit required by any ordinance of the City. (Ord. 1114 § 2 (part), 1992)

**9.05.120 Nonconforming businesses—Amortization.**

Any amusement device arcade or amusement device in existence in any zone in the City as of the effective date of the ordinance codified in this chapter shall, on or before January 1, 1994, either comply with the provisions of this chapter or be terminated as a nonconforming use. (Ord. 1114 § 2 (part), 1992)

**9.05.130 Development standards.**

The following development standards and regulations shall apply to all amusement device arcades located in the City and shall be included in the conditions imposed upon the granting of any conditional use permit for such establishments:

- A. All amusement devices within the premises shall be visible to and supervised by an adult attendant who shall be present at all times when any amusement device is being operated.
- B. The supervision of the patrons on the premises shall be adequate to insure that there is no conduct which is detrimental to the public health, safety and general welfare.
- C. During the school year, persons under the age of eighteen shall not be allowed to operate amusement devices Monday through Friday, except legal school holidays, between the hours of eight a.m. and three p.m., unless accompanied by an authorized agent of the school district or such person's parent or guardian. It shall be the responsibility of the adult attendant to enforce this regulation. The operator shall prominently display the hours of permitted operation.
- D. Outside security lighting shall be provided under the direction and upon the recommendation of the Police Department.
- E. Adequate parking and bicycle racks shall be provided.
- F. Public restrooms shall be provided.
- G. A minimum of two footcandle illumination generally distributed shall be maintained in all parts of the premises at all times when the arcade is open and when the public is permitted to enter or remain therein.
- H. Provision shall be made to reduce noise caused by the operation of the amusement devices and the patrons thereof.
- I. No amusement device shall be situated in such a way that its use will violate any applicable fire regulation or hinder the reasonable egress from and ingress to the premises by the public.
- J. A master switch which allows all amusement devices to be turned on or off simultaneously shall be required. (Ord. 1114 § 2 (part), 1992)

**9.05.140 Development plans required.**

All applications for amusement device arcade conditional use permits shall be accompanied by a development plan which complies with the provisions of this Code, sufficient in detail to indicate how the applicant proposes to comply with the conditions set forth in Section 9.05.140 of this chapter, and indicating thereon the proposed location on the premises of each amusement device. (Ord. 1114 § 2 (part), 1992)

**9.05.150 Licenses—Amusement device arcades and amusement devices.**

A. It shall be unlawful for any amusement device arcade to conduct business without, in addition to obtaining all conditional use permits required by this Code and all other permits or certificates required by law, obtaining a license and paying the license fee as required by Title 5 of this Code.

B. It shall be unlawful for any person to operate or maintain amusement devices on his premises without, in addition to complying with the provisions of this chapter and all other permits and certificates required by law, obtaining a license for each amusement device and paying the license fee as required by Title 5 of this Code. (Ord. 1114 § 2 (part), 1992)

**9.05.160 Limitations on location of amusement device arcades and amusement devices.**

A. No amusement device shall be maintained, operated, conducted, or used, nor kept for such purposes, in or on the premises of any establishment whose primary business is the retail sale of alcoholic beverages or within ten feet of the liquor retail department of any multi- department business establishment. This subsection shall not prohibit the operation of amusement devices in bona fide clubs, bars, saloons, taverns or restaurants which are licensed to sell alcoholic beverages.

B. No amusement device shall be maintained, operated, conducted, or used, nor kept for such purposes, within any place which is closer than three hundred feet from any public or private school which conducts classes for any of the grades from kindergarten through twelfth grade. (Ord. 1114 § 2 (part), 1992)

**9.05.170 Enforcement.**

It shall be the duty of the Chief of Police to enforce this chapter. (Ord. 1114 § 2 (part), 1992)

#### **9.05.180 Violation—Penalty.**

Any person violating any provision of this chapter or failing to perform the duties imposed hereunder is guilty of a misdemeanor, which upon conviction thereof is punishable in accordance with the provisions of this Code. (Ord. 1114 § 2 (part), 1992)

### **Chapter 9.10 INTOXICATING BEVERAGES**

Sections:

**9.10.010 Drinking in certain public areas prohibited.**

**9.10.020 Drinking on private property used as parking lots.**

**9.10.030 Consumption of alcoholic beverages by minors on private property—Prohibited activity.**

**9.10.010 Drinking in certain public areas prohibited.**

It is unlawful for any person to drink any beer, wine or other intoxicating beverage on any public sidewalk, alley, street or highway. This section shall not be deemed to make punishable any such act or acts which are prohibited by the Vehicle Code or by any other law of the State of California. (Ord. 980 § 1, 1987)

**9.10.020 Drinking on private property used as parking lots.**

It is unlawful for any person to drink any beer, wine or other intoxicating beverage upon that portion of private property open to the public, and within five hundred feet of any public sidewalk, alley, street or highway, which is used or intended to be used for the parking or storage of motor vehicles by customers or employees of any business, commercial or industrial establishment without the express written permission of the owner, his agent, or person in lawful possession thereof. This section shall not be deemed to make punishable any such act or acts which are prohibited by the Vehicle Code or by any other law of the State of California. (Ord. 981 § 1, 1987)

**9.10.030 Consumption of alcoholic beverages by minors on private property—Prohibited activity.**

It is unlawful for any person in ownership, possession or control of any private residence, property, place or premises to permit, allow, suffer or host, at such residence, property or place, any gathering of persons under the age of twenty-one years where alcoholic beverages are in the possession of, or are being consumed by, any person under the age of twenty-one years. Each violation of this section shall constitute a misdemeanor punishable by a fine of not more than one thousand dollars or by imprisonment for a period not to exceed six months, or by both such fine and imprisonment. (Ord. 1089 § 1, 1991)

### **Chapter 9.24 WEAPONS\***

Sections:

**9.24.010 Definitions.**

**9.24.020 Discharge of firearms prohibited.**

**9.24.030 Discharge of firearms prohibited—Exceptions.**

**9.24.040 Firearms prohibited at public gatherings.**

**9.24.050 Firearms prohibited at public gatherings—Exceptions.**

**9.24.060 Firearms prohibited at public gatherings—Permit conditions.**

**9.24.070 Penalty.**

**9.24.080 Undertaking for the general welfare.**

\*Prior legislation: Ord. 450.

**9.24.010 Definitions.**

For the purpose of this chapter, unless the context clearly requires a different meaning, the following words, terms and phrases have the following meanings:

“Demonstration” shall mean a group of persons advocating for or against a political or other cause by conveying a message to the public through expressive conduct, such as carrying or wearing signs, singing or speaking.

"Firearm" means any gun, pistol, revolver, rifle, or any other device designed or modified to be used as a weapon, from which is expelled through a barrel a projectile by the force of an explosion or other form of combustion. The term "firearm" does not include imitation firearms as defined by California Penal Code Section 16700, or BB devices or air rifles as defined in California Penal Code Section 16250.

"Locked container" means a locked container as defined in Penal Code Section 16850, as may be amended from time to time, that is listed on the California Department of Justice Bureau of Firearms roster of approved firearm safety devices.

"Public gathering" shall mean: (1) an event that requires a special event permit, encroachment permit, or other temporary use permit and involves twenty or more persons; (2) a demonstration held in the right-of-way involving twenty or more persons within an area circumscribed by a five-hundred-foot radius; or (3) a demonstration on publicly owned land within the geographic boundaries of the City involving twenty or more persons within an area circumscribed by a five-hundred-foot radius.

"Right-of-way" means any area across, along, on, over, upon, or within the dedicated public alleys, boulevards, courts, lanes, roads, sidewalks, streets and ways within the City. (Ord. 1542 § 3 (part), 2019)

**9.24.020 Discharge of firearms prohibited.**

Except as provided in Section 9.24.030, it shall be unlawful for any person at any time to fire or discharge, or cause to be fired or discharged, any firearm within the City limits. (Ord. 1542 § 3 (part), 2019)

**9.24.030 Discharge of firearms prohibited—Exceptions.**

Section 9.24.020 shall not apply to the following:

- A. Sheriffs, constables, marshals, police officers, or other duly appointed peace officers in the performance of their official duties, or any person summoned by such officer to assist in making arrests or preserving the peace while said person so summoned is actually engaged in assisting such officer; or
- B. Persons in lawful possession of a handgun who discharge said handgun in necessary and lawful defense of self or others while on private property; or
- C. Persons in lawful possession of a firearm who are expressly and specifically authorized by Federal or State law to discharge said firearm under the circumstances present at the time of discharge; or
- D. Persons in lawful possession of a firearm who are discharging said firearm at a legally permitted shooting range. (Ord. 1542 § 3 (part), 2019)

**9.24.040 Firearms prohibited at public gatherings.**

Except as provided in Section 9.24.050, no person shall possess a firearm at any public gathering. (Ord. 1542 § 3 (part), 2019)

**9.24.050 Firearms prohibited at public gatherings—Exceptions.**

Section 9.24.040 shall not apply to the following:

- A. A peace officer, retired peace officer, or person assisting a peace officer, when authorized to carry a concealed weapon under California Penal Code Section 25450 et seq. or a loaded firearm under California Penal Code Section 25900 et seq., and/or under 18 U.S.C. Section 926B or 926C;
- B. Members of the armed forces when on duty, and members of other organizations when authorized to carry a concealed weapon under California Penal Code Section 25620 or a loaded firearm under California Penal Code Section 26000;
- C. Military or civil organizations carrying unloaded weapons while parading or when authorized to carry a concealed weapon under California Penal Code Section 25625;
- D. Patrol special police officers, animal control officers, zookeepers and harbor police officers, when authorized to carry a loaded firearm under California Penal Code Section 26025; and
- E. A guard or messenger of a common carrier, bank, or other financial institution; a guard of a contract carrier operating an armored vehicle; a licensed private investigator, patrol operator, or alarm company operator; a uniformed security guard or night watch person employed by a public agency; a uniformed security guard or uniformed alarm agent; a uniformed employee of a private patrol operator or private investigator, when any of the above are authorized to carry a loaded firearm under California Penal Code Section 26030. (Ord. 1542 § 3 (part), 2019)

**9.24.060 Firearms prohibited at public gatherings—Permit conditions.**

For any public gathering that requires a permit issued by the City, the City official, department, board, commission, committee, or other authority responsible for issuing such permit shall include as a condition of the permit that firearms be prohibited at the public gathering, subject to the exceptions stated in Section 9.24.050. This chapter shall not preclude the City from exercising its discretion to impose a similar condition on a permit that does not meet the definition of a public gathering. (Ord. 1542 § 3 (part), 2019)

#### **9.24.070 Penalty.**

Any person who violates this chapter shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a fine not to exceed one thousand dollars or by imprisonment in the County Jail not to exceed six months, or both. (Ord. 1542 § 3 (part), 2019)

#### **9.24.080 Undertaking for the general welfare.**

In enacting and implementing this chapter, the City is assuming an undertaking only to promote the general welfare. It is not assuming, nor is it imposing on its officers and employees, an obligation for breach of which it is liable in money damages to any person who claims that such breach proximately caused injury. (Ord. 1542 § 3 (part), 2019)

### **Chapter 9.30 NOISE CONTROL**

Sections:

**9.30.010 Declaration of policy.**

**9.30.020 Definitions.**

**9.30.030 Basic noise regulation.**

**9.30.040 Permit to exceed noise levels.**

**9.30.050 Enforcement.**

**9.30.060 Violation—Penalty.**

**9.30.070 Exempt activities.**

#### **9.30.010 Declaration of policy.**

In accordance with the General Plan of the City which calls for the "maintenance and enhancement of quality residential areas," it is declared that the policy of the City is to protect the peace, health and safety of its citizens from unnecessary and unreasonable noises produced by any machine, person or device. It shall also be the City's policy to continuously evaluate the noise levels specified in the body of this chapter and adjust them as quieter equipment becomes available or as demanded by State and Federal requirements. (Ord. 1439 § 4 (Exh. B (part)), 2011: Ord. 1086 § 1 (part), 1991)

#### **9.30.020 Definitions.**

As used in this chapter:

A. "Ambient" means the lowest sound level repeating itself during a six-minute period, using the A scale, and with the sound meter set on "slow." For the purpose of this chapter, in no case shall the ambient be considered less than thirty-five dBA. In cases in which the ambient level cannot be determined by field observation, the diagram showing existing noise levels contained in the General Plan Noise Element shall establish the appropriate ambient level.

B. "Emergency" means an unforeseen combination of circumstances which require immediate action.

C. "Noise level" means the maximum continuous sound level or repetitive peak level measured using the A scale set on "slow."

D. "Precision sound level meter" means a device for measuring sound level in decibel units according to the American National Standards Institute.

E. "Sound level" shall be expressed in decibels (dBA) as defined by the American National Standards Institute using the A-level scale.

F. "Vehicle" means any device by which any person or property may be propelled, moved or drawn upon a highway or street or private property. (Ord. 1439 § 4 (Exh. B (part)), 2011: Ord. 1086 § 1 (part), 1991)

**9.30.030 Basic noise regulation.**

Except as otherwise permitted under this chapter, no person shall cause and no property owner shall permit, as to property owned by him, a noise produced by any person, amplified sound or device, or any combination thereof in excess of the noise limits established in Table 18.21.050-A to emanate from any property, public or private, as measured at the receiving property line. (Ord. 1439 § 4 (Exh. B (part)), 2011: Ord. 1086 § 1 (part), 1991)

**9.30.040 Permit to exceed noise levels.**

- A. The City Planner may grant an emergency permit to waive time and noise level limitations on equipment when it is required to protect lives or property.
- B. Special events or circumstances may warrant temporary exception to noise levels established in this chapter. In such cases application for a permit may be made to the City Planner, stating in writing: (1) the name, address and telephone number of the property owner responsible for the activity; and (2) the purpose for which such permit is applied for, the date and beginning and ending time thereof, and a description of the sound-producing or sound-amplifying device to be used, together with a full statement of facts justifying noncompliance. Such permits shall be issued or denied based upon a balancing of the interests of the applicant against those of surrounding residents, and shall include consideration of duration of the permit, frequency of occurrence, number of persons benefited by the activity, and other similar factors.
- C. Any applicant desiring to appeal from a denial of a permit by the City Planner shall notify the City Clerk of such appeal within ten days of the denial. The appeal shall be to the City Council. The City Council shall either affirm, overrule or modify the decision of the City Planner, based upon the factors set forth in this chapter.
- D. All permits issued under this chapter shall be issued for a limited time period, except that permits for recurring athletic and social events sponsored by schools, churches or similar organizations may be issued for periods of twelve months.
- E. The City may set a fee for this permit by resolution. (Ord. 1439 § 4 (Exh. B (part)), 2011: Ord. 1086 § 1 (part), 1991)

**9.30.050 Enforcement.**

Enforcement of this chapter shall fall under the jurisdiction of the San Carlos Police Department. The Department shall investigate alleged violations of the chapter on a complaint basis. (Ord. 1439 § 4 (Exh. B (part)), 2011: Ord. 1086 § 1 (part), 1991)

**9.30.060 Violation—Penalty.**

Violation of the provisions of this chapter shall be a misdemeanor. At the discretion of the Police Chief, the violation may be treated as an infraction punishable by a fine of up to two hundred fifty dollars for each violation. A violation of this chapter shall also be deemed to be a public nuisance. (Ord. 1439 § 4 (Exh. B (part)), 2011: Ord. 1086 § 1 (part), 1991)

**9.30.070 Exempt activities.**

The following noise-generating activities are exempt from the provisions of this chapter:

- A. Transportation facilities, such as freeways, airports, buses and railroads;
- B. Construction activities; such activities, however, shall be limited to the hours of eight (8:00) a.m. to five (5:00) p.m. Monday through Friday, and nine (9:00) a.m. to five (5:00) p.m. on Saturdays. No construction noise-related activities on Sundays and the following holidays: New Year's Day, Martin Luther King Jr. Day, President's Day, Memorial Day, Juneteenth, 4th of July, Labor Day, Veteran's Day, Thanksgiving Day and Christmas Day. All gasoline-powered construction equipment shall be equipped with an operating muffler or baffling system as originally provided by the manufacturer, and no modification to these systems is permitted (the Building Official shall have the authority to grant exceptions to construction noise-related activities);
- C. Home workshop and gas-powered gardening equipment; such activities, however, shall be limited to the hours of eight a.m. to sunset Monday through Friday, and ten a.m. to sunset on Saturday, Sunday and holidays stated in subsection B of this section;
- D. Public works and public utilities activities; such activities, however, shall be limited to the hours set forth under subsection B of this section, except for emergency situations (the Public Works Director shall have the authority to grant exceptions to public works and public utilities construction noise-related activities);
- E. Emergency vehicles;
- F. Solid waste pickup; such activities, however, shall be limited to the hours of collection set forth under the applicable franchise agreement for solid waste pickup, recyclable materials pickup and/or organic materials pickup as may be restricted

for residential, commercial and City facilities. (Ord. 1586 § 2, 2022; Ord. 1439 § 4 (Exh. B (part)), 2011; Ord. 1086 § 1 (part), 1991)

## **Chapter 9.32 UNRULY GATHERINGS**

Sections:

**9.32.010 Purpose and application.**

**9.32.020 Definitions.**

**9.32.030 Emergency response charges.**

**9.32.040 Calculation of charges.**

**9.32.050 Collection of charges.**

**9.32.060 Mandatory warnings.**

**9.32.070 Other remedies.**

**9.32.080 Charge against person liable—Minors.**

**9.32.090 Evidence not admissible in criminal proceedings.**

**9.32.010 Purpose and application.**

The purposes of this chapter are to assist the Police Department in controlling loud and unruly gatherings, which constitute a nuisance and disturb the public peace, or are a threat to the public health, safety or welfare; to defray the cost of providing an emergency response during subsequent calls to such gatherings; and to deter such noisy, unruly or dangerous gatherings. This chapter shall have no application to assemblies, meetings, gatherings, demonstrations or marches supporting or espousing political, social, ethical, religious or other causes or beliefs, the expression of which is entitled to protection under the United States or State Constitution. (Ord. 1420 § 2 (Exh. A) (part), 2010)

**9.32.020 Definitions.**

An "unruly gathering" means a noisy or dangerous gathering of two or more persons which is disturbing the public peace or is a threat to the public health, safety or welfare. A "subsequent call to an unruly gathering" means a response to a call by the Police Department which occurs after a previous response to a call or calls, where the person or persons in charge, in possession of the premises or participating in the gathering are advised orally or in writing that the gathering is unruly, and informing such person or persons of potential liability under this chapter. (Ord. 1420 § 2 (Exh. A) (part), 2010)

**9.32.030 Emergency response charges.**

Whenever the Police Department makes additional or subsequent calls within twelve hours to an unruly gathering, the police personnel making the subsequent calls are providing special emergency and security services. The cost of providing such services shall be charged as provided in this chapter. (Ord. 1420 § 2 (Exh. A) (part), 2010)

**9.32.040 Calculation of charges.**

The charge for providing such services during a subsequent call to an unruly gathering shall be based on hourly pay rates. The charge shall also include the cost of providing equipment and repairing or replacing equipment damaged during a response to an unruly gathering. The charge for each response shall be the cost of providing the services, and any damages, but no less than one hundred dollars. Additional response to the same gathering shall be separately charged. (Ord. 1420 § 2 (Exh. A) (part), 2010)

**9.32.050 Collection of charges.**

The person or persons in charge, in possession of the premises or participating in the unruly gathering and, if occurring on private property, the person or persons in charge or in possession of the property shall be jointly and severally liable for the cost of providing the special emergency security services. The Police Chief, or his designee, shall determine charges for subsequent responses and bill the parties who are liable. Payment shall be within thirty days of mailing of the bill to the parties, which shall be by first class mail. (Ord. 1420 § 2 (Exh. A) (part), 2010)

**9.32.060 Mandatory warnings.**

No person shall be liable for charges unless such person has been informed orally or in writing of his potential liability by a police officer during a response and prior to a subsequent response. The Police Department shall prepare a written document

warning of potential liability under this chapter and during a response and provide a copy thereof to each such person. (Ord. 1420 § 2 (Exh. A) (part), 2010)

**9.32.070 Other remedies.**

The foregoing charges are cumulative and shall not limit or replace other remedies or penalties, civil or criminal. (Ord. 1420 § 2 (Exh. A) (part), 2010)

**9.32.080 Charge against person liable—Minors.**

If the person liable is a minor, the parents or guardian of the minor shall be liable. (Ord. 1420 § 2 (Exh. A) (part), 2010)

**9.32.090 Evidence not admissible in criminal proceedings.**

The testimony, admission or statement made by a person in a proceeding to collect the expense of a police response is not admissible in a criminal proceeding arising out of the same incident. (Ord. 1420 § 2 (Exh. A) (part), 2010)

**Chapter 9.34  
CURFEW REGULATIONS**

Sections:

**9.34.010 Definitions.**

**9.34.020 Prohibited activities.**

**9.34.030 Exceptions.**

**9.34.040 Enforcement procedure.**

**9.34.050 Violation—Penalty.**

**9.34.010 Definitions.**

The following words and phrases whenever used in this chapter, shall be construed as defined in this section;

"Curfew hours" means eleven p.m. on any day until six a.m. of the following day.

"Emergency" means an unforeseen combination of circumstances or the resulting state that calls for immediate action. The term includes, but is not limited to, a fire, a natural disaster, an automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life.

"Guardian" means:

1. A person who, under court order, is the guardian of the person of a minor; or
2. A public or private agency with whom a minor has been placed by a court.

"Minor" means any person under eighteen years of age and is synonymous with the term "juvenile" for the purposes of this chapter.

"Parent" means a person who is:

1. A natural parent, adoptive parent or stepparent of another person; or
2. At least eighteen years of age and authorized by a parent or guardian to have the care and custody of a minor.

"Public place" means any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, sidewalks, alleys, highways, private residences left open to the public without the presence of adult supervision, and the common areas of schools, hospitals, apartments, office buildings, transportation facilities, parks, playgrounds and vacant lots.

"Remain" means to:

1. Linger or stay, whether on foot or in a vehicle; or
2. Fail to leave premises when requested to do so by a police officer or the owner, operator or person in control of the premises. (Ord. 1216 § 1 (part), 1996; Ord. 1175 § 2 (part), 1995)

**9.34.020 Prohibited activities.**

A. It is unlawful for a minor to remain in any public place within the City during curfew hours, except as provided in this chapter.

B. It is unlawful for a parent or guardian of a minor to knowingly permit, or by insufficient control allow, the minor to remain in any public place within the City during curfew hours. (Ord. 1216 § 1 (part), 1996; Ord. 1175 § 2 (part), 1995)

**9.34.030 Exceptions.**

The activities prohibited by Section 9.34.020 of this chapter shall not be unlawful in the following circumstances:

A. When the minor is accompanied by the minor's parent or guardian;

B. When the minor is on an errand at the direction of the minor's parent or guardian, without any detour or stop;

C. When the minor is in a motor vehicle involved in interstate travel, or other travel through the City not in violation of this chapter;

D. When the minor is engaged in an employment activity, or going to or returning home from an employment activity, without any detour or stop;

E. When the minor is involved in an emergency;

F. When a minor is going to or returning home from a private residence without any detour or stop, at which the minor was invited;

G. When the minor is attending an official school, religious, recreational, educational, social or other organized activity sponsored by the City, school district, or other private civic or religious organization that supervises the activity, or when a minor is going to or returning from, without any detour or stop, such activity;

H. When the minor is engaging in speech or religious rights protected by the United States or California Constitutions, such as the free exercise of religion, freedom of speech, and the right of peaceful assembly;

I. When the minor is married or has been emancipated in accordance with California Family Code Section 7000, et seq.;

J. When the minor is engaged in a commercial activity or receiving commercial services on the premises of a business organization that supervises and permits the activity, or when a minor is going to or returning home from, without any detour or stop, such activity or service. (Ord. 1216 § 1 (part), 1996; Ord. 1175 § 2 (part), 1995)

**9.34.040 Enforcement procedure.**

Before taking any enforcement action under this section, a police officer or code enforcement officer shall ask the apparent offender's age and reason for being in the public place. The officer shall not issue a citation or make an arrest under this section unless the officer reasonably believes that an offense has occurred as provided in this chapter. (Ord. 1216 § 1 (part), 1996; Ord. 1175 § 2 (part), 1995)

**9.34.050 Violation—Penalty.**

Any person who violates any of the provisions of this chapter shall be guilty of an infraction for the first violation, and for the second or subsequent violation within one year, shall be guilty of a misdemeanor. (Ord. 1216 § 1 (part), 1996; Ord. 1175 § 2 (part), 1995)

**Chapter 9.40  
PUBLIC DANCES**

Sections:

**9.40.010 Definitions.**

**9.40.020 Permit required—Exception.**

**9.40.030 Permit—Duration.**

**9.40.040 Permit—Application requirements.**

**9.40.050 Permit—Issuance conditions.**

**9.40.060 Permit—Grounds for denial.**

**9.40.070 Permit—Grounds for revocation.**

**9.40.080 Act of applicant or permittee.****9.40.090 Permit—Denial or revocation notification.****9.40.100 Attendance of police officer or guard.****9.40.110 Police regulations authorized.****9.40.120 Rules to be posted.****9.40.130 Hours of operation and closing.****9.40.140 Improper conduct and intoxicated persons prohibited.****9.40.010 Definitions.**

A. As used in this chapter, "public dance" means any dance to which members of the general public are admitted under any of the following circumstances:

1. Payment of any type of fee, dues, or charge for admission, whether collected in advance of the event at which dancing is conducted or whether collected during said event; or
  2. Payment for entrance or attendance at an event at which dancing is conducted by purchase of tickets, dues, fees, or other admission devices; or
  3. Dances conducted or given in connection with the sale of food or beverages in restaurants, bars, cafes, or hotel dining rooms or other places to which the general public is admitted; or
  4. Dances conducted in connection with the provision of other amusement or entertainment for profit.
- B. As used in this chapter, "public dance hall" means any hall, room, or place in which a public dance is held.
- C. As used in this chapter, "Chief of Police" shall mean the Chief of the Police Department or his designated representative.
- D. This chapter shall not apply to dances conducted by public or private schools, educational, social, religious, charitable or nonprofit organizations or persons. (Ord. 1317 § 1 (part), 2003)

**9.40.020 Permit required—Exception.**

No person shall conduct a public dance without first obtaining a permit from the Chief of Police. The Chief of Police may allow an exception for occasional dances held in bars and restaurants where the dance is secondary to the business of the bar or restaurant and fewer than one hundred people are expected to attend. (Ord. 1317 § 1 (part), 2003)

**9.40.030 Permit—Duration.**

Permits shall not be issued for a period longer than ninety days in advance of a public dance, and shall expire at the end of the scheduled date(s) of the public dance. (Ord. 1317 § 1 (part), 2003)

**9.40.040 Permit—Application requirements.**

Written applications for permits under this chapter shall be filed with the Chief of Police upon forms to be provided by the Police Department and shall set forth the following facts:

- A. The name and residence of the applicant or applicants, and if the applicant be a firm, the names and residences of the partners thereof, and if the applicant be a corporation, the names and residences of the officers and directors thereof, and if the applicant be an association, the names and residences of the officers thereof.
- B. The particular place for which the dance permit is desired.
- C. The number of dates of the dances to be held under the permit.
- D. A statement that the applicant is the sole party, or applicants are the sole parties, either directly or indirectly interested in the dance for which a permit is sought, and that no other person is, or will be, in any manner interested, directly or indirectly, during the continuance of the permit.
- E. A statement of the ownership of the realty of which the premises for which the permit is sought are a part.
- F. A statement of such additional information as the Chief of Police may require. (Ord. 1317 § 1 (part), 2003)

**9.40.050 Permit—Issuance conditions.**

No permit shall be issued unless the applicant therefor is properly licensed by the State Alcohol Beverage Control Board (ABC), and where the applicant's business is in compliance with all City codes and regulations. (Ord. 1317 § 1 (part), 2003)

**9.40.060 Permit—Grounds for denial.**

A. Upon receipt of an application for a permit under this chapter, the Chief of Police shall investigate the facts connected with the application, inspect the premises for which the permit is sought, and shall deny the application if:

1. (a) The applicant has been convicted of a misdemeanor within four years of the date of the application, if the misdemeanor is substantially related to the qualifications, functions or duties of the business, profession or trade for which the permit is to be issued; or  
(b) The applicant has been convicted of a felony, if the felony is substantially related to the qualifications, functions or duties of the business, profession or trade for which the permit is to be issued; or
2. The applicant has committed any act involving dishonesty, fraud or deceit with intent to substantially benefit the applicant or another, or substantially injure another; or
3. The applicant has knowingly made a false statement, or concealed a material fact required to be revealed, in an application for the permit, or otherwise committed any fraud in the application or in any amendment or report required to be made under this chapter; or
4. The premises with respect to which the permit is to be issued does not comply with the provisions of this chapter; or
5. The conducting of a public dance in the premises for which a permit is sought will be injurious to the public health, safety, welfare or morals. The Chief of Police shall take into consideration the proximity of the premises for which a permit is sought to schools, residences and other structures, and whether the occupants and uses of neighboring premises may be disturbed or injuriously affected by the conduct of a dance upon said premises; or
6. The applicant has had a permit under the provisions of this chapter revoked within the four years immediately preceding the date of application; or
7. The premises for which such permit is sought, or the proposed conducting of a public dance, violates any building, zoning, health, safety, fire, or other provision of this Code, or any law of the State of California or of the United States; or
8. Within the year immediately preceding the date of application, the applicant has had a permit application for the same premises denied within the previous year from the date of application on grounds stated in any of the above subsections, except that a permit may be granted to an applicant whose previous application was denied pursuant to subsection (A)(6) of this section, if the conditions giving rise to the violations of law used as the basis for the prior denial have been corrected.

B. The Chief of Police shall approve the application and issue the permit unless the Chief of Police denies the application based upon one or more of the grounds listed in subsection A of this section. (Ord. 1317 § 1 (part), 2003)

**9.40.070 Permit—Grounds for revocation.**

A permit issued under this chapter may be revoked by the Chief of Police upon a determination that the permittee has done any act which pursuant to this chapter or other provisions of this Code would warrant denial of the permit. (Ord. 1317 § 1 (part), 2003)

**9.40.080 Act of applicant or permittee.**

The act or omission of any person, partner, associate, director, officer, agent or employee, who with an applicant or permittee under this chapter providing services in connection with the conducting of a public dance, shall for all purposes of this chapter be deemed the act or omission of the applicant or permittee subject to regulation under this chapter. (Ord. 1317 § 1 (part), 2003)

**9.40.090 Permit—Denial or revocation notification.**

In all cases where a permit has been denied or revoked, the Chief of Police shall notify the applicant or permittee in writing of the grounds for denial or revocation, and said applicant or permittee shall have the right to appeal said denial or revocation to the City Council. (Ord. 1317 § 1 (part), 2003)

**9.40.100 Attendance of police officer or guard.**

A. No person shall conduct any public dance unless there shall be in continuous attendance a police officer authorized by the Chief of Police or a state registered, uniformed employee of a private patrol operator; the applicant shall post a sufficient cash

deposit and shall pay for the expense of the police officer; provided, however, that where a public dance is being held or is about to be held, the Chief of Police may waive the requirement for continuous attendance of a police officer or uniformed employee of a private patrol operator at any such dance if he finds that the public peace, safety, law and order will be observed and maintained at such dance without the continuous attendance thereof.

B. Any and all such waivers shall be subject to such conditions as the Chief of Police may deem necessary for the preservation of peace, safety, law and order at any dance; and any and all such waivers shall be revocable at any time by said Chief of Police if and when he should find that the attendance of a police officer or security guard is necessary for the preservation of peace, safety, law and order at any public dance. (Ord. 1317 § 1 (part), 2003)

**9.40.110 Police regulations authorized.**

A. The Chief of Police is authorized to make and promulgate reasonable rules regulating the conduct of public dances, the exclusion therefrom of known criminals, prostitutes, intoxicated or disorderly persons, the issuance of return admission checks, the lighting arrangements of places where such public dances are held, and the character of the premises on which such dances are held.

B. Such rules and amendments thereto shall be effective upon the same being placed on file in the office of the City Clerk, and approved by the City Council.

C. Issuance of any dance permit shall be conditioned on the observance of each of such regulations, and violation of any such rules shall be grounds for the suspension or revocation of any permit or license issued pursuant to this chapter. (Ord. 1317 § 1 (part), 2003)

**9.40.120 Rules to be posted.**

The permittee holding a dance permit shall keep a copy of such rules posted conspicuously in the place where the dance is held. (Ord. 1317 § 1 (part), 2003)

**9.40.130 Hours of operation and closing.**

No person conducting any public dance for which a permit is required pursuant to this chapter shall cause or permit the said dance to begin before five a.m. of any day, or to continue beyond two a.m. of any day. Violation of this provision shall be a misdemeanor and shall be grounds for suspension or revocation of any license or permit issued pursuant to this chapter. (Ord. 1317 § 1 (part), 2003)

**9.40.140 Improper conduct and intoxicated persons prohibited.**

Every person conducting a public dance, their agents and employees, immediately upon the request of a police officer, shall exclude from the public dance hall in which such dance is conducted any person under the influence of liquor, or who is guilty of loud, boisterous or other improper conduct. (Ord. 1317 § 1 (part), 2003)

**Title 10  
VEHICLES AND TRAFFIC**

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**10.08 Administration**

**10.12 Enforcement and Obedience to Traffic Regulations**

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**10.04.140 Stop or stand.**

**10.04.150 Traffic.**

**10.04.010 Definitions generally.**

A. The following words and phrases, set out in this chapter, when used in Title 10 of this code shall, for the purpose of this title, have the meanings respectively ascribed to them in this chapter.

B. Whenever any words or phrases used in this title are not defined herein, but are now defined in the Vehicle Code of the State, such definitions are incorporated herein, and shall be deemed to apply to such words and phrases used herein as though set forth herein in full. (Ord. 334 Art. 1 § 1, 1953)

**10.04.030 Loading zone.**

"Loading zone" means the space adjacent to a curb, reserved for the exclusive use of vehicles during the loading or unloading of passengers or materials. (Ord. 334 Art. 1 § 3, 1953)

**10.04.040 Official time standard.**

Whenever certain hours are named in this title, they shall mean standard time or daylight saving time, as may be in current use in the City. (Ord. 334 Art. 1 § 4, 1953)

**10.04.050 Official traffic-control devices.**

"Official traffic-control devices" means all signs, signals, markings and devices not inconsistent with this title, placed or erected by authority of a public body or official having jurisdiction, for the purpose of regulating, warning or guiding traffic. (Ord. 334 Art. 1 § 5, 1953)

**10.04.060 Official traffic signals.**

"Official traffic signals" means any device, whether manually, electrically or mechanically operated, by which traffic is alternately directed to stop and proceed, and which is erected by authority of a public body or official having jurisdiction. (Ord. 334 Art. 1 § 6, 1953)

**10.04.070 Park.**

"Park" means to stand or leave standing any vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading of passengers or materials. (Ord. 334 Art. 1 § 7, 1953)

**10.04.080 Parkway.**

"Parkway" means that portion of a street other than a roadway or a sidewalk. (Ord. 334 Art. 1 § 8, 1953)

**10.04.090 Passenger loading zone.**

"Passenger loading zone" means the space adjacent to a curb, reserved for the exclusive use of vehicles during the loading or unloading of passengers. (Ord. 334 Art. 1 § 9, 1953)

**10.04.100 Pedestrian.**

"Pedestrian" means any person afoot. (Ord. 334 Art. 1 § 10, 1953)

**10.04.110 Person.**

"Person" means every natural person, firm, copartnership, association or corporation. (Ord. 334 Art. 1 § 11, 1953)

**10.04.120 Police Officer.**

"Police Officer" means every officer of the Police Department of the City. (Ord. 334 Art. 1 § 12, 1953)

**10.04.130 Stop.**

"Stop," when required, means complete cessation of movement. (Ord. 334 Art. 1 § 13(a), 1953)

**10.04.140 Stop or stand.**

"Stop or stand," when prohibited, means any stopping or standing of a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic, or in compliance with the directions of a Police Officer or official traffic-control device. (Ord. 334 Art. 1 § 13(b), 1953)

**10.04.150 Traffic.**

"Traffic" means pedestrians, ridden or herded animals, vehicles and other conveyances, either singly or together, while using any street for purposes of travel. (Ord. 334 Art. 1 § 14, 1953)

## **Chapter 10.08 ADMINISTRATION**

Sections:

**10.08.010 City Engineer/Director of Public Works powers and duties.**

**10.08.010 City Engineer/Director of Public Works powers and duties.**

It shall be the general duty of the City Engineer/Director of Public Works:

- A. To determine the installation and proper timing and maintenance of traffic-control devices and signals;
- B. To conduct engineering analyses of traffic accidents and to devise remedial measures;
- C. To conduct engineering investigation of traffic conditions and to cooperate with other city officials in the development of ways and means to improve traffic conditions; and
- D. To carry out the additional powers and duties imposed by ordinances of the City. (Ord. 1053 § 6(1), 1990; Ord. 334 Art. II § 20, 1953)

## **Chapter 10.12 ENFORCEMENT AND OBEDIENCE TO TRAFFIC REGULATIONS**

Sections:

**10.12.010 Authority of Police and Fire Department Officials.**

**10.12.020 Traffic direction—Unauthorized personnel prohibited.**

**10.12.030 Regulations—Obedience by public employees.**

**10.12.040 Regulations—Official vehicles exempt when.**

**10.12.050 Removal of parking enforcement markings prohibited.**

**10.12.060 Failure to comply with regulations—Misdemeanor.**

**10.12.010 Authority of Police and Fire Department Officials.**

A. It shall be the duty of the officers of the Police Department, or such officers as are assigned by the Chief of Police, to enforce all street traffic laws of the City and all of the State's vehicle laws applicable to street traffic in the City.

B. Officers of the Police Department, or such officers as are assigned by the Chief of Police, are authorized to direct all traffic by voice, hand or signal, in conformance with traffic laws; provided that, in the event of a fire or other emergency, or to expedite traffic or to safeguard pedestrians, officers of the Police Department may direct traffic as conditions may require, notwithstanding the provisions of the traffic laws.

C. Officers of the Fire Department, when at the scene of a fire, may direct or assist the police in directing traffic thereat or in the immediate vicinity. (Ord. 334 Art. III § 30, 1953)

**10.12.020 Traffic direction—Unauthorized personnel prohibited.**

No person other than an officer of the Police Department or a person deputized by the Chief of Police or person authorized by law shall direct or attempt to direct traffic by voice, hand or other signal, except that persons may operate when and as herein provided any mechanical pushbutton signal erected by order of the Chief of Police. (Ord. 334 Art. III § 33, 1953)

**10.12.030 Regulations—Obedience by public employees.**

The provisions of this title shall apply to the driver of any vehicle owned by or used in the service of the United States Government, the State, and any county or city, and it is unlawful for any such driver to violate any of the provisions of this title except as otherwise permitted in this title, or by State Statute. (Ord. 334 Art. III § 34, 1953)

**10.12.040 Regulations—Official vehicles exempt when.**

A. The provisions of this title regulating the operation, parking and standing of vehicles shall not apply to any vehicle of the Police or Fire Department, any public ambulance, or any public utility vehicle or any private ambulance, which public utility vehicle or private ambulance has qualified as an authorized emergency vehicle, when any vehicle mentioned in this section is operated in the manner specified in the Vehicle Code in response to an emergency call.

B. The foregoing exceptions shall not, however, protect the driver of any such vehicle from the consequences of his wilful disregard of the safety of others.

C. The provisions of this title regulating the parking or standing of vehicles shall not apply to any vehicle of a City department or public utility while necessarily in use for construction or repair work. (Ord. 334 Art. III § 35, 1953)

**10.12.050 Removal of parking enforcement markings prohibited.**

A. It is unlawful for any person to remove, erase, deface, obliterate or render unusable for the purpose of enforcement of parking ordinances, any chalk mark, marker or other device placed on a vehicle or any portion thereof by the City for the purpose of measuring the passage of time or the movement of a vehicle stopped, standing or parked on any street or in any parking lot or structure or portion thereof.

B. Violation of this section shall be an infraction, and the minimum fine for violation of this section is twenty-five dollars. (Ord. 888 § 1, 1981)

**10.12.060 Failure to comply with regulations—Misdemeanor.**

It is a misdemeanor for any person to do any act forbidden, or fail to perform any act required in Title 10 of this code. (Ord. 334 Art. III § 31, 1953)

## **Chapter 10.16 SPEED LIMITS**

Sections:

**10.16.010 Speed limits.****10.16.010 Speed limits.**

Prima facie speed limits are established on the following streets in the City, as follows:

A. Thirty miles per hour:

1. Brittan Avenue, between El Camino Real and Leslie Drive;
2. Crestview Drive;
3. Old County Road, between Hall Street and Belmont City limit;

4. San Carlos Avenue, between El Camino Real and Belmont City limit;
  5. Alameda de las Pulgas;
- B. Thirty-five miles per hour:
1. Industrial Road;
  2. Howard Avenue, between El Camino and Industrial Road;
  3. Old County Road, between Hall Street and Redwood City limit;
  4. Holly Street, between Industrial Road and Redwood City limit. (Ord. 1500 § 1, 2016; Ord. 1053 § 7, 1990)

## **Chapter 10.20 TRAFFIC-CONTROL DEVICES**

Sections:

**10.20.010 Installation—Authorized when.**

**10.20.020 Signs required for enforcement.**

**10.20.030 Traffic-control devices—Hours of operation.**

**10.20.040 Driver obedience required.**

**10.20.050 Stops—Required where.**

**10.20.060 Installation—Traffic signals and street name signs.**

**10.20.070 Centerline and lane markings.**

**10.20.080 Roadway markings indicating no driving.**

**10.20.090 Removal, relocation or discontinuance.**

**10.20.010 Installation—Authorized when.**

A. The City Engineer/Director of Public Works shall have the exclusive power and duty to place and maintain, or cause to be placed and maintained, official traffic-control devices when and as required under the traffic ordinances of the City, to make effective the provisions of such ordinances.

B. Whenever the State Vehicle Code requires for the effectiveness of any provisions thereof that traffic-control devices be installed to give notice to the public of the application of such law, the City Engineer/Director of Public Works is authorized to install the necessary devices, subject to any limitations or restrictions set forth in the law applicable thereto.

C. The City Engineer/Director of Public Works may also place and maintain such additional traffic-control devices as he may deem necessary to regulate traffic or to guide or warn traffic, but he shall make such determination only upon the basis of traffic engineering principles and traffic investigations, and in accordance with such standards, limitations and rules as may be set forth in the traffic ordinances of the City, or as may be determined by ordinance or resolution of the legislative body of the City. (Ord. 1053 § 6(2) (part), 1990; Ord. 334 Art. IV § 40, 1953)

**10.20.020 Signs required for enforcement.**

No provision of the Vehicle Code or of this title for which signs are required shall be enforced against an alleged violator unless appropriate signs are in place and sufficiently legible to be seen by an ordinarily observant person, giving notice of such provisions of the traffic laws. (Ord. 334 Art. IV § 41, 1953)

**10.20.030 Traffic-control devices—Hours of operation.**

The City Engineer/Director of Public Works shall determine the hours and days during which any traffic-control device shall be in operation or be in effect, except in those cases where such hours or days are specified in this title. (Ord. 1053 § 6(2) (part), 1990; Ord. 334 Art. IV § 47, 1953)

**10.20.040 Driver obedience required.**

The driver of any vehicle shall obey the instructions of any official traffic-control device applicable thereto placed in accordance with the traffic ordinances of the City, unless otherwise directed by a Police Officer subject to the exceptions granted the driver

of an authorized emergency vehicle when responding to emergency calls. (Ord. 334 Art. IV § 42, 1953)

#### **10.20.050 Stops—Required where.**

A. Through Streets.

1. Whenever any ordinance or resolution of the City designates and describes any street or portion thereof as a through street, or any intersection at which vehicles are required to stop at one or more entrances thereto, the Director of Public Works shall erect and maintain stop signs as follows: A stop sign shall be erected on each and every street intersecting such through street or portion thereof so designated, and at those entrances or other intersections where a stop is required. Every such sign shall conform with and shall be placed as provided in Section 21355 of the Vehicle Code.

2. Those streets and parts of streets described in Section 4411, and stop intersections at such streets, set out in Section 4412, as set out in Section 2 of Ordinance 793, as amended, are declared to be through streets for the purposes of this section.

B. Emerging from Alley or Driveway. The driver of a vehicle emerging from an alley, driveway or building shall stop such vehicle immediately prior to driving onto a sidewalk or into the sidewalk area extending across any alleyway. (Ord. 793 § 2, 1976)

#### **10.20.060 Installation—Traffic signals and street name signs.**

A. The City Engineer/Director of Public Works is directed to install and maintain official traffic signals at those intersections and other places where traffic conditions are such as to require that the flow of traffic be alternately interrupted and released in order to prevent or relieve traffic congestion, or to protect life or property from exceptional hazard.

B. The City Engineer/Director of Public Works shall ascertain and determine the locations where such signals are required by resort to field observation, traffic counts and other traffic information as may be pertinent, and his determinations therefrom shall be made in accordance with those traffic engineering and safety standards and instructions set forth in the California Maintenance Manual issued by the Division of Highways of the State Department of Public Works.

C. Whenever the City Engineer/Director of Public Works installs and maintains an official traffic signal at any intersection, he shall likewise erect and maintain at such intersection street name signs visible to the principal flow of traffic, unless such street name signs have previously been placed and are maintained at any such intersection. (Ord. 1053 § 6(2) (part), 1990; Ord. 334 Art. IV § 43, 1953)

#### **10.20.070 Centerline and lane markings.**

The City Engineer/Director of Public Works is authorized to mark centerlines and lane lines upon the surface of the roadway to indicate the course to be traveled by vehicles, and may place signs temporarily designating lanes to be used by traffic moving in a particular direction, regardless of the centerline of the highway. (Ord. 1053 § 6(2) (part), 1990; Ord. 334 Art. IV § 44, 1953)

#### **10.20.080 Roadway markings indicating no driving.**

Whenever the State Department of Public Works determines by resolution and designates a distinctive roadway marking which shall indicate no driving over such marking, the City Engineer/Director of Public Works is authorized to designate by such marking those streets or parts of streets where the volume of traffic or the vertical or other curvature of the roadway renders it hazardous to drive on the left side of such marking or signs and markings. Such marking or signs and markings shall have the same effect as similar markings placed by the State Department of Public Works pursuant to provisions of the Vehicle Code. (Ord. 1053 § 6(2) (part), 1990; Ord. 334 Art. IV § 45, 1953)

#### **10.20.090 Removal, relocation or discontinuance.**

The City Engineer/Director of Public Works is authorized to remove, relocate or discontinue the operation of any traffic-control device not specifically required by State Law or Title 10 of this Code whenever he shall determine in any particular case that the conditions which warranted or required the installation no longer exist or obtain. (Ord. 1053 § 6(2) (part), 1990; Ord. 334 Art. IV § 46, 1953)

### **Chapter 10.24 TURNING MOVEMENTS**

Sections:

**10.24.010 Markers and signs—Placement authority.**

**10.24.020 Right, left and U turns.**

**10.24.030 Right turns on red signal prohibited when.**

**10.24.040 U turns to enter parking spaces.**

**10.24.010 Markers and signs—Placement authority.**

The City Engineer/Director of Public Works is authorized to place markers, buttons or signs within or adjacent to intersections, indicating the course to be traveled by vehicles turning at such intersections, and the City Engineer/Director of Public Works is authorized to allocate and indicate more than one lane of traffic from which drivers of vehicles may make righthand or lefthand turns, and the course to be traveled as so indicated may conform to or be other than as prescribed by law or ordinance. (Ord. 1053 § 6(3) (part), 1990; Ord. 334 Art. V § 50, 1953)

**10.24.020 Right, left and U turns.**

The City Engineer/Director of Public Works is authorized to determine those intersections or such other places at which drivers of vehicles shall not make a right, left, or U turn, and shall place proper signs at such intersections, or such other places. The making of such turns may be prohibited between certain hours of any day, and permitted at other hours, in which event the same shall be plainly indicated on the signs, or they may be removed when such turns are permitted. (Ord. 1053 § 6(3) (part), 1990; Ord. 334 Art. V § 51, 1953)

**10.24.030 Right turns on red signal prohibited when.**

The City Engineer/Director of Public Works is authorized to determine those intersections within any business or residence district at which drivers of vehicles shall not make a right turn against a red or stop signal, and shall erect proper signs giving notice of such prohibition. No driver of a vehicle shall disobey the directions of any such sign. (Ord. 1053 § 6(3) (part), 1990; Ord. 334 Art. V § 53, 1953)

**10.24.040 U turns to enter parking spaces.**

No vehicle traveling on a two-way street in the commercial district of San Carlos shall be turned or operated so as to enter a parking space upon the side of the street opposite from the vehicle's original direction of travel. (Ord. 982 § 1, 1987)

## **Chapter 10.28 ONE-WAY STREETS AND ALLEYS**

Sections:

**10.28.010 One-way traffic—Signs required.****10.28.010 One-way traffic—Signs required.**

A. Whenever any ordinance or resolution of the City designates any one-way street or alley, the City Engineer/Director of Public Works shall place and maintain signs giving notice thereof, and no such regulations shall be effective unless such signs are in place.

B. Signs indicating the direction of lawful traffic movement shall be placed at every intersection where movement of traffic in the opposite direction is prohibited. (Ord. 1053 § 6(4), 1990; Ord. 334 Art. VI § 60, 1953)

## **Chapter 10.32 STOPPING, STANDING AND PARKING**

Sections:

**10.32.010 Applicability of chapter provisions.****10.32.020 Parking and standing— Curb color and marking—Violations.****10.32.030 Parking—Spaces marked in streets.****10.32.040 Parallel parking—Method on one-way streets.****10.32.050 Limited curb parking space—Defined.****10.32.060 Limited curb parking space—Right-of-way.****10.32.070 Angle parking—Permitted when—Markings.****10.32.080 Angle parking—Locations designated.****10.32.090 One-way streets and roadways.****10.32.100 Parking—Narrow streets.****10.32.110 Reserved.**

- 10.32.120 Parking—Private driveways or property.
  - 10.32.130 Parking—Adjacent to schools.
  - 10.32.140 Parking—On hills.
  - 10.32.150 Parkways—Stopping, standing or parking prohibited.
  - 10.32.160 Parking, stopping or standing—Prohibited where.
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  - 10.32.200 Parking—One-hour areas.
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  - 10.32.280 Parking or standing—Temporary restrictions.
  - 10.32.290 Parking or standing—Commercial vehicles.
  - 10.32.310 Loading and unloading—Zones and marking.
  - 10.32.320 Loading or unloading at curb—Permit required.
  - 10.32.330 Loading or unloading—Permission for commercial vehicles.
  - 10.32.340 Alley use restrictions.
  - 10.32.350 Bicycle parking.
  - 10.32.360 Bus zones.
  - 10.32.370 Taxicab stands.
  - 10.32.380 Parking—For certain purposes prohibited.
  - 10.32.390 Parking—Other than motor vehicles.
  - 10.32.400 Vehicles—Removal from street authorized when.
  - 10.32.410 Violation—Fines designated.
- 10.32.010 Applicability of chapter provisions.

A. The provisions of this chapter prohibiting the stopping, standing or parking of a vehicle shall apply at all times, or at those times herein specified, except when it is necessary to stop a vehicle to avoid conflict with other traffic, or in compliance with the directions of a police officer or official traffic-control device.

B. The provisions of this chapter imposing a time limit on standing or parking shall not relieve any person from the duty to observe other and more restrictive provisions of the State Vehicle Code or the ordinances of the City prohibiting or limiting the standing or parking of vehicles in specified places or at specified times.

C. When the term "holiday" is used in this chapter related to parking and standing, it shall have the same meaning as set forth in California Government Code Section 6700. (Ord. 1353 § 2, 2005; Ord. 334 Art. X § 100, 1953)

#### **10.32.020 Parking and standing—Curb color and marking—Violations.**

A. The City Engineer/Director of Public Works is authorized, subject to the provisions and limitations of this chapter to place, and when required herein, shall place the following curb markings to indicate parking or standing regulations, and such curb markings shall have the meanings as set forth in this chapter.

1. Red. Red shall mean no stopping, standing or parking at any time, except as permitted by the Vehicle Code, and except that a bus may stop in a red zone marked or signed as a bus zone.

2. Yellow.

a. Yellow shall mean no stopping, standing or parking at any time between seven a.m. and six p.m. of any day, except Sundays and holidays, for any purpose other than the loading or unloading of passengers or materials, provided that the loading or unloading of passengers shall not consume more than three minutes, nor the loading or unloading of materials more than twenty minutes.

b. No person shall stop, stand or park a vehicle in any yellow loading zone for any purpose other than loading or unloading passengers or materials, for such time as is permitted herein.

3. White. White shall mean no stopping, standing or parking for any purpose other than loading or unloading of passengers, which shall not exceed three minutes, and such restrictions shall apply between seven a.m. and nine p.m. of any day, and except as follows:

a. When such zone is in front of a hotel, the restrictions shall apply at all times;

b. When such zone is in front of a theater, the restrictions shall apply at all times except when such theater is closed.

4. Green. Green shall mean no standing or parking for longer than twenty minutes at any time between seven a.m. and nine p.m. of any day. When such zone is in front of a railroad depot, the restriction shall be for not longer than fifteen minutes.

B. When the City Engineer/Director of Public Works, as authorized under this chapter, has caused curb markings to be placed, no person shall stop, stand or park a vehicle adjacent to any such legible curb marking in violation of the provisions of this section. (Ord. 1053 § 6(5) (part), 1990; Ord. 883 §§ 1 (part), 2, 1981; Ord. 778 § 2 (part), 1976; Ord. 775 § 1, 1976; Ord. 334 Art. XI §§ 121, 123, 1953)

#### **10.32.030 Parking—Spaces marked in streets.**

A. The City Engineer/Director of Public Works is authorized to install and maintain parking space markings to indicate parking spaces adjacent to curbs where authorized parking is permitted.

B. When such parking space markings are placed in the highway, subject to other and more restrictive limitations, no vehicle shall be stopped, left standing or parked other than within a single space, unless the size or shape of such vehicle makes compliance impossible.

C. The minimum fine for violation of this section is five dollars. (Ord. 1053 § 6(5) (part), 1990; Ord. 883 § 7, 1981; Ord. 778 § 3 (part), 1976; Ord. 334 Art. XII § 133, 1953)

#### **10.32.040 Parallel parking—Method on one-way streets.**

Subject to other and more restrictive limitations, a vehicle may be stopped or parked within eighteen inches of the left-hand curb facing in the direction of traffic movement upon any one-way street unless signs are in place prohibiting such stopping or standing. (Ord. 334 Art. X § 104(a), 1953)

#### **10.32.050 Limited curb parking space—Defined.**

For the purpose of this chapter, "limited curb parking space" means an area open for lawful parking alongside of and adjacent to a curb, which area is not of sufficient length to permit two or more vehicles to freely move for parking therein at the same time. (Ord. 334 Art. X § 104(b)(part), 1953)

**10.32.060 Limited curb parking space—Right-of-way.**

Any person seeking to park his vehicle in a limited curb parking space, whose vehicle arrives at the parking space prior to any other vehicle, and who proceeds beyond such space a distance not to exceed ten feet for the purpose of backing his vehicle therein, shall have the right-of-way over any person driving or attempting to drive any other vehicle directly into such limited curb parking space, or who in any manner obstructs such limited curb parking space, and the driver of such other vehicle shall yield the right-of-way to the driver who first arrived at the parking space. (Ord. 334 Art. X § 104(b)(part), 1953)

**10.32.070 Angle parking—Permitted when—Markings.**

A. Whenever any ordinance of the City designates and describes any street or portion thereof upon which angle parking shall be permitted, the City

Engineer/Director of Public Works shall mark or sign such street indicating the angle at which vehicles shall be parked.

B. When signs or markings for angle parking are in place, no person shall stop, stand or park a vehicle except:

1. At the angle to the curb indicated by the signs or pavement markings allotting space to parked vehicles, and parked entirely within the limits of such allotted space;
2. With the front wheels parked within six inches of said curb. These provisions shall not apply to a vehicle which is actually engaged in the process of loading or unloading goods or freight. (Ord. 1389 § 1, 2007; Ord. 1053 § 6(5) (part), 1990; Ord. 334 Art. X § 105(a), (b), 1953)

**10.32.080 Angle parking—Locations designated.**

Angle parking shall be permitted upon those streets and parts of streets as follows:

- A. Laurel Street from Holly Street to Arroyo Avenue;
- B. San Carlos Avenue, from El Camino Real to Walnut Street;
- C. Morse Boulevard, from El Camino Real to Walnut Street;
- D. Laurel Street from White Oak Way to Eaton Avenue. (Ord. 889 § 1, 1981; Ord. 334 Art. X § 105(c), Art. XIV § 193, 1953)

**10.32.090 One-way streets and roadways.**

The City Engineer/Director of Public Works is authorized to determine when standing or parking shall be prohibited upon the left-hand side of any one-way street, or when standing or parking may be permitted upon the left-hand side of any one-way roadway of a highway having two or more separate roadways, and shall erect signs giving notice thereof. (Ord. 1053 § 6(5) (part), 1990; Ord. 334 Art. X § 104(c), 1953)

**10.32.100 Parking—Narrow streets.**

A. The City Engineer/Director of Public Works is authorized to place signs or markings indicating no parking upon any street, when the width of the roadway does not exceed twenty feet, or upon one side of a street as indicated by such signs or markings when the width of the roadway does not exceed thirty feet.

B. When official signs or markings prohibiting parking are erected upon narrow streets as authorized herein, no person shall park a vehicle upon any such street in violation of any such sign or marking. (Ord. 1053 § 6(5) (part), 1990; Ord. 883 § 1 (part), 1981; Ord. 778 § 1 (part), 1976; Ord. 334 Art. X § 108, 1953)

**10.32.110 Reserved.**

**10.32.120 Parking—Private driveways or property.**

No person shall park a vehicle in a private driveway or on private property without the direct or implied consent of the owner or person in lawful possession of such driveway or property. (Ord. 334 Art. X § 115, 1953)

**10.32.130 Parking—Adjacent to schools.**

A. The City Engineer/Director of Public Works is authorized to erect signs indicating no parking upon that side of any street adjacent to any school property when such parking would, in his opinion, interfere with traffic or create a hazardous situation.

B. When official signs are erected indicating no parking upon that side of a street adjacent to any school property, no person shall park a vehicle in any such designated place. (Ord. 1053 § 6(5) (part), 1990; Ord. 883 § 1 (part), 1981; Ord. 778 § 1 (part), 1976; Ord. 334 Art. X § 107, 1953)

**10.32.140 Parking—On hills.**

No person shall park or leave standing any vehicle unattended on a highway when upon any grade exceeding three percent within any business or residence district without blocking the wheels of the vehicle by turning them against the curb, or other means. (Ord. 883 § 1 (part), 1981; Ord. 778 § 1 (part), 1976; Ord. 334 Art. X § 109, 1953)

**10.32.150 Parkways—Stopping, standing or parking prohibited.**

No person shall stop, stand or park a vehicle within any parkway. (Ord. 334 Art. X § 101, 1953)

**10.32.160 Parking, stopping or standing—Prohibited where.**

The City Engineer/Director of Public Works may appropriately sign or mark the following places, and when so signed or marked, no person shall stop, stand or park a vehicle in any of such places:

- A. At any place within twenty feet of a point on the curb immediately opposite the midblock end of a safety zone;
- B. At any place within twenty feet of an intersection in any business district, except that a bus may stop at a designated bus stop;
- C. Within twenty feet of the approach to any traffic signal, boulevard stop sign, or official electric flashing device;
- D. At any place where the City Engineer/Director of Public Works determines that it is necessary in order to eliminate dangerous traffic hazards;
- E. At any place on a sidewalk;
- F. At any place alongside or opposite any street or highway excavation or obstruction, when such stopping, standing or parking would obstruct traffic;
- G. At any place on the roadway side of any vehicle stopped, parked or standing at the curb or edge of a highway;
- H. At any place in a tube or tunnel or on a bridge. (Ord. 1053 § 6(5) (part), 1990; Ord. 883 § 1 (part), 1981; Ord. 778 § 1 (part), 1976; Ord. 334 Art. X § 110, 1953)

**10.32.170 Parking—Prohibited times and locations.**

The City Engineer/Director of Public Works may appropriately sign or mark the following places and, when so signed or marked, no person shall park a vehicle in any of such places during the times indicated:

A. El Camino Real.

1. East and west sides of El Camino Real between the northern City limits and southern City limits during the period from two a.m. to six a.m. daily,
2. On the east side of El Camino Real from Arroyo Avenue to Holly Street at all times,
3. West side of El Camino Real, for one hundred sixty feet south of its intersection with Holly Street, and for one hundred fifty feet north of its intersection with Holly Street, and for three hundred feet north of Spring Street, there shall be no parking at any time,
4. East side of El Camino, for three hundred fifty feet south of its intersection with Howard Avenue, no parking at any time,
5. East side of El Camino, for one hundred sixty-five feet north of its intersection with Holly Street and from one hundred sixty-five feet south of its intersection with Hull Drive centerline projection to the north City limit line,
6. West side of El Camino, for one hundred seventy feet south of its intersection with Oak Street, two hundred thirty feet north of its intersection with Oak Street, twenty feet south of its intersection with Hull Drive and the entire block between Hull Drive and Spring Street,
7. West side of El Camino Real from Morse Boulevard to Brittan Avenue, a distance of five hundred fifty feet,

8. West side of El Camino Real from Brittan Avenue to a point one hundred thirty feet south of Brittan Avenue,
  9. West side of El Camino Real from Howard Avenue to a point one hundred forty feet north of Howard Avenue,
  10. West side of El Camino Real from Howard Avenue to a point two hundred fifty feet south of Howard Avenue,
  11. East side of El Camino Real from a point three hundred thirty feet south of Howard Avenue to Morse Avenue, a distance of one thousand nine hundred feet,
  12. East side of El Camino Real from Oak Street to Hull Drive, at all times;
- B. Greenwood Drive. On the north side of the 1100 block of Greenwood Drive between the hours of nine a.m. and six p.m., Monday through Saturday;
- C. Holly Street. On Holly Street from Old County Road to Industrial Road, between the hours of seven a.m. and six p.m., Saturdays, Sundays and holidays excepted;
- D. Howard Avenue.
1. North side of Howard Avenue between Laurel Street and Walnut Street, during the hours of four p.m. to six p.m.,
  2. South side of Howard Avenue between Laurel Street and Walnut Street during the hours of seven a.m. to nine a.m.;
- E. Brittan Avenue, on both sides of the street, from Laurel Street to Industrial Road;
- F. Shoreway Road on the north side of the street along the property frontage of 75-125 Shoreway Road during the hours of two a.m. to six a.m.

G. Inside the San Carlos Library parking garage during the hours of two a.m. to five a.m. Persons engaged in governmental duties or emergency activities are exempt from this provision. (Ord. 1520 § 1 (part), 2017; Ord. 1511 § 1, 2016; Ord. 1477 § 1, 2014; Ord. 1435 § 1, 2011; Ord. 1251 § 1, 1998; Ord. 1165 § 1, 1994; Ord. 1157 § 1, 1994; Ord. 1100 § 1, 1992; Ord. 1085 § 1, 1991; Ord. 1066 § 2, 1991; Ord. 1053 § 6(5) (part), 1990; Ord. 1042 § 1(1), (2), 1989; Ord. 835 § 1, 1978; Ord. 817 § 1, 1977; Ord. 745 § 1, 1974; Ord. 670 § 1, 1968; Ord. 669 § 1, 1968)

#### **10.32.200 Parking—One-hour areas.**

No person shall stop, stand or park any vehicle for more than one hour between the hours of seven a.m. and six p.m. of any day except Sundays and holidays upon any of the following streets:

- A. El Camino Real (west side only), from north City limit to Holly Street, except as provided by Section 10.32.170(A)(3). (Ord. 1503 § 1 (part), 2016; Ord. 1379 § 1, 2006; Ord. 1157 § 2, 1994; Ord. 1116 § 1 (part), 1992; Ord. 1042 § 1(3), 1989; Ord. 1038 § 1(A), 1989; Ord. 1022 § 1(A), 1989; Ord. 1009 §§ 1, 2, 1989; Ord. 777 § 1, 1976; Ord. 334 Art. XII § 131 (part), Art. XIV § 194 (part), 1953)

#### **10.32.210 Parking—Two-hour areas.**

No person shall stop, stand or park any vehicle for more than two hours, between the hours of seven a.m. and six p.m. of any day, except Sundays and holidays, upon any of the following streets:

- A. Cherry Street, from Walnut Street to Chestnut Street;
- B. El Camino Real, the east side, from the northerly City limits to the southerly limits, except for that portion thereof which lies between Holly Street and Arroyo Avenue, and further, except as provided in Section 10.32.170(A)(4);
- C. Industrial Road, its entirety from north to south City limits, excepting therefrom the west side of Industrial Road between Brittan Avenue and Commercial Street;
- D. Laurel Street from Holly Street to Eaton Avenue;
- E. Except as provided in Section 10.32.223 which allows Caltrans parking with permit, two-hour parking shall be permitted after nine a.m. to six p.m. on Old County Road, the east side, from the northern City limits to the southern City limits;
- F. Olive Street, from Walnut Street to Elm Street;
- G. Walnut Street:

1. South from San Carlos Avenue to Olive Street;
  2. The 500 block;
- H. Wheeler Plaza, except for those areas designated in Sections 10.32.221 and 10.32.225;
- I. Williams Plaza;
- J. All streets from Holly Street south to Eaton Avenue, between El Camino Real and Walnut Street;
- K. Laurel Street Park;
- L. Elm Street, the 600 block;
- M. City Library parking lot, street level area;
- N. American Street east of Industrial Road on the north and east sides of the street;
- O. Two parking spaces in the vicinity of 129 Laurel Street;
- P. Shoreway Road along the property frontage of 75-125 Shoreway Road;
- Q. St. Francis Way from Laurel Street to El Camino Real. The southeast, southwest, and northwest section of St. Francis from Laurel Street to El Camino Real shall be two-hour parking. The northeast section of St. Francis from Laurel Street to El Camino Real shall be two-hour parking except the one hundred feet of curbing west of El Camino Real which shall have no parking restrictions; and
- R. El Camino Real (west side only), from south of Holly Street to City limits. (Ord. 1520 § 1 (part), 2017; Ord. 1503 § 1 (part), 2016; Ord. 1445 § 1, 2012; Ord. 1440 § 1, 2011; Ord. 1435 § 2, 2011; Ord. 1413 § 1, 2009; Ord. 1362 § 1, 2005; Ord. 1336 § 1, 2004; Ord. 1325 § 1, 2003; Ord. 1305 § 1, 2002; Ord. 1276 § 2, 2000; Ord. 1212 § 1, 1996; Ord. 1206 § 1, 1996; Ord. 1164 § 1, 1994; Ord. 1116 § 1 (part), 1992; Ord. 1095 § 3, 1991; Ord. 1042 § 1(4), 1989; Ord. 1038 § 1(B), 1989; Ord. 1034 § 1, 1989; Ord. 1022 § 1(B), 1989; Ord. 834 § 1, 1978; Ord. 813 § 1, 1977; Ord. 777 §§ 2, 3, 1976; Ord. 730 § 1, 1973; Ord. 692 § 1, 1970; Ord. 684 § 1, 1964; Ord. 334 Art. XII § 131 (part), Art. XIV § 194 (part), 1953)

#### **10.32.220 Parking—Three-hour areas.**

Accordingly with Section 10.32.190, parking is limited to three hours between the hours of seven a.m. and six p.m. of any day, except Sundays and holidays, upon any of the following enumerated streets:

- A. Clark Plaza, except for those areas designated in Section 10.32.225;
  - B. South Plaza, except for those areas designated for permit parking in Section 10.32.225.
  - C. Laureola Park parking lot.
- D. San Carlos Library parking garage. (Ord. 1520 § 1 (part), 2017; Ord. 1473 § 1, 2014; Ord. 1054 § 1, 1990; Ord. 1034 § 2, 1989; prior code § 4481(c); Ord. 334 Art. XII § 131 (part), 1953)

#### **10.32.221 Parking—Four-hour areas.**

Daytime parking is limited to four hours between the hours of nine a.m. and five p.m. of any day except Saturday, Sunday and holidays in the following areas:

- A. The north side of the 1600 block of San Carlos Avenue;
- B. Wheeler Plaza, twenty spaces located on the east side of the last row of parking adjacent to Walnut Street;
- C. Chestnut Street, both sides, from Cherry Street to San Carlos Avenue. (Ord. 1520 § 1 (part), 2017; Ord. 1440 § 2, 2011; Ord. 1362 § 2, 2005; Ord. 1164 § 2, 1994; Ord. 1084 § 1, 1991)

#### **10.32.223 Parking restrictions—Laureola Park.**

No person shall park or leave standing any vehicle overnight in the public parking lot at Laureola Park. (Ord. 1287 § 1, 2001)

#### **10.32.224 Parking restriction—During farmers' market.**

No person shall park or leave standing any vehicle in the area designated by the City Council for the farmers' market. The time, place and duration of the farmers' market will be established by a City Council resolution. The Council also establishes a no

parking and tow away zone at the farmers' market location reflecting the days and time where it resides. (Ord. 1594 § 2, 2022)

#### **10.32.225 Restricted parking—Employee parking program.**

This program only applies to employers and employees of businesses located in the San Carlos Downtown Area from San Carlos Avenue to Brittan Avenue and from El Camino Real to Walnut Street.

- A. The City Engineer/Director of Public Works is authorized to establish employee parking spaces in City-owned parking lots.
- B. Parking in employee parking spaces shall be limited to nine hours between the hours of eight a.m. and five p.m. of any day except Sundays and holidays.
- C. Parking in employee parking spaces shall be available only to employers/employees with an employee parking permit.
- D. Employee parking permits will be issued by the City of San Carlos.
- E. The fee for employee parking permits will be established by resolution of the City Council.
- F. The City Engineer/Director of Public Works is authorized to establish procedures for issuance of employee parking permits. (Ord. 1421 § 1, 2010; Ord. 1409 § 2, 2009)

#### **10.32.226 Restricted parking—East San Carlos residential parking permit program.**

This only applies to the East San Carlos neighborhood located from Old County Road east to Industrial Road and extending north from Hall Street to Northwood Drive.

- A. Parking in areas designated through the petition process as the residential parking zone shall be limited to two hours between seven a.m. and seven p.m. Monday through Friday, except holidays. Vehicles displaying an East San Carlos residential parking permit will be exempt from this two-hour limit.
- B. Parking in areas designated through the petition process as the business parking zone shall be limited to two hours between seven a.m. and five p.m. Monday through Friday, except holidays. Vehicles displaying an East San Carlos business parking permit will be exempt from this two-hour limit.
- C. It is unlawful to park for more than two hours without displaying a valid permit.
- D. East San Carlos parking permits shall be issued by the City of San Carlos.
- E. East San Carlos residential parking permits shall be free to residents of blocks participating in the residential part of the program. The fee for employees of businesses on blocks participating in the business part of the program will be the same as for employees of businesses located in the San Carlos Downtown Area (Section 10.32.225, Restricted parking—Employee parking program).

The City Council shall approve other procedures and requirements for the program in the East San Carlos residential neighborhood, including procedures for the issuance of parking permits to both residents and businesses. The City Engineer/Director of Public Works is authorized to make minor modifications to these procedures and requirements. (Ord. 1516 § 1, 2017; Ord. 1492 § 1, 2015)

#### **10.32.227 Restricted parking—Civic Center employee parking program.**

- A. This program only applies to employees working at City Hall, the San Carlos Library building and the Adult Community Center.
- B. Civic Center employee parking with a permit shall be limited to eight hours between the hours of nine a.m. and five p.m. Monday—Friday in designated locations in the San Carlos Library Parking Garage.
- C. Civic Center employee parking permits are not valid in the San Carlos Library surface lot or on the 600 block of Elm Street.
- D. Civic Center employee parking permits will be issued by the City of San Carlos.
- E. The City Engineer and/or the Director of Public Works is authorized to establish procedures for issuance of Civic Center employee parking permits. (Ord. 1523 § 1, 2017)

#### **10.32.230 Parking—Fine for certain violations.**

The minimum fine for any violation of the parking time limit of Sections 10.32.200 through 10.32.225 and Section 10.32.270 shall be five dollars. (Ord. 1022 § 4, 1989; Ord. 909 § 1, 1982; Ord. 883 § 3, 1981; Ord. 775 § 2, 1976)

**10.32.240 City parking lots.**

- A. Whenever stopping, standing or parking spaces are marked or lined for stopping, standing or parking of vehicles, no person shall stop, stand or park a vehicle in a City owned, leased, operated or controlled parking lot, except within the individual spaces so marked.
- B. No person shall stop, stand or park any vehicle in any parking lot owned, operated, leased or controlled by the City in any manner which shall obstruct the movement or ingress or egress of any other vehicle using or intending to use such parking lot, and shall comply with all notices, signs and markings erected thereon.
- C. The minimum fine for a violation of this section is five dollars. (Ord. 883 § 6, 1981; Ord. 778 § 2 (part), 1976; Ord. 140 §§ 1, 2, 1943)

**10.32.250 Passenger loading zones.**

No person shall stop, stand or park a vehicle in any passenger loading zone for any purpose other than the loading or unloading of passengers for such time as is specified in Section 10.32.020. (Ord. 334 Art. XI § 124, 1953)

**10.32.260 Parking—Emergency, building or commercial use—Warning devices.**

- A. Persons using motor vehicles to perform emergency services within the City may do so from any location of the public streets, easements or rights-of-way best suited to relieve or remedy the emergency.
- B. Persons using motor vehicles not engaged in emergency services but who are engaged in construction, repair or alteration of improvements on private or public property, shall obtain a permit from the Police Department for the use of any public street, easement or right-of-way adjacent to the property proposed to be improved.
- C. Persons using motor vehicles engaged in the moving of commercial or private personal property shall obtain a permit from the Police Department for the use of any public street, easement or right-of-way adjacent to the property.
- D. If the parking has been restricted to create an additional traffic lane, the driver of any vehicle parked pursuant to the provisions of subsections A, B or C of this section shall display appropriate warning devices in close proximity to the vehicle thus parked. (Ord. 782 § 1, 1976)

**10.32.270 Parking or standing—City property.**

- A. Whenever the City shall determine that the orderly, efficient conduct of the City's business requires that parking or standing of vehicles on City property be prohibited, limited or restricted, the City shall have the power and authority to order signs to be erected or posted, indicating that the parking of vehicles is thus prohibited, limited or restricted.
- B. When signs authorized by the provisions of this section are in place, giving notice thereof, no person shall park or stand any vehicle contrary to the directions or provisions of such signs. (Amended during 1989 recodification; Ord. 334 Art. X § 116, 1953)

**10.32.280 Parking or standing—Temporary restrictions.**

- A. Whenever the Chief of Police shall determine that emergency traffic congestion is likely to result from the holding of public or private assemblages, gatherings or functions, or for other reasons, the Chief of Police shall have power and authority to order temporary signs to be erected or posted indicating that the operation, parking or standing of vehicles is prohibited on such streets and alleys as the Chief of Police shall direct during the time such temporary signs are in place. Such signs shall remain in place only during the existence of such emergency, and the Chief of Police shall cause such signs to be removed promptly thereafter.
- B. When signs authorized by the provisions of this section are in place giving notice thereof, no person shall operate, park or stand any vehicle contrary to the directions and provisions of such signs. (Ord. 334 Art. X § 112, 1953)

**10.32.290 Parking or standing—Commercial vehicles.**

No person shall park or leave standing any commercial vehicle, as defined by the California Vehicle Code, having an unladen weight of eight thousand pounds or more, or any truck-tractor and/or trailer irrespective of weight, upon any street or roadway more than five hours in any residential district, except:

- A. While loading or unloading property, and time in addition to such five-hour period is necessary to complete such work; or
- B. When such vehicle is parked in connection with and in aid of the performance of a service to or on a property in the block in which such vehicle is parked, and time in addition to such five-hour period is reasonably necessary to complete such service. (Ord. 943 § 2, 1984)

**10.32.310 Loading and unloading—Zones and marking.**

A. The City Engineer/Director of Public Works is authorized to determine and to mark loading zones and passenger loading zones as follows:

1. At any place in any business district;

2. Elsewhere in front of the entrance to any place of business, or in front of any hall or place used for the purpose of public assembly.

B. In no event shall more than one-half of the total curb length in any block be reserved for loading zone purposes.

C. Loading zones shall be indicated by a yellow paint line, stenciled with black letters "LOADING ONLY" upon the top of all curbs in such zones.

D. Passenger loading zones shall be indicated by a white line stenciled with black letters "PASSENGER LOADING ONLY" upon the top of all curbs in such zones. (Ord. 1053 § 6(5) (part), 1990; Ord. 334 Art. XI § 120, 1953)

**10.32.320 Loading or unloading at curb—Permit required.**

The City Engineer/Director of Public Works is authorized to issue special permits to allow the backing of a vehicle to the curb for the purpose of loading or unloading merchandise or material, subject to the terms and conditions of such permit. Such permit may be issued either to the owner or lessee of real property or to the owner of the vehicle, and shall grant to such person the privilege as therein stated and authorized herein, and it is unlawful for any permittee or other person to violate any of the special terms or conditions of such permit. (Ord. 1053 § 6(5) (part), 1990; Ord. 334 Art. X § 106, 1953)

**10.32.330 Loading or unloading—Permission for commercial vehicles.**

A. Permission granted in this chapter to stop or stand a vehicle for purposes of loading or unloading of materials shall apply only to commercial vehicles, and shall not extend beyond the time necessary therefor, and in no event for more than twenty minutes. The loading or unloading of materials shall apply only to commercial deliveries, also the delivery or pickup of express and parcel post packages and United States mail.

B. Permission herein granted to stop or park for purposes of loading or unloading passengers shall include the loading or unloading of personal baggage, but shall not extend beyond the time necessary therefor, and in no event for more than three minutes. Within the total time limits above specified, the provisions of this section shall be enforced so as to accommodate necessary and reasonable loading or unloading, but without permitting abuse of the privileges hereby granted. (Ord. 334 Art. XI § 122, 1953)

**10.32.340 Alley use restrictions.**

No person shall stop, stand or park a vehicle for any purpose other than the loading or unloading of persons or material in any alley. (Ord. 883 § 1 (part), 1981; Ord. 778 § 1 (part), 1976; Ord. 334 Art. XI § 125, 1953)

**10.32.350 Bicycle parking.**

A. When the City Engineer/Director of Public Works shall determine that the establishment of a bicycle parking zone is reasonably necessary or desirable for the regulation of traffic, or to provide facilities for the temporary parking of bicycles being operated upon the public street, or to safeguard life or property, he is authorized to set aside a space on the street not more than thirty-six feet in length for the parking of bicycles during such hours of such days as are found by him to be best suited for the accomplishment of the purpose set forth in this section.

B. When a bicycle parking zone is so established, the City Engineer/Director of Public Works shall cause appropriate signs to be posted thereat during such hours, giving notice that parking of other vehicles is prohibited. No person shall stop, stand or park any other vehicle in front of such zone while such signs are in place. (Ord. 1053 § 6(5) (part), 1990; Ord. 334 Art. X § 117, 1953)

**10.32.360 Bus zones.**

A. The City Engineer/Director of Public Works is authorized to establish bus zones opposite curb space for the loading and unloading of buses or common carriers of passengers, and to determine the location thereof subject to the directives and limitations set forth herein.

B. The word "bus," as used in this section, means any motor bus, motor coach or passenger stage used as a common carrier of passengers.

C. No bus zone shall exceed eighty feet in length, except that when satisfactory evidence has been presented to the City Engineer/Director of Public Works showing the necessity therefor, the City Engineer/Director of Public Works may extend bus zones not to exceed a total length of one hundred twenty-five feet.

D. Bus zones shall normally be established on the far side of an intersection. No bus zone shall be established opposite and to the right of a safety zone. The City Engineer/Director of Public Works shall paint a red line stenciled with white letters "NO STANDING" together with the words "BUS ZONE" upon the top or side of all curbs and places specified as a bus zone.

E. No person shall stop, stand or park any vehicle except a bus in a bus zone. (Ord. 1053 § 6(5) (part), 1990; Ord. 334 Art. XI § 126, 1953)

#### **10.32.370 Taxicab stands.**

A. The City Council shall, by resolution, establish taxicab stands and determine the locations thereof. The City Engineer/Director of Public Works shall paint a white line stenciled with the words "FOR TAXICABS ONLY" upon the tops of all curbs and places specified for taxicabs only.

B. No owner or driver of any taxicab shall park or stand the same upon any public highway in the City for any period of time longer than is necessary to discharge or receive passengers then occupying or then waiting for such taxicab, provided that a taxicab may be parked in a taxicab stand established pursuant to this section. (Ord. 1053 § 6(5) (part), 1990; Ord. 334 Art. XI § 127, 1953)

#### **10.32.380 Parking—For certain purposes prohibited.**

No person shall park a vehicle upon any roadway for the principal purpose of:

A. *Deleted by Ord. 1354;*

B. Washing, greasing or repairing such vehicle, except repairs necessitated by an emergency. (Ord. 1354 § 1, 2005; Ord. 883 § 1 (part), 1981; Ord. 778 §§ 1 (part), 2 (part), 1976; Ord. 334 Art. X § 103, 1953)

#### **10.32.390 Parking—Other than motor vehicles.**

A. When signs are erected giving notice thereof, no person shall park a vehicle at any time upon any of the streets so designated. The minimum fine for a violation of this section is ten dollars.

B. Except as provided in this subsection, no person shall park, place or leave standing any commercial vehicles having an unladen weight of more than three tons, or any boats, semitrailers, tent trailers, truck-tractors, irrespective of weight as defined by the California Vehicle Code as follows:

1. On Industrial Road, or El Camino Real, at any time;

2. On East San Carlos Avenue, Old County Road, or in the 900 and 1000 blocks of Bing Street, between the hours of seven p.m. and six a.m.; and

3. Exceptions to the aforesaid parking restrictions shall be made for:

a. Public works and public utilities activities which shall be limited to the hours set forth in Sections 9.30.070(B) and (D) of this Code;

b. Emergency vehicles; and

c. Solid waste pick-up vehicles;

d. Stopping for less than twenty minutes to pick up or deliver goods or supplies. (Ord. 1225 § 1, 1997; Ord. 1223 § 1, 1996; Ord. 1189 § 1, 1995; Ord. 1162 § 1, 1994; Ord. 901 § 1, 1981; Ord. 778 § 2 (part), 1976; Ord. 334 Art. XII § 132, 1953)

#### **10.32.400 Vehicles—Removal from street authorized when.**

Any regularly employed and salaried officer of the Police Department may remove or cause to be removed:

A. Any vehicle that has been parked or left standing upon a street or highway for seventy-two or more consecutive hours. For purposes of this section, a vehicle shall be considered to have been parked or left standing for seventy-two or more consecutive hours if it has not been moved one thousand feet or more during such seventy-two-hour period;

B. Any vehicle which is parked or left standing upon a street or highway between the hours of seven a.m. and seven p.m. when such parking or standing is prohibited by ordinance or resolution of the City, and signs are posted giving notice of such

removal;

C. Any vehicle which is parked or left standing upon a street or highway where the use of such street or highway, or a portion thereof, is necessary for the cleaning, repair or construction of the street or highway, or any portion thereof is authorized for a purpose other than the normal flow of traffic, or where the use of the street or highway or any portion thereof is necessary for the movement of equipment, articles or structures of unusual size, and the parking of such vehicle would prohibit or interfere with such use or movement; provided that signs giving notice that such vehicles may be removed are erected or placed at least twenty-four hours prior to the removal. (Ord. 897 § 1, 1981; Ord. 778 § 2 (part), 1976; Ord. 334 Art. X § 102, 1953)

#### **10.32.410 Violation—Fines designated.**

The minimum fine for violation of the following sections of this Code is ten dollars: Sections 10.32.100, 10.32.130, 10.32.140, 10.32.160, 10.32.170, 10.32.290, 10.32.340, 10.32.360, 10.32.380, 10.32.390, 10.32.400 and subsection B of Section 10.32.020. (Ord. 909 § 1, 1982; Ord. 883 § 3, 1981)

### **Chapter 10.36 PEDESTRIANS**

Sections:

#### **10.36.010 Crosswalks—Establishment.**

#### **10.36.020 Crosswalks—Use in business districts.**

#### **10.36.030 Crossing roadways at right angles.**

#### **10.36.040 Standing in roadways prohibited.**

#### **10.36.010 Crosswalks—Establishment.**

A. The City Engineer/Director of Public Works shall establish, designate and maintain crosswalks at intersections and other places by appropriate devices, marks or lines upon the surface of the roadway, as follows:

1. Crosswalks shall be established and maintained at all intersections and at other places where the City Engineer/Director of Public Works determines that there is particular hazard to pedestrians crossing the roadway, subject to the limitation contained in subsection (A)(2) of this section;

2. Crosswalks may be established at intersections and in midblock where such crosswalks will promote public safety. Crosswalks may be eliminated by the City Engineer/Director of Public Works with consent of the City Council.

B. All crosswalks heretofore established in the City are hereby reestablished in the City as if enacted and placed on such streets under subsection (A)(2) of this section, as hereinabove amended. (Ord. 1053 § 6(6), 1990; amended during 1989 recodification; Ord. 772 §§ 1, 2, 1975; Ord. 334 Art. IX § 90, 1953)

#### **10.36.020 Crosswalks—Use in business districts.**

No pedestrian shall cross a roadway other than by a crosswalk in any business district. (Ord. 334 Art. IX § 91, 1953)

#### **10.36.030 Crossing roadways at right angles.**

No pedestrian shall cross a roadway at any place other than by a route at right angles to the curb, or by the shortest route to the opposite curb, except in a marked crosswalk. (Ord. 334 Art. IX § 92, 1953)

#### **10.36.040 Standing in roadways prohibited.**

No person shall stand in any roadway other than in a safety zone or in a crosswalk, if such action interferes with the lawful movement of traffic. This section shall not apply to any public officer or employee, or employee of a public utility when necessarily upon a street in line of duty. (Ord. 334 Art. IX § 93, 1953)

### **Chapter 10.40 BICYCLES**

Sections:

#### **10.40.070 Serial number prerequisite to sale.**

#### **10.40.080 Defacing or removing license or identity numbers.**

#### **10.40.100 Riding on sidewalks prohibited.**

#### **10.40.070 Serial number prerequisite to sale.**

After December 31, 1974, no bicycle retailer may sell any new bicycle in the City unless the bicycle has permanently stamped by indentation in the metal or cast on its frame a serial number unique to the particular bicycle of each manufacturer. The serial number shall be stamped or cast in the head of the frame, either side of the seat downpost tube, or the bottom sprocket bracket. (Ord. 763 § 9, 1975)

#### **10.40.080 Defacing or removing license or identity numbers.**

It is unlawful for any person to wilfully or maliciously remove, deface, mutilate or alter any bicycle license plate, seal, registration card, or the number thereon, during the time in which the same is operative; provided, however, that nothing in this chapter shall prohibit the Police Department from stamping numbers on the frames of bicycles on which no serial number can be found, or on which such number is illegible or insufficient for identification purposes. (Ord. 338 § 8, 1953)

#### **10.40.100 Riding on sidewalks prohibited.**

It is unlawful to operate a bicycle upon any public sidewalk. Violation of this section shall be considered an infraction, and the violator shall be fined not more than ten dollars for each of such violations of this section. (Ord. 843 § 3, 1979)

### **Chapter 10.44 MISCELLANEOUS TRAFFIC REGULATIONS**

Sections:

#### **10.44.010 Use of limited-access highways.**

#### **10.44.020 Traffic barriers and signs.**

#### **10.44.030 Skateboards and coasters—Penalty for violation.**

#### **10.44.040 Advertising vehicles and sound-amplifying equipment.**

#### **10.44.050 Funeral procession driving restrictions.**

#### **10.44.060 Driving on sidewalk prohibited.**

#### **10.44.070 Driving on new pavement prohibited.**

#### **10.44.080 Excessive acceleration and skid marks.**

#### **10.44.090 Animal-drawn vehicles.**

#### **10.44.100 Closure of portion of Sister City Alley to vehicular traffic.**

#### **10.44.110 Electronic personal assistive mobility devices.**

#### **10.44.010 Use of limited-access highways.**

No person shall drive a vehicle onto or from any limited-access roadway except at such entrances and exits as are established by public authority. (Ord. 334 Art. VIII § 84, 1953)

#### **10.44.020 Traffic barriers and signs.**

No person shall operate a vehicle contrary to the directions or provisions of any barrier or sign erected: (a) pursuant to the provisions of any ordinance of the City, or (b) by any public utility, or (c) by any department of the City, or (d) by any other person pursuant to law or contract with the City; nor shall any unauthorized person move or alter the position of any such barrier or sign. (Ord. 334 Art. VIII § 85, 1953)

#### **10.44.030 Skateboards and coasters—Penalty for violation.**

A. It is unlawful for any person at any time to ride on or operate a coaster, skateboard or similar device on:

1. Any street in the City;
2. Any sidewalk or any public parking lot in any retail commercial district in the City.

B. Any violation of this section shall be considered an infraction, punishable as set forth in Government Code Section 36900, with a minimum fine of five dollars. (Ord. 843 § 2, 1979; Ord. 789 § 1, 1976)

#### **10.44.040 Advertising vehicles and sound-amplifying equipment.**

No person shall operate or drive any vehicle used for advertising purposes, or any advertising vehicle equipped with a sound-amplifying or loud-speaking device, upon any street or alley at any time without permission of the Chief of Police. (Ord. 334 Art.

XIII § 140, 1953)

**10.44.050 Funeral procession driving restrictions.**

No driver of a vehicle shall drive between vehicles comprising a funeral procession while they are in motion and when the vehicles in such procession are conspicuously so designated. (Ord. 334 Art. VIII § 80, 1953)

**10.44.060 Driving on sidewalk prohibited.**

The driver of a vehicle shall not drive within any sidewalk area or any parkway, except at a permanent or temporary driveway. (Ord. 334 Art. VIII § 82, 1953)

**10.44.070 Driving on new pavement prohibited.**

No person shall ride or drive any animal or any vehicle over or across any newly made pavement or freshly painted marking in any street when a barrier or sign is in place warning persons not to drive over or across such pavement or marking, or when a sign is in place stating that the street or any portion thereof is closed. (Ord. 334 Art. VIII § 83, 1953)

**10.44.080 Excessive acceleration and skid marks.**

A. It is unlawful for any person operating a motor vehicle within the City to so accelerate the same as to cause audible noise by tire friction on pavement, or to cause the tires of such vehicle to leave skid marks upon the pavement, except when such acceleration is reasonably necessary to avoid a collision.

B. Any person violating this section shall be guilty of an infraction, which shall be punishable under and to the extent of the laws of this State for infractions. (Ord. 876 § 1, 1980)

**10.44.090 Animal-drawn vehicles.**

No person shall drive any animal-drawn vehicle into or within a business district between the hours of four-thirty p.m. and six p.m. of any day. (Ord. 334 Art. XIII § 141, 1953)

**10.44.100 Closure of portion of Sister City Alley to vehicular traffic.**

The City Council finds that as a matter of health and safety for pedestrians and vehicular traffic, and that pursuant to California Vehicle Code Section 21101, that the street is no longer needed for vehicular traffic, and that Sister City Alley, located approximately one hundred feet west of Laurel Street and running between San Carlos Avenue and Wheeler Plaza, shall be closed to vehicular traffic. (Ord. 1190 § 1, 1995)

**10.44.110 Electronic personal assistive mobility devices.**

A. It shall be unlawful to operate an electronic personal assistive mobility device (EPAMD) on any street, or sidewalk in the 600, 700 or 800 blocks of Laurel Street in the City of San Carlos.

B. "Electronic personal assistive mobility device (EPAMD)" means a self-balancing, non-tandem two-wheeled device that can turn in place and is designed to transport only one person at a maximum speed of less than twelve and one-half miles per hour on a level surface, with an electronic propulsion system averaging less than seven hundred fifty watts (one horsepower). (Ord. 1320 § 1, 2003)

**Chapter 10.48  
LOAD LIMITS**

Sections:

**10.48.010 Maximum weight designated.**

**10.48.020 Truck routes—Establishment and use.**

**10.48.030 Truck routes—Streets designated.**

**10.48.040 Truck routes—Use required when.**

**10.48.050 Limited routes—Use authorized when.**

**10.48.060 Limited routes—Permit—Required.**

**10.48.070 Limited routes—Application—Fee.**

**10.48.080 Limited routes—Application—Investigation.**

**10.48.090 Limited routes—Permit—Issuance conditions.**

- 10.48.100 Limited routes—Permit—Bond.**
- 10.48.110 Limited routes—Permit—Insurance.**
- 10.48.120 Limited routes—Establishment and use.**
- 10.48.130 Limited routes—Additional permit specifications.**
- 10.48.140 Denial of permit—Appeal.**
- 10.48.150 Hearing on appeal—Findings.**
- 10.48.160 Permit—Suspension or revocation.**
- 10.48.170 Permit—Expiration—Supplemental permits.**
- 10.48.180 Supplemental permit denial—Appeal.**
- 10.48.190 Compliance with code provisions.**
- 10.48.200 Commercial vehicles prohibited on certain streets.**
- 10.48.210 Street sign requirements.**

**10.48.010 Maximum weight designated.**

It is unlawful for any person to operate a commercial vehicle exceeding a maximum gross weight of three tons upon any street in the City, except as provided in Section 10.48.040 and Sections 10.48.050 through 10.48.190. (Ord. 1491 § 1 (part), 2015: prior code § 4489(a))

**10.48.020 Truck routes—Establishment and use.**

- A. Whenever any provision of this Code designates or describes any street or streets, or portions thereof, as a street or streets the use of which is permitted by any commercial vehicle or by any vehicle exceeding the maximum gross weight of three tons, the City Manager is authorized to designate such street or streets or portions thereof by approaching signs such as "truck routes" for the movement of commercial vehicles and vehicles exceeding the maximum gross weight limit of three tons.
- B. No such provisions shall be effective with respect to any highway which is not under the exclusive jurisdiction of the City or, in the case of any State highway, until such proposed provision has been submitted by the City Council to and approved in writing by the Department of Public Works.
- C. No such provision shall prohibit any commercial vehicles coming from an unrestricted street having ingress or egress by direct route to and from a restricted street when necessary for the purpose of loading or unloading passengers, or making pickups or deliveries of goods, wares and merchandise from or to any building or structure located on such restricted street, or for the purpose of delivering materials to be used in the actual and bona fide repair, alteration, remodeling or construction of any building or structure upon such restricted street for which a building permit has previously been obtained therefor.
- D. No such provisions shall apply to any vehicle owned by a public utility while necessarily in use for the construction, installation or repair of any public utility. (Ord. 1491 § 1 (part), 2015: prior code § 4489(b))

**10.48.030 Truck routes—Streets designated.**

The following are hereby designated as streets the use of which is permitted to any commercial vehicle, or to any vehicle exceeding the maximum gross weight of three tons:

- A. Bayshore Freeway (US 101);
- B. El Camino Real;
- C. Howard Avenue (between El Camino Real and Industrial Road);
- D. Brittan Avenue (between El Camino Real and Industrial Road);
- E. Industrial Road. (Ord. 1491 § 1 (part), 2015: prior code § 4489(c))

**10.48.040 Truck routes—Use required when.**

When any such truck traffic route or routes are established and designated by appropriate signs, the operator of any commercial vehicle, or any vehicle exceeding a maximum gross weight limit of three tons, shall drive on such route or routes and none other, except when necessary to traverse another street or streets for the purpose of making pickups or deliveries of goods, wares and merchandise from or to any building or structure located on a restricted street or streets, or for the purpose of delivering materials to be used in the actual and bona fide repair, alteration, remodeling or construction of any building or structure upon such restricted street for which a building permit has been previously obtained therefor, but then only by such deviation from the nearest truck route as is reasonably necessary. The provisions of this section shall not apply to any vehicle owned by a public utility while necessarily in use in the construction, installation or repair of any public utility. (Ord. 1491 § 1 (part), 2015: prior code § 4489(d))

**10.48.050 Limited routes—Use authorized when.**

Notwithstanding any other provisions of this Code, vehicles exceeding the maximum gross weight set forth in this chapter may be permitted along streets, herein called "limited truck routes," not designated by approaching signs as "truck routes," under the conditions and provisions set out in Sections 10.48.060 through 10.48.190. (Ord. 1491 § 1 (part), 2015: prior code § 4490 (part))

**10.48.060 Limited routes—Permit—Required.**

Any person desiring to haul along any restricted street shall file an application in duplicate for a permit so to do with the Director of Public Works, the original of which shall be verified. The application shall set forth the following information:

- A. A full identification and the residence and business address of the applicant, including all members of any firm or partnership, and the president and secretary of any corporation applying; if the applicant is the agent or employee of any person for whose benefit the permit is required, this fact, with the full identification of such person and his business and residence address;
- B. The facts constituting the necessity for hauling;
- C. The amount intended to be hauled;
- D. The dates on which the hauling is intended to be commenced and completed, and the times of day during which hauling is intended to be done;
- E. The route which the applicant proposes to use over public streets and/or private property;
- F. The time interval between vehicles, and the number of vehicles per hour which will travel over the route for which the permit is applied;
- G. The locations of the place or places of delivery; provided, however, that if delivery is to be made in small quantities to numerous places, a general description, satisfactory to the Director of Public Works, of the locations of the contemplated deliveries will be sufficient;
- H. Such further information as the Director of Public Works may require. (Ord. 1491 § 1 (part), 2015: prior code § 4490(a))

**10.48.070 Limited routes—Application—Fee.**

If the materials to be hauled are earthen materials, at the time of filing the application, the applicant shall pay to the City, at the office of the Finance Director, a minimum filing fee in such sum as required by resolution of the City Council. The moneys collected from such fees shall be used primarily for the repair and maintenance of the limited truck routes, and thereafter for general street repair and maintenance. (Ord. 1491 § 1 (part), 2015: Ord. 877, 1981: prior code § 4490(b))

**10.48.080 Limited routes—Application—Investigation.**

Immediately upon filing of an application for a permit to haul, one copy of such application shall be delivered to the Chief of Police. The Director of Public Works will have made an investigation of the facts stated in the application, and within five days from the date of filing such application shall either grant a permit with or without modification, as set forth in Sections 10.48.050 through 10.48.190, or deny the same in whole or in part. (Ord. 1491 § 1 (part), 2015: prior code § 4490(c))

**10.48.090 Limited routes—Permit—Issuance conditions.**

The application will be granted by the Director of Public Works only if he finds as follows:

- A. That the public health, safety or welfare require the hauling and the use of the route applied for, or such modification thereof as he may deem advisable;
- B. That the hauling over the route specified will not be injurious to the public health, safety or welfare;

C. That the City will be duly protected from liability for injury to persons and property;

D. That the City will be indemnified from injury to its public streets and other places by reason of the use thereof for such hauling. (Ord. 1491 § 1 (part), 2015: prior code § 4490(d))

**10.48.100 Limited routes—Permit—Bond.**

The Director of Public Works shall require, as a condition to the granting of any permit under Sections 10.48.050 through 10.48.190, that the applicant deposit with the City Clerk a surety bond, in an amount to be fixed and form to be specified by the Director of Public Works, inuring to the benefit of the City, guaranteeing that the applicant will faithfully perform all of the conditions and requirements specified in the permit, and will repair to the satisfaction of the Superintendent of Streets or, at the option of the Director of Public Works, reimburse the City for any damage caused to city streets or other city property by the hauling or transportation of material or equipment. Such bond shall be executed by a surety or sureties approved by the Director of Public Works as being sufficient in financial responsibility. (Ord. 1491 § 1 (part), 2015: prior code § 4490(e))

**10.48.110 Limited routes—Permit—Insurance.**

A. The Director of Public Works shall also require as a condition to the granting of such permit that the applicant deposit with the City Clerk a certificate or policy of a responsible insurance company showing that the City, its elective and appointive boards, officers, agents and employees are insured, in amounts hereinafter specified, against any loss or damage arising directly in carrying on any operations connected directly or indirectly with the hauling for which such permit is issued. Such policies of insurance shall be public liability insurance and property damage insurance and shall have coverages in accordance with the City's insurance requirements.

B. With the approval of the Director of Public Works, the applicant may deposit the aforesaid surety bonds and policies of insurance on an annual or continuing basis, to cover one or more permits for hauling in the same or different locations. (Ord. 1491 § 1 (part), 2015: prior code § 4490(f))

**10.48.120 Limited routes—Establishment and use.**

The Director of Public Works shall establish the route or routes over restricted streets which all vehicles subject to the permit shall travel, and such vehicles shall travel only directly over such route or routes, as may be specified by the City Manager to be least dangerous to public safety, and which shall cause the least interference with general traffic, and the least damage to public streets. (Ord. 1491 § 1 (part), 2015: prior code § 4490(g))

**10.48.130 Limited routes—Additional permit specifications.**

A. The City Manager shall also specify in granting the permit the following:

1. The gross weight limit of each truck or vehicle which shall be authorized to haul under the permit;
2. The time interval between vehicles, and the number of trucks per hour which shall be permitted to travel over the route specified;
3. The hours of the day and the days of the week during which such trucks shall be permitted to travel over the route.

B. In addition to the above, if earthen materials are to be hauled, the following requirements shall be part of every permit:

1. Trucks shall be loaded in such a manner that there shall be no spillage;
2. The permit shall specify the number of yards of dirt to be hauled and the number of working days for hauling;
3. That there shall be sprinkling of all loads to keep down the dust, when necessary;
4. That the City streets shall be kept clean of spillage and wheel dirt on allotted routes;
5. That two-way routes be specified in the permit;
6. That the speed of trucks be specified along the routes;
7. That crossing guards shall be provided at the expense of the applicant when necessary, in the opinion of the Police Chief. (Ord. 1491 § 1 (part), 2015: prior code § 4490(h))

**10.48.140 Denial of permit—Appeal.**

In the event the City Manager modifies or denies in whole or in part any application for a permit as provided for in this section, the applicant may file with the City Clerk a written notice of appeal to the City Council from such decision. Such notice of appeal must be filed within five days of the mailing of the notice denying or modifying the application. In such event, the City Clerk shall

set the hearing on such appeal before the City Council for the second succeeding regular meeting after the date of filing such notice. (Ord. 1491 § 1 (part), 2015: prior code § 4490(i))

#### **10.48.150 Hearing on appeal—Findings.**

At the time set for hearing, the Council may summon witnesses and hear evidence relating to the application. The Council may continue the hearing from time to time. At the conclusion thereof, the Council may make its findings thereon, and may grant or deny the application, or make such modifications with reference thereto as it may deem fit. The findings and order of the Council shall be final and conclusive on the applicant, and no application for substantially the same purpose may be made by the applicant for one year after the date of such findings and order. (Ord. 1491 § 1 (part), 2015: prior code § 4490(j))

#### **10.48.160 Permit—Suspension or revocation.**

If the City Manager deems that the conditions of the permit are being violated, he may suspend the permit until the next meeting of the City Council. At such meeting, he shall present evidence of such violations to the City Council, which may, in its discretion, terminate the permit. (Ord. 1491 § 1 (part), 2015: prior code § 4490(k))

#### **10.48.170 Permit—Expiration—Supplemental permits.**

A. In the event that any hauling for which a permit has been granted hereunder is not commenced within five days after the date of issuance of such permit, or in the event that such hauling is at any time abandoned for a period of five consecutive days, such permit shall automatically expire, without notice, and no further hauling shall be made; however, the conditions expressed in such permit shall remain binding upon the person to whom such permit was issued, and all legal and equitable remedies shall be available against him for any breach thereof.

B. When the amount of material hauled equals the number of cubic yards which such permit authorizes to be hauled, or if haulings vary from the term of the permit, no further hauling may be made until a new or supplemental permit to haul has been issued.

C. In either event herein set forth, an application for a supplemental permit to continue the hauling may be filed, setting forth all the information required for the original application and not contained herein. (Ord. 1491 § 1 (part), 2015: prior code § 4490(l))

#### **10.48.180 Supplemental permit denial—Appeal.**

In the event a supplemental permit is refused, the permittee may appeal to the City Council in the manner provided in Sections 10.48.140 and 10.48.150 for an appeal from a denial of a permit, and all provisions of such sections for giving of notices, hearings, findings, orders, and conclusiveness of such findings and orders shall apply to this section. (Ord. 1491 § 1 (part), 2015: prior code § 4490(m))

#### **10.48.190 Compliance with code provisions.**

Nothing in Sections 10.48.050 through 10.48.190 shall be deemed to authorize the applicant's noncompliance with other appropriate sections of this Code. Any license or permit required by other sections of this Code shall be obtained in addition to the permit required by Sections 10.48.050 through 10.48.190. (Ord. 1491 § 1 (part), 2015: prior code § 4490(n))

#### **10.48.200 Commercial vehicles prohibited on certain streets.**

Whenever any ordinance of the City designates and describes any street or portion thereof as a street the use of which is prohibited by any commercial vehicle or by any vehicle exceeding a maximum gross weight limit of three tons, the City Manager shall erect and maintain appropriate signs on those streets affected by such ordinance. No such ordinance shall prohibit any commercial vehicle from using any street, the use of which is not restricted, for the purpose of delivering or unloading goods, wares or merchandise. (Ord. 1491 § 1 (part), 2015: amended during 1989 recodification; Ord. 334 Art. XIII § 143(a), 1953)

#### **10.48.210 Street sign requirements.**

The City Engineer/Director of Public Works is hereby authorized to place appropriate signs indicating either those streets restricted or those streets not restricted by this chapter, as he shall determine will best serve to give notice of the provisions of this chapter. The acts proscribed by this chapter shall not be deemed prohibited until such signs are so placed. (Ord. 1491 § 1 (part), 2015: Ord. 1053 § 6(7), 1990; Ord. 334 Art. XIII § 142(d), 1953)

### **Chapter 10.52 INTERSTATE TRUCKS**

Sections:

#### **10.52.010 Definitions.**

**10.52.020 Purpose of provisions.****10.52.030 Terminates access from Federal Highway System.****10.52.040 Fee for review of terminal access request.****10.52.050 Route revocation conditions.****10.52.010 Definitions.**

The following words and phrases shall have the meanings set forth, and if any word or phrase used in this chapter is not defined in this section, it shall have the meanings set forth in the California Vehicle Code; provided, that if any such word or phrase is not defined in the Vehicle Code, it shall have the meaning attributed to it in ordinary usage.

A. "CalTrans" means the State of California Department of Transportation, or its successor agency.

B. "Interstate truck" means a truck tractor and trailer or doubles with unlimited length, as regulated by the Vehicle Code.

C. "Terminal" means any facility at which freight is consolidated to be shipped, or where full load consignments may be loaded and offloaded, or at which the vehicles are regularly maintained, stored or manufactured.

D. "Transportation engineer" means the City Engineer or his authorized representative. (Ord. 942 (part), 1985)

**10.52.020 Purpose of provisions.**

The purpose of this chapter is to establish procedures for terminal designation and truck route designation to terminals for interstate trucks operating on a federally designated highway system, and to promote the general health, safety and welfare of the public. (Ord. 942 (part), 1985)

**10.52.030 Terminates access from Federal Highway System.**

A. Any interested person requiring terminal access from the federally designated highway system shall submit an application, on a form as provided by the City, together with such information as may be required by the City Engineer, and appropriate fees, to the City.

B. Upon receipt of the application, the City Engineer will cause an investigation to be made to ascertain whether or not the proposed terminal facility meets the requirements for an interstate truck terminal. Upon his approval of that designation, he will then determine the capability of the route requested, and alternate routes, whether requested or not.

C. Determination of route capability will include, without limitation, a review of adequate turning radius and lane widths of ramps, intersections and highways, and general traffic conditions such as sight distance, speed and traffic volumes. No access of a federally designated highway system will be approved without the approval of CalTrans. (Ord. 942 (part), 1985)

**10.52.040 Fee for review of terminal access request.**

The application shall pay a nonrefundable application fee, as established by the City by resolution, sufficient to pay the cost of the review of the terminal designation and review of the route and alternate route. (Ord. 942 (part), 1985)

**10.52.050 Route revocation conditions.**

The City Engineer may revoke any approved terminal or route if the terminal or route becomes a traffic hazard for vehicular traffic. A "safety hazard" includes the inability of interstate trucks to negotiate the route, or such vehicles causing unsafe driving conditions for other vehicular traffic or pedestrians. (Ord. 942 (part), 1985)

**Title 11  
(RESERVED)**

**Title 12  
STREETS, SIDEWALKS AND PUBLIC PLACES Revised 1/24**

**Chapters:****12.01 Encroachments and Use of City Rights-of-Way and Public Utility Easements****12.04 Sidewalk and Driveway Approach Construction and Repair****12.08 Grading and Excavations****12.12 Regulation of Park Facilities**

**12.20 Maintenance and Removal of Private Landscaping on Public Property****12.24 Newsracks****12.28 Regulations for Signs on City Property and on the Public Right-of-Way****12.36 Outdoor Dining and Outdoor Retail Sales on City Property and in the Public Right-of-Way****12.40 Pedestrian Malls Revised 1/24****Chapter 12.01****ENCROACHMENTS AND USE OF CITY RIGHTS-OF-WAY AND PUBLIC UTILITY EASEMENTS**

Sections:

**12.01.010 Purpose.****12.01.020 Definitions.****12.01.030 Encroachment permit required.****12.01.040 Exceptions to permit requirement.****12.01.050 Pavement preservation.****12.01.060 Permit application process.****12.01.070 Fees.****12.01.080 Security required.****12.01.090 Permittee to indemnify City.****12.01.100 Permit approval and issuance.****12.01.110 Notices, term of permit.****12.01.120 Permit valid for described and approved work or use only.****12.01.130 Display of permit.****12.01.140 Construction requirements.****12.01.150 Extending permit.****12.01.160 Release or revision of bonds and cash deposits.****12.01.170 Ongoing use of right-of-way.****12.01.180 Facilities in public utility easements.****12.01.190 Damage to existing facilities from encroachments.****12.01.200 Adherence to rules and regulations.****12.01.210 Transfer of permits.****12.01.220 Inspections—Records—Corrective action.****12.01.230 Changes in permit.****12.01.240 Driveway approach permit—Conditions.****12.01.250 Emergency encroachments.****12.01.260 Abandonment or removal of facilities from right-of-way or PUE.****12.01.270 Obstructions deemed public nuisance.**

**12.01.280 Emergency suspension of permit.****12.01.290 Hearing on emergency suspension of permit.****12.01.300 Suspension or revocation of permit.****12.01.310 Hearing on suspension or revocation of permit.****12.01.320 Penalties.****12.01.330 Appeals.****12.01.010 Purpose.**

The standards and procedures provided in this chapter are adopted to protect public safety; to protect and preserve public property; to assure control inspection and maintenance of public and private improvements within public rights-of-way and public utility easements affecting the public; to provide for the orderly time, manner and location for use of the rights-of-way and public utility easements in the City; to minimize and reduce impacts to public safety and City resources; to minimize and reduce impacts to the City, its residents and visitors; and for the general health and welfare of the public. (Ord. 1474 § 1 (part), 2014)

**12.01.020 Definitions.**

The words and terms used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

- A. "Abandon" or "abandoned facilities" means facilities not used to provide service for a period of one hundred eighty days, or if the authorization to enter the right-of-way held by permittee is revoked, terminated or abandoned.
- B. "Arterial street" means any street classified as arterial per the Circulation Element of the City's General Plan.
- C. "Applicable law" means all lawfully enacted and applicable Federal, State, and local laws, ordinances, codes, rules, regulations and orders as may be amended or adopted from time to time.
- D. "Business day" means a day on which the main operations of the City of San Carlos are open for business and does not mean any day on which only specialized functions are in operation, such as divisions of the City or its agents that operate on a twenty-four/seven schedule.
- E. "City" means the City of San Carlos, California. Any act that may be taken by the City, the City Council or any agency, department, agent or other entity now or hereafter authorized to act on the City's behalf.
- F. "City Council" means the governing body of the City of San Carlos, California.
- G. "City Manager" means the City Manager or any person authorized or designated by the City Manager to act on his or her behalf.
- H. "Collector street" means any street classified as a minor collector or major collector per the Circulation Element of the City's General Plan.
- I. "Construction," "operation," "maintenance" or "repair" and similar formulations of those terms mean the named actions interpreted broadly, encompassing, among other things, installation, extension, maintenance, repair, replacement of components, relocation, undergrounding, grading, site preparation, adjusting, testing, make-ready, excavation and tree trimming. The term "operation" does not encompass or regulate the provision of services or the ownership or use of facilities in rights-of-way or other property subject to the jurisdiction of the City, but refers to activities affecting rights-of-way and other property subject to the jurisdiction of the City.
- J. "CPUC" shall mean the California Public Utilities Commission or its successor agency.
- K. "Days" means calendar days, unless otherwise indicated.
- L. "Emergency" means an immediate hazard or danger to life, health or property.
- M. "Emergency encroachment" means an encroachment necessitated by the public good, safety, health or welfare by a person or entity with facilities located in the right-of-way.
- N. "Emergency street cut" means any street cut by a utility to repair a facility within the right-of-way to remediate an immediate hazard or danger to life, health or property, as determined at the discretion of the Public Works Director.

O. "Encroach" or "encroachment" includes use upon, over or under a right-of-way or public utility easement, or using a right-of-way or public utility easement or an area adjacent to a right-of-way or public utility easement in such a manner as to permanently or temporarily prevent, obstruct or interfere with the intended or normal use of that way or easement, or a modification of its mode of use, including but not limited to:

1. Excavation, fill, disturbance or disturbing the surface;
2. Erection, construction, placement or maintenance of any facility within or along the public right-of-way or easement;
3. Planting or maintaining any landscaping or hardscape;
4. Placement or maintenance of any waste material, except the placement of solid waste, compostables or recyclables in authorized receptacles for pick-up in the right-of-way in accordance with Chapter 8.04;
5. Traveling by any vehicle or combination of vehicles or object of dimension, weight or other characteristic prohibited by law without a permit including oversized and overweight vehicles;
6. The application of paint or other marking materials;
7. Implementing any type of traffic control that affects vehicular or pedestrian traffic in the public right-of-way;
8. Reserving any parking space or street space for a specific event or cause, including, but not limited to, any construction project or moving in or out of a property.

P. "Encroachment permit" means a permit issued pursuant to and in conformance with this chapter.

Q. "Facility" or "facilities" means any post, sign, pole, fence, guard rail, wall, pathway, sidewalk, driveway, track, surfacing, culvert, drainage facility, object, pipe, pipeline, vault, valve, switch, panel, pedestal, appurtenances, conduit, cable, utility cabinet, embankment, excavation, public improvements, structure, pipe, conduit, wire, cable or telecommunications or similar property constructed or placed in the right-of-way or public utility easement.

R. "Fence" means an obstruction of whatever material or composition which is designed, intended or used to protect, defend or obscure the interior property of the owner thereof from the view, trespass or passage of others upon the property.

S. "Hardscape" means any constructed flatwork built of concrete, stone, wood, or other such non-pervious or pervious durable material.

T. "Landscape" means any tree, hedge, shrub, grass, groundcover, plant, or growing thing excluding public landscaping, as defined by Section 12.20.020.

U. "Material change" means any variation from approved plan other than horizontal changes of one foot or less.

V. "Minor encroachment" means a traffic lane closure or physical improvements located within sidewalk or landscape adjacent to a residential street.

W. "Minor street cut" means an asphalt cut on a residential street which total area does not exceed thirty square feet.

X. "Major encroachment" means a traffic lane closure or physical improvements located within sidewalk or landscape adjacent to a collector or arterial street.

Y. "Major street cut" means an asphalt cut on a residential street with total area in excess of thirty square feet or an asphalt cut of any size on a collector or arterial street.

Z. "Permittee" means any person seeking and/or that has obtained an encroachment permit pursuant to this chapter.

AA. "Public Works Director" means the Public Works Director or his or her designee.

BB. "Utility" means an entity constituting a public utility under State law or having a valid Certificate of Public Convenience issued by the CPUC.

CC. "PUE" shall mean public utility easement.

DD. "Right-of-way" means the surface, the air space above the surface and the area below the surface of any public street, highway, lane, path, alley, sidewalk, boulevard, drive, bridge, tunnel, park, park strip, parkway, trail, waterway, culvert,

easement, or similar property in which the City now or hereafter holds any property interest.

EE. "Street" has the same meaning as right-of-way.

FF. "Waste material" means any rubbish, brush, earth or other material of any nature which is unused, unwanted, discarded or to be recycled.

GG. "Work hours" are the allowable hours of construction in the public right-of-way and are permitted Monday through Friday, eight a.m. to four p.m., or as directed by the Public Works Director. Construction is not permitted on Saturday or Sunday or on City observed holidays, including but not limited to: New Year's Day, Martin Luther King Jr. Day, President's Day, Memorial Day, 4th of July, Labor Day, Veteran's Day, Thanksgiving Day, and Christmas Day. (Ord. 1474 § 1 (part), 2014)

**12.01.030 Encroachment permit required.**

A. Except as otherwise provided in this chapter, it is unlawful for any person to encroach or make or cause to be made any encroachment in the public right-of-way or on property subject to a PUE, or other easement available for use by public utilities, without first obtaining an encroachment permit from the Public Works Director.

B. No use of any right-of-way or any other interest or property pursuant to this chapter shall create or vest in a permittee any ownership or other interest in the right-of-way, streets or other property or interest of the City. Permits issued in accordance with this chapter may be revoked at any time deemed necessary by the Public Works Director.

C. All obligations, responsibilities and other requirements of the permittee as described in this chapter shall be binding on subsequent owners of the facility or encroachment.

D. Any person owning or maintaining any encroachment existing as of the effective date of this chapter, which has not previously been the subject of a written permit or agreement, and is not exempt under Section 12.01.040, shall be required to apply for a permit pursuant to this chapter by July 1, 2014. If an application is not timely made, or if application is made but a permit is denied, the City may remove the encroachment. Prior to such removal the City shall give not less than thirty days' written notice by mail to the person or persons who reasonably appear to own or maintain such encroachment, if the identity and address thereof can be ascertained with reasonable efforts by the City.

E. Each permit shall specify its duration and shall become null and void after the date so specified, or any extension thereof, unless the permit is terminated sooner by discontinuance of the use or removal of the encroachment for which the permit was issued.

F. A permit for an ongoing encroachment shall be considered to be of indeterminate duration.

G. Any encroachment for which a permit is required and for which no permit has been issued pursuant to this chapter shall be deemed a public nuisance which may be abated by the City pursuant to Chapter 1.20 or as provided elsewhere in the Municipal Code. (Ord. 1474 § 1 (part), 2014)

**12.01.040 Exceptions to permit requirement.**

No encroachment permit shall be required for any of the following:

A. Any sign erected, constructed and maintained in compliance with Chapter 12.28, except billboards;

B. The action of any officer or employee of the City engaged in the discharge of official duties; or

C. The nonpermanent marking of pavement, curbs and sidewalks by the City, utility companies, engineers and surveyors to indicate the location of underground utility lines and monuments in connection with surveying and design may be done without a permit; all other pavement, curb and sidewalk markings require a permit.

D. Installation and maintenance of landscape adjacent to residential properties in accordance with Section 12.20.030.

E. Use or occupation of City owned or controlled property that is not a right-of-way or subject to a public utility easement. In such cases a lease, license or easement shall be required.

F. Marquees, awnings and other projecting structures and building appendages which project over the right-of-way, comply with the requirements of the Uniform Building Code for use of public streets and projections over public property, and are part of a building or structure which has been granted a valid building permit pursuant to Title 18.

G. The performance of work under contract to the City or by the City itself.

H. The placement or maintenance of newsracks in compliance with this Code or State or Federal law; the City shall be notified in writing prior to the placement of any newsrack. (Ord. 1474 § 1 (part), 2014)

**12.01.050 Pavement preservation.**

Any street that has been constructed, reconstructed, resurfaced or resealed shall not thereafter be cut or opened for a period of two years, except for emergency street cuts. The Public Works Director shall also grant exemptions under the following circumstances:

- A. Relocation work that is mandated by a county, State or Federal agency.
- B. Service for buildings or parcels where no other reasonable means of providing service exists, as determined by the Public Works Director.
- C. Other situations deemed by the Public Works Director to be in the best interest of the general public.

When granting exceptions to this regulation, the Public Works Director may impose conditions to ensure the rapid and complete restoration of the street, surface paving, public signage and striping. (Ord. 1474 § 1 (part), 2014)

**12.01.060 Permit application process.**

All persons desiring or intending to obtain an encroachment permit must apply with the Public Works Department by submitting a completed application signed by the applicant. The Public Works Director shall prescribe and provide an application form for permits required by this chapter. The application shall be signed by the applicant and shall include the following:

- A. The name, address and telephone number of the applicant for a permit;
- B. The name, address and telephone number of the property owner;
- C. The name, address and telephone number of the contractor if the proposed work is to be done by a contractor. If the name of the contractor is not known to applicant at the time of submittal of the application, any encroachment permit issued shall be conditional upon the furnishing of contractor related information to the City Engineer not later than ten days after the contractor is known to the permittee, and at least three days prior to commencement of work by the contractor, unless the Public Works Director gives a written extension to provide this information;
- D. The location, purpose, extent and nature of the proposed work;
- E. The period of time when the proposed work will be performed;
- F. A certificate of insurance for the applicant and contractor's insurance carrier in a form satisfactory to the City;
- G. Proof of a San Carlos business license of any and all contractors intending to perform work under a permit;
- H. All other complete and descriptive information, including plats, plans, specifications and analyses the Public Works Director may require so as to describe the work and its effect on the right-of-way, including the mode of operation, maintenance and use;
- I. Information concerning the supervision and safety precautions to be employed, including the erection of barricades, warning lights, signals and signs, and the employment of personnel to direct traffic. If any lanes of traffic will be closed or work is adjacent to any pedestrian or bike lane or vehicle travel way, the applicant shall also submit a traffic control plan to be reviewed and approved by the Public Works Director.
- J. The written order or consent to work thereunder, required by law, issued by the CPUC or agency or body having jurisdiction;
- K. Current maps and records of the underground facilities at the site, if applicable, unless this requirement is waived by the Public Works Director;
- L. The application for a permit shall refer to, and incorporate by reference, all of the provisions of this chapter;
- M. The permittee shall insure that its agents, employees and contractors are at all times in compliance with all applicable laws, regulations and orders;
- N. Copies of any and all other required licenses, permits or approvals required by the City or any other governmental agency or other private party;

O. No substantial changes shall be made in the plans, design, location, dimensions, character or duration of the encroachment or use as granted by the permit except upon written authorization of the Public Works Director. Unapproved changes shall subject the permittee to penalties as described in Chapter 1.20. The City may require the removal of all work done or facilities installed without a permit or not in compliance with the conditions of a permit. (Ord. 1474 § 1 (part), 2014)

#### **12.01.070 Fees.**

A. The City Council shall establish a schedule of fees for encroachments by resolution.

B. Unless waived in writing by the Public Works Director, fees will be required of any public or utility agency which is authorized by law to establish or maintain any works or facilities in, under or over any public street or right-of-way.

C. Independent contractors under direct contract with the City, for work in benefit of the City, are exempt from fees under this provision when working in benefit of the City and performing duties in the public right-of-way in accordance with the terms of the contract.

D. An encroachment permit shall not be issued until all fees and/or security have been fully paid. (Ord. 1474 § 1 (part), 2014)

#### **12.01.080 Security required.**

A. The Public Works Director may require security in a reasonable amount based on the project size and/or scope, as reasonably determined by the Public Works Director, sufficient to reimburse the City for costs of restoring the right-of-way. Any bond amount will be based on an estimate provided by the permittee and approved by the Public Works Director. Required security may include encroachment bonds, faithful performance bonds, labor and material bonds, cash, certificate of deposit, letter of credit or other security deemed acceptable by the Public Works Director.

B. At any time the Public Works Director determines that the amount of the security is insufficient to cover potential costs or damages which might result from the project, the Public Works Director may require, in writing, the permittee to post an additional bond or cash deposit, or combination thereof, as a condition of continuing work on the project; work shall not continue until this requirement is satisfied. (Ord. 1474 § 1 (part), 2014)

#### **12.01.090 Permittee to indemnify City.**

The permittee shall be liable for and shall indemnify and hold the City harmless from all harm, injuries, or damages (including attorney's fees), including but not limited to damage to persons or property, which occur in connection with or resulting from the ongoing use of the right-of-way. The permittee's liability under this section shall not apply to any harm, injuries or damages resulting solely from the City's negligence or willful misconduct as adjudged by a court of competent jurisdiction. Prior to issuance of the permit, the permittee shall furnish to the City evidence of insurance coverage and endorsements (including self insurance, if applicable) as designated by the City for the liability assumed by the permittee. The City shall provide reasonable notice to the permittee upon receipt of any third party claim of loss, action or demand and cooperate with the permittee's defense against third party claims, including providing reasonable access to information, evidence, and witnesses necessary to defend against such claim. (Ord. 1474 § 1 (part), 2014)

#### **12.01.100 Permit approval and issuance.**

A. Within ten days of receipt of an encroachment permit application, the Public Works Director will make reasonable effort to either: deem the application complete in compliance with all requirements of this chapter and any other applicable law, or notify the applicant of deficiencies. Once the application is deemed complete, the encroachment permit shall either be denied, or approved and issued within twenty-one days. Permits may include any conditions the Public Works Director deems reasonably necessary to protect the public interest, safety and welfare.

B. The issuance of a permit pursuant to this chapter is not a franchise, and does not grant any vested rights in any location in the public right-of-way, or in any particular manner of placement within the right-of-way. Without limitation, a permit to place cabinets and similar appurtenances aboveground may be revoked and the permittee required to place all its facilities underground, upon reasonable notice to the permittee.

C. Any encroachment shall be relocated, at the sole expense of the permittee, as may be necessary for public necessity or convenience, as determined by the Public Works Director. Such relocations shall be under the same terms and conditions as the initial installation allowed, pursuant to permit.

D. Upon issuance of a permit, the permittee agrees to accept and abide by all the terms and conditions of the permit, the City standard and details, and all conditions set forth in this chapter. If the applicant has any objection to any of the terms or conditions, the applicant must provide written notice to the Public Works Director within three days of issuance stating that the permit was not accepted, thereby voiding the issued permit. (Ord. 1474 § 1 (part), 2014)

**12.01.110 Notices, term of permit.**

A. Commencement of Work or Use. The permittee shall begin the work or use authorized by a permit issued pursuant to this chapter within ninety calendar days from date of issuance, unless a different time period is stated in the permit. If the work or use is not commenced in a timely fashion, then the permit shall become void, unless an extension of time to commence work has been granted by the Public Works Director.

B. Notices. The permittee may be required to provide notice of installation of any facilities to property owners within three hundred feet of the encroachment as directed by the Public Works Director and/or the Director of Community Development.

C. Schedule of Work. The permittee shall notify the Public Works Director at least two business days prior to start of any work, except for work performed in connection with an emergency. Should the work stop for more than two consecutive City working days, the permittee shall again notify the Public Works Director as noted above prior to restarting the work. The work must be diligently prosecuted to its completion and shall be performed in such a manner as to cause minimum inconvenience and hazard to the public to the extent reasonably possible as determined by the Public Works Director.

D. All conditions of approval listed on the permit shall be followed, unless otherwise allowed by the Public Works Director.

E. Inspections. The permittee shall call and schedule all required inspections at least twenty-four hours in advance as required by the permit.

F. Acceptance of Work or Use. The permittee shall notify the Public Works Director when work or use is complete. The Public Works Director shall accept the work or use as completed only after the permittee has fulfilled all obligations under this chapter and the provisions of the permit, cleaned the site of all debris, left the site in a neat and workmanlike condition, and completed construction per City standards and details. The Public Works Director shall indicate acceptance by endorsing the permit in the space provided.

G. Encroachment Agreement. In any case where the City Engineer estimates that the cost of the work will exceed twenty thousand dollars, or that a dangerous or hazardous condition will be created by the doing of the work, whether to persons or property, the Public Works Director may require that the applicant enter into an improvement and/or encroachment agreement with the City on such terms and conditions. In addition, an applicant that is to construct a permanent or semi-permanent structure in or along the public right-of-way, including, but not limited to, the construction of fences, retaining walls, landscape or draining facilities, shall be required to enter into an encroachment agreement with the City.

H. Supplemental. The Public Works Director may require additional conditions upon or after the issuance of a permit as are applicable and necessary to meet specific situations, for the public safety and to insure compliance with this chapter and all other City, State or Federal regulations.

I. In the event of an emergency, or where the facilities of a permittee creates or is contributing to an imminent danger to health, safety, or property, the City may remove, relay, or relocate any or all parts of such facilities, without prior notice. However, the City shall make reasonable efforts to provide prior notice.

J. Any contractor or subcontractor used for work or construction, installation, operation, maintenance, or repair of facilities to be installed pursuant to a permit authorized by this chapter must be properly licensed under the laws of the State and all applicable local ordinances, and each contractor or subcontractor shall have the same obligations with respect to its work as the permittee would have under this chapter and applicable law if the work were performed by permittee. The permittee shall be responsible for ensuring that the work of contractors and subcontractors is performed consistent with this chapter and other applicable law, shall be responsible for all acts or omissions of contractors or subcontractors, shall be responsible for promptly correcting acts or omissions by any contractor or subcontractor, and shall implement a quality control program to ensure that the work is properly performed. This section is not meant to alter tort liability of a permittee to third parties.

K. If the permittee abandons use of structures, cable, equipment or other facilities placed in the right-of-way pursuant to the permit, then at the City's option, City may require the permittee to remove all such structures, cable, equipment or other facilities or may elect to accept ownership, in which case, title to such facilities shall vest in the City. Abandonment shall be presumed if the permittee stops use of its property, equipment, structures, facilities or other property placed in the right-of-way or City property for a period of thirty days.

L. Stop Work Orders. Whenever any work is being done in an unsafe manner or contrary to the scope of the permit, the provisions of this Municipal Code, or the terms of the permit or local, State, or Federal law, the Public Works Director may order the work stopped, served on any person engaged in the doing or causing of unlawful, unsafe, or unauthorized work, and any such person shall forthwith stop such work. Any person performing work in the right-of-way or City property shall have a copy of

a valid encroachment permit issued by the City at the site and shall make such permit available for inspection by the City at all times work is being performed or property or equipment is located in the right-of-way or City property. (Ord. 1474 § 1 (part), 2014)

**12.01.120 Permit valid for described and approved work or use only.**

The permit issued shall not be valid for any work or use other than that described in the permit and as shown on the approved plans. No material changes to the location, size, or type of encroachment shall be allowed except upon authorization of the Public Works Director. (Ord. 1474 § 1 (part), 2014)

**12.01.130 Display of permit.**

- A. A copy of any permit issued pursuant to this chapter shall be kept at the site of any work pertaining to the encroachment and shall be shown to any authorized representative of the City on demand.
- B. A permit issued for continuing use or maintenance of an encroachment involving the residence or place of business of the permittee must be kept at the residence or place of business and shall be made available to an authorized representative of the City within twenty-four hours. (Ord. 1474 § 1 (part), 2014)

**12.01.140 Construction requirements.**

The permittee shall comply with all construction requirements established by the Public Works Director, including but not limited to the requirements set forth in this section.

- A. Standards of Construction. All work performed under the permit shall conform to applicable law and recognized standards of construction, including but not limited to the current City standards and details relating to street improvements and any special provisions relating thereto, except those standards which may conflict with those specifically required by the CPUC or State or City franchise agreements.
- B. Underground Service Alert (U.S.A.). Prior to commencement of any excavation, the permittee shall call U.S.A. for field marking of existing underground utilities in accordance with applicable rules.
- C. Inspection and Approval. All work shall be subject to monitoring, inspection, and approval by the Public Works Director.
- D. Protection of Traffic. The permittee shall place and maintain adequate signs, barricades, warning lights, and other safeguards necessary to protect the public, and shall maintain safe crossings for pedestrian and vehicular traffic during the entire course of the work. Warning signs, lights and safety devices shall conform to the requirements of the current State of California Manual of Uniform Traffic Control Devices.
- E. Repairs. Each permittee shall be responsible for restoring to its former condition as nearly as possible any portion of the right-of-way which has been excavated or otherwise disturbed or damaged by the permittee. If the right-of-way is not restored as provided herein, the City shall notify the permittee of any deficiencies. If the permittee fails to respond within five business days of the date of notification or the Public Works Director deems said deficiencies a public hazard, the City may make the repairs, and the permittee shall bear the cost thereof. The permittee is responsible for maintaining the work area at its sole cost and expense until the City accepts the work covered by the permit. Each permittee shall repair and correct any and all defects and deficiencies due to workmanship or materials in connection with the permit. Permittee shall warrant the work in the right-of-way to be free of defects for one year from the date the Public Works Director accepts the work. The Public Works Director may require a warranty bond, cash deposit or other security to secure performance of any warranty as a condition of the encroachment permit.
- F. As-Built Plans. When construction is complete, permittee shall provide a set of as-built construction drawings to the Public Works Director. (Ord. 1474 § 1 (part), 2014)

**12.01.150 Extending permit.**

The Public Works Director may grant the permittee a time extension to a permit subject to compliance with the requirements of this chapter, provided there are no changes to the original scope of work and materials or to the original approved construction plans since the initial issuance of the permit. The permittee shall request a time extension to a permit before the permit's expiration date. (Ord. 1474 § 1 (part), 2014)

**12.01.160 Release or revision of bonds and cash deposits.**

Any bond or cash deposit submitted pursuant to this chapter shall be released only upon completion of all work and conditions set forth in the permit deemed satisfactory by the Public Works Director. (Ord. 1474 § 1 (part), 2014)

**12.01.170 Ongoing use of right-of-way.**

In addition to complying with all relevant requirements for obtaining a permit contained herein, a person or entity owning facilities in, seeking to install facilities in, or using right-of-way shall comply with all requirements of this section except where specifically preempted by law and under the exclusive regulatory jurisdiction of County, State or Federal regulatory agencies.

A. Encroachments at No Expense to City. The design, construction, installation, operation, maintenance, relocation, and removal of the permittee's facilities shall be at no expense to the City and shall be subject to the reasonable approval of the Public Works Director to preserve the integrity and effective use of the public rights-of-way and to protect the public health, safety and welfare.

B. Relocation or Removal of Encroachment. The permittee shall remove or relocate any installation owned by permittee that is in conflict vertically and/or horizontally with any City installation that is a proper governmental use of the right-of-way. If the permittee does not complete removal or relocation within a reasonable period of not less than ninety days as required by the Public Works Director, the City shall have facilities removed or relocated at the permittee's expense. Before proceeding with relocation work, the permittee shall obtain appropriate permits and approvals and shall restore the area vacated to an acceptable condition as reasonably determined by the Public Works Director.

C. Requirements for Utility Distribution and Transmission Facilities. Owners of public or private utility distribution or transmission facilities placed in the right-of-way shall comply with the following:

1. No Interference with Existing Uses. Should the City permit facility installations (not including any City-owned installations) where there are existing facilities, the permittee shall work around existing facilities. Should it prove impractical to work around existing facilities, requiring the relocation of any existing facilities, and if the owner of said existing facilities agrees to relocate them, the owner shall promptly relocate its facilities. The reasonable cost of relocating existing facilities shall be borne solely by the permittee. However, if at least one of the following applies, the owner shall promptly relocate its facilities at no cost to the permittee:

- a. Existing facilities were not properly installed;
- b. Facilities installed unlawfully;
- c. Federal, State, or local law requires relocation.

2. Franchises and Authorizations. The permittee shall obtain franchises, other authorizations and/or agreements, if reasonably required by the City and applicable law, and shall comply with the provisions of any such franchise or other authorization, providing proof of satisfaction of any condition thereof.

3. Maintenance of Facilities. Facilities owned by permittee installed pursuant to this chapter shall at all times be maintained in accordance with the requirements of all applicable laws, franchises and authorizations. The permittee shall maintain its facilities in good repair and in a safe condition to the reasonable satisfaction of the Public Works Director, or applicable regulatory agencies.

4. Identification of Facilities. The permittee shall identify the location and provide all information concerning the materials used for any facilities installed in the right-of-way in accordance with the requirements of applicable law or by means of identification method as directed by the Public Works Director. The location of the facilities shall be detectable from ground level without opening the street. The permittee shall provide the City a telephone contact number, staffed twenty-four hours per day, seven days per week, to enable the City to report any concerns regarding the facilities, including, but not limited to, the removal of any graffiti/vandalism. In the event that the City reports such concerns to the permittee, the permittee shall within seventy-two hours, unless weather or emergencies prohibit timely action, respond to such call and perform the required repair or correct any adverse impact to the City's or third party's use or operations caused by the permittee's facilities in the right-of-way at no cost to the City.

5. Notice of Fluid or Natural Gas Leaks. Permittee shall notify the City and all appropriate regulatory agencies of any leak in the rights-of-way of City, including but not limited to the following: fluids that have the potential to enter into or onto City facilities, natural gas, propane or other noxious or flammable substance that can be detected visually, by sound or by sense of smell, that has or might cause mobilization for a response by public safety or other City personnel.

6. Compliance with Applicable Laws. The permittee shall comply with all applicable Federal, State, or local laws, rules and regulations, including but not limited to City noise ordinances; and City standards relating to street improvements: design criteria, standard specifications, and standard details, as determined by the Public Works Director from time to time.

7. Requirements for Above-Ground or Surface-Mounted Facilities. Above-ground or surface-mounted facilities placed pursuant to this chapter shall be placed in a location approved by the Public Works Director and be consistent with the following guidelines:

- a. Shall be consistent with CPUC rulings, rulemaking, regulations and requirements;
  - b. Shall be no larger than is reasonably necessary to contain and protect the required facilities. In the event any above-ground or surface-mounted facility exceeds seventy-two inches high, fifty-nine inches wide and twenty-seven inches deep, an environmental review under CEQA and any other applicable laws must occur prior to permit issuance;
  - c. Shall not obstruct pedestrians and shall comply with the Americans with Disabilities Act and access-related regulations, including maintaining pedestrian clearance (free of all obstacles for a clear path of travel, unobstructed pedestrian walkway) except during erection, construction, placement and maintenance;
  - d. Shall be set back a minimum of two feet from the face of the curb or less as approved by the Public Works Director;
  - e. Shall not intrude into the vehicle visibility obstruction area at street corners or create vehicle driveway obstructions;
  - f. Shall not be placed at street intersection corners or at the end of T-intersections reserved for traffic signal facilities except as approved by the Public Works Director;
  - g. Shall not obstruct pedestrian, technician, or vehicle view of any traffic sign or signal;
  - h. Shall be placed with a minimum horizontal clearance of eight feet from any sanitary sewer or storm drain facility, except where an existing cabinet is already closer than eight feet to a sanitary sewer or storm drain line, a new cabinet of the same type may be placed adjacent to the existing cabinet with a minimum horizontal clearance of five feet from the sanitary sewer or storm drain line;
  - i. Shall be set back a minimum of five feet from any City utility facility, traffic signal facility, driveway, curb ramp, or blue zone parking space, or a minimum of three and one-half feet from any other entity's above-ground or surface-mounted structure not otherwise specified herein, including but not limited to street poles, parking meters, and public art;
  - j. Shall be set back a minimum of eight feet from any fire escape and/or fire exit except as approved by the Public Works Director;
  - k. Shall not be placed on the property of, or immediately adjacent to, any designated local, State or national register historical landmark or structure;
  - l. Shall not violate any City Code or policy related to founders trees, heritage trees, protected trees, public trees or significant trees, including but not limited to the provisions related to alteration, removal, or trenching affecting any City-owned tree;
  - m. Shall be screened by landscaping where appropriate for the location. Where landscaping is required, permittee shall be fully responsible for all costs associated with removal and disposal of existing plant material, including replanting, modifications or repair of all irrigation disturbed as a result of installing, using, operating, and maintaining the facility. Replacement irrigation shall be in the same quantity, quality and of comparable size to those removed;
  - n. Shall be painted or coated to blend in with the surrounding environment; graffiti-proof coating that also blends shall be used if feasible.
- D. Attachments to bridges and overpasses may be permitted with approval by the Public Works Director and other regulating agencies.
- E. Utility main locations are subject to the approval of the Public Works Director.
- F. A permittee shall furnish to the City detailed maps and record drawings depicting all of the permittee's facilities, and their materials in specified portions of the right-of-way within the limits of any excavation by the City—such maps and drawings to be provided free of charge within twenty calendar days of any request. The detailed maps and record drawings shall show the

approximate location, size, description, and nature of all of permittee's facilities. The drawings and maps are not to be relied upon to determine the exact location of any underground facilities. To ensure a safe excavation, anyone desiring to excavate near the facilities must call U.S.A. prior to the start of excavation to allow for field marking of existing underground utilities.

G. A permittee shall pothole its subsurface facilities within fifteen days of receipt of a written request from the City to do so, unless the permittee can certify within one foot the location and depth of its facilities where potholing is requested. The City shall in no event pay any potholing expenses.

H. A permittee shall, at its sole expense, maintain membership in Underground Service Alert (U.S.A.) and shall field mark, at its expense, the location of its facilities upon notification in accordance with State law, including but not limited to Government Code Section 4216 and following, as it now reads or may hereinafter be amended.

I. A permittee shall inform the City in writing of any material change in contact information. Such written notice shall be provided to the Public Works Director within sixty days of the change. (Ord. 1474 § 1 (part), 2014)

#### **12.01.180 Facilities in public utility easements.**

A permittee seeking to install, remove, maintain or upgrade facilities subject to a PUE shall comply with all requirements of this section, except where specifically preempted by law and under the exclusive regulatory jurisdiction of County, State or Federal regulatory agencies.

A. Use at No Expense to City. The design, construction, installation, operation, maintenance, relocation, and removal of the permittee's facilities shall be at no expense to the City and shall be subject to the reasonable approval of the Public Works Director to preserve the integrity and effective use of PUEs, public property and rights-of-way and to protect the public health, safety and welfare.

B. Relocation or Removal of Installations. The permittee shall remove or relocate any installation owned by permittee that is in conflict vertically and/or horizontally with any City installation or other proper governmental use provided it does not unreasonably restrict use of the PUE. If the permittee does not complete removal or relocation within a reasonable period of not less than ninety days as required by the Public Works Director, the City shall have the facilities removed or relocated at the permittee's expense. Before proceeding with relocation work, the permittee shall obtain appropriate permits and approvals and shall restore the area vacated to an acceptable condition as reasonably determined by the Public Works Director.

C. Requirements for Utility Distribution and Transmission Facilities. Owners of public or private utility distribution or transmission facilities placed in a PUE shall comply with the following:

1. No Interference with Existing Uses. Should the City permit facility installations (not including any City-owned installations) where there are existing facilities, the permittee shall work around existing facilities. Should it prove impractical to work around existing facilities, requiring the relocation of any existing facilities, and if the owner of said existing facilities agrees to relocate them, the owner shall promptly relocate the owner's facilities. The reasonable cost of relocating existing facilities shall be borne solely by the permittee. However, if at least one of the following applies, the owner shall promptly relocate the owner's facilities at no cost to the permittee:

- a. Existing facilities were not properly installed;
- b. Facilities installed unlawfully;
- c. Federal, State, or local law requires relocation.

2. Authorizations. The permittee shall obtain authorizations and/or agreements, if reasonably required by the City and applicable laws, and shall comply with the provisions of any such authorization and/or agreement, providing proof of satisfaction of any condition thereof.

3. Maintenance of Facilities. Facilities owned by permittee installed pursuant to this chapter or in a PUE shall at all times be maintained in accordance with the requirements of all applicable laws and authorizations. The permittee shall maintain its facilities in good repair and in a safe condition to the reasonable satisfaction of the Public Works Director, and applicable regulatory agencies.

4. Identification of Facilities. The permittee shall identify the location and all information concerning the materials used for any facilities installed in the PUE in accordance with the requirements of applicable laws or by means of an identification method as directed by the Public Works Director. The location of the facilities shall be detectable from ground level without opening the street. The permittee shall provide the City a telephone contact number, staffed twenty-

four hours per day, seven days per week, to enable the City to report any concerns regarding the facilities, including, but not limited to, the removal of any graffiti/vandalism. In the event that the City reports such concerns to the permittee, the permittee shall within seventy-two hours, unless weather or emergencies prohibit timely action, respond to such call and perform the required repair or correct any adverse impact to the City's or third party's use or operations caused by the permittee's facilities in the right-of-way at no cost to the City.

5. Notice of Fluid or Natural Gas Leaks. Permittee shall notify the City and all appropriate regulatory agencies of any leak located in a PUE, including but not limited to the following: fluids that have the potential to enter into or onto City facilities, natural gas, propane or other noxious or flammable substance that can be detected visually, by sound or by sense of smell, that has or might cause mobilization for a response by public safety or other City personnel.

6. Compliance with Applicable Laws. The permittee shall comply with all applicable Federal, State, or local laws, rules and regulations, including but not limited to City noise ordinances, and City standards, as determined by the Public Works Director from time to time.

7. Requirements for Above-Ground or Surface-Mounted Facilities. Above-ground or surface-mounted facilities placed pursuant to this chapter shall be placed in a location approved by the Public Works Director and be consistent with the following guidelines:

- a. Shall be consistent with CPUC rulings, rulemaking, regulations and requirements.
- b. Shall be no larger than is reasonably necessary to contain and protect the required facilities. In the event any above-ground or surface-mounted facility exceeds seventy-two inches high, fifty-nine inches wide and twenty-seven inches deep, an environmental review under CEQA and any other applicable laws must occur prior to permit issuance.
- c. Shall not obstruct pedestrians and shall comply with the Americans with Disabilities Act and access-related regulations, including maintaining pedestrian clearance (free of all obstacles for a clear path of travel, unobstructed pedestrian walkway) except during erection, construction, placement and maintenance.
- d. Shall be set back a minimum of two feet from the face of the curb or less as approved by the Public Works Director.
- e. Shall not intrude into the vehicle visibility obstruction area at street corners or create vehicle driveway obstructions.
- f. Shall not obstruct any trail, path, access, driveway or street.
- g. Shall not obstruct pedestrian, technician, or vehicle view of any traffic sign or signal.
- h. Shall be placed with a minimum horizontal clearance of eight feet from any sanitary sewer or storm drain facility, except where an existing cabinet is already closer than eight feet to a sanitary sewer or storm drain line, a new cabinet of the same type may be placed adjacent to the existing cabinet with a minimum horizontal clearance of five feet from the sanitary sewer or storm drain line.
- i. Shall be set back a minimum of five feet from any City utility facility, traffic signal facility, driveway, curb ramp, or blue zone parking space, or a minimum of three and one-half feet from any other entity's above-ground or surface-mounted structure not otherwise specified herein, including but not limited to street poles, parking meters, and public art.
- j. Shall be set back a minimum of eight feet from any fire escape and/or fire exit except as approved by the Public Works Director.
- k. Shall not be placed on the property of, or immediately adjacent to, any designated local, State or national register historical landmark or structure.
- l. Shall not violate any City Code or policy related to founders trees, heritage trees, protected trees, public trees or significant trees, including but not limited to the provisions related to alteration, removal, or trenching affecting any City-owned tree.

- m. Shall be screened by landscaping where appropriate for the location. Where landscaping is required, permittee shall be fully responsible for all costs associated with removal and disposal of existing plant material, including replanting, modifications or repair of all irrigation disturbed as a result of installing, using, operating, and maintaining the facility. Replacement irrigation shall be in the same quantity, quality and of comparable size to those removed.
- n. Shall be painted or coated to blend in with the surrounding environment; graffiti-proof coating that also blends shall be used if feasible.

D. Utility main locations are subject to the approval of the Public Works Director.

E. A permittee shall furnish to the City detailed maps and record drawings depicting all of the permittee's facilities in specified portions of the PUE within the limits of any excavation by the City, such maps and drawings to be provided free of charge within twenty calendar days of any request. The detailed maps and record drawings shall show the approximate location, size, description, and nature of all of permittee's facilities. The drawings and maps should not be relied upon to determine the exact location of any underground facilities. To ensure a safe excavation, anyone desiring to excavate near the facilities must call U.S.A. prior to the start of excavation to allow for field marking of existing underground utilities.

F. A permittee shall pothole its subsurface facilities within fifteen days of receipt of a written request from the City to do so, unless the permittee can certify within one foot the location and depth of its facilities where potholing is requested. The City shall in no event pay any pothole expenses.

G. A permittee shall, at its sole expense, maintain membership in Underground Service Alert (U.S.A.) and shall field mark, at its expense, the location of its facilities upon notification in accordance with State law, including but not limited to Government Code Section 4216 and following, as it now reads or may hereinafter be amended.

H. A permittee shall inform the City in writing of any material change in contact information. Such written notice shall be provided to the Public Works Director within sixty days of the change. (Ord. 1474 § 1 (part), 2014)

#### **12.01.190 Damage to existing facilities from encroachments.**

A. The permittee is responsible for any damage to private property and City facilities, including but not limited to pavement, curb and gutters, sidewalk, landscaping, and utilities, occurring as a result of or in any way related to activities associated with the permittee's encroachment, including installation, maintenance, repair, operation, and removal of permittee's facilities in the right-of-way by the permittee, its employees or agents. The permittee's liability under this section shall not apply to the extent that damage is caused by the sole or active negligence, willful misconduct or criminal acts of City, its agents or employees.

B. In the event of any damage caused by permittee, the permittee shall pay the cost of any replacements, repairs or restoration necessary to return the property, right-of-way, facilities, or installations to the condition that existed prior to the damage.

C. Any damage to surface and subsurface improvements, such as pavement or concrete over any trench/excavation or adjacent thereto, as reasonably determined by the Public Works Director which results from the permittee's acts or omissions shall be the sole responsibility of the permittee. The permittee shall complete all necessary repairs within thirty days of notification by the Public Works Director, or if it reasonably would require more than thirty days to perform such repairs, within a time reasonably necessary, provided the permittee has undertaken to initiate the repairs within the thirty-day period and diligently pursues such efforts to cure to completion. If the permittee fails to make repairs within the applicable period, or if the Public Works Director determines the damage to be a public hazard, the City may have repairs made and bill the cost to the permittee. (Ord. 1474 § 1 (part), 2014)

#### **12.01.200 Adherence to rules and regulations.**

Each person shall comply with all rules and regulations contained herein even if the work has been performed under an emergency encroachment. The Public Works Director may revoke a permit issued under this chapter upon violation of any of its provisions or the provisions of any permit issued hereunder. (Ord. 1474 § 1 (part), 2014)

#### **12.01.210 Transfer of permits.**

Permits issued pursuant to this chapter are not transferable. A permittee's agent may file an application for an encroachment permit on behalf of the permittee without causing a transfer of permit. (Ord. 1474 § 1 (part), 2014)

#### **12.01.220 Inspections—Records—Corrective action.**

A. The Public Works Director may require the permittee to perform special inspections of and maintain records for certain facilities constructed in the right-of-way or in public utility easements. The City also reserves the right to conduct periodic

inspections throughout the construction phases of the project and to have access to any pertinent records of the permittee.

B. Final inspection of construction may be conducted by the City Engineer. At the City Engineer's discretion, permittee may be required to be present. Permittee shall allow reasonable time for the City to prepare and provide a list of items requiring corrective action. Permittee shall undertake timely correction of all such items.

C. All persons owning underground facilities located in the City shall keep current, adequate and complete maps and records of same. Such maps and records shall be made available to the City upon request. (Ord. 1474 § 1 (part), 2014)

#### **12.01.230 Changes in permit.**

A. No changes may be made in the location, dimension, character or duration of the encroachment, its mode of operation, maintenance, or use as granted by the permit except upon written authorization of the City Engineer. All construction and use of materials must adhere to approved plans and specifications. The permittee shall coordinate all construction activities with the City Engineer.

B. No additional permit shall be required for the continuing use of encroachments installed by public utilities, provided that such continuing use conform to the conditions of the original encroachment permit and any later modifications to that permit. (Ord. 1474 § 1 (part), 2014)

#### **12.01.240 Driveway approach permit—Conditions.**

A. If a driveway approach is abandoned within five years after the date of the permit, permittee must restore the street to its original condition as it existed prior to the issuance of the permit. If the building served by the driveway approach is abandoned prior to such period, then permittee shall be released of the requirement to restore the curb.

B. All persons constructing new buildings shall apply for permits for both restoration of the curb to its original condition, where old driveways are abandoned, as well as for the installation of a new driveway approach prior to the final acceptance of the building by the building inspector of the City. (Ord. 1474 § 1 (part), 2014)

#### **12.01.250 Emergency encroachments.**

This chapter does not prevent a person from performing emergency maintenance to repair a broken or defective pipe, facility or conduit lawfully on or under a public right-of-way or PUE or excavating by a utility as may be necessary for the preservation of life and property when an urgent necessity arises. However, the person performing an emergency encroachment during normal City business hours shall notify the Public Works Director by telephone within four hours of beginning said emergency work. If the emergency work must occur during hours the City offices are closed, that notice shall be given to County Communications. The notice shall relay the nature and location of the emergency, and the person making an emergency use or encroachment shall apply for a permit the next business day. Utilities shall not be required to obtain an encroachment permit prior to work performed in connection with an emergency. Application for an encroachment permit shall be made within two days of commencement of such emergency work. (Ord. 1474 § 1 (part), 2014)

#### **12.01.260 Abandonment or removal of facilities from right-of-way or PUE.**

A. If a permittee intends to remove its facilities, the permittee shall obtain a permit pursuant to this chapter for all facility removal from the right-of-way or PUE prior to such removal.

B. If a utility intends to abandon its facilities, the utility shall notify the Public Works Director prior to abandonment by sending written notice at least thirty days prior to abandonment. All facilities shall be removed, abandoned in place, or dedicated no later than one hundred eighty days of the Public Works Director's approval.

C. If the City determines a permittee (other than a utility) has abandoned privately owned facilities, the City shall provide the permittee with written notice to remove its facilities from the right-of-way within thirty days. Facility removal shall be at no cost to the City.

D. If the permittee (other than a utility) takes no action within this time period, the City may elect to accept title to such facilities free and clear, or remove the facilities and charge the permittee with all reasonable costs incurred in such removal. Permittee shall make payment within thirty days of the City's return of such facilities to the permittee or making such facilities available to the permittee for pickup within City limits.

E. The provisions of this section apply only to City determinations of abandonment and not where the City has revoked a permit pursuant to Section 12.01.300. (Ord. 1474 § 1 (part), 2014)

#### **12.01.270 Obstructions deemed public nuisance.**

A. The City and its residents share in the care and management of landscape within the right-of-way located adjacent to private property. No owner or legal occupant of any premises abutting upon any right-of-way shall permit the existence of obstructions defined by this chapter to be a nuisance.

B. The following is to be a nonexclusive list of obstructions which under this chapter are deemed to obstruct the view from vehicles traveling on public streets and the passage of pedestrians on the sidewalks and of vehicles on the rights-of-way abutting thereon and are declared to be a public nuisance and prohibited as unlawful:

1. A tree with limbs overhanging the right-of-way, the lowest part of which is less than eight and one-half feet above the right-of-way;
2. Landscape overhanging the street, gutter, sidewalk or obstructing any municipal utility facility or fire hydrant;
3. Any landscape which is so situated as to obscure and impair the unobstructed view of intersecting traffic by passing motorists or pedestrians or obscure and impair the view of street, traffic, and other control devices and signs placed upon the streets for the safety of the public.

C. The Public Works Director, upon determining that one or more of the nuisances prohibited herein exist or that any other similar obstruction to the passage of vehicles or pedestrians at intersections exists on premises within the City, shall give written notice to the property owner or legal occupant having charge or control of the premises to remove the nuisance so designated therein, and it is unlawful for the owner or legal occupant having charge or control of the premises to neglect or fail to remove therefrom the obstruction within five business days from the date of the notice.

D. If the Public Works Director finds that any right-of-way obstruction is an immediate peril or menace to the public, to any person, or to pedestrian or vehicular traffic, the City Manager may cause it to be summarily removed. Upon summary removal of the obstruction, the City Manager shall provide written notice to the property owner of actions taken. Any cost incurred by or fees imposed by the City in the removal, alteration, relocation, or demolition of any sign pursuant to the provisions of this title or any other pertinent ordinance of the City, shall be paid by the owner of property abutting the right-of-way on which the obstruction was located.

E. In addition to any of the remedies provided for herein or by law for violations of this chapter, the City Attorney may maintain an action for injunction to restrain or abatement to correct or compel the removal of such violation or violations as provided in this Code. (Ord. 1474 § 1 (part), 2014)

#### **12.01.280 Emergency suspension of permit.**

Whenever the City Engineer finds that a suspension of an encroachment permit is necessary to protect the public health or safety from imminent danger, the City Engineer may immediately suspend any such permit pending a hearing for remedial action or revocation. The City Engineer shall, within three working days of the emergency suspension of the permit, notify the permittee of such suspension by written notice, personally served upon the permittee, or mailed by first class mail, postage prepaid, to the last known address of the permittee. The permittee may, within fifteen days after service of such a written notice of suspension, request a hearing before the Director of Public Works with regard to such emergency suspension. The Director of Public Works shall schedule a hearing on the suspension within five working days of receipt of a request for hearing. (Ord. 1474 § 1 (part), 2014)

#### **12.01.290 Hearing on emergency suspension of permit.**

A. If the Director of Public Works, after the hearing, finds that cause exists for remedial action, the Director shall impose one or more of the following:

1. A warning;
2. An order to correct any particular noncompliance;
3. A revocation of the encroachment permit;
4. A continued suspension of the encroachment permit;
5. A modification or reinstatement of the encroachment permit, with conditions.

B. The Director shall, within ten days of the hearing, render a written opinion, stating the findings upon which the decision is based, and the action taken. The decision of the Director shall be final. (Ord. 1474 § 1 (part), 2014)

#### **12.01.300 Suspension or revocation of permit.**

Any permit issued pursuant to this chapter may be suspended or revoked upon recommendation of the City Engineer to the Director of Public Works where it is found that:

- A. The permittee has violated any provision of this chapter, or of any agreement entered into with the City related to the permit; or
- B. The permittee has failed to pay any required fees, or to post or maintain any bond or insurance required by this chapter; or
- C. The encroachment for which the permit was granted adversely affects the safety, capacity or integrity of the City's right-of-way; or
- D. The encroachment is causing the City to incur substantial additional maintenance costs; or
- E. Material misrepresentations were made in the application for the permit. (Ord. 1474 § 1 (part), 2014)

**12.01.310 Hearing on suspension or revocation of permit.**

The Director of Public Works shall give the permittee at least ten days' written notice of a hearing before the Director of Public Works on the suspension or revocation of a permit issued pursuant to this chapter, setting forth the grounds for such action. The hearing shall be held within thirty days after service of written notice of the hearing. The decision of the Director of Public Works shall be final. (Ord. 1474 § 1 (part), 2014)

**12.01.320 Penalties.**

- A. Pursuant to the City Attorney's prosecutorial discretion, the City may enforce violations of the provisions of this chapter as criminal, civil or administrative actions.
- B. Every violation of this chapter shall be a misdemeanor; provided, however, that where the City Attorney has determined that such action would be in the best interest of justice, the City Attorney may specify in the accusatory pleading or citation that the violation shall be prosecuted as an infraction. Code enforcement officers, as defined by this Code, shall have the power to issue administrative and infraction citations for violations of this chapter.
- C. Violations of this chapter may also be punishable as infractions or administrative actions in accordance with Chapter 1.20 and associated fines imposed for violations.
- D. In addition to all other remedies set forth in this chapter, any activities operated, conducted or maintained contrary to the provisions of this chapter shall be unlawful and a public nuisance, and the City Attorney may, in the exercise of discretion, in addition to or in lieu of prosecuting a criminal action hereunder, commence an action or actions, proceeding or proceedings, for the abatement, removal and enjoinder thereof, in a manner provided by law. (Ord. 1474 § 1 (part), 2014)

**12.01.330 Appeals.**

Any person whose permit application or extension is denied or any permittee who is required to abandon facilities may appeal such decision in accordance with this chapter.

- A. Appeal of Denial of Permit. Any person aggrieved by the denial of a permit required by this chapter may appeal to the City Manager by submitting a written appeal within fifteen days of the date the application was denied. The City Manager shall thereafter give written notice to the applicant of a hearing to be held within thirty days of receipt of the appeal. The decision by the City Manager on the appeal shall be final.
- B. Findings on Appeal. The Public Works Director shall grant the appeal and issue a permit, subject to any appropriate conditions, if all of the following findings are made:
  1. That the applicant will be substantially damaged by the refusal to grant the permit as requested;
  2. That no other reasonable method of obtaining the desired results is available except as proposed by the applicant;
  3. That the granting of the permit will not be materially detrimental to the public interest, safety, health and welfare or injurious to other property;
  4. That the project for which the permit is sought will not adversely affect the safety, capacity, or integrity of the City's right-of-way;
  5. That the applicant has substantially complied with the provisions of any prior permits issued to the applicant, and has paid or posted all required fees or bonds, and maintained all required insurance coverage;

6. That the environmental effects are not significant;
7. That an additional maintenance cost to the City is not created by the encroachment. (Ord. 1474 § 1 (part), 2014)

## Chapter 12.04 SIDEWALK AND DRIVEWAY APPROACH CONSTRUCTION AND REPAIR

Sections:

**12.04.010 Definitions.**

**12.04.020 Owner's duty to maintain and repair sidewalk areas.**

**12.04.030 Repair performed by City when—Costs.**

**12.04.060 Construction or repair—Specifications.**

**12.04.070 Driveway approaches—City standard plans.**

**12.04.080 Driveway approaches—Business and industrial.**

**12.04.090 Driveway approaches—Residential.**

**12.04.100 Driveway approaches—Extra width permitted when.**

**12.04.110 Abandoned driveway approaches—Sidewalk and curb replacement.**

**12.04.120 Parkway tree removal—Facility replacement.**

**12.04.130 Violation—Penalty.**

**12.04.010 Definitions.**

“City Engineer” means the City Engineer or his/her designee of the Department of Public Works; “City Engineer or his/her designee” shall have the same meaning as the terms “Superintendent of Streets” as this term is utilized in the Streets and Highways Code, Division 7, Part 3, Chapter 22.

“Damaged sidewalk area” means a sidewalk area where, in the judgment of the City Engineer or his/her designee, the vertical or horizontal line or grade is altered or displaced to the extent that a safety hazard exists, or the sidewalk is in such a condition as to endanger property or persons using the sidewalk area in a reasonable manner, or is in such a condition as to interfere with the public convenience in the use thereof.

“Driveway approach” means any approach to or from the street over and upon the gutter, curb, parking strip or sidewalk, to permit vehicular traffic into the abutting property.

“Lot,” “lots” or “portions of a lot” means a parcel of real property located within the City adjacent to or fronting on any portion of a sidewalk area, and when used in connection with the phrase, “adjacent to or fronting on the damaged sidewalk,” or variation thereof, shall refer to the property in front of or adjacent to the damaged sidewalk.

“Maintain and repair” shall include, but not be limited to, maintenance and repair of sidewalk surfaces, removal and replacement of sidewalk areas, repair and maintenance of curbs and gutters, removal and filling or replacement of parking strips, removal of weeds and/or debris, tree root pruning and installing root barriers, trimming of shrubs and/or ground cover and trimming shrubs within the area between the property line of the adjacent property and the street pavement line, including parking strips, driveway approaches and curbs, so that the sidewalk area will remain in a condition that is not dangerous to or a threat to property or to persons using the sidewalk in a reasonable manner and will be in a condition which will not interfere with the public convenience in the use of said sidewalk area.

“Owner” means any person owning a lot, lots, or portions of a lot within the City, adjacent to or fronting on any portion of a sidewalk area.

“Parking strip” means the area of the public right-of-way located between the curb and the sidewalk.

“Person” shall have the same meaning as that term is utilized in Section 1.04.100 of this Code.

“Sidewalk area” means the improved area between the street pavement line and the adjacent property line, including, but not limited to, a sidewalk, driveway approach, parking strip, and curbs and gutters. (Ord. 1491 § 2 (part), 2015: Ord. 1377 § 1(A),

2006: Ord. 390 § 7, 1956)

**12.04.020 Owner's duty to maintain and repair sidewalk areas.**

A. The owner of a lot, lots or portions of a lot adjacent to or fronting on any portion of a sidewalk area shall maintain the sidewalk area in a safe and nondangerous condition, and shall repair such sidewalk area and pay the costs and expenses therefor, including, but not limited to, charges for the City's costs of inspection and administration whenever the City undertakes sidewalk maintenance and repair pursuant to this chapter, and including the costs of collection of assessments for the costs of maintenance and repair or the handling of any lien placed on the property due to failure of the owner to promptly pay such assessments.

B. The owner required to maintain and repair the sidewalk area shall owe a duty to members of the public to keep and maintain the sidewalk area in a safe and nondangerous condition. If, as a result of the failure of any property owner to maintain the sidewalk area in a safe and nondangerous condition, any person suffers injury to or damage to person or property, the owner shall be liable to such person for the resulting damage or injury, and shall hold harmless, indemnify and defend the City against any liability for such damage or injury.

C. When any portion of any sidewalk area shall be so out of repair or in such condition as to endanger persons or property passing thereon, or so as to interfere with the public convenience in the use thereof, the City Engineer, or his/her designee, is authorized to notify the owner or owners of any lot fronting on such portion of the sidewalk area so out of repair, or in such condition as aforesaid, by a notice in writing to be delivered to such owner or his agent, or to any person in possession of such lot, requiring such owner to repair, reconstruct or improve forthwith, in such manner and with such materials as the City Engineer, or his/her designee, may determine and direct, such portion of the sidewalk in front of or adjacent to the lot of which he is the owner.

D. Within thirty days after such notice shall have been delivered to such owner, he shall cause to be begun such repair, or such reconstruction, or such improvement, as may have been determined by the City Engineer, or his/her designee, and directed in the notice aforesaid to be made, and diligently and without interruption prosecute the same to completion. (Ord. 1491 § 2 (part), 2015: Ord. 1377 § 1(B), 2006: amended during 1989 recodification; Ord. 141 § 1, 1943)

**12.04.030 Repair performed by City when—Costs.**

A. If any owner refuses or neglects to make such repair, reconstruction or improvement, as hereinabove provided, when required and directed in conformity with the provisions of this chapter, the City Engineer shall cause such repair, reconstruction or improvement to be made, and the cost in any sum of money necessarily expended by the City in making such repair, reconstruction or improvement shall become a lien upon the property in which the repair, reconstruction or improvement was made, and may be recovered in an action brought thereof in the name of the City; or, in the alternative, such cost and expenditure may be placed upon the County Tax Bill to be collected by San Mateo County for the benefit of the City.

B. Prior to the City causing the lien to be placed on the County Tax Bill, the City Clerk shall notify the property owner of the intent to place the cost of the repairs, reconstruction or improvement on the County Tax Bill, and shall give the property owner the opportunity to appear before the City Council to show cause why such sums should not be placed on the County Tax Bill to be collected for the benefit of the City.

C. Any and all sums determined to be due and owing to the City by resolution of the City Council shall accrue interest at the rate set by resolution, but not to exceed ten percent per year. (Ord. 1491 § 2 (part), 2015: Ord. 979 § 1, 1987: amended during 1989 recodification; Ord. 938 § 1, 1984)

**12.04.060 Construction or repair—Specifications.**

Any sidewalk or driveway approach shall be broken out and constructed to standard City specifications. In case of damaged work not corrected to the satisfaction of the inspector, no further permits shall be issued to the applicant, and the performance bond given hereunder shall be canceled. (Ord. 1491 § 2 (part), 2015: Ord. 390 § 3, 1956)

**12.04.070 Driveway approaches—City standard plans.**

All driveway approaches shall be constructed per the City's standard plans. (Ord. 1491 § 2 (part), 2015: Ord. 505 § 2 (part), 1960)

**12.04.080 Driveway approaches—Business and industrial.**

No driveway approach shall exceed the widths allowed per the City standard plans. In case of more than one driveway approach in front of any property, the total width of driveway approaches shall not exceed the widths allowed per the City standard plans, and there shall be twenty feet or a multiple thereof of standard curb, gutter and sidewalk between such driveway approaches. (Ord. 1491 § 2 (part), 2015: Ord. 505 § 2 (part), 1960)

**12.04.090 Driveway approaches—Residential.**

Single driveway approaches shall not exceed the widths allowed per the City standard plans. No more than two driveway approaches shall be permitted on any residential property one hundred feet or under in width, and not more than one additional driveway approach for each fifty feet additional. Space between driveway approaches shall be twenty feet or multiples thereof. (Ord. 1491 § 2 (part), 2015: Ord. 505 § 2 (part), 1960)

**12.04.100 Driveway approaches—Extra width permitted when.**

A. Wider driveway approaches may be permitted upon approval of the Director of Public Works, providing that the applicant can show the following:

1. That approval will not create a parking problem;
2. That approval will not create a traffic problem;
3. That the nature of the business is such as to absolutely require wider driveway approaches.

B. The committee may not exceed the requirements of this chapter relating to widths of driveway approaches by more than fifty percent. (Ord. 1491 § 2 (part), 2015: amended during 1989 recodification; Ord. 505 § 2 (part), 1960)

**12.04.110 Abandoned driveway approaches—Sidewalk and curb replacement.**

A. "Abandoned driveway approach" means any driveway approach for which there appears to be no immediate reasonable use as such, or where the use or condition of the abutting property has been so changed that the driveway approach is no longer needed.

B. Any such abandoned driveway approach shall be removed and replaced with curb, gutter and sidewalk per the City's standard plans to fit the existing line and grade of adjacent curb, gutter and sidewalk, within thirty days after the driveway approach has become abandoned.

C. Any driveway approach abandoned as above defined and not removed or reconstructed within thirty days after its abandonment shall justify the City in following the procedure set out in this chapter in removing the driveway approach and replacing the same with standard curb, gutter and sidewalk. (Ord. 1491 § 2 (part), 2015: Ord. 390 § 6, 1956)

**12.04.120 Parkway tree removal—Facility replacement.**

At any location where the City or the property owner, or any other person, has removed a tree or trees from the parkway, and said tree is responsible for damaging curb, gutter and sidewalk, it shall become the due responsibility of the property owner abutting on such parkway to replace the curb, gutter and sidewalk to the original line and grade, and upon failure of the property owner to do so, the City shall have the right to proceed under the provisions of this chapter, and to make the costs of restoring or replacing such curb, gutter or sidewalk a lien on the property in the manner therein provided. (Ord. 1491 § 2 (part), 2015: Ord. 390 § 8, 1956)

**12.04.130 Violation—Penalty.**

Any person violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding the sum of five hundred dollars, or by imprisonment in the County Jail for a period not to exceed six months, or by both such fine and imprisonment. (Ord. 390 § 10, 1956)

## **Chapter 12.08 GRADING AND EXCAVATIONS**

Sections:

Article I. Grading, Excavating and Fill

**12.08.010 Purpose of provisions.****12.08.020 Definitions.****12.08.030 Applicability of provisions.****12.08.040 Permit—Required.****12.08.050 Permit—Exemptions.****12.08.060 Permit—Application.**

- 12.08.070 Permit—Fees.**
- 12.08.080 Permit—Issuance conditions.**
- 12.08.090 Permit—Denial—Appeal procedure.**
- 12.08.100 Permit—Bond required.**
- 12.08.110 Permit—Duration.**
- 12.08.115 Assignment of permit.**
- 12.08.120 Refund of permit fees.**
- 12.08.130 Inspection—Required for building permit.**
- 12.08.140 Inspection—Types required—Notice to City.**
- 12.08.150 Inspection—Special supervision.**
- 12.08.160 Grading—Hours of operation.**
- 12.08.165 Grading—Seasonal prohibitions.**
- 12.08.170 Grading—Dust and noise control.**
- 12.08.180 Grading—Drainage restrictions.**
- 12.08.190 Grading—Slopes and banks.**
- 12.08.200 Trenching in slopes and banks.**
- 12.08.210 Building site pads.**
- 12.08.220 Berms for slopes and banks.**
- 12.08.230 Fill material— Placement specifications.**
- 12.08.235 Modifications to permits and erosion control plans.**
- 12.08.240 Grading—Modification of regulations.**
- 12.08.250 Maintenance of protective devices.**
- 12.08.260 Certificate of completion.**
- 12.08.270 Suspension or revocation of permit.**
- 12.08.290 Violation—Penalty.**

#### Article II. Street Excavations and Private Improvements

- 12.08.300 Written permission and specifications.**
- 12.08.310 Paving or repaving— New excavations barred when.**
- 12.08.320 Violation—Penalty.**

#### Article I. Grading, Excavating and Fill

##### **12.08.010 Purpose of provisions.**

The purpose of Article I of this chapter is to provide minimum standards to safeguard life and limb, to protect property and property values, preserve natural beauty, promote public welfare, protect and enhance water quality of watercourses, water bodies and wetlands, and control erosion, sedimentation, increases in surface runoff and related environmental damage caused by construction-related activities, by regulating and controlling the design, construction, quality of materials, use, location and maintenance of grading, excavating and fill, land disturbances, land fill and soil storage in connection with the

clearing and grading of land for construction, within the City. (Ord. 1491 § 3 (part), 2015: Ord. 1194 § 1, 1995: Ord. 516 § 1 (part), 1960)

#### **12.08.020 Definitions.**

As used in this article:

A. "Bank yards" means the quantity of material to be excavated, or to be placed, in the case of embankment, in place on the site, as computed by the method of "average and areas."

B. "Building permit" means a permit issued by the Building Department for the construction, erection or alteration of a structure or building.

C. "Clearing and grubbing" means and consists of cutting, chopping, bulldozing or removing by any means, native growths of trees, bushes, grasses, stumps, root masses, and all debris not native to the site. Present smog-control ordinances prohibit all burning of such materials, and no such materials shall be permitted to be stockpiled on the site or buried in any fill.

D. "Excavation" means and includes any excavation, removal, relocation or alteration of the existing contours and location of any soil, earth, fill, sand, rock, gravel or waste material, any combination thereof, and the conditions resulting therefrom.

E. "Fill" means and includes fill, deposit, relocation or placing of any soil, earth, sand, rock, gravel or waste material, any combination thereof, and the conditions resulting therefrom, but not including materials independently supported above by structures or containers.

F. "Final erosion and sediment control plan" means a set of measures designed to control surface runoff and erosion and to retain sediment on a particular site after all other planned final structures and permanent improvements have been erected or installed. The plan shall include a description of any specifications for sediment retention devices, a description of any specifications for surface runoff and erosion control devices, a description of vegetative measures, and a graphic representation of the location of all items required within the definition.

G. "Grading" means and includes any excavation or fill, and combination thereof and the conditions resulting therefrom.

H. "Grading permit" means any permit required by Article I of this chapter.

I. "Ground level" means and includes the natural grade, surface or contour of a site.

J. "Interim erosion and sediment control plan" means a set of measures designed to control surface runoff and erosion and to retain sediment on a particular site during the period in which preconstruction and construction-related land disturbances, fills and soil storage occur. The plan shall include a delineation and brief description of the measures to be undertaken to retain sediment on the site, a delineation and brief description of the surface runoff and erosion control measures to be implemented, a delineation and brief description of the vegetative measures to be taken (including but not limited to seeding methods), and the location of all the measures listed under this section shall be depicted on the site and grading plan.

K. "Moratorium street" means any street, or portion thereof, that has been reconstructed or resurfaced in the preceding five-year period.

L. "Permittee" means any person to whom a grading permit is issued.

M. "Person" means a natural person, his heirs, executors, administrators or assigns, and also includes a firm, partnership or corporation, its or their successors or assigns, or the agent of any of the aforesaid.

N. "Site" means and includes any lot or parcel of land, or contiguous lots or parcels of land, whether held separately or joined together in common ownership or occupancy, where grading is continuous and performed at the same time. (Ord. 1491 § 3 (part), 2015: Ord. 1194 § 2, 1995; Ord. 516 § 1 (part), 1960)

#### **12.08.030 Applicability of provisions.**

A. New grading, excavations and fills, or changes, additions, repairs or alterations made to existing excavations and fills within the City shall conform to the provisions of Article I of this chapter.

B. If two or more pertinent limitations are not identical, those limitations shall prevail which provide the greater safety to life and limb, property, natural beauty and public welfare.

C. The permissive provisions of this article shall not be presumed to waive any limitations imposed by other statutes or of ordinances of the City or of the State. (Ord. 1491 § 3 (part), 2015: Ord. 516 § 1 (part), 1960)

**12.08.040 Permit—Required.**

No person shall do or cause to be done any grading within the City without first having obtained a permit in accordance with this chapter. (Ord. 1491 § 3 (part), 2015: Ord. 516 § 1 (part), 1960)

**12.08.050 Permit—Exemptions.**

A grading permit shall not be required in the following cases, but in all other respects the provisions of this article shall apply:

A. An excavation which is entirely contained in one building site, which does not exceed fifty cubic yards of material, and which does not exceed four feet in depth at its deepest point;

B. An excavation below finished grade for basements, walls or footings of a building, swimming pools, or underground structures authorized by a valid building permit. (Ord. 1491 § 3 (part), 2015: Ord. 516 § 1 (part), 1960)

**12.08.060 Permit—Application.**

A. An applicant for a grading permit shall first file an application therefor in writing with the Public Works Department, unless subject to Planning Commission review pursuant to Sections 12.08.080(B) and (E). At the minimum, every such application shall include:

1. A description of the land on which the proposed work is to be done by lot, block, tract and street address, or similar description that will readily identify and definitely locate the proposed work;

2. Plans and specifications, including:

a. A contour map of a scale and having contour intervals of five feet, showing the present contours of the land, the proposed contours of the land after completion of the proposed grading, boundaries, lot lines, neighboring public ways, and sufficient dimensions and other data to show location of all work;

b. Description of the type and classification of the soil, details and location of proposed drainage structures and piping, benches, walls and cribbing;

c. Details, locations, species, planting plans and schedules, etc., for all proposed slope-control plantings and for all proposed screening, the location of all existing trees of over four-inch butt diameter on the site, and identifying those trees which will not be disturbed by the proposed grading; and

d. Such other information that the City Engineer or his/her designee may require to carry out the purposes of this article.

All plans shall bear the name of the person responsible therefor;

3. State the estimated date for the starting and completion of the grading work, the construction schedule, and the schedule for installation of permanent erosion and sediment control devices where required;

4. Show the name of the permittee, who shall be responsible for the correctness of the work and for requesting the inspections required in this article;

5. Be accompanied by a soils investigation report. The City Engineer or his/her designee may request a soils investigation report for any grading operation of less than one thousand cubic yards, and shall require a soils investigation report for any grading operation exceeding one thousand cubic yards.

a. The soils investigation report shall be prepared by a firm of consulting civil engineers, licensed in the State of California, specializing in soil mechanics and foundation engineering, and shall clearly state that the proposed grading conforms to conservative safe engineering practices.

b. The soils report shall specifically discuss the stability of all exposed slopes, both cut and fill, and all required drainage for both surface and subsurface waters, and requirements for berms on all slopes, and recommended degrees of compaction for all fills, and such other recommendations as, in the opinion of the engineers, are required by the purpose of Article I of this chapter. Logs of all test borings, and results of all field and laboratory tests performed during the soils investigation, shall be included with the soils report;

6. Provide an interim and final erosion and sediment control plan, as defined in Section 12.08.020(F).

B. The City Engineer or his/her designee may waive the requirement for any or all plans and specifications specified in this section if he finds that the information on the application is sufficient to show that the work will conform to the purpose of this article. (Ord. 1491 § 3 (part), 2015: Ord. 1194 §§ 3-5, 1995; Ord. 516 § 1 (part), 1960)

#### **12.08.070 Permit—Fees.**

Before issuing any grading permit, the City Engineer or his/her designee shall collect a permit fee as established by the City Council in a uniform fee schedule. (Ord. 1491 § 3 (part), 2015: Ord. 1194 § 6, 1995)

#### **12.08.080 Permit—Issuance conditions.**

A. If, in the opinion of the City Engineer or his/her designee, the grading proposed will not adversely affect the drainage or lateral support or other properties in the area, and will not be detrimental to the public health, safety or the general welfare, he shall approve any application where the total amount of grading on the site will not exceed one thousand yards; or he may, in the alternative, refer the proposed plans to the Planning Commission for approval.

B. All applications where the total amount to be graded exceeds one thousand cubic yards (including both cut and fill) shall be acted upon by the Planning Commission and shall be granted if the proposed grading will not adversely affect the drainage or lateral support of other properties in the area, is consistent with the San Carlos General Plan and Municipal Code, and will not be detrimental to the public health, safety or general welfare.

C. Factors to be considered in determining probability of hazardous or unsightly conditions shall include, but not be limited to, possible saturation by rain, erosions, earth movements, runoff of surface waters and subsurface conditions such as the stratification and faulting of rock, and nature and type of soil or rock. Failure of the City Engineer or his/her designee to observe or recognize hazardous or unsightly conditions or to fail to deny the grading permit shall not relieve the owner or his agent for responsibility for the condition or damages resulting therefrom, and shall not result in the City, its officers or agents being responsible for the condition or damages resulting therefrom.

D. In granting any permit, the City Engineer or his/her designee or the Planning Commission may make such conditions in connection therewith as will, in his or its opinion, secure substantially the objective of Article I of this chapter. All work will be performed under the provisions of the California contractors' license provisions contained in Chapter 9 of Division 3 of the Business and Professions Code of the State.

E. Before holding any Planning Commission hearing upon the granting of a grading permit, notices of such hearing shall be sent to property owners (as shown on the last equalized assessment roll) within a three-hundred-foot radius of the exterior boundaries of the subject property.

F. If a dirt hauling permit is requested in addition to the grading permit, notice of the proposed dirt haul route shall be given in the manner prescribed by Section 15.36.055. (Ord. 1491 § 3 (part), 2015: Ord. 1194 § 7, 1995; Ord. 1186 § 2, 1995; Ord. 516 § 1 (part), 1960)

#### **12.08.090 Permit—Denial—Appeal procedure.**

A. Any applicant aggrieved by a determination of the City Engineer or his/her designee may appeal such determination to the Planning Commission by filing a written notice of appeal, and accompanying fee as determined by City Council resolution, with the Planning Director within five days after receiving notice of the determination.

B. Any applicant aggrieved by a determination of the Planning Commission may appeal to the City Council within five days from the date of such determination by filing a written notice of appeal, accompanied by a fee as determined by City Council resolution, with the City Clerk. The City Council shall, upon receiving the notice of appeal:

1. Set the matter for hearing before itself and give notice as provided in Title 18, on zoning.

2. Review the record of the proceedings before the Planning Commission and either affirm or reverse the action of the Commission; or, it may refer the matter back to the Planning Commission for further proceedings. (Ord. 1491 § 3 (part), 2015: Ord. 1194 § 8, 1995; Ord. 516 § 1 (part), 1960)

#### **12.08.100 Permit—Bond required.**

A. Before issuing any grading permit, the City Manager may require for any excavation and/or fill up to one thousand yards, and shall require for any excavation and/or fill in excess of one thousand cubic yards, the filing with the City of a faithful performance bond guaranteeing to the City the faithful performance of all work and all conditions contained or described in the approved permit and in the approved plans and specifications made a part hereof. The bond shall be in an amount specified by

the City Engineer or his/her designee, and shall be acceptable to the City Attorney. The intent of this requirement is to permit the City to restore the property to a safe and reasonably attractive condition in the event of nonfulfillment of permit conditions.

B. The City Manager shall also have the authority to require the filing with the City of a maintenance bond which shall be effective for not more than one year from the date of issuance of the grading certificate provided for in Section 12.08.260. The maintenance bond shall be in an amount not to exceed twenty-five percent of the amount of the faithful performance bond.

C. The City Manager may request the City Attorney to commence an action against the performance bond under the following circumstances:

1. The permittee ceases land-disturbing activities and abandons the work site prior to completion of the site and grading plans;
2. The permittee fails to implement or comply with the final plan or interim plan as approved or the techniques utilized under either plan fail within one year of installation, or a final plan is implemented for the site or portions of the site, whichever is later.

D. The moneys obtained from a successful action against the performance bond shall be used to finance remedial work undertaken by the City or a private contractor under contract to the City, and to reimburse the City for the cost of litigation.

E. The performance bond held against the successful completion of the site and grading plan and the interim plan shall be released to the permittee at the termination of the permit, provided no action against such security is filed prior to that date. (Ord. 1491 § 3 (part), 2015: Ord. 1194 § 9, 1995; Ord. 516 § 1 (part), 1960)

#### **12.08.110 Permit—Duration.**

Excluding the rainy season as defined in the municipal regional permit, permits issued under this chapter shall be valid for the period during which the proposed land-disturbing or filling activities and soil storage takes place or is scheduled to take place, whichever is shorter; except that the City Engineer or his/her designee may, if the permit holder presents satisfactory evidence that unusual difficulties have prevented work being started or completed within the specified time limits, grant a reasonable extension of time on the permit; provided, that the application for the extension of time is made before the date of expiration of the permit or an immediate threat to public safety exists. The permittee shall commence permitted activities within sixty days of the scheduled commencement date for grading or the permittee shall resubmit all required application forms, maps, plans, schedules and security to the City Engineer or his/her designee. The City Engineer or his/her designee may require additional fees. (Ord. 1491 § 3 (part), 2015: Ord. 1194 § 10, 1995)

#### **12.08.115 Assignment of permit.**

A permit issued pursuant to this chapter may be assigned, provided:

A. The permittee notifies the City Engineer or his/her designee and Building Official of the proposed assignment.

B. The proposed assignee:

1. Submits an application form pursuant to Section 12.08.060; and
2. Agrees in writing to all conditions and duties imposed by the permit; and
3. Agrees in writing to assume responsibility for all work performed prior to the assignment; and
4. Provides security pursuant to Section 12.08.100; and
5. Agrees to pay all applicable fees listed in this chapter.

C. The City Engineer or his/her designee and Building Official approve the assignment.

D. The City Engineer or his/her designee and Building Official shall set forth in writing the reasons for his/her approval or disapproval of an assignment. (Ord. 1491 § 3 (part), 2015: Ord. 1194 § 11, 1995)

#### **12.08.120 Refund of permit fees.**

Should any fee required to be paid by this article be paid more than once, or illegally, erroneously or wrongfully paid or collected, the same may be refunded, by order of the City Council, provided a duly verified claim therefor shall have been filed with the Council within six months after the day of payment of the amount to be refunded. Such claim shall include the name

and address of the claimant, the amount and date of the payment sought to be refunded, and the reasons or grounds upon which the claim for refund is based. (Ord. 1491 § 3 (part), 2015: Ord. 516 § 1 (part), 1960)

#### **12.08.130 Inspection—Required for building permit.**

Whenever an application for a building permit discloses that grading operations within the provisions of this article may be conducted upon the site, the Building Official or his/her designee shall refer the application to the Planning Commission or City Engineer or his/her designee pursuant to Section 12.08.080, and no building permit shall be issued until the reviewing authority has issued a grading approval therefor or reporting in writing that a grading permit is not required in accordance with this article. (Ord. 1491 § 3 (part), 2015: Ord. 1194 § 12, 1995: amended during 1989 recodification; Ord. 516 § 1 (part), 1960)

#### **12.08.140 Inspection—Types required—Notice to City.**

The City Engineer or his/her designee shall, when requested, cause the inspections hereinafter required to be made, and shall either approve that portion of the work completed, or shall notify the permit holder in writing wherein the same fails to comply with this article. Where it is found by inspection that the soil or other conditions are not as stated or shown in the application for a grading permit, the City Engineer or his/her designee may refuse to approve further work until approval is obtained for a revised grading plan conforming to the existing conditions. Plans for grading work, bearing the stamp of approval of the City Engineer or his/her designee, shall be maintained at the site during the progress of the grading work and until the work has been approved. The permittee shall notify the City Manager in order to obtain inspections in accordance with the following schedule, and at least twenty-four hours before the inspection is to be made:

- A. Initial Inspection. When the permittee or his agent is ready to begin work on an excavation or fill, notification shall be given to the City Engineer or his/her designee not less than two days before any grading is started;
- B. Clearing and Grubbing. When all clearing and grubbing has been completed, and all materials removed from the site. Upon written permission from the City Engineer or his/her designee, grading operations may begin on specified portions of a site prior to completion of clearing and grubbing operations over the entire site;
- C. Special Structures. When excavations are complete for retaining and crib walls, and when reinforcing steel is in place and before concrete is poured, notice shall be given to the City Engineer or his/her designee;
- D. Final Inspection. When all work, including installation of all drainage and other structures, and all planting, has been completed. (Ord. 1491 § 3 (part), 2015: Ord. 516 § 1 (part), 1960)

#### **12.08.150 Inspection—Special supervision.**

When required by the City Engineer or his/her designee, inspection of compaction of fills shall be done by an approved testing agency. A report, prepared and signed by the testing agency, shall be submitted to the City Engineer or his/her designee upon completion of the work, and shall show the following:

- A. A contour map, showing the original and finish surfaces of the areas filled;
- B. The unit foundation bearing value recommended on faces of the areas filled;
- C. A description of the materials used in the fill and the procedure of deposit and compaction, including the preparation of original ground surface before making the fill;
- D. A plan showing the location of tests made in the fill, together with a tabulation of the percent compaction obtained in the various tests;
- E. A statement that all work was done in conformity with the provisions of Article I of this chapter. (Ord. 1491 § 3 (part), 2015: Ord. 516 § 1 (part), 1960)

#### **12.08.160 Grading—Hours of operation.**

All grading in residential zones, or within one thousand feet of any residential occupancy, hotel, motel or hospital, shall be carried on between the hours of eight a.m. and five-thirty p.m., unless other hours are specified by the Planning Commission or City Engineer, upon receipt of evidence that an emergency exists which would constitute a hazard to persons or property. (Ord. 1491 § 3 (part), 2015: Ord. 516 § 1 (part), 1960)

#### **12.08.165 Grading—Seasonal prohibitions.**

Grading shall be prohibited during the rainy season as defined in the Municipal Regional Permit, unless the City Engineer or his/her designee finds that the land disturbance is relatively minor and that erosion can be easily controlled, or is a necessary

and integral part of an interim plan for previously initiated project phases, or is necessary to prevent an imminent threat to public safety as determined by the City Engineer or his/her designee. (Ord. 1491 § 3 (part), 2015: Ord. 1194 § 13, 1995)

#### **12.08.170 Grading—Dust and noise control.**

All graded surfaces and materials, whether filled, excavated, transported or stockpiled, shall be protected or contained in such a manner as to prevent any nuisance from dust, or spillage upon adjoining property or streets. Equipment and materials on the site shall be used in such a manner as to avoid excessive dust and noise. Roadways on the site shall be surfaced sufficiently to prevent excessive dust. (Ord. 1491 § 3 (part), 2015: Ord. 516 § 1 (part), 1960)

#### **12.08.180 Grading—Drainage restrictions.**

No grading shall be conducted in such a manner as to alter the established gradient of natural drainage channels in such a manner as to cause excessive erosion or flooding. (Ord. 1491 § 3 (part), 2015: Ord. 516 § 1 (part), 1960)

#### **12.08.190 Grading—Slopes and banks.**

A. The exposed or finished banks or slopes of any fill or excavation shall be uniformly graded, and no such slope, bank or inclined graded surface shall exceed a vertical height of thirty feet unless intercepting drains or terraces are provided. Such drains or terraces shall be permanently lined or protected with approved materials, and accumulating surface waters shall be conducted to an approved point of discharge. Berms shall be provided to prevent overflow from any such terrace or intercepting drain.

B. All exposed or finished banks or slopes of any fill or excavation having a slope steeper than three horizontal to one vertical shall be protected from erosion by approved planting, cribbing, walls or terracing, or a combination thereof. Other unprotected graded surfaces exceeding five thousand square feet in area shall be planted, paved or built upon, or shall be provided with berms and approved drainage facilities adequate to prevent erosion and to conduct the accumulation or runoff of surface waters to an approved place of discharge.

C. It is the intent of this section to prohibit the abandonment of graded areas or slopes which are not provided with erosion protection and adequate drainage facilities even though all other requirements herein have been provided and approved. (Ord. 1491 § 3 (part), 2015: Ord. 516 § 1 (part), 1960)

#### **12.08.200 Trenching in slopes and banks.**

Any pipe trench or other trenching or excavation made in any slope or bank of an excavated or filled site shall be backfilled to the level of the surrounding grade. Such backfill shall be compacted to the density of the original materials, but in no case less than ninety percent of the maximum density achieved by AASHTO Compaction Test Method T99-57 or T180-57, as selected by the City Engineer or his/her designee. (Ord. 1491 § 3 (part), 2015: Ord. 516 § 1 (part), 1960)

#### **12.08.210 Building site pads.**

Whenever possible, all building site pads shall be graded to provide drainage to a street, public way, natural watercourse, approved flood channel or public easement, for drainage purposes. (Ord. 1491 § 3 (part), 2015: Ord. 516 § 1 (part), 1960)

#### **12.08.220 Berms for slopes and banks.**

Berms shall be provided and maintained at the top of all banks or graded slopes unless the slope of the site exceeds one-fourth inch per foot in the direction of an approved point of discharge. Sites shall be graded to prevent spillage of surface waters across banks or graded slopes. (Ord. 1491 § 3 (part), 2015: Ord. 516 § 1 (part), 1960)

#### **12.08.230 Fill material—Placement specifications.**

A. All fill used, designed or intended to be used to provide vertical or lateral support for buildings or structures shall be compacted as required by the Soils Engineer employed for the project, or not less than ninety percent, as determined by the AASHTO Compaction Test Method T99-57 or T180-57, as selected by the City Engineer or his/her designee.

B. Before placing any fill intended to be compacted, all existing ground surfaces upon which such fill will be placed shall be cleared of all deleterious materials not indigenous to the site. Tree stumps cut flush with the ground may be permitted, provided at least three feet of fill is to be placed over the stump. Surface shall be rough-graded to a minimum depth of six inches in order to provide a bond between original and filled material. In addition to the bonding required herein, when fill is to be placed on existing slopes steeper than six horizontal to one vertical, terraces or deep furrows shall be provided at intervals of slope distance not exceeding twenty feet. The slope shall be benched at least four feet horizontally for the full length of the slope upon which the fill is to be made.

C. Fill material shall be of uniform density and composition, and no fill shall contain excessive voids, trash, debris, garbage, organic solids, metal containers or parts, combustible waste, or other materials not specifically approved as fill material by the

Planning Commission, or called for by the City Engineer or his/her designee or Soils Engineer in the approved plans or specifications for the project.

D. Fill material shall contain the proper amount of moisture to assure proper behavior of the fill material, both during compaction and after the fill is in place. This shall be in accordance with design requirements approved by the City Engineer or his/her designee.

E. The maximum slope of any fill shall not exceed two horizontal to one vertical. When cohesionless soils are used, or other conditions warrant a further restriction of slope, the Planning Commission or City Engineer or his/her designee may require a flatter slope. (Ord. 1491 § 3 (part), 2015: Ord. 516 § 1 (part), 1960)

#### **12.08.235 Modifications to permits and erosion control plans.**

The City Engineer or his/her designee may, upon the written recommendation of a licensed civil engineer or soils engineer, modify the requirements of a grading permit and erosion control plan under the following circumstances:

A. Where causes exist which may have a deleterious effect on the quality of receiving waters, or increase surface runoff, erosion or off-site sedimentation; and

B. Where modifications achieve the same level of water quality and surface runoff, erosion and sediment control as would have been achieved had these problems not arisen. (Ord. 1491 § 3 (part), 2015: Ord. 1194 § 14, 1995)

#### **12.08.240 Grading—Modification of regulations.**

Any of the provisions contained in Sections 12.08.160 through 12.08.230 may be modified or changed upon the written recommendation of a licensed civil engineer or soils engineer, and/or City Engineer or his/her designee, when such recommendation is approved by the Planning Commission. (Ord. 1491 § 3 (part), 2015: Ord. 516 § 1 (part), 1960)

#### **12.08.250 Maintenance of protective devices.**

The owner of any property on which any excavation or fill has been made shall maintain in good condition and repair all retaining walls, cribbing, drainage structures and other protective devices, including protective planting, until the same are well-established. (Ord. 1491 § 3 (part), 2015: Ord. 516 § 1 (part), 1960)

#### **12.08.260 Certificate of completion.**

If, upon final inspection of any excavation or fill, it is found that the work authorized by the grading permit has been satisfactorily completed in accordance with the requirements of this article, a grading certificate covering such work, and stating that the work is approved, shall be issued to the owner by the City upon request. (Ord. 1491 § 3 (part), 2015: Ord. 1194 § 15, 1995; Ord. 516 § 1 (part), 1960)

#### **12.08.270 Suspension or revocation of permit.**

The City Engineer or his/her designee shall first use the procedures set forth in this section before any other enforcement procedure set forth in this title.

A. The City Engineer or his/her designee shall suspend the permit and issue a stop work order, and permittee shall cease all work necessary to remedy the cause of the suspension, upon notification of such suspension when:

1. Inspection by the City Engineer or his/her designee under Section 12.08.140 reveals that the work or the work site:
  - a. Is not in compliance with the conditions set forth in Sections 12.08.160 through 12.08.250; or
  - b. Is not in conformity with the site map and grading plan, interim or final plan as approved pursuant to Section 12.08.060; or
  - c. Is at variance with reports submitted under Section 12.08.060; or
  - d. Is not in compliance with an order to modify under Section 12.08.235.

2. Permittee fails to comply with an order to modify within the time limits imposed by the City Engineer or his/her designee.

B. The City Engineer or his/her designee shall revoke the permit and issue a stop work order, and permittee shall cease work upon the occurrence of any of the following conditions:

1. Permittee fails or refuses to cease work, as required under subsection A of this section, after suspension of the permit and receipt of a stop work order and notification thereof.

2. Any of the conditions set forth in subsection A of this section occurs within one hundred feet of a watercourse.
- C. The City Engineer or his/her designee shall reinstate a suspended permit upon permittee's correction of the cause of the suspension.
- D. The City Engineer or his/her designee shall not reinstate a revoked permit. (Ord. 1491 § 3 (part), 2015: Ord. 1194 § 16, 1995)

**12.08.290 Violation—Penalty.**

A violation of any of the terms or provision of Article I of this chapter shall constitute a misdemeanor. Any person or persons convicted of a misdemeanor under the provisions of this article shall be punishable by a fine of not more than five hundred dollars, or by imprisonment not to exceed six months in the County Jail, or by both such fine and imprisonment. (Ord. 1491 § 3 (part), 2015: Ord. 516 § 1 (part), 1960)

**Article II. Street Excavations and Private Improvements****12.08.300 Written permission and specifications.**

No private improvements of any kind or nature shall be attempted or made to any public street or thoroughfare within the City until and unless the City Engineer or his/her designee has issued his written permission and specifications therefor. (Ord. 1491 § 3 (part), 2015: Ord. 302 § 1, 1951)

**12.08.310 Paving or repaving—New excavations barred when.**

A. Whenever the City Council shall provide for the paving, repaving, or any roadway surface treatment that includes the full length and width of any street, the Public Works Director or his/her designee shall promptly mail a written notice thereof to each person owning any sewer, main, conduit or other utility in or under the street or any real property, whether improved or unimproved, abutting the street, notifying them that the street has become a moratorium street.

1. Such notice shall notify such persons that no excavation permit shall be issued for openings, cuts or excavations in a moratorium street for a period of five years after the date of the paving or repaving of the street.
2. Such notice shall also notify such persons that applications for excavation permits, for work to be done prior to such paving or repaving, shall be submitted promptly in order that the work covered by the excavation permit may be completed not later than forty-five days from the date of the decision of the City Council to pave or repave the street.
3. The Public Works Director or his/her designee shall also promptly mail copies of the notice to the occupants of all houses, buildings and other structures abutting the street for their information, and to State agencies and City departments or other persons that may desire to perform excavation in such City street.

B. Within such forty-five days, every public utility company receiving notice as prescribed herein shall perform such excavation work, subject to the provisions of this section, as may be necessary to install or repair sewers, mains, conduits or other utility installations.

C. In the event any owner of real property abutting such street shall fail within such forty-five days to perform such excavation work as may be required to install or repair utility service lines or service connections to the property lines, any and all rights of such owner or his successors in interest to make openings, cuts or excavations in such street shall be forfeited for a period of five years from the date of paving or repaving of such street. During the five-year period, no excavation permit shall be issued to open, cut or excavate in such street, unless with the approval of the City Engineer or his/her designee the applicant for a permit can show that it is necessary that the excavation permit be issued. The City Engineer or his/her designee may upon written request grant an excavation moratorium waiver with additional conditions on a public right-of-way permit subject to an excavation moratorium waiver. Excavations approved with an excavation moratorium waiver on streets that had been resurfaced within five years prior to the application for an excavation moratorium waiver shall comply with the following at the discretion of the City Engineer:

1. Where the excavation is one hundred feet or more in length, the applicant shall slurry seal or reconstruct the entire length of the excavation, and the entire width of the street from curb-line to curb-line, or where a raised median is present the applicant shall resurface from the curb-line to the median.
2. Where the excavation is less than one hundred feet in length, the applicant shall reimburse the City a flat fee of six hundred dollars per opening, an amount to be adjusted every year for inflation by resolution of the City Council, due to increased costs associated with long-term street damage.

D. Every City department or official charged with responsibility for any work that may necessitate any opening, cut or excavation in such street, is directed to take appropriate measures to perform such excavation work within the forty-five day period so as to avoid the necessity for making any openings, cuts or excavations in the new pavement in the City streets during such five-year period. (Ord. 1491 § 3 (part), 2015: Ord. 666 § 1, 1968)

**12.08.320 Violation—Penalty.**

A. Any person violating any of the provisions or failing to comply with any of the mandatory requirements of the ordinances of the City, is guilty of a misdemeanor, unless the violation is made an infraction by ordinance.

B. Except in cases where a different punishment is prescribed by any ordinance of the City, any person convicted of a misdemeanor for violation of an ordinance of the City is punishable by a fine of not more than one thousand dollars, or by imprisonment not to exceed six months, or by both such fine and imprisonment.

C. Any person convicted of an infraction for violation of an ordinance of the City is punishable by:

1. A fine not exceeding one hundred dollars for a first violation;
2. A fine not exceeding two hundred dollars for a second violation of the same ordinance within one year; or
3. A fine not exceeding five hundred dollars for each additional violation of the same ordinance within one year.

D. Each person is guilty of a separate offense for each and every day during any portion of which any violation of any provision of this chapter is committed, continued or permitted by any such person, and he shall be punishable accordingly.

E. In addition to the penalties set out in this chapter, any condition caused or permitted to exist in violation of any of the provisions of this chapter shall be deemed a public nuisance and may be, by the City, summarily abated as such, and each day such condition continues shall be regarded as a new and separate offense. (Ord. 1491 § 3 (part), 2015: Ord. 978 § 2 (part), 1987)

**Chapter 12.12  
REGULATION OF PARK FACILITIES**

Sections:

**12.12.010 Definitions.**

**12.12.020 Applicability.**

**12.12.030 Rules and regulations—Established.**

**12.12.040 Rules and regulations—Posting.**

**12.12.050 Hours for use—Parks.**

**12.12.060 Hours for use—Applicability.**

**12.12.070 Closure of facilities—Authority.**

**12.12.080 Permit application.**

**12.12.090 Action on permit application.**

**12.12.100 Permit—Exhibition.**

**12.12.110 Regulation of inflatable jumping devices.**

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**12.12.270 Animals in park facilities.**

**12.12.280 Dog exercise area.**

**12.12.290 Unauthorized construction activities.**

**12.12.300 Advertising events conducted in parks.**

**12.12.310 Violation—Penalty or provision.**

**12.12.010 Definitions.**

The following words and phrases, whenever used in these regulations, shall be construed as defined in this chapter:

A. "City" means the City of San Carlos.

B. "Department" means the Department of Parks and Recreation of the City of San Carlos.

C. "Director" means the managing director of the Department, or other authorized representative of such Department, or the Director's designee.

D. "Park facility" means any body of water, park, athletic field, tennis court, picnic site, skateboard facility, dog exercise area, open space land, land, campsite, recreation area, open space park facility, building, structure, system, equipment, machinery or other appurtenance managed, controlled or operated by the Department, and includes any public parking lot facility adjacent thereto.

E. "Open space park facility" means any parcel or area of land managed, controlled or operated by the City that is essentially unimproved or in its natural state with minimal or no above ground improvements provided by the City, other than trails and trail heads.

F. "Spectator areas" means those areas such as bleachers, sidelines and other areas adjacent to athletic fields where persons watching events congregate. (Ord. 1332 § 2 (part), 2004)

**12.12.020 Applicability.**

The provisions of this chapter apply to all park facilities under the jurisdiction of the Department. (Ord. 1332 § 2 (part), 2004)

**12.12.030 Rules and regulations—Established.**

The Director is authorized to prepare, formulate and promulgate rules and regulations governing the operation, programming, use and maintenance of each park facility. These rules shall be reviewed by the Parks and Recreation Commission prior to implementation. (Ord. 1332 § 2 (part), 2004)

**12.12.040 Rules and regulations—Posting.**

The Director shall cause the rules and regulations established under Section 12.12.030 to be posted at appropriate places in and about all the park facilities. (Ord. 1332 § 2 (part), 2004)

**12.12.050 Hours for use—Parks.**

All park facilities shall be closed to the public between the hours of ten p.m. and six a.m., except for open space park facilities, which shall be closed from thirty minutes after sundown to thirty minutes prior to sun rise. This section shall not apply to buildings located in park facilities where the hours of use shall be regulated by the Director. (Ord. 1332 § 2 (part), 2004)

**12.12.060 Hours for use—Applicability.**

No persons shall enter, use, cross or remain in a park facility, or the parking lot facility adjacent thereto, except during the hours that the park facility and parking lot facility is open to the public as provided in this chapter. When an activity concludes at or near ten p.m., participants and/or spectators shall be allowed until ten-thirty to depart from the park facility. (Ord. 1332 § 2 (part), 2004)

**12.12.070 Closure of facilities—Authority.**

The Director shall have the authority to close any park facility or portion thereof and require the exit of all persons therein when the park facility is closed for maintenance or when the Director determines that conditions exist in said park facility or portion thereof which present a hazard to the park facility or to public safety. (Ord. 1332 § 2 (part), 2004)

**12.12.080 Permit application.**

Whenever a permit is required by provision in this chapter, an application shall be filed with the Director providing information requested by the Department. (Ord. 1332 § 2 (part), 2004)

**12.12.090 Action on permit application.**

The Director shall issue a permit hereunder when he or she finds that:

- A. The proposed activity or use of the park facility will not unreasonably interfere with or detract from the general public enjoyment of the park facility.
- B. A park facility with the required occupancy load capacity is available, and staffing as required is available.
- C. All conditions, including, where applicable, the payment of fees, and insurance coverage and/or requirements are met.
- D. Proposed activities meet criteria specified for the park facility use guidelines for the park facility requested.
- E. The proposed activity will not negatively impact habitat, wildlife, or vegetation in the park facility.
- F. Residency requirements, if applicable, have been satisfied. (Ord. 1332 § 2 (part), 2004)

**12.12.100 Permit—Exhibition.**

Any person or entity issued a permit shall exhibit/display said permit during the permitted activity and shall produce a copy on the request of any Department employee or any peace officer who desires to inspect the permit for the purpose of enforcing compliance with any regulations of this chapter, the Municipal Code or any State law. (Ord. 1332 § 2 (part), 2004)

**12.12.110 Regulation of inflatable jumping devices.**

Enclosed inflatable/air-blown jumping devices are prohibited in all park facilities. Open inflatable/air-blown jumping devices and other special amusement attractions may be allowed on park facilities only by a special event permit. No stakes, ropes, poles or other securing devices are to be attached to any bushes, trees or other vegetation or driven into turf, except as noted by permit. (Ord. 1332 § 2 (part), 2004)

**12.12.120 Portable barbecues.**

Portable barbecues pose a safety risk and are not allowed in the park facilities. Industrial barbecues and those serviced by a licensed caterer shall be allowed only by permit. (Ord. 1332 § 2 (part), 2004)

**12.12.130 Unlawful activities in park facilities.**

No person, group or organization, except where authorized by the Director, using any park facility, including the immediately adjacent sidewalks and streets, shall:

- A. Obstruct or impede authorized City personnel from performing their duties.
- B. Possess or exhibit an open container of any alcoholic or intoxicating beverage, or consume or drink its contents, except as authorized by the Director. Proof of insurance may be required by the Director, depending on the type of event. Alcoholic

beverage sales require an Alcoholic Beverage Control license in addition to the Department's alcoholic beverages permit.

C. Ride a bicycle, skateboard, skates, scooter or other personal transportation device on park facilities, including, but not limited to, pedestrian pathways or sidewalks, in an unsafe manner or physically destructive manner, or at any time upon turf areas, athletic fields, planted areas, or within buildings.

D. Willfully mark, cut, deface, write upon, disfigure, injure, open, expose, interfere or tamper with, or displace or remove any turf, soil, sand, grass, rock, tree, shrub wood, water pipe, gas pipe, hydrant, stopcock, sewer, basin, bench, table, furniture, utensil, monument, fence, equipment, paving, heavy material, utility line, sign, notice or placard, apparatus or any portion of any structure or equipment of any park facility, without the express permission of the Director.

E. Enter any area which is posted as being closed to the public to protect growth or establish plants or turf, is used as a service facility, or which is under repair or maintenance.

F. With the exception of police officers, no person in any park facility shall take or cause to be taken into that facility or area, exhibit, or use any firecracker, torpedo, rocket, missile or weapon of any sort, including the use of any dangerous instrumentality in any manner which approximates a weapon; except as part of an authorized parks and recreation program.

G. Start a fire for any purpose, except in places provided for such purposes.

H. The playing of dangerous games and/or activities involving propelled or thrown objects such as stones, golf balls, shot puts, arrows or javelins are prohibited except when a permit is issued by the Director in areas compatible for such use.

I. Operate any sound amplification device.

J. Bring glass bottles or containers, or light a fire in any open space park facility.

K. Operate, load or unload a vehicle in a park facility, outside of areas designated for vehicular parking. (Ord. 1332 § 2 (part), 2004)

#### **12.12.140 Picnic site usage.**

A. Picnic tables at designated park facilities may be reserved in advance only by San Carlos residents or businesses located in San Carlos.

B. To reserve on behalf of a San Carlos business, the authorized representative of the business shall provide a signed letter of authorization granting the representative the right to act as an agent for the business.

C. The permit must be issued to an adult who will be present at the site at all times during the activity. The person or organization to whom the permit is issued assumes all responsibility for use of the facility. Permits cannot be transferred, assigned or sublet.

D. Each individual in the group must obey all applicable City of San Carlos, State and Federal rules, ordinances, laws and regulations. Failure to do so may result in the permit being cancelled, the offending individuals or entire group being asked to leave the facility and/or be subject to legal action.

E. Only beer and wine may be permitted at picnics in conjunction with a meal, and with authorized approval noted on the picnic permit.

F. Proof of insurance may be required by the Director, depending on the type of event. Alcoholic beverage sales require an Alcoholic Beverage Control license in addition to the Department's alcoholic beverages permit. (Ord. 1332 § 2 (part), 2004)

#### **12.12.150 Tennis court usage.**

Any person, group of persons, or entity using a City tennis court shall do so according to the following rules:

A. By way of example and without limitation, no person shall engage in activities other than tennis on City-owned tennis courts, unless expressly permitted to do so in writing by the Director.

B. No person shall provide or offer tennis lessons for remuneration or fee on City-owned tennis courts except as part of a City-sponsored program.

C. No individual person may occupy a court by him or herself alone if two or more persons are waiting to play tennis. (Ord. 1332 § 2 (part), 2004)

**12.12.160 Athletic field use.**

Any person, group of persons, or entity, using a City athletic field shall do so according to the following rules:

- A. Exclusive use of an athletic field is by permit only.
- B. The general public has priority for use during nonpermitted times.
- C. Staff may direct individual groups to abide by specific field use and/or maintenance practices, which will be indicated on field use permits.
- D. Organized teams or groups of persons are required to cancel games or practices or other athletic field use in weather deemed inclement by the Director, or the athletic field is deemed by the Director to be in an unplayable condition. (Ord. 1332 § 2 (part), 2004)

**12.12.170 Skateboard facility.**

- A. The Director shall establish rules and regulations for the use of any City skateboard facility in order that all persons may enjoy and make use of it in a manner consistent with preservation of the area for its intended use and respect for the rights of the general public. Each person skateboarding in the skateboard facility must wear a helmet, elbow pads and knee pads.
- B. Signage shall be posted affording notice that any person riding a skateboard in the skateboard facility must wear a helmet, elbow pads and knee pads, and that any person failing to do so will be subject to citation under this chapter, and/or suspension of permission to use the skateboard facility.
- C. Signage shall be posted indicating persons skateboarding do so at their own risk and that the City shall not be liable for injuries or accidents. (Ord. 1332 § 2 (part), 2004)

**12.12.180 Swimming.**

No person shall swim, bathe or wade in any streams, creeks, ponds or waterways within any park facility. No domestic animals are allowed in any waterways within any park facility. (Ord. 1332 § 2 (part), 2004)

**12.12.190 Motorcycles, scooters, bicycles, unicycles, skateboards, roller skates, roller blades and other coasting devices.**

No person shall leave a motorcycle, motorized scooter or vehicle, bicycle, unicycle, skateboard, roller blades, roller skates, or other coasting devices in any place or position in a park facility where other persons may trip over or be injured by it. In open space parks, motorcycles, motorized scooters or vehicles, bicycles, unicycles, skateboards, roller blades, roller skates, or other coasting devices are prohibited from using trails. (Ord. 1332 § 2 (part), 2004)

**12.12.200 Fees for use.**

The City Council shall establish fees by resolution for use of City park facilities. (Ord. 1332 § 2 (part), 2004)

**12.12.210 Commercial activities and solicitation.**

- A. Except as otherwise provided in this chapter or as allowed under Chapter 5.43 (Sidewalk Vendors), no person or entity shall engage in commercial activities, including advertising or solicitation for commercial purposes, in park facilities within the City.
- B. Commercial activities associated with and supportive of City programs or City-sponsored activities for which a permit or written permission has been issued by the Director shall be permitted in park facilities. (Ord. 1545 § 7, 2019; Ord. 1332 § 2 (part), 2004)

**12.12.220 Restrooms.**

Male persons shall not enter any restroom or washroom set apart for females, and female persons shall not enter any restroom or washroom set apart for males in park facilities; except, this shall not apply to persons with special needs or children under the age of six years old who are accompanied by a person who is of the sex designated for that facility and who has reason to be responsible for such person. Director may authorize additional exceptions to better serve the public. Authorized City personnel are exempt from this restriction in performance of their duties. (Ord. 1332 § 2 (part), 2004)

**12.12.230 Unauthorized use of keys or locks.**

No person other than one acting under the authority of the Director shall duplicate or cause to be duplicated a key used by the Department for a padlock or doorlock of any type or description, nor shall any person divulge the combination of any lock so equipped to any unauthorized person. No person, other than one acting under the authority of the Director, shall use a key to access any park facilities. The Director may issue keys to persons or entities to use the keys for permitted activity only and return issued keys to the City upon completion of the activity. (Ord. 1332 § 2 (part), 2004)

**12.12.240 Water pollution.**

While within the boundaries of any park facility, no person shall throw, discharge or otherwise place or cause to be placed in the waters of any fountain, pond, lake, stream, creek, or other body of water, or drain flowing into such waters any substance, matter or thing, liquid or solid, including, but without limitation to, particles or objects made of paper, metal, glass, garbage, rubbish, rubber, fuel, plant material, food matter, fiber and plastics. (Ord. 1332 § 2 (part), 2004)

**12.12.250 Littering.**

Within the boundaries of any park facility, all litter and other refuse must be deposited into designated refuse containers. Depositing refuse or other waste on or into fire rings, barbecues or other devices used to contain fires or for cooking is prohibited. (Ord. 1332 § 2 (part), 2004)

**12.12.255 Recycling.**

It is the intent of the City of San Carlos to encourage recycling to protect our environment. All citizens are encouraged, at all times, to use recycling containers whenever present. The City will continue to develop recycling opportunities. (Ord. 1332 § 2 (part), 2004)

**12.12.260 Smoking.**

Smoking, as defined by Chapter 8.06, is prohibited in any park or facility owned or controlled by the City and in City-owned open space areas, including, but not limited to, baseball, football, soccer or other sports fields or stadiums, dog parks, plazas, trails, playgrounds, easements, pathways, music venues, grass or turf fields and play areas, water features, and driveways or ramps located in or on such areas.

The City Manager or his or her designee may, but is not required to, provide limited locations designated as "outdoor smoking areas," which are posted with signs so designating such areas. (Ord. 1495 § 1, 2015: Ord. 1332 § 2 (part), 2004)

**12.12.270 Animals in park facilities.**

No person other than a peace officer, City personnel or animal control officer in the discharge of their duties shall:

- A. Hunt, molest, harm, provide a noxious substance to, frighten, kill, trap, chase, tease, shoot or throw missiles at any animal within the boundaries of any park facility, nor remove nor have in their possession the young, eggs or nest of any wild or nondomesticated creature.
- B. Abandon any animal, dead or alive, within any park facility.
- C. Remove any animal not his/her own from within any park facility.
- D. Bring into or maintain in or upon any park facility any dog, cat or other animal unless such animal at all times is kept on a leash and under full control of its owner or custodian; provided, however, the Director may designate areas and times within which persons may exercise, show, demonstrate or train unleashed animals under full control of their owners or custodians.
- E. Permit cattle, sheep, goats, pigs, or other animals owned by him/her or in his/her possession to graze within the boundaries of any park facility without express written approval of the Director.
- F. Ride or lead a horse, pony, mule, burro or other animal onto or over real property within any park facility, other than at times and upon roads or trails designated for riding of animals, except with written approval of the Director. (Ord. 1332 § 2 (part), 2004)

**12.12.280 Dog exercise area.**

- A. Dogs may be allowed off leash in designated dog exercise areas. No person, with or without a dog, shall be in a dog exercise area one-half hour before sunrise nor any later than one-half hour after sunset. City employees performing their assigned duties are exempt from this restriction.
- B. No dog is to be left unattended in any dog exercise area.
- C. A muzzle shall be securely attached to all aggressive dogs in any dog exercise area.
- D. Any person with a dog in the dog exercise area shall properly dispose of that dog's fecal matter by placing it in the provided receptacles.
- E. All dogs shall be placed on a leash and under full control of its owner upon leaving any dog exercise area. (Ord. 1332 § 2 (part), 2004)

**12.12.290 Unauthorized construction activities.**

No person shall deposit any earth, sand, rock, stone or other substance within any park facility, nor dig or remove any such material from within any park facility, nor erect or attempt to erect any building, nor in any manner appropriate or encumber any portion of a park facility without a permit from the Director. No temporary fencing may be installed in a park facility without a permit from the Director. (Ord. 1332 § 2 (part), 2004)

**12.12.300 Advertising events conducted in parks.**

No person, group of persons or entity shall publish or cause to be published any advertisement, community announcement or press release for any event, activity or public gathering, whether public or private, planned to occur within any park facility without the prior express written authorization of the Director. (Ord. 1332 § 2 (part), 2004)

**12.12.310 Violation—Penalty or provision.**

A. Violation of any regulation contained in this chapter is a misdemeanor, and may be reduced to an infraction at the discretion of the Chief of Police or designee, or the City Attorney.

B. The Director shall have authority to revoke a park facility permit upon a finding of violation of any regulation contained in this chapter.

C. The Director shall have the authority to eject from any park facility any person acting in violation of regulations contained in this chapter. (Ord. 1332 § 2 (part), 2004)

**Chapter 12.20****MAINTENANCE AND REMOVAL OF PRIVATE LANDSCAPING ON PUBLIC PROPERTY**

Sections:

**12.20.010 Intent—Purpose.**

**12.20.020 Definitions.**

**12.20.030 Landscaping maintenance responsibility.**

**12.20.040 Property owner maintenance responsibility—Interference with right-of-way and sidewalk.**

**12.20.050 Obstructions—Notice to owner to remove.**

**12.20.060 Abatement of nuisance by City.**

**12.20.070 Permit required to remove protected trees.**

**12.20.080 Application for and granting of permits—Protected trees on private property.**

**12.20.090 Emergencies.**

**12.20.100 Notice.**

**12.20.110 Appeals—Referral to Planning Commission.**

**12.20.120 Violation—Tree removal without permit.**

**12.20.130 Liability limitations.**

**12.20.010 Intent—Purpose.**

The purpose of this chapter is to provide for implementation of the landscaping regulations in Chapter 18.18 as applied to streets, sidewalks and public places. (Ord. 1439 § 4 (Exh. C (part)), 2011: Ord. 1252 § 2 (part), 1998)

**12.20.020 Definitions.**

A. "Director" means the Director of Public Works of the City or his/her designee.

B. Landscape-related definitions, including but not limited to "hedge," "shrub," "prune," "remove" and "trim," are further defined in Section 18.41.020.

C. "Persons" means any person, firm, association, organization, partnership, business, trust, company, corporation, public agency, school district, the State of California, its political subdivisions and/or instrumentalities thereof, excluding the City.

D. "Private landscaping" means any landscaping located within the boundaries of privately owned property, and includes any landscaping located within any unimproved public right-of-way abutting a private property and in any park strip or sidewalk abutting a private property, regardless of whether the privately owned property abuts a right-of-way at its front, side or rear boundary line.

E. "Public landscaping" means any landscaping located within any street median, City park or other parcel of publicly owned property, including any tree located in a City maintained park strip on Laurel Street (600, 700, 800 blocks only), and San Carlos Avenue (1100 and 1200 blocks only).

F. "Public right-of-way" means an unimproved right-of-way or a park strip or sidewalk.

G. "Tree" means a woody or fibrous plant, the branches of which spring from and are supported upon a trunk and as further defined in Section 18.41.020.

H. "Unimproved right-of-way" means that portion of a public street, within the public right-of-way, that is not improved or maintained by the City. (Ord. 1491 § 4, 2015: Ord. 1439 § 4 (Exh. C (part)), 2011: Ord. 1366 § 1, 2005; Ord. 1252 § 2 (part), 1998)

#### **12.20.030 Landscaping maintenance responsibility.**

The City of San Carlos shall have the responsibility for trimming and maintaining public landscaping, and private property owners shall be responsible for trimming and maintaining private landscaping. (Ord. 1439 § 4 (Exh. C (part)), 2011: Ord. 1252 § 2 (part), 1998)

#### **12.20.040 Property owner maintenance responsibility—Interference with right-of-way and sidewalk.**

The owners of parcels fronting on any portion of a street shall maintain any landscaping on their parcel and in any contiguous public right-of-way, in such condition that the landscaping will not interfere with the public safety and convenience in the use of the streets or sidewalks. Such owners shall also maintain such landscaping so that there is an eight-foot pedestrian clearance from the top of the sidewalk or pathway, and a thirteen-foot vehicular clearance from the top of the curb or top of the pavement. (Ord. 1439 § 4 (Exh. C (part)), 2011: Ord. 1252 § 2 (part), 1998)

#### **12.20.050 Obstructions—Notice to owner to remove.**

A. The Director may inspect any and all landscaping which, standing on any private property, including in any public right-of-way, or overhang or projection into any such public right-of-way, to determine whether any of the same, or any part thereof, creates an obstruction or a hazard to the public.

B. Upon his/her determination, the Director shall give written notice personally to the owner or person in possession of the premises, or by mailing a notice to the owner thereof at his last known address, as the same appears on the last equalized assessment roll of the County, to remove or abate the obstruction or the hazard within two weeks from the date of the notice. (Ord. 1439 § 4 (Exh. C (part)), 2011: Ord. 1252 § 2 (part), 1998)

#### **12.20.060 Abatement of nuisance by City.**

If a property owner fails or refuses to abate a nuisance, the City may abate the condition and the City's cost of such abatement shall be reimbursed to the City by the property owner. (Ord. 1439 § 4 (Exh. C (part)), 2011: Ord. 1252 § 2 (part), 1998)

#### **12.20.070 Permit required to remove protected trees.**

It is unlawful for any person to remove any protected tree which is a public tree within the City of San Carlos without first obtaining a permit pursuant to Section 18.18.070. The City shall not require a permit for its removal of a public tree, but shall be subject to the findings in Section 18.18.070 in determining whether it should remove a protected tree which is a public tree. (Ord. 1439 § 4 (Exh. C (part)), 2011: Ord. 1252 § 2 (part), 1998)

#### **12.20.080 Application for and granting of permits—Protected trees on public property.**

Any person desiring to remove a protected tree which is also a public tree must apply for removal subject to Section 18.18.070. (Ord. 1439 § 4 (Exh. C (part)), 2011: Ord. 1252 § 2 (part), 1998)

#### **12.20.090 Emergencies.**

If an emergency develops regarding a protected tree removal which requires immediate response for the safety of life or property, action may be taken by obtaining oral permission of the Director, notwithstanding other provisions contained in this chapter. Such emergencies shall be exempt from protected tree permit application procedures; however, replacement shall occur as provided in Section 18.18.070(C)(6). (Ord. 1439 § 4 (Exh. C (part)), 2011: Ord. 1252 § 2 (part), 1998)

#### **12.20.100 Notice.**

Notice shall be posted as provided for in Section 18.18.070(C). (Ord. 1439 § 4 (Exh. C (part)), 2011: Ord. 1252 § 2 (part), 1998)

#### **12.20.110 Appeals—Referral to Planning Commission.**

Any decision of the Director regarding this chapter may be appealed to the City Council. Any appeal must be filed within ten days of the decision to issue or deny the permit. The Director may refer a tree removal request to the Planning Commission for determination if the Director determines that removal of the tree may cause a significant visual loss or environmental impact to the community. (Ord. 1439 § 4 (Exh. C (part)), 2011: Ord. 1252 § 2 (part), 1998. Formerly 12.20.120)

#### **12.20.120 Violation—Tree removal without permit.**

In addition to penalties provided in Chapter 1.20 of this Code, any person who removes or causes to be removed any protected tree which is also a public tree in violation of this chapter shall be required to comply with Section 18.18.070(D). (Ord. 1439 § 4 (Exh. C (part)), 2011: Ord. 1302 § 1, 2002: Ord. 1252 § 2 (part), 1998. Formerly 12.20.130)

#### **12.20.130 Liability limitations.**

Nothing contained in this chapter shall be deemed to impose any liability upon the City, its officers or employees, nor to relieve the owner of any private property from the duty to keep landscaping upon such private property, or under his control, or upon public right-of-way in front of or contiguous to such private property, in a safe condition. (Ord. 1439 § 4 (Exh. C (part)), 2011: Ord. 1252 § 2 (part), 1998. Formerly 12.20.140)

### **Chapter 12.24 NEWSRACKS**

Sections:

**12.24.010 Purpose of provisions.**

**12.24.020 Definitions.**

**12.24.030 Newsrack permit required.**

**12.24.040 Design.**

**12.24.050 Placement.**

**12.24.060 Standards.**

**12.24.070 Maintenance.**

**12.24.080 Abatement of violation.**

**12.24.090 Amortization requirements.**

**12.24.010 Purpose of provisions.**

The purpose of these regulations is to acknowledge and achieve the following:

A. There is a substantial governmental interest in promoting the public health, safety, welfare and convenience by ensuring that persons may reasonably use the public streets, sidewalks, rights-of-way, and other public property without interference with such use.

B. Newsracks placed and maintained on the streets, sidewalks or other public rights-of-way, absent some reasonable regulation, may unreasonably interfere with the use of such streets, sidewalks and public rights-of-way, and may present hazards to persons or property.

C. The streets, sidewalks and public rights-of-way are historically associated with the sale and distribution of newspapers and other publications, and that access to and use of these areas for such purposes is not to be denied except where such use unreasonably interferes with the use of these areas by pedestrians or traffic, or where such use presents a hazard to persons or property.

D. Reasonable accommodation of these competing interests can be achieved by adoption of this chapter, which regulates the placement and maintenance of newsracks.

E. The public health, safety, welfare and convenience require that:

1. Interference with vehicular, bicycle, wheelchair or pedestrian traffic be avoided;

2. Obstruction of sight distance and views of traffic signs and street-crossing pedestrians be eliminated;
3. Damage done to sidewalks or streets be minimized and repaired;
4. The good appearance of the public streets and grounds be maintained;
5. Trees and other landscaping be allowed to grow without disturbance;
6. Access to emergency and other public facilities be maintained; and
7. Ingress and egress from properties adjoining the public rights-of-way be protected.

F. The regulation of the sale or free distribution of newspapers and other publications dispensed in vending machines as set forth in this chapter provides the least intrusive and burdensome means for ensuring the purposes stated in this section are carried out while still providing ample opportunities for the distribution of news to the citizens of the City.

G. These regulations shall also serve as guidelines for the maintenance of newsracks on private property. (Ord. 1111 § 1 (part), 1992)

**12.24.020 Definitions.**

As used in this chapter:

A. "Abandoned newsrack" means any newsrack which remains empty for ten business days, except that a newsrack remaining empty due to a labor strike or any temporary and extraordinary interruption of distribution or publication by the newspaper or other publication sold or distributed from that newsrack shall not be deemed abandoned.

B. "Modular newsracks" means single newsracks containing separate provisions for two or more different publications, where each kind has separate coin slots or merchandise receptacles or places where the publication is dispensed.

C. "Newsrack" means any self-service or coin-operated box, container, storage unit, or other dispenser installed, used or maintained for the display and sale or distribution without charge of newspapers, periodicals or other publications.

D. "Public right-of-way" means and includes the area and those areas dedicated to public use for public street purposes including but not limited to roadways, parkways, alleys and sidewalks.

E. "Redevelopment project area" means those areas included within the boundaries of the San Carlos Redevelopment Project as shown in the Blight Area Matrix Map and approved by the San Carlos City Council planned for development, replanning, redesign, clearance, reconstruction or rehabilitation or any combination of these, and the provision of such residential, commercial, industrial, public or other structures or spaces as may be appropriate or necessary in the interest of the general welfare, including recreational and other facilities incidental or appurtenant to them.

F. "Roadway" means that portion of a public right-of-way improved, designed and ordinarily used for vehicular traffic, including drainage gutters and curbs a minimum of six inches in horizontal width.

G. "Sidewalk" means that portion of a public right-of-way provided for the exclusive use of pedestrians, including planting areas or park strips, between the public roadway and adjacent property lines.

H. "Temporary Newsracks" means and includes any newsracks maintained in the public right-of-way for a trial period of up to forty-five days. (Ord. 1111 § 1 (part), 1992)

**12.24.030 Newsrack permit required.**

A. The provisions of this chapter shall be the exclusive requirements for newsrack encroachments onto public property in the City of San Carlos and preempt any other provisions in this Code with the exception of Chapter 18.96 of the San Carlos Municipal Code governing adult entertainment facilities.

B. Each newsrack distributor shall obtain a newsrack permit for all newsracks located on or projecting into any public right-of-way or public property with the Director of Public Works or his designee on the forms provided by the Director within twenty-four hours of placement on public right-of-way or public properties demonstrating that their newsracks comply with all requirements of this chapter.

C. There shall be no fee, bond or other charges for a newsrack permit or application.

D. The newsrack permit application form shall state the name, address and telephone number of those responsible for installation, use and maintenance of the newsracks, and shall describe, with particularity, the location(s) proposed for installation. Any newsrack permit shall be issued within ten working days if the type of newsrack and location(s) proposed meet the standards set forth in this chapter. The City shall either issue a license or obtain a court order to restrain unlicensed acts.

E. If a newsrack permit is disapproved, in whole or in part, the Director of Public Works shall notify the applicant promptly, explaining the reasons for denial of a newsrack permit. The applicant shall have ten calendar days within which to appeal the decision to the City Council in accordance with the appeals provisions of this Code.

F. A person securing a newsracks permit may install and maintain additional newsracks by an amendment to the permit originally granted to that person. The rules and procedures of this section shall also apply to the review and approval of any such amendment.

G. All persons who obtain a newsrack permit shall also obtain and display an identification/permit marker provided by the City of San Carlos. (Ord. 1111 § 1 (part), 1992)

**12.24.040 Design.**

A. Each newsrack shall be a 49-16 or 100 style (as manufactured by "Sho-Rack") or KJ50/KJ55F (as manufactured by "K-Jack") or M-30/M-33 (as manufactured by "National News Vend") in the primary business area of the City between El Camino Real and Walnut Street and San Carlos Avenue and Eaton Avenue. Additionally, "Armorhood 80 style" racks and "Ganset" racks may be used in all other redevelopment project areas, commercial and industrial zoning districts, and industrial business parks within the City. However, where there are more than five nonmodular newsracks in any one location, modular-style racks shall be required. Although not required, the City encourages the use of "federal brown" (as manufactured by "Sho-Rack") or "San Jose Brown" (as manufactured by "K-Jack") panels preferred. (This chapter is not intended to mandate the color of newsracks within the City).

B. The compartments of modular newsracks shall be placed in such a manner as to utilize no more than two horizontal rows of six compartments per row.

C. No newsrack shall be installed in the public right-of-way that does not meet the approved newsrack dimensions of not more than four feet high, including pedestal, measured from the ground to the top surface of the newsrack, not more than two feet deep and not more than thirty inches wide.

D. The design of a newsrack shall not create a danger to the persons using the newsrack in a reasonably foreseeable manner.

E. Newsracks may be placed next to each other. However, no group of newsracks placed along a curb shall extend for a distance of more than sixteen feet, and shall be no closer than four feet to another group of newsracks along a curb. If sufficient space does not exist to accommodate all newsracks sought to be placed at one location without violating the standards set forth in this chapter, the Public Works Director shall give priority, on a historical first-come, first-served basis, to permit applicants as follows:

1. First priority, on a first-come, first-served basis, shall be given to daily publications (inclusive of their Saturday, Sunday or weekend editions whether or not published jointly with another newspaper), published at least five times per week;

2. Second priority, on a first-come, first-served basis, shall be given to publications published more than once but less than five days per week;

3. Third priority, on a first-come, first-served basis, shall be given to weekly publications;

4. Fourth priority, on a first-come, first-served basis, shall be given to biweekly publications (published less than once per week but more than once per month); and

5. Fifth priority, on a first-come first-served basis, shall be given to monthly or less frequent publications.

F. All newsracks shall be pedestal-mounted, and shall be permanently affixed to the ground, except as permitted under this chapter.

G. Newsracks do not require approval from the Architectural Review Committee.

H. The highest operable part of the coin slot, if provided for the newsrack, all controls, dispensers and other operable components of newsracks shall not be greater than forty eight inches above the level of the adjacent pavement or sidewalk, nor lower than fifteen inches above the level of the adjacent pavement or sidewalk.

I. It is intended that the provisions of this chapter shall be consistent with the accessibility standards of the Americans with Disabilities Act of 1990, Public Law 101-336 and further amendments affecting the general safety and welfare of all citizens of San Carlos and visitors in the City, and that it is the responsibility of the owner of each newsrack to comply with all such provisions. (Ord. 1111 § 1 (part), 1992)

**12.24.050 Placement.**

A. No person shall install, stock, use or maintain any newsrack which projects onto, into or over any part of the roadway of any public right-of-way, street, or which rests, wholly or in part, upon, along or over any portion of a roadway.

B. No person shall install, use or maintain any newsrack which in whole or in part rests upon, in or over any sidewalk or parkway, when such installation, use or maintenance endangers the safety of persons or property, or when such site or location is used for public utility purposes, public transportation purposes or other government use, or when such newsrack unreasonably interferes with or impedes the flow of pedestrian or vehicular traffic, including handicapped access, the ingress into or egress from any residence, place of business, or the use of poles, posts, traffic signs or signals, hydrants, postal service collection boxes or other objects permitted at or near such location. (Ord. 1111 § 1 (part), 1992)

**12.24.060 Standards.**

A. Any newsrack which in whole or in part rests upon, on or over any sidewalk or parkway, shall comply with the following standards:

1. Newsracks shall only be placed near a curb or adjacent to the wall of a building. The back of newsracks placed near the curb shall be placed no less than eighteen inches nor more than twenty-four inches from the edge of the curb. The back of newsracks placed adjacent to the wall of a building shall be placed parallel to such wall and not more than six inches from the wall. No newsrack shall be placed or maintained on a sidewalk or parkway opposite another newsrack or kiosk which distributes newspapers, periodicals or other publications only.

2. All newsracks shall be permanently affixed to the ground except as permitted under this chapter. Newsracks shall not be chained or otherwise attached to a bus shelter, bench, street light, utility pole or sign pole, to any other single or modular newsrack, or to any tree, shrub or other plant, nor situated upon any landscaped area.

3. Any single-unit newsrack which meets the requirements of this chapter may be permitted in any single location for a period of forty-five days in order to determine the suitability of long-term newsrack locations. At least ten business days prior to locating a temporary newsrack, a complete license application shall be submitted, including written notice of the particular location and date upon which the forty-five day trial period will begin. Within ten business days after expiration of the forty-five day trial period, the person maintaining the newsrack shall either cause it to be removed or submit a written request to the Public Works Director for a permit for a permanent newsrack location. Temporary newsracks shall be skirted and weighted down.

4. No newsrack shall be placed, installed, used or maintained:

a. Within fifteen feet of any marked or unmarked crosswalk as measured from the curb return;

b. Within five feet of any fire hydrant, fire callbox, police callbox, or other emergency facility;

c. Within five feet of any driveway.

d. Within five feet of any bus bench;

e. Within five feet of any red curb of a bus stop zone;

f. At any location where the clear space for the passage of pedestrians is reduced to less than six feet;

g. In such a manner as to impede or interfere with the reasonable use of any commercial window display;

h. Within fifteen feet of the curb return of any wheelchair curb ramp not in a marked crosswalk. (Ord. 1111 § 1 (part), 1992)

**12.24.070 Maintenance.**

A. Each newsrack shall be maintained in a neat and clean condition and in good repair at all times. For example, without limitation, the newsrack shall be reasonably free of dirt and grease, be reasonably free of chipped, faded, peeling or cracked paint, be reasonably free of rust and corrosion, have no broken or cracked plastic or glass parts, and have no broken structural parts. Adhesive labels, other than City issued identification/approval labels, unrelated to publications in the newsracks shall not be displayed on newsracks.

B. Abandoned newsracks may be removed by a designated public works employee and may be disposed of if not claimed by the owner within thirty days after the City has notified the owner in writing. Such notice shall state the code sections, violations, the length of time within which the violation must be cured, and the forum within which the owner may request a hearing.

C. Each newsrack which requires the deposit of money to obtain the publication shall be equipped with a coin-return mechanism to permit persons using the machine to secure a refund in the event they are unable to receive the publication paid for. The coin-return mechanism shall be maintained in good working order.

D. Every person maintaining a newsrack under the terms of this chapter shall have his or her name, current address, and telephone number (updated within ten days of any changes) affixed to it in a place where such information will be readily visible and shall include, with such identification, instructions on how to receive a refund in the event of coin-return malfunctions.

E. Upon the removal of a newsrack, the public right-of-way shall be returned to its original condition including but not limited to the refilling of holes installed for purposes of maintaining newsracks. (Ord. 1111 § 1 (part), 1992)

**12.24.080 Abatement of violation.**

A. A newsrack in violation of this chapter may be removed by a designated public works employee of the City of San Carlos if it is impossible to remedy the violation and the violation poses a danger to health and safety, pedestrians, and vehicular traffic.

B. Before any newsrack is removed the owner shall be notified by posting and mailing, where feasible, to the address for such party stated on the newsrack permit and given ten days to remedy the violation and/or contest removal. If no identification is shown on the newsrack and no newsrack permit has been obtained, posting of the notice on the newsrack alone shall be sufficient. Both forms of notice shall state the place to request a hearing to contest removal of the newsrack.

C. Any person notified under Section 12.24.080(B) may submit a written request for a hearing before the Director of Public Works, which hearing shall be held not less than ten business days after the request was made. The hearing shall be informal, but oral and written evidence may be given by both sides. Any action by the City with respect to the alleged violation shall be stayed pending the Director of Public Works' decision following the hearing, which decision shall be rendered no later than ten business days after the hearing. The Director of Public Works may give oral notice of the decision at the close of the hearing, but shall give written notice, as well, of all decisions.

D. The City may remove a newsrack if the person responsible for such newsrack has (1) neither requested a hearing before the Director of Public Works nor remedied the violation within ten business days following date of notice, or (2) has failed to remedy the violation within ten business days after receiving a copy of the written decision that the newsrack was installed or maintained in violation of this chapter, following a hearing as conducted pursuant to this section. Such person shall be notified of the removal. Removed newsracks shall be retained by the City and may be recovered by the responsible party for a period of at least thirty business days following removal.

E. Notwithstanding the provisions of subsection A of this section, prior notice of removal is not required where the newsrack poses a danger to pedestrians or vehicles, provided notice of the removal and opportunity to contest is given the owner within ten days of the removal.

F. Removed or impounded newsracks shall be retained and may be recovered by their owner within thirty days of their removal. Newsracks removed or impounded by the City of San Carlos shall be retained at the City's corporation yard. Newsracks which are not claimed within thirty days shall be deemed permanently abandoned and shall be disposed of.

G. The person responsible for such newsrack shall pay an impound fee covering the actual cost to the City of transporting, storing and disposing of such newsrack.

H. Abatement hereunder is a cumulative remedy and does not constitute a defense to misdemeanor citation proceedings which may be employed simultaneously pursuant to the general provisions of this code. (Ord. 1111 § 1 (part), 1992)

**12.24.090 Amortization requirements.**

Every newsrack within the primary business area of the City between El Camino Real and Walnut Street and San Carlos Avenue and Eaton Avenue which does not comply with the provisions of this chapter shall be removed or otherwise brought into conformance within six months of the effective date of the ordinance codified in this chapter. Every newsrack within remaining redevelopment project areas, commercial or industrial zoning districts or industrial business parks shall be removed or otherwise brought into conformance within eighteen months of the effective date of this chapter. (Ord. 1111 § 1 (part), 1992)

**Chapter 12.28**  
**REGULATIONS FOR SIGNS ON CITY PROPERTY AND ON THE PUBLIC RIGHT-OF-WAY**

**Sections:****12.28.010 Authority, purpose, scope and intent.****12.28.020 Basic policies.****12.28.030 Definitions.****12.28.040 Traditional public forum areas.****12.28.050 Official signs.****12.28.060 Particular locations.****12.28.070 Encroachments.****12.28.080 Laurel Street banner.****12.28.085 Billboards.****12.28.090 City's messages.****12.28.100 Enforcement.****12.28.010 Authority, purpose, scope and intent.**

A. Authority. This policy is adopted pursuant to the City's general and police powers, property rights, Government Code Sections 65850(b), 38774 and 38775, Business and Professions Code Section 5200 et seq., and Penal Code Section 556 et seq.

B. Capacity. In adopting this policy, the City acts in its proprietary capacity as to City property, as defined herein, and pursuant to its police powers as to portions of the public right-of-way in which the fee title is not held by the City.

C. Scope. This policy states the intent, rules, regulations, and procedures regarding placement of signs on City property, as defined herein.

D. Intent. The purposes and intents of this policy include, but are not limited to:

1. To accommodate the need for orderly expression in traditional public forum areas, such as streets, parks and sidewalks;
2. To preserve and enhance the aesthetic appearance and natural beauty of the City;
3. To serve the public interest in safety, both pedestrian and traffic;
4. To safeguard and protect the public health, safety, and welfare through appropriate prohibitions, regulations, and controls on the design, location, and maintenance of signs on City property;
5. To enhance the visual attractiveness of the City, for residents and visitors;
6. To advance the goals, policies and programs of the General Plan; and
7. To allow private parties to place signs on certain areas of City property, subject to the rules and policies stated herein. (Ord. 1467 § 1 (Exh. A (part)), 2013: Ord. 1415 § 4 (Exh. B (part)), 2010)

**12.28.020 Basic policies.**

A. Compliance Required. As to private parties and governmental units other than the City, only signs authorized by this policy may be built, displayed, erected or maintained on City property, as defined herein. Authorization shall take the form of a permit or an exemption from the permit requirement as explicitly stated in this policy.

B. Enforcement. The Public Works Director or designee is authorized and directed to enforce and administer the provisions of this policy. Any private party sign placed on City property or in the public right-of-way in violation of City policy is a trespass, and a public nuisance, and may be summarily abated by the City. Such unauthorized signs on City property also constitute misdemeanors under Penal Code Section 556.

C. Interpretations. Interpretations of this policy shall be made initially by the Public Works Director or designee, whose decision may be appealed to City Council under the appeal procedures set forth in Chapter 18.22. However, signs subject to this chapter need not appeal first to the Planning Commission.

D. Intent as to Public Forum. The City declares its intent that no City property shall function as a designated public forum, unless some specific portion of City property is designated herein as a public forum of one particular type, or by formal action of the City Council; in such case, the declaration as to public forum type shall apply strictly and only to the specified area and the specified time period. (Ord. 1467 § 1 (Exh. A (part)), 2013: Ord. 1415 § 4 (Exh. B (part)), 2010)

#### **12.28.030 Definitions.**

A. Partial Incorporation of Sign Ordinance Definitions. All definitions from the sign ordinance, Chapter 18.22, are incorporated, unless they are limited or modified by this policy.

B. Special Definitions. The following definitions apply to this policy:

“Billboard” means a permanent structure sign in a fixed location, which meets any one or more of the following criteria:

1. It is intended to be used for, or is actually used for, the display of general advertising or general advertising for hire;
2. It is used for or intended to be used for the display of commercial advertising messages which pertain to products and/or services which are offered at a different location, also known as off-site commercial messages;
3. It constitutes a separate principal use of the property, in contrast to an auxiliary, accessory or appurtenant use of the principal use of the property.

“City property” means real property over which the City (1) holds an interest, including, without limitation, fee title ownership, easement, leasehold, and public street right-of-way; and (2) has the present right of possession and control.

“Hand-held sign” means a sign displaying a noncommercial message that is held by a natural person, not including insignia on apparel or aspects of personal appearance.

“Public events banner” means a sign made of material similar to heavy canvas or reinforced plastic and used in connection with a community event, parade, protest march or demonstration.

“Snipe sign” means a temporary sign displaying a commercial message, placed on City property or the public right-of-way in violation of this chapter or other applicable law.

“Street banner” means a sign made of material similar to heavy canvas or reinforced plastic, attached to poles or buildings, and suspended over a City street from time to time.

“Traditional public forum” means the surfaces of City-owned streets, City-owned parks during the hours that they are normally open to the public, sidewalks that are connected to the City’s main pedestrian circulation system. In consultation with the City Attorney, the Director of Public Works shall interpret this phrase for compliance with court decisions. (Ord. 1467 § 1 (Exh. A (part)), 2013: Ord. 1415 § 4 (Exh. B (part)), 2010)

#### **12.28.040 Traditional public forum areas.**

A. Applicability. This section applies only in traditional public forum areas as defined herein.

B. Display Right. In an area qualifying as a traditional public forum, private persons may display signs expressing noncommercial messages that are within the protection of the First Amendment, without a permit, but subject to:

1. The signs must be personally held by a person, or personally attended by one or more persons;
2. Inanimate signs which are left unattended may not be displayed under this section, regardless of the type of message they may display;
3. The signs may be displayed only during the time period of sunrise to thirty minutes after sunset, except on occasions when the City Council, Planning Commission, or other reviewing authority of the City is holding a public hearing or meeting; on such occasions, the display period is extended to thirty minutes after such meeting is officially adjourned;
4. The maximum aggregate area of all signs held by a single person is eight square feet, measured one side only. For purposes of this rule, apparel and other aspects of personal appearance do not count towards the maximum aggregate sign area;

5. The maximum area of any one sign that is personally held or attended by two or more persons is thirty-two square feet, measured one side only;
6. The sign must have no more than two display faces and may not be inflatable or air-activated;
7. In order to serve the City's interests in traffic flow and safety, persons displaying signs pursuant to this section may not stand in any vehicular traffic lane when a roadway is open for use by vehicles, and persons displaying signs on public sidewalks must give at least five feet width clearance for pedestrians to pass by. Signs and persons holding signs may not block the free and clear vision of drivers, bicyclists and pedestrians;
8. So long as the foregoing rules are followed, no permit is required for display of signs authorized by this section.

C. Prohibited Sign Display. Other than as stated in subsection B of this section, or other explicit provisions of this policy, no private party signs may be mounted, erected, maintained, or displayed on City property. Without limitation, snipe signs and commercial mascots may not be displayed on City property or the public right-of-way. (Ord. 1467 § 1 (Exh. A (part)), 2013: Ord. 1415 § 4 (Exh. B (part)), 2010)

#### **12.28.050 Official signs.**

The following signs may be erected and displayed on City property, subject to the rules set herein:

- A. Traffic control and traffic directional signs erected or authorized by the City or another governmental unit;
- B. Official notices required or authorized by law;
- C. Signs placed by the City in furtherance of its governmental functions;
- D. Signs expressing the City's own message on City property.

No permit is required for the signs authorized by this section. (Ord. 1467 § 1 (Exh. A (part)), 2013: Ord. 1415 § 4 (Exh. B (part)), 2010)

#### **12.28.060 Particular locations.**

A. A-Frame Type Signs Promoting Community Events. In seven specified areas of the City, A-frame signs promoting special events which are sponsored or promoted by nonprofit organizations based in San Carlos, or with an active affiliate in San Carlos, and/or sponsored or co-sponsored by the City, may be displayed within fourteen calendar days of the conclusion of the event, subject to the rules stated in this section.

B. Available Areas. The A-frame signs subject to this section may be displayed only in the following areas (on the sidewalk or island):

1. Brittan Avenue and Alameda de las Pulgas (island west of Alameda);
2. Brittan Avenue and Cedar Street (northeast corner);
3. Brittan Avenue and Old County Road (northeast or northwest corners);
4. Holly Street and Industrial Road (northwest corner);
5. Howard Avenue and Old County Road (northeast or northwest corners);
6. San Carlos Avenue and Alameda de las Pulgas (island east of Alameda);
7. San Carlos Avenue and Elm Street (southwest corner).

C. Reservations—Priority Status. Reservations are booked on a first come, first served basis as well as the event's priority status; events sponsored or co-sponsored by the City will receive first priority status.

Events promoted by nonprofit organizations based in the City of San Carlos, but not sponsored or co-sponsored by the City, are given second priority status.

Reservations are subject to scheduling priorities. Application does not guarantee placement authorization.

D. Qualifying Events. The community events promoted by the signs subject to this section must take place within the City of San Carlos, and must be open to all members of the public on substantially the same terms as members of the sponsoring

organizations. Noneligible events include those which are not open to or suitable for all ages, those which are predominantly religious or political in nature, those which are primarily commercial in nature, and those which discriminate on any illegal basis.

E. Application Forms. All applications for reservations must be received on the official City of San Carlos application form prior to booking. No partial applications will be accepted.

F. Limits on Number and Display Time. No more than four A-frame signs per organization or event shall be displayed at any one time. There shall be no more than three A-frame signs per location. Allowable signs may not be displayed for more than fourteen consecutive calendar days per event.

G. ADA Compliance—Access and Safety. The signs may only be displayed in a manner that assures continuous ADA access and not block or impede pedestrian or vehicular traffic.

H. Physical Structure. A-frame signs shall be constructed of high quality materials and shall not exceed three feet in height and no more than six square feet total.

I. Removal for Safety Reasons. Any sign allowed by this section may be summarily moved or removed by the City of San Carlos Police Chief whenever such sign(s) constitutes an immediate and significant threat to the public safety by virtue of its physical condition or location, or to facilitate public safety officials in dealing with any public emergency.

J. Removal. The sponsoring organization shall remove the A-frame sign(s) within twenty-four hours of the end of the special event.

The sponsoring organization agrees to indemnify the City for any claims arising out of the placement of private party signs on City property. (Ord. 1467 § 1 (Exh. A (part)), 2013: Ord. 1415 § 4 (Exh. B (part)), 2010)

#### **12.28.070 Encroachments.**

A. Encroachment Policy. With the exception of those signs described in Section 12.28.060, signs that are mounted on private property but that project over the public right-of-way, or otherwise extend into or over City property, are authorized only when all of the following conditions are satisfied:

1. The sign must satisfy all requirements of Chapter 18.22;
2. The sign may not project more than four feet from a building face nor project to a distance nearer than two feet from the street curb;
3. The sign must be mounted so as to provide a ground clearance of at least eight vertical feet;
4. The message substitution policy of the sign ordinance, Section 18.22.020(G), shall apply to signs authorized by this section;
5. An encroachment permit must be issued before the sign is installed. (Ord. 1467 § 1 (Exh. A (part)), 2013: Ord. 1415 § 4 (Exh. B (part)), 2010)

#### **12.28.080 Laurel Street banner.**

A. Qualifying private parties may place a banner over Laurel Street subject to the rules stated in this section. The purpose of this program is to allow City property to be used to promote events occurring within the limits of the City of San Carlos, which are sponsored by nonprofit organizations either based in San Carlos or which have a local affiliate in San Carlos. The events must not be primarily of a religious or political nature, must be open to all members of the public on substantially the same basis as members of the sponsoring organization, must not discriminate on any legally forbidden basis, and must be open to and suitable for persons of all ages. Event sponsors must qualify as non-profit and/or tax exempt under IRS rules.

B. The City accepts reservation applications to display a banner over Laurel Street throughout the year. The banner calendar is scheduled annually and will be revised throughout the year to accommodate as many qualifying requests as possible.

C. Reservations are booked on a first come, first served basis and the event's priority status.

D. City events are given first priority status; banner requests from qualifying private parties are given second priority status. In the event of a scheduling conflict between a City event and a banner request from a qualifying private party, placement will be granted to the City event first. Banner requests from qualifying private parties may be bumped by a City event until the application from the qualifying private party is deemed complete.

E. Denied applications may be appealed directly to the City Council.

F. Banners from qualifying private parties may be displayed for one week only unless otherwise approved by the Director of Public Works.

G. Reservations do not guarantee banner placement but rather serve as a placeholder until the application is deemed complete. In the case of scheduling conflicts between banner requests from qualifying private parties, the private parties should attempt to negotiate terms or exchanges; if that fails, the time slot will be given to the earliest complete application.

H. All application for reservations must be received in writing on the application form provided prior to booking. The application must include the date of the event, sufficient information to verify that the sponsor and the event qualify, and state the preferred dates for display. Display weeks are Monday through the following Sunday.

I. An application is complete only when the fee, if any, in an amount set by City Council resolution, and proof of liability insurance, in form acceptable to the City's Risk Manager, which names the City as an additional insured, is provided to the Director of Public Works.

J. The Director of Public Works or designee is authorized and directed to prepare an application form and make it available to all on request.

K. Physical Requirements. When approved as qualified, and scheduled, event sponsors should deliver their new banner to the corporation yard located at 1000 Bransten on the Thursday before the banner is scheduled to be displayed. For banners that are already in the corporation yard but will require minor changes or revisions, it is the applicant's responsibility to schedule a time for banner pickup and ensure its return on the Thursday before the banner is scheduled to be displayed. (Ord. 1467 § 1 (Exh. A (part)), 2013: Ord. 1415 § 4 (Exh. B (part)), 2010)

#### **12.28.085 Billboards.**

A. Notwithstanding anything in the San Carlos Municipal Code to the contrary, the City Council may enter into agreements with one or more private parties to erect, maintain and/or operate new billboards on City property, as provided under this chapter.

B. No person, firm, or corporation may authorize, erect, construct, maintain, move, alter, change, place, suspend or attach any new billboards on City property pursuant to this chapter without first entering into an agreement with the City in accordance with this chapter.

C. No person, firm, or corporation may authorize, erect, construct, maintain, move, alter, change, place, suspend or attach any new billboards on City property pursuant to this chapter without first obtaining a City property sign permit to do so, including making the required findings and paying the appropriate fees prescribed therefor, all under Section 18.22.050.

D. Any or all of new billboards authorized on City property under this chapter may be digital signs and/or freestanding signs as permitted under Sections 18.22.050 and 18.22.080(M). (Ord. 1467 § 1 (Exh. A (part)), 2013)

#### **12.28.090 City's messages.**

Nothing in this chapter limits in any way the City's ability to use City property for the expression of its own messages. (Ord. 1467 § 1 (Exh. A (part)), 2013: Ord. 1415 § 4 (Exh. B (part)), 2010)

#### **12.28.100 Enforcement.**

Unless no permit is required pursuant to this policy, any unauthorized, unapproved, nonexempt sign on City property is subject to immediate removal and impoundment without notice. Impounded signs will be held for thirty days. The City will make reasonable attempts to contact the sign owner and provide the owner with ten days' notice to reclaim the sign upon recovery of City's costs. Impounded signs, which remain unclaimed after thirty days, may be disposed of in any manner whatsoever at the discretion of the City. (Ord. 1467 § 1 (Exh. A (part)), 2013: Ord. 1415 § 4 (Exh. B (part)), 2010)

### **Chapter 12.36**

### **OUTDOOR DINING AND OUTDOOR RETAIL SALES ON CITY PROPERTY AND IN THE PUBLIC RIGHT-OF-WAY**

Sections:

**12.36.010 Purpose.**

**12.36.020 Definitions.**

**12.36.030 Permit and fees required.**

**12.36.040 Findings.****12.36.050 Conditions.****12.36.010 Purpose.**

The purpose of these regulations is to acknowledge and achieve the following:

- A. To promote social and economic interactions, intensify pedestrian activity and preserve and enhance the character of commercial districts.
- B. To promote the public health, safety, welfare and convenience by ensuring that persons may reasonably use the public streets, sidewalks, rights-of-way, and other public property without interference with such use.
- C. To permit the commercial use of streets, sidewalks and public rights-of-way for retail sales except where such use unreasonably interferes with the use of these areas by pedestrians or traffic, or where such use presents a hazard to persons or property. (Ord. 1439 § 4 (Exh. C (part)), 2011)

**12.36.020 Definitions.**

As used in this chapter:

- A. "City property" means real property over which the City: (1) holds an interest, including, without limitation, fee title ownership, easement, leasehold, and public street right-of-way; and (2) has the present right of possession and control.
- B. "Director" means the Director of Public Works of the City or his/her designee.
- C. "Encroachment" means any furniture, rack, display, table, chair, umbrella, awning or other appurtenance associated with outdoor dining and/or outdoor sales which is placed in or over any portion of the public right-of-way.
- D. "Park facility" means as defined in Chapter 12.12, Regulation of Park Facilities.
- E. "Open space park facility" means as defined in Chapter 12.12, Regulation of Park Facilities.
- F. "Permittee" means the person to whom an outdoor dining or outdoor retail sales encroachment permit has been issued.
- G. "Public right-of-way" means any public highway, street, alley, sidewalk, pathway, parkway, parking area and all extensions or additions thereto which is either owned, operated, or controlled by the City, or is subject to an easement or dedication to the City, or is privately owned area within the City's jurisdiction which is not yet but is designated as a proposed public right-of-way on a tentative subdivision map approved by the City.
- H. "Roadway" means that portion of a public right-of-way improved, designed and ordinarily used for vehicular traffic, including drainage gutters and curbs a minimum of six inches in horizontal width.
- I. "Sidewalk" means that portion of a public right-of-way provided for the exclusive use of pedestrians, including planting areas or park strips, between the public roadway and adjacent property lines. (Ord. 1439 § 4 (Exh. C (part)), 2011)

**12.36.030 Permit and fees required.**

- A. Encroachment Permit Required. An encroachment permit is required for any outdoor dining area or outdoor retail sales area located in the public right-of-way. An encroachment permit may be obtained by filing a written application on a form supplied through the Department of Public Works. The requirements for these permits as enumerated in this chapter are in addition to any other applicable local, State or Federal laws, rules and regulations and shall require annual power cleaning of the public right-of-way area for which the encroachment permit was issued at the responsibility and expense of the applicant. The application shall state the name and address of the owner of the adjacent real property and the business benefited by the encroachment and other information regarding the request as required by Sections 18.23.140 and 18.23.150.
- B. Fees. The applicant shall be charged an annual fee for use of the public right-of-way area for any outdoor dining area or outdoor retail sales area, as set by the City Council in the uniform fee schedule. (Ord. 1439 § 4 (Exh. C (part)), 2011)

**12.36.040 Findings.**

The Director may grant an encroachment permit for any outdoor dining area or outdoor retail sales area located in the public right-of-way based upon the following findings:

- A. The applicant is the owner or occupant of the adjacent property and operates a retail business, cafe or restaurant thereon;

- B. The encroachment would not unduly and unreasonably impair passage to and from by the public on the sidewalk for which the permit is sought;
- C. A six-foot handicapped access would be maintained around the outdoor dining area or outdoor retail sales area at all times;
- D. In the case of an outdoor dining area, the proposed area is included with a food-service establishment permit issued by the San Mateo County Department of Health;
- E. Any portion of an outdoor dining area or outdoor retail sales located on public right-of-way shall be exempt from additional parking requirements, as specified in Section 18.20.040. (Ord. 1439 § 4 (Exh. C (part)), 2011)

**12.36.050 Conditions.**

- A. Zoning Ordinance Conditions. Outdoor dining areas and outdoor retail sales areas permitted under this chapter shall be located, developed and operated in compliance with the standards provided in Sections 18.23.140 and 18.23.150.
- B. Insurance. An applicant for a permit for use of the public right-of-way for outdoor dining area or outdoor retail sales area shall, prior to issuance of such a permit, provide and maintain in full force and effect while the permit is in effect, public liability insurance in an amount specified by the Risk Manager sufficient to cover potential claims for bodily injury, death, or disability and for property damage which may arise from or be related to the use of the public right-of-way for outdoor dining area or outdoor retail sales area, naming the City of San Carlos as an additional insured.
- C. Indemnity. The applicant for use of the public right-of-way for outdoor dining area or outdoor retail sales area shall execute and deliver to the City Engineer an agreement in writing and acknowledged by the applicant, forever to hold and save the City free and harmless from any and all claims, actions or damages of every kind and description which may accrue to, or be suffered by, any persons by reason of or related to the operation of such outdoor dining area or outdoor retail sales area use.
- D. Compliance—Sidewalk Conditions. The applicant shall comply with the terms and conditions of the encroachment permit issued, and shall maintain the sidewalk in a clean and safe condition for pedestrian travel, and shall immediately clear the sidewalk area when ordered to do so by the City Engineer or other appropriate city officer such as the Chief of Police or Fire Chief or their authorized representatives.
- E. Use of Property/Public Right-of-Way. In addition, the applicant shall enter into an agreement with the City of San Carlos which shall contain a provision that the permit is wholly of a temporary nature, that it vests no permanent right whatsoever, that upon thirty days' notice, posted on the premises, or by publication in the official newspaper of the City of San Carlos, or without such notice, in case the permitted use shall become dangerous or unsafe, or shall not be operated in accordance with the provisions of this title, the same may be revoked and the furniture and appurtenances ordered removed. Every such agreement, after it has been received in his office and numbered, and after the same has been recorded, shall be retained by the Director of Finance and City Clerk in the files and records of their offices.
- F. Temporary Suspension of Permit. The City shall have the right to suspend or prohibit the operation of an outdoor dining area or outdoor retail sales area at any time because of anticipated or actual problems or conflicts in the use of the public right-of-way. Such problems or conflicts may arise from, but are not limited to, scheduled festivals, parades, marches and similar special events; repairs to the street, sidewalk or other public facility; or from demonstrations or emergencies occurring in the area. To the extent possible, the City will give prior written notice of any time period during which the operation of the outdoor dining area must be suspended. (Ord. 1439 § 4 (Exh. C (part)), 2011)

**Chapter 12.40  
PEDESTRIAN MALLS Revised 1/24**

Sections:

- 12.40.010 Definitions.** Revised 1/24
- 12.40.020 Boundaries.** Revised 1/24
- 12.40.030 Prohibition of vehicular traffic.** Revised 1/24
- 12.40.040 Riding on sidewalks and pedestrian malls—Prohibited.** Revised 1/24
- 12.40.050 Permits for use of pedestrian mall.** Revised 1/24
- 12.40.010 Definitions.** Revised 1/24

"Emergency vehicle access lane" means the designated area of the pedestrian mall that shall be clear of all obstructions as determined by the Public Works Director or designee.

"Motorized vehicular traffic" means vehicular traffic powered by motor, including, without limitation, automobiles, trucks, buses, motorcycles, motor or e-scooters.

"Pedestrian malls" means streets, or portions thereof, on which vehicle traffic is restricted in whole or in part and which are to be used exclusively or primarily for pedestrian travel. (Ord. 1605 § 1, 2023)

#### **12.40.020 Boundaries. Revised 1/24**

Pedestrian malls are established along the following boundaries, excluding the east-west traffic on the intersecting streets:

- A. 700 block of Laurel Street between Cherry Street and Olive Street. (Ord. 1605 § 1, 2023)

#### **12.40.030 Prohibition of vehicular traffic. Revised 1/24**

All motorized vehicular traffic is prohibited on a pedestrian mall subject to the following exceptions:

- A. Emergency vehicles and equipment of all types;
- B. Public utility vehicles and equipment;
- C. Garbage/recycling trucks operating on their established routes;
- D. Sweepers, trucks or other vehicles or equipment operated by or at the direction of the Public Works Director, or designee, for the purpose of performing City services on a pedestrian mall;
- E. Commercial vehicles and equipment entering a pedestrian mall during hours to be established by the Public Works Director, or designee, where such entry is reasonably necessary for the purpose of making deliveries of mail, merchandise, or goods or equipment to the business establishments occupying property abutting on the pedestrian mall and where such deliveries cannot be made to said business establishments through entrances other than those on the pedestrian mall; and
- F. Commercial vehicles and equipment entering a pedestrian mall where such entry is reasonably necessary for the purpose of performing work or services on the pedestrian mall or on private property or properties abutting thereon and where the owner or operator of any such vehicle or equipment holds a permit issued by or at the direction of the Public Works Director, or designee;
- G. Vehicles exiting from the 799 Laurel Street parking area and driveway to reach Olive Street where such vehicular exit is reasonably necessary and where the property owner holds a permit issued by or at the direction of the Public Works Director, or designee. (Ord. 1605 § 1, 2023)

#### **12.40.040 Riding on sidewalks and pedestrian malls—Prohibited. Revised 1/24**

- A. It is unlawful for any person to ride or operate a bicycle, motor driven cycle or motor scooter upon any sidewalk.
- B. It is unlawful for any person to ride or operate a bicycle, motor driven cycle or motor scooter upon any overhead pedestrian crossing over any street, or on a roadway, State highway or State freeway that is signed for pedestrian use only within the City.
- C. It is unlawful for any person to ride or operate a bicycle, motor driven cycle or motor scooter upon any pedestrian mall, except in the portion designated as a bike path. (Ord. 1605 § 1, 2023)

#### **12.40.050 Permits for use of pedestrian mall. Revised 1/24**

A. Business establishments occupying property abutting on a pedestrian mall may apply for a revocable encroachment permit from the Public Works Director or designee in accordance with Chapter 12.36 to use the portion of the pedestrian mall fronting their property for the purpose of restaurant seating and/or outdoor merchandise display, provided they meet the requirements set forth in the permit, including indemnity and insurance requirements, and the following conditions:

1. Furniture and fixtures placed within a pedestrian mall shall not be permanently attached and shall be removable to allow for the full extent of the pedestrian mall to be used for the purpose of permitted celebrations and special events, required maintenance, or other City purposes and must be removed at the request of the Public Works Director or designee within forty-eight (48) hours of receiving notice.
2. Encroachment Areas. The physical extent of the encroachment may be required to be clearly delineated by physical means as part of the encroachment permit and designed to be decorative, durable, removable and minimize tripping

hazards.

3. Interference With Emergency Vehicle Access Lane. Furniture and fixtures placed under an encroachment permit shall not be placed within emergency vehicle access lane of the pedestrian mall.
4. Site Maintenance. Restaurant seating areas and outdoor merchandise display areas shall be maintained in a sanitary manner, free of litter, refuse, and debris. Such areas shall be in compliance with San Mateo County Division of Environmental Health requirements. The area shall be swept, scrubbed and mopped to remove any spilled food or drink stains on the mall surface on a daily basis. Such cleaning shall be performed in accordance with the City's stormwater management and discharge control program, which prohibits any discharge other than stormwater into the stormwater drainage system. Failure to maintain the site shall be cause for termination of the encroachment permit.
5. Encroachment Fee. The applicant shall pay an annual fee in the amount set forth in the City's adopted fee schedule.
6. Accessibility. Restaurant seating and merchandise display areas shall meet accessibility requirements for the disabled under the Americans with Disabilities Act and other similar laws, and shall allow safe passage of pedestrians. Umbrellas or other movable sunshading fixtures shall maintain a minimum of seven (7) foot ground clearance.
7. No Vested Rights. Encroachment permits shall be revocable in the discretion of the Public Works Director or designee. The encroachment permit shall not constitute a use permit or other entitlement that runs with the land.
8. Other Conditions. The Director of Public Works or designee may impose other reasonable conditions deemed necessary for the safe and efficient operation of a pedestrian mall.
9. Parklets With Existing Encroachment Permits. Notwithstanding the above, parklets with encroachment permits granted as of the effective date of this chapter under the pilot parklet program or the temporary parklet program shall remain in effect until the termination of the applicable program.

B. Special events and temporary uses on a pedestrian mall may be permitted pursuant to Chapters 12.01 and 18.31 and Section 18.23.240. (Ord. 1605 § 1, 2023)

## **Title 13 PUBLIC SERVICES**

### **Chapters:**

- 13.04 Sewer Connections**
- 13.05 Sewer Lateral Inspection, Repair and/or Replacement**
- 13.08 Sewer Use**
- 13.10 Outside Sewer Connections**
- 13.12 Underground Utility Districts**
- 13.14 Stormwater Management and Discharge Control**
- 13.16 Storm Drainage Fees**

### **Chapter 13.04 SEWER CONNECTIONS**

#### **Sections:**

- 13.04.010 Connection permit—Costs—Recordkeeping.**
- 13.04.020 Connection permit—Issuance conditions.**
- 13.04.025 Sewer capacity charges.**
- 13.04.030 Sanitary fixtures in garages.**
- 13.04.040 Sewage treatment charges—Established.**
- 13.04.050 Sewage treatment charges—Billing.**

**13.04.060 Sewage treatment charges—Deposit in fund.****13.04.070 Prohibited discharges into sewers.****13.04.080 Violation—Penalty.****13.04.010 Connection permit—Costs—Recordkeeping.**

A. It is unlawful for any person, persons, firm, company or corporation to connect with any sewer constructed and paid for by the City without first securing a permit so to do, and repaying the City the proportionate cost of the sewer in front of the property seeking such permit.

B. Whenever a sewer is constructed and paid for by the City, upon the completion thereof the City Engineer shall file with the City Clerk a record showing where the sewer was constructed, the lots fronting thereon and to be served by the sewer, together with the proportionate amount of the cost thereof which each lot shall pay upon seeking a connection with such sewer. (Ord. 118 § 1, 1939)

**13.04.020 Connection permit—Issuance conditions.**

No permit shall be issued by any official or employee of the City to any person to connect with a sewer constructed and paid for by the City until the proportionate amount of the cost of the sewer shall be paid by the person seeking such permit. (Ord. 118 § 2, 1939)

**13.04.025 Sewer capacity charges.**

A. There shall be imposed on all new development and redevelopment in the City a sewer capacity charge as a condition of obtaining a permit to connect and discharge to the sanitary sewer system and prior to issuance of a building permit.

B. The purpose of the sewer capacity charge is to recover costs for the City's sewer system infrastructure and assets that provide benefit to (1) new connections to the sanitary sewer system, and (2) existing sanitary sewer connections that increase wastewater discharge, such as due to redevelopment or changes in property use. The charges collected under this section shall be used to pay for improvements and expansion of sewer facilities, including the wastewater collection system, and any other purpose allowed by State and Federal law.

C. The sewer capacity charge shall be applied based on the increase in volume of estimated wastewater discharge from each new or expanded connection.

D. The City shall determine the volume of estimated wastewater discharge from each new or expanded connection.

E. The sewer capacity charge shall be adjusted annually based on the change in the Engineering News-Record Construction Cost Index (20-Cities Average) from the March 2016 Index.

F. The City shall also collect the sewer connection fees adopted by Silicon Valley Clean Water from new or expanded connections to the sewer system in conformance with the City's obligations under the Joint Powers of Authority Agreement between the City and Silicon Valley Clean Water.

**City of San Carlos Sewer Capacity Charges**

<b>Wastewater Demand</b>	<b>Sewer Capacity Charge</b>
<b>RESIDENTIAL</b>	
Charge per residential dwelling unit	
Single-Family	\$10,811
Multifamily (Includes Duplexes, Apartments, Condos and Cooperative Projects)	\$5,000
<b>NONRESIDENTIAL</b>	
Charge per 100 gpd of estimated wastewater discharge	

		<b>Sewer Capacity</b>	
<b>Wastewater Demand</b>		<b>Charge</b>	
Commercial, Retail, Professional, Institutional, and Industrial Users	100 gpd	\$5,690	Minimum charge for up to the first 100 gallons per day of estimated wastewater discharge
	1 gpd	\$56.90	Per each subsequent 1 gallon per day of estimated wastewater discharge

(Ord. 1504 § 2, 2016)

#### **13.04.030 Sanitary fixtures in garages.**

It is unlawful for any person or persons to install or use any toilet or other sanitary fixture in any garage built separate from a residence or business building, or in any outbuilding or tent upon any property in the City. (Ord. 87 § 2, 1932)

#### **13.04.040 Sewage treatment charges—Established.**

Sewage treatment charges for domestic and commercial use in the City, and outside the corporate limits of the City where applicable, shall be established. Rates, rules and regulations in connection therewith shall be fixed by resolution of the City Council, and changes in such rates, rules and regulations may be made by resolution. (Ord. 294 § 1, 1951)

#### **13.04.050 Sewage treatment charges—Billing.**

Charges for sewage treatment shall be billed annually on the real property tax statement of the City for all sewage treatment charges within the corporate limits of the City. Sewage treatment outside of the corporate limits of the City shall be billed annually by separate statement. (Ord. 294 § 2, 1951)

#### **13.04.060 Sewage treatment charges—Deposit in fund.**

All moneys received from the collection of sewage treatment charges, as authorized by Sections 13.04.040 and 13.04.050, shall be deposited by the City Tax Collector with the City Treasurer, who shall establish and maintain a "Sewage Treatment Charge Fund." (Ord. 294 § 3, 1951)

#### **13.04.070 Prohibited discharges into sewers.**

No person shall discharge or cause to be discharged any of the following described waste liquids, oils or solids into any public sewer:

- A. Any liquids or vapor having a temperature greater than one hundred and forty degrees Fahrenheit;
- B. Any water containing gasoline, benzene, naphtha, petroleum oils or any volatile, inflammable or explosive gas, liquid or solid;
- C. Any waste which contains more than one hundred parts per million by weight of fat, oil or grease;
- D. Any sand, grit, straw, metal, glass, rags, feathers, tar, plastic, wood, manure, dead animals, offal, or any other solid or viscous substance capable of causing obstruction to the flow in sewers, or which in any way interferes with the proper operation of the sewage system;
- E. Any garbage which has not been properly shredded;
- F. Any waste containing a toxic or poisonous substance in sufficient quantities to constitute a hazard to humans or animals, or to create a hazard in the sewage system and/or the sewage treatment plant, or to injure or interfere with any sewage treatment process;
- G. Any waste containing suspended solids of such character or quantity that unusual attention or expense is required to handle such material at the sewage treatment plant;
- H. Any noxious or malodorous gas or substance capable of or creating a public nuisance;
- I. Any liquid waste having a pH lower than 6.0 or higher than 8.0, or having a corrosive property capable of causing damage or hazard to structures or equipment of the sewage system or the treatment plant;
- J. Any cesspool or septic tank drainage, except as provided for by this section. (Ord. 507 § 1, 1960)

#### **13.04.080 Violation—Penalty.**

A. Any person violating any of the provisions or failing to comply with any of the mandatory requirements of the ordinances of the City is guilty of a misdemeanor, unless the violation is made an infraction by ordinance.

B. Except in cases where a different punishment is prescribed by any ordinance of the City, any person convicted of a misdemeanor for violation of an ordinance of the City is punishable by a fine of not more than one thousand dollars, or by imprisonment not to exceed six months, or by both such fine and imprisonment.

C. Any person convicted of an infraction for violation of an ordinance of the City is punishable by:

1. A fine not exceeding one hundred dollars for a first violation;
2. A fine not exceeding two hundred dollars for a second violation of the same ordinance within one year; or
3. A fine not exceeding five hundred dollars for each additional violation of the same ordinance within one year.

D. Each person is guilty of a separate offense for each and every day during any portion of which any violation of any provision of this chapter is committed, continued or permitted by any such person, and he shall be punishable accordingly.

E. In addition to the penalties set out in this chapter, any condition caused or permitted to exist in violation of any of the provisions of this chapter shall be deemed a public nuisance and may be, by the City, summarily abated as such, and each day such condition continues shall be regarded as a new and separate offense. (Ord. 978 § 2 (part), 1987)

### **Chapter 13.05 SEWER LATERAL INSPECTION, REPAIR AND/OR REPLACEMENT\***

Sections:

**13.05.010 Purpose.**

**13.05.020 Effective date.**

**13.05.030 Definitions.**

**13.05.040 General requirements for sewer lateral inspection, repair and/or replacement.**

**13.05.050 Requirements for sewer lateral inspection, repair and/or replacement as a condition of permits for building improvements.**

**13.05.060 Requirements for upper lateral inspection, repair and/or replacement in conjunction with repair and/or replacement of the sewer main.**

**13.05.070 Requirements for sewer lateral inspection, repair and/or replacement upon smoke testing of the sewer main.**

**13.05.080 Requirements for sewer lateral inspection, repair and/or replacement upon sanitary sewer overflows and/or sewer backups.**

**13.05.090 Failure to repair and/or replace sewer lateral a public nuisance.**

\* Prior legislation: Ord. 1376.

**13.05.010 Purpose.**

The purpose of this chapter is to establish requirements for property owners to inspect, maintain, repair and/or replace sewer laterals, sewer relief valves and sewer backwater valves, as required, on each property in the City that is connected to the City's sewer system. A sewer lateral that is properly maintained will reduce the risk of sanitary sewer overflows and sewer backups by minimizing inflow and infiltration into the sewer system and minimizing blockages due to pipe failures or root intrusion. A sewer relief valve properly installed on a sewer lateral will prevent sewage that is blocked in or near the sewer main from flowing back into a residence and causing a health hazard and causing property damage. A sewer backwater valve will protect properties that sit in a low elevation with respect to the sewer main from backflows and associated health hazards and property damage. SSOs pollute surface and groundwater, threaten public health, adversely affect aquatic life, and impair the recreational use and aesthetic enjoyment of surface waters. Typical consequences of SSOs include the closure of beaches and other recreational areas, inundated properties, and polluted rivers and streams. SSOs can result in penalties and fines to the City from governmental agencies and nongovernmental organizations. Due to the risk of sanitary sewer overflows and sewer backups, the City Council finds that a program to keep sewer laterals in good repair and to install sewer relief valves and sewer

backwater valves where required is in the best interests of the health and welfare of the citizens of the City of San Carlos. (Ord. 1491 § 5 (part), 2015: Ord. 1424 § 1 (part), 2010)

**13.05.020 Effective date.**

The ordinance codified in this chapter shall take effect on April 1, 2011. (Ord. 1491 § 5 (part), 2015: Ord. 1424 § 1 (part), 2010)

**13.05.030 Definitions.**

A. General Terminology. The following definitions apply to this chapter. Terms not defined in this chapter shall have their ordinary and common meaning, or, if applicable, the meaning set forth in the Uniform Plumbing Code.

B. Specific Definitions. The following words or phrases, whenever used in this chapter, shall have the meanings respectively ascribed thereto as follows:

1. "Applicant" shall mean any individual, firm, limited liability company, limited liability partnership, association, partnership, government agency, industry, public or private corporation, or any other person or entity whatsoever who applies to the City for permits for building improvements. An applicant shall be the property owner or an authorized agent of the property owner.
2. "Building improvement," for the purposes of this chapter, shall mean the following:
  - a. New sewer connections.
  - b. Repair, remodeling or improvement, where the cost of the improvements exceeds seventy-five thousand dollars, which may be adjusted by resolution of the City Council.
  - c. Repair, remodeling or improvement where more than twenty-five percent of the building is being repaired, remodeled or improved.
  - d. Repair, remodeling or improvement where additional toilets are being installed.
  - e. Change of use on the property served from residential to commercial.
  - f. Change of use on the property from nonrestaurant commercial to restaurant commercial.
  - g. Change of use on the property from nonmanufacturing to manufacturing.
3. "City" shall mean the City of San Carlos, a municipal corporation of the State of California.
4. "Director" shall mean the Director of Public Works of the City, or designees.
5. "Fats, oils and grease" or "FOG" means any fats, oils, waxes or other similar or related constituents. FOG may be of vegetable or animal origin, including butter, lard, margarine, vegetable fats and oils, and fats in meats, cereals, seeds, nuts and certain fruits. FOG may also be of mineral origin including kerosene, lubricating oil or road oil. FOG in the City's sewer system is generally present as, but need not be, a floatable solid, a liquid, a colloid, an emulsion or in a solution.
6. "Good cause" shall mean practical difficulties, including interference with the use or safety of the public right-of-way or adverse weather conditions.
7. "Infiltration" shall mean the seepage of groundwater into a sewer system, including sewer laterals. Seepage frequently occurs through defective or cracked pipes, pipe joints, connections, or manhole walls.
8. "Inflow" shall mean water discharged into a sewer system, including sewer laterals, from such sources as, but not limited to, roof leaders, cellars, yard and area drains, foundation drains, cooling water discharges, drains from springs and swampy areas, around manhole covers or through holes in the covers, cross connections from storm systems, catch basins, surface runoff, street wash waters or drainage.
9. "Lower lateral" shall mean the portion of a sewer lateral lying within a public street connecting an upper lateral to the sewer main.
10. "Notice to repair" shall mean notice issued by the Director to a property owner that the sewer lateral is in violation of this chapter, which order directs the abatement of the violation.

11. "Private gravity lateral" is defined as being of such a grade and position that sewage flows from the buildings to the sewer main by gravity without the aid of any pumping devices.
12. "Private pressure lateral" is defined as being of such a grade and position that sewage can only flow from the buildings to the sewer main with the aid of a pump located on private property.
13. "Property owner" shall mean the owner of the property as shown on the last equalized assessment roll or in the records of the San Mateo County Assessor-Recorder.
14. "Sanitary sewer overflow" or "SSO" means any overflow, spill, release, discharge or diversion of untreated or partially treated wastewater from a sanitary sewer system. SSOs often contain high levels of suspended solids, pathogenic organisms, toxic pollutants, nutrients, oil, and grease.
15. "Sewer backup" means a blockage of sewer flow in a sewer lateral which results in damage to private property.
16. "Sewer backwater valve" shall mean a device installed in the horizontal position in the sewer lateral below ground, which includes a one-way flap valve which allows the sewage to flow out to the sewer main in normal use, but prevents sewage from backing up into the property if the sewer main should become blocked.
17. "Sewer lateral" shall mean the sewer line beginning at the foundation wall of any building and terminating at the sewer main and shall include the upper lateral and lower lateral together.
18. "Sewer main" shall mean a public sewer designed to accommodate more than one sewer lateral.
19. "Sewer relief valve" shall mean a device that allows water and materials that back up to escape from the cleanout rather than flowing into the property.
20. "Stormwater" shall mean the water running off or draining from the surface and subsurface of an area during and after a period of rain or irrigation.
21. "Public street" shall mean any public highway, street, alley, public easement or right-of-way.
22. "Upper lateral" shall mean that portion of a sewer lateral beginning at the foundation wall of any building or industrial facility and running to the property line. (Ord. 1491 § 5 (part), 2015: Ord. 1424 § 1 (part), 2010)

**13.05.040 General requirements for sewer lateral inspection, repair and/or replacement.**

A. Administration. The Director is authorized to prepare and publish administrative procedures which shall, among other things, establish the following:

1. Standards for sewer lateral inspection, repair and/or replacement.
2. Standards for sewer relief valves and sewer backwater valve devices.
3. Standards for root removal from sewer laterals.
4. A standard notice to repair and enforcement procedures for sewer lateral repair and/or replacement.
5. An enforcement response plan related to sewer ordinances.

B. Applicability.

1. This chapter shall apply to property located within the City or connected to the City's sewer collection system through an outside sewer service agreement.
2. All sewer laterals connected to the public sewer, including sewer laterals serving residential, multifamily residential, commercial or industrial uses, shall be inspected in accordance with the appropriate provisions of Sections 13.05.050 through 13.05.090 upon the occurrence of any of the following, unless a valid certificate of sewer lateral compliance is on file with the City:
  - a. Application for a new connection to the sewer collection system; or
  - b. Application for a building permit for a building improvement; or
  - c. In conjunction with a repair or replacement of the sewer main to which the sewer lateral is connected; or

- d. In conjunction with smoke testing of the sewer main; or
- e. Subsequent to a sanitary sewer overflow resulting from blockage in a lower lateral.

C. Private Sewer Lateral Maintenance Responsibility. The property owner is responsible for the maintenance, repair, and replacement of their private sewer lateral. The maintenance responsibility for a private pressure lateral to the City sewer main shall always remain with the property owner. The Director of Public Works or his/her designee(s) shall have the sole discretion to determine whether the private gravity lower lateral is acceptable.

D. Approved Inspection Methods. Inspection of sewer laterals shall be conducted according to standards adopted by the Director. Inspection shall be conducted by closed circuit television or three-dimensional photography. Inspection shall be performed by a licensed plumber, contractor, or other person who possesses any license required by law, if any, to perform the inspection. The inspection record shall contain a photo or a video of the exterior of the property being inspected. Inspection shall not commence without a valid permit issued by the City, which provides the opportunity for the inspection to be witnessed by the Director. Upon completion of visual inspection, the person conducting the inspection shall provide a copy of the inspection results to the Director. A video inspection shall be valid for a period of six months from the date of video.

E. Sewer Relief Valve Requirements. A sewer relief valve shall be installed by the property owner on the sewer cleanout.

F. Sewer Backwater Valve. A sewer backwater valve shall be installed by the property owner on the upper lateral where the elevation of any floor of the building is below the invert of the sewer main, where a condition exists where a blockage in the sewer main would cause the sewer to back up to an elevation above the lowest floor level of the building, or where a pump is used to lift sewage to the sewer lateral or sewer main.

G. Requirements for Sewer Lateral Repair and/or Replacement. The Director shall issue a notice to repair when the sewer lateral has conditions which would result in an unacceptable amount of inflow or infiltration to enter the sewer system or which would result in an unacceptable risk of blockages. The Director shall have the sole discretion to determine when repair and/or replacement is required due to unacceptable conditions of a sewer lateral. A sewer lateral shall be considered in compliance with the provisions of this chapter if inspection verifies all of the following conditions to the satisfaction of the Director:

1. The sewer lateral is free of roots, deposits of FOG, and/or other solids which may impede or obstruct the flow of sewage.
2. There are no illicit or illegal connections to the sewer lateral which would cause inflow, such as roof leaders or yard drains.
3. All joints in the sewer lateral are tight and sound to prevent the exfiltration of sewage and/or the infiltration of groundwater.
4. The sewer lateral is free of structural defects, cracks, breaks, or missing portions and the grade is reasonably uniform without major sags or offsets.
5. The sewer lateral is equipped with cleanouts as shown on the City's standard detail.
6. The sewer lateral is constructed of materials with a remaining design life of at least twenty-five years. "Orangeburg pipe," a bituminized fiber pipe made from layers of wood pulp and pitch pressed together, shall be considered to be at the end of its design life.
7. A sewer relief valve is installed.
8. A sewer backwater valve, if required, is installed.

H. Time Limit for Sewer Lateral Repair and/or Replacement. Repair and/or replacement of sewer laterals shall be completed within ninety calendar days after the issuance of a notice to repair.

I. Time Limit for Root Removal. Removal of tree roots from sewer laterals shall be completed within one hundred twenty days after the issuance of a notice to repair.

J. Permits Required for Repair. All repair or replacement work shall be completed by a person properly licensed to perform the work, including a licensed plumber and/or contractor, and shall be completed under all appropriate permits from the City including, as appropriate, building and encroachment permits.

K. Repair Performed by City and Recovery of Costs.

1. If the sewer lateral repair/replacement and/or sewer lateral root removal are not completed by the property owner within the required time limits, including any extensions granted, the City shall complete the required repair/replacement and/or root removal. The cost in any sum of money expended by the City in making such a repair/replacement shall become a lien upon the property served by the sewer lateral and may be recovered in an action brought thereof in the name of the City; or, in the alternative, such cost and expenditure may be placed upon the County Tax Bill to be collected by San Mateo County for the benefit of the City.
2. Prior to the City causing the lien to be placed on the County Tax Bill, the City Clerk shall notify the property owner of the intent to place the cost of the repair/replacement on the County Tax Bill and shall give the property owner the opportunity to appear before the City Council to show cause for why such sums should not be placed on the County Tax Bill to be collected for the benefit of the City.
3. Any and all sums determined to be due and owing to the City by resolution of the City Council shall accrue interest at the rate set by resolution, but not to exceed ten percent per year.

L. Final Inspection. Upon completion of the repair and/or replacement of the sewer lateral, reinspections shall be conducted until the sewer lateral passes inspection. (Ord. 1491 § 5 (part), 2015: Ord. 1424 § 1 (part), 2010)

**13.05.050 Requirements for sewer lateral inspection, repair and/or replacement as a condition of permits for building improvements.**

- A. Responsibility for Sewer Lateral Inspection, Repair and/or Replacement. The applicant for permits for building improvements shall be responsible for performing sewer lateral inspection, repair and/or replacement. A building permit shall be obtained if one has not already been obtained.
- B. Occupancy Contingent on Completion of Sewer Lateral Repair and/or Replacement. Occupancy permits for building improvements shall only be issued if the sewer lateral passes inspection. (Ord. 1491 § 5 (part), 2015: Ord. 1424 § 1 (part), 2010)

**13.05.060 Requirements for upper lateral inspection, repair and/or replacement in conjunction with repair and/or replacement of the sewer main.**

- A. Responsibility for Inspection of Upper Lateral and Lower Lateral. Upon repair and/or replacement of the sewer main, the City may inspect the upper lateral and/or the lower lateral. In addition to visual inspection, the inspection performed by the City may include smoke testing, dye testing or other methods to assess the condition of the sewer lateral.
- B. Responsibility for Repair and/or Replacement of Sewer Lateral. The property owner shall be responsible for repair and/or replacement of the upper lateral in the case where the City is repairing and/or replacing the sewer main and/or the lower lateral. The property owner shall also be responsible for correcting all sources of inflow to the sewer lateral.
- C. Notice to Repair and Time Limits. A notice to repair will be issued by the Director when conditions are observed in conjunction with repair and/or replacement of the sewer main which require repair and/or replacement of the sewer lateral. Time limits for repair and/or replacement of the sewer lateral shall be as stated in Section 13.05.040.
- D. Repair Performed by City and Recovery of Costs. If the sewer lateral repair/replacement and/or root removal are not completed within the required time limits, including any extensions granted, the City shall complete the required repair/replacement and/or root removal, and the costs thereof shall be recovered in accordance with Section 13.05.040. (Ord. 1491 § 5 (part), 2015: Ord. 1424 § 1 (part), 2010)

**13.05.070 Requirements for sewer lateral inspection, repair and/or replacement upon smoke testing of the sewer main.**

- A. Responsibility for Inspection. The City may perform smoke testing of sewer mains to detect sources of inflow. Upon notification by the Director that smoke testing indicates the presence of inflow from private property, it shall be the responsibility of the property owner to perform an inspection of the sewer lateral according to the approved inspection methods described in Section 13.05.040.
- B. Responsibility for Repair and/or Replacement of Sewer Lateral. The property owner shall be responsible for repair and/or replacement of the sewer lateral in the case where a notice to repair has been issued as a result of smoke testing.
- C. Notice to Repair and Time Limits. A notice to repair will be issued by the Director when conditions are observed in conjunction with smoke testing which require repair and/or replacement of the sewer lateral. Time limits for repair and/or replacement of the sewer lateral shall be as stated in Section 13.05.040.

D. Repair Performed by City and Recovery of Costs. If the sewer lateral repair/replacement and/or root removal are not completed within the required time limits, including any extensions granted, the City shall complete the required repair/replacement and/or root removal, and the costs thereof shall be recovered in accordance with Section 13.05.040. (Ord. 1491 § 5 (part), 2015: Ord. 1424 § 1 (part), 2010)

**13.05.080 Requirements for sewer lateral inspection, repair and/or replacement upon sanitary sewer overflows and/or sewer backups.**

A. Responsibility for Inspection. The City may perform inspection of sewer laterals upon sanitary sewer overflows and/or sewer backups.

B. Responsibility for Repair and/or Replacement of Sewer Lateral. The property owner shall be responsible for repair and/or replacement of the upper lateral in the case where a notice to repair has been issued following a sanitary sewer overflow and/or a sewer backup. The property owner shall also be responsible for correcting all sources of inflow to the sewer lateral.

C. Notice to Repair and Time Limits. A notice to repair will be issued by the Director when conditions are observed in conjunction with sewer overflow and/or a sewer backup which require repair and/or replacement of the sewer lateral. Time limits for repair and/or replacement of the sewer lateral shall be as stated in Section 13.05.040.

D. Repair Performed by City and Recovery of Costs. If the sewer lateral repair/replacement and/or root removal are not completed within the required time limits, including any extensions granted, the City shall complete the required repair/replacement and/or root removal, and the costs thereof shall be recovered in accordance with Section 13.05.040. (Ord. 1491 § 5 (part), 2015: Ord. 1424 § 1 (part), 2010)

**13.05.090 Failure to repair and/or replace sewer lateral a public nuisance.**

The failure of a property owner to repair and/or replace a sewer lateral within the time limits stated in Section 13.05.040:

A. Shall be deemed a public nuisance.

B. Shall relieve the City, its officers, employees and agents from any liability, damages, or claims resulting from a sewer backup, regardless of whether the sewer backup occurs from a blockage of a sewer main or a sewer lateral. (Ord. 1491 § 5 (part), 2015: Ord. 1424 § 1 (part), 2010)

**Chapter 13.08  
SEWER USE\***

Sections:

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\* Prior legislation: Ords. 771, 928, 978 and 1419.

**13.08.010 Purpose of provisions.**

The purpose of this chapter is to establish standards and conditions, and to provide for charges and fees, relating to the use of sewerage facilities. It is further the purpose of this chapter to establish uniform requirements for discharges into the sewerage facilities used jointly with other public entities as a party to the joint exercise of powers agreement establishing and providing for the South Bayside System Authority, a public entity, and any successor thereto. It is further the purpose of this chapter to enable the City to comply with and meet applicable laws, regulations, standards and conditions established by Federal and State law, or by agencies thereof in implementation of such law. The City Council hereby finds and declares that the health, safety and welfare of the citizens of the City of San Carlos require the enactment of the ordinance codified in this chapter to govern sewer use, including but not limited to protection from damage; prohibitions on discharge; control of fats, oils and grease; and regulation of encroachments in easements. (Ord. 1424 § 1 (part), 2010)

**13.08.020 Definitions and terminology.****A. General Terminology.**

1. Words, phrases or terms not specifically defined in this section, and having a technical or specialized meaning, shall be defined as set forth in the latest edition of "Standard Methods for the Examination of Water and Wastewater," published by the American Public Health Association, the American Water Works Association, and the Water Pollution Control Federation.
2. References to waste constituents and characteristics shall have the meanings ascribed thereto in the aforesaid "Standard Methods for the Examination of Water and Wastewater," and measurements thereof shall be as set forth in said publication, or as established by Federal or State regulatory agencies.

**B. Specific Definitions.** The following words or phrases, wherever used in this chapter, shall have the meanings respectively ascribed thereto as follows:

1. "Act" or "the Act" means the Federal Water Pollution Control Act as amended by the Federal Water Pollution Control Act Amendments of 1972 (Public Law 92-500), and as amended from time to time thereafter (33 U.S.C. 1251 et seq.), commonly referred to as the Clean Water Act.
2. "Authority" means the Joint Powers Authority for the South Bayside System Authority, a public entity established by agreement between the cities of San Carlos, Belmont and Redwood City, California, and the Menlo Park Sanitary District (now named West Bay Sanitary District) dated November 13, 1975, and any successor entity thereof.
3. "Beneficial uses" means uses of the waters of the City or State which may or do require protection against quality degradation thereof, including but not necessarily limited to waters used for domestic, municipal, agricultural, industrial, power generation, recreation, aesthetic enjoyment or navigation purposes, or for the preservation and enhancement of fish, wildlife or other aquatic resources or reserves, and such other uses, both tangible or intangible, as are or may be specified by Federal or State law as beneficial uses.
4. "Building sewer" means a sewer conveying wastewater from the premises of a user to the sewerage facilities.
5. "Categorical standards" means national pretreatment standards specifying quantities or concentrations of pollutants or pollutant properties which may be discharged into the sewerage facilities by existing or new industrial users classified in

specific industrial subcategories established as separate regulations under the appropriate subpart of 40 CFR, Chapter I, Subchapter N. Unless specifically provided otherwise, said standards shall be adhered to in addition to the general prohibitions established in Section 13.08.040.

6. "Charge" means a rental or other charge established pursuant to this chapter for services and facilities furnished by the City to any premises in connection with the operation of the sewerage facilities.

7. "City" means the City of San Carlos, a municipal corporation of the State of California.

8. "Compatible pollutant" means biochemical oxygen demand, suspended solids, pH and fecal coliform bacteria, additional pollutants identified in the Authority's National Pollutant Discharge Elimination System (NPDES) Permit, and such other pollutants as may be designated by the Authority and/or the Director upon a finding that such pollutants are substantially treated and removed by the sewerage facilities.

9. "Contamination" means an impairment of the quality of the waters of an agency or the State by waste, to a degree which creates a hazard to the public health. Contamination shall include any equivalent effect resulting from the disposal of wastewater, whether or not waters of an agency or the State are affected thereby.

10. "Detimental discharge" means a discharge which, alone or in conjunction with a discharge or discharges from other sources, does, or may, endanger the health, safety or welfare of persons, or the environment, or threatens, or reasonably may be deemed to threaten, the operation of the sewerage facilities, or causes or may reasonably be deemed to cause a violation of the Authority's NPDES Permit, or any applicable Federal, State, or local regulation relating to the operation of the sewerage facilities.

11. "Director" means the Director of Public Works of the City, or his designees, including but not limited to duly authorized personnel of the Authority.

12. "Easement" means a property right, however created, by which the owner of the right is entitled to make specified uses of the real property of another person; "easement" includes "reserve," "sewer reserve" or "utility reserve."

13. "Encroachment" means an activity or condition which results in interference with the rights of the owner of an easement. As used in this chapter with respect to the City's easements, there are three classes of encroachments:

a. Class One: Encroachments which interfere only slightly with the City's easement. Examples may include loose paving stones and similar landscaping features, flower beds, small shrubs, lawn and ground covers which do not impede normal use and operation of the sewerage facilities and may readily be removed and restored at a modest cost if access to the sewerage facilities is required.

b. Class Two: Encroachments which will cause significant interference with the City's easement but which, due to being readily removable or by virtue of City-mandated safeguards and/or mitigation measures, can be ameliorated to an acceptable level. Examples may include fences, gates, driveways, paving, portable or readily removable structures, larger vegetation whose roots do not have a propensity to invade sewerage facilities, and earthwork cuts and fills.

c. Class Three: Encroachments which will cause significant interference with the City's easement. Examples may include permanent structures such as buildings, swimming pools, permanent decks, retaining walls and reinforced concrete or masonry; temporary structures which are not readily removable from the easement; also trees, heavy brush and vegetation that prevents City access to its sewerage facilities in an easement; also any activities that are unlawful or prohibited by the Municipal Code or other applicable laws.

14. "Fats, oils and grease" or "FOG" means any fats, oils, waxes or other similar or related constituents. FOG may be of vegetable or animal origin, including butter, lard, margarine, vegetable fats and oils, and fats in meats, cereals, seeds, nuts and certain fruits. FOG may also be of mineral origin, including kerosene, lubricating oil or road oil. FOG in the City's sewer system is generally present as, but need not be, a floatable solid, a liquid, a colloid, an emulsion or in a solution.

15. "Food service establishment" means a nonresidential sewer user that engages in activities of preparing, serving or otherwise making available food for consumption by the public, including restaurants, commercial kitchens, caterers, hotels and motels, schools, hospitals, prisons, correctional facilities, nursing homes, care institutions, and any other facility preparing and serving food for public consumption.

16. "Grease interceptor" means a large, partitioned vault made of various materials, installed to remove FOG and food waste by trapping floatable and settleable solids so that they can be separated and removed before discharge to the sewerage facilities. It is usually installed underground, outside of the food service establishment.
17. "Grease removal device" means an interceptor, trap, or other mechanical device intended to remove, hold or otherwise prevent the passage of FOG to the sewerage facilities.
18. "Hazardous waste" means any liquid, semisolid, solid, or gaseous waste which conforms to the definition of "hazardous waste" in Section 25117 of the California Health and Safety Code, as said section may from time to time be amended, revised or recodified.
19. "Holding tank waste" means any waste from sewage or waste-disposal holding tanks such as are associated with vessels, chemical toilets, campers, trailers, septic tanks, and vacuum pump tank trucks.
20. "Incompatible pollutant" means any pollutant which is not a compatible pollutant.
21. "Interfering discharge" means a discharge into the sewerage facilities which, alone or in conjunction with a discharge or discharges from another source or sources, inhibits or disrupts the sewerage facilities, the treatment processes or operations thereof, the sludge processes thereof, or the use or disposal of said sludge, or the disposal of sewage, and which causes or significantly contributes to either a violation of the Authority's NPDES Permit or to the inability of the Authority to use or dispose of sewage sludge in compliance with the Federal or State regulations or permits promulgated or issued thereunder.
22. "Mass emission rate" means the weight of material discharged to the sewerage facilities during a specified time interval. Unless otherwise specified, the mass emission rate means pounds per day of a particular waste constituent or combination of constituents.
23. "New source" means any building, structure, facility, or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under Section 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section.
24. "NPDES Permit" or "Authority's NPDES Permit" means the National Pollutant Discharge Elimination System Permit issued to Authority pursuant to the provisions of the Act, as said permit may from time to time be amended, revised or superseded.
25. "Pass through" means the discharge of pollutants through the sewerage facilities into navigable waters in quantities or concentrations which cause or significantly contribute to violation of the Authority's NPDES Permit.
26. "Person" means any individual, firm, company, partnership, association, private corporation, public corporation, or governmental entity, authority or agency, and the officers, agents or employees of such organizations.
27. "Pollutant" means the human-made or human-induced waste which alters the chemical, physical, biological, or radiological integrity of waters of an agency or of the State manifesting pollution.
28. "Pollution" means an alteration of the chemical, physical, biological, or radiological integrity of waters of an agency or of the State by waste made or induced by humans which unreasonably affects such waters for any beneficial use or so affects facilities serving such beneficial use. The term "pollution" may also include "contamination."
29. "Publicly owned treatment plant" or "POTW" means a sewage treatment plant that is owned, and usually operated, by a government agency.
30. "Premises" means a parcel of land, or portion thereof, including any improvements thereon, which is directly or indirectly connected to the sewerage facilities for purposes of receiving, using and paying for service, or other purposes relating to the sewerage facilities, by an individual user. Each dwelling unit of a duplex, apartment, or any other multifamily residence shall be deemed a separate premises. Subject to the provisions of this chapter, the Director shall determine what constitutes the premises.
31. "Pretreatment" means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to, or in lieu of, discharging or otherwise

introducing such pollutants into the sewerage facilities. Such reduction or alteration may be obtained by physical, chemical or biological processes, or process changes or other means, except as prohibited by requirements of law.

32. "Reclaimed water" means water which, as a result of treatment of waste, is suitable for direct beneficial use, or a restricted beneficial use, which would not otherwise occur but for such treatment.

33. "Requirement of law" or "other requirements of law" means any pertinent provision of the Act, or of any statute, ordinance, rule, regulation, order, or directive implementative of the Act, or of Authority's NPDES Permit, or of any amendments, revisions, or other superseding provisions or requirements of the foregoing authorities.

34. "Sewerage facilities" means any or all devices, facilities, equipment, improvements or systems owned or used by the City or the Authority in the collection, storage, treatment, recycling, reclamation or disposal of wastes or wastewater, including interceptor sewers, outfall sewers or lines, sewage collection systems, pumps, power plants, treatment plants, recycling or reclamation plants, and other equipment and appurtenances thereto; extensions, improvements, remodeling, modifications, additions or alterations thereof; chemicals, materials or supplies used in connection therewith; or any other facilities, including land and improvements thereon, which are an integral part of the treatment process of the City or the Authority, or which are used for ultimate disposal of residues, effluent or discharges, resulting from such treatment, or any other method or system for preventing, abating, reducing, storing, treating, separating or disposing of wastes or wastewater, including stormwater runoff, industrial wastes, domestic wastes, or any combination thereof.

35. "Significant easement interference" means, with respect to encroachments on City easements, an activity or condition which has the potential to impede access to or damage City sewerage facilities or which will result in excess of one work hour of effort by the City to use the easement for its intended purpose.

36. "Significant industrial user" means:

a. Any user within an industry subject to Categorical Pretreatment Standards under 40 CFR Chapter I, Subchapter N; or

b. Any user that discharges an average of twenty-five thousand gallons per day or more of process wastewater to the POTW (excluding sanitary, noncontact cooling and boiler blowdown wastewater); or

c. Any user that contributes a process wastestream which makes up five percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or

d. Any user within a user classification listed in Division D (Manufacturing) of the Standard Industrial Classification Manual, 1972 Edition, issued by the Executive Office of the President, Office of Management and Budget, as said manual may from time to time be amended, revised, or superseded, who or which discharges one thousand gallons or more per day of process wastewater into the sewerage facilities; or

e. Any user who or which discharges or causes or permits a discharge of wastewater which would or does have a reasonable potential for adversely affecting the sewerage facilities or for violating any pretreatment standard or requirement (as determined by the Director or Authority's manager), either individually or in combination with other contributing industries, on the sewerage facilities or on the quality of effluent from the sewerage facilities.

f. Upon a finding that a user, meeting the criteria above in subsections (B)(36)(b) through (d) of this section, has no reasonable potential for adversely affecting the sewerage facilities or for violating any pretreatment standard or requirement, the Authority may at any time, on its own initiative or in response to a petition received from a user or agency, and in accordance with 40 CFR 403.8(f)(6), determine that such user is not a significant industrial user.

37. "Unpolluted water" means water to which no constituent has been added, either intentionally or accidentally, which would render such water unacceptable to the City or Authority for disposal to storm or natural drainages, or directly to surface waters.

38. "User" means any person who discharges, causes or permits the discharge of wastewater into the sewerage facilities.

39. "User classification" means a classification of users based upon classifications set forth in the Standard Industrial Classification (SIC) Manual, 1972 Edition, prepared and published by the Executive Office of Management and Budget of the United States.

40. "Waste" means sewage and any and all waste substances, whether liquid, solid, gaseous or radioactive, associated with human habitation, or of human or animal origin, or from any producing, manufacturing or processing operation of whatever nature, including such waste placed within containers of whatever nature prior to and for purposes of disposal.

41. "Wastewater" means waste and water, whether treated or untreated, discharged into or permitted to enter into the sewerage facilities.

42. "Wastewater constituents and characteristics" means the individual chemical, physical, bacteriological and radiological parameters, including volume and flow rate, and such other parameters that serve to define, classify or measure the contents, quality, quantity or strength of wastewater.

43. "Waters of an agency or State" means any water, whether surface or underground, and whether saline or nonsaline, within the boundaries of the City, or within the boundaries of the City and flowing into, touching or otherwise combined with waters outside the limits of the City, but within the boundaries of the State. (Ord. 1424 § 1 (part), 2010)

#### **13.08.030 Protection from damage.**

It is unlawful for any person to break, damage, destroy, uncover, deface or tamper with any sewer line, manhole, structure, appurtenance, device, or equipment that is part of the sewerage facilities. (Ord. 1424 § 1 (part), 2010)

#### **13.08.040 General prohibitions.**

No person shall discharge, and it is unlawful to discharge, wastes into the sewerage facilities which cause, threaten to cause or are capable of causing, either alone or by interaction with other substances:

- A. A fire or explosion;
- B. Obstruction of flow in or injury to the sewerage facilities, or any portion thereof;
- C. Danger to life or safety of persons;
- D. Conditions inhibiting or preventing the effective maintenance or operation of the sewerage facilities;
- E. Strong or offensive odors, air pollution, or any noxious, toxic or malodorous gas or substance or gas-producing substances;
- F. Interference with the wastewater treatment process, or overloading of the sewerage facilities, or excessive collection or treatment costs, or use of a disproportionate share of the capacity of the sewerage facilities;
- G. Interference with any process producing reclaimed water, which does or may operate in conjunction with the sewerage facilities, or overloading, or a breakdown of such reclamation process, or excessive reclamation costs, or any product of the treatment process which renders such reclamation process impracticable or not feasible under normal operating conditions;
- H. A detrimental environmental impact, or a nuisance, wherever located, or a condition unacceptable to any public agency having regulatory jurisdiction over operation of the sewerage facilities;
- I. Discoloration or any other adverse condition in the quality of the effluent from the sewerage facilities such that receiving water quality requirements established by any statute, rule, regulation, ordinance or permit condition cannot be met by the City or the Authority;
- J. Conditions at or near the sewerage facilities, or any portion thereof, which cause, or may cause, the City or Authority to be in violation of the requirements of law;
- K. Pollutants introduced into the sewerage facilities which pass through or interfere with the operation or performance of the sewerage facilities. (Ord. 1424 § 1 (part), 2010)

#### **13.08.050 Hazardous waste prohibited.**

No person shall discharge hazardous waste into the sewerage facilities except pursuant to a permit issued by the Director and the Authority's manager upon a determination that such hazardous waste will not constitute or create a detrimental discharge. (Ord. 1424 § 1 (part), 2010)

#### **13.08.060 Dilution prohibited.**

Except pursuant to an express applicable pretreatment standard, no user shall ever increase the use of process water or, in any other way, attempt to dilute a discharge of waste or wastewater as a partial or complete substitute for adequate treatment

to achieve compliance with a pretreatment standard. The Authority may impose limitations upon mass emission rates on users which are using dilution to meet applicable pretreatment standards or in other cases where the imposition of mass limitations is appropriate. (Ord. 1424 § 1 (part), 2010)

**13.08.070 Specific sources prohibited.**

No person shall discharge, cause to be discharged, or permit to be discharged, either directly or indirectly into the sewerage facilities, waste or wastewater from any of the following sources unless a permit therefor is issued by the Director subject to the concurrence of the Authority:

A. Any stormwater, groundwater, rainwater, street drainage, subsurface drainage, or yard drainage, subject to the following permit conditions:

1. Interior (Indoor) Floor Drains. Interior (indoor) floor drains connected to the sewerage facilities may not be placed in areas where hazardous materials, hazardous waste, industrial wastes, industrial process water, lubrication fluids or vehicle fluids are used or stored, unless secondary containment is provided for all such materials and equipment;

2. Exterior (Outdoor) Drains. Exterior (outdoor) drains may be connected to the sewerage facilities only if the areas in which the drains are located are covered or protected from rainwater run-off by covers, berms and/or grading and appropriate pretreatment approved by the City is provided. Any loading dock area with a drain connected to the sewerage facilities must be equipped with a valve which is kept closed during periods of nonoperations when the dock is not being used;

B. Any unpolluted water, including, but not limited to, cooling water, process water, or blow-down water from cooling towers or evaporative coolers;

C. Waste from garbage grinders; provided, that wastes generated in preparation of food normally consumed on the premises may be so discharged; provided, further, that such grinders shall be of such design and capacity to shred waste used therein such that all waste particles shall be carried freely under normal flow conditions into and through the sewerage facilities;

D. Any wastes or wastewater, or any object, material, or other substance, directly into a manhole or other opening into the sewerage facilities other than wastes or wastewater through an approved building sewer;

E. Any holding tank waste; provided, that such waste may be placed into facilities designed to receive such wastes and approved by the Director;

F. Any radioactive waste; provided, that persons authorized to use radioactive materials by the State Department of Health or other governmental agency with regulatory jurisdiction over the use of radioactive materials may discharge, cause to be discharged, or permit to be discharged such wastes; provided, that such wastes are discharged in strict conformance with current California Radiation Control Regulations (California Code of Regulations Title XVII, Chapter 5, Subchapter 4, Group 3, Article 5), and Federal regulations and recommendations for safe disposal of such wastes; and provided, further, that the person so acting does so in compliance with all applicable rules and regulations of all other regulatory agencies having jurisdiction over the matter. (Ord. 1424 § 1 (part), 2010)

**13.08.080 Fats, oils and grease (FOG).**

A. Coordination with Building Codes. The provisions of this chapter are intended to complement, rather than supersede, the provisions of City building codes and regulations applicable to the installation and operation of grease capturing equipment. In the case of a conflict between this chapter and City building codes and regulations, the City building codes and regulations shall govern.

B. FOG Prohibitions.

1. Disposal of FOG or any food waste containing FOG directly into drains leading to sewerage facilities is prohibited, except in accordance with this section and applicable building codes and regulations.

2. Discharge of wastewater with a temperature higher than one hundred forty degrees Fahrenheit to or through a grease removal device is prohibited.

3. Discharge of wastewater from dishwashers to or through a grease removal device is prohibited.

4. Water closets, urinals and other plumbing fixtures conveying human waste shall not drain to or through any grease removal device.

5. The discharge of solvents or additives that emulsify grease into drainage pipes leading to or through a grease removal device is prohibited.
  6. The use of biological additives, including but not limited to enzymes, into drainage pipes leading to or through a grease removal device is prohibited.
- C. General FOG Requirements. All food service establishments shall properly store and recycle or dispose of FOG diverted from their liquid waste streams in accordance with all laws and regulations applicable to such storage, recycling and disposal.
- D. Grease Removal Device Required.

1. Grease Interceptors. The owner of any newly constructed, remodeled commercial, institutional or industrial facility which remodeling is permitted with one or more FOG-generating activities, including food service establishments, shall install, or cause to be installed, a grease removal device for each FOG-generating activity. The grease removal device shall be of a size equal to or greater than the minimum size meeting the sizing criteria for "grease interceptors," as set forth in the applicable edition of the Uniform Plumbing Code adopted by the International Association of Plumbing and Mechanical Officials and the current California Plumbing Code to which the owner is subject and shall have a sampling access point located downstream of the grease interceptor. Grease interceptors shall have a minimum pumping frequency of three months, or more frequently if necessary to ensure there are no downstream blockages of lines.
2. FOG Blockage. Any owner of a commercial, institutional or industrial generator of FOG, including food service establishments, found to have a FOG blockage, a history of FOG blockage or accelerated line maintenance resulting from FOG disposal shall install, or cause to be installed, upon notification by the City, a grease removal device in accordance with the applicable edition of the current Uniform Plumbing and California Plumbing Codes to which the owner is subject.
3. Remodeled Facilities. The owner of any commercial, institutional or industrial generator of FOG, including food service establishments, that performs a remodel, alteration and/or repairs valued at or greater than twenty-five thousand dollars, shall install or cause to be installed a grease removal device in accordance with the applicable edition of the current California Plumbing Codes to which the owner is subject. The Building Official shall make the final determination when a grease removal device is required.

D. Grease Removal Device Operations and Maintenance.

1. Grease removal devices must be operated and maintained effectively and properly at all times. Food service establishments may be required to keep and/or provide equipment maintenance and service logs or receipts, and to retain such logs on site.
2. Grease removal devices shall be maintained at a frequency such that the combined FOG accumulation and settled solid material does not exceed twenty-five percent of the total hydraulic depth of the equipment.
3. Food service establishments must follow the manufacturer's recommendations and guidelines for appropriate operations and maintenance of grease removal devices. Information on the manufacturer-recommended operations and maintenance of the grease removal devices shall be retained on site by the food service establishment.
4. FOG waste that is removed by any means other than self-cleaning must be removed by a grease hauler certified by the California Department of Food and Agriculture. The maintenance records signed by the certified grease hauler shall be retained on site by the food service establishment for three years.
5. Materials removed from grease removal devices shall not be reinserted into a grease interceptor or allowed to pass into the sewerage facilities. (Ord. 1424 § 1 (part), 2010)

**13.08.090 Wastewater strength limitations.**

Except pursuant to a permit issued under Section 13.08.110, no person shall discharge, cause to be discharged, or permit to be discharged any wastewater into the sewerage facilities containing any of the following wastewater constituents in excess of the maximum allowable amounts respectively hereinafter established therefor:

Wastewater Constituent	Amount in Milligrams per Liter (mg/L)
A. Arsenic	0.1
B. Cadmium	0.04

<b>Wastewater Constituent</b>	<b>Amount in Milligrams per Liter (mg/L)</b>
C. Chromium	0.2
D. Copper	0.2
E. Lead	0.2
F. Mercury	0.002
G. Nickel	0.06
H. Silver	0.1
I. Zinc	1.0
J. Phenolic Compounds	2.6
K. Cyanide	0.06
L. Polycyclic Aromatic Hydrocarbons	0.2
M. Methylene Chloride	0.07
N. Chloroform	0.03
O. Perchloroethylene	0.03
P. Benzene	0.002
Q. Carbon Tetrachloride	0.001
R. Carbon Disulfide	0.008

(Ord. 1424 § 1 (part), 2010)

**13.08.100 Specific wastes prohibited.**

No person shall discharge, cause to be discharged, or permit to be discharged any wastewater into the sewerage facilities:

- A. The temperature of which is higher than one hundred fifty degrees Fahrenheit;
- B. Containing more than three hundred mg/l of oil or grease of animal or vegetable origin;
- C. Containing more than one hundred mg/l of oil or grease of mineral or petroleum origin;
- D. Having a pH lower than 6.0 or having a corrosive property capable of causing damage or hazard to structures or equipment of the sewerage facilities, or any portion thereof;
- E. Any sand, grit, straw, metal, glass, rags, feathers, paper, tar, plastic, wood, leaves, garden clippings, manure, dead animals, offal, or any other solid or viscous substance capable of causing obstruction to the flow in the sewerage facilities, or which in any way interferes with the proper operation of the sewerage facilities;
- F. Any pollutant not otherwise specifically prohibited in these regulations, in sufficient quantities to constitute a hazard to humans or animals, or to create a hazard to the sewerage facilities, or to injure or interfere with the operation thereof;
- G. Any waste containing suspended solids not otherwise specifically prohibited under the provisions of these regulations, the characteristics or quantity of which require or requires unusual attention, treatment, or expense in handling or treating in the sewerage facilities, or any portion thereof;
- H. Any waste streams with a closed cup flashpoint of less than one hundred forty degrees Fahrenheit;
- I. Any trucked or hauled wastes except at points designated by the authority. (Ord. 1424 § 1 (part), 2010)

**13.08.110 Specific user limitations.**

Notwithstanding the limitations upon the characteristics or quantity of wastewater discharged, caused to be discharged, or permitted to be discharged into the sewerage facilities pursuant to this chapter, the Authority or the Director may, in connection with the issuance of permits pursuant to the provisions of Section 13.08.130, establish additional or different specific limitations on wastewater strength, or deny an application for any such permit, upon a finding by him or her that:

A. The limitations set forth in this chapter may not be sufficient to protect the operation of the sewerage facilities, or any portion thereof, or the waste or wastewater proposed to be discharged constitutes a hazard to, or an unreasonable burden upon, such operation, or otherwise causes or may cause, or significantly contributes, or may contribute, to a violation of Authority's NPDES Permit; or

B. The limitations set forth in Section 13.08.090 may be unreasonably restrictive when applied to a specific user or user category and the proposed discharge, if allowed, when added to the total amount authorized by existing permits issued pursuant to these regulations will not cause the amount of any of the following wastewater constituents to exceed the aggregate maximum allowable amount respectively hereinafter established therefor:

<b>Wastewater Constituent</b>	<b>Aggregate Maximum Permitted Amounts in Pounds per day (lbs/day)</b>
1. Arsenic	11.4
2. Cadmium	6.11
3. Chromium	31.3
4. Copper	19.9
5. Lead	22.7
6. Mercury	0.915
7. Nickel	6.82
8. Silver	12.5
9. Zinc	113.0
10. Phenolic Compounds	385.0
11. Cyanide	5.25
12. Polycyclic Aromatic Hydrocarbons	15.2

C. Notwithstanding the provisions of subsections A and B of this section, in no event shall any permit be issued which allows an interfering discharge, or a pass through, or allows a violation of a categorical standard. (Ord. 1424 § 1 (part), 2010)

#### **13.08.120 Wastewater volume determination.**

A. General. For the purposes of this chapter, unless otherwise provided pursuant to the provisions of this section, wastewater volumes shall be determined upon the basis of volumes of fresh water, including all sources of nonwastewater, used by or furnished to a user.

B. Exception—Metering. Upon application of a user, and upon a finding by the Director that a significant portion of fresh water or nonwastewater received by the user from any metered source does not flow into the sewerage facilities because of the principal activity of the user, or by reason of removal of wastewater by other means, the Director may authorize determination of the volume of wastewater discharge to be made by an appropriate metering device. Upon such determination by the Director, a metering device, of a type approved by the Director, and at a location approved by the Director, shall be installed at the user's expense. Such metering device shall measure either the amount of wastewater discharged into the sewerage facilities, or the amount of fresh water or nonwastewater diverted from the sewerage facilities. Upon installation, such meters shall be maintained and tested periodically for accuracy in accordance with requirements established by the Director, all of which maintenance and testing shall be at the expense of the user.

C. Exception—Estimated Volume. In lieu of use of a metering device as specified in subsection B of this section, and upon a determination by the Director that it would be unnecessary or impracticable to install, maintain or operate such metering device, wastewater volume discharged by a user into the sewerage facilities may be based upon an estimate thereof determined by the Director. The determination of such estimated wastewater volume shall be based upon such factors as the number of fixtures through which wastewater flows into the sewerage facilities from the user's premises, seating capacity of buildings or improvements upon the premises, the population equivalent associated with the premises, annual production of goods and services related to the premises, or other factors reasonably relating to water use, wastewater volume calculations, and/or diversions of wastewater flow from the sewerage facilities.

D. Permit Required for Metering or Estimated Volumes. Permission for calculation of wastewater volumes to be determined in accordance with the provisions of subsection B or C of this section shall only be granted by a permit issued by the Director, or as a provision of such other permit as may be required or provided under this chapter. In the event such permission is granted pursuant to a separate permit, applications therefor shall be in writing in such form as the Director shall require, and shall set forth the following:

1. The name and address of the applicant;
2. The location or other description of the premises served by the sewerage facilities and for which such calculation is proposed to be made;
3. Reasons supporting use of a metering device or calculation of estimated volumes, as appropriate; and
4. Such data, statistics or other information deemed necessary or appropriate by the Director to enable him to make the finding or determination specified in subsection B or C of this section. (Ord. 1424 § 1 (part), 2010)

**13.08.130 Reports, permits and administration.**

A. Reports.

1. General. Reports required to be submitted pursuant to permits issued under these regulations or otherwise required by the Act, or regulations implementative thereof, including, but not limited to, compliance schedule progress reports, reports on compliance with categorical deadlines, periodic compliance reports, notice of changed discharge reports, and reports from noncategorical industrial users, shall conform to pertinent provisions of such permits, these regulations, or other requirements of law, and shall be submitted in accordance with applicable filing requirements, including, but not limited to, deadlines.
2. Periodic Discharge Reports. In addition to all other reports which may be required to be submitted by a user, upon a determination by the Director or the Authority that such information is necessary or appropriate for them reasonably to carry out their respective duties and to exercise their respective authority under these regulations, each or either of them may require that any person discharging, causing to be discharged, permitting to be discharged, or proposing to discharge wastewater into the sewerage facilities shall file a periodic discharge report, the cost of which shall be borne by such person. Such report may include, but shall not necessarily be limited to, information relating to the nature of manufacturing, fabricating, or other processes, fresh or nonwastewater volumes, wastewater volumes, rates of flow, mass emission rates, production quantities, hours of operation, number and classification of employees, or other information relating to the generation of waste, including wastewater constituents and characteristics of the pertinent wastewater discharge. The Director or the Authority may also require that such reports include chemical constituents and quantity of liquid or gaseous materials stored on the premises relating to such discharge, even though such materials are not normally discharged into, or become a part of the wastewater in, the sewerage facilities. Such reports shall be in addition to self-monitoring reports, information furnished in connection with wastewater discharge permits, or other permits authorized under these regulations. The reports authorized and required under this section shall be filed with Director or the Authority periodically and/or at such other times as either of them may reasonably require.
3. Signatory Requirements. Baseline and monitoring reports, ninety-day compliance reports, and periodic reports on continued compliance (as said reports are defined and described in Subdivisions (b), (d) and (e) of Section 403.12 of Title 40, Code of Federal Regulations), and such other reports as may be specified by Director or the Authority, shall be signed by an authorized representative of the industrial user, or other user or other person required to submit such report. An authorized representative may be:
  - a. A principal executive officer of at least the level of vice president, if the industrial user, other user or other person submitting such report is a corporation;
  - b. A general partner or proprietor if the industrial user, other user, or other person submitting such report is a partnership or sole proprietorship, respectively; or
  - c. A duly authorized representative of the individual designated in subsection (A)(3)(a) or (b) of this section, if such representative is responsible for the overall operation of the facility with respect to which such report pertains.
4. Certification. Reports required to be submitted pursuant to permits issued under these regulations, or otherwise required that by these regulations, by the Act, or by regulations implementative thereof, shall, unless otherwise specified by the Authority or the Director, include the following certification of the signatory thereto:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the Person or Persons directly responsible for gathering the information, or the Person or Persons who has or have knowledge of the substance of the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of a fine and imprisonment for knowing violations.

B. Mandatory Wastewater Discharge Permits. No significant industrial user shall connect to, or discharge waste or wastewater into, the sewerage facilities without first obtaining a wastewater discharge permit therefor. No significant industrial user, or other user discharging, or proposing to discharge, wastewater having characteristics or quantities equivalent to that of a significant industrial user whose premises are connected to the sewerage facilities upon the effective date of this chapter shall discharge wastewater into the sewerage facilities on or after ninety days after such effective date without a wastewater discharge permit therefor.

C. Discretionary Wastewater Discharge Permits. A wastewater discharge permit may be issued by the Director to any user, upon application therefor:

1. Who requests that charges and fees established pursuant to this chapter be based upon an estimated volume of wastewater discharged, or to be discharged, into the sewerage facilities; or
2. Who establishes to the satisfaction of the Director that wastewater proposed to be discharged from such user's premises into the sewerage facilities has, or will have, wastewater strength characteristics less than the normal range for the user classification to which such user is assigned, by reason of pretreatment, process changes, or other reasons related to such wastewater characteristics.

D. Applications for Mandatory Wastewater Discharge Permits. Applications for mandatory permits required under subsection B of this section shall be made to the Authority in writing via the Director in such form as the Authority shall require, and shall set forth the following:

1. The name and address of the applicant/user and the business name or other designation by which the premises or facility located thereon to which the application pertains is known, the address of said premises or facility (if different than the name and address of the applicant), and the name or names of the manager or other person in charge of said facility or premises;
2. A list of any environmental control permits held by the applicant for the facility or premises;
3. A brief description of the nature, average rate of production and standard industrial classification of the operation(s) carried out by the applicant;
4. Flow measurement showing average daily and maximum daily flow from each process stream to which the application pertains;
5. Wastewater constituents and characteristics of the wastewater proposed to be discharged into the sewerage facilities, including, but not limited to, those categories thereof described in Sections 13.08.070, 13.08.090 and 13.08.100, the presence and amount of which shall be determined by a laboratory competent to test and describe such constituents and characteristics, and approved by the Authority;
6. The time and duration of the proposed wastewater discharge;
7. The average and thirty-minute peak wastewater flow rates proposed to be discharged, including daily, monthly, and seasonal variations, if any;
8. Site plans, floor plans, mechanical and plumbing plans, in detail necessary or appropriate to show and to describe all building sewers and appurtenances by size, location and elevation;
9. A description of the activities, facilities, and plant processes conducted or proposed to be conducted on the premises, including, but not necessarily limited to, all materials manufactured, fabricated, or processed, and the types of materials which are or could be discharged into the sewerage facilities;
10. Identification of pretreatment standards applicable to each process;
11. A statement, reviewed by an authorized representative of the applicant and certified by a qualified professional, stating whether categorical standards are being or will be met on a consistent basis and, if not, whether additional

operation and maintenance and/or additional pretreatment is required for the applicant to meet such standards and requirements;

12. Requirements, if any, for additional pretreatment and/or operation and maintenance in order to meet categorical standards and the shortest schedule by which the applicant will provide such additional pretreatment and/or operation and maintenance (the completion date in said schedule shall not be later than the compliance date established for any applicable categorical standard);

13. Such other information deemed necessary by the Authority to determine the effect upon the sewerage facilities of the proposed discharge or activities related thereto, or otherwise reasonably necessary to enable Authority or the Director to carry out the provisions of this chapter, or any other requirements of law.

E. Applications for Discretionary Wastewater Discharge Permits. Applications for wastewater discharge permits which may be issued pursuant to Sections 13.08.050, 13.08.060, 13.08.070 and 13.08.110 and subsection C of this section shall be made to the Authority via the Director in writing in such form as Authority shall require and shall set forth the following:

1. The name and address of the applicant/user and the business name (if applicable) or other designation by which the premises or facility located thereon to which the application pertains is known, the address of said premises or facility (if different than the name and address of the applicant), and the name or names of the manager or other person in charge of said facility or premises;

2. The time and duration of the proposed wastewater discharge;

3. A description of the activities, facilities, or other operations pertaining to the proposed discharge including, but not necessarily limited to, types of materials which are or could be discharged into the sewerage facilities;

4. Such other information deemed necessary by the Authority or the Director to determine the effect upon the sewerage facilities of the proposed discharge or activities related thereto, or otherwise reasonably necessary to enable the Authority or the Director to carry out the provisions of this chapter, or any other requirements of law.

F. Signatory Requirements. Applications for permits shall be signed by the persons designated in subsection (D)(3) of this section (pertaining to signatories for certain reports) and shall contain the certification specified in subsection (D)(4) of this section (pertaining to certification for certain reports).

G. Issuance. Upon evaluation of and approval of all pertinent data and information, Authority shall issue a wastewater discharge permit, subject to the consent of the Director, and further subject to terms and conditions required or authorized under the provisions of this chapter and deemed necessary or appropriate by Authority or the Director, as the case may be, to carry out the purposes and intent of this chapter.

H. Permit Conditions.

1. General. Wastewater discharge permits authorized under this chapter shall be subject to all applicable provisions and requirements of the Authority's regulations, this chapter, and to all other applicable requirements of law.

2. Permits authorized under this chapter may include any or all of the following:

- a. The unit charge or schedule of charges and fees for the service and use of the sewerage facilities, to be paid by the permittee, and the terms and conditions of such payment;

- b. The allowable average and maximum wastewater constituents and characteristics thereof permitted to be discharged into the sewerage facilities;

- c. Limitations upon time and rate of wastewater discharge, or requirements for flow regulation and equalization thereof;

- d. Requirements for the installation of inspection, sampling or testing facilities;

- e. Pretreatment requirements;

- f. Specifications for monitoring programs, which may include, but shall not necessarily be limited to, sampling locations, frequency and method of sampling, number, types and standards for tests, and reporting schedule;

- g. Requirements for submission of technical reports or wastewater discharge reports;
- h. Requirements for maintaining, for not less than three years, plant records relating to the wastewater discharge, as specified by the Authority, and providing for access of the Authority and the Director, including provisions pursuant to which such records shall be made available for copying and inspection by Authority or the Director;
- i. The mean and maximum mass emission rates, or other appropriate limits, when incompatible pollutants are proposed to be discharged into or are present in the user's wastewater discharge;
- j. Requirements for submission, prior to closure or abandonment of the permittee's facilities, of a closure plan detailing the means by which the permittee's sanitary facilities, including pretreatment facilities, shall be secured upon such closure or abandonment; and
- k. Such other conditions, requirements and provisions deemed appropriate by the Authority or the Director to ensure compliance with the provisions of this chapter or other requirements of law.

I. Duration of Permits.

- 1. Wastewater discharge permits authorized under this chapter shall be effective for the period described herein, but in any event for no longer than five years. Such period described in such permits may be for a term less than a year, may be expressed in years, or may be stated to expire on a specific date.
- 2. Upon expiration of the specified term in each wastewater discharge permit, the term thereof shall be deemed renewed automatically for successive one-year periods, that first of which shall commence upon the day next following the last day of the term specified in such permit; provided, however, that in the event the Director gives written notice to the permittee of the termination or expiration of the permit not less than thirty days prior to the expiration of the initial term thereof, or prior to the expiration of any successive one-year term thereof, then a new permit shall be required subject to the provisions of this chapter.
- 3. Every permit shall be subject to modification, amendment or other change by the Authority or the Director during the term thereof, as determined necessary by the Authority or the Director in order to obtain compliance by the user with the requirements of this chapter or other requirements of law.
- 4. To the extent practicable, the Authority and the Director shall give written notice to a permittee of any proposed modifications, changes or amendments to the user's permit not less than thirty days prior to the effective date of such change, modification or amendment. To the extent reasonably necessary or appropriate, the Authority and the Director may specify a reasonable time schedule for compliance with any new conditions, provisions or requirements established by modification, change or other amendment to a permit.

J. Nonassignability. Wastewater discharge permits shall be personal to each permittee, and shall relate only to the use or operation described therein. No person shall, and it shall be unlawful to, assign, reassign, transfer, sell, lease, sublet or otherwise transfer a wastewater discharge permit, or any interest therein, to any person other than the permittee, or to use, cause to be used or permit to be used such permit in connection with a different premises, or a different operation than that specified in such permit, or with a new, expanded or modified operation.

K. Monitoring Facilities.

- 1. The Authority or the Director may require a user to construct, operate, and maintain, at the user's own expense, monitoring, sampling, or metering facilities or other equipment to allow inspection, sampling, and flow measurement of the user's building sewer, or internal drainage systems, or waste or wastewater discharges. Such monitoring, sampling, or metering facilities or equipment shall be located on the user's premises; provided, however, that the Authority or the Director may allow such equipment or facility to be constructed upon public property adjacent to the user's premises upon a determination by the Authority, with the concurrence of the Director, that location of such equipment or facilities upon the user's premises would be impracticable or cause unnecessary or undue hardship. In the event that the Authority makes the foregoing determination with the concurrence of the Director, and the public property upon which such facilities or equipment are proposed to be constructed or installed is outside City's boundaries, the user shall obtain permission for such installation or construction, and for the maintenance and operation of such facilities or equipment, from the governmental agency which owns or exercises managerial control over such property.

2. Monitoring, sampling, or metering facilities or equipment to be provided, installed, maintained and operated pursuant to the provisions of this section shall be so situated, constructed and installed as to permit safe and immediate access thereto by the Authority; provided, however, that the Authority may, at the option of the user, secure such equipment or facilities with a lock furnished by the Authority, at the expense of the user. The user shall provide sufficient space, as determined by the Authority, at or near such equipment or facilities so as to allow ready and accurate monitoring, sampling, and compositing of samples for analysis. Such equipment and facilities, and the sampling and measuring equipment to be maintained and operated in connection therewith, shall be so maintained and operated at all times in a safe and proper condition, by and at the expense of the user.

3. Monitoring, sampling or metering equipment or facilities to be furnished pursuant to the provisions of this section shall be provided in accordance with all reasonable requirements of the Authority, and all applicable construction standards and specifications of the City. Installation and construction of such facilities or equipment shall be completed within ninety days following written notification requiring such installation or construction from Authority; provided, however, that Authority may, at its discretion, extend the time of performance of such installation or construction.

L. Inspection and Sampling. The Authority and the Director are hereby authorized to inspect the premises, and inspect and copy the records, of any user at all reasonable times to ascertain whether such user is in compliance with the provisions of these regulations, or the provisions of any permit issued pursuant to these regulations. Owners or occupants of premises where wastewater is created, held or discharged shall allow the Authority and the Director ready access at all such reasonable times to all parts of the premises for the purposes of inspecting the facilities and appurtenances thereon, inspecting and copying records, sampling, monitoring, or performing any or all of the duties reasonably necessary or appropriate in carrying out or enforcing the provisions of this chapter, or any permit issued pursuant to this chapter. The Authority shall further have the right to install and use on the user's premises such devices as are reasonably necessary or appropriate to conduct sampling, metering, or monitoring operations or other of the aforesaid duties. In the event a user has established security measures requiring identification and clearance prior to entry onto such user's premises, the user shall furnish and provide such identification or clearance to the Authority so as to permit ready access of the Authority to the premises for the purposes described in this section.

M. Pretreatment.

1. Pretreatment of wastes or wastewater shall be furnished by every user on the user's premises when such waste or wastewater, prior to pretreatment, does not comply with the minimum acceptable requirements and criteria therefor for discharge into the sewerage facilities as set forth in Sections 13.08.040, 13.08.050, 13.08.070, 13.08.090, 13.08.100, and 13.08.110. Such pretreatment facilities shall be provided and maintained at the user's expense, and shall be of sufficient design and capacity to pretreat waste or wastewater discharged from the premises into the sewerage facilities to a level meeting such minimum requirements, and such other requirements established by the Authority reasonably necessary or appropriate for the sewerage facilities to treat adequately such waste or wastewater under normal operating and treatment conditions.

2. Prior to the installation of pretreatment facilities, plans and specifications therefor shall be submitted to the Authority, together with such data and descriptive material relating to the waste or wastewater prior to, and after such proposed pretreatment as Authority may require, in order that Authority may ascertain the wastewater constituents and characteristics and volume of the wastewater discharge after pretreatment. The user shall make such modifications, amendments or revisions to said plans and specifications as the Authority may reasonably require in order that the provisions of these regulations, or any permit issued, or to be issued pursuant to this chapter, shall be complied with. Upon approval of such plans and specifications by the Authority, the user may proceed with the construction of the pretreatment facilities in conformance therewith; provided, however, that such approval shall not be deemed to waive or modify any other requirement of this chapter, or of any permit issued pursuant to this chapter, or of any other requirements of law.

3. Approval of plans and specifications of pretreatment facilities pursuant to this section shall not relieve the user from the responsibility of modifying such pretreatment facilities as necessary to produce effluent therefrom complying with all pertinent provisions of this chapter, or any permit issued pursuant to this chapter, or any other requirements of law. Any proposed cessation of use, or alteration, modification, or other change to approved pretreatment facilities or any portion thereof, or any change in method of operation thereof, shall be reported to the Authority prior to commencement thereof, and shall be subject to the approval of the Authority. Such approval may be withheld, granted, or granted subject to such terms, conditions, or requirements as the Authority may reasonably require in order to ensure compliance with the provisions of this chapter, or any permit issued pursuant to the provisions of this chapter.

**N. Public Information.**

1. All information and data furnished by or regarding the operations of a user, obtained from reports, questionnaires, permit applications, permits, monitoring programs, inspections, or from other sources provided or required under the provisions of this chapter shall be available to the public or other governmental agencies without restriction unless the user requests in writing that such information be maintained confidential, and establishes to the satisfaction of the Director that the disclosure of the information to other persons would result in unfair competitive disadvantage to the user; provided, however, that in no event shall wastewater constituents, characteristics or volumes be deemed confidential information.
2. Notwithstanding the foregoing, information approved by the Director as confidential shall be available for use by the City, the Authority, the State, the Federal government, or any agency of said entities, in connection with enforcement proceedings, or any judicial proceedings to which the user is a party. Subject to the foregoing, information accepted by the Director as confidential shall not be transmitted to any governmental agency, or to the general public by the Director, until and unless prior written notification is given to the user.

O. Special Agreements. The provisions of this chapter shall not be deemed a limitation upon the City or the Authority to enter into agreements, and to recover costs relating thereto, with any user, relating to treatment, pretreatment, or other matters in furtherance of the provisions of this chapter and the purposes thereof, and not inconsistent therewith, when unique, unusual or extraordinary circumstances require such special agreements; provided, however, that no such agreement shall authorize an extension of the final dates for compliance with required Federal standards, nor waive such standards. (Ord. 1424 § 1 (part), 2010)

**13.08.140 Accidental discharge prevention.**

- A. Every user shall provide protective measures against accidental or unauthorized discharges of prohibited wastes, wastewater constituents or characteristics, or volumes into the sewerage facilities, as set forth in Sections 13.08.040 through 13.08.120, or as may be otherwise set forth in any permit issued pursuant to this chapter. Such measures shall consist of operational or other procedures and/or facilities as determined reasonably necessary or appropriate by the Director. All costs of such measures shall be borne by the user.
- B. The Director may specify standard procedures and/or facilities for each classification of user and, to the extent so specified, he is hereby authorized and directed to require the institution and use of such procedures, and the installation and construction of such facilities for each such classification. Alternatively, the Director may require any user to propose such procedures and/or facilities, which proposals shall be submitted to the Director for review, with such supporting plans, specifications, data, explanations, or other matters as may reasonably be required by the Director in order to ascertain the effectiveness of the procedures and/or facilities proposed.
- C. The Director may require such revisions, amendments, modifications or other changes to such proposals, or approve or reject the same, as the Director deems reasonably necessary or appropriate in order that such proposals ensure protection against accidental or unauthorized discharge. (Ord. 1424 § 1 (part), 2010)

**13.08.150 Location of discharge.**

No person shall discharge, and it is unlawful to discharge, cause to be discharged or permit to be discharged, any wastes or wastewater, or any object, material or other substance directly into a manhole or other opening into the sewerage facilities other than wastes or wastewater through an approved building sewer; provided, however, that wastes or wastewater may be discharged into the sewerage facilities by means other than through an approved building sewer pursuant to a permit therefor issued by the Director. (Ord. 1424 § 1 (part), 2010)

**13.08.160 Sewer service charges and fees established.**

The City Council hereby establishes the following schedule of user charges and fees by the classifications set forth. The fees and charges are for the use and maintenance of the sewage facilities and services furnished to and for the user premises.

The City Council finds that the fees and charges herein provide a fair and equitable allocation of the cost to provide sewage facilities and services for the users and are commensurate with the reasonable cost of providing facilities and services. After review and study of the administration, maintenance costs and capital needs of the City's sanitary sewer facilities, the schedule of users, fees and charges is as follows:

	Current Sewer Rates	Proposed Sewer Rates			
		July 1, 2019*	July 1, 2020	July 1, 2021	July 1, 2022
<b>RATE INCREASE %</b>		4.5%	4.5%	4.5%	4.5%
<b>RESIDENTIAL</b>					
<i>Fixed annual charge per residential dwelling unit</i>					
Single-Family Residence	\$1,175.10	\$1,227.93	\$1,283.19	\$1,340.93	\$1,401.27
Multifamily Dwelling Unit	1,010.58	1,054.57	1,102.03	1,151.62	1,203.44
<b>COMMERCIAL</b>					
<i>Volumetric charges per hcf of metered water use (\$/hcf) subject to a minimum annual charge</i>					
High Strength/Restaurants <sup>1</sup>	\$18.99	\$19.54	\$20.42	\$21.34	\$22.30
Moderate Strength (includes hotels) <sup>2</sup>	16.22	16.77	17.52	18.31	19.13
Standard Strength/All Others	12.00	12.58	13.15	13.74	14.36
<i>Minimum Annual Charge Per Parcel or Account</i>	\$881.33	\$920.95	\$962.39	\$1,005.70	\$1,050.95
<b>INSTITUTIONAL</b>					
<i>Volumetric charges per hcf of metered water use (\$/hcf) subject to a minimum annual charge</i>					
Hospitals	\$12.33	\$14.50	\$15.15	\$15.83	\$16.54
School/Church/Public/Other	11.50	12.18	12.73	13.30	13.90
<i>Minimum Annual Charge Per Parcel or Account</i>	\$881.33	\$920.95	\$962.39	\$1,005.70	\$1,050.95
<b>INDUSTRIAL</b>					
Volumetric Charge (\$ per hcf water use)	\$9.89	\$10.42	\$10.89	\$11.38	\$11.89
+ Biological Oxygen Demand (BOD), (\$ per pound)	1.0978	1.2950	1.3533	1.4142	1.4778
+ Suspended Solids (SS), (\$ per pound)	1.1615	1.4541	1.5195	1.5879	1.6594
<i>Minimum Annual Charge Per Parcel or Account</i>	\$881.33	\$920.95	\$962.39	\$1,005.70	\$1,050.95
<p><sup>1</sup> Includes restaurants, bakeries, mortuaries, markets with garbage disposals and mixed use accounts with wastewater comprised of 75% or higher flow from high strength users.</p> <p><sup>2</sup> Includes hotels with food service and/or laundry facilities and mixed use accounts with wastewater comprised of greater than 25% but less than 75% of flow from high strength users.</p> <p>The City shall determine which customer class best reflects the wastewater characteristics of each account.</p> <p>Note: 1 hcf = One hundred cubic feet, or approximately 748 gallons.</p>					

\* The initial rate increase includes a cost-of-service rate structure realignment which results in slightly different impacts for each customer class the first year.

(Ord. 1547 § 2, 2019)

### 13.08.170 Easements and encroachments.

A. City Policies Concerning Easements. The following are City policies concerning easements:

- Wherever feasible, City-owned sewerage facilities shall be located on lands owned by the City, public lands to which the City has largely unrestricted access or in public streets, roads, highways or other public rights-of-way in which, by law, the City is entitled to construct, install, operate and maintain its facilities.

2. City-owned sewerage facilities shall not be located and permanently installed on or in private property, unless the City has acquired an easement or easements for the facilities conforming to this chapter. Temporary installations may be made pursuant to a license or other similar authorization approved by the City.
  3. The location of City sewerage facilities, as described in subsection (A)(1) of this section, is strongly preferred over the type of location described in subsection (A)(2) of this section.
  4. In furtherance of the policy stated in subsection (A)(3) of this section, City sewerage facilities should not be installed in easements over private property unless:
    - a. Installation in a subsection (A)(1) of this section location is not possible, would be impracticable or would be unduly burdensome; and
    - b. The City's easement rights shall be sufficient to enable the City to operate and maintain its facilities without excessive cost or other undue difficulty.
- B. Subject to its right to abandon or relinquish ownership of any sewerage facilities which are no longer in use and which are not required for future City needs, the City claims that as of the effective date of this chapter, it has acquired and owns easement rights for all City sewerage facilities which are located in or on private property, whether or not the City's easement rights are evidenced by a recorded written instrument or other writing providing notice of the City's claimed easement rights.
- C. Creation of City Easements. City easements may be created in any manner allowed by law so long as the easement has been approved and accepted by the City. Notwithstanding the above, easements to be conveyed to the City should ordinarily be created by express grant or reservation in a written instrument eligible for recordation in official records of San Mateo County. The form and content of the instrument shall be acceptable to the City but shall not be effective until the instrument has been duly delivered to, approved and accepted by the City.
- D. Minimum Standards for Easements. Unless expressly waived by the City for good cause, an easement conveyed to the City shall be subject to the following minimum standards:
1. For the purpose of exercising its principal easement rights, the City shall also be afforded the right of ingress and egress to, from, along, on, in, above and below the surface of the land encompassed by the easement.
  2. The easement shall be subject to the provisions of this chapter and to other rules and regulations promulgated by the City.
  3. In the case of easements for pipelines, the easement shall have a horizontal width of not less than ten feet.
  4. Easements shall be for the exclusive benefits of the City or they may be non-exclusive. If the easement is nonexclusive, other users of the territory encompassed by the easement shall be prohibited from interfering with the City's easement rights.
- E. Unlawful Acts. It is unlawful for any person to:
1. Cause or permit an unauthorized encroachment on a City easement;
  2. After notice, fail to abate or otherwise remove or discontinue any action or condition which results in an unauthorized encroachment;
  3. Abandon any items of property, including motor vehicles, on or within a City easement;
  4. Deposit any debris, garbage, trash, toxic substance, liquid or solid waste or other form of refuse on or within a City easement;
  5. Cause, permit or maintain any activity or condition off or outside the territory of a City easement which causes directly or indirectly a significant interference with the City's easement rights; or
  6. Cause or permit any activity or condition on or within a City easement which constitutes a public or private nuisance.
- F. Authorized and Unauthorized Encroachments. A property owner may make use of the land over which the City has an easement if those uses do not result in a significant easement interference. Except as provided in subsection G of this section, Class Two and Class Three encroachments are not authorized and shall not be maintained or permitted on City easements.

The owner of the property over which the City has an easement and any other person who has caused or permitted an unauthorized encroachment to exist is obligated to promptly remove and eliminate the encroachment.

G. Encroachment Permits. The owner of a property over which the City has an easement who wishes to maintain a Class Two encroachment or to obtain grandfather relief for a Class Three encroachment shall apply for and obtain a City encroachment permit. No permit is required for a Class One encroachment. Encroachment permits are subject to the following standards:

1. The City shall establish and the applicant shall comply with such procedures as are required to process and act on the application, including payment of applicable fees, completion of approved application forms, and submission of specified information needed to evaluate the application.
2. An encroachment permit shall be issued if:
  - a. The applicant has fully complied with all City requirements and procedures pertaining to issuance of the permit;
  - b. The applicant has accepted and agreed to all conditions upon which the permit is proposed to be issued per subsection H of this section;
  - c. With respect to Class Two encroachments, the City finds that, as conditioned, the permit shall ensure that the Class Two encroachments authorized by the permit will not result in significant interference with the City's easement; and
  - d. With respect to grandfathered Class Three encroachments, the City finds that, as conditioned, the permit shall to the greatest extent reasonably possible preserve the City's easement rights while at the same time, in the interests of fairness and substantial justice, make appropriate allowances for justifiable concerns of the property owner. Under no circumstances shall a Class Three encroachment be eligible for grandfathering if:
    - i. Grandfathering could result in a violation of any statute, regulation, order or other provision of law promulgated or enacted by a Federal, State or local government entity having jurisdiction over the matter in question;
    - ii. Grandfathering would be materially detrimental to the public health, safety and welfare; or
    - iii. Grandfathering would result in undue hardship to other persons.

H. Encroachment Permit Conditions. The City shall not issue an encroachment permit unless conditioned as follows:

1. The applicant shall be obliged to fully perform and satisfy all conditions of the permit;
2. When required by the City, the applicant shall cooperate with the City and shall execute a written instrument in recordable form which, when recorded by the City, will place on public record provisions of the permit which are intended to be known and binding upon any person who succeeds to ownership of an interest in the real property which is subject to the City's easement;
3. The permit shall be subject to all of the provisions of this chapter;
4. With respect to Class Two encroachments, the permit shall be conditioned so as to mitigate the effects of the encroachment and safeguard the City's easement rights such that the effect of the mitigation measures and safeguards shall prevent the encroachment from causing significant interference with the City's easement; and
5. With respect to grandfathered Class Three encroachments, the permit shall include conditions, which, to the extent reasonably possible under the circumstances, will:
  - a. Eliminate the encroachment in due course; and
  - b. Until eliminated, alleviate the impacts of the encroachment on the City's easement by requiring mitigation measures and/or safeguards and/or by shifting to the property owner and/or other responsible parties.

I. Other Regulations. By resolution of the City Council adopted from time to time, as the Council deems necessary and appropriate, the Director may promulgate and amend rules, regulations and procedures to implement the provisions of this chapter, including the following:

1. Establish rules, regulations, and procedures concerning applications for and issuance of encroachment permits;
  2. List and categorize activities and conditions which constitute encroachments; and
  3. Establish standard encroachment permit conditions applicable to specific activities and conditions including mitigation measures, safeguards and similar provisions.
- J. Grandfathering. A Class Three encroachment which was in existence prior to the effective date of this chapter may be maintained and shall not be subject to immediate mandatory removal if the encroachment is grandfathered pursuant to this section. An encroachment shall be grandfathered if the applicant has applied for and obtained an encroachment permit pursuant to subsection G of this section.
- K. Removal and Restoration of Improvements Which Are Disturbed by City Activities. Whenever City activities in City easements result in the need for improvements or other activities or conditions of the real property subject to the easement to be removed or otherwise disturbed, the following provisions shall apply:
1. Conditions and Activities Not Constituting Unauthorized Encroachments. The City may, at the expense of the City, temporarily remove or discontinue the activity or condition, and, upon completion of the City's activities, the City shall, at the City's expense, restore the activity or condition in kind.
  2. Encroachments Authorized by Permit. If the encroachment is authorized pursuant to an encroachment permit and the encroachment permit does not provide otherwise, the City shall, at the City's expense, restore the activity or condition in kind.
  3. Unauthorized Encroachments. Unauthorized encroachments shall be permanently removed by the property owner and/or other responsible person and shall not be restored. Removal shall be performed promptly by and at the expense of the property owner/responsible parties. If the encroachment has not been removed within a reasonable time after notice has been given by the City, or if the urgency of the City's easement activities requires that the activities be commenced without prior notice, the City may remove the encroachment itself, but the removal costs shall be charged back to the property owner/responsible party.

L. City Remedies. Remedies granted to the City in this chapter are in addition to any other rights and remedies which are available under this chapter or which are otherwise afforded by law, and the City is entitled to exercise any and all such rights and remedies, either serially or cumulatively, as determined by the City.

M. Request for Relief by Affected Persons. Any person who contends that his/her/its rights have been adversely affected by any action or failure to act by the City in connection with the provisions of this chapter may seek relief from the City under Section 13.08.190. (Ord. 1424 § 1 (part), 2010)

#### **13.08.180 Enforcement.**

A. Enforcement Responsibility. The primary responsibility for enforcement of the provisions of this chapter shall be vested in the Director; provided, however, that the Director shall be and is hereby authorized and empowered to delegate his authority hereunder to such officers, employees or agents of the City or the Authority as he shall designate; and provided further, that field inspectors or other employees of the Authority, upon written certification thereof from the Authority to the Director, are hereby authorized to act as enforcement agents of the City for and on behalf of the Director with power to inspect and issue notices for violations of the provisions of this chapter. Notwithstanding the foregoing, all actual prosecutions for violations of any of the provisions of this chapter, including, without limitation, levying of fines, termination of service, revocation of permits, and civil and criminal court actions, shall be the exclusive responsibility of the City.

B. Unauthorized Discharges.

1. Notification. Every user shall notify the Director and the Authority immediately upon discharging wastes or wastewater in violation of the provisions of this chapter, or any permit issued pursuant to this chapter. A user who discharges, causes to be discharged or permits to be discharged such wastes or wastewater shall, within fifteen days of the occurrence thereof, submit a written report to the Director describing the cause or causes of such unauthorized discharge, and the measures taken or proposed to be taken to prevent future similar occurrences. Such report shall not relieve any user of liability for any expense, loss or damage suffered or incurred by the City or Authority, directly or indirectly, by reason of such unauthorized discharge. Such report shall not relieve or absolve any person from civil liabilities or imposition of civil or criminal penalties in any manner whatsoever.

2. Notices to Employees. Every nondomestic user, every user issued a mandatory or discretionary wastewater discharge permit pursuant to Section 13.08.130, shall prominently post a notice on the user's premises advising of the requirement to notify the Director and the Authority of any unauthorized discharge, including the telephone number of the Director to be called in the event of such discharge. The Director and the Authority may require any user to inform and advise his officers, agents and employees of any particular provisions of this chapter, any permit issued pursuant to this chapter or other requirements of law, or of any other information which may be of assistance in ensuring compliance with said chapter, permit or other requirements of law.

3. Cease and Desist Orders. Upon determination by the Director or the Authority that a discharge of waste or wastewater has occurred, or is occurring, or is about to occur, in violation of any provision of this chapter, or of any provision of any permit issued pursuant to this chapter, the Director may issue an order to cease and desist such discharge, or practice, or operation likely to cause such discharge, and further order such person to:

- a. Comply forthwith with the provisions of this chapter, or the provisions of any permit issued pursuant to this chapter;
- b. Comply in accordance with a time schedule established by the Director; and/or
- c. Take appropriate remedial or preventative action.

C. Time Schedules. Upon a determination by the Director that a discharge of waste or wastewater has occurred, or is occurring, or is about to occur in violation of the provisions of this chapter, or in violation of any provision of a permit issued pursuant to this chapter, the Director may require the person or user having so discharged or discharging, or about to discharge, to submit for approval, subject to such modifications, terms and conditions as the Director reasonably deems necessary or appropriate, a detailed time schedule of specific actions which the person or user shall take in order to eliminate or prevent such violation or violations.

D. Emergency Corrections.

1. In the event repairs, construction or other public work is performed on any premises pursuant to any provision of law relating to the emergency performance of public work and the expenditure of public funds therefor, or pursuant to any other provision of law authorizing public work on private property in order to correct, eliminate or abate a condition upon such premises which threatens to cause, causes or caused damage to the sewerage facilities, or which otherwise threatened to cause, causes or caused a violation of any provision of this chapter, or of any permit issued pursuant to this chapter, or of any other requirement of law, the user responsible for the occurrence or condition giving rise to such work, the occupant and the owner of the premises shall be liable, jointly and severally, to the City for such public expenditure.

2. If such user, occupant or owner shall fail to pay the full amount of such public expenditures within thirty days after billing therefor, the City Council may, by order entered upon its minutes, declare that such amount, and the administrative expenses incurred by the City incident to such expenditures, shall be transmitted to the County Assessor and County Tax Collector by copy of the order so providing, certified by the City Clerk. Upon making such order, the unpaid amount shall constitute a lien upon the premises, and the amount thereof shall be added to the next succeeding tax bill against such property, and shall be collectable at the same time and in the same manner as general municipal taxes are collected, and shall be subject to the same penalties and procedure in case of delinquency.

E. Damages to Sewerage Facilities.

1. In the event damages are caused to the sewerage facilities, or any portion thereof, by reason of a waste or wastewater discharge from any premises in violation of the provisions of this chapter, or of any permit issued pursuant to this chapter, or of any other requirement of law, the user responsible for the occurrence or condition giving rise to such damages, the occupant, and the owner of the premises shall be liable, jointly and severally, to the City, for the full amount thereof.

2. If such user, occupant or owner shall fail to pay the full amount of such damages within thirty days of billing therefor, the City Council may, by order entered upon its minutes, declare that such amount and the administrative expenses incurred by the City incident to such damages, shall be transmitted to the County Assessor and County Tax Collector by copy of the order so providing, certified by the City Clerk.

3. Upon making such order, the unpaid amount shall constitute a lien upon the premises, and the amount thereof shall be added to the next succeeding tax bill against such property, and shall be collectable in the same manner as general

municipal taxes are collected, and shall be subject to the same penalties and procedures in case of delinquency.

F. Emergency Termination of Service.

1. Subject to the provisions of this section, the City may terminate sanitary sewerage services in cases of emergency to any premises from which wastes or wastewater have been discharged, are being discharged, or are threatened to be discharged, in violation of any provision of this chapter or of any permit issued pursuant to this chapter or of any other requirement of law.

2. Notification of intention to terminate service shall be given by the Director to the user or person found by the Director to be in violation of such provision or requirement, which notice shall state the time, date and place the hearing shall be held by the City Council upon the question of termination, which date shall be not less than ten days after giving such notice. If the person so found to be in violation is not the owner or occupant of the premises, such notice shall also be given to the occupant, and in all cases shall be given by mail to the owner of the premises at the address shown therefor on the last equalized assessment roll in the office of the county assessor.

3. Any owner of the premises, the user, or the person determined to be in violation of the provisions of this chapter, or of any permit issued pursuant to this chapter, or of any other requirement of law, the Director, and such other persons as the City Council may deem appropriate shall be heard at the hearing on the question of termination of service.

a. If, upon completion of the hearing, the City Council finds that no violation of the provisions of this chapter, or of any permit issued pursuant to this chapter, or of any other requirement of law, has occurred, the City Council shall order that service shall not be terminated to the premises.

b. If, upon completion of the hearing, the City Council determines that such a violation has occurred, or is occurring, or is about to occur, the City Council may order that service shall be terminated, or may order that services shall be terminated within a specified period of time unless such violation, or the conditions or activities threatening such violation, cease forthwith, or within the specified period of time, or the City Council may make such other order as it deems appropriate under the circumstances and in furtherance of the purposes and intent of this chapter.

G. Permit Revocation. The Director may revoke any permit issued pursuant to the provisions of this chapter upon a determination by him that:

1. The permittee has failed to report factually the wastewater constituents, characteristics or volume of the permitted wastewater discharge;
2. The permittee has failed to report significant or substantial changes in the operations conducted upon the premises to which the permit pertains, or significant or substantial changes in wastewater constituents, characteristics or volumes pertaining to such premises;
3. The permittee has refused, or failed to permit, reasonable access to the premises to which the permit pertains; or
4. The permittee has violated, caused to be violated, or permitted to be violated, any term, condition or provision of the permit.

In the event that Director preliminarily determines that a permit should be revoked for any of the foregoing reasons, he or she shall notify the permittee and the owner and occupant of the premises (if such persons are not the same as the user) to which the permit pertains of a hearing on the question of revocation. Notice of such hearing shall be given in the manner provided for giving notices of violation pursuant to subsection I of this section and such hearing shall be conducted in the manner provided for enforcement hearings pursuant to subsection J of this section. Appeals from the determination of Director may be taken in the manner provided for appeals pursuant to Section 13.08.190.

H. Notice of Violation. Whenever the Director finds that any such user has violated or is threatening to violate any provision or requirement of these regulations, or any provision or requirement of any permit issued pursuant to these regulations, or any prohibition, limitation, or requirement of law, the Director shall serve upon such user written notice stating the nature of the violation, ordering cessation thereof and directing submittal of a written explanation of the cause of the violation. Service of such notice shall be made personally or by certified or registered mail (return receipt requested), addressed to the premises which is the source or location of such violation, the address of the user or permittee theretofore specified by said user or permittee and also to the owner of said premises as shown on the last equalized assessment roll prepared by the County

Assessor, County of San Mateo. Within thirty days of the date of said notice, the user, permittee, and/or owner of the premises shall submit to the Director a written explanation of the cause of such violation.

I. Enforcement Hearing. The Director may order any user who causes or allows an unauthorized discharge to enter the sewerage facilities or who has otherwise violated, or is threatening to violate, any provision or requirement of this chapter, or any provision or requirement of any permit issued pursuant to this chapter, or any prohibition, limitation or requirement of law, to show cause before him or her why a proposed enforcement action should not be taken. Notice of a hearing thereon shall be served on the user and/or permittee (if such violation pertains to a permit issued pursuant to these regulations) specifying the time, place and date of the hearing, the nature of the violation of these regulations or of any permit issued pursuant to these regulations or of any other requirement of law giving rise to the enforcement proceedings, a proposed enforcement action or actions and directing the user to show cause why the proposed enforcement action should not be taken. Said notice may be combined with a notice of violation issued pursuant to subsection I of this section. Notice of the hearing shall be served personally or by certified mail (return receipt requested) addressed, in the case of a user or permittee, to the premises where the alleged violation has taken, or is taking place, to the address theretofore specified by said user or permittee and also to the owner of said premises as shown on the last equalized assessment roll prepared by the County Assessor, County of San Mateo. Said hearing shall be held within sixty days following the date of service of the notice.

J. Hearing Procedure. At the hearing the user and/or permittee and the owner of the premises shall be given the opportunity to be heard. Formal rules of evidence shall not be applicable; provided, however, that oral and documentary evidence shall be received by the Director relevant to the issue being heard. A verbatim transcript of the record need not be prepared; provided, however, that if the user, permittee, or owner of the premises requests a transcript, the Director shall cause a transcript to be prepared; provided, further, that the cost of preparing such transcript shall be borne by the party requesting it. A request for the preparation of a transcript shall be made not less than five business days prior to the hearing. The requesting party shall deposit with the Director the estimated cost of providing a transcript prior to commencement of the hearing. Failure to deposit the estimated cost shall be deemed a waiver of the request, and in such instance the Director shall not be required to provide a transcript. The notice of hearing shall contain notification of the requirements hereof relating to the preparation of a transcript.

K. Enforcement Decision. Upon completion of the hearing, and upon a finding by the Director that a violation of this chapter or of any permit issued pursuant to this chapter or any other requirement of law has occurred, the Director may issue an order to the user, permittee, or owner of the premises to which the violation pertains, who or which the Director finds responsible for said violation, directing that, following a specified time period, sewerage service shall be discontinued, and/or the permit with respect to which the violation occurred shall be revoked unless (1) adequate treatment facilities, devices or other related appurtenances shall have been installed or used in conjunction with existing treatment facilities, devices or other related appurtenances, or (2) existing treatment facilities, devices or related appurtenances are properly operated, maintained or repaired, or (3) other appropriate remedial action specified by the Director shall have been taken. The Director may issue such other orders and directives as are necessary or appropriate to obtain compliance with the provisions of this chapter, any permit issued pursuant to this chapter or any other requirement of law. (Ord. 1424 § 1 (part), 2010)

#### **13.08.190 Appeals.**

A. Right to Appeal. Any user, permittee, applicant or other person aggrieved by any decision, action, finding, determination, order or directive of the Director, made or authorized pursuant to the provisions of this chapter, or any permit issued pursuant to this chapter, or interpreting or implementing the same, may file a written request with the Director for reconsideration thereof within ten days of such decision, action, finding, determination or order, setting forth in detail the facts supporting such user's or person's request for reconsideration. The Director shall render a final decision within ten days of the receipt of such request for reconsideration.

B. Appeal to City Council. Any user, permittee, applicant or other person aggrieved by the final determination of the Director may appeal such determination to the City Council within ten days of notification by the Director of his final determination. Written notification of such appeal shall be filed with the City Clerk within ten days after notification of the final determination of the Director, and shall set forth in detail the facts and reasons supporting the appeal.

C. Hearing Procedure. Hearing on the appeal shall be heard by the City Council within thirty days from the date of filing the notice of appeal. The appellant, the Director, and such other persons as the Council may deem appropriate shall be heard at the hearing on such appeal. Upon conclusion of the hearing, the City Council may affirm, reverse or modify the final determination of the Director as the City Council deems just and equitable, and in furtherance of the provisions, purposes and intent of this chapter. During the pendency of any such appeal, the final determination of the Director shall remain in full force and effect. The City Council's determination on the appeal shall be final. (Ord. 1424 § 1 (part), 2010)

#### **13.08.200 Public nuisance.**

Any discharge, or threatened discharge, or any condition which is in any manner in violation of the provisions of this chapter, or of any permit issued pursuant to this chapter, or of any order or directive of the Director authorized by this chapter, shall be and the same is hereby declared to be unlawful and a public nuisance. Such nuisance may be abated, removed or enjoined, and damages assessed therefor, in any manner provided by law. (Ord. 1424 § 1 (part), 2010)

### **13.08.210 Violations and penalties.**

A. Remedies Cumulative. The remedies provided for in this chapter shall be cumulative and not exclusive, and shall be in addition to any or all other remedies available to the City.

B. Penalties.

1. Any person violating any of the provisions or failing to comply with any of the mandatory requirements of the ordinances of the City is guilty of a misdemeanor, unless the violation is made an infraction by ordinance.
2. Except in cases where a different punishment is prescribed by any ordinance of the City, any person convicted of a misdemeanor for violation of an ordinance of the City is punishable by a fine of not more than one thousand dollars, or by imprisonment not to exceed six months, or by both such fine and imprisonment.
3. Any person convicted of an infraction for violation of an ordinance of the City is punishable by:
  - a. A fine not exceeding one thousand dollars for a first violation;
  - b. A fine not exceeding five thousand dollars for a second violation of the same ordinance within one year; or
  - c. A fine not exceeding five thousand dollars for each additional violation of the same ordinance within one year.
4. Each person is guilty of a separate offense for each and every day during any portion of which any violation of any provision of this chapter is committed, continued or permitted by any such person, and he shall be punishable accordingly.
5. In addition to the penalties set out in this chapter, any condition caused or permitted to exist in violation of any of the provisions of this chapter shall be deemed a public nuisance and may be, by the City, summarily abated as such, and each day such condition continues shall be regarded as a new and separate offense. (Ord. 1424 § 1 (part), 2010)

### **13.08.220 Civil assessments.**

Any user, permittee, or owner of premises or other person who or which violates any requirement of this chapter, or of any permit, directive, or order issued or made pursuant to this chapter requiring pretreatment of any industrial waste which would otherwise be detrimental to the sewerage facilities or their proper and efficient operation and maintenance, the health and safety of the employees of the City or the environment or which requires the prevention of the entry of such waste into the sewerage facilities may be civilly liable pursuant to the provisions of California Government Code Section 54740 or 54740.5. The City Manager is hereby authorized to issue administrative complaints pursuant to Government Code Section 54740.5. (Ord. 1424 § 1 (part), 2010)

## **Chapter 13.10 OUTSIDE SEWER CONNECTIONS**

Sections:

**13.10.010 Purpose.**

**13.10.020 Applicability.**

**13.10.030 Sewer service connection criteria.**

**13.10.040 Application.**

**13.10.050 General regulations.**

**13.10.060 Findings.**

**13.10.070 Permits and fees.**

**13.10.010 Purpose.**

The purpose of establishing requirements for outside sewer connections is intended to:

- A. Protect public health and safety by establishing standards for sewer connections for residential, commercial/industrial or lands of other uses into the City's sanitary sewer system;
- B. Preserve, protect and enhance the character of residential neighborhoods; and
- C. Remedy the public health and safety impacts of failed on-site solid waste disposal systems. (Ord. 1439 § 4 (Exh. D (part)), 2011)

**13.10.020 Applicability.**

Developed properties with only one primary single-family residence on each property, located in the unincorporated territory within the Local Agency Formation Commission (LAFCo) adopted sphere of influence of San Carlos which may be approved for annexation by LAFCo, may be permitted to connect to the City's sanitary sewer system through an outside sewer connection agreement, provided the provisions of this chapter are met. The City may consider new or extended services by contract or agreement within the sphere of influence in anticipation of annexation and/or outside the sphere of influence to respond to an existing or impending threat to public health or safety of the public or the affected residents upon LAFCo authorization in accordance with Government Code Section 56133. (Ord. 1439 § 4 (Exh. D (part)), 2011)

**13.10.030 Sewer service connection criteria.**

A. City sanitary sewer service may be provided on developed property contiguous to the City of San Carlos by approval of the City Council under the following circumstances:

1. Upon submittal of certification from the San Mateo County Environmental Health Services Division that the septic system is failing and a dangerous public health problem exists, no other on-site disposal system is feasible, and that the only available remedy is connection to an existing public sewer system; and
2. The need for the sanitary sewer connection is not the result of an illegal subdivision; and
3. The applicant for a sewer service connection has submitted a rezoning and annexation application in accordance with Chapter 18.38.

B. City sanitary sewer service may be provided on developed property which is not contiguous to parcels located in the City of San Carlos by approval of the City Council under the following circumstances:

1. Upon submittal of certification from the San Mateo County Environmental Health Services Division that the septic system is failing and a dangerous public health problem exists, no other on-site disposal system is feasible, and that the only available remedy is connection to an existing public sewer system; and
2. The need for the sanitary sewer connection is not the result of an illegal subdivision; and
3. The applicant for a sewer service connection has submitted evidence from LAFCo that the connection is authorized in accordance with Government Code Section 56133.
4. The applicant for a sewer service connection shall provide for future annexation in accordance with Chapter 18.38 by entering into an irrevocable agreement to annex to San Carlos.

C. City sanitary sewer service on developed properties which do not meet the criteria of subsection A or B of this section and on undeveloped properties shall only be provided in conjunction with rezoning and annexation pursuant to Chapter 18.38. (Ord. 1439 § 4 (Exh. D (part)), 2011)

**13.10.040 Application.**

A request for City sanitary sewer service is accompanied by an application for an outside sewer service agreement subject to provisions of this chapter. (Ord. 1439 § 4 (Exh. D (part)), 2011)

**13.10.050 General regulations.**

A. Connections to Sanitary Sewer. The parcel(s) can be connected to the City's sanitary sewer to the satisfaction of the Director of Public Works. All costs of installation of new sewer systems and laterals shall be at the owner's expense including inspection, plan check fees, and other City fees and annual service charges. Absent a finding of a public health emergency by the San Mateo County Director of Environmental Health Services, connections by way of lateral easements shall not be allowed.

B. Rezoning and Annexation.

1. Properties applying under Section 13.10.030(A) shall be prezoned pursuant to Chapter 18.38.
  2. For properties applying under Section 13.10.030(B), annexation of the property shall occur per the criteria specified in Chapter 18.38 within five years of the date of an outside sewer service agreement specified in subsection C of this section unless other provisions have been made through the irrevocable agreement to annex to San Carlos.
- C. Outside Sewer Service Agreement. In issuing an outside sewer service agreement, the City and all parties with right, title, or interest in the property have entered into an irrevocable agreement to annex to San Carlos at such time as the property becomes contiguous or otherwise capable of annexing to San Carlos. The form of such irrevocable agreement to annex shall be satisfactory to the City Attorney and shall be binding on all future owners and parties of interest. Such agreement shall bind the applicant to the costs for improvements to public facilities and may include bonding or other financial instruments.
- D. Deed Restriction. The property owner has recorded a deed restriction with City notification procedures, on the property specifying that the property can only be re-subdivided in accordance with the San Carlos Subdivision Ordinance standards, and no additional sewer connection can be requested without annexation to the City of San Carlos.
- E. Buildings and Structures. All new buildings and structures constructed on the parcel(s) shall be constructed in accordance with the provisions of the San Carlos Municipal Code and the ordinances of the applicable fire agency. The City shall request San Mateo County to grant plan check and building inspection authority to the City of San Carlos for all such buildings and structures.
- F. Nonconformities. Nonconforming uses, structures and lots are subject to the provisions of Chapter 18.19, Nonconforming Uses, Structures and Lots.
- G. Conveyance by Sanitation District. When the connection to the City's sanitary sewer requires conveyance through another sanitation district, the subject parcel shall contract with the available sanitation district and all appropriate fees for connection, maintenance and use shall be paid. Such conveyance shall only be applicable to those parcels in the vicinity of such a district and conveyance is feasible as determined by the Director of Public Works.
- H. Other Regulations. The City may impose such reasonable conditions or restrictions as it deems necessary to secure the purpose of the City's General Plan and Municipal Code and to assure operation of the use in a manner compatible with existing and potential uses of adjoining properties and in the general vicinity, and may require guarantees and evidence that such conditions are being, or will be, complied with. (Ord. 1439 § 4 (Exh. D (part)), 2011)

**13.10.060 Findings.**

- A. The Director of Public Works has determined there is sufficient capacity in the trunk lines and at the treatment plant to adequately provide sewer service to the property.
- B. Annexation of the parcel meeting the criteria for sewer service connection:
1. As specified in Section 13.10.030(A), is possible and the applicant has applied for rezoning and annexation and entered into an irrevocable agreement to annex to San Carlos; or
  2. As specified in Section 13.10.030(B), would not be possible:
    - a. Due to noncompliance with City, County or LAFCo policies as determined through submittal of certification by Local Agency Formation Commission staff; and
    - b. Even though the property is within the LAFCo adopted sphere of influence of San Carlos, it is not currently contiguous to the San Carlos city limits or otherwise immediately capable of annexing to San Carlos; and
    - c. The Community Development Director and Public Works Director have made a written determination that annexation of the property is likely to occur within five years of the date of the outside sewer service agreement and the applicant has entered into an irrevocable agreement to annex to the City of San Carlos. (Ord. 1439 § 4 (Exh. D (part)), 2011)

**13.10.070 Permits and fees.**

The following permits and fees shall be required:

- A. Provision has been made for the payment of all planning and building permit fees, including the below market rate in-lieu housing fees, to the City of San Carlos as a condition of building permit issuance as required by Section 13.10.050(E).

B. Payment of all City and other sanitation district sewer connection fees and other fees associated with the connection shall be required. The County shall agree to collect the annual sewer service charges and reimburse the City.

C. The applicant shall be responsible for all fees involved in the preparation of all the agreements, including reimbursement agreements and outside sewer service agreements.

D. Provision has been made for the property owner to pay all costs and fees associated with the sewer connection, including but not limited to installation of all necessary pipes and appurtenances, payment of all connection and services fees. (Ord. 1439 § 4 (Exh. D (part)), 2011)

## **Chapter 13.12 UNDERGROUND UTILITY DISTRICTS**

Sections:

**13.12.010 Definitions.**

**13.12.020 Removal of overhead facilities—Public hearing.**

**13.12.030 Designation of districts—Council resolution.**

**13.12.040 Compliance with undergrounding order.**

**13.12.050 Exceptions—Emergency service.**

**13.12.060 Exceptions—Authorized when.**

**13.12.070 Designation of districts—Notice requirements.**

**13.12.080 Utility company responsibilities.**

**13.12.090 Property owner responsibilities.**

**13.12.100 City responsibilities.**

**13.12.110 Extension of time.**

**13.12.120 Violation—Penalty.**

**13.12.010 Definitions.**

Whenever in this chapter the words or phrases hereinafter in this section defined are used, they shall have the respective meanings assigned to them in the following definitions:

A. "Commission" means the Public Utilities Commission of the State of California.

B. "Person" means and includes individuals, firms, corporations, partnerships, and their agents and employees.

C. "Poles, overhead wires and associated overhead structures" means poles, towers, supports, wires, conductors, guys, stubs, platforms, crossarms, braces, transformers, insulators, cutouts, switches, communications circuits, appliances, attachments and appurtenances located above-ground within a district and used or useful in supplying electric, communication or similar or associated service.

D. "Underground Utility District" or "District" means that area in the City within which poles, overhead wires and associated overhead structures are prohibited, as such area is described in a resolution adopted pursuant to the provisions of Sections 13.12.030 of this chapter.

E. "Utility" means and includes all persons or entities supplying electric, communication or similar or associated service by means of electrical materials or devices. (Ord. 655 § 1, 1968)

**13.12.020 Removal of overhead facilities—Public hearing.**

A. The Council may from time to time call public hearings to ascertain whether the public necessity, health, safety or welfare requires the removal of poles, overhead wires and associated overhead structures within designated areas of the City and the underground installation of wires and facilities for supplying electric, communication or similar or associated service. The City Clerk shall notify all affected property owners, as shown on the last equalized assessment roll, and utilities concerned, by mail, of the time and place of such hearings at least fifteen days prior to the date thereof.

B. Each such hearing shall be open to the public and may be continued from time to time. At each such hearing, all persons interested shall be given an opportunity to be heard. The decision of the Council shall be final and conclusive. (Ord. 978 § 8, 1987; Ord. 655 § 2, 1968)

**13.12.030 Designation of districts—Council resolution.**

A. If, after any such public hearing, the Council finds that the public necessity, health, safety or welfare requires such removal and such underground installation within a designated area, the Council shall, by resolution, declare such designated area an Underground Utility District, and order such removal and underground installation.

B. Such resolution shall include a description of the area comprising such district, and shall fix the time within which such removal and underground installation shall be accomplished and within which affected property owners must be ready to receive underground service. A reasonable time shall be allowed for such removal and underground installation, having due regard for the availability of labor, materials and equipment necessary for such removal, and for the installation of such underground facilities as may be occasioned thereby. (Ord. 655 § 3, 1968)

**13.12.040 Compliance with undergrounding order.**

Whenever the Council creates an Underground Utility District and orders the removal of poles, overhead wires and associated overhead structures therein, as provided in Section 13.12.030 of this chapter, it is unlawful for any person or utility to erect, construct, place, keep, maintain, continue, employ or operate poles, overhead wires and associated overhead structures in the District after the date when such overhead facilities are required to be removed by such resolution, except as such overhead facilities may be required to furnish service to an owner or occupant of property prior to the performance by such owner or occupant of the underground work necessary for such owner or occupant to continue to receive utility service, as provided in Section 13.12.090 of this chapter, and for such reasonable time required to remove such facilities after the work has been performed, and except as otherwise provided in this chapter. (Ord. 655 § 4, 1968)

**13.12.050 Exceptions—Emergency service.**

Notwithstanding the provisions of this chapter, overhead facilities may be installed and maintained for a period, not to exceed ten days, without authority of the Director of Public Works, in order to provide emergency service. The Director of Public Works may grant special permission, on such terms as the Director of Public Works may deem appropriate, in cases of unusual circumstances, without discrimination as to any person or utility, to erect, construct, install, maintain, use or operate poles, overhead wires and associated overhead structures. (Ord. 655 § 5, 1968)

**13.12.060 Exceptions—Authorized when.**

In any resolution adopted pursuant to Section 13.12.030 of this chapter, the City may authorize any or all of the following exceptions:

- A. Any municipal facilities or equipment installed under the supervision and to the satisfaction of the City Engineer;
- B. Poles or electroliers used exclusively for street lighting;
- C. Overhead wires, exclusive of supporting structures, crossing any portion of a district within which overhead wires have been prohibited, or connecting to buildings on the perimeter of a District, when such wires originate in an area from which poles, overhead wires and associated overhead structures are not prohibited;
- D. Poles, overhead wires and associated overhead structures used for the transmission of electric energy at nominal voltages in excess of thirty-four thousand five hundred volts;
- E. Overhead wires attached to the exterior surface of a building by means of a bracket or other fixture and extending from one location on the building to another location on the same building or to an adjacent building without crossing any public street;
- F. Antennae, associated equipment and supporting structures used by a utility for furnishing communication services;
- G. Equipment appurtenant to underground facilities, such as surface-mounted transformers, pedestal-mounted terminal boxes and meter cabinets, and concealed ducts;
- H. Temporary poles, overhead wires and associated overhead structures used or to be used in conjunction with construction projects. (Ord. 655 § 6, 1968)

**13.12.070 Designation of districts—Notice requirements.**

A. Within ten days after the effective date of a resolution adopted pursuant to Section 13.12.030 of this chapter, the City Clerk shall notify all affected utilities and all persons owning real property within the District created by such resolution of the adoption

thereof. The City Clerk shall further notify such affected property owners of the necessity that, if they or any person occupying such property desire to continue to receive electric, communication or similar or associated service, they or such occupant shall provide all necessary facility changes on their premises so as to receive such service from the lines of the supplying utility or utilities at a new location.

B. Notification by the City Clerk shall be made by mailing a copy of the resolution adopted pursuant to Section 13.12.030, together with a copy of this chapter, to affected property owners, as such are shown on the last equalized assessment roll and to the affected utilities. (Ord. 655 § 7, 1968)

**13.12.080 Utility company responsibilities.**

If underground construction is necessary to provide utility service within a district created by any resolution adopted pursuant to Section 13.12.030 of this chapter, the supplying utility shall furnish that portion of the conduits, conductors and associated equipment required to be furnished by it under its applicable rules, regulations and tariffs on file with the Commission. (Ord. 655 § 8, 1968)

**13.12.090 Property owner responsibilities.**

A. Every person owning, operating, leasing, occupying or renting a building or structure within a District shall construct and provide that portion of the service connection on his property between the facilities referred to in Section 13.12.080 and the termination facility on or within the building or structure being served. If the above is not accomplished by any person within the time provided for in the resolution enacted pursuant to Section 13.12.030 herein, the City Engineer shall give notice in writing to the person in possession of such premises, and a notice in writing to the owner thereof as shown on the last equalized assessment roll, to provide the required underground facilities within ten days after receipt of such notice.

B. The notice to provide the required underground facilities may be given either by personal service or by mail. In case of service by mail on either of such persons, the notice must be deposited in the United States mail in a sealed envelope with postage prepaid, addressed to the person in possession of such premises at such premises, and the notice must be addressed to the owner thereof as such owner's name appears, and must be addressed to such owner's last known address as the same appears on the last equalized assessment roll, and when no address appears, to General Delivery, City of San Carlos. If notice is given by mail, such notice shall be deemed to have been sent within forty-eight hours after the mailing thereof. If notice is given by mail to either the owner or occupant of such premises, the City Engineer shall, within forty-eight hours after the mailing thereof, cause a copy thereof, printed on a card not less than eight by ten inches in size, to be posted in a conspicuous place on the premises.

C. The notice given by the City Engineer to provide the required underground facilities shall particularly specify what work is required to be done, and shall state that if the work is not completed within thirty days after the receipt of such notice, the City Engineer will provide such required underground facilities, in which case the cost and expense thereof will be assessed against the property benefited and become a lien upon the property.

D. If upon the expiration of the thirty-day period the required underground facilities have not been provided, the City Engineer shall forthwith proceed to do the work; provided, however, if such premises are unoccupied and no electric or communications services are being furnished thereto, the City Engineer shall in lieu of providing the required underground facilities, have the authority to order the disconnection and removal of any and all overhead service wires and associated facilities supplying utility service to the property. Upon completion of the work by the City Engineer, he shall file a written report with the City Council setting forth the fact that the required underground facilities have been provided and the cost thereof, together with a legal description of the property against which such cost is to be assessed. The Council shall thereupon fix a time and place for hearing protests against the assessment of the cost of such work upon such premises, which such time shall not be less than ten days thereafter.

E. The City Engineer shall forthwith, upon the time for hearing such protests having been fixed, give a notice in writing to the person in possession of such premises, and a notice in writing thereof to the owner thereof, in the manner hereinabove provided for the giving of the notice to provide the required underground facilities, of the time and place that the Council will pass upon such report and will hear protests against such assessment. Such notice shall also set forth the amount of the proposed assessment.

F. Upon the date and hour set for the hearing of protests, the Council shall hear and consider the report and all protests, if there be any, and then proceed to affirm, modify or reject the assessment.

G. If any assessment is not paid within five days after its confirmation by the Council, the amount of the assessment shall become a lien upon the property against which the assessment is made by the City Engineer, and the City Engineer is directed

to turn over to the Assessor and Tax Collector a notice of lien on each of such properties on which the assessment has not been paid, and the Assessor and Tax Collector shall add the amount of the assessment to the next regular bill for taxes levied against the premises upon which the assessment was not paid. The assessment shall be due and payable at the same time as the property taxes are due and payable, and if not paid when due and payable, shall bear interest at the rate of six percent per year. (Ord. 655 § 9, 1968)

**13.12.100 City responsibilities.**

The City shall remove at its own expense all City-owned equipment from all poles required to be removed hereunder in ample time to enable the owner or user of such poles to remove the same within the time specified in the resolution enacted pursuant to Section 13.12.030 of this chapter. (Ord. 655 § 10, 1968)

**13.12.110 Extension of time.**

In the event that any act required by this chapter or by a resolution adopted pursuant to Section 13.12.030 hereof cannot be performed within the time provided, on account of shortage of materials, war, restraint by public authorities, strikes, labor disturbances, civil disobedience, or any other circumstances beyond the control of the actor, then the time within which such act will be accomplished shall be extended for a period equivalent to the time of such limitation. (Ord. 655 § 11, 1968)

**13.12.120 Violation—Penalty.**

A. Any person violating any of the provisions or failing to comply with any of the mandatory requirements of the ordinances of the City is guilty of a misdemeanor, unless the violation is made an infraction by ordinance.

B. Except in cases where a different punishment is prescribed by any ordinance of the City, any person convicted of a misdemeanor for violation of an ordinance of the City is punishable by a fine of not more than one thousand dollars, or by imprisonment not to exceed six months, or by both such fine and imprisonment.

C. Any person convicted of an infraction for violation of an ordinance of the City is punishable by:

1. A fine not exceeding one hundred dollars for a first violation;
2. A fine not exceeding two hundred dollars for a second violation of the same ordinance within one year; or
3. A fine not exceeding five hundred dollars for each additional violation of the same ordinance within one year.

D. Each person is guilty of a separate offense for each and every day during any portion of which any violation of any provision of this chapter is committed, continued or permitted by any such person, and he shall be punishable accordingly.

E. In addition to the penalties set out in this chapter, any condition caused or permitted to exist in violation of any of the provisions of this chapter shall be deemed a public nuisance and may be, by the City, summarily abated as such, and each day such condition continues shall be regarded as a new and separate offense. (Ord. 978 § 2 (part), 1987)

**Chapter 13.14  
STORMWATER MANAGEMENT AND DISCHARGE CONTROL**

Sections:

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**13.14.020 Purpose and intent.**

**13.14.030 Definitions.**

**13.14.040 Responsibility for administration.**

**13.14.050 Construction and application.**

**13.14.060 Waiver procedures.**

Article II. Discharge Regulations and Requirements

**13.14.070 Discharge—Pollutants.**

**13.14.080 Discharge—Exceptions to prohibition.**

**13.14.090 Discharge—Violation of permit.****13.14.100 Discharge—Illicit.****13.14.110 Reduction of pollutants in stormwater.****13.14.120 Watercourse protection.****Article III. Inspection and Enforcement****13.14.130 Authority to inspect.****13.14.140 Authority to sample and establish sampling devices.****13.14.150 Notification of spills.****13.14.160 Requirement to test or monitor.****13.14.170 Violation—Misdemeanor.****13.14.180 Violation—Continuing.****13.14.190 Violation—Concealment.****13.14.200 Violation—Civil actions.****13.14.210 Administrative enforcement powers.****13.14.220 Remedies not exclusive.****Article IV. Coordination with Other Programs****13.14.230 Coordination with hazardous materials inventory and response.****13.14.240 Fees.****Article I. General Provisions****13.14.010 Title.**

The ordinance codified in this chapter shall be known as the “City of San Carlos Storm Water Management and Discharge Control Ordinance” and may be so cited. (Ord. 1149 § 1 (I1), 1994)

**13.14.020 Purpose and intent.**

A. The purpose of this chapter is to ensure the future health, safety, and general welfare of City citizens by:

1. Eliminating nonstormwater discharges to the municipal separate storm sewer;
2. Controlling the discharge to municipal separate storm sewers from spills, dumping or disposal of materials other than stormwater;
3. Reducing pollutants in stormwater discharges to the maximum extent practicable.

B. The intent of the ordinance codified in this chapter is to protect and enhance the water quality of our watercourse, water bodies and wetlands in a manner pursuant to and consistent with the Clean Water Act. (Ord. 1149 § 1 (I2), 1994)

**13.14.030 Definitions.**

A. Any terms defined in the Federal Clean Water Act and acts amendatory thereof or supplementary thereto, and/or defined in the regulations for the stormwater discharge permitting program issued by the Environmental Protection Agency on November 16, 1990, or State law (as may from time to time be amended) as used in the ordinance codified in this chapter shall have the same meaning as in that statute or regulations. Specifically, the definition of the following terms included in that statute or regulations are incorporated by reference, as now applicable or as may hereafter be amended: discharge, illicit discharge, pollutant and stormwater. These terms presently are defined as follows:

“Discharge” means (1) any addition of any pollutant to navigable waters from any point source, or (2) any addition of any pollutant to the waters of the contiguous zone or the ocean from any point source other than a vessel or other floating craft.

"Illicit discharge" means any discharge to the City storm sewer system that is not composed entirely of stormwater except discharges pursuant to a NPDES permit and discharges resulting from fire fighting and other emergency response activities.

"Pollutant" means dredged soil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, wrecked or destroyed equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharge into water.

"Stormwater" means stormwater runoff and surface runoff and drainage.

B. When used in this chapter, the following words shall have the meanings ascribed to them in this section:

Authorized Enforcement Official. The City Manager or his/her designee is authorized to enforce the provisions of the ordinance codified in this chapter.

"Best management practices (BMPs)" means schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to waters of the United States. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

"City" means the City of San Carlos.

"City storm sewer system" means and includes but is not limited to those facilities within the City by which stormwater may be conveyed to waters of the United States, including any roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels or storm drains, which is not part of the publicly owned treatment works (POTW) as defined at 40 CFR 122.2.

"Municipal regional permit" means the San Mateo County regional permit as it applies to the City of San Carlos for implementation of NPDES Permit No. CA0029921 and any amendment or reissuance thereof and the term "municipal regional permit" is used interchangeably with NPDES Permit No. CA0029921.

"Nonstormwater discharge" means any discharge that is not entirely composed of stormwater except those noted within an NPDES permit and the ordinance codified in this chapter.

"Premises" means any building, lot parcel, real estate, or land or portion of land whether improved or unimproved, including adjacent sidewalks and parking strips.

"Watercourse" means a natural stream, creek or manmade uncovered channel through which water flows continuously or intermittently. (Ord. 1439 § 4 (Exh. D (part)), 2011; Ord. 1149 § 1 (I3), 1994)

#### **13.14.040 Responsibility for administration.**

This chapter shall be administered for the City by the City Manager and his/her designees. (Ord. 1149 § 1 (I4), 1994)

#### **13.14.050 Construction and application.**

The ordinance codified in this chapter shall be construed to assure consistency with the requirements of the Federal Clean Water Act and acts amendatory thereof or supplementary thereto, applicable implementing regulations, and NPDES Permit No. CA0029921 and any amendment, revision or reissuance thereof. (Ord. 1149 § 1 (I5), 1994)

#### **13.14.060 Waiver procedures.**

A. It is the intent of the ordinance codified in this chapter to protect and enhance water quality while respecting the rights of private property owners to economically viable use of land. It is not the intent of the ordinance codified in this chapter to prohibit all economically viable use of any private lands, nor to result in a confiscatory impact. Accordingly, the purpose of this section is to provide for an administrative procedure for a waiver or modification of a particular provision of the ordinance codified in this chapter in the event the strict application of the ordinance codified in this chapter would result in the denial of all economically viable use of real property.

B. An applicant for a waiver of a provision of the ordinance codified in this chapter shall file a waiver application with the Director of the Public Works Department on a form provided by the Director identifying the provision sought to be waived or modified. The applicant shall file a complete form and shall provide all documentation and information required by the Director to determine whether application of the provision in question will prohibit any economically viable use of the land in question or otherwise have an impermissible confiscatory result.

C. The Director may approve, deny or conditionally approve a waiver application upon making all of the following written findings:

1. That the strict application of the provision for such a waiver or modification is sought would result in the denial of all economically viable uses of the real property in question;
2. To the maximum extent feasible, conditions have been placed upon such a waiver or modification in order to achieve the goals of the ordinance codified in this chapter as closely as possible while still allowing economically viable use of the real property in question;
3. Approval of such a waiver will not result in a public nuisance which would constitute a significant and direct threat to public health or safety. (Ord. 1149 § 1 (I7), 1994)

## **Article II. Discharge Regulations and Requirements**

### **13.14.070 Discharge—Pollutants.**

The discharge of non-stormwater discharges to the City storm sewer system is prohibited. All discharges of material other than stormwater must be in compliance with a NPDES permit issued for the discharge (other than NPDES permit No. CA0029921) and the ordinance codified in this chapter. (Ord. 1149 § 1 (II1), 1994)

### **13.14.080 Discharge—Exceptions to prohibition.**

The following discharges are exempt from the prohibition set forth in Section 13.14.070 of this chapter.

A. The prohibition on discharges shall not apply to any discharge regulated under a National Pollutant Discharge Elimination System (NPDES) permit issued to the discharger and administered by the State of California under authority of the United States Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit and other applicable laws or regulations.

B. Discharges from the following activities will not be considered a source of pollutants to waters of the United States when properly managed: water line flushing and other discharges from potable water sources, municipal street cleaning, municipal park maintenance, landscape irrigation and lawn watering, irrigation water, diverted stream flows, rising groundwaters, infiltration to separate storm drains, uncontaminated pumped groundwater, foundation and footing drains, water from crawl space pumps, air conditioning condensation, springs, individual residential car washings, flows from riparian habitats and wetlands, dechlorinated swimming pool discharges, or flows from fire fighting and other emergency response activity, and accordingly are not subject to the prohibition on discharges. (Ord. 1149 § 1 (II 1.1), 1994)

### **13.14.090 Discharge—Violation of permit.**

Any discharge that would result in or contribute to a violation of NPDES permit No. CA0029921, the terms of which are incorporated herein by reference, and which is on file in the office of the City Clerk, and any amendment, revision or reissuance thereof, either separately considered or when combined with other discharges, is prohibited. Liability for any such discharge shall be the responsibility of the person(s) causing or responsible for the discharge, and such persons shall defend, indemnify and hold harmless the City in any administrative or judicial enforcement action relating to such discharge. (Ord. 1149 § 1 (II 2), 1994)

### **13.14.100 Discharge—Illicit.**

It is prohibited to commence or continue any illicit discharges to the City storm sewer system. (Ord. 1149 § 1 (II 3), 1994)

### **13.14.110 Reduction of pollutants in stormwater.**

Any person engaged in activities which will or may result in pollutants entering the City storm sewer system shall undertake all practicable measures to reduce such pollutants. Examples of such activities include ownership and use of facilities which may be a source of pollutants such as parking lots, gasoline stations, industrial facilities, commercial facilities, stores fronting City streets, etc. The following minimal requirements shall apply:

#### **A. Littering.**

1. No person shall throw, deposit, leave, maintain, keep or permit to be thrown, deposited, placed, left or maintained, any refuse, rubbish, garbage, or other discarded or abandoned objects, articles and accumulations in or upon any street, alley, sidewalk, storm drain inlet, catch basin, conduit or other drainage structures, business place, or upon any public or private lot of land in the City, so that the same might be or become a pollutant, except in containers or in lawfully established dumping grounds.

2. The occupant or tenant, or in the absence of occupant or tenant, the owner, lessee, or proprietor, of any real property in the City in front of which there is a paved sidewalk shall maintain said sidewalk free of litter to the maximum extent practicable.

3. No person shall throw or deposit litter in any fountain, pond, lake, stream or any other body of water in a park or elsewhere within the city.

B. Standard for Parking Lots and Similar Structures. Persons owning or operating a parking lot, gas station pavement or similar structure shall clean those structures as frequently and thoroughly as practicable in a manner that does not result in discharge of pollutants to the City storm sewer system.

C. Best Management Practices for New Developments and Redevelopments. Any construction contractor performing work in the City shall endeavor, whenever possible, to provide filter materials at the catch basin to retain any debris and dirt flowing in to the City's storm sewer system. City may establish controls on the volume and rate of stormwater runoff from new developments and redevelopments as may be appropriate to minimize the discharge and transport of pollutants.

D. Compliance with Best Management Practices. Where best management practices guidelines or requirements have been adopted by the City for any activity, operation or facility which may cause or contribute to the stormwater pollution or contamination, illicit discharges, and/or discharge of non-stormwater to the stormwater system, every person undertaking such activity or operation, or owning or operating such facility shall comply with such guidelines or requirements (as may be identified by the Director of Public Works). (Ord. 1149 § 1 (II 4), 1994)

#### **13.14.120 Watercourse protection.**

Every person owning property through which a watercourse passes, or such person's lessee or tenant, shall keep and maintain that part of the watercourse within the property reasonably free of trash, debris, excessive vegetation and other obstacles which would pollute, contaminate or significantly retard the flow of water through the watercourse; shall maintain existing privately owned structures within a watercourse so that such structures will not become a hazard to the use, function or physical integrity of the watercourse; and shall not remove healthy bank vegetation beyond that actually necessary for said maintenance, nor remove said vegetation in such a manner as to increase the vulnerability of the watercourse to erosion. (Ord. 1149 § 1 (II 5), 1994)

### **Article III. Inspection and Enforcement**

#### **13.14.130 Authority to inspect.**

A. Whenever necessary to make an inspection to enforce any of the provisions of this chapter, or whenever an authorized enforcement official has reasonable cause to believe that there exists in any building or upon any premises any condition which constitutes a violation of the provisions of this chapter, the official may enter such building or premises at all reasonable times to inspect the same or perform any duty imposed upon the official by this chapter; provided, that (1) if such building or premises be occupied, he or she shall first present proper credentials and request entry; and (2) if such building premises be unoccupied, he or she shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and request entry.

B. Any such request for entry shall state that the property owner or occupant has the right to refuse entry and that in the event such entry is refused, inspection may be made only upon issuance of a search warrant by a duly authorized magistrate. In the event the owner and/or occupant refuses entry after such request has been made, the official is empowered to seek assistance from any court of competent jurisdiction in obtaining such entry.

C. Routine or area inspections shall be based upon such reasonable selection processes as may be deemed necessary to carry out the objectives of the ordinance codified in this chapter, including but not limited to random sampling and/or sampling in areas with evidence of stormwater contamination, illicit discharges, discharge of non-stormwater to the stormwater system, or similar factors. (Ord. 1149 § 1 (III 1), 1994)

#### **13.14.140 Authority to sample and establish sampling devices.**

The City shall have the right to establish on any property such devices as are necessary to conduct sampling or metering operations. During all inspections as provided herein, the official may take any samples deemed necessary to aid in the pursuit of the inquiry or in the recordation of the activities on site. (Ord. 1149 § 1 (III 1.1), 1994)

#### **13.14.150 Notification of spills.**

As soon as any person in charge of a facility or responsible for emergency response for a facility has knowledge of any confirmed or unconfirmed release of materials, pollutants or waste which may result in pollutants or non-stormwater discharges

entering the City storm sewer system, such person shall take all necessary steps to ensure the discovery and containment and clean up of such release and shall notify the City of the occurrence by telephoning (415) 593-8011 and confirming the notification by correspondence to the Director of Public Works. (Ord. 1149 § 1 (III 1.2), 1994)

**13.14.160 Requirement to test or monitor.**

Any authorized enforcement official may request that any person engaged in any activity and/or owning or operating any facility which may cause or contribute to stormwater pollution or contamination, illicit discharges, and/or discharge of non-stormwater to the stormwater system, undertake such monitoring activities and/or analysis and furnish such reports as the official may specify. The burden, including costs, of these activities, analysis and reports shall bear a reasonable relationship to the need for the monitoring, analysis and reports and the benefits to be obtained. The recipient of such request shall undertake and provide the monitoring, analysis and/or reports requested. (Ord. 1149 § 1 (III 1.3), 1994)

**13.14.170 Violation—Misdemeanor.**

Unless otherwise specified by ordinance, the violation of any provision of this chapter, or failure to comply with any of the mandatory requirements of this chapter shall constitute a misdemeanor; except that notwithstanding any other provisions of this chapter, any such violation constituting a misdemeanor under this chapter may, at the discretion of the enforcing authority, be charged and prosecuted as an infraction. (Ord. 1149 § 1 (III 2), 1994)

**13.14.180 Violation—Continuing.**

Unless otherwise provided, a person, firm, corporation or organization shall be deemed guilty of a separate offense for each and every day during any portion of which a violation of this chapter is committed, continued or permitted by the person, firm, corporation or organization and shall be punishable accordingly as herein provided. (Ord. 1149 § 1 (III 3), 1994)

**13.14.190 Violation—Concealment.**

Causing, permitting, aiding, abetting or concealing a violation of any provision of this chapter shall constitute a violation of such provision. (Ord. 1149 § 1 (III 4), 1994)

**13.14.200 Violation—Civil actions.**

In addition to any other remedies provided in this section, any violation of this section may be enforced by civil action brought by the City. In any such action, the City may seek, and the Court shall grant, as appropriate, any or all of the following remedies:

- A. A temporary and/or permanent injunction;
- B. Assessment of the violator for the costs of any investigation, inspection or monitoring survey which led to the establishment of the violation, and for the reasonable costs of preparing and bringing legal action under this subsection;
- C. Costs incurred in removing, correcting or terminating the adverse affects resulting from the violation, including reasonable attorney's fees and court costs;
- D. Compensatory damages for loss or destruction to water quality, wildlife, fish and aquatic life. Assessments under this subsection shall be paid to the City to be used exclusively for costs associated with monitoring and establishing stormwater discharge pollution control systems and/or implementing or enforcing the provisions of the ordinance codified in this chapter. (Ord. 1149 § 1 (III 5), 1994)

**13.14.210 Administrative enforcement powers.**

In addition to other enforcement powers and remedies established by the ordinance codified in this chapter, any authorized Enforcement Official has the authority to utilize administrative remedies. (Ord. 1149 § 1 (III 6), 1994)

**13.14.220 Remedies not exclusive.**

Remedies under this article are in addition to and do not supersede or limit any and all other remedies, civil or criminal. The remedies provided for herein shall be cumulative and not exclusive. (Ord. 1149 § 1 (III 7), 1994)

## **Article IV. Coordination with Other Programs**

**13.14.230 Coordination with hazardous materials inventory and response program.**

The first revision of the business plan for any facility subject to the City's hazardous materials inventory response program shall include a program for compliance with this chapter, including the prohibitions on non-stormwater discharges and illicit discharges, and the requirement to reduce stormwater pollutants to the maximum extent practicable. (Ord. 1149 § 1 (IV 1), 1994)

**13.14.240 Fees.**

A fee may be charged to the landowner, lease holder, or occupant of any property in the City to cover the expense(s) of mandated inspection, testing, or maintenance of required stormwater treatment measures as regulated by the municipal regional permit (MRP) as set by City Council in the uniform fee schedule. (Ord. 1439 § 4 (Exh. D (part)), 2011)

**Chapter 13.16  
STORM DRAINAGE FEES**

Sections:

**13.16.010 Purpose of provisions.****13.16.020 Establishment of fee.****13.16.030 Waiver of fees.****13.16.010 Purpose of provisions.**

The provisions of this chapter are to allow for the collection of storm drainage fees pursuant to Health and Safety Code Section 5471 et seq., on the tax roll. Revenues derived in the provisions of this chapter shall be used only for the acquisition, construction, reconstruction, maintenance and operation of storm drainage facilities or programs, or to repay principal and interest on bonds issued for the construction or reconstruction of said storm drainage facilities, or to repay federal or state loans or advances made to the City for the construction or reconstruction of storm drainage facilities. (Ord. 1184 § 2 (part), 1995: Ord. 1153 § 2 (part), 1994)

**13.16.020 Establishment of fee.**

The City Council finds and determines that the regulatory cost for the San Carlos Specific Program for the fiscal year 1995-96 shall be the amount of four hundred thousand dollars, and shall be assessed pursuant to the Engineer's report dated June 26, 1995, Exhibit A to the ordinance codified in this chapter, on file in the office of the City Clerk, as follows:

A. Single-family residential unit: twenty dollars per parcel;

B. Multifamily unit: See Exhibit E of the City Engineer's report;

C. Commercial/industrial: See Exhibit E of Engineer's report;

D. Planned community: See Exhibit E of Engineer's report;

E. Open space/vacant land: See Exhibit E of Engineer's report. (Ord. 1184 § 2 (part), 1995: Ord. 1153 § 2 (part), 1994)

**13.16.030 Waiver of fees.**

A person or entity required to pay a fee under this chapter may apply to the City Engineer for a waiver of all or a portion of the fee. The waiver shall only be considered where improvements have been made by the applicant to land, structures or facilities in the City that substantially reduce or eliminate the runoff into stormwater of pollutants. The City Engineer may waive fees for the fiscal year 1994-95 only, and thereafter any present, and future fees, in his discretion, depending on the benefit derived by the City. The City Engineer shall consider the type of improvement, cost of construction, amount of pollutant eliminated from runoff, and similar factors related to the purposes of this chapter. Any waiver of fees involving more than three years of payments shall require City Council approval. The City Engineer shall report annually to the City Council on all waiver of fees. (Ord. 1184 § 2 (part), 1995)

**Title 14  
(RESERVED)****Title 15  
BUILDINGS AND CONSTRUCTION**

Chapters:

**15.04 Technical Building Codes****15.16 Streamlined Permitting Process for Small Residential Rooftop Solar Systems****15.20 Streamlined Permitting Process for Electric Vehicle Charging Stations****15.24 Property Maintenance**

**15.26 Graffiti Control****15.30 Seismic Hazard Identification Program for Unreinforced Masonry Buildings****15.34 Residential Inspection Program****15.36 Dirt Hauling Permits****15.40 Swimming Pools****15.56 Flood Damage Prevention****15.60 Construction Time Limits**

**Chapter 15.04  
TECHNICAL BUILDING CODES\***

Sections:

**15.04.010 Adoption of codes by reference—Copies on file.**

**15.04.020 City Council findings.**

**15.04.030 Title 24, Part 1, California Administrative Code.**

**15.04.040 Title 24, Part 2, California Building Code, Volumes 1 and 2, with appendices, amendments, and modifications**

**15.04.045 Title 24, Part 2.5, California Residential Code with appendices, amendments, and modifications.**

**15.04.050 Title 24, Part 3, California Electrical Code, with amendments and modifications.**

**15.04.060 Title 24, Part 4, California Mechanical Code with appendices.**

**15.04.070 Title 24, Part 5, California Plumbing Code with appendices.**

**15.04.080 Title 24, Part 6, California Energy Code with appendices.**

**15.04.090 Title 24, Part 7.**

**15.04.100 Title 24, Part 8, California Historical Building Code.**

**15.04.110 Title 24, Part 9, California Fire Code.**

**15.04.120 Title 24, Part 10, California Existing Building Code.**

**15.04.125 Title 24, Part 11, California Green Building Standards Code (CALGreen).**

**15.04.130 Title 24, Part 12, California Referenced Standards Code.**

**15.04.140 1997 Uniform Building Security Code.**

**15.04.150 2021 International Property Maintenance Code.**

**15.04.160 Safety Assessment Program (SAP) placards.**

**15.04.170 Findings.**

\* Prior ordinance history: Ords. 1021, 1078, 1099, 1104 and 1267.

**15.04.010 Adoption of codes by reference—Copies on file.**

The City Council finds that the requirements of Government Code Sections 50022.4, 50022.5 and 50022.6 relating to adopting codes by reference have been met. The City Council directs that one (1) copy of each code adopted by reference shall be placed on file with the Building Official and maintained there for public inspection while the said codes are in effect. (Ord. 1589 § 2 (Exh. A), 2022; Ord. 1553 § 2 (Exh. A (part)), 2019; Ord. 1513 § 1 (Exh. A (part)), 2016; Ord. 1470 § 1 (Exh. A (part)), 2013; Ord. 1428 § 2 (part), 2010)

**15.04.020 City Council findings.**

The City Council finds that modifications are required for the respective codes being adopted herein. Specifically, local climatic, geologic, topographic, and social conditions necessitate the modifications as listed in Section 15.04.170. (Ord. 1589 § 2 (Exh. A), 2022; Ord. 1553 § 2 (Exh. A (part)), 2019: Ord. 1513 § 1 (Exh. A (part)), 2016: Ord. 1470 § 1 (Exh. A (part)), 2013: Ord. 1448 § 2, 2012: Ord. 1428 § 2 (part), 2010)

#### **15.04.030 Title 24, Part 1, California Administrative Code.**

Title 24, Part 1, the California Administrative Code, 2022 Edition, is hereby adopted by reference. (Ord. 1589 § 2 (Exh. A), 2022; Ord. 1553 § 2 (Exh. A (part)), 2019: Ord. 1513 § 1 (Exh. A (part)), 2016: Ord. 1470 § 1 (Exh. A (part)), 2013: Ord. 1428 § 2 (part), 2010)

#### **15.04.040 Title 24, Part 2, California Building Code, Volumes 1 and 2, with appendices, amendments, and modifications**

Title 24, Part 2, California Building Code, 2022 Edition, Volumes 1 and 2, is hereby adopted by reference, with the following selected appendices, amendments and modifications:

A. Section 113, Board of Appeals, is deleted in its entirety and replaced with Title 24, Part 3, the California Electrical Code, 2022 Edition, Section 89.108.8, Appeals Board.

B. Division II, Scope and Administration, is adopted and amended as follows:

Section 105.2(2) Fences not over 6 feet high. Add: plus 12" of lattice. See the San Carlos Municipal Code, Section 18.15.040.

Section 105.2(4) Retaining walls that are not over 4 feet high measured from the bottom of the footing to the top of the wall, unless supporting a surcharge or impounding Class I, II, or IIIA liquids. Add: Wood retaining walls are limited to 3 feet tall without permits. Retained soil at top of wall limited to 2:1 slope.

Section 105.2 (6) is deleted.

C. Section 901.2, add:

as amended by the City of San Carlos Fire Department.

D. Section 1705.3, Exception 1, add:

where the structural design of the footing is based on a specified compression strength,  $f'_c$ , no greater than 2,500 pound per square inch (psi) (17.2 Mpa).

E. Section 2308.3.1, Foundation plates or sills, is modified to read as follows:

Section 2308.3.1 Foundation plates or sills. Foundation plates or sills resting on concrete or masonry foundations shall comply with Section 2304.3.1. Foundation plates or sills shall be bolted or anchored to the foundation with not less than 5/8-inch diameter (15.875 mm) steel bolts or approved anchors spaced to provide the equivalent anchorage as the steel bolts. Bolts shall be embedded not less than 7 inches (178 mm) into concrete or masonry. The bolts shall be located in the middle third of the width of the plate. Bolts shall be spaced not more than 6 feet (1829 mm) on center and there shall be not less than two bolts or anchor straps per piece with one bolt or anchor strap located not more than 12 inches (305 mm) or less than 4 inches (102 mm) from each end of the piece. Bolts in sill plates of braced wall lines in structures over two stories above grade shall be spaced not more than 4 feet (1219 mm) on center. A properly sized nut and washer shall be tightened on each bolt to the plate.

F. CBC Appendix Chapter I is selected and adopted. (Ord. 1589 § 2 (Exh. A), 2022; Ord. 1553 § 2 (Exh. A (part)), 2019: Ord. 1513 § 1 (Exh. A (part)), 2016: Ord. 1470 § 1 (Exh. A (part)), 2013: Ord. 1428 § 2 (part), 2010)

#### **15.04.045 Title 24, Part 2.5, California Residential Code with appendices, amendments, and modifications.**

Title 24, Part 2.5, California Residential Code, 2022 Edition, is hereby adopted by reference, with the following selected appendices, amendments, and modifications:

A. Section R105.2, Work exempt from permit. Items 2, 5, and 10 are deleted.

B. Section R112, Board of Appeals, is deleted in its entirety and replaced with Title 24, Part 3, the California Electrical Code, 2022 Edition, Section 89.108.8, Appeals Board.

C. Chapter 2, Definitions, add:

RESIDENTIAL RECONSTRUCTION. A residential-type project where the building at any time is uninhabitable, including removal of any or all utilities (water, electrical, natural gas, or sewer); or the project provides no permanent kitchen or bathroom facilities; or the project provides no shelter or ability to maintain heat as defined by code; or when over 50% of the foundation is replaced or reinforced other than the repair of a foundation failure; or when over 50% of the framing above the foundation is removed or replaced. Final determination whether a project meets the definition of residential reconstruction shall be made by the Building Official.

D. Section R313.2, One- and two-family dwellings automatic fire systems, add:

An automatic residential fire sprinkler system, in accordance with R313 or NFPA 13D, shall be installed in Residential Reconstruction projects of 2,500 square feet or greater, or the structure increases height from one-story to a two-story single-family dwelling and is greater than 2,500 square feet.

**E. Section R311.7.5.1, Risers, add:**

The minimum stair riser height shall be no less than 4 inches (102 mm).

**F. Section R403.1.6, Foundation anchorage, is modified to read as follows:**

R403.1.6 Foundation anchorage. Wood sill plates and wood walls supported directly on continuous foundations shall be anchored to the foundation in accordance with this section.

Cold-formed steel framing shall be anchored directly to the foundation or fastened to wood sill plates in accordance with Section R505.3.1 or R603.3.1, as applicable. Wood sill plates supporting cold-formed steel framing shall be anchored to the foundation in accordance with this section.

Wood sole plates at all exterior walls on monolithic slabs, wood sole plates of braced wall panels at building interiors on monolithic slabs and all wood sill plates shall be anchored to the foundation with minimum 5/8-inch diameter (15.875 mm) anchor bolts spaced not greater than 6 feet (1829 mm) on center or approved anchors or anchor straps spaced as required to provide equivalent anchorage to 5/8-inch diameter (15.875 mm) anchor bolts. Bolts shall extend not less than 7 inches (178 mm) into the concrete or grouted cells of concrete masonry units. The bolts shall be located in the middle third of the width of the plate. A nut and washer shall be tightened on each anchor bolt. There shall be not fewer than two bolts per plate section with one bolt located not more than 12 inches (305 mm) or less than seven bolt diameters from each end of the plate section. Interior bearing wall sole plates on monolithic slab foundation that are not part of a braced wall panel shall be positively anchored with approved fasteners. Sill plates and sole plates shall be protected against decay and termites where required by Sections R317 and R318. Anchor bolts shall be permitted to be located while concrete is still plastic and before it has set. Where anchor bolts resist placement or consolidation of concrete around anchor bolts is impeded, the concrete shall be vibrated to ensure full contract between the anchor bolts and concrete.

Exceptions:

1. Walls 24 inches (610 mm) total length or shorter connecting offset braced wall panels shall be anchored to the foundation with not fewer than one anchor bolt located in the center third of the plate section and shall be attached to adjacent braced wall panels at corners as shown in Item 9 of Table R602.3(1).

Connection of walls 12 inches (305 mm) total length or shorter connecting offset braced wall panels to the foundation without anchor bolts shall be permitted. The wall shall be attached to adjacent braced wall panels at corners as shown in Item 9 of Table R602.3(1).

**G. CRC Appendix Chapters AH, AJ, AK, AO, AQ, AT, AV, and AX are selected and adopted. (Ord. 1589 § 2 (Exh. A), 2022; Ord. 1553 § 2 (Exh. A (part)), 2019: Ord. 1513 § 1 (Exh. A (part)), 2016: Ord. 1470 § 1 (Exh. A (part)), 2013: Ord. 1428 § 2 (part), 2010)**

**15.04.050 Title 24, Part 3, California Electrical Code, with amendments and modifications.**

Title 24, Part 3, California Electrical Code, 2022 Edition, is hereby adopted by reference, with the following amendments and modifications:

**A. Section 89.108.4.1, Permits (a), add:**

A California State Licensed Electrical Contractor is required to obtain the permit for all electrical work performed in all occupancies except single family dwellings, attached or detached garages, carports or accessory buildings.

**B. Chapter 1, Article 100, Definitions: Approved, add:**

Existence of a factory applied label or application of a field applied label by an agency approved by the AHJ to test and label is an alternate method of approval. See the list of recognized third party testing and labeling agencies.

**C. Chapter 1, Article 100, Definitions: Authority Having Jurisdiction (AHJ), add:**

The Authority Having Jurisdiction is the Building Official of the City of San Carlos.

(Ord. 1589 § 2 (Exh. A), 2022; Ord. 1553 § 2 (Exh. A (part)), 2019: Ord. 1513 § 1 (Exh. A (part)), 2016: Ord. 1470 § 1 (Exh. A (part)), 2013: Ord. 1428 § 2 (part), 2010)

**15.04.060 Title 24, Part 4, California Mechanical Code with appendices.**

Title 24, Part 4, California Mechanical Code, 2022 Edition, is hereby adopted by reference, with the following selected appendices:

**A. CMC Appendix Chapters B, C, D, F, and G are selected and adopted. (Ord. 1589 § 2 (Exh. A), 2022; Ord. 1553 § 2 (Exh. A (part)), 2019: Ord. 1513 § 1 (Exh. A (part)), 2016: Ord. 1470 § 1 (Exh. A (part)), 2013: Ord. 1428 § 2 (part), 2010)**

**15.04.070 Title 24, Part 5, California Plumbing Code with appendices.**

Title 24, Part 5, California Plumbing Code, 2022 Edition, is hereby adopted by reference, with the following selected appendices:

A. CPC Appendix Chapters A, B, C, D, E, F, G, I, J, and K are selected and adopted. (Ord. 1553 § 2 (Ord. 1589 § 2 (Exh. A), 2022; Exh. A (part)), 2019: Ord. 1513 § 1 (Exh. A (part)), 2016: Ord. 1470 § 1 (Exh. A (part)), 2013: Ord. 1428 § 2 (part), 2010)

**15.04.080 Title 24, Part 6, California Energy Code with appendices.**

Title 24, Part 6, the California Energy Code, 2022 Edition, is hereby adopted by reference, with all appendices. (Ord. 1589 § 2 (Exh. A), 2022; Ord. 1570 § 2, 2021; Ord. 1553 § 2 (Exh. A (part)), 2019: Ord. 1513 § 1 (Exh. A (part)), 2016: Ord. 1470 § 1 (Exh. A (part)), 2013: Ord. 1428 § 2 (part), 2010)

**15.04.090 Title 24, Part 7.**

Vacant. (Ord. 1589 § 2 (Exh. A), 2022; Ord. 1553 § 2 (Exh. A (part)), 2019: Ord. 1513 § 1 (Exh. A (part)), 2016: Ord. 1470 § 1 (Exh. A (part)), 2013: Ord. 1428 § 2 (part), 2010)

**15.04.100 Title 24, Part 8, California Historical Building Code.**

Title 24, Part 8, the California Historical Building Code, 2022 Edition, is hereby adopted by reference. (Ord. 1589 § 2 (Exh. A), 2022; Ord. 1553 § 2 (Exh. A (part)), 2019: Ord. 1513 § 1 (Exh. A (part)), 2016: Ord. 1470 § 1 (Exh. A (part)), 2013: Ord. 1428 § 2 (part), 2010)

**15.04.110 Title 24, Part 9, California Fire Code.**

Title 24, Part 9, the California Fire Code, 2022 Edition, is hereby adopted by reference, with amendments and modifications (San Carlos Fire Ordinance).

A. Adoption of the 2021 International Fire Code and the 2022 California Fire Code. These codes are hereby adopted in their entirety by the City of San Carlos, for the purposes of prescribing regulations governing the conditions hazardous to life and property and for protection from fire, hazardous materials, or explosion, contained within the 2021 International Fire Code and the 2022 California Fire Code, Title 24, Part 9, including all appendix chapters with the exceptions of the following appendix chapters: A—Board of Appeals, E—Hazard Categories, F—Hazard Ranking, G—Cryogenic Fluids, J—Building Information Sign, L—Fire Fighter Air Replenishment Systems, M—High-Rise Buildings-Retroactive Automatic Fire Sprinkler Requirements, and the International Fire Code Standards, as compiled, recommended and published by the International Code Council (ICC). One (1) copy of said code and standards, including local amendments herein adopted and made part thereof, entitled "Amendments to the 2021 International Fire Code and the 2022 California Fire Code" have been, and are now, filed with the office of the Clerk for the City of San Carlos. The same are hereby adopted and incorporated as fully as if set out at length herein, and from the date on which the ordinance codified in this chapter shall take effect, the provisions thereof shall be controlling within the limits of the City of San Carlos Fire Department. Note: When sections noted in this section stipulate the IFC, this shall mean the 2021 Edition of the International Fire Code for non-State Fire Marshal regulated occupancies. When sections noted in this section stipulate the CFC, this shall mean the 2022 California Fire Code, for California State Fire Marshal regulated occupancies for both building and nonbuilding regulations.

B. Establishment and Duties of the Bureau of Fire Prevention. The International Fire Code and the California Fire Code, including International Fire Code Standards as adopted and amended herein, shall be enforced by the City of San Carlos Fire Department, and managed by the City of Redwood City Fire Department (Bureau of Fire Prevention), and shall operate under the direction of the Fire Chief and the Fire Marshal of the Redwood City Fire Department. Both Fire Officers shall be known as the Fire Code Officials.

C. Definitions.

1. Whenever the word "jurisdiction" is used in the International/California Fire Code, and Fire Code Standards, it is the City of San Carlos.
2. The party responsible for the enforcement of the International/California Fire Code and Fire Code Standards under the direction of the Fire Chief of the Redwood City Fire Department shall be the Fire Marshal.
3. Add the following definition:

"Fire Marshal" is the Fire Code Official of the Bureau of Fire Prevention.

D. Appeals. Whenever the Fire Code Official disapproves an application or refuses to grant a permit applied for or when it is claimed that the provisions of the code do not apply or that the true intent and meaning of the code have been misconstrued or

wrongly interpreted, the applicant may appeal the decision of the Fire Code Official to the City Council of the City of San Carlos. For State Fire Marshal regulated occupancies, see Section 111.2.5 of the California Fire Code, Part 9, Title 24 CCR.

E. Penalties—109, 2021 IFC and 2022 CFC. Any person who shall violate any of the provisions of this Code or standards hereby adopted, or fails to comply therewith, or who shall violate or fail to comply with any order made thereunder, or who shall build in violation of any detailed statement of specifications or plans submitted and approved thereunder, or any certificate or permit issued thereunder, and from which no appeal has been taken, or who shall fail to comply with such an order affirmed or modified by the Fire Code Official shall be guilty of a misdemeanor. Upon conviction, the court shall impose a fine not less than five hundred dollars (\$500.00) or more than one thousand dollars (\$1,000) or imprisonment for not less than one hundred eighty (180) days or both.

Notwithstanding any other provision of this Code, whenever violation of any section contained in this Code is punishable as a misdemeanor, the prosecuting attorney having jurisdiction to prosecute said misdemeanor may specify that the offense is an infraction and proceed with prosecution as an infraction, unless the defendant, at the time of his arraignment or plea, objects to the offense being made an infraction, in which event the complaint shall be amended to charge a misdemeanor and the case shall proceed on a misdemeanor complaint.

The imposition of one (1) penalty for any violation shall not excuse the violation or permit it to continue; and all such persons shall be required to correct or remedy such violations or defects; and when not otherwise specified, each day that prohibited conditions are maintained shall constitute a separate offense.

1. The application of the above penalty shall not be held to prevent the enforced removal of prohibited conditions.
2. Due to the potential danger of the hazardous materials regulated under the International/California Fire Code, any person, firm, or corporation who violates any of the provisions of the International/California Fire Code shall be liable for civil penalties not exceeding five hundred dollars (\$500.00) per day for the first ten (10) days; and one thousand dollars (\$1,000) per day for the next twenty (20) days; and five thousand dollars (\$5,000) for each day after twenty (20). This shall apply to each violation.
3. In addition to the penalties set out in this Code, any condition caused or permitted to exist in violation of any of the provisions of this Code shall be deemed a public nuisance and may be summarily abated as such, and each day such condition continues shall be regarded as a new separate offense. The City of San Carlos shall also be permitted the right of recovering those funds, used to mitigate continuous, unabated hazards, which present a clear and present danger. The cost recovery fee shall be based on the actual hourly rate for Fire Department personnel, used in gaining compliance for those in violation.

F. Text Language and Local Amendments.

1. Chapter 1—Administration.

a. Section 104.10.3 is hereby added to read as follows:

104.10.3. New materials, processes, occupancies, requiring permits. The Fire Chief and the Fire Marshal shall act as a committee to determine and specify, after giving affected persons an opportunity to be heard, any new materials, processes, or occupancies, which shall require permits, in addition to those now enumerated in the Fire Code.

b. Sections 111.1, 111.2, 111.3, and 111.4 are hereby deleted in their entirety and replaced with the following language:

Appeals. In order to determine the suitability of alternate materials and types of construction, to provide for reasonable interpretations of this Code, and relief by way of appeal from the granting or denial of any permit, this shall be and hereby is created a Board of Appeals consisting of members of the City Council, to pass upon pertinent matters, who shall grant such relief or make such interpretation or explanation as may be necessary and proper pursuant to the provisions of this Code. The Fire Chief shall be an ex officio member and shall act as Secretary of the Board. The Board of Appeals shall be the San Carlos City Council. The Board shall adopt reasonable rules and regulations for conducting its investigations and shall render all decisions and findings in writing to the Fire Chief, with duplicate copy to the appellant, and may recommend to the executive body such new legislation consistent therewith.

Whenever the Fire Code Official/Fire Marshal disapproves an application or refuses to grant a permit applied for, or when it is claimed that the provisions of the code do not apply or that the true intent and meaning of the code have been misconstrued or wrongly interpreted, the applicant may appeal the decision of the Fire Code Official to the San Carlos City Council. Such appeal shall be made within thirty (30) days from the date of the decision being appealed and shall be in writing and filed with the City Clerk of the City of San Carlos. Said notice of appeal shall be accompanied by a payment of \$100.00, payable to the City of San Carlos.

The notice of appeal shall:

1. Specify the substance and particulars of the decision being appealed.
2. Show the date of the decision.
3. Be signed by the appellant or his/her duly authorized agent.
4. Indicate the mailing address of the appellant.

Whenever a notice of appeal is filed with the City Clerk, the Clerk shall set the matter for the hearing at the earliest reasonable time and shall notify the appellant of the place, date and time for the hearing and consider the appeal.

The City Clerk shall give notice of the hearing to the appellant at least seven days prior to the time set for the hearing. Notice shall be given to the appellant by mailing said notice to the address shown on the notice of appeal.

- c. Section 105.1.2.1—Added. Section 105.1.2.1 is hereby added to the Fire Code and shall read as follows:

#### 105.1.2.1. Fees and Special Requirements.

The fees for permits and other services shall be as established by resolution of the San Carlos City Council. The fees shall be set as a cost recovery for services provided by the Fire Department staff and Redwood City Fire Department Management staff to review and inspect the intended activities, operations, or functions as stipulated by section 105.1.1 and section 105.1.2 "Types of Permits". Subsection 2, Construction Permit is adopted as written by model code. Operational Permits as indicated in section 105, subsection 105.1.2, Sub-section 1 is "not" adopted as written by model code for this ordinance. Section 105.1.1 is amended and enforceable as follows:

##### 105.1.1. Construction Permits Required and Fire Clearance Inspections.

105.1.1. Permits required by this Code for construction related provisions for fire and life safety that is under the responsibility of the fire department, shall be obtained upon approval of said construction plans and documents. This includes but is not limited to; architectural fire plan review, site plan review, automatic fire alarm systems, automatic fire sprinkler systems, automatic fire suppression systems, wildland urban intermix mitigation plans, and any other review of plans and specifications that require the approval of the Fire Code Official.

105.1.2. Fire clearance inspections are that maintenance type of fire code inspections performed to all occupancies that are under the jurisdictional enforcement powers of the City of San Carlos Fire Department.

Operational use permits "are not" issued on a regular or annual basis as per section 105.6 of the 2019 California Fire Code. Fire clearance inspections are designed to unify fire code operational use permits under one fire clearance inspection procedure, thereby; having one inspection inclusive of any potentially issued operational use permits. On a case- by- case basis, operational use permits may be issued when deemed necessary by the Fire Code Official.

All fire construction plan check and construction permit fees and fire clearance inspection fees must be paid to the City of San Carlos Permit Center prior to engaging in the listed activities, operations, or functions. A penalty for all permit payments delinquent after 30 days shall be a doubling of the original fee.

#### 2. Chapter 2—Definitions.

- a. Section 202, High Rise Structure Definition, is hereby amended to read as follows:

202 High Rise Structure. Every building of any type of construction or occupancy having floors used for human occupancy located more than 75 feet above the lowest level of fire department vehicle access (see Section 403), except buildings used as hospitals as defined in Health and Safety Code Section 1250.

#### 3. Chapter 3—General Fire Safety Precautions.

- a. Section 307—Amended. Section 307 is deleted in its entirety and is replaced by the following section:

Section 307.1. General: Open burning is strictly prohibited within the jurisdictional boundaries of the City of San Carlos. Open burning does not include approved exterior fireplaces or barbecues that are used in a safe manner and used for cooking or warming purposes only. The Fire Chief prohibits burning of trash or vegetation, except for fire hazard reduction purposes when deemed necessary to abate an immediate fire hazard or during wildland fire suppression activities.

- b. Section 324 is hereby added to the Fire Code to read as follows:

324 Car Stackers and Car Puzzler Systems. Car stackers and car puzzler systems are defined as manual, or automatic, rack vehicle storage systems designed to park cars vertically and / or horizontally inside structures or under canopies such that the vehicles are in close proximity to one another with limited access for firefighters. The configuration of the vehicles stored in these systems presents an exposure hazard from one vehicle to another in the event of a vehicle fire.

Parking areas inside buildings or under attached canopies equipped with car stackers or car puzzler systems shall be protected from above by an automatic fire sprinkler system designed to a density of Extra Hazard Group 2. Standard coverage sidewall sprinklers, listed for Ordinary Hazard Group 2 shall be provided to protect each parking level, including the bottom levels. The maximum coverage of a sidewall sprinkler is 80 sq. ft. and the use of extended coverage sidewall heads for protection is prohibited.

The basic design area of application for the increased density fire sprinkler system protecting the car stacker or car puzzler systems shall be 2,500 square feet. The design area of application may be reduced upon approval by the fire code official but never less than 1,500 square feet if

one-hour rated walls are provided between the stacker parking area and other standard parking stalls or storage areas, and the car stacker system is divided into a maximum of 1,000 square foot fire areas by one-hour rated fire barriers. Flow from all fire sprinkler heads, upright, pendant, and sidewall, at all levels, and located in the design area of application shall be included in the hydraulic calculations for the fire sprinkler system.

Car stackers and car puzzler systems installed inside structures or under attached canopies shall be provided with Manual Wet or Automatic Wet Standpipe connections at all points of access and at each parking level within the structure so that every part of the parking area is within 150 feet by hose pull of a standpipe connection.

Car stackers and car puzzler systems installed inside structures shall be provided with a mechanical smoke and heat removal system as per Section 910.4 of the California Fire Code. The smoke and heat removal system shall be automatically activated upon detection of fire by the fire alarm system. Section 910.4.4 is not applicable to this requirement.

Car stacker and car puzzler systems installed outside structures that are open to the environment shall be configured to limit fire spread from one vehicle to another and from vehicles to adjacent structures. This shall be accomplished with one-hour fire rated barriers creating a maximum of 2500 square foot fire areas between stackers or puzzlers and by providing adequate setback from adjacent structures.

#### 4. Chapter 5—Fire Service Features.

##### a. Section 503.1.1 of the Fire Code is hereby amended to read as follows:

Exceptions 1.1 and 1.3 are not adopted.

503.1.1 Buildings and Facilities. Approved fire apparatus access roads shall be provided for every facility, building or portion of a building hereafter constructed or moved into or within the jurisdiction. The fire apparatus access road shall comply with the requirements of this section and shall extend to within 150 feet (45,720 mm) of all portions of the facility and all portions of the exterior walls of the first story of the building as measured by an approved route around the exterior of the building or facility.

Exceptions:

1. The fire code official is authorized to increase the dimension of 150 feet (45,720 mm) where any of the following conditions occur:

1.2. Fire apparatus access roads cannot be installed because of location on property, topography, waterways, nonnegotiable grades or other similar conditions, and an approved alternative means of fire protection is provided.

##### b. Section 503.2.3 of the Fire Code is hereby amended to read as follows:

503.2.3 Surface. Fire apparatus access roads shall be designed and maintained to support the imposed loads of fire apparatus and shall be surfaced so as to provide all weather driving capabilities. This is defined as Asphaltic Concrete or Concrete (including pervious concrete) installed over an adequate compacted roadbed to support the imposed loads (75,000 pounds) of fire apparatus. Any type of pavers, whether grouted or bedded in sand, or grass block type surfaces, are not approved for fire access roads or fire lanes.

##### c. Section 507.1.1 is hereby added to the Fire Code to read as follows:

507.1.1. Fire Main, Hydrant Specifications. Notwithstanding anything to the contrary contained in this Code, all water mains providing a water supply for fire protection, both to fire hydrants and to fire service systems, shall be not less than eight inches (8") in diameter (inside measurement) provided, however, the Fire Code Official may require different sizes based on the conditions of the site, but in no case shall the fire service main be less than six inches (6") in diameter (inside measurement). Maintenance of privately-owned water mains, fire hydrants, or other fire service systems (collectively referred to as "Facilities") shall be performed by, and be the responsibility of, the owners thereof, and the City shall assume no liability for damages to the Facilities in performing tests to, or in using, such Facilities. Appendix Table B105.1(1) is not adopted under this ordinance. Minimum fire flow for one- and two-family dwellings under 3,600 square feet shall be 1,000 gallons of water per minute with two-hour flow duration. Residual pressure shall not be less than 20 psi. For one- and two-family dwellings over 3,600 square feet, the required fire flow shall be 50% of the value in Appendix Table B105.1(2) with automatic fire sprinklers installed per Section 903.3.1.3 of the California Fire Code with a minimum flow requirement of 1,000 gallons of water per minute. Appendix Table B105.2 is amended to allow a maximum reduction in required fire flow of 50% of the value in Table B105.1(2) with a minimum fire flow of 1,500 gallons per minute at 20 pounds per square inch residual pressure for buildings other than one- and two-family residential dwellings with automatic fire sprinklers installed per Sections 903.3.1.1 or 903.3.1.2 of the California Fire Code.

##### d. Section 507.5.1.1 is hereby amended to read as follows:

507.5.1.1 Hydrant for standpipe systems and fire sprinkler systems. Buildings equipped with a standpipe system installed in accordance with Section 905 or a fire sprinkler system complying with section 903.3.1.1 shall have a fire hydrant within 50 feet (15,240 mm) of the fire department connections (FDC) located on the same side of the roadway.

##### e. Section 510.4.2.3 is hereby amended to read as follows:

510.4.2.3 Standby power. Emergency responder radio coverage systems shall be provided with dedicated standby batteries or provided with 2-hour standby batteries and connected to the facility generator power system in accordance with Section 1203. The standby power supply shall be capable of operating the emergency responder radio coverage system at 100-percent system capacity for a duration of not less than 24 hours.

##### f. Section 510.6.1 is hereby amended to read as follows:

510.6.1 Testing and proof of compliance. The owner of the building or owner's authorized agent shall have the emergency responder radio coverage system inspected and tested annually by a fire department approved testing company or where structural changes occur including additions or remodels that could materially change the original field performance tests. Testing shall consist of but not be limited to the following:

1. In-building coverage test as described in Section 510.5.3.
2. Signal boosters shall be tested to verify that the gain is the same as it was upon initial installation and acceptance or set to optimize the performance of the system.
3. Backup batteries and power supplies shall be tested under load of a period of 1 hour to verify that they will properly operate during an actual power outage. If within the 1-hour test period the battery exhibits symptoms of failure, the test shall be extended for additional 1-hour periods until the integrity of the battery can be determined.
4. Other active components shall be checked to verify operation within the manufacturer's specifications.
5. At the conclusion of the testing, a report, which shall verify compliance with Section 510.5.4, shall be submitted to the fire code official.

## 5. Chapter 9—Fire Protection Systems and Equipment.

- a. Section 901.1—Scope Amended. Add the following language to Section 901.1 of the 2022 CFC.

The Fire Code Official may require additional extinguishers, and/or extinguishers of different ratings for protection of special hazards or hazardous areas. The higher ratings may be permitted if in the opinion of the Fire Code Official, they are better suited to substantially protect or mitigate the hazard(s).

- b. Section 901.6.3 of the Fire Code is hereby amended to read as follows:

901.6.3 Records. All contractors who service, test, install and/or maintain fire protection systems within the City of Redwood City are required to enroll and utilize the approved single-point repository service to file records of all system inspections, tests, and maintenance required by the referenced standards. This repository service shall be maintained and provided to the fire code official through a third-party inspection reporting system. Fees, as applicable, will be paid directly from the contractor to the approved single-point repository service vendor.

- c. Section 903.2 of the Fire Code is hereby amended as follows:

903.2 New Construction. When the provisions of section 903.2.1 through 903.2.12 of the 2022 California Fire Code do not mandate automatic fire sprinkler system protection, and when the following occupancies are of new construction and the total square footage of the new building exceeds 2,500 square feet in size, or more than one-story in height, an automatic fire sprinkler system, shall be installed in the following occupancy classifications: Group A, Group B, Group E, (Non-public schools), Group F, Group H, Group I, Group M, Group R, and Group S occupancies.

903.2 Existing Construction. An approved automatic fire sprinkler system shall be installed throughout all locations of existing Group A, Group B, Group E (Non-public schools), Group F, Group H, Group I, Group M, Group R, and Group S occupancies, when the total square footage of the existing building exceeds 2,500 square feet in size, or is greater than one-story in height, and one or more of the following items apply:

- a. Change to a more hazardous use/occupancy.
- b. When the Fire Code Official determines that an automatic sprinkler system is necessary due to emergency vehicle access, fire load, occupant load or an existing condition which may hinder fire suppression efforts in the event of a fire or other perils.
- d. Section 903.2.8—Amended. Section 903.2.8 of the Fire Code is amended, and the following new sections are added:

### 903.2.8.(a) New Construction.

When the provisions of Section 903 of the Fire Code do not mandate automatic fire sprinkler system protection, an approved automatic fire sprinkler system shall be installed in all new Group R-1 and R-2 occupancies. Installation of the sprinkler system shall conform to NFPA Standard 13R if the residential building is four stories or less in height and with the following additional protection:

1. Sprinklers shall be installed throughout garages, open attached porches, carports, large under-floor spaces that are of combustible construction, and accessible for storage use.
2. Sprinklers shall be installed throughout attic areas.
3. All sprinkler piping in attics shall be copper.

### 903.2.8(b) Group R, Division 3 Occupancies—New Construction.

An approved automatic fire sprinkler system shall be installed as per sections R313.1 and R313.2 of the 2022 California Residential Code. Installation of the automatic fire sprinkler system shall be in accordance with section 903.3.1.3 (NFPA 13D) and with the following areas of the residence to be protected by automatic fire sprinklers:

1. Sprinklers shall be installed throughout garages, carports, and similar attached structures.
2. Pilot Sprinklers on metallic piping shall be installed in attic areas at the entry point into the attic, near heat sources, and near mechanical equipment installed in the attic.

## 903.2.8(c) Group R, Division 3 Occupancies—Existing Construction.

An approved automatic fire sprinkler system meeting the design criteria as stipulated in section 903.1.3 of the Fire Code is required for existing Group R, Division 3 when the existing structure is demolished and is reconstructed to become 2,500 square feet or greater in size.

## Demolished and Reconstruction means:

1. The building has been completely torn down to the foundation; the structure is being renovated and is made uninhabitable during said renovation or reconstruction. This includes the removal or inoperability of any or all the utilities to the building for a period of more than twenty-four consecutive hours. Utilities mean, water, electrical, natural gas, and sanitary sewer.

2. The structure increases height from one story to a two-story single-family dwelling and is greater than 2,500 habitable square feet.

## e. Section 903.2.23 is hereby added to the Fire Code to read as follows:

903.2.23—Automatic Sprinkler System Requirements for Type-IV A, B, and C Construction Types. Automatic sprinkler systems meeting section 903.3.1.1 of the fire code shall be installed throughout all new buildings built to Type-IV A, B, or C construction type. The design density for the automatic sprinkler system shall be a minimum design density of Ordinary Hazard Group-1 throughout the building regardless of use.

## f. Section 903.4.2 is hereby amended as follows:

903.4.2 Alarms. One exterior approved audible device, located on the exterior of the building in an approved location, shall be connected to each automatic sprinkler system. Such sprinkler water-flow alarm devices shall be activated by water flow equivalent to the flow of a single sprinkler of the smallest orifice size installed in the system. In addition, for automatic sprinkler systems installed under section 903.3.1.2 or 903.3.1.3, activation of all the interconnected single station smoke alarms throughout the residence is required. An acceptable alternative to interconnection to the smoke alarms is the installation of horn strobe devices in locations that will provide adequate notification to all sleeping rooms with at least one notification device per floor. Where a fire alarm system is installed, actuation of the automatic sprinkler system shall actuate the building fire alarm system. Visible alarm notification appliances shall not be required except when required by Section 907.

## g. Section 905.4 is hereby amended to read as follows:

905.4 Location of Class I Standpipe Hose Connections. Class I standpipe hose connections shall be provided in all the following locations:

1. In every required interior exit stairway, a hose connection shall be provided for each story above and below grade plane. Hose connections shall be located at the intermediate floor landing unless otherwise approved by the fire code official.

## h. Section 907.2.12.3.4 is hereby added to the Fire Code to read as follows:

## 907.2.12.3.4 Multistoried, Mid- and High-Rise Building Safety Requirements.

(a) Firefighters Communications Systems: Are not allowed in lieu of an approved ERRCS, but when required by the Fire Code Official, buildings six (6) or more stories in height, firefighter's communication systems shall be installed in accordance with the following requirements:

(i) One access jack shall be provided at each stairwell landing and two (2) access jacks shall be provided in a lobby area of the building in plain view of elevator doors, and in any event at locations and according to specifications subject to the approval of the Fire Code Official.

(ii) One telephone set shall be provided at each floor of the building, provided that such telephone sets shall be in the lobby area at a location and according to specifications subject to the approval of the Fire Code Official.

(iii) One additional telephone set shall be provided with not less than five hundred feet (500') of telephone cord and shall be maintained on a roller device providing convenient portability. Said telephone set shall likewise be maintained at a location and according to specifications approved by the Fire Code Official.

(b) Emergency Planning and Information: Buildings and occupancy groups specified in Title 19 of the California Code of Regulations, Section 3.09, and buildings with four (4) or more stories in height shall have posted a floor plan sign which shall provide emergency procedures at every stairway landing, elevator landing, and immediately inside all public entrances to the building. Information contained in the floor plan signs shall include, but shall not be limited to, the following:

1. Location of exits and fire alarm initiating stations.
2. Description of fire alarm sounds and appearance.
3. Fire Department emergency telephone number "911."
4. Prohibition of the use of elevators during emergencies.
5. Instructions to be followed by ambulatory, non-ambulatory, and disabled persons in the event of an emergency.
6. Notation "you are here" or other readily understandable marking specifying the location on the floor plan sign.

Floor plan signs shall be printed in a non-decorative lettering which shall not be less than three-sixteenths of an inch (3/16") in height and shall provide a sharp contrast with the background. The information shall accurately depict the layout of the floor where the sign is located. Signs shall be mounted as specified by the California Building Code.

(c) Public Address System. In buildings four (4) or more stories in height, a public address system shall be installed for the exclusive use of Fire Department personnel, peace officers, or other City enforcement personnel according to specifications approved by the Fire Prevention Bureau.

Controls for, and access to, such system shall be installed on the ground floor of the building at a location subject to the approval of the fire code official.

(d) Fire Equipment enclosure: Buildings of four (4) or more stories in height, a secure cabinet or other enclosed area shall be provided as directed by the Fire Code Official for housing fire equipment. Fire equipment required to be provided by the property owner or developer shall be at the direction of the Fire Code Official.

i. Section 913.2.3 is hereby added to the Fire Code to read as follows:

913.2.3 Alternate source of power. Notwithstanding the availability of a public utility to provide electric service for a fire pump, electrically driven fire pumps shall be provided with an alternate source of power in accordance with NFPA 20 due to foreseeable extended electrical service interruptions along the California Power Grid due to high demand, high heat, Public Safety Power Shutoffs, and damage to the power grid caused by destructive natural events such as wildfires, high winds, and earthquakes.

6. Chapter 49—Requirements for Wildland-Urban Interface (WUI) Fire Areas.

a. Section 4901.1. Amended to include:

VERY HIGH FIRE HAZARD SEVERITY ZONE MAP:

The City Council hereby adopts and designates the most recent Very High Fire Hazard Severity Zones map as recommended by the Director of the California Department of Forestry and Fire Protection and retained on file, or via the internet, and made available at the offices of the Fire Chief and Building Official of the City of San Carlos. Buildings and structures shall comply with the provisions as stipulated by the City of San Carlos Building Official, the California Building Code Chapter 7A, or the California Residential Code Section R337.

7. Chapter 56—Explosives Fireworks (Pyrotechnical Special Effects Materials).

a. Section 5601.1 Amended. Chapter 5601.1 is hereby amended, and the following sections are added:

5601.1(a) All non-professional fireworks listed by the California State Fire Marshal as "Safe and Sane" are prohibited within the jurisdictional boundaries of the City of San Carlos on a year-round basis.

5601.1(b) All professional pyrotechnical devices used for public display, or special effects, shall be in accordance with the applicable provisions of the State of California Code of Regulations, Title 19 and the applicable sections of the State of California Fire Code. Permits for public display and/or special effects shall be obtained from the City of San Carlos. Application for a use permit shall be submitted to the Fire Department thirty days prior to the event.

8. Chapter 80, 13-22, Section 27.10 of the Fire Code is hereby amended to read as follows:

Fire sprinkler systems for the protection of laboratory buildings shall be designed and installed in accordance with this standard, with a minimum design density of Ordinary Hazard Group II.

9. Chapter 80, 13D-22, Section 6.2.2(2) of the Fire Code is hereby amended to read as follows:

(2) A stand-alone tank is permitted only if the following conditions are met:

(a) The pump shall be connected to a 220-volt circuit breaker shared with a common household appliance (e.g., range, oven, dryer),

(b) The pump shall be a stainless steel 220-volt pump,

(c) A valve shall be provided to exercise the pump. The discharge of the exercise valve shall drain to the tank, and

(d) A sign shall be provided stating: "Valve must be opened monthly for 5 minutes."

(e) A means for automatically refilling the tank level, so that the tank capacity will meet the required water supply duration in minutes, shall be provided.

(f) A test connection shall be provided downstream of the pump that creates a flow of water equal to the smallest sprinkler on the system. The connection shall return water to the tank.

(g) Any disconnecting means for the pump shall be approved.

(h) A method for refilling the tank shall be piped to the tank.

(i) A method of seeing the water level in the tank shall be provided without having to open the tank.

(j) The pump shall not be permitted to sit directly on the floor.

(k) A stand-alone tank and pump are only allowed in areas not served by a municipal water system and only by approval of the fire code official.

10. Chapter 80, 13D-22, Section 8.3.4 of the Fire Code is hereby amended to read as follows:

8.3.4 Sprinklers shall not be required in detached garages, open attached porches with no habitable space above, carports with no habitable space above, and similar structures.

(Ord. 1590 §§ 3 – 8, 2022; Ord. 1589 § 2 (Exh. A), 2022; Ord. 1554 §§ 3 – 8, 2019; Ord. 1553 § 2 (Exh. A (part)), 2019; Ord. 1513 § 1 (Exh. A (part)), 2016; Ord. 1512 §§ 3 – 8, 2016; Ord. 1470 § 1 (Exh. A (part)), 2013; Ord. 1469 §§ 3 – 8, 2013; Ord. 1432 §§ 1 – 5, 2011; Ord. 1428 § 2 (part), 2010)

#### **15.04.120 Title 24, Part 10, California Existing Building Code.**

Title 24, Part 10, the California Existing Building Code, 2022 Edition, is hereby adopted by reference. (Ord. 1589 § 2 (Exh. A), 2022; Ord. 1553 § 2 (Exh. A (part)), 2019; Ord. 1513 § 1 (Exh. A (part)), 2016; Ord. 1470 § 1 (Exh. A (part)), 2013; Ord. 1428 § 2 (part), 2010)

#### **15.04.125 Title 24, Part 11, California Green Building Standards Code (CALGreen).**

Title 24, Part 11, the California Green Building Standards Code (CALGreen), 2022 Edition, is hereby adopted by reference, with the following amendments and modifications:

A. Section 202 of the Green Building Standards Code is amended to add definitions as follows:

**AFFORDABLE HOUSING.** Residential buildings that entirely consist of units below market rate and whose rents or sales prices are governed by local agencies to be affordable based on area median income.

**ALL-ELECTRIC BUILDING.** A building that contains no combustion equipment or plumbing for combustion equipment serving space heating (including fireplaces), water heating (including pools and spas), cooking appliances (including barbeques), and clothes drying, within the building or building property lines, and instead uses electric heating appliances for service.

**AUTOMATIC LOAD MANAGEMENT SYSTEM (ALMS).** A control system designed to manage load across one or more electric vehicle supply equipment (EVSE), circuits, panels and to share electrical capacity and/or automatically manage power at each connection point. ALMS systems shall be designed to deliver no less than 3.3 kVA (208/240 volt, 16-ampere) to each EV Capable, EV Ready or EVCS space served by the ALMS, and meet the requirements of California Electrical Code Article 625. The connected amperage to the building site for the EV charging infrastructure shall not be lower than the required connected amperage per California Green Building Standards Code, Title 24 Part 11.

**ALTERATION OR ALTER.** Any construction or renovation to an existing structure other than repair for the purpose of maintenance or addition.

**COMBUSTION EQUIPMENT.** Any equipment or appliance used for space heating, water heating, cooking, clothes drying and/or lighting that uses fuel gas.

**DIRECT CURRENT FAST CHARGING (DCFC).** A parking space provided with electrical infrastructure that meets the following conditions:

- i. A minimum of 48 kVA (480 volt, 100-ampere) capacity wiring.
- ii. Electric vehicle supply equipment (EVSE) located within three (3) feet of the parking space providing a minimum capacity of 80-ampere.

**ELECTRIC HEATING APPLIANCE.** A device that produces heat energy to create a warm environment by the application of electric power to resistance elements, refrigerant compressors, or dissimilar material junctions, as defined in the California Mechanical Code.

**ELECTRIC VEHICLE CHARGING STATION (EVCS).** A parking space that includes installation of electric vehicle supply equipment (EVSE) at an EV Ready space. An EVCS space may be used to satisfy EV Ready space requirements. EVSE shall be installed in accordance with the California Electrical Code, Article 625.

**ELECTRIC VEHICLE SUPPLY EQUIPMENT (EVSE).** The conductors, including the ungrounded, grounded and equipment grounding conductors and the electric vehicle charging connectors, attachment plugs, and all other fittings, devices, power outlets, or apparatus installed specifically for the purpose of transferring energy between the premises wiring and the electric vehicle.

**FUEL GAS.** A gas that is natural, manufactured, liquefied petroleum, or a mixture of these.

**LEVEL 2 EV CAPABLE.** A parking space provided with electrical infrastructure that meets the following requirements:

- i. Conduit that links a listed electrical panel with sufficient capacity to a junction box or receptacle located within three (3) feet of the parking space.
- ii. The conduit shall be designed to accommodate at least 8.3 kVA (208/240 volt, 40-ampere) per parking space. Conduit shall have a minimum nominal trade size of 1 inch inside diameter and may be sized for multiple circuits as allowed by the California Electrical Code. Conduit shall be installed at a minimum in spaces that will be inaccessible after construction, either trenched underground or where penetrations to walls, floors, or other partitions would otherwise be required for future installation of branch circuits, and such additional elements deemed necessary by the Building Official. Construction documents shall indicate future completion of conduit from the panel to the parking space, via the installed inaccessible conduit.
- iii. The electrical panel shall reserve a space for a 40-ampere overcurrent protective device space(s) for EV charging, labeled in the panel directory as "EV CAPABLE."
- iv. Electrical load calculations shall demonstrate that the electrical panel service capacity and electrical system, including any on-site distribution transformer(s), have sufficient capacity to simultaneously charge all EVs at all required EV spaces at a minimum of 40 amperes.
- v. The parking space shall contain signage with at least a 12" font adjacent to the parking space indicating the space is EV Capable.

**LEVEL 1 EV READY.** A parking space that is served by a complete electric circuit with the following requirements:

- i. A minimum of 2.2 kVA (110/120 volt, 20-ampere) capacity wiring.
- ii. A receptacle labeled "Electric Vehicle Outlet" or electric vehicle supply equipment located within three (3) feet of the parking space. If EVSE is provided the minimum capacity of the EVSE shall be 16-ampere.
- iii. Conduit oversized to accommodate future Level 2 EV Ready (208/240 volt, 40-ampere) at each parking space.

**LEVEL 2 EV READY.** A parking space that is served by a complete electric circuit with the following requirements:

- i. A minimum of 8.3 kVA (208/240 volt, 40-ampere) capacity wiring.
- ii. A receptacle labeled "Electric Vehicle Outlet" or electric vehicle supply equipment located within three (3) feet of the parking space. If EVSE is provided the minimum capacity of the EVSE shall be 30-ampere.

**LOW POWER LEVEL 2 EV READY.** A parking space that is served by a complete electric circuit with the following requirements:

- i. A minimum of 4.1 kVA (208/240 Volt, 20-ampere) capacity wiring.
- ii. A receptacle labeled "Electric Vehicle Outlet" or electric vehicle supply equipment located within three (3) feet of the parking space. If EVSE is provided the minimum capacity of the EVSE shall be 16-ampere.
- iii. Conduit oversized to accommodate future Level 2 EV Ready (208/240 volt, 40-ampere) at each parking space.

**B. Section 4.106.4 of the Green Building Standards Code is amended to read as follows:**

**SECTION 4**

**RESIDENTIAL MANDATORY MEASURES**

**4.106.4 Electric vehicle (EV) charging for new construction.** New construction and shall comply with Sections 4.106.4.1, 4.106.4.2, or 4.106.4.3 to facilitate future installation and use of EV chargers. Electric vehicle supply equipment (EVSE) shall be installed in accordance with the California Electrical Code, Article 625. For EVCS signs, refer to Caltrans Traffic Operations Policy Directive 13-01 (Zero Emission Vehicle Signs and Pavement Markings) or its successor(s). Calculation for spaces shall be rounded up to the nearest whole number.

Exceptions:

1. On a case-by-case basis, where the local enforcing agency has determined EV charging and infrastructure are not feasible based upon one or more of the following conditions:
  - 1.1. Where there is no local utility power supply or the local utility is unable to supply adequate power.
  - 1.2. Where there is evidence suitable to the local enforcing agency substantiating that additional local utility infrastructure design requirements, directly related to the implementation of Section 4.106.4, may increase construction cost by an average of \$4,500 per parking space for market rate housing or \$400 per parking space for Affordable Housing. EV infrastructure shall be provided up to the level that would not exceed this cost for utility service.
2. Accessory Dwelling Units (ADU) and Junior Accessory Dwelling Units (JADU) without additional parking facilities.

**C. Section 4.106.4.1 of the Green Building Standards Code is amended to read as follows:**

**4.106.4.1** New one- and two-family dwellings, town houses with private garages. One parking space provided shall be a Level 2 EV Ready space. If a second parking space is provided, it shall be provided with a Level 1 EV Ready space.

**D. Section 4.106.4.2 of the Green Building Standards Code is amended:**

**4.106.4.2** New multi-family dwellings with new residential parking facilities. Requirements apply to parking spaces that are assigned or leased to individual dwelling units, as well as unassigned residential parking. Visitor or common area parking is not included.

**4.106.4.2.1** New Construction. Forty percent (40%) of dwelling units with parking spaces shall be EVCS with Level 2 EV Ready. ALMS shall be permitted to reduce load when multiple vehicles are charging. Sixty percent (60%) of dwelling units with parking spaces shall be provided with at minimum a Level 1 EV Ready space. EV ready spaces and EVCS in multifamily developments shall comply with California Building Code, Chapter 11A, Section 1109A. EVCS shall comply with the accessibility provisions for EV chargers in the California Building Code, Chapter 11B.

Mechanical parking systems shall have sufficient panel capacity to support 1.4kW to all of the mechanical parking stalls with pre-wiring to the mechanical parking system from the panel.

Note: The total number of EV spaces should be one-hundred percent (100%) of dwelling units or one-hundred percent (100%) of parking spaces, whichever is less.

**E. Section 4.106.4.2.2 of the Green Building Standards Code is amended to read as follows:**

**4.106.4.2.2 Existing Buildings.**

1. When new parking facilities are added, or electrical systems or lighting of existing parking facilities are added or altered and the work requires a building permit, ten percent (10%) of the total number of parking spaces added or altered shall be Level 2 EV Ready.

**F. Section 4.106.4.3 of the Green Building Standards Code is amended to read as follows:**

4.106.4.3 Electric vehicle charging stations (EVCS). Electric vehicle charging stations required by Section 4.106.4.2 shall comply with Section 4.106.4.3.

Exception: Electric vehicle charging stations serving public accommodations, public housing, motels, and hotels shall not be required to comply with this section. See California Building Code, Chapter 11B, for applicable requirements.

4.106.4.3.1 Location. EVCS shall comply with at least one of the following options:

1. The charging space shall be located adjacent to an accessible parking space meeting the requirements of the California Building Code, Chapter 11A, to allow use of the EV charger from the accessible parking space.

2. The charging space shall be located on an accessible route, as defined in the California Building Code, Chapter 2, to the building.

Exception: Electric vehicle charging stations designed and constructed in compliance with the California Building Code, Chapter 11B, are not required to comply with Section 4.106.4.3.1 and Section 4.106.4.3.2, Item 3

4.106.4.3.2 Dimensions. The charging spaces shall be designed to comply with the following:

1. The minimum length of each EV space shall be 18 feet (5486 mm).

2. The minimum width of each EV space shall be 9 feet (2743 mm).

3. One in every 25 charging spaces, but not less than one, shall also have an 8- foot (2438 mm) wide minimum aisle. A 5-foot (1524 mm) wide minimum aisle shall be permitted provided the minimum width of the EV space is 12 feet (3658 mm).

a. Surface slope for this EV space and the aisle shall not exceed 1 unit vertical in 48 units horizontal (2.083 percent slope) in any direction.

Exception: Where the City of San Carlos Planning and Building Department Zoning Regulations for parking space dimension requirements are less than the minimum requirements stated in this section 4.106.4.3.2, and the compliance with which would be infeasible due to particular circumstances of a project, an exception may be granted while remaining in compliance with California Building Code Section Table 11B-228.3.2.1 and 11B-812, as applicable.

#### G. Section 4.106.4.4 of the Green Building Standards Code is amended to read as follows:

4.106.4.4 Direct current fast charging stations. One DCFC may be substituted for up to five (5) EVCS to meet the requirements of 4.106.4.1 and 4.106.4.2. Where ALMS serve DCFC stations, the power demand from the DCFC shall be prioritized above Level 1 and Level 2 spaces.

#### H. Section 4.106.5 of the Green Building Standards Code is added and shall read as follows:

4.106.5 All-electric buildings. New construction buildings and qualifying alteration projects shall comply with Section 4.106.5.1 or 4.106.5.2 so that they do not use combustion equipment or are ready to accommodate installation of electric heating appliances.

4.106.5.1. New construction and qualifying alteration projects. All newly constructed buildings shall be all-electric buildings. Alterations that include replacement or addition of over 50 percent of the existing foundation for purposes other than a repair or reinforcement as defined in California Existing Building Code Section 202; or where over 50 percent of the existing framing above the sill plate is removed or replaced for purposes other than repair, shall be all-electric buildings. If either of these criteria are met within a three-year period, measured from the date of the most recent previously obtained permit final date, the project shall be subject to the all-electric buildings requirements.

Tenant improvements shall not be considered new construction. The final determination whether a project meets the definition of substantial reconstruction/alteration shall be made by the local enforcing agency.

Exceptions:

1. All residential buildings except Multi-Unit Residential buildings as defined by the San Carlos Municipal Code 18.40.020 may contain non-electric indoor and outdoor Cooking Appliances and indoor and outdoor Fireplaces.

2. If an applicant establishes by substantial evidence that an All-Electric Building is infeasible for the project due to exceptional or extraordinary circumstances particular to the project, then the Building Official may grant a modification. The design professional shall submit findings demonstrating a unique reason that makes the technical code impractical, that the modification is in conformity with the intent and purpose of the technical code, the modification shall be as narrow as possible so as to effectuate as much of a reduction in natural gas as possible, and that such modification does not lessen health, life safety, and fire safety requirements or any degree of structural integrity. If the Building Official grants a modification pursuant to this Exception, the applicant shall comply with Section 4.106.5.2.

A building applicant may appeal the decision of the Building Official to the City Council. The City Council's decision on the appeal shall be final.

3. If the applicant establishes that there is not an all-electric prescriptive compliance pathway for the building under the California Building Energy Efficiency Standards, and that the building is not able to achieve the performance compliance standard applicable to the building under the Energy Efficiency Standards using commercially available technology and an approved calculation method, then the local enforcing agency may grant a modification. The applicant shall comply with Section 4.106.5.2.

Note: Attached Accessory Dwelling Units and Junior Accessory Dwelling Units as defined by the San Carlos Municipal Code 18.40.020 are not considered new construction and are not subject to the All-Electric building requirements unless the alteration to the existing residence includes replacement of over 50% of the existing foundation for purposes other than a repair or reinforcement as defined in California Existing Building Code Section 202; or when over 50% of the existing framing above the sill plate is removed or replaced for purposes other than repair. If either of these criteria are met within a 3-year period, measured from the date of the most recent previously obtained permit final date, that structure is considered new construction and shall be subject to the All-Electric building requirements.

#### 4.106.5.2. Requirements for combustion equipment.

Where combustion equipment is allowed per Exceptions under 4.106.5.1, the construction drawings shall indicate electrical infrastructure and physical space accommodating the future installation of an electrical heating appliance in the following ways, as certified by a registered design professional or licensed electrical contractor:

1. Branch circuit wiring, electrically isolated and designed to serve all electrical heating appliances in accordance with manufacturer requirements and the California Electrical Code, including the appropriate voltage, phase, minimum amperage, and an electrical receptacle or junction box within five feet of the appliance that is accessible with no obstructions. Appropriately sized conduit may be installed in lieu of conductors; and
2. Labeling of both ends of the unused conductors or conduit shall be with "For Future Electrical Appliance"; and
3. Reserved circuit breakers in the electrical panel for each branch circuit, appropriately labeled (i.e "Reserved for Future Electric Range"), and positioned on the opposite end of the panel supply conductor connection; and
4. Connected subpanels, panelboards, switchboards, busbars, and transformers shall be sized to serve the future electrical heating appliances. The electrical capacity requirements shall be adjusted for demand factors in accordance with the California Electric Code; and
5. Physical space for future electrical heating appliances, including equipment footprint, and if needed a pathway reserved for routing of ductwork to heat pump evaporator(s), shall be depicted on the construction drawings. The footprint necessary for future electrical heating appliances may overlap with non-structural partitions and with the location of currently designed combustion equipment.

I. Section 5.106.1.3 of the Green Building Standards Code is amended to read as follows:

#### SECTION 5

##### NONRESIDENTIAL MANDATORY MEASURES

5.106.1.3. All-electric buildings. New construction buildings and qualifying alteration projects shall comply with Section 5.106.13.1 or 5.106.13.2 so that they do not use combustion equipment or are ready to facilitate future electrification.

5.106.1.3.1. New construction and qualifying alteration projects. All newly constructed buildings shall be all-electric buildings. Alterations that include replacement of over 50 percent of the existing foundation for purposes other than a repair or reinforcement as defined in California Existing Building Code Section 202; or where over 50 percent of the existing framing above the sill plate is removed or replaced for purposes other than repair, shall be all-electric buildings. If either of these criteria are met within a three-year period, measured from the date of the most recent previously obtained permit final date, the project shall be subject to the all-electric buildings requirements.

Tenant improvements shall not be considered new construction. The final determination whether a project meets the definition of substantial reconstruction/alteration shall be made by the local enforcing agency.

##### Exceptions:

1. Laboratory areas with Non-Residential Buildings may contain non-electric Space Conditioning Systems. To take advantage of this exception, an applicant shall provide third party verification that the All-Electric space heating requirement is not cost effective and feasible. If the Building Official grants a modification pursuant to this Exception, the applicant shall comply with Section 5.106.1.3.2.

2. Non-residential buildings containing a for-profit restaurant open to the public or an employee commercial kitchen containing cooking facilities with the purpose of preparing and serving food for employees and visitors may apply to the Building Official for a modification to install gas-fueled cooking appliances. This exception does not apply to typical employee breakrooms or other self-service kitchens. This request must be based on a business-related reason to cook with a flame that cannot be reasonably achieved with an electric fuel source. The Building Official may grant this modification if he or she finds the following:

1. There is a business-related reason to cook with a flame; and
  2. This need cannot be reasonably achieved with an electric fuel source; and
  3. The applicant has employed reasonable methods to mitigate the greenhouse gas impacts of the gas-fueled appliance; and
  4. The applicant shall comply with 5.106.1.3.2.
3. If an applicant establishes by substantial evidence that an All-Electric Building is infeasible for the project due to exceptional or extraordinary circumstances particular to the project, then the Building Official may grant a modification. The design professional shall submit findings demonstrating a unique reason that makes the technical code impractical, that the modification is in conformity with the intent and purpose of the technical code, the modification shall be as narrow as possible so as to effectuate as much of a reduction in natural gas as possible, and that such modification does not lessen health, life safety, and fire safety requirements or any degree of structural integrity. If the Building Official grants a modification pursuant to this Exception, the applicant shall comply with Section 5.106.1.3.2.

A building applicant may appeal the decision of the Building Official to the City Council. The City Council's decision on the appeal shall be final.

4. If the applicant establishes that there is not an all-electric prescriptive compliance pathway for the building under the California Building Energy Efficiency Standards, and that the building is not able to achieve the performance compliance standard applicable to the building under the Energy Efficiency Standards using commercially available technology and an approved calculation method, then the local enforcing agency may grant a modification. The applicant shall comply with Section 5.106.1.3.2.

The Building Official shall have the authority to approve alternative materials, design and methods of construction or equipment per California Building Code Section 104.

**5.106.1.3.2. Requirements for combustion equipment.**

Where combustion equipment is allowed per exceptions under Section 5.106.1.3.1, the construction drawings shall indicate electrical infrastructure and physical space accommodating the future installation of an electrical heating appliance in the following ways, as certified by a registered design professional or licensed electrical contractor:

1. Branch circuit wiring, electrically isolated and designed to serve all electrical heating appliances in accordance with manufacturer requirements and the California Electrical Code, including the appropriate voltage, phase, minimum amperage, and an electrical receptacle or junction box within five feet of the appliance that is accessible with no obstructions. Appropriately sized conduit may be installed in lieu of conductors; and
2. Labeling of both ends of the unused conductors or conduit shall be with "For Future Electrical Appliance"; and
3. Reserved circuit breakers in the electrical panel for each branch circuit, appropriately labeled (i.e "Reserved for Future Electric Range"), and positioned on the opposite end of the panel supply conductor connection; and
4. Connected subpanels, panelboards, switchboards, busbars, and transformers shall be sized to serve the future electrical heating appliances. The electrical capacity requirements shall be adjusted for demand factors in accordance with the California Electric Code; and
5. Physical space for future electrical heating appliances, including equipment footprint, and if needed a pathway reserved for routing of ductwork to heat pump evaporator(s), shall be depicted on the construction drawings. The footprint necessary for future electrical heating appliances may overlap with non-structural partitions and with the location of currently designed combustion equipment.

**J. Section 5.106.5.3 of the Green Building Standards Code is amended to read as follows:**

**5.106.5.3 Electric Vehicle (EV) charging. [N] Construction to provide electric vehicle infrastructure and facilitate electric vehicle charging shall comply with Section 5.106.5.3 and shall be provided in accordance with regulations in the California Building Code and the California Electrical Code.**

Exceptions:

1. On a case-by-case basis where local enforcing agency has determined compliance with this section is not feasible based upon one of the following conditions:
  - a. Where there is no local utility power supply.
  - b. Where the local utility is unable to supply adequate power.
  - c. Where there is evidence suitable to the local enforcement agency substantiating that additional local utility infrastructure design requirements, directly related to the implementation of Section 5.106.5.3, may increase construction cost by an average of \$4,500 per parking space. EV infrastructure shall be provided up to the level that would not exceed this cost for utility service.
2. Parking spaces accessible only by automated mechanical car parking systems are not required to comply with this code section.

**K. Section 5.106.5.3.1 of the Green Building Standards Code is amended to read as follows:**

**5.106.5.3.1 Nonresidential Occupancy Class B Offices—Shared Parking Space**

**5.106.5.3.1.1 New Construction.** Ten percent (10%) of parking spaces shall be EVCS with Level 2 EV Ready. ALMS shall be permitted to reduce load when multiple vehicles are charging. Ten percent (10%) of parking spaces provided shall be Level 1 EV Ready spaces. Thirty percent (30%) of parking spaces provided shall be EV Capable.

**L. Section 5.106.5.3.2 of the Green Building Standards Code is amended to read as follows:**

**5.106.5.3.2 Hotel and Motel Occupancies—Shared Parking Facilities.**

**5.106.5.3.2.1 New Construction.** Five percent (5%) of parking spaces provided shall be EVCS with Level 2 EV Ready. ALMS shall be permitted to reduce load when multiple vehicles are charging. Twenty-five percent (25%) of parking spaces provided shall be Low Power Level 2 EV Ready space. Ten percent (10%) of parking spaces provided shall be Level 2 EV Capable.

**M. Section 5.106.5.3.3 of the Green Building Standards Code is amended to read as follows:**

**5.106.5.3.3 All Other Nonresidential Occupancies—Shared Parking Facilities.**

**5.106.5.3.3.1 New Construction.** Ten percent (10%) of parking spaces provided shall be EVCS with Level 2 EV Ready. ALMS shall be permitted to reduce load when multiple vehicles are charging. Ten percent (10%) of parking spaces provided shall be Level 2 EV Capable.

**N. Section 5.106.5.3.4 of the Green Building Standards Code is amended to read as follows:**

**5.106.5.3.4 Direct current fast charging stations.** One DCFC may be substituted for up to five (5) EVCS to meet the requirements of 5.106.5.3.1, 5.106.5.3.2, and 5.106.5.3.3. Where ALMS serve DCFC stations, the power demand from the DCFC shall be prioritized above Level 1 and Level 2 spaces.

(Ord. 1589 § 2 (Exh. A), 2022; Ord. 1570 § 3, 2021; Ord. 1553 § 2 (Exh. A (part)), 2019: Ord. 1513 § 1 (Exh. A (part)), 2016: Ord. 1470 § 1 (Exh. A (part)), 2013: Ord. 1448 § 3, 2012: Ord. 1428 § 2 (part), 2010; Ord. 1422 § 3, 2010)

#### **15.04.130 Title 24, Part 12, California Referenced Standards Code.**

Title 24, Part 12, the California Referenced Standards Code, 2022 Edition, is hereby adopted by reference. (Ord. 1589 § 2 (Exh. A), 2022; Ord. 1553 § 2 (Exh. A (part)), 2019: Ord. 1513 § 1 (Exh. A (part)), 2016: Ord. 1470 § 1 (Exh. A (part)), 2013: Ord. 1428 § 2 (part), 2010)

#### **15.04.140 1997 Uniform Building Security Code.**

The 1997 Uniform Building Security Code is hereby adopted by reference. (Ord. 1589 § 2 (Exh. A), 2022; Ord. 1553 § 2 (Exh. A (part)), 2019: Ord. 1513 § 1 (Exh. A (part)), 2016: Ord. 1470 § 1 (Exh. A (part)), 2013: Ord. 1428 § 2 (part), 2010)

#### **15.04.150 2021 International Property Maintenance Code.**

The 2021 International Property Maintenance Code is hereby adopted by reference, with the following amendments and modifications:

- A. Section 101.1. Insert [City of San Carlos].
- B. Section 103.5. Insert [First violation, \$100 per violation; Second violation of the same ordinance within 36-months, \$200 per violation; Each additional violation of the same ordinance within 36-months, \$500 per violation].
- C. Section 111. Means of appeal, is deleted in its entirety. Reference applicable San Carlos Municipal Code Section for means of appeal.
- D. Section 112.4. Insert [Two times the building permit fee] and delete "dollars or more than [AMOUNT] dollars."
- E. Section 302.4. Insert [Twelve (12) inches].
- F. Section 304.14. Insert [January 1] to [December 31].
- G. Section 602.3. Insert [January 1] to [December 31].
- H. Section 602.4. Insert [January 1] to [December 31].

(Ord. 1589 § 2 (Exh. A), 2022; Ord. 1553 § 2 (Exh. A (part)), 2019: Ord. 1513 § 1 (Exh. A (part)), 2016: Ord. 1470 § 1 (Exh. A (part)), 2013: Ord. 1428 § 2 (part), 2010)

#### **15.04.160 Safety Assessment Program (SAP) placards.**

The Safety Assessment Program (SAP) placards are hereby adopted and establish standard placards to be used to indicate the condition of a structure for continued occupancy. This section further authorizes the Building Official and his or her authorized representatives to post the appropriate placard at each entry point of a building or structure upon completion of a safety assessment.

- A. Application. The provisions of this section are applicable to all buildings and structures of all occupancies regulated by the City of San Carlos. The City Council may extend the provisions as necessary.
- B. Definitions. "Safety assessment" means a visual nondestructive examination of a building or structure for the purpose of determining the condition for continued occupancy.
- C. Placards. The following are general descriptions of the official City of San Carlos placards to be used to designate the condition for continued occupancy for buildings or structures. The actual placards shall be in a form approved by the City Manager and substantially similar in substance to the following:
  1. "INSPECTED—Lawful Occupancy Permitted" is to be posted on any building or structure wherein no apparent structural hazard has been found. This placard is not intended to mean that there is no damage to the building or structure. This placard shall be green.
  2. "RESTRICTED USE" is to be posted on each building or structure that has been damaged wherein the damage has resulted in some form of restriction to the continued occupancy. The individual who posts this placard will note in general terms the type of damage encountered and will clearly and concisely note the restrictions for continued occupancy. This placard shall be yellow.
  3. "UNSAFE—Do Not Enter or Occupy" is to be posted on each building or structure that has been damaged such that continued occupancy poses a threat to life safety. Buildings or structures posted with this placard shall not be entered under any circumstances except as authorized in writing by the Building Official or his or her authorized representative. Safety assessment teams shall be authorized to enter buildings posted with a red placard at any time. This placard shall

not be used or considered as a demolition order. The individual who posts a red placard shall note in general terms the type of damage encountered. This placard shall be red.

The name of the jurisdiction, its address, and phone number shall be included on each placard posted.

Once a placard has been attached to a building or structure, it shall not be removed, altered, or covered except by an authorized representative of the Building Official, or upon written notification by the Building Official.

It shall be unlawful for any person, firm, or corporation to alter, remove, cover, or deface a posted placard unless authorized by this section. (Ord. 1589 § 2 (Exh. A), 2022; Ord. 1553 § 2 (Exh. A (part)), 2019: Ord. 1513 § 1 (Exh. A (part)), 2016: Ord. 1470 § 1 (Exh. A (part)), 2013: Ord. 1428 § 2 (part), 2010)

#### **15.04.170 Findings.**

The following findings have been made:

A. Geologic. The City of San Carlos is located near a very active seismic area, seismic zone E (previously known as seismic zone 4). The entire City is two (2) to seven (7) kilometers from the San Andreas Fault, a major active fault in California.

There are five (5) major soils types in the City from the bay to the hillsides. There is existing fill overlying unconsolidated Holocene Bay mud deposits. There is unconsolidated Holocene fine- to coarse-grained alluvial fan and basin deposits with a water table equal to or less than ten (10) feet. There is unconsolidated Holocene fine- to coarse-grained alluvial fan deposits with a water table equal to or greater than ten (10) feet. There are weak consolidated Pleistocene fine- to coarse-grained alluvial fan and basin deposits. There are colluvial and landslide deposits locally overlying sandstone and bedrock units.

There are high flooding hazards in two (2) of the five (5) soils types and moderate flooding hazards in two (2) of the five (5). There is high ground settlement potential in the area along the bay. There is high potential for seismically induced ground failure in the same area and moderate potential in the adjacent area.

There is a high potential for seismically induced ground shaking in all areas in the City. There is a high potential for liquefaction in the area adjacent to the bay and moderate potential in the adjacent area. There is moderate potential for erosion and slope instability/landslides in approximately fifty (50) percent of the City. Expansive soils or bedrock varies in significance in over two-thirds (2/3) of the entire City.

These actions can cause great damage to structures in or on the ground. Gypsum wallboard and exterior Portland cement plaster have performed poorly during recent California seismic events. Cyclic seismic action testing has proven the limited seismic resistance of these materials.

#### Potential Geologic and Seismic Hazards Map.

Based upon these geologic findings, the City Council hereby adopts and designates the Harlan Tait Associates "Potential Geologic and Seismic Hazards Map, City of San Carlos, California" dated February 22, 1996, and Hazard Zone A and Hazard Zone B handouts, as minimum criteria to determine when a geotechnical investigation report (soils report) is required for development within the City.

B. Climatic. The local climate is characterized by markedly delineated rainy and dry seasons, which tend to maximize the expansive characteristics of soil.

C. Topography. San Carlos topography includes mountain and foothill areas. The ground elevation rises over nine hundred (900) feet in less than one (1) mile in much of the City resulting in large areas of unstable, steep slopes. Upgraded structural provisions are required to construct housing on these unpredictable, unstable steep slopes. Upgraded automatic sprinkler provisions are required due to approximately one-quarter (1/4) of residential properties located in very high fire hazard severity zone.

D. The City Council hereby declares that it would have passed the ordinance codified in this chapter sentence by sentence, paragraph by paragraph and section by section, and does hereby declare that any provisions in this chapter are severable and, if for any reason any sentence, paragraph or section of this chapter shall be held invalid, such decision shall not affect the validity of the remaining parts of this chapter.

E. The ordinance codified in this chapter shall be published and posted according to law and shall take effect and be in force from and after thirty (30) days after its passage and adoption. (Ord. 1589 § 2 (Exh. A), 2022; Ord. 1553 § 2 (Exh. A (part)), 2019: Ord. 1513 § 1 (Exh. A (part)), 2016: Ord. 1470 § 1 (Exh. A (part)), 2013: Ord. 1428 § 2 (part), 2010)

**Chapter 15.16  
STREAMLINED PERMITTING PROCESS FOR SMALL RESIDENTIAL ROOFTOP SOLAR SYSTEMS**

Sections:

**15.16.010 Purpose.**

**15.16.020 Definitions.**

**15.16.030 Applicability.**

**15.16.040 Solar energy system requirements.**

**15.16.050 Submittal requirements.**

**15.16.060 Plan review, permit and inspection requirements.**

**15.16.010 Purpose.**

The purpose of this chapter is to adopt an expedited, streamlined solar permitting process that complies with the Solar Rights Act and AB 2188 (Chapter 521, Statutes 2014) to achieve timely and cost-effective installations of small residential rooftop solar energy systems. This chapter encourages the use of solar systems and minimizes costs to property owners and the City of San Carlos, and expands the ability of property owners to install solar energy systems. This chapter allows the City of San Carlos to achieve these goals while protecting the public health and safety. (Ord. 1494 § 1 (part), 2015)

**15.16.020 Definitions.**

A. “Solar energy system” means either of the following:

1. Any solar collector or other solar energy device whose primary purpose is to provide for the collection, storage and distribution of solar energy for space heating, space cooling, electric generation, or water heating.
2. Any structural design feature of a building, whose primary purpose is to provide for the collection, storage and distribution of solar energy for electricity generation, space heating or cooling, or for water heating.

B. “Small residential rooftop solar energy system” means all of the following:

1. A solar energy system that is no larger than ten kilowatts alternating current nameplate rating or thirty kilowatts thermal.
2. A solar energy system that conforms to all applicable State fire, structural, electrical, and other building codes as adopted or amended by the City of San Carlos, and all State and City of San Carlos health and safety standards including paragraph (3) of subdivision (c) of Section 714 of the Civil Code.
3. A solar energy system that is installed on a single-family or duplex family dwelling.
4. A solar panel or module array that does not exceed the maximum legal building height as defined by the City of San Carlos.

C. “Electronic submittal” means the utilization of one or more of the following:

1. Email; or
2. The Internet.

D. “Association” means a nonprofit corporation or unincorporated association created for the purpose of managing a common interest development.

E. “Common interest development” means any of the following:

1. A community apartment project; or
2. A condominium project; or
3. A planned development; or
4. A stock cooperative.

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

G. "Reasonable restrictions on a solar energy system" are those restrictions that do not significantly increase the cost of the system or significantly decrease its efficiency or specified performance, or that allow for an alternative system of comparable cost, efficiency and energy conservation benefits.

H. "Restrictions that do not significantly increase the cost of the system or decrease its efficiency or specified performance" means:

1. For water heater systems or solar swimming pool heating systems: an amount exceeding ten percent of the cost of the system, but in no case more than one thousand dollars, or decreasing the efficiency of the solar energy system by an amount exceeding ten percent, as originally specified and proposed.

2. For photovoltaic systems: an amount not to exceed one thousand dollars over the system cost as originally specified and proposed, or a decrease in system efficiency of an amount exceeding ten percent as originally specified and proposed. (Ord. 1494 § 1 (part), 2015)

#### **15.16.030 Applicability.**

This chapter applies to the permitting of all small residential rooftop solar energy systems in the City of San Carlos. Small residential rooftop solar energy systems legally established or permitted prior to the effective date of the ordinance codified in this chapter are not subject to the requirements of this chapter unless physical modifications or alterations are undertaken that materially change the size, type, or components of a small rooftop energy system in such a way as to require new permitting. Routine operation and maintenance shall not require a permit. (Ord. 1494 § 1 (part), 2015)

#### **15.16.040 Solar energy system requirements.**

All solar energy systems shall meet applicable health and safety standards and requirements imposed by the State and the City of San Carlos and the City of San Carlos Fire Department.

Solar energy systems for heating water in single-family residences and for heating water in commercial or swimming pool applications shall be certified by an accredited listing agency as defined by the California Plumbing Code and California Mechanical Code.

Solar energy systems for producing electricity shall meet all applicable safety and performance standards established by the California Electrical Code, the Institute of Electrical and Electronics Engineers, and accredited testing laboratories such as Underwriters Laboratories and, where applicable, rules of the Public Utilities Commission regarding safety and reliability. (Ord. 1494 § 1 (part), 2015)

#### **15.16.050 Submittal requirements.**

All documents required for the submission of an expedited solar energy system application shall be made available on the City of San Carlos website.

Electronic submittal of the required permit application and associated documents for small residential rooftop solar energy system permits shall be made by email or the Internet. As an alternative, an applicant may submit a permit application and associated documents at the Building Division front counter during regular business hours.

An applicant's valid electronic signature on all forms, applications and other documents in lieu of a wet signature will be deemed acceptable.

The small residential rooftop solar system permit process, standard plans and the checklist shall substantially conform to recommendations for expedited permitting, including the checklist and standard plans contained in the most current version of the California Solar Permitting Guidebook adopted by the Governor's Office of Planning and Research and as amended from time to time.

All fees prescribed for the permitting of small residential rooftop solar energy systems must comply with Government Code Sections 65850.55, 66015, and 66016 and State Health and Safety Code Section 17951. (Ord. 1494 § 1 (part), 2015)

#### **15.16.060 Plan review, permit and inspection requirements.**

The Building Division shall prepare and implement an administrative, nondiscretionary plan check review process to expedite approval of small residential rooftop solar energy systems within thirty days of the adoption of the ordinance codified in this

chapter.

The Building Division shall process, review and approve the application for the installation or use of a solar system in the same manner as an application for review of an architectural modification to the property.

If an application is deemed incomplete, a written correction notice detailing all deficiencies in the application and any additional information or documentation required to be eligible for expedited permit issuance shall be sent to the applicant for resubmission.

If an application for the installation of a solar system is not denied in writing within forty-five days of receipt of a complete application, the application shall be deemed approved, unless the delay is the result of a reasonable request for additional information.

The City of San Carlos Planning Division may require an applicant to apply for a use permit if the Planning Division finds, based on substantial evidence, that the solar energy system could have a specific, adverse impact upon the public health and safety.

Review of the permit application shall be limited to the Building Division's review of whether the application meets local, State and Federal health and safety requirements. If a use permit is required, the Building Official may deny an application for the use permit if the Building Official makes written findings based upon substantive evidence in the record that the proposed installation would have a specific, adverse impact upon public health or safety and there is no feasible method to satisfactorily mitigate or avoid, as defined, the adverse impact. Such findings shall include the basis for the rejection of the potential feasible alternative for preventing the adverse impact. Any condition imposed on an application shall be designed to mitigate the specific, adverse impact upon health and safety at the lowest possible cost.

A "feasible method to satisfactorily mitigate or avoid the specific, adverse impact" includes, but is not limited to, any cost-effective method, condition, or mitigation imposed by the City of San Carlos on another similarly situated application in a prior successful application for a permit. The City of San Carlos shall use its best efforts to ensure that the selected method, condition, or mitigation meets the conditions of subparagraphs (A) and (B) of paragraph (1) of subdivision (d) of Section 714 of the Civil Code defining restrictions that do not significantly increase the cost of the system or decrease its efficiency or specified performance.

The City of San Carlos shall not provide conditional approval of an application for a small residential rooftop solar energy system on the approval of an association, as defined in Section 4080 of the Civil Code.

Only one inspection shall be required and performed by the Building Division for small residential rooftop solar energy systems eligible for expedited review. During the required inspection, if it is found that the installation does not conform to the approved plans and/or comply with the current California Building Code and/or California Electrical Code requirements, then an additional follow-up inspection, or inspections, shall be required. If a small residential rooftop solar energy system fails inspection, a subsequent inspection is authorized.

A separate fire inspection may be performed by the City of San Carlos Fire Department, if required.

The Building Division inspection shall be scheduled within three business days, upon request, and may include consolidated inspections. (Ord. 1494 § 1 (part), 2015)

## **Chapter 15.20 STREAMLINED PERMITTING PROCESS FOR ELECTRIC VEHICLE CHARGING STATIONS**

Sections:

**15.20.010 Purpose.**

**15.20.020 Definitions.**

**15.20.030 Applicability.**

**15.20.040 Electric vehicle charging station installation requirements.**

**15.20.050 Submittal requirements.**

**15.20.060 Technical review, permit and inspection requirements.**

**15.20.010 Purpose.**

The purpose of this chapter is to promote and encourage the use of electric vehicles by creating an expedited, streamlined permitting process for electric vehicle charging stations while promoting public health and safety and preventing specific adverse impacts on the installation and use of such charging stations. This chapter is also purposed to comply with California Government Code Section 65850.7. (Ord. 1563 § 1 (part), 2020)

#### **15.20.020 Definitions.**

- A. "Electric vehicle charging station" or "charging station" means any level of electric vehicle supply equipment station that is designed and built in compliance with Article 625 of the California Electrical Code, as it reads on the effective date of the ordinance codified in this chapter, and delivers electricity from a source outside an electric vehicle into a plug-in electric vehicle.
- B. "Specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective and written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.
- C. "Electronic submittal" means the utilization of one or more of the following:
  - 1. Email; or
  - 2. The internet; or
  - 3. Facsimile. (Ord. 1563 § 1 (part), 2020)

#### **15.20.030 Applicability.**

This chapter applies to the permitting of all electric vehicle charging stations in the City of San Carlos. Consistent with Government Code Section 65850.7, the Building Official shall implement an expedited, streamlined permitting process for electric vehicle charging stations, and adopt a checklist of all requirements which electric vehicle charging stations shall comply with in order to be eligible for review. The expedited, streamlined permitting process and checklist may refer to the recommendations contained in the most current version of "Plug-In Electric Vehicle Infrastructure Permitting Checklist" of the "Zero-Emission Vehicles in California: Community Readiness Guidebook" as published by the Governor's Office of Planning and Research. The City's adopted checklist shall be published on the City's website. (Ord. 1563 § 1 (part), 2020)

#### **15.20.040 Electric vehicle charging station installation requirements.**

- A. Electric vehicle charging station equipment shall meet the requirements of the California Electrical Code, the Society of Automotive Engineers, the National Electrical Manufacturers Association, and accredited testing laboratories, such as Underwriters Laboratories, and rules of the Public Utilities Commission or a municipal utility company regarding safety and reliability.
- B. Installation of electric vehicle charging stations and associated wiring, bonding, disconnecting means and overcurrent protection devices shall meet the requirements of Article 625 and all applicable provisions of the California Electrical Code.
- C. Installation of electric vehicle charging stations shall be incorporated into the load calculations of all new or existing electrical services and shall meet the requirements of the California Electrical Code. Electric vehicle charging equipment shall be considered a continuous load.
- D. Anchorage of either floor-mounted or wall-mounted electric vehicle charging stations shall meet the requirements of the California Building Code and the California Residential Code, as applicable per occupancy, and the provisions of the manufacturer's installation instructions. Mounting of charging stations shall not adversely affect building elements. (Ord. 1563 § 1 (part), 2020)

#### **15.20.050 Submittal requirements.**

All documents required for the submission of an expedited electric vehicle charging system application shall be made available on the City of San Carlos website.

Electronic submittal of the required permit application and associated documents for electric vehicle charging system permits shall be made by email or the internet. As an alternative, an applicant may submit a permit application and associated documents at the Building Division front counter during regular business hours.

An applicant's valid electronic signature on all forms, applications and other documents in lieu of a wet signature will be deemed acceptable.

The electric vehicle charging system permit process and the checklist shall substantially conform to recommendations for expedited permit issuance.

All fees prescribed for the permitting of electric vehicle charging systems shall comply with Government Code Section 17556. (Ord. 1563 § 1 (part), 2020)

**15.20.060 Technical review, permit and inspection requirements.**

The Building Division shall prepare and implement an administrative, nondiscretionary permit issuance process to expedite approval of electric vehicle charging station permits within thirty (30) days of the adoption of the ordinance codified in this chapter.

Prior to submitting an application for processing, the applicant shall verify that the installation of an electric vehicle charging station will not have a specific, adverse impact upon public health and safety and building occupants. Verification by the applicant includes, but is not limited to: electrical system capacity and loads; electrical system wiring, bonding and overcurrent protection; building infrastructure affected by charging station equipment and associated conduits; areas of charging station equipment and vehicle parking.

A permit application that satisfies the information requirements in the City's adopted checklist shall be deemed complete and be promptly processed. Upon confirmation by the Building Official that the permit application and supporting documents meet the requirements of the City-adopted checklist, and is consistent with all applicable laws and health and safety standards, the Building Official shall, consistent with Government Code Section 65850.7, approve the application and issue all necessary permits. Such approval does not authorize an applicant to energize or utilize the electric vehicle charging station until approval is granted by the Building Division.

If an application is deemed incomplete, a written correction notice detailing all deficiencies in the application and any additional information or documentation required to be eligible for expedited permit issuance shall be emailed to the applicant for resubmission.

Review of the permit application shall be limited to the Building Division's review of whether the application meets local, State and Federal health and safety requirements. If a use permit is required, the Building Official may deny an application for the use permit if the Building Official makes written findings based upon substantive evidence in the record that the proposed installation would have a specific, adverse impact upon public health or safety and there is no feasible method to satisfactorily mitigate or avoid, as defined, the adverse impact. Such findings shall include the basis for the rejection of the potential feasible alternative for preventing the adverse impact. Any condition imposed on an applicant shall be designed to mitigate the specific, adverse impact upon health and safety at the lowest possible cost.

A "feasible method to satisfactorily mitigate or avoid the specific, adverse impact" includes, but is not limited to, any cost-effective method, condition, or mitigation imposed by the City of San Carlos on another similarly situated application in a prior successful application for a permit. The City of San Carlos shall use its best efforts to ensure that the selected method, condition, or mitigation meets the conditions of subparagraphs (A) and (B) of paragraph (1) of subdivision (d) of Section 714 of the Civil Code defining restrictions that do not significantly increase the cost of the system or decrease its efficiency or specified performance.

The City of San Carlos shall not provide conditional approval of an application for an electric vehicle charging station on the approval of an association, as defined in Section 4080 of the Civil Code.

Only one inspection shall be required and performed by the Building Division for electric vehicle charging systems. During the required inspection, if it is found that the installation does not conform to the approved plans and/or comply with the current California Building Code and/or California Electrical Code requirements, then an additional follow-up inspection, or inspections, shall be required. If an electric vehicle charging station system fails inspection, a subsequent inspection is authorized.

The Building Division inspection shall be scheduled within three (3) business days, upon request, and may include consolidated inspections. (Ord. 1563 § 1 (part), 2020)

**Chapter 15.24  
PROPERTY MAINTENANCE**

Sections:

**15.24.010 Title of provisions.**

**15.24.020 Findings.**

**15.24.030 Definitions.**

**15.24.040 Administration and enforcement.****15.24.050 Unlawful materials, conditions and activities.****15.24.060 Maintaining public nuisances prohibited.****15.24.070 Abatement of unlawful conditions—Notice.****15.24.080 Abatement work—Extension of time.****15.24.090 Abatement work—Appeal of notice.****15.24.100 Performance of abatement—City authority.****15.24.110 Entering property for abatement work.****15.24.120 Dangerous nuisance—Immediate abatement—Notice and costs.****15.24.130 Administrative and abatement costs.****15.24.140 Costs of abatement—Record keeping.****15.24.150 Costs of abatement—Assessment—Notice protests.****15.24.160 Proposed assessment hearing.****15.24.170 Confirmed assessment—Notice of lien.****15.24.180 Confirmed assessment—Collection.****15.24.190 Remedies of private parties.****15.24.200 Limitations of filing judicial action.****15.24.210 Alternatives.****15.24.220 Enforcement authority.****15.24.230 Violation—Penalty.****15.24.240 Violation—Abatement.****15.24.010 Title of provisions.**

This chapter shall be known as the "City of San Carlos Property Maintenance Ordinance." (Ord. 1163 § 2 (part), 1994)

**15.24.020 Findings.**

The Council finds and determines as follows:

A. The City has a history and reputation for well-kept properties and the property values and the general welfare of the community are founded, in part, upon the appearance and maintenance of private properties;

B. Owners and occupants of some properties within the City have permitted visual blight, including but not exclusive of abandoned, deteriorated and infested buildings, the accumulation of overgrown, rank and noxious vegetation visible to the public, the accumulation of broken-down or discarded personal property in front yards, and the strewing of debris and garbage cans on yards visible from the street;

C. The existence of such conditions as described in this chapter is injurious and inimical to the public health, safety and welfare of the residents of the City and contributes substantially and increasingly to the deterioration of neighborhoods, and the commercial and industrial areas;

D. Abatement of these conditions is in the best interest of the health, safety and welfare of the residents of the City because maximum use and enjoyment of properties closely proximate to one another depends upon maintenance of those properties at or above a minimum standard of sightliness. The beneficial effects of maintaining a minimum standard of sightliness for property in the City include, but are not limited to, appreciation of property values, physical improvement of residential and

commercial areas, attraction of investors of capital to residential and commercial zones, increase in commercial trade and increase in the tax base of the City;

E. The abatement of such conditions will improve the general welfare, health and safety and image of the City;

F. The abatement procedures set forth in this chapter are reasonable and afford due process to all affected persons;

G. The uses and abuses of property, as described in this chapter, reasonably relate to the proper exercise of police power to protect the health, safety and general welfare of the public. (Ord. 1163 § 2 (part), 1994)

#### **15.24.030 Definitions.**

The following words and phrases, whenever used in this chapter, shall be construed as defined in this section, unless from the context a different meaning is specifically defined and more particularly directed to the use of such words or phrases:

"Abatement costs and administrative expenses" means and includes, but is not limited to, the actual expenses and costs of the City in preparing notices, specifications and contracts; in conducting inspections; for legal fees; and for other related costs incurred in enforcing the provisions of this chapter, as well as reasonable costs to abate a nuisance.

"Attractive nuisance" means any condition, instrumentality or machine that is unsafe and unprotected and thereby dangerous to young children by reason of their inability to appreciate the peril therein, and that may reasonably be expected to attract young children to the premises and risk injury by playing with, in or on it;

"Code Enforcement Officer" means the person(s) designated by the City Manager to enforce this chapter.

"Commercial vehicle" means a vehicle of a type required to be registered under the California State Vehicle Code used or maintained for the transportation of persons for hire, compensation or profit or designed, used or maintained primarily for the transportation of property. Passenger vehicles that are not used for the transportation of persons for hire, compensation or profit, housecars, vanpools, and other vehicles exempt by the California State Vehicle Code are not considered commercial vehicles for purposes of this chapter.

Compost means the product resulting from controlled and contained biological decomposition of organic waste that is source separated from the municipal solid waste stream and which does not produce objectionable odors, insect problems or fire hazards and meets all other applicable municipal and state codes relating to compost.

"Landowner" means the person to whom land is assessed, as shown on the last equalized assessment roll of the county.

"Parkway" means that portion of a street right-of-way that lies between the property line and the outside edge of a gutter or gutter lip, including a driveway approach. Where no curb exists, "parkway" means the area of property from the property line to the edge of the pavement.

"Property" means any lot or parcel of land. For the purposes of this definition, "lot or parcel of land" means and includes any alley, sidewalk, parkway or unimproved public easement abutting such lot or parcel of land. (Ord. 1239 § 1, 1998: Ord. 1163 § 2 (part), 1994)

#### **15.24.040 Administration and enforcement.**

The Code Enforcement Officer shall be responsible for the administration and enforcement of this chapter. (Ord. 1163 § 2 (part), 1994)

#### **15.24.050 Unlawful materials, conditions and activities.**

It is unlawful for any landowner or person leasing, occupying, or having charge or possession of any real property in the City to keep, maintain, deposit or perform on such property any of the following:

A. Rubbish or junk, including but not limited to refuse, garbage, food waste (with the exception of compost as defined in this chapter), trash, scrap metal or lumber, concrete, asphalt, tin cans, bottles, tires, litter, piles of dirt, abandoned, broken, discarded or unused furniture, stoves, sinks, toilets, cabinets, refrigerators, freezers, discarded or inoperable equipment, discarded building materials, yard waste (with the exception of compost as defined in this chapter), or other fixtures or appliances, that are:

1. Not stored within an entirely enclosed space, and
2. Visible from the public right-of-way or from neighborhood property;

- B. Combustible material likely to become easily ignited or debris resulting from any fire;
- C. Trash, garbage or refuse cans, bins, boxes or other such containers, where there is no closed lid in place, or where the can or containers are overflowing and are stored in front or side yards visible from public streets, unless in an enclosed or screened area according to City Code;
- D. Overgrown vegetation; dead, decayed, diseased or hazardous trees; weeds and other vegetation likely to harbor rats, vermin or nuisances or that constitute a fire hazard;
- E. Buildings that are abandoned, boarded up, partially destroyed, not properly secured, or partially constructed or incomplete after building permits have expired;
- F. Broken windows, graffiti, or building exterior or walls that are cracked, broken, deteriorated or in disrepair;
- G. Signs, both on-site and off-site (billboards), that advertise uses no longer conducted or products no longer sold on the premises, except where such signs are legally permitted;
- H. The disposal of oil, gasoline, other petroleum products, noxious chemicals, pesticides, or any gaseous, liquid, or solid wastes in such manner as to constitute a health hazard or degrade the appearance of or detract from the aesthetic and property values of neighboring properties;
- I. Performance of work on motor vehicles or motor vehicle engines or parts on public right-of-way or in yard areas of residential properties so as to be visible from public rights-of-way or neighboring properties, other than emergency repairs or minor maintenance, as determined by the Police Chief;
- J. Trailers, campers or similar vehicles or equipment that are being used for sleeping, cooking or living purposes;
- K. Construction activity, construction materials or excavation that is visible or accessible from public rights-of-way or neighboring properties and where a final inspection has not been obtained, on sites located within the C-2, C-P, CS, C-4, PM, M-2, and A zoning districts, that are not completely surrounded and secured by a six foot high chain link fence with slats or other materials as approved by the Planning Director;
- L. Abandoned, wrecked, dismantled, disrepaired or nonoperating boats and vehicles, (see Section 8.08.010) or parts thereof, which are not stored within an entirely enclosed garage and are visible from public rights-of-way or neighboring properties;
- M. Vehicles of any kind, boats, and other watercraft, parked or stored on residential properties within the City between the front-most wall of a residence and the front property line, unless parked in a driveway;
- N. Construction equipment and machinery and building supplies and materials stored in areas visible from public rights-of-way or neighboring properties unless part of an active and approved construction project;
- O. More than one commercial vehicle per property within residential zoning districts. No attachments of equipment or machinery used for business purposes shall be permitted on vehicles when the vehicles are not in use;
- P. Commercial vehicles having an unladen weight of more than three tons, or any truck-tractor and/or trailer irrespective of weight, in any residential district, except:
  - 1. While loading or unloading property; or
  - 2. When such vehicle is parked in connection with and in aid of the performance of a service to or on a property in the block in which such vehicle is parked;
- Q. Violation of any condition of a conditional use permit;
- R. Activities and uses not permitted within the zoning district within which a site is located, activities not permitted by a conditional use permit governing the site, and unpermitted home occupation activities;
- S. Conditions that may prove detrimental or dangerous to children, whether in a building, on the premises of a building, or on an unoccupied lot, in the form of:
  - 1. Abandoned and broken equipment,
  - 2. Abandoned and unsealed wells, shafts or basements,

3. Hazardous or unprotected pools, ponds or excavations,
4. Structurally unsound fences or structures,
5. Neglected machinery,
6. Lumber, trash or debris that may prove a hazard for inquisitive minors,
7. Inoperative refrigerators and freezers, unless the door has been removed or locked. (Ord. 1239 § 2, 1998; Ord. 1163 § 2 (part), 1994)

**15.24.060 Maintaining public nuisances prohibited.**

It is declared a public nuisance for any landowner or person leasing, occupying, directly controlling or having possession of any property in this City to maintain any condition described in Section 15.24.050 of this chapter, or to maintain any attractive nuisance. It shall not be the intent of the City that the ordinance codified in this chapter shall preempt any private nuisance action or any and all other legal remedies available to private parties. (Ord. 1163 § 2 (part), 1994)

**15.24.070 Abatement of unlawful conditions—Notice.**

Whenever the Code Enforcement Officer has inspected and finds that conditions constituting a public nuisance exist thereon, the Code Enforcement Officer may use the procedures set forth in this chapter for the abatement of such nuisance.

A. The Code Enforcement Officer shall issue a notice and abatement order, and mail a copy of such notice and order to the landowner and the person, if other than the landowner, occupying or otherwise in real or apparent charge and control of the property. The notice and order shall contain:

1. The street address and a legal description sufficient for identification of the property on which the condition exists;
2. A statement that the Code Enforcement Officer has determined that a public nuisance is being maintained on the property, with a brief description of the conditions that render the property a public nuisance;
3. An order to secure all appropriate permits and to physically commence, within ten days from the date of service of the notice and order, and to complete within thirty days from such date, the abatement of the described conditions;
4. A statement advising that the disposal of material involved in public nuisances shall be carried forth in a legal manner;
5. A statement advising that if the required work is not commenced within the time specified, the Code Enforcement Officer will proceed to cause the work to be done, and bill the persons named in the notice for the abatement costs and administrative expenses and/or levy the costs against the property;
6. A statement advising that any person having any interest or record title in the property may appeal the notice and order to City Council, or any action of the Code Enforcement Officer, within ten days from the date of service of the notice and order;
7. A statement advising that the notice and order will be recorded against the property in the office of the County Recorder and that a lien may be placed on the property to cover abatement costs and administrative expenses.

B. The notice and order, and any amended notice and order, shall be served by the following method:

1. Personal service; or
2. Certified mail, postage prepaid, return receipt requested to each person as required pursuant to the provisions of subsection A of this section at the address as it appears on the last equalized assessment roll of the County, and as known to the Code Enforcement Officer. The address of the owner shown on the assessment roll shall be conclusively deemed to be the proper address for the purpose of mailing such notice. Simultaneously, the same notice may be sent by first class (regular) mail. If a notice that is sent by certified mail is returned unsigned, then service shall be deemed effective pursuant to regular mail, provided the notice that was sent by regular mail is not returned;
3. Service by certified or regular mail in the manner described above shall be effective on the date of mailing;
4. The failure of the person with an interest in the property to receive any notice served in accordance with this section shall not affect the validity of any proceedings taken under this code. If the owner of record, after diligent search cannot be found, the notice may be served by posting a copy thereof in a conspicuous place upon the property for a period of ten

days and publication thereof in a newspaper of general circulation published in the county in which the property is located pursuant to Government Code Section 6062.

C. Proof of service of the notice and order shall be documented at the time of service by a declaration under penalty of perjury executed by the person effecting service, declaring the time and manner in which service was made.

D. After the City Council has affirmed the notice and order on appeal pursuant to Section 15.24.090 of this chapter, or in the event no hearing has been requested, and the nuisance has not been abated, the Code Enforcement Officer shall file in the Office of the County Recorder a certified copy of the notice of nuisance and order of abatement as set forth in subsection A of this section. The Code Enforcement Officer shall file a certificate with the County Recorder that the nuisance has been abated, whenever the corrections ordered shall have been completed, so that there no longer exists a public nuisance on the property described in the certificate; or the notice and order is rescinded by the City Council on appeal, or whenever the City abates the nuisance and the abatement costs and administrative expenses have been paid. (Ord. 1163 § 2 (part), 1994)

**15.24.080 Abatement work—Extension of time.**

Upon receipt of a written request from any person required to comply with the order, the Code Enforcement Officer may grant an extension of time within which to complete the abatement, if the Code Enforcement Officer determines that such an extension of time will not create or perpetuate a situation imminently dangerous to life or property. The Code Enforcement Officer shall have the authority to place reasonable conditions on any such extensions. (Ord. 1163 § 2 (part), 1994)

**15.24.090 Abatement work—Appeal of notice.**

Any person aggrieved by the action of the Code Enforcement Officer in issuing a notice and order pursuant to the provisions of this chapter may appeal to the City Council. If no appeal is filed within ten days of service of the notice and order, the action of the Code Enforcement Officer shall be final. (Ord. 1163 § 2 (part), 1994)

**15.24.100 Performance of abatement—City authority.**

Abatement of the nuisance may, in the discretion of the Code Enforcement Officer, be performed by the City or by a contractor retained pursuant to the provisions of this code. (Ord. 1163 § 2 (part), 1994)

**15.24.110 Entering property for abatement work.**

The Code Enforcement Officer may enter upon private property to abate the nuisance pursuant to the provisions of this chapter. No person shall obstruct, impede or interfere with any officer, employee, contractor or authorized representative of the City whenever such person is engaged in the work of abatement, pursuant to the provisions of this chapter, or in performing any necessary act preliminary to or incidental to such work, as authorized or directed pursuant to this chapter. (Ord. 1163 § 2 (part), 1994)

**15.24.120 Dangerous nuisance—Immediate abatement—Notice and costs.**

Whenever the Code Enforcement Officer determines that a public nuisance is so imminently dangerous to life or adjacent property that such condition must be immediately corrected or isolated, the Building Official may institute the following procedures:

A. Notice. The Code Enforcement Officer shall attempt to make contact through a personal interview, or by telephone, with the landowner or the person, if any, occupying or otherwise in real or apparent charge and control thereof. In the event contact is made, the Code Enforcement Officer shall notify such person or persons of the danger involved and require that such condition be immediately removed, repaired or isolated so as to preclude harm to any person or property.

B. Abatement. In the event the Code Enforcement Officer is unable to make contact as herein above noted, or if the appropriate persons, after notification by the Code Enforcement Officer, do not take action as specified by such official, within twenty-four hours or such lesser time as circumstances may warrant in the discretion of the City Manager, then the Code Enforcement Officer may, with the approval of the City Manager, take all steps deemed necessary to remove or isolate such dangerous condition, or conditions, with the use of City forces or a contractor retained pursuant to the provisions of this code.

C. Costs. The Code Enforcement Officer shall keep an itemized account of the abatement costs and administrative expenses incurred by the City in removing or isolating such condition or conditions. Administrative expenses may be recovered in the same manner that abatement costs are recovered pursuant to this chapter. (Ord. 1163 § 2 (part), 1994)

**15.24.130 Administrative and abatement costs.**

Whenever a public nuisance as defined in this chapter is found to exist as a result of an inspection, the reasonable administrative expenses as determined by the City Council and actual abatement costs as set by City Council resolution, shall

be paid by the property owner. The City Council shall, from time to time, determine and fix an amount to be assessed as administrative expenses and abatement costs for violations of this chapter. (Ord. 1163 § 2 (part), 1994)

#### **15.24.140 Costs of abatement—Record keeping.**

The Code Enforcement Officer shall keep an itemized account of the expenses and costs incurred by the City in the abatement of any public nuisance under this chapter. Upon completion of the abatement work, the Code Enforcement Officer shall prepare a report specifying the work done, the itemized costs of the work for each property, including direct and indirect costs, a description of the real property, and the names and addresses of the persons entitled to service pursuant to Sections 15.24.070 through 15.24.090 of this chapter. Any such report may include expenses and costs on any number of properties, whether or not contiguous to each other. Each person named in the notice shall be jointly and severally liable for such abatement costs and administrative expenses for their property, and the amount of such costs and expenses shall be a debt owed to the City. (Ord. 1163 § 2 (part), 1994)

#### **15.24.150 Costs of abatement—Assessment—Notice protests.**

A. Unpaid Costs Forwarded to the City Clerk. When any costs assessed pursuant to this chapter remain unpaid for a period of sixty days or more after the date on which they were billed, the Code Enforcement Officer, in the Code Enforcement Officer's discretion, may forward the abatement costs and administrative expenses report described in Section 15.24.130 and 15.24.140 of this chapter to the City Clerk.

B. Hearing Notice. Upon receipt of the abatement costs and administrative expenses report, the Clerk shall fix a time and place for hearing and passing upon the report. The Clerk shall cause notice of the amount of the proposed assessment shown in this report to be given in the manner and to the persons specified in Section 15.24.070 of this chapter. Such notice shall contain a description of the property sufficient to enable the persons served to identify it, and shall specify the day, hour and place when the City Council will hear and pass upon the report, together with any objections or protests which may be raised by any landowner liable to be assessed for the costs of such abatement. Notice of the hearing shall be given not less than fifteen days prior to the time fixed by the Clerk for the hearing, and shall also be published once, at least fifteen days prior to the date of the hearing, in a newspaper of general circulation published in the City.

C. Protests. Any interested person may file a written protest with the City Clerk at any time prior to the time set for the hearing on the report of the Code Enforcement Officer. Each such protest shall contain a description of the property in which the person signing the protest is interested, and the grounds of such protest. The City Clerk shall endorse on every such protest the date and time of filing, and shall present such protest to the City Council at the time set for hearing. Any interested person may also register a protest at the time of the hearing. (Ord. 1163 § 2 (part), 1994)

#### **15.24.160 Proposed assessment hearing.**

Upon the day and hour fixed for the hearing, the City Council shall consider the report of the Code Enforcement Officer, together with any protests that have been filed with the City Clerk. The City Council may make such revision, correction or modification in the report as it may deem just, and when the City Council is satisfied with the correctness of the assessment, the report, and proposed assessment, as submitted or as revised, corrected or modified, shall be confirmed. The decision of the City Council on the report and the assessment and on all protests shall be final and conclusive. The City Council may adjourn the hearing from time to time. (Ord. 1163 § 2 (part), 1994)

#### **15.24.170 Confirmed assessment—Notice of lien.**

A. Notice of Lien. Immediately upon the confirmation of the assessment by the City Council, the Code Enforcement Officer shall execute and file in the office of the County Recorder a certificate in substantially the following form:

##### NOTICE OF LIEN

Pursuant to the authority vested in the Code Enforcement Officer by the provisions of the San Carlos Ordinance Code, said Code Enforcement Officer, on or about the \_\_\_\_\_ day of 19\_\_\_\_\_, caused the abatement of a nuisance on real property at \_\_\_\_\_ (Assessor's Parcel Number \_\_\_\_\_), and the City Council for the City of San Carlos, on the day of 19\_\_\_\_\_, assessed administrative expenses and abatement costs upon said real property and the same has not been paid nor any part thereof. The City of San Carlos hereby claims a lien on said real property for the net expense of the administrative expenses and abatement costs in the amount of \$ \_\_\_\_\_. This amount shall be a lien upon said real property until the sum has been paid in full and discharged of record.

Dated: This \_\_\_\_\_ day of 19\_\_\_\_\_

CODE ENFORCEMENT OFFICER OF THE CITY OF SAN CARLOS

(ACKNOWLEDGMENT)

B. Recordation. Immediately upon the recording of the notice of lien, the assessment shall constitute a lien on the real property assessed. Such lien shall, for all purposes, be upon a parity with the lien of State and local taxes. (Ord. 1163 § 2

(part), 1994)

**15.24.180 Confirmed assessment—Collection.**

A. Assessment Book. The notice of lien, after recording, shall be delivered to the Tax Assessor of San Mateo County, who shall enter the amount on the County assessment book opposite the description of the particular property, and the amount shall be collected together with all other taxes thereon against the property. The notice of lien shall be delivered to the Auditor before the date fixed by law for the delivery of the assessment book to the County Board of Equalization.

B. Collection. Thereafter, the amount set forth in the notice of lien shall be collected at the same time and in the same manner as ordinary City taxes are collected, and shall be subject to the same penalties and interest and to the same procedure under foreclosure and sale in case of delinquency as provided for ordinary City taxes. All laws applicable to the levy, collection and enforcement of City taxes are hereby made applicable to such assessment. The amount set forth in the notice of lien shall be returned to the City to the fund designated for code enforcement activities. (Ord. 1163 § 2 (part), 1994)

**15.24.190 Remedies of private parties.**

The provisions of this chapter shall not affect the rights of private parties to pursue any and all legal remedies, including but not limited to private nuisance actions or actions for damages. (Ord. 1163 § 2 (part), 1994)

**15.24.200 Limitation of filing judicial action.**

An owner or other person who has an interest in the property aggrieved at any proceeding taken on appeal by the City Council in affirming, reversing or modifying in whole or in part either the order finding and ordering the abatement of a public nuisance or the order determining the cost of abatement must bring judicial action to contest such decision within ninety days after the date of such decision of the City Council. Otherwise, all objections to such decision shall be deemed waived. (Ord. 1163 § 2 (part), 1994)

**15.24.210 Alternatives.**

Nothing in this chapter shall prevent the City Council from ordering the City Attorney to commence a civil or criminal proceeding to abate a public nuisance as an alternative to the proceedings set forth in this chapter. (Ord. 1163 § 2 (part), 1994)

**15.24.220 Enforcement authority.**

Enforcement of this chapter may be accomplished by the Code Enforcement Officer in any manner authorized by law. The procedures set forth in this chapter shall not be exclusive and shall not in any manner limit or restrict the City from enforcing other City ordinances or abating public nuisances in any other manner provided by law. (Ord. 1163 § 2 (part), 1994)

**15.24.230 Violation—Penalty.**

A. The owner or other person having charge or control of any such buildings or premises who maintains any public nuisance defined in this chapter, or who violates any order of abatement served as provided in this chapter, is guilty of a misdemeanor.

B. Any occupant or lessee in possession of any such building or structure who fails to vacate the building or structure in accordance with an order given as provided in this chapter, is guilty of a misdemeanor.

C. Any person who removes any notice or order posted as required in this chapter, for the purpose of interfering with the enforcement of the provisions of this chapter, is guilty of a misdemeanor.

D. Any person who obstructs, impedes or interferes with any representative of the City Council or with any representative of a City department or with any person who owns or holds any estate or interest in a building which has been ordered to be vacated, repaired, rehabilitated or demolished, or with any person to whom any such building has been lawfully sold pursuant to the provisions of this chapter when any of the aforementioned individuals are lawfully engaged in proceedings involving the abatement of a nuisance, is guilty of a misdemeanor. (Ord. 1163 § 2 (part), 1994)

**15.24.240 Violation—Abatement.**

A. Violations as a Misdemeanor or Infraction. Violations of this chapter may, in the City Attorney's discretion, constitute either a misdemeanor, an infraction pursuant to Section 1.20.020(F) of this code; or may constitute a citable offense or any combination thereof. In addition, violations of this chapter may result in the payment of fines and fees by the property owner as established by City Council resolution for the recovery of administrative expenses and abatement costs.

B. Chapter Provisions Not Exclusive. Notwithstanding the enforcement procedures as set forth in this chapter, the City may proceed to enforce any violation of its code in any manner authorized by law. (Ord. 1163 § 2 (part), 1994)

**Chapter 15.26  
GRAFFITI CONTROL**

**Sections:**

- 15.26.010 Purpose of provisions.**
- 15.26.020 Graffiti defined.**
- 15.26.030 Graffiti prohibited.**
- 15.26.040 Minors—Aerosol paint restrictions.**
- 15.26.050 Notice to abate—Compliance by owner.**
- 15.26.060 Service of notice.**
- 15.26.070 Reimbursement of cost of labor and material.**
- 15.26.080 Removal by City.**
- 15.26.090 Liability for City's cost of abatement.**
- 15.26.100 Abatement of graffiti as a public nuisance.**

**15.26.010 Purpose of provisions.**

The purpose of this chapter is to provide a program for removal of graffiti from walls and structures on both public and private property and to provide regulations designed to prevent and control the further spread of graffiti in the City. The increase of graffiti on both public and private buildings, structures, places and vehicles is creating a condition of blight within the City which results in a deterioration of property and business values for adjacent and surrounding properties all to the detriment of the City. The City Council finds and determines that graffiti is obnoxious and a public nuisance which must be abated so as to avoid the detrimental impact of such graffiti on the City and to prevent the further spread of graffiti. (Ord. 1150 § 1 (part), 1994: Ord. 1072 § 1 (part), 1991)

**15.26.020 Graffiti defined.**

For the purpose of this chapter, "graffiti" means the unauthorized spraying of paint or marking of ink, chalk, dye or other similar substances on public and private buildings, structures, places and vehicles. (Ord. 1150 § 1 (part), 1994: Ord. 1072 § 1 (part), 1991)

**15.26.030 Graffiti prohibited.**

A. No person shall place graffiti upon any public or privately owned structure, building, place or vehicle located on publicly or privately owned real property within the City.

B. No person owning or otherwise in control of any building, structure, place or vehicle within the City shall permit or allow any graffiti to be placed upon or remain on such property when the graffiti is visible from the street or other public or private property, for a period in excess of that described in this chapter for notice and removal of graffiti.

C. Violation of this chapter shall be a misdemeanor. (Ord. 1150 § 1 (part), 1994: Ord. 1072 § 1 (part), 1991)

**15.26.040 Minors—Aerosol paint restrictions.**

A. Sale to Minors Unlawful. It is unlawful for any person to sell or give to any individual under the age of eighteen years, who is not accompanied by a responsible adult, any aerosol container of paint or other liquid substance capable of defacing property.

B. Signs Required. Any person engaged in the retail sale of aerosol container of paint and other liquid substances capable of defacing property must display at the location of retail sale a sign clearly visible and legible to employees and customers which states as follows:

"It is unlawful for any person to sell or give to any individual under the age of eighteen (18) years, who is not accompanied by a responsible adult, any aerosol container of paint or other liquid substance capable of defacing property."

C. Possession by Minors Prohibited. It is unlawful for any individual under the age of eighteen years, who is in a public place or upon private property without consent of the owner or tenant thereof and who is not accompanied by a responsible adult, to possess an aerosol container of paint or other liquid substance capable of defacing property. (Ord. 1150 § 1 (part), 1994: Ord. 1072 § 1 (part), 1991)

**15.26.050 Notice to abate—Compliance by owner.**

Whenever the Chief of Police or his designee determines that graffiti exists on any public or private structure, building, place or vehicle in the City which is visible from the street or other public or private property, he shall cause a notice to be issued to abate such nuisance. The property owner shall have fifteen days after the date of the notice to remove the graffiti or the property will be subject to abatement by the City. (Ord. 1150 § 1 (part), 1994: Ord. 1072 § 1 (part), 1991)

#### **15.26.060 Service of notice.**

The notice to abate graffiti shall be served upon the owner(s) of the affected premises, as such owner's name and address appears on the last equalized property tax assessment rolls of the County of San Mateo. In addition, if there is a commercial tenant using the premises, the notice shall also be served on said tenant. If there is no known address for the owner, the notice shall be sent in care of the property address. The notice required by this chapter may be served in any one of the following manners:

1. By personal service on the owner, occupant or person in charge or control of the property;
2. By registered or certified mail addressed to the owner at the last known address of said owner. If this address is unknown, the notice will be sent to the property address. In addition, where the property is occupied, a copy of the notice shall be delivered to the occupant. (Ord. 1150 § 1 (part), 1994: Ord. 1072 § 1 (part), 1991)

#### **15.26.070 Reimbursement of cost of labor and material.**

In the event the property owner complies with the notice by the designated date or such continued date, as the Chief of Police or his designated representative approves, then the City shall reimburse the property owner his cost of labor and materials up to a maximum of one hundred fifty dollars for the first incident of graffiti on the property, and up to one hundred dollars for each subsequent incident. Receipts for labor and materials used must accompany the claim. The City shall not reimburse the property owner where the Chief of Police finds that the owner has persuaded, allowed or encouraged the graffiti problem. Evidence thereof shall include such things as: the owner has permitted the property to remain unoccupied, or has allowed uses conducive to the graffiti problem, or has failed to take reasonable security measures. (Ord. 1150 § 1 (part), 1994: Ord. 1072 § 1 (part), 1991)

#### **15.26.080 Removal by City.**

Upon failure of persons to comply with the notice to abate by the designated date, or such continued date thereafter as the Chief of Police or his designated representative approves, then the Chief of Police is authorized and directed to cause the graffiti to be abated by City forces or private contract, and the City or its private contractor is expressly authorized to enter upon the premises for such purposes. All reasonable efforts to minimize damage from such entry shall be taken by the City, and any paint used to obliterate graffiti shall be as close as practicable to background color(s). (Ord. 1150 § 1 (part), 1994: Ord. 1072 § 1 (part), 1991)

#### **15.26.090 Liability for City's cost of abatement.**

Where the graffiti has been abated by the City due to the refusal or failure of the owner to do so, the owner shall reimburse the City for the actual cost of the removal of the graffiti. The costs to be reimbursed include labor, material, preparation of specifications and contracts and inspection. (Ord. 1150 § 1 (part), 1994: Ord. 1072 § 1 (part), 1991)

#### **15.26.100 Abatement of graffiti as a public nuisance.**

As an alternate to summary abatement, the City may cause the graffiti to be abated pursuant to Chapter 15.24 of this code relating to property maintenance. (Ord. 1150 § 1 (part), 1994: Ord. 1072 § 1 (part), 1991)

### **Chapter 15.30 SEISMIC HAZARD IDENTIFICATION PROGRAM FOR UNREINFORCED MASONRY BUILDINGS**

Sections:

**15.30.010 Purpose.**

**15.30.020 Definitions.**

**15.30.030 Scope of program.**

**15.30.040 Building owner notification.**

**15.30.050 Recording.**

**15.30.060 Engineering reports.**

**15.30.070 Letters of intent.**

**15.30.080 City's review of engineering reports and letters of intent.****15.30.090 Building tenant notification.****15.30.100 Penalties.****15.30.110 Progress reports to city council.****15.30.120 Interpretations.****15.30.010 Purpose.**

It is generally acknowledged that the City of San Carlos is located in a geographic area of high seismic risk, due to its proximity to both the San Andreas and Hayward faults, and may reasonably be expected to experience moderate to severe ground shaking in the event of a significant local earthquake. Such ground shaking could result in serious injury or loss of life due to damage or collapse of buildings. Historically, unreinforced masonry buildings have been shown to be especially vulnerable. The purpose of this chapter is to promote public safety by identifying those buildings in the City of San Carlos which exhibit structural deficiencies in their capacities for earthquake resistance, and by determining the severity and extent of those deficiencies in relation to their potential for causing injury or loss of life. (Ord. 1041 § 1 (part), 1989)

**15.30.020 Definitions.**

For the purposes of this chapter, the following definitions apply:

A. "Civil engineer" or "structural engineer" means a licensed civil or structural engineer registered by the State of California pursuant to the rules and regulations of Title 16, Chapter 5 of the California Administrative Code.

B. "Uniform Building Code (UBC)" is as published by the International Conference of Building Officials, Whittier, California, as adopted by the City of San Carlos.

C. "Unreinforced masonry (URM) building" means any building containing walls and/or columns constructed wholly or partially of masonry without at least fifty percent of the reinforcement required by the latest edition of the UBC, adopted by reference by the City of San Carlos, and includes:

1. Unreinforced brick masonry;
2. Unreinforced concrete masonry;
3. Hollow clay tile;
4. Adobe or unburned clay masonry; and
5. Stone masonry.

D. "Risk categories" are defined as follows:

1. "Essential building" means any building housing a hospital or other medical facility having surgery or emergency treatment areas; fire or police stations; or municipal government disaster operation and communication centers.
2. "High-risk building" means any building, not classified as an essential building, having an occupant load of one hundred persons or more.
3. "Medium-risk building" means any building, not classified as an essential building, having an occupant load of twenty persons or more.
4. "Low-risk building" means any building, not classified as an essential building, having an occupant load of less than twenty persons.

E. Other terms are as defined in the 1985 edition of the UBC. (Ord. 1041 § 1 (part), 1989)

**15.30.030 Scope of program.**

All owners of all URM buildings in the City of San Carlos, except as exempted below, shall be required to have an engineering report submitted to the City's Building Department, to determine the existence, nature, extent and severity of structural deficiencies in their buildings' capacities for earthquake resistance which could result in damage or collapse with possible injury or loss of life.

A. Exempted Buildings. The following buildings are exempted from complying with this chapter:

1. Residential buildings with five or fewer dwelling units;
2. Warehouses or similar structures not used for human habitation, except for warehouses or structures housing emergency services equipment or supplies;
3. Buildings which have already been structurally upgraded in substantial accordance with either the 1973 or later edition of the UBC or the City of Los Angeles Division 88 Standard for URM Buildings. (Ord. 1041 § 1 (part), 1989)

**15.30.040 Building owner notification.**

Owners of buildings which have been identified as being included in the scope of this program shall be notified within six months of the enactment of the ordinance codified in this chapter by the Building Department of the City of San Carlos that each such building has been included in the City's list of potentially hazardous URM buildings, and is required to have an engineering report submitted to the City. (Ord. 1041 § 1 (part), 1989)

**15.30.050 Recording.**

At the time of building owner notification, the Building Official shall file with the Office of the County Recorder a certificate stating that the subject building falls within the scope of this chapter, has been included in the City's list of potentially hazardous URM buildings, and is required to comply with the provisions contained herein. At such later time as each such identified building has either been determined as excludable from the City's list by further investigation, or has undergone mitigation of its hazards to the satisfaction of the Building Official, the Building Official shall then file with the Office of the County Recorder a certificate stating that the building has been removed from the potentially hazardous classification. (Ord. 1041 § 1 (part), 1989)

**15.30.060 Engineering reports.**

Owners of identified buildings shall submit engineering reports to the Building Department of the City of San Carlos as follows:

- A. Timeframe. Engineering reports shall be submitted to the City within eighteen months of building owner notification.
- B. Authorized Preparers. Engineering reports shall be prepared by civil or structural engineers, as previously defined herein, who are familiar with seismic analysis and design.
- C. Purpose. The purpose of each such engineering report shall be to investigate, in a thorough and unambiguous fashion, a building's structural systems that resist earthquake forces, and to evaluate their adequacy to resist the seismic design forces as specified herein.
- D. Engineering Standards. The engineering standards to be used in preparation of engineering reports shall be the 1985 edition of the UBC and the 1985 City of Los Angeles Division 88 Standard for URM Buildings, as modified by Appendix A to the ordinance codified in this chapter.
- E. Format. The format for engineering reports shall be as outlined in Appendix B to the ordinance codified in this chapter, or other equivalent format approved in writing by the Building Official. (Ord. 1041 § 1 (part), 1989)

**15.30.070 Letters of intent.**

A letter of intent shall be submitted within ninety days of submittal of each engineering report, and shall describe in general fashion how the building owner intends to approach hazard reduction of his or her building and provides a reasonable time period for achieving hazard reduction. Options available to the building owner for approaching hazard reduction include, but are not limited to, the following:

- A. Structural rehabilitation of the building to meet or exceed the seismic provisions of the engineering standards referenced in this chapter;
- B. Change in use of the building to a residential or warehouse occupancy exempted from compliance with this chapter, as previously described herein, as may be allowed by other City ordinances;
- C. Sale of the building to a new owner, who shall then bear the responsibility of hazard reduction;
- D. Vacating the building pending further investigation of possible alternatives;
- E. Demolition of the building, or portions thereof, to eliminate the potentially hazardous condition; or

F. Any building which qualifies as "historical property" as determined by an appropriate governmental agency under Section 37602 of the Health and Safety Code shall be retrofitted in accordance with the State Historical Building Code. (Ord. 1041 § 1 (part), 1989)

**15.30.080 City's review of engineering reports and letters of intent.**

The Building Department shall review the documents submitted for each identified building for conformance to this chapter. The Building Department shall review the documents submitted for each identified building for conformance to this chapter. The Building Department may, at its option, engage the services of consulting civil or structural engineers to assist in evaluation of documents submitted. Costs of each such review shall be recovered by fees assessed upon the building owner at the time of submittal of documents, based upon the time required for review of any structural rehabilitation plans subsequently submitted for building permit purposes for work directly related to compliance with this chapter. Copies of engineering reports submitted shall be available to the public for review at the Building Department upon request. (Ord. 1041 § 1 (part), 1989)

**15.30.090 Building tenant notification.**

Owners of each identified building shall provide each of their tenants with written notification that a seismic investigation of their building has taken place, and that the engineering report documenting the investigation is available for review at the Building Department. Such notification shall occur within ninety days of submittal of each engineering report. (Ord. 1041 § 1 (part), 1989)

**15.30.100 Penalties.**

Nonconformance with this chapter is unlawful. Violation constitutes a misdemeanor and is subject to civil prosecution under the laws and ordinances of the City of San Carlos. (Ord. 1041 § 1 (part), 1989)

**15.30.110 Progress reports to city council.**

The Building Department shall prepare annual progress reports to the City Council on the implementation of this chapter. (Ord. 1041 § 1 (part), 1989)

**15.30.120 Interpretations.**

The interpretation of the Building Official shall prevail on matters relating to the implementation of this chapter. (Ord. 1041 § 1 (part), 1989)

**Chapter 15.34  
RESIDENTIAL INSPECTION PROGRAM**

Sections:

**15.34.010 Purpose.**

**15.34.020 Definitions.**

**15.34.030 Scope of program.**

**15.34.040 Administration and enforcement.**

**15.34.050 Fees.**

**15.34.060 General inspections.**

**15.34.070 Abatement of unlawful conditions.**

**15.34.010 Purpose.**

The Council finds and determines as follows:

- A. The City of San Carlos (the City) has a history and reputation for well maintained properties.
- B. Property values and the general welfare of the community are founded, in part, upon the appearance and maintenance of private properties.
- C. The beneficial effects of property maintenance in the City include, but are not limited to, appreciation of property values, physical improvement of residential areas, attraction of investors of capital to residential zones and increase of the tax base of the City.
- D. Owners and occupants of some residential rental properties within the City have allowed or contributed to deferred maintenance and violations of the Uniform Building Code and City Zoning Code (the Code) of common areas and interiors of

residential rental units.

E. The existence of such conditions as described in this chapter is injurious and inimical to the public health, safety and welfare of the residents of the City.

F. The abatement of such conditions will improve the general welfare, health and safety of the residents of the City and maintain the positive image of the City and maintain property values.

G. The abatement procedures set forth in this chapter are reasonable and afford due process to all affected persons. (Ord. 1259 (part), 1999)

**15.34.020 Definitions.**

The following words and phrases, whenever used in this chapter, shall be construed as defined in this section, unless from the context a different meaning is specifically defined and more particularly directed to the use of such words or phrases:

"Abatement costs and administrative expenses" means the actual cost and expenses of the City to prepare notices, conduct special inspections, conduct repetitive inspections to monitor code compliance, prepare repetitive notices, prepare and refer property violations to the City Attorney.

"Code" means the current Uniform Housing Codes, the current Uniform Fire Code, the current regulations of County and State agencies that are applicable to residential rental property.

"Common area" means common areas of a residential rental building and the real property it is located on shall include those areas used by or accessible to all residents of residential rental building and property. It includes but is not limited to, hallways, corridors, stairways, carports, garages, storage areas, laundries, recreation rooms, pools, pool areas, play areas, landscaped and unimproved grounds. For the purposes of inspections, this also includes areas accessible to maintenance personnel such as pool equipment enclosures, maintenance rooms, storage rooms, electric room, etc. It shall not include the interiors of residential rental units.

"Deputy" means the person(s) designated by the Building Official to enforce this chapter. That person may be a Code Enforcement Officer, Building Inspector or other staff person.

"Landowner" means the person(s) or entity to whom land is assessed, as shown on the last equalized assessment roll of the county.

"Residential rental building" means a building used in whole or in part for residential purposes that contains three or more residential units and that are leased.

"Residential rental unit" means all or part of a residential rental building used for a single-family dwelling unit. (Ord. 1259 (part), 1999)

**15.34.030 Scope of program.**

All landowners of a residential rental building and/or a residential rental unit and their designated agent are required to participate in this program. (Ord. 1259 (part), 1999)

**15.34.040 Administration and enforcement.**

The Building Official shall be responsible for the administration and enforcement of this chapter. (Ord. 1259 (part), 1999)

**15.34.050 Fees.**

An annual fee shall be charged to the landowner of any residential rental building and residential rental unit in conformance to the City of San Carlos Fee Schedule. Building, electrical, mechanical and plumbing permits, when required, are in addition to these fees. (Ord. 1475 § 1, 2014: Ord. 1259 (part), 1999)

**15.34.060 General inspections.**

A. The Building Official, or his designee, shall conduct inspections of the common areas of all residential rental buildings at least once every two years but not more often than annually, except to remedy ongoing Code violations. The property owner or his or her agent shall be given adequate prior written notice of the required inspection and shall make all areas of the common area as defined above, and all vacant units, available for inspection.

B. Upon vacancy and prior to the next occupancy of any residential rental unit, as defined above, the property owner or his or her designated agent shall request an inspection of the vacant unit. The inspection shall be performed on the business day next following the notification.

C. A property owner and tenant in any residential rental unit may request an inspection by the Building Official to determine compliance with the Codes.

D. If the number of vacant units inspected at the time of the inspection of the common area plus the number of vacant units inspected between common area inspections is less than twenty percent of the total units, the inspector may require inspection of a sufficient number of occupied units to reach twenty percent. The selection of occupied units shall be based upon units that have not been previously inspected.

E. All exterior elevated wood and metal decks, balconies, landings, stairway systems, guardrails, handrails, or any parts thereof in weather exposed areas of Group R-2 Occupancies, as defined in the most recent edition of the California Building Code, shall be inspected within six months of adoption of this section, and every three years thereafter, by a licensed general contractor, structural pest control licensee, licensed architect, or licensed engineer, verifying that the elements are in general safe condition, adequate working order, and free from hazardous dry rot, fungus, deterioration, decay, or improper alteration. Property owners shall provide proof of compliance with this section by submitting an affidavit form provided by the City. The affidavit shall be signed by the responsible inspecting party and submitted to the Building Official. For the purpose of this section, elevated "weather-exposed areas" mean those areas that are not interior building areas and are located more than thirty inches above adjacent grade. (Ord. 1515 § 1, 2016; Ord. 1259 (part), 1999)

**15.34.070 Abatement of unlawful conditions.**

A. Violations of the Code, determined at the time of the inspection, will result in a written correction notice at the end of the inspection.

B. The property owner or his or her agent shall arrange to correct all violations of the Code within thirty days of receipt of the correction notice.

C. If violations of the Code are not corrected within thirty days, a notice of violation will be sent to the property owner.

D. If violations of the Code are not corrected within thirty days after a notice of violation is sent to the property owner, other enforcement action may be instituted as permitted by the Uniform Building Code, Uniform Housing Code, Uniform Code for the Abatement of Dangerous Buildings and other action as determined by the City Attorney. (Ord. 1259 (part), 1999)

**Chapter 15.36  
DIRT HAULING PERMITS**

Sections:

**15.36.010 Definitions.**

**15.36.020 Permit—Required when.**

**15.36.030 Permit—Application.**

**15.36.040 Permit—Fees.**

**15.36.050 Permit—Bond requirements.**

**15.36.055 Permit—Notice of proposed dirt haul routes.**

**15.36.060 Permit—Issuance conditions.**

**15.36.070 Permit—Suspension conditions.**

**15.36.080 Routes for hauling.**

**15.36.090 Liability limitations.**

**15.36.100 Violation—Penalty.**

**15.36.010 Definitions.**

As used in this chapter:

A. "Dirt" means and includes earth or other substance that is customarily used and is used for fills or embankments. Such term does not include gravel, sand or other material that is customarily used and is used as a construction material. (Ord. 1491 § 6 (part), 2015; Ord. 773 § 3 (part), 1976)

**15.36.020 Permit—Required when.**

It is unlawful for any person to haul dirt, or cause dirt to be hauled to or from any place within the City, or to haul dirt over any public street in the City, without first obtaining a permit from the Building Division pursuant to this chapter. (Ord. 1491 § 6 (part), 2015: Ord. 773 § 3 (part), 1976)

**15.36.030 Permit—Application.**

All applications for dirt-hauling permits shall be submitted to the Building Division. The application shall contain the following information:

- A. Name, address and telephone number of applicant;
- B. Number of yards to be hauled;
- C. Approximate dates when hauling is to occur;
- D. The source of the dirt;
- E. The destination of the dirt;
- F. The routes by which the dirt is to be transported;
- G. Written permission from a person who has an interest of record in any real property in the City from which dirt is to be removed or upon which dirt is to be deposited. (Ord. 1491 § 6 (part), 2015: amended during 1989 recodification; Ord. 773 § 3 (part), 1976)

**15.36.040 Permit—Fees.**

In the event a permit for dirt-hauling is granted under this chapter, the applicant shall pay a fee established by resolution of the City Council prior to the issuance of the permit. (Ord. 1491 § 6 (part), 2015: Ord. 1063 § 1, 1990)

**15.36.050 Permit—Bond requirements.**

- A. As a condition of any permit granted, the City may require a bond indemnifying the City for any damage it might suffer by reason of removal, deposit or transportation of dirt. The amount of the bond shall be fixed by the City Engineer or his/her designee or the Building Official or his/her designee.
- B. The City may require a bond or insurance to protect property owners along the haul route. (Ord. 1491 § 6 (part), 2015: Ord. 773 § 3 (part), 1976)

**15.36.055 Permit—Notice of proposed dirt haul routes.**

Whenever a dirt hauling permit is required in conjunction with a grading permit which is to be acted upon by the Planning Commission pursuant to Section 12.08.080, at the discretion of the Planning Division, notice of the proposed dirt haul route shall be sent to each residence fronting on the local or collector street along the proposed route. The notice shall be mailed at least ten days prior to the date of the Planning Commission meeting. The notice shall contain the following:

- A. A statement of the proposed dirt haul route, the estimated amount of earth to be moved and approximate number of truck trips proposed;
- B. A statement of the date, time, place and purpose of the hearing;
- C. Reference to the application on file for particulars;
- D. A statement that any interested person, or agent thereof, may appear and be heard.

Local and collector streets as used in this section shall include all San Carlos and adjoining, unincorporated area streets that are designated local and collector streets in the San Carlos General Plan and shall exclude arterial streets, State highways and designated truck routes. (Ord. 1491 § 6 (part), 2015: Ord. 1186 § 1, 1995)

**15.36.060 Permit—Issuance conditions.**

The following shall be conditions of every permit issued under this chapter:

- A. Trucks shall be loaded in such a manner that there shall be no spillage.
- B. The permit shall specify the number of yards of dirt to be hauled, the number of working days for hauling, the hours of hauling, and the frequency of trucks.

- C. All loads shall be sprinkled to keep down the dust when necessary.
- D. The City streets shall be kept clean of spillage and wheel dirt on allotted routes.
- E. Two-way routes will be specified in the permit.
- F. The speed of trucks will be specified in the permit.
- G. Crossing guards shall be provided at the expense of the applicant when necessary in the opinion of the Director of Public Safety.
- H. A time limit shall be specified on all permits.
- I. Dirt hauling shall only be permitted between the hours of nine a.m. and four p.m. excluding Saturday, Sunday and holidays or at the discretion of the City Engineer or Building Official. (Ord. 1491 § 6 (part), 2015: Ord. 773 § 3 (part), 1976)

**15.36.070 Permit—Suspension conditions.**

If the City Engineer or his/her designee or Building Official or his/her designee deems that the conditions of the permit are being violated, he may suspend the permit until the next meeting of the Planning Commission. Notice of such suspension shall be delivered to the permittee in person or by certified mail. Such notice shall contain the general reasons for the suspension, and shall specify the time and place of the next Planning Commission meeting where the suspension shall be considered by the Planning Commission. (Ord. 1491 § 6 (part), 2015: Ord. 773 § 3 (part), 1976)

**15.36.080 Routes for hauling.**

Haul routes shall be specified by the City Engineer or his/her designee. For dirt hauling of one thousand cubic yards or more, haul routes shall be recommended by City Engineer or his/her designee and approved by the Planning Commission. (Ord. 1491 § 6 (part), 2015: Ord. 773 § 3 (part), 1976)

**15.36.090 Liability limitations.**

The City relies upon Section 17956 of the Health and Safety Code, and declares that the City shall not be liable for the issuance of any permit or work authorized thereunder. (Ord. 1491 § 6 (part), 2015: Ord. 773 § 3 (part), 1976)

**15.36.100 Violation—Penalty.**

The violation of this Code shall constitute a misdemeanor. Any person, upon conviction, shall be punished by a fine of not more than five hundred dollars, or by imprisonment in the County Jail for a period not exceeding six months, or by both such fine and imprisonment. (Ord. 1491 § 6 (part), 2015: Ord. 773 § 3 (part), 1976)

## **Chapter 15.40 SWIMMING POOLS**

Sections:

**15.40.010 Policy declaration.**

**15.40.020 Fence and gate requirements.**

**15.40.030 Newly constructed pools.**

**15.40.040 Modification of requirements.**

**15.40.050 Maintenance of existing pools.**

**15.40.060 Violation—Penalty.**

**15.40.010 Policy declaration.**

It is found, declared and determined that the maintenance of private swimming pools without appropriate precautionary measures constitutes a severe hazard to the safety of the inhabitants of the City, particularly children. (Ord. 419 § 1, 1957)

**15.40.020 Fence and gate requirements.**

A. No person, firm or corporation in possession of land within the City, either as owner, purchaser under contract, lessee, tenant or licensee, upon which is situated a swimming pool or other outside body of water designed or used for swimming, dipping or immersion purposes by men, women or children, of a minimum depth of eighteen inches, shall fail to maintain on the lot or premises upon which such pool or body of water is located, and completely surrounding such pool or body of water, a fence or wall not less than four feet in height, with openings, holes or gaps therein no larger than four inches in any dimension,

except for doors or gates; provided, however, that if a picket fence is erected or maintained, the horizontal dimension shall not exceed four inches; provided, further, that a dwelling house or accessory building may be used as a part of such enclosure.

B. All gates or doors, opening through such enclosure shall be equipped with a self-closing and self-latching device designed to keep, and capable of keeping, such door or gate securely closed at all times when not in actual use; provided, however, that the door of any dwelling occupied by human beings and forming any part of the enclosure hereinabove required need not be so equipped. (Ord. 419 § 2, 1957)

#### **15.40.030 Newly constructed pools.**

All plans hereafter submitted to the City for swimming pools to be constructed shall show compliance with the requirements of Section 15.40.020, and final inspection and approval of all pools hereafter constructed shall be withheld until all requirements of Section 15.40.020 have been complied with. (Ord. 419 § 4, 1957)

#### **15.40.040 Modification of requirements.**

A. The City Council may make modifications in individual cases, upon a showing of good cause, with respect to the height, nature or location of the fence, wall, gates or latches, or the necessity therefor, provided the degree of protection is not reduced thereby.

B. The City Council may permit other protective devices or structures to be used so long as the degree of protection afforded by the substitute devices or structures is not less than the protection afforded by the fence, gate and latch described herein.

C. Upon the application of a property owner, the Council may grant extensions of time for compliance, in individual cases, upon a showing of good cause. Such extensions of time shall not exceed thirty days at a time. (Ord. 419 § 5, 1957)

#### **15.40.050 Maintenance of existing pools.**

Swimming pools in existence on the effective date of the ordinance codified in this chapter shall be fenced in accordance with the requirements of this chapter on or before August 1, 1957. Thereafter, it is unlawful to maintain any swimming pool which is not fenced in accordance with the requirements of this chapter. (Ord. 419 § 3, 1957)

#### **15.40.060 Violation—Penalty.**

A. Any person, firm or corporation violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punishable by a fine of not more than five hundred dollars, or by imprisonment in the county jail for a period of not more than six months, or by both such fine and imprisonment.

B. Each such person, firm or corporation shall be deemed guilty of a separate offense for every day during any portion of which any violation of any provision of this chapter is committed, continued or permitted by such person, firm or corporation, and shall be punishable therefor as provided by this chapter. (Ord. 419 § 7, 1957)

### **Chapter 15.56 FLOOD DAMAGE PREVENTION**

Sections:

**15.56.010 Statutory authority.**

**15.56.020 Findings of fact.**

**15.56.030 Purpose of provisions.**

**15.56.040 Definitions.**

**15.56.050 Interpretation of provisions.**

**15.56.060 Applicability—Areas designated.**

**15.56.070 Flood hazard areas—Basis for establishment.**

**15.56.080 Development permit requirements.**

**15.56.090 Floodplain Administrator—Designated.**

**15.56.100 Floodplain Administrator—Powers and duties.**

**15.56.110 Flood loss reduction methods.**

**15.56.120 Construction standards generally.****15.56.130 Anchoring.****15.56.140 Materials and methods.****15.56.150 Elevation and floodproofing.****15.56.160 Utility construction standards.****15.56.170 Subdivision construction standards.****15.56.180 Manufactured home standards.****15.56.190 Floodway use restrictions.****15.56.200 Variances and appeals—Hearing—Criteria.****15.56.210 Variances—Issuance restrictions.****15.56.220 Compliance with chapter provisions.****15.56.230 Abrogation and greater restrictions.****15.56.240 Liability disclaimer and warning.****15.56.010 Statutory authority.**

The Legislature of the State has, in Government Code Sections 65302, 65560 and 65800, conferred upon local government units authority to adopt regulations designed to promote the public health, safety and general welfare of its citizenry. Therefore, the City Council does ordain the provisions set out in this chapter. (Ord. 1397 § 1 (part), 2008: Ord. 984 § 2 (part), 1987)

**15.56.020 Findings of fact.**

A. The flood hazard areas of the City are subject to periodic inundation, which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

B. These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazards which increase flood heights and velocities and, when inadequately anchored, damage uses in other areas. Uses that are inadequately floodproofed, elevated or otherwise protected from flood damage also contribute to the flood loss. (Ord. 1397 § 1 (part), 2008: Ord. 984 § 2 (part), 1987)

**15.56.030 Purpose of provisions.**

It is the purpose of this chapter to promote the public health, safety and general welfare, and to minimize public and private losses due to flood conditions in specific areas, by provisions designed:

A. To protect human life and health;

B. To minimize expenditure of public money for costly flood-control projects;

C. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

D. To minimize prolonged business interruptions;

E. To minimize damage to public facilities and utilities, such as water and gas mains, electric, telephone and sewer lines, and streets and bridges located in areas of special flood hazard;

F. To help maintain a stable tax base by providing for the second use and development of areas of special flood hazard so as to minimize future flood-blight areas;

G. To ensure that potential buyers are notified that property is in an area of special flood hazard;

H. To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions; and

- I. To ensure that floodplain management regulations meet the standards of Paragraph 60.3(c) of the NFIP regulations (44 CFR 59, etc.). (Ord. 1450 § 1, 2012; Ord. 1397 § 1 (part), 2008; Ord. 984 § 2 (part), 1987)

**15.56.040 Definitions.**

Unless specifically defined in this section, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage, and to give this chapter its most reasonable application.

1. "Accessory use" means a use which is incidental and subordinate to the principal use of the parcel of land on which it is located.
2. "Alluvial fan" means a geomorphologic feature characterized by a cone- or fan-shaped deposit of boulders, gravel, and fine sediments that have been eroded from mountain slopes, transported by flood flows, and then deposited on the valley floors, and which is subject to flash flooding, high velocity flows, debris flows, erosion, sediment movement and deposition, and channel migration.
3. "Apex" means a point on an alluvial fan or similar landform below which the flow path of the major stream that formed the fan becomes unpredictable and alluvial fan flooding can occur.
4. "Appeal" means a request for a review of the Floodplain Administrator's interpretation of any provision of this chapter, or a request for a variance.
5. "Area of shallow flooding" means a designated AO or AH Zone on the Flood Insurance Rate Map (FIRM). The base flood depths range from one to three feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and velocity flow may be evident.
6. Area of Special Flood Hazard. See "Special flood hazard area (SFHA)."
7. "Base flood" means the flood having a one-percent chance of being equalled or exceeded in any given year (also called the "one-hundred-year flood").
8. "Basement" means any area of the building having its floor subgrade (below ground level) on all sides.
9. "Breakaway walls" means any type of walls, whether solid or lattice, and whether constructed of concrete, masonry, wood, metal, plastic or any other suitable building material, which are not part of the structural support of the building, and which are designed to break away under abnormally high tides or wave action without causing any damage to the structural integrity of the building on which they are used or any buildings to which they might be carried by floodwaters. A breakaway wall shall have a safe design loading resistance of not less than ten and no more than twenty pounds per square foot. Use of breakaway walls must be certified by a registered engineer or architect, and shall meet the following conditions:
  - a. Breakaway wall collapse shall result from a water load less than that which would occur during the base flood; and
  - b. The elevated portion of the building shall not incur any structural damage due to the effects of wind and water loads acting simultaneously in the event of the base flood.
10. "Development" means any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.
11. "Flood" or "flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from (a) the overflow of floodwaters, (b) the unusual and rapid accumulation or runoff of surface waters from any source, and/or (c) the collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels, or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in this section.
12. "Flood Boundary and Floodway Map" means the official map on which the Federal Emergency Management Agency or Federal Insurance Administration has delineated both the areas of flood hazard and the floodway.
13. "Flood Insurance Rate Map (FIRM)" means the official map on which the Federal Emergency Management Agency or Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones

applicable to the community.

14. "Flood Insurance Study" means the official report provided by the Federal Insurance Administration that includes flood profiles, the FIRM, the Flood Boundary and Floodway Map, and the water surface elevation of the base flood.

15. "Floodplain" or "flood-prone area" means any land area susceptible to being inundated by water from any source (see the definition of "flooding").

16. "Floodplain management" means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood-control works, and floodplain management regulations.

17. "Floodplain management regulations" means zoning ordinances, subdivision regulations, building codes, health regulations, special-purpose ordinances (such as floodplain ordinance, grading ordinance and erosion-control ordinance), and other applications of police power. The term describes such state or local regulations in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

18. "Floodproofing" means any combination of structural and nonstructural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities and structures, and their contents.

19. "Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot; also referred to as "regulatory floodway."

20. "Functionally dependent use" means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and shipbuilding and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

21. "Highest adjacent grade" means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

22. "Historic structure" means any structure that is:

a. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

c. Individually listed on a State inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

d. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program as determined by the Secretary of the Interior or directly by the Secretary of the Interior in states without approved programs.

23. "Levee" means a manmade structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control or divert the flow of water so as to provide protection from temporary flooding.

24. "Levee system" means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accord with sound engineering practices.

25. "Lowest floor" means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area, is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this chapter.

26. "Market value" shall be determined by estimating the cost to replace the structure in new condition and adjusting that cost figure by the amount of depreciation which has accrued since the structure was constructed.

a. The cost of replacement of the structure shall be based on a square foot cost factor determined by reference to a building cost estimating guide recognized by the building construction industry in the San Francisco Bay area.

b. The amount of depreciation shall be determined by taking into account the age and physical deterioration of the structure and functional obsolescence as approved by the floodplain administrator, but shall not include economic or other forms of external obsolescence.

Use of replacement costs or accrued depreciation factors different from those contained in recognized building cost estimating guides may be considered only if such factors are included in a report prepared by an independent professional appraiser and supported by a written explanation of the differences.

27. "Manufactured home" means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes, the term "manufactured home" also includes park trailers, travel trailers and other similar vehicles placed on a site for greater than one hundred eighty consecutive days.

28. "Manufactured home park or subdivision" means a parcel or contiguous parcels of land divided into two or more manufactured home lots for sale or rent.

29. "Mean sea level" means, for purpose of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

30. "New construction" means, for floodplain management purposes, structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by this community.

31. "Obstruction" includes, but is not limited to, any dam, wall, wharf, embankment, levee, dike, pile, abutment, protection, excavation, channelization, bridge, conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, structure, vegetation or other material in, along, across or projecting into any watercourse which may alter, impede, retard or change the direction and/or velocity of the flow of water or, due to its location, its propensity to snare or collect debris carried by the flow of water, or its likelihood of being carried downstream.

32. "One-hundred-year flood" or "100-year flood" means a flood which has a one-percent annual probability of being equalled or exceeded. It is identical to the "base flood," which will be the term used throughout this chapter.

33. "Person" means an individual or his agent, firm, partnership, association or corporation, or agent of the aforementioned groups, or this state or its agencies or political subdivisions.

34. "Remedy a violation" means to bring the structure or other development into compliance with state or local floodplain management regulations, or, if this is not possible, to reduce the impacts of its noncompliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of this chapter or otherwise deterring future similar violations, or reducing Federal financial exposure with regard to the structure or other development.

35. "Riverine" means relating to, formed by or resembling a river (including tributaries), stream, brook, etc.

36. "Special flood hazard area (SFHA)" means an area having special flood or flood-related erosion hazards, and shown on an FHB or FIRM as Zone A, AO, A1-30, AE, A99 or AH.

37. "Start of construction" means and includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within one hundred eighty days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the state of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

38. "Structure" means a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

39. "Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed fifty percent of the market value of the structure before the damage occurred.

40. Substantial Improvement.

a. "Substantial improvement" means any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty percent of the market value of the structure, either:

i. Before the improvement or repair is started; or

ii. If the structure has been damaged and is being restored, before the damage occurred.

b. For the purpose of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or nor that alteration affects the external dimensions of the structure. The term does not, however, include either:

i. Any project for improvement of a structure to comply with existing or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions; or

ii. Any alteration of a structure listed on the National Register of Historic Places, or a State inventory of historic places.

41. "Variance" means a grant of relief from the requirements of this chapter which permits construction in a manner that would otherwise be prohibited by this chapter.

42. "Violation" means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this chapter is presumed to be in violation until such time as that documentation is provided.

43. "Water surface elevation" means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD) of 1988, or other datum, of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

44. "Watercourse" means a lake, river, creek, stream, wash, arroyo, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur. (Ord. 1397 § 1 (part), 2008: Ord. 984 § 2 (part), 1987)

#### **15.56.050 Interpretation of provisions.**

In the interpretation and application of this chapter, all provisions shall be:

A. Considered as minimum requirements;

B. Liberally construed in favor of the governing body; and

C. Deemed neither to limit nor repeal any other powers granted under State Statutes. (Ord. 1397 § 1 (part), 2008: Ord. 984 § 2 (part), 1987)

#### **15.56.060 Applicability—Areas designated.**

This chapter shall apply to all areas of special flood hazards within the jurisdiction of the City of San Carlos. (Ord. 1397 § 1 (part), 2008: Ord. 984 § 2 (part), 1987)

#### **15.56.070 Flood hazard areas—Basis for establishment.**

The areas of special flood hazard are identified by the Federal Emergency Management Agency or the Federal Insurance Administration in a scientific and engineering report entitled "Flood Insurance Study for the City of San Carlos," dated September, 1977, and all subsequent amendments and/or revisions, with an accompanying currently effective Flood Insurance Rate Map, which is adopted by reference and declared to be part of this chapter. The Flood Insurance Study is on file at 600 Elm Street, San Carlos, California. The Flood Insurance Study is the minimum area of applicability of this chapter, and may be

supplemented by studies for other areas which allow implementation of this chapter, and which are recommended to the City Council by the Floodplain Administrator. (Ord. 1450 § 2, 2012: Ord. 1397 § 1 (part), 2008: Ord. 984 § 2 (part), 1987)

**15.56.080 Development permit requirements.**

A. A development permit shall be obtained before construction or development begins within any area of special flood hazards established in Section 15.56.070. Application for a development permit shall be made on forms furnished by the Floodplain Administrator, and may include, but not be limited to: plans in duplicate, drawn to scale, showing the nature, location, dimensions and elevation of the area in question; existing or proposed structures, elevation of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities; and the location of the foregoing.

B. Specifically, the following information is required:

1. Proposed elevation, in relation to mean sea level, of the lowest floor (including basement) of all structures; in Zone AO or VO, elevation of highest adjacent grade and proposed elevation of lowest floor of all structures;
2. Proposed elevation in relation to mean sea level to which any structure will be floodproofed;
3. All appropriate certifications listed in Section 15.56.100(D); and
4. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development. (Ord. 1397 § 1 (part), 2008: Ord. 984 § 2 (part), 1987)

**15.56.090 Floodplain Administrator—Designated.**

The Building Official of the City of San Carlos is appointed to administer and implement this chapter by granting or denying development permits in accordance with its provisions. (Ord. 1397 § 1 (part), 2008: Ord. 984 § 2 (part), 1987)

**15.56.100 Floodplain Administrator—Powers and duties.**

The duties and responsibilities of the Floodplain Administrator shall include, but not be limited to:

A. Permit Review.

1. Review all development permits to determine that the permit requirements of this chapter have been satisfied;
2. All other required State and Federal permits have been obtained;
3. The site is reasonably safe from flooding;
4. The proposed development does not adversely affect the carrying capacity of the floodway. For purposes of this chapter, "adversely affects" means that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point; and
5. All letters of map revision (LOMRs) for flood control projects are approved prior to the issuance of building permits. Building permits must not be issued based on conditional letters of map revision (CLOMRs). Approved CLOMRs allow construction of the proposed flood control project and land preparation as specified in the "start of construction" definition.

B. Use of Other Base Flood Data. When base flood elevation data has not been provided in accordance with Section 15.56.070, the Floodplain Administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source, in order to administer Sections 15.56.120 through 15.56.150. Any such information shall be submitted to the City Council for adoption.

C. Watercourse Alterations. Whenever a watercourse is to be altered or relocated:

1. Notify adjacent communities and the California Department of Water Resources prior to such alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration;
2. Require that the flood-carrying capacity of the altered or relocated portion of the watercourse is maintained.

D. Certifications. Obtain and maintain for public inspection, and make available as needed:

1. The certification required in Section 15.56.150(A), on floor elevation;
2. The certification required in Section 15.56.150(B), on elevations in areas of shallow flooding;

3. The certification required in Section 15.56.150(C)(3), on elevation or floodproofing of nonresidential structures;
4. The certification required in Section 15.56.150(D)(1) or (D)(2), on wet floodproofing standards;
5. The certified elevation required in Section 15.56.170, on subdivision standards;
6. The certification required in Section 15.56.190, on floodway encroachments.

E. Base Flood Elevation Changes Due to Physical Alterations.

1. Within six months of information becoming available or project completion, whichever comes first, the Floodplain Administrator shall submit or assure that the permit applicant submits technical or scientific data to FEMA for a letter of map revision (LOMR).
2. All LOMRs for flood control projects are approved prior to the issuance of building permits. Building permits must not be issued based on conditional letters of map revision (CLOMRs). Approved CLOMRs allow construction of the proposed flood control project and land preparation as specified in the "start of construction" definition.

Such submissions are necessary so that, upon confirmation of those physical changes affecting flooding conditions, risk premium rates and floodplain management requirements are based on current data.

F. Interpretations. Make interpretations, where needed, as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Section 15.56.200.

G. Remedy of Violations. Take action to remedy violations of this chapter, as specified in Section 15.56.220 of this chapter. (Ord. 1397 § 1 (part), 2008: Ord. 984 § 2 (part), 1987)

**15.56.110 Flood loss reduction methods.**

In order to accomplish its purposes, this chapter includes methods and provisions for:

- A. Restricting or prohibiting uses which are dangerous to health, safety and property, due to water or erosion hazards, or which result in damaging increases in erosion or flood heights or velocities;
- B. Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- C. Controlling the alteration of natural floodplains, stream channels and natural protective barriers, which help accommodate or channel floodwaters;
- D. Controlling filling, grading, dredging and other development which may increase flood damage; and
- E. Preventing or regulating the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards in other areas. (Ord. 1397 § 1 (part), 2008: Ord. 984 § 2 (part), 1987)

**15.56.120 Construction standards generally.**

In all areas of special flood hazards, the following standards, set out in Sections 15.56.130 through 15.56.150, are required. (Ord. 1397 § 1 (part), 2008: Ord. 984 § 2 (part), 1987)

**15.56.130 Anchoring.**

- A. All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
- B. All manufactured homes shall meet the anchoring standards of Section 15.56.180. (Ord. 1397 § 1 (part), 2008: Ord. 984 § 2 (part), 1987)

**15.56.140 Materials and methods.**

- A. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- B. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

C. All new construction and substantial improvements shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

D. Require, within zones AH or AO, adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures. (Ord. 1397 § 1 (part), 2008: Ord. 984 § 2 (part), 1987)

**15.56.150 Elevation and floodproofing.**

A. New construction and substantial improvement of any structure shall have the lowest floor, including basement, elevated to or above the base flood elevation. Nonresidential structures may meet the standards in subsection C of this section. Upon the completion of the structure, the elevation of the lowest floor including basement shall be certified by a registered professional engineer or surveyor, or verified by the community building inspector to be properly elevated. Such certification or verification shall be provided to the Floodplain Administrator.

B. New construction and substantial improvement of any structure in Zone AH or AO shall have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as the depth number specified in feet on the FIRM, or at least two feet if no depth number is specified. Nonresidential structures may meet the standards in subsection C of this section. Upon the completion of the structure, the elevation of the lowest floor including basement shall be certified by a registered professional engineer or surveyor, or verified by the community building inspector to be properly elevated. Such certification or verification shall be provided to the Floodplain Administrator, professional engineer or surveyor, or verified by the community building inspector to be properly elevated. Such certification or verification shall be provided to the Floodplain Administrator.

C. Nonresidential construction shall either be elevated in conformance with subsection (C)(1) or (C)(2) of this section or together with attendant utility and sanitary facilities:

1. Be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;
2. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
3. Be certified by a registered professional engineer or architect that the standards of this subsection are satisfied. Such certifications shall be provided to the Floodplain Administrator.

D. Require, for all new construction and substantial improvements, that fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:

1. Either a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves or other coverings or devices; provided, that they permit the automatic entry and exit of floodwaters; or
2. Be certified to comply with a local floodproofing standard approved by the Federal Insurance Administration.

E. Manufactured homes shall also meet the standards in Section 15.56.180. (Ord. 1397 § 1 (part), 2008: Ord. 984 § 2 (part), 1987)

**15.56.160 Utility construction standards.**

A. All new and replacement water supply and sanitary sewer systems shall be designed to minimize or eliminate infiltration of floodwaters into the system and discharge from systems into floodwaters.

B. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding. (Ord. 1397 § 1 (part), 2008: Ord. 984 § 2 (part), 1987)

**15.56.170 Subdivision construction standards.**

A. All preliminary subdivision proposals shall identify the flood hazard area and the elevation of the base flood.

B. All final subdivision plans will provide the elevation of proposed structure(s) and pads. If the site is filled above the base flood, the final pad elevation shall be certified by a registered professional engineer or surveyor and provided to the Floodplain Administrator.

- C. All subdivision proposals shall be consistent with the need to minimize flood damage.
- D. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.
- E. All subdivisions shall provide adequate drainage to reduce exposure to flood hazards. (Ord. 1397 § 1 (part), 2008: Ord. 984 § 2 (part), 1987)

**15.56.180 Manufactured home standards.**

All new and replacement manufactured homes and additions to manufactured homes shall:

- A. Be elevated so that the lowest floor is at or above the base flood elevation; and
- B. Be securely anchored to a permanent foundation system to resist flotation, collapse or lateral movement. (Ord. 1397 § 1 (part), 2008: Ord. 984 § 2 (part), 1987)

**15.56.190 Floodway use restrictions.**

Located within areas of special flood hazard established in Section 15.56.070 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

- A. Prohibit encroachments, including fill, new construction, substantial improvements and other development, unless certification by a registered professional engineer or architect is provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.
- B. If subsection A of this section is satisfied, all new construction and substantial improvements shall comply with all other applicable flood-hazard reduction provisions of Sections 15.56.120 through 15.56.150. (Ord. 1397 § 1 (part), 2008: Ord. 984 § 2 (part), 1987)

**15.56.200 Variances and appeals—Hearing—Criteria.**

- A. The City Council shall hear and decide appeals and requests for variances from the requirements of this chapter.
- B. The City Council shall hear and decide appeals when it is alleged there is an error in any requirement, decision or determination made by the Floodplain Administrator in the enforcement or administration of this chapter.
- C. In passing upon such applications, the City Council shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter, and:
  1. The danger that materials may be swept onto other lands to the injury of others;
  2. The danger of life and property due to flooding or erosion damage;
  3. The susceptibility of the proposed facility and its contents to flood damage, and the effect of such damage on the individual owner;
  4. The importance of the services provided by the proposed facility to the community;
  5. The necessity to the facility of a waterfront location, where applicable;
  6. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
  7. The compatibility of the proposed use with existing and anticipated development;
  8. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
  9. The safety of access to the property in time of flood for ordinary and emergency vehicles;
  10. The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters expected at the site; and
  11. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities, such as sewer, gas, electrical and water systems, and streets and bridges.

D. Generally, variances may be issued for new construction and substantial improvements, to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing subsections (C)(1) through (C)(11) of this section have been fully considered. As the lot size increases beyond one-half acre, the technical justification required for issuing the variance increases.

E. Upon consideration of the factors of this section and the purposes of this chapter, the City Council may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.

F. The Floodplain Administrator shall maintain a record of all variance actions, including justification for their issuance, and report such variances issued in the biennial report to the Federal Emergency Management Agency (FEMA). (Ord. 1450 § 3, 2012; Ord. 1397 § 1 (part), 2008: Ord. 984 § 2 (part), 1987)

**15.56.210 Variances—Issuance restrictions.**

A. Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed in the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this section.

B. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

C. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

D. Variances shall only be issued upon:

1. A showing of good and sufficient cause;
2. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
3. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

E. Variances may be issued for new construction and substantial improvements, and for other development necessary for the conduct of a functionally dependent use; provided, that the provisions of subsections A through D of this section are satisfied, and that the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

F. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the regulatory flood elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation. A copy of the notice shall be recorded by the Floodplain Board in the office of the County Recorder, and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land. (Ord. 1397 § 1 (part), 2008: Ord. 984 § 2 (part), 1987)

**15.56.220 Compliance with chapter provisions.**

No structure or land shall hereafter be constructed, located, extended, converted or altered without full compliance with the terms of this chapter and other applicable regulations. Violations of the provisions of this chapter by failure to comply with any of its requirements, including violations of conditions and safeguards established in connection with conditions, shall constitute a misdemeanor. Nothing herein shall prevent the City Council from taking such lawful action as is necessary to prevent or remedy any violation. (Ord. 1397 § 1 (part), 2008: Ord. 984 § 2 (part), 1987)

**15.56.230 Abrogation and greater restrictions.**

The ordinance codified in this chapter is not intended to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this chapter and other ordinance, easement, covenant or deed restrictions conflict or overlap, whichever imposes the more stringent restrictions shall prevail. (Ord. 1397 § 1 (part), 2008: Ord. 984 § 2 (part), 1987)

**15.56.240 Liability disclaimer and warning.**

A. The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This chapter does not imply that land outside the areas of special flood hazards, or uses permitted within such areas, will be free from flooding or flood damages.

B. This chapter shall not create liability on the part of the City, any officer or employee thereof, or the Federal Insurance Administration, for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder. (Ord. 1397 § 1 (part), 2008: Ord. 984 § 2 (part), 1987)

## **Chapter 15.60 CONSTRUCTION TIME LIMITS**

Sections:

**15.60.010 Application of chapter.**

**15.60.020 Time limits for construction completion required.**

**15.60.030 Phased projects.**

**15.60.040 Inspections.**

**15.60.050 Extension.**

**15.60.060 Completion.**

**15.60.070 Penalties.**

**15.60.080 Appeals.**

**15.60.090 Public nuisance.**

**15.60.010 Application of chapter.**

The provisions of this chapter shall apply to all construction including all additions, alterations, modifications, repairs, and improvements that require a building permit. (Ord. 1560 § 6 (part), 2020)

**15.60.020 Time limits for construction completion required.**

As part of the building permit application, a reasonable valuation must be assigned to the project and approved by the Building Official. Based on that valuation, a construction time limit, commencing on the date of issuance of the building permit plus thirty (30) days, shall be established in accordance with the table below. The City Council shall update the "Table of Time Limits" from time to time.

**Table of Time Limits**

Estimated Value of Construction	Construction Time Limit (months)*
\$200,000 to \$1,000,000	18 months
\$1,000,000 to \$5,000,000	24 months
\$5,000,000 to \$10,000,000	30 months
\$10,000,000 plus	36 months

\* For landscaping work required by the Planning Commission, the applicant shall have an additional 90 days after the date of final inspection approval of the building permit by the Building Division for the main construction project.

(Ord. 1560 § 6 (part), 2020)

**15.60.030 Phased projects.**

A. If the Building Official approves phased development of a project, each phase shall be valued separately and shall have a separate construction time limit.

B. Each phase must meet the time limit specified in the Table of Time Limits or the project is subject to penalties based on the value of the phase.

C. A phase is considered complete when the Building Official issues a certificate of occupancy or temporary certificate of occupancy. (Ord. 1560 § 6 (part), 2020)

**15.60.040 Inspections.**

Pursuant to California Building Code Section R105.5, the City shall perform at least one (1) inspection every one hundred eighty (180) days of the construction site. (Ord. 1560 § 6 (part), 2020)

**15.60.050 Extension.**

A. In the event a project has not passed a final inspection in the allotted time period pursuant to Section 15.60.020, the applicant shall be entitled to one (1) or more sixty (60) day extensions. The request for an extension must be made in writing thirty (30) days prior to the expiration of the building permit. The extension shall be granted only if the applicant pays a fee in the amount specified in the table labeled "Extension Fees," an inspection by the Building Division prior to the expiration of the original permit reveals no violations of any fire/health and safety codes at the project site, and the reasons for delay are listed in subsection C of this section.

B. The City Council shall update "Extension Fees" by resolution from time to time. The listed fees shall be displayed in the "Schedule of Community Development Department, Building Department Fees."

C. The Building Official may waive an extension fee in the event he/she finds the complexity or size of the project requires a greater time than allotted or the reason for the extension request may be considered beyond the owner's control would include, but not be limited to: appeals of the project filed by third parties; extreme weather related delay; delays required by the unforeseen discovery of archaeological remains on the building site; pandemics; labor stoppages; acts of war or terrorism; natural disasters and supplier problems. Reasons that are not considered beyond the owner's control are: stop work orders; design changes; custom or imported material; normal weather; and seasonal grading moratoria.

**Extension Fees**

Fees for Additional Extensions	Extensions Fee (Percentage of total value of project)
1st 60-day extension	0.5%
2nd 60-day extension	1%
3rd 60-day extension	1.5%

(Ord. 1560 § 6 (part), 2020)

**15.60.060 Completion.**

For the purpose of this chapter, construction shall be deemed complete upon the final performance of all construction work, including, but not necessarily limited to, exterior repairs and remodeling, total compliance with all conditions of application approval, and the clearing and cleaning of all construction-related materials and debris from the site. Final inspection and approval of the construction work by the City shall mark the date of construction completion. Deadlines for the completions of landscaping are set forth in the Table of Time Limits. (Ord. 1560 § 6 (part), 2020)

**15.60.070 Penalties.**

The penalty structure is as follows: upon failure of the applicant to complete construction by the established time limit, the Building Official shall issue a compliance order: setting a date thirty (30) days from the date of such order within which time the applicant shall be required to complete the construction, and advising the applicant that the penalties provided in the Table of Penalties shall be imposed if the applicant fails to comply with the said order.

**Construction Completion Penalties**

Period of time that projects remain incomplete beyond applicable time limits	Penalty (Percentage of total value of project)
30-day grace period	\$0
31st day through 60th day	0.01% per day
61st day through 120th day	0.015% per day
121st day and every day thereafter	0.02% per day

The City Council shall update "Construction Completion Penalties" by resolution from time to time. The listed penalties shall be displayed in the "Schedule of Community Development Department, Building Department Fees." (Ord. 1560 § 6 (part), 2020)

**15.60.080 Appeals.**

A. Property owners may appeal a penalty or denial of an extension request by submitting a written request for an administrative hearing with the City Clerk within ten (10) days of notice of the penalty or denial of extension. The property owner must include all arguments and evidence for reversal of the decision and pay the full amount of the penalty or extension fee, plus an appeal fee in the amount set by resolution of the City Council.

B. Within thirty (30) calendar days, the appeal would be heard by a review committee consisting of the City's Building Official, Community Development Director, and the Public Works Director. The committee will consider any evidence provided by the property owner or his/her agents, in determination of the appeal.

C. The committee must issue a written decision within ten (10) calendar days either affirming, modifying, or dismissing the penalty or extension decision. The decision must include the committee's findings and provide a copy to the property owner.

D. If the committee affirms the decision, the City shall retain all fees paid and record any additional penalties as liens on the property. (Ord. 1560 § 6 (part), 2020)

**15.60.090 Public nuisance.**

Any violation of this chapter shall constitute a public nuisance and, in addition to being subject to any other remedies allowed by law, may be abated as provided for by law. (Ord. 1560 § 6 (part), 2020)

**Title 16  
(RESERVED)**

**Title 17  
SUBDIVISIONS**

**Chapters:**

**17.04 General Provisions**

**17.08 Definitions**

**17.12 Administration and Enforcement**

**17.16 Design Requirements**

**17.20 Maps Generally**

**17.24 Tentative Maps and Tentative Parcel Maps**

**17.28 Final Maps and Parcel Maps**

**17.32 Dedications**

**17.36 Improvements**

**17.40 Conditional Exceptions**

**17.44 Appeals**

**17.48 Community Housing Subdivisions**

**17.52 Conversion of Nonresidential Buildings to Condominium or Similar Types of Ownership**

**Chapter 17.04  
GENERAL PROVISIONS**

**Sections:**

**17.04.010 Purpose and construction of provisions.**

**17.04.020 Applicability of provisions.**

**17.04.030 Non-merger of certain contiguous parcels.**

**17.04.010 Purpose and construction of provisions.**

A. The purpose of Title 17 of this code is to regulate and control the design and improvement of subdivisions and to insure their compliance with applicable policies and regulations of the City of San Carlos. The regulations contained herein are intended to implement and supplement the Subdivision Map Act of the State of California as it now exists or as it may be hereafter amended. Except as otherwise provided herein, all provisions, requirements, and procedures set forth in the Subdivision Map Act shall be followed and satisfied. Failure to expressly reference or incorporate those provisions, requirements and procedures herein shall not be deemed a waiver thereof.

B. In their interpretation and application, the provisions of this title shall be held to be the minimum requirements adopted for the protection of the public health, safety and welfare. (Ord. 879 § 1 Ex. A (part), 1981)

**17.04.020 Applicability of provisions.**

Title 17 of this code shall not apply to, affect or modify any subdivision, or lot forming a part of a subdivision, lawfully created and recorded prior to the effective date of the ordinance codified in this title, or to any approval or conditions of approval of any tentative map or tentative parcel map approved more than forty-five days prior to said effective date, except as to any further division or consolidation thereof, or any further discretionary approvals requested for such subdivision or lot pursuant to the provisions of this title. (Ord. 879 § 1 Ex. A (part), 1981)

**17.04.030 Non-merger of certain contiguous parcels.**

The City deems any and all parcels or units of land which were specifically merged by the Subdivision Map Act, Section 66424.2, in effect between January 1, 1977 and July 6, 1977, to be unmerged and separate parcels. (Ord. 879 § 1 Ex. A (part), 1981)

**Chapter 17.08  
DEFINITIONS**

Sections:

**17.08.010 Definitions and interpretation of language.**

**17.08.020 Alley.**

**17.08.030 Certificate of compliance.**

**17.08.040 Community housing.**

**17.08.050 Cross slope.**

**17.08.060 Design.**

**17.08.070 Final map.**

**17.08.080 Hillside areas.**

**17.08.090 Improvement.**

**17.08.100 Lot.**

**17.08.110 Lot line.**

**17.08.120 Lot of record.**

**17.08.130 Major subdivision.**

**17.08.140 Map Act.**

**17.08.150 Minor subdivision.**

**17.08.160 Owner.**

**17.08.170 Parcel map.**

**17.08.180 Planned community.**

**17.08.190 Public utilities.**

**17.08.200 Reversion to acreage.**

**17.08.210 Street.**

**17.08.220 Subdivider.**

**17.08.230 Subdivision.**

**17.08.240 Subdivision Map Act.**

**17.08.250 Tentative map.****17.08.260 Tentative parcel map.****17.08.270 Use.****17.08.280 Vesting tentative map.****17.08.290 Zoning Administrator.****17.08.010 Definitions and interpretation of language.**

A. Except where alternate definitions are provided herein, or the context clearly requires a different usage, the definitions of words and phrases contained in the Subdivision Map Act are hereby adopted for use in Title 17 of this code. As used in the Subdivision Map Act, the term "General Plan" means the San Carlos General Plan, including all elements, objectives, policies and programs thereof. Where conflicts exist, the definition contained in the Subdivision Map Act shall take precedence.

B. All references to any section of the San Carlos Municipal Code or general laws of the State of California shall mean those sections, as may be hereafter amended, or any successor legislation.

C. References to any officer or employee of the City shall include any designee of that officer or employee.

D. Except where the context clearly requires a different usage, the definitions set out in this chapter are hereby adopted for the purposes of Title 17 of this code. (Ord. 879 § 1 Ex. A (part), 1981)

**17.08.020 Alley.**

"Alley" means a minor public way providing secondary access at the back or side of property. (Ord. 879 § 1 Ex. A (part), 1981)

**17.08.030 Certificate of compliance.**

"Certificate of compliance" means a document prepared and issued by the City and intended for recordation, certifying that a parcel or parcels of property within the City are lots lawfully created and existing in compliance with this title and the Subdivision Map Act and are capable of use or sale without further proceedings under this title. (Ord. 879 § 1 Ex. A (part), 1981)

**17.08.040 Community housing.**

A. "Community apartment project" means a project in which an undivided interest in land is coupled with the right of exclusive occupancy of any apartment located on the land.

B. "Community housing project" means a project in which an undivided interest in land is coupled with the right of exclusive occupancy of any dwelling units located on the land.

C. "Condominium" means an estate in real property, consisting of a separate interest in a building on such real property, together with an undivided interest in common to other portions of the same property, the owners being the grantees of the units, each grantee owning a separate interest in his unit and an interest, as a tenant in common, in the common areas.

D. "Stock cooperative" means a corporation which is formed or availed of primarily for the purpose of holding title to, either in fee simple or for a term of years, improved real property, if all or substantially all of the shareholders of such corporation receive a right of exclusive occupancy in a portion of the real property, title to which is held by the corporation, which right of occupancy is transferable only concurrently with the transfer of the share or shares of stock in the corporation held by the person having such right of occupancy. (Ord. 879 § 1 Ex. A (part), 1981)

**17.08.050 Cross slope.**

"Cross slope" means the average grade or slope of a parcel or area, expressed as a percentage of vertical difference in elevation to the horizontal distance, and determined by the cross slope formula in the lot size requirements in Section 17.16.050 of this title. (Ord. 879 § 1 Ex. A (part), 1981)

**17.08.060 Design.**

"Design" means:

A. Street alignments, grades and widths;

B. Drainage and sanitary facilities and utilities, including alignments and grades thereof;

C. Location and size of all required easements and rights-of-way;

- D. Fire roads and firebreaks;
- E. Lot size and configuration;
- F. Traffic access;
- G. Grading;
- H. Land to be dedicated for park or recreational purposes; and

I. Such other specific requirements in the plan and configuration of the entire subdivision as may be necessary or convenient to insure conformity to or implementation of the General Plan required by the Subdivision Map Act. (Ord. 879 § 1 Ex. A (part), 1981)

**17.08.070 Final map.**

"Final map" means a map, other than a parcel map, prepared in accordance with this title and the Subdivision Map Act, designed to be placed on record with the county recorder and thereby finalize a subdivision approved by a tentative map. A final map shall be prepared pursuant to and in conformance with the approved tentative map, and shall be based upon an accurate and detailed survey of the property. Final maps typically will be required for major subdivisions creating five or more lots, or five or more condominium, community apartment or stock cooperative units. (Ord. 879 § 1 Ex. A (part), 1981)

**17.08.080 Hillside areas.**

"Hillside areas" means areas with an average cross slope of ten percent or more. (Ord. 879 § 1 Ex. A (part), 1981)

**17.08.090 Improvement.**

A. "Improvement" means and refers to such street work and utilities to be installed, or agreed to be installed, by the subdivider on the land to be used for public or private streets, highways, ways and easements, as are necessary for the general use of the lot owners in the subdivision and local neighborhood traffic and drainage needs, as a condition precedent to the approval and acceptance of the final map thereof.

B. "Improvement" also refers to such other specific improvements or types of improvements, the installation of which, either by the subdivider, by public agencies, by private utilities, by any other entity approved by the local agency or by a combination thereof, is necessary or convenient to insure conformity to or implementation of the General Plan required by the Subdivision Map Act. (Ord. 879 § 1 Ex. A (part), 1981)

**17.08.100 Lot.**

"Lot" means a parcel of land consisting of a single lot of record, used or intended for use under City Zoning Regulations as one site for a use or group of uses. (Ord. 879 § 1 Ex. A (part), 1981)

**17.08.110 Lot line.**

"Lot line" means the boundary property line encompassing a lot. For the purpose of this title, the "front lot line" is the boundary line which abuts a public street; the front lot line on a corner lot is the narrowest frontage facing a street, and the "side lot line" is the longest frontage facing a street, irrespective of the direction in which the building faces. The "rear lot line" is the lot line or line most nearly parallel to and most remote from the front property line. All other lot lines are side lot lines. An "interior lot line" is a side line in common with another lot. (Ord. 879 § 1 Ex. A (part), 1981)

**17.08.120 Lot of record.**

"Lot of record" means a lot which is part of a subdivision recorded in the Office of the County Recorder, or a lot or parcel described by metes and bounds or comparably specific manner, which has been so recorded and which by reason of that recordation constitutes a parcel of land lawfully created and existing in compliance with those provisions of law regulating the division of land. (Ord. 879 § 1 Ex. A (part), 1981)

**17.08.130 Major subdivision.**

"Major subdivision" means any subdivision creating five or more lots, five or more condominiums, or a community apartment or stock cooperative project containing five or more units. (Ord. 879 § 1 Ex. A (part), 1981)

**17.08.140 Map Act.**

"Map Act" means the California Subdivision Map Act. (Ord. 879 § 1 Ex. A (part), 1981)

**17.08.150 Minor subdivision.**

"Minor subdivision" means any subdivision creating four or less lots, four or less condominium units, or a community apartment or stock cooperative project containing four or less units. (Ord. 879 § 1 Ex. A (part), 1981)

**17.08.160 Owner.**

"Owner" means the record owner of property or vendee under a contract of sale, or an agent of either of the foregoing with written consent to act on their behalf. Unless evidence is produced to the contrary, the record owner of property shall be deemed to be the owner as shown on the last equalized assessment roll. (Ord. 879 § 1 Ex. A (part), 1981)

**17.08.170 Parcel map.**

"Parcel map" means a map for a minor subdivision, designed to be placed on record with the County Recorder and thereby finalize the subdivision. (Ord. 879 § 1 Ex. A (part), 1981)

**17.08.180 Planned community.**

"Planned community" means a special district which is established to allow flexibility of design to accommodate various types of development such as single-family residential, multiple-family residential, neighborhood and community shopping centers, professional and administrative offices, commercial service centers, industrial parks, or a combination of uses which can be appropriately a part of a planned community project. (Ord. 879 § 1 Ex. A (part), 1981)

**17.08.190 Public utilities.**

"Public utilities" means water, gas, sewer, electric and communication lines and facilities. (Ord. 879 § 1 Ex. A (part), 1981)

**17.08.200 Reversion to acreage.**

"Reversion to acreage" means the dissolution of a previously approved and recorded subdivision. A reversion to acreage shall result in the merger of all lots created by the subdivision and reestablishment of the lot lines as they existed prior to the subdivision. Any modification of lot lines or merger of parcels comprising less than the whole of the parcel originally subdivided, or establishing any lot lines other than those existing prior to the subdivision, shall be deemed a new subdivision and not a reversion to acreage. (Ord. 879 § 1 Ex. A (part), 1981)

**17.08.210 Street.**

"Street" means an improved, travelled way providing the primary access to abutting property and classified as follows:

A. "Arterial street" means a street carrying intercity through traffic and/or relating several sections or neighborhoods within the City.

B. "Collector street" means streets which collect and carry traffic from minor streets to arterials and carry traffic within a particular area of the City.

C. "Cul-de-sac" means a local street terminating in a turnaround.

D. "Local street" means a street which serves only the abutting property.

E. "Loop street" means a local street which forms a loop and returns to the same street from which it originated. A street forming a connection between two other streets is not considered a loop street.

F. "Private street" means a street which serves only the abutting property and is not dedicated to a public agency, but is privately owned and maintained. (Ord. 879 § 1 Ex. A (part), 1981)

**17.08.220 Subdivider.**

"Subdivider" means a person, firm, corporation, partnership or association who proposes to divide, divides or causes to be divided, real property into a subdivision for himself or for others, except that employees and consultants of such persons or entities, acting in such capacity, are not "subdividers." (Ord. 879 § 1 Ex. A (part), 1981)

**17.08.230 Subdivision.**

A. "Subdivision" means the division, by any subdivider, of any unit or units of improved or unimproved land, or any portion thereof, shown on the latest equalized county assessment roll as a unit or as contiguous units, for the purpose of sale, lease or financing, whether immediate or future, except for leases of agricultural land for agricultural purposes. Property shall be considered as contiguous units even if it is separated by roads, streets, utility easements or railroad rights-of-way.

B. "Subdivision" includes a condominium project, as defined in Section 1350 of the Civil Code, a community apartment project, as defined in Section 11004 of the Business and Professions Code, or the conversion of five or more existing dwelling units to a stock cooperative, as defined in Section 11003.2 of the Business and Professions Code.

C. Any conveyance of land to a governmental agency, public entity or public utility shall not be considered a division of land for purposes of computing the number of parcels.

D. As used in this section, "agricultural purposes" means the cultivation of food or fiber or the grazing or pasturing of livestock. (Ord. 879 § 1 Ex. A (part), 1981)

**17.08.240 Subdivision Map Act.**

"Subdivision Map Act" means the Subdivision Map Act of the State of California, as it presently exists or may hereafter be amended. (Ord. 879 § 1 Ex. A (part), 1981)

**17.08.250 Tentative map.**

"Tentative map" means a map made for the purpose of showing the design and improvements of a proposed subdivision and the existing conditions in and around it. A tentative map need not be based upon an accurate or detailed final survey of the property. A tentative map will typically be required for any major subdivision, and will also be required for certain minor subdivisions where the total acreage involved exceeds five acres or any individual lot created exceeds two acres. Tentative maps will be reviewed by the Planning Commission. (Ord. 879 § 1 Ex. A (part), 1981)

**17.08.260 Tentative parcel map.**

"Tentative parcel map" means a map made for the purpose of showing the design and improvement of a proposed minor subdivision and the existing conditions in and around it. (Ord. 879 § 1 Ex. A (part), 1981)

**17.08.270 Use.**

"Use" means the conduct of an activity, or the performance of a function or operation, on a site or in a building or facility. (Ord. 879 § 1 Ex. A (part), 1981)

**17.08.280 Vesting tentative map.**

"Vesting tentative map" means a tentative map or a tentative parcel map for a residential subdivision, as defined previously in this chapter, that shall have printed conspicuously on its face the words "Vesting Tentative Map" at the time it is filed, and then processed with the provisions of Section 17.24.130 of this title. (Ord. 958 § 1, 1986; Ord. 879 § 1 Ex. A (part), 1981)

**17.08.290 Zoning Administrator.**

"Zoning Administrator" means the zoning Administrator of the City of San Carlos. (Ord. 879 § 1 Ex. A (part), 1981)

## Chapter 17.12 ADMINISTRATION AND ENFORCEMENT

Sections:

**17.12.010 Certificate of compliance—Defined—Issued when.**

**17.12.020 Certificate of compliance—Confirming lawful status of property.**

**17.12.030 Certificate of compliance—To render conformance.**

**17.12.040 Certificate of compliance—Property description.**

**17.12.050 Certificate of compliance—Issuance conditions.**

**17.12.060 Certificate of compliance—Fee.**

**17.12.070 Application forms and fees generally.**

**17.12.080 Noncompliance—Permit issuance prohibited.**

**17.12.090 Planning Commission—Advisory agency authority.**

**17.12.100 Violations—Notice requirements.**

**17.12.010 Certificate of compliance—Defined—Issued when.**

A certificate of compliance is a document issued by the City Engineer for recordation stating, with or without conditions, that a certain lot or lots described therein complies with the provisions of this title and the Subdivision Map Act and is a lawfully existing lot or lots. A certificate of compliance may be issued for the following purposes:

A. A certificate of compliance shall be issued in lieu of a parcel or final map in the case of a lot line adjustment pursuant to the requirements as set forth in this title in Chapter 17.20.

B. A certificate of compliance shall be issued upon request of a property owner or a vendee of such owner pursuant to a contract of sale of such real property, for property which has been divided in compliance with any existing provisions of law

regulating such divisions or at a time when no such regulations were applicable, and which presently constitutes a lawfully existing lot or lots, for the purpose of establishing recorded evidence that the lot or lots are lawfully existing.

C. Upon determining that such property complies with the Subdivision Map Act and the provisions of this title, the City shall cause a certificate of compliance to be filed for record with the County Recorder.

D. A certificate of compliance may be issued subject to the provisions set forth in this chapter for a lot not created in compliance with any existing provisions of law regulating such divisions, in order to establish such a lot as lawfully existing. (Ord. 879 § 1 Ex. A (part), 1981)

**17.12.020 Certificate of compliance—Confirming lawful status of property.**

A. Any property owner may request in writing that the City Engineer determine whether such property complies and was created in conformance with this title and the Subdivision Map Act, or was lawfully created prior to the applicability of such provisions. Upon making such determination, the City Engineer shall issue and cause a certificate of compliance to be recorded with the County Recorder.

B. Any property owner making application under this section shall have the obligation of furnishing to the City Engineer such evidence and documents as may be required to enable the City Engineer to make the determinations required hereunder. (Ord. 879 § 1 Ex. A (part), 1981)

**17.12.030 Certificate of compliance—To render conformance.**

The owner of a lot created in violation of this title, the Subdivision Map Act, or any predecessor legislation governing the division of land other than the person who created such violation, and any person who took title to the property with actual or constructive notice of such violation, may apply for a certificate of compliance in order to render that lot legal and in compliance with this title and the Subdivision Map Act. No application under this section shall be processed unless the applicant shall submit to the City a declaration under penalty of perjury that the applicant has attempted and been unable to obtain the consent of the other owners of property constituting the remainder of the original parcel unlawfully divided, of which the applicant's property is a portion, for the filing of a subdivision application for the entire property. In no event shall a certificate of compliance be issued if the applicant is the owner of the whole of such original parcel. (Ord. 879 § 1 Ex. A (part), 1981)

**17.12.040 Certificate of compliance—Property description.**

In addition to any other requirements contained in this chapter, any person applying for a certificate of compliance shall furnish to the City Engineer property descriptions, satisfactory to the City Engineer, and an area map, for any lots which are the subject of the application. (Ord. 879 § 1 Ex. A (part), 1981)

**17.12.050 Certificate of compliance—Issuance conditions.**

The City Engineer may impose upon the issuance of any certificate of compliance such conditions as are required to insure compliance with this title and the Subdivision Map Act. (Ord. 879 § 1 Ex. A (part), 1981)

**17.12.060 Certificate of compliance—Fee.**

In every instance where an application for a certificate of compliance is filed, a nonrefundable fee shall be charged as set from time to time by the City Council. (Ord. 879 § 1 Ex. A (part), 1981)

**17.12.070 Application forms and fees generally.**

A. Whenever any application or submittal is made pursuant to this title, such application or submittal shall be made on or accompanied by such application forms as may be prescribed by the officer with or to whom the application or submittal is made.

B. Whenever any application or submittal is made hereunder, including but not limited to application for lot line adjustment, tentative, tentative parcel, final and parcel map approvals, certificates of compliance, reversions to acreage and appeals, a fee shall be charged as set from time to time by the City Council by resolution.

C. Whenever any map, agreement or document is required to be filed or recorded under the provisions of this title, the applicant shall pay, in addition, all filing, recording and copying fees incurred.

D. The City Engineer and/or the Director of Planning may require submission of supporting materials, as part of applications submitted pursuant to this title, necessary to describe or illustrate existing conditions and the proposed project and to determine the level of environmental review pursuant to the California Environmental Quality Act. (Ord. 1439 § 4 (Exh. F (part)), 2011: Ord. 879 § 1 Ex. A (part), 1981)

**17.12.080 Noncompliance—Permit issuance prohibited.**

A. The City Council finds that the development of property divided in violation of Title 17 of this code, the Subdivision Map Act, or any predecessor legislation, prior to review of such property and determination whether it complies with current standards for lot size and design and whether imposition of any conditions is required, is contrary to the public health and safety. Therefore, no permit or approval of any type necessary for the development of such property shall be issued by the City, whether the applicant was the owner of record at the time of such violation or whether the applicant is either the current owner of record or the vendee of the current owner of record pursuant to a contract of sale of the real property with, or without, actual or constructive knowledge of the violation at the time of the acquisition of the applicant's interest in such real property, until such time as a final or parcel map or certificate of compliance for the property is approved and recorded.

B. Any permit or license issued in conflict with the provisions of this title shall be void. The enforcement of the provisions of this section shall be in addition to any other remedy or penalty provided by law for violation of this title or the Subdivision Map Act. (Ord. 879 § 1 Ex. A (part), 1981)

**17.12.090 Planning Commission—Advisory agency authority.**

A. Designation. The Planning Commission of the City of San Carlos, hereinafter in this title referred to as the "Planning Commission," is hereby designated as the advisory agency with respect to subdivisions as provided in the Subdivision Map Act.

B. Powers and Duties. The Planning Commission shall have all the powers and duties with respect to tentative, tentative parcel, final and parcel maps, and the procedure relating thereto which are specified by law and by this Code. It shall have the power to approve, conditionally approve, or disapprove maps. (Ord. 879 § 1 Ex. A (part), 1981)

**17.12.100 Violations—Notice requirements.**

A. Whenever the City has knowledge that real property located within the City has been divided in violation of the provisions of this title or the Subdivision Map Act, the Zoning Administrator shall cause to be filed for record with the County Recorder a notice of intention to record a notice of violation, describing the real property in detail, naming the owners thereof, describing the violation and stating that an opportunity shall be given to the owner to present evidence. Upon recording such a notice of intention to record a notice of violation, the Zoning Administrator shall mail a copy of such notice to the owner of such real property.

B. The notice shall specify a time, date and place at which the owner may present evidence to the Zoning Administrator why such notice should not be recorded. Such evidence shall be limited to material tending to prove or disprove the existence of the alleged violation.

C. If, after the owner has presented evidence, the Zoning Administrator determines that there has been no violation, the Zoning Administrator shall record a release of the notice of intention to record a notice of violation with the County Recorder. If the Zoning Administrator determines that the property has in fact been illegally divided, or if within sixty days of receipt of such notice the owner fails to inform the Zoning Administrator of the owner's objection to recording the notice of violation, the Zoning Administrator shall record the notice of violation with the County Recorder.

D. Nothing contained in this section shall be deemed to require the recordation of any of the notices referred to herein as a condition precedent to the enforceability of any provision of this title, the Subdivision Map Act, or any other provision of law. (Ord. 879 § 1 Ex. A (part), 1981)

**Chapter 17.16  
DESIGN REQUIREMENTS**

Sections:

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**17.16.010 Applicability of provisions.**

**17.16.020 Conformance to General Plan and local law.**

**17.16.030 Lots—Size requirements.**

Article II. Specific Requirements

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- 17.16.060 Solar requirements.**
- 17.16.070 Streets and highways—Conformance to General Plan.**
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- 17.16.090 Streets and highways—Grades.**
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- 17.16.110 Street alignment.**
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- 17.16.270 Storm drainage facilities.**
- 17.16.280 Walkways.**
- 17.16.290 Bicycle paths.**
- 17.16.300 Local transit facilities.**

#### **Article I. General Provisions**

##### **17.16.010 Applicability of provisions.**

- A. The provisions of this chapter shall govern the design of all subdivisions.
- B. The provisions of this chapter shall be incorporated in any subdivision approval unless the City Council finds that, due to the particular circumstances, these design criteria are not necessary or that alternative designs are preferable; provided, that any modifications to the lot size, dimensions, location or configuration standards shall only be made upon request for and approval of exceptions to said standards, per the provisions of Chapter 17.40, Conditional Exceptions.
- C. Design of all subdivisions shall include such facilities for the handicapped as may be required by Federal, State or local law. (Ord. 1439 § 4 (Exh. F (part)), 2011: Ord. 879 § 1 Ex. A (part), 1981)

##### **17.16.020 Conformance to General Plan and local law.**

- A. In all respects, subdivisions shall be consistent with the General Plan. Subdivisions shall also conform with any adopted specific plan. Subdivisions shall also conform with all other provisions of law, including but not limited to, zoning, safety and

health codes.

B. The design of the subdivision or of improvements shall conform in all respects to accepted standards of engineering and shall be subject to the approval of the City Engineer. Any subdivision may be approved subject to such additional design criteria or conditions as may be necessary to ensure the public health, safety, welfare and convenience. (Ord. 879 § 1 Ex. A (part), 1981)

#### **17.16.030 Lots—Size requirements.**

A. Applicability and Exemptions. The provisions of this title shall apply to all proposals for subdivisions, except the conversion of multiple-family dwellings existing on the effective date of the ordinance codified in this title to community housing subdivisions. Existing parcels of land which meet prior minimum zoning standards but which do not meet the standards of this section shall not be deemed substandard or nonconforming by enactment of this section. Where standard zoning provisions for lot area are more restrictive than this section, the standard zoning shall prevail. Standards established for a planned development district which have been adopted for a site prior to enactment of the ordinance codified in this section shall not be altered by enactment of this section and shall not prevent the processing of subdivision maps conforming to a valid development plan wherein lot sizes have been specified. All proposed subdivisions shall meet the standards as specified in Table 17.16.030, Lot Size Standards, below.

Site Cross Slope	Minimum Lot Area	Minimum Width	Minimum Depth	Percent of Total
				Subdivision Area to Remain Ungraded
0 — 9.9 % <sup>1,2</sup>	10,000 square feet	65'	100'	0 %
10 — 14.9 % <sup>1,2</sup>	10,000 square feet	65'	100'	20 %
15 — 19.9 % <sup>1,2</sup>	10,000 square feet	65'	100'	30 %
20 — 24.9 %	12,000 square feet	90'	130'	40 %
25 — 29.9 %	20,000 square feet	120'	150'	60 %
30 — 34.9 %	40,000 square feet	150'	200'	70 %
35 +	2 acres	200'	200'	80 %

1. New lots in the RM-20 Zoning District and/or small lot subdivisions shall meet the minimum lot size and width requirements pursuant to Chapter 18.04, Residential Districts.
2. New lots in a Mixed-Use (MU), Commercial, Industrial Arts (IA), Light Industrial (IL) Zoning District shall meet the minimum lot size and width requirements pursuant to Chapter 18.05, Mixed-Use Districts, or Chapter 18.06, Commercial Districts, or Chapter 18.07, Industrial Districts.

B. Applications. Applications for division of land shall include calculations of the average cross slope of the total parcel and the individual lots proposed. Calculations shall be made using the following formula and shall be in a form capable of being checked.

$$S = \frac{100 IL}{A}$$

Where: S = Average cross slope of parcel in percent

I = Interval of measured contours

L = Combined length of contours in feet (i.e., map measurement of contours in inches x scale)

A = Area of parcel in square feet

C. Cross Slope Definition. As defined in Section 17.08.050.

D. Determination of Cross Slope. In all cases, the cross slope of an area shall be determined for land in its natural state or as altered pursuant to previous authorization by the City. The formula set forth in the subsection B of this section shall be used to determine cross slopes.

E. Planning Commission Authority. The Planning Commission shall have the authority to determine the average cross slope of a subdivision and shall also be empowered to designate different portions of any subdivision having different cross slopes. (Ord. 1517 § 2 (Exh. A), 2017; Ord. 1439 § 4 (Exh. F (part)), 2011; Ord. 879 § 1 Ex. A (part), 1981)

## **Article II. Specific Requirements**

### **17.16.040 Lots—Size and shape.**

The size and shape of lots shall conform with the provisions of this title and any zoning regulations effective in the area of the proposed subdivision and as shown on the Zoning Map. Flag lots shall not be approved as part of a subdivision unless the decision-making authority finds that the preexisting lot patterns and corresponding development patterns in the vicinity of the subdivision or the unusual topography of the site justifies a flag lot; such areas where flag lots may be considered include hillside areas or within neighborhoods that have irregular shaped lots. (Ord. 1517 § 2 (Exh. B), 2017; Ord. 879 § 1 Ex. A (part), 1981)

### **17.16.050 Lots—Grading for drainage.**

All lots shall be graded to drain to a street, wherever possible, but the City Engineer may require or allow alternative drainage patterns as may be reasonably necessary to avoid excessive grading or grading which results in a significant height differential at any property line. An adequate storm drain system shall be provided. (Ord. 879 § 1 Ex. A (part), 1981)

### **17.16.060 Solar requirements.**

All major subdivisions shall provide, to the extent feasible, for future passive or natural heating or cooling opportunities in the subdivision, as required by Section 66473.1 of the Government Code. (Ord. 879 § 1 Ex. A (part), 1981)

### **17.16.070 Streets and highways—Conformance to General Plan.**

The street design shall conform both in width and alignment to the circulation element of the General Plan. (Ord. 879 § 1 Ex. A (part), 1981)

### **17.16.080 Street design—Council regulations.**

The street design shall conform to any proceedings affecting the subdivision which may have been initiated by the City Council on its own motion or approved by the City Council upon initiation by any other legally constituted bodies of the City, County or State. If a parcel of land to be subdivided includes a portion of the right-of-way to be acquired for a freeway or expressway and the City Council determines the boundaries of the right-of-way to be acquired, such right-of-way shall be shown on the tentative and final or parcel map. (Ord. 879 § 1 Ex. A (part), 1981)

### **17.16.090 Streets and highways—Grades.**

No street or highway shall have a grade of more than twelve percent unless, because of topographical or other exceptional conditions, the City Engineer and Director of Planning determine that a grade exceeding twelve percent is necessary. (Ord. 879 § 1 Ex. A (part), 1981)

### **17.16.100 Streets and highways—Widths.**

Streets and highways not shown on the circulation element of the General Plan or not affected by proceedings initiated by the City Council, or approved by the City Council upon initiation by other legally constituted governmental bodies, shall be the minimum width as set forth in the "Pavement Widths and Rights-of-Way" Table following this section. The Planning Commission may require increased widths where probable traffic conditions warrant. (See Table 17.16.100.) (Ord. 879 § 1 Ex. A (part), 1981)

### **17.16.110 Street alignment.**

As far as practicable, the streets shall be in alignment with existing adjacent streets by continuations of the centerlines thereof and by adjustments by curves. (Ord. 879 § 1 Ex. A (part), 1981)

### **17.16.120 Frontage of lots.**

Lots without frontage on a street will not be permitted. Lots, other than corner lots, may not front on more than one street unless necessitated by topographic or other unusual conditions. (Ord. 879 § 1 Ex. A (part), 1981)

### **17.16.130 Side lot lines.**

The side lot lines of all lots, as far as practicable, shall be at right angles to straight streets on which the lot faces, or radial to curved streets. (Ord. 879 § 1 Ex. A (part), 1981)

#### **17.16.140 Divided lots.**

No lot shall be divided by a City boundary line. (Ord. 879 § 1 Ex. A (part), 1981)

#### **17.16.150 Intersections.**

Streets shall intersect one another at an angle as near to a right angle as practicable. (Ord. 879 § 1 Ex. A (part), 1981)

#### **17.16.160 Curve radius.**

The centerline radius on all streets and highways shall conform to accepted engineering standards of design and shall be subject to approval by the City Engineer. (Ord. 879 § 1 Ex. A (part), 1981)

**Table 17.16.100**

**Pavement Widths and Rights-of-Way**

Street Types	Site Cross-Slope	Residential		Commercial		Sidewalks
		P/W	R/W	P/W	R/W	
Arterial	All	56'	80'	64'	86'	5' P.C.C.* (both sides)
Collector	All	40'	60'	40'	60'	5' P.C.C. (both sides)
Local	0 — 9.9%	36'	50'	40'	50'	5' P.C.C. (both sides)
Local	10 — 19.9%	32'	50'			5' P.C.C. (both sides)
Local	20% +	28'	50'			3' P.C.C. (one side)
Cul-de-sac	0 — 9.9%	36'	50'	40'	50'	5' P.C.C. (one side)
Cul-de-sac	10 — 19.9%	32'	50'			5' P.C.C. (one side)
Cul-de-sac	20% +	28'	50'			3' P.C.C. (one side)
One-way (divided level streets shall be considered two one-way streets)	All	20'	30'	20'	30'	5' P.C.C. (one side)
Rural road	All	24'	50'			5' AC** (one side)

\* P.C.C. = Portland cement concrete

\*\* AC = Asphaltic concrete

Note: Street and highway geometric standards shall be as provided in Table 17.16.030 titled "Lot Size Standards" following Section 17.16.030 of this chapter on lot size requirements.

#### **17.16.170 Intersection corner rounding.**

Whenever a major street or State highway intersects any other street or highway, the property lines at each block corner shall be rounded with a curve having a radius of not less than thirty feet. On all other street intersections, the property line at each block corner shall be rounded with a curve having a radius of not less than fifteen feet. In either case, a greater curve radius may be required if streets intersect other than at right angles. (Ord. 879 § 1 Ex. A (part), 1981)

#### **17.16.180 Street names.**

Street names, whether for public or private use, shall be approved by the Director of Planning with advice by the fire and police departments. No street name shall be duplicated. No street name signs or other identification shall be erected showing any name other than that approved by the Director of Planning. (Ord. 879 § 1 Ex. A (part), 1981)

#### **17.16.190 Traffic control and street signs.**

The traffic-control signal systems, signs, parking requirements and other markings on public and private streets adequate to secure the objectives of public safety and the General Plan shall be installed as required by the City Engineer with advice from

the police and fire departments. (Ord. 879 § 1 Ex. A (part), 1981)

#### **17.16.200 Alleys.**

When any lots are proposed for commercial or industrial usage, alleys at least thirty feet in width may be required upon recommendation of City Engineer at the rear thereof with adequate ingress and egress for truck traffic. (Ord. 879 § 1 Ex. A (part), 1981)

#### **17.16.210 Turnarounds.**

All dead-end streets shall have a turnaround with a minimum radius of forty feet, or hammerhead design, except that where necessary to give access to or to permit a satisfactory future subdivision of adjoining land, streets may extend to the boundary of the property and the resulting dead-end streets may be approved without a turnaround, provided that control of access across such dead-end street shall be vested in the City. (Ord. 879 § 1 Ex. A (part), 1981)

#### **17.16.220 Cul-de-sac length.**

Cul-de-sac streets shall not exceed five hundred feet in length. (Ord. 879 § 1 Ex. A (part), 1981)

#### **17.16.230 Easements.**

The subdivider shall grant easements to the City for public utility, sanitary sewer and drainage purposes on each side of rear lot lines, along side lot lines and in planting strips wherever necessary. The width of easements shall be as determined by the City Engineer. Easements for overhead wire lines, where permitted, shall be provided. (Ord. 879 § 1 Ex. A (part), 1981)

#### **17.16.240 Access strips.**

Reserve strips controlling the access to public ways or which will not be taxable for special improvements, shall be approved only if such strips are necessary for the protection of the public welfare or of substantial property rights, or both. The control and disposal of the land comprising such strips shall be placed within the jurisdiction of the City under conditions deemed sufficient by the City Council. (Ord. 879 § 1 Ex. A (part), 1981)

#### **17.16.250 Non-access and planting strips.**

When the rear of any lot borders any arterial or collector street, or highway, the right of ingress and egress may be prohibited to such lot across such rear or side lot line. Dedication of such access rights shall be made on the map or by separate instrument satisfactory to the City Attorney. When the rear of any lot borders any freeway or State highway, the subdivider may be required to dedicate and improve a planting strip adjacent to such freeway or highway. (Ord. 879 § 1 Ex. A (part), 1981)

#### **17.16.260 Land reserved for public use.**

The City may, as a condition of approval of any tentative map, require the subdivider to reserve areas of real property for parks, recreational facilities, fire stations, libraries or other public uses if such reservation would implement the General Plan, any adopted specific plan or any plan adopted by the City Council for such purposes. Such reservations shall be pursuant to Section 66479 et seq. of the Government Code. (Ord. 1439 § 4 (Exh. F (part)), 2011: Ord. 879 § 1 Ex. A (part), 1981)

#### **17.16.270 Storm drainage facilities.**

The subdivider shall dedicate rights-of-way for storm drainage purposes. Such rights-of-way shall substantially conform to the boundary lines of any natural watercourse, channel, stream or creek that traverses the subdivision. In addition, the City may require dedication of easements, construction of improvements, or both, to dispose of surface stormwaters. (Ord. 879 § 1 Ex. A (part), 1981)

#### **17.16.280 Walkways.**

The subdivider may be required to dedicate and improve walkways across long blocks or to provide access to school, park or other public areas. (Ord. 879 § 1 Ex. A (part), 1981)

#### **17.16.290 Bicycle paths.**

If the subdivision, as shown on the tentative map thereof, contains two hundred or more parcels, and the subdivider is required to dedicate or offer to dedicate real property for roadways, the subdivision shall also contain bicycle paths for the use and safety of the residents of the subdivision. (Ord. 879 § 1 Ex. A (part), 1981)

#### **17.16.300 Local transit facilities.**

Local transit facilities, such as bus turnouts, benches, shelters, landing pads or similar items which directly benefit residents of a subdivision, may be required if the subdivision, as shown on the tentative map, has a potential for two hundred dwelling units or more if developed to the maximum density, or contains one hundred acres or more, and transit services are or will be within a reasonable time made available to such subdivision. (Ord. 879 § 1 Ex. A (part), 1981)

## Chapter 17.20 MAPS GENERALLY

Sections:

**17.20.010 Tentative map and final map required.**

**17.20.020 Tentative parcel map and parcel map required.**

**17.20.030 Submittal requirements.**

**17.20.040 Lot line adjustments.**

**17.20.010 Tentative map and final map required.**

A tentative map and a final map shall be required for any subdivision for which a tentative map and a final map are required by the Subdivision Map Act. (Ord. 879 § 1 Ex. A (part), 1981)

**17.20.020 Tentative parcel map and parcel map required.**

A tentative parcel map and a parcel map shall be required for any subdivision other than those for which the Subdivision Map Act requires a tentative and final map, unless expressly exempted from such requirements by the Subdivision Map Act. (Ord. 879 § 1 Ex. A (part), 1981)

**17.20.030 Submittal requirements.**

All maps submitted pursuant to this title shall meet all requirements of the Subdivision Map Act, of this title, and as may be required pursuant to Chapter 18.27. (Ord. 1439 § 4 (Exh. F (part)), 2011; Ord. 879 § 1 Ex. A (part), 1981)

**17.20.040 Lot line adjustments.**

A. A tentative map, final map or parcel map shall not be required for any lot line adjustment between four or fewer existing and adjoining parcels, unless any of the following conditions exist:

1. The lot line adjustment will cause any of the parcels to become nonconforming with respect to any of the requirements of the San Carlos Municipal Code: this title, Title 18, Zoning, or Chapter 15.04, Technical Building Codes, or the San Carlos General Plan, or applicable specific plan;
2. The lot line adjustment will cause an increase in the degree of nonconformance of any existing lot not in compliance with the requirements referred to in subsection (A)(1) of this section;
3. The lot line adjustment involves any lot that does not exist in compliance with the provisions of this title, or the Subdivision Map Act;
4. The lot line adjustment will necessitate the modification of any existing facilities approved pursuant to a planned community zone;
5. The lot line adjustment significantly modifies the means of access to any of the affected lots;
6. The lot line adjustment will render any existing facilities noncomplying or uses nonconforming, or will increase the degree of any such noncompliance or nonconformance;
7. The lot line adjustment affects any public utilities or other easements or any public improvements;
8. The lot line adjustment creates additional parcels.

B. The review authority must make all of the following findings in order to approve or conditionally approve a lot line adjustment application. The inability to make one or more of the following findings is grounds for denial of an application. Decisions may be appealed as provided in Chapter 17.44, Appeals.

1. The proposed lot line adjustment is limited to four or fewer existing adjoining lots.
2. Each of the affected lots is a separate legal lot of record because it was created in compliance with the applicable subdivision regulations in effect at the time of its creation.
3. The proposed lot line adjustment would not result in the creation of additional parcels or additional potential building sites.
4. The proposed lot line adjustment is consistent with the General Plan and any applicable specific plan.

5. The proposed lot line adjustment complies with zoning, development, and relevant subdivision provisions of this title and Title 18, including but not limited to those which address minimum lot size, lot design and configuration, street frontage and building setbacks from all property lines.
- C. Upon approval of such lot line adjustment, expiration of the time for appeal and compliance with all of the conditions of approval, the City Engineer shall issue and cause to be recorded a certificate of compliance for the involved lots; provided, that in lieu of requiring completion of all conditions of approval, the City Engineer may issue a conditional certificate of compliance requiring performance of the conditions prior to issuance of any permits for the development of any of the lots, or at such earlier times as may be deemed necessary. (Ord. 1439 § 4 (Exh. F (part)), 2011: Ord. 1338 § 1, 2004; Ord. 1318 § 1, 2003; Ord. 879 § 1 Ex. A (part), 1981)

## **Chapter 17.24 TENTATIVE MAPS AND TENTATIVE PARCEL MAPS**

Sections:

- 17.24.010 Tentative map—Filing requirements.**
- 17.24.015 Tentative map—Application.**
- 17.24.020 Tentative map—Preliminary title report.**
- 17.24.030 Tentative map—Size and scale.**
- 17.24.040 Tentative map—Information to be shown.**
- 17.24.050 Tentative map—Subdivider's statement.**
- 17.24.060 Soils and/or geologic report.**
- 17.24.070 Review for completion—Filing time.**
- 17.24.080 Preliminary review process.**
- 17.24.090 Departmental review and report.**
- 17.24.100 Approval or denial—Public hearing.**
- 17.24.110 Public hearing—Notice and procedures.**
- 17.24.120 Merger and resubdivision.**
- 17.24.130 Vesting tentative maps.**

### **17.24.010 Tentative map—Filing requirements.**

The Director of Planning shall specify the number of copies of the tentative map which shall be required. Those copies together with any additional data required shall be filed with the Director of Planning. Tentative maps shall be prepared in accordance with the Subdivision Map Act and provisions of this title. Except as otherwise required, all requirements for tentative maps set forth in this chapter shall be applicable to tentative parcel maps. Such tentative or tentative parcel maps shall be accompanied by a nonrefundable fee as set from time to time by the City Council by resolution. (Ord. 879 § 1 Ex. A (part), 1981)

### **17.24.015 Tentative map—Application.**

An application for a tentative map or tentative parcel map shall accompany any tentative map or tentative parcel map filed with the Director of Planning. The application shall be signed by all owners of record of the property for which subdivision is sought, or, by the owner's representative as authorized in writing if one other than the owner is the applicant. If the application is made by the owner's representative, proof, satisfactory to the Director of Planning, of the right to subdivide the property as applied for, shall accompany the application. The application shall be filed on a form prescribed by the Planning Department. Such form shall be accompanied by a nonrefundable fee as prescribed in the municipal fee schedule. (Ord. 1174 § 4, 1995)

### **17.24.020 Tentative map—Preliminary title report.**

The tentative map shall be accompanied by a current preliminary title report for the property being subdivided. (Ord. 879 § 1 Ex. A (part), 1981)

### **17.24.030 Tentative map—Size and scale.**

Tentative maps shall be of a scale and size to the satisfaction of the Director of Planning. (Ord. 879 § 1 Ex. A (part), 1981)

**17.24.040 Tentative map—Information to be shown.**

A tentative map shall contain the following information:

- A. Tract name, date, north point, scale, and sufficient description to define the location and boundaries of the proposed tract;
- B. Key map, showing adjacent property, subdivision, roads or streets in subdivisions;
- C. Name and address of record owner or owners, name and address of the subdivider, and name and business address of the person who prepared the tentative map;
- D. Acreage of the proposed tract, to the nearest tenth of an acre;
- E. Approximate area of each of the lots proposed to be created;
- F. Number of lots, average lot size, and size of smallest lot in tract;
- G. Contours at two-foot intervals up to five-percent slope, five-foot intervals up to ten-percent slope, and ten-foot intervals over ten-percent slope; the high and low points and all drainage features;
- H. The locations, names, existing widths, slope and approximate grade of all existing streets and alleys in the proposed subdivision, or abutting or contiguous to the proposed subdivision;
- I. The locations, names, widths, slope and approximate grade of all streets and alleys proposed to be constructed, widened, improved or dedicated within, abutting or contiguous to the proposed subdivision;
- J. Typical cross-sections of all streets and alleys to be constructed, widened, improved or dedicated;
- K. Locations, widths and purposes of all existing and proposed easements contiguous to the proposed subdivision;
- L. Locations, size and character of all existing pipelines and related structures, and all other public utilities, showing the ground elevation and flow line elevations at the connection to existing pipelines. All building and use restrictions applicable to any easements;
- M. Lot layout and approximate dimensions of each lot. Each lot shall be numbered;
- N. The outline of any buildings to remain on the property and their proposed location if any are to be moved, and their relation to existing or proposed street and lot lines;
- O. Approximate boundaries of areas subject to inundation of stormwater overflow, and the location, width and direction of flow of all watercourses;
- P. All water wells;
- Q. Proposed public areas, if any;
- R. Location of wooded areas, tree masses and other significant landscape features;
- S. A general grading diagram, showing proposed contours, areas and estimated quantities of excavations and embankments, and statement of estimated amount of material to be imported or exported from subdivision site;
- T. Method proposed for erosion control, including prevention of sedimentation or damages to off-site property. (Ord. 879 § 1 Ex. A (part), 1981)

**17.24.050 Tentative map—Subdivider's statement.**

A subdivider's statement shall appear upon or accompany the tentative map, and shall contain the following information:

- A. Existing use or uses and zone district or districts of the property;
- B. Proposed use of property; if property is proposed to be used for more than one purpose, the area, lot or lots proposed for each type of use shall be shown on the tentative map;
- C. Statement specifying the improvements and public utilities proposed to be made or installed and the time at which such improvements are proposed to be completed;
- D. Provision for sewerage and sewage disposal;

E. Public areas proposed;

F. Tree planting proposed, including an indication of any existing trees to be removed or left in place;

G. Proposed street lighting or any outdoor lighting;

H. Existing restrictive covenants, leases, rights-of-way, licenses and encumbrances affecting the use of the land, and restrictive covenants proposed;

I. Justifications and reasons for any requested exceptions to provisions of this title;

J. Any additional information regarding the subdivision as may be deemed necessary by the Director of Planning. (Ord. 879 § 1 Ex. A (part), 1981)

**17.24.060 Soils and/or geologic report.**

A. Preliminary Soils and/or Geologic Report. At the time of submission of the tentative map or tentative parcel map, the subdivider shall file with the Planning Department a preliminary soils and/or geologic report, prepared by a certified engineering geologist and a civil engineer who is registered by the State, based upon adequate test borings or excavations. The preliminary soils and/or geologic report may be waived if the Planning Department shall determine that, due to the knowledge of such department as to the soils qualities and geologic conditions of the subdivision, no preliminary analysis is necessary.

B. Soils Investigation. If the preliminary soils and/or geologic report indicates the presence of critically expansive or other soils or geologic hazards which, if not corrected, could lead to structural defects, a soils and/or geologic investigation of each potentially affected lot in the subdivision shall be prepared by a qualified engineer who is registered by the State. The soils and/or geologic investigation shall recommend corrective action which is likely to prevent structural damage to structures or improvements proposed to be constructed on the area where such soils and/or geologic problems exist. The report shall be filed with the Planning Department.

C. Approval of Soils and/or Geologic Investigation. The City Geologic Consultant shall approve the soils and/or geologic investigation if it determines that the recommended corrective action is likely to prevent structural damage to structures or improvements to be constructed in the subdivision. The tentative parcel map or tentative map and building permit shall be conditioned upon the incorporation of the approved, recommended, corrective action for the construction of each structure.

D. The City Engineer shall review a preliminary soils report for any subdivision of land. In the event the City Engineer finds the report to be incomplete, inaccurate or unsatisfactory, he may require additional information or he may reject the report. It shall be necessary for an applicant to have received a review and approval of a preliminary soils report prior to submittal of the subdivision application to the Planning Commission for approval. (Ord. 1051 § 2, 1990; Ord. 879 § 1 Ex. A (part), 1981)

**17.24.070 Review for completion—Filing time.**

A. The Director of Planning shall review all tentative map and tentative parcel map applications to determine whether all necessary information has been submitted. Within thirty days of receipt of any such map, the Director of Planning shall give written notice to the applicant pursuant to Government Code Section 65943 indicating whether the application is complete. Any parts which are incomplete shall be specified, and the manner in which they can be made complete shall be indicated.

B. In the case of any subdivision which requires the preparation of an environmental impact report or negative declaration pursuant to the California Environmental Quality Act, no application shall be deemed complete until the final decision maker has certified the environmental impact report or negative declaration to be adequate and prepared in compliance with the California Environmental Quality Act. For the purposes of the Subdivision Map Act, this title and Chapter 4.5 of Division 1, Title 7, Section 65920 et seq. of the Government Code, the date upon which notice is given to the applicant that the application is complete shall be deemed the date of filing of the application; provided that, if at any stage of processing the map a decision maker determines that an environmental impact report or negative declaration is required, the date of filing shall be revised to the date upon which that environmental impact report or negative declaration is certified by the final decision maker. (Ord. 879 § 1 Ex. A (part), 1981)

**17.24.080 Preliminary review process.**

The Director of Planning shall be empowered to establish a procedure for preliminary review of tentative maps and tentative parcel maps, in order to implement the intent of this title. The cost of such review shall be borne by the subdivider. (Ord. 879 § 1 Ex. A (part), 1981)

**17.24.090 Departmental review and report.**

The Planning Director shall transmit copies of such tentative map and tentative parcel map to the City Engineer, and may transmit copies thereof to other departments and agencies as he deems advisable. Upon receipt of a copy of such map, each department to which the same has been transmitted shall examine the map to ascertain if it conforms to the requirements of such department and, within ten days of receipt thereof, each department shall make a report to the Director of Planning. If said map does not conform to such requirements, the department shall so state in its report noting the details of nonconformity. (Ord. 879 § 1 Ex. A (part), 1981)

**17.24.100 Approval or denial—Public hearing.**

Within fifty days after the filing of the tentative map or tentative parcel map, the Planning Commission shall hold a public hearing thereon, and shall approve, conditionally approve, or disapprove the said map, and shall report such action directly to the subdivider and shall also transmit to the City Engineer and the Director of Planning a copy of the map and a memorandum setting forth the action of the Commission thereon. (Ord. 879 § 1 Ex. A (part), 1981)

**17.24.110 Public hearing—Notice and procedures.**

A. Notice of the time, date and place of the public hearing and the purpose thereof shall be given by publication once in a local newspaper of general circulation not less than ten days prior to the date of the hearing. Notice of such hearing shall also be mailed, at least ten days prior to the date of the hearing, to each owner of record of property within three hundred feet of the boundary of the property sought to be subdivided. Neither failure of any person to receive any notice required hereunder, nor failure to strictly comply with the provisions hereof, shall invalidate any proceedings under this chapter.

B. The notice of public hearing shall contain the following:

1. A statement of the general location of the property involved;
2. A statement of the date, time, place and purpose of the hearing;
3. Reference to the application on file for particulars, including reference to any environmental documents prepared; and
4. A statement that any interested person, or agent thereof, may appear and be heard.

C. In addition to any other information required, the applicant shall submit with the application a list of all owners of the property to be subdivided, as shown on the last equalized assessment roll, along with a list of the name and address of the owner of record and a set of addressed, Number 10 envelopes, of each property owner within a three-foot radius of the exterior boundaries of the subject property, as shown on the last equalized assessment roll.

D. Following the public hearing the Planning Commission shall make the following findings:

1. Whether the proposed subdivision is in conformity with law and this chapter;
2. Whether the size and shape of the proposed lots are in general conformance to City requirements and the general pattern of the neighborhood and will not cause traffic, health or safety hazards;
3. Whether the proposed lots will have proper and sufficient access to a public street;
4. Whether the proposed map and the design or improvement of the proposed subdivision are consistent with applicable general and specific plans;
5. Whether the site is physically suitable for the type of development;
6. Whether the site is physically suitable for the proposed density of development;
7. Whether the design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat;
8. Whether the design of the subdivision or the type of improvements are not likely to cause serious public health problems;
9. Whether the design of the subdivision or the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of property within the proposed subdivision, or that alternate easements, for access or for use, will be provided, and that these will be substantially equivalent to those previously acquired by the public. This subsection shall apply only to easements of record or to easements established by judgment of a court of competent jurisdiction;

10. Whether discharge of waste from the proposed subdivision will not result in violation of existing water quality requirements prescribed by the Regional Water Quality Control Board.

E. If the Planning Commission is unable to make any of the above findings, it shall disapprove the map, unless it is able to impose conditions which will enable it to make such findings, in which case it shall approve the map with such conditions. The Planning Commission may refuse to approve a tentative map when the only practical use which can be made of the property proposed to be subdivided is a use prohibited by ordinance or law, or if the property is deemed by the Health Officer of the City unhealthful or unfit for human habitation or occupancy. (Ord. 879 § 1 Ex. A (part), 1981)

**17.24.120 Merger and resubdivision.**

Subdivided lands may be merged and resubdivided without first reverting to acreage, provided that all requirements of the Subdivision Map Act and this title are complied with. Such application shall be filed and processed in the same manner as a subdivision. Recordation of the final or parcel map shall constitute legal merging of the separate parcels into one parcel and the resubdivision of such parcel. (Ord. 879 § 1 Ex. A (part), 1981)

**17.24.130 Vesting tentative maps.**

Pursuant to the authority granted by Chapter 4.5 of Division 2 of Title 7 of the California Government Code, for any residential subdivision for which a tentative map or a tentative parcel map is required by the Subdivision Map Act or this title a vesting tentative map may instead be filed, in accordance with the following provisions:

A. Filing and Processing.

1. A vesting tentative map shall be filed in the same form and have the same accompanying data and reports, and shall be processed in the same manner, including payment of fees, as set forth in this title for tentative maps, except:

- a. No vesting tentative map may be filed until all prior discretionary approvals applicable to the proposed development (i.e., rezoning, architectural review, etc.) have been obtained, or are being obtained simultaneously;
- b. At the time a vesting tentative map is filed, it shall have printed conspicuously on its face the words "Vesting Tentative Map."

2. If a subdivider does not seek the rights conferred by the vesting tentative map statute, then the filing of a vesting tentative map shall not be a prerequisite to any appeal for any proposed subdivision, permit for construction, or work preparatory to construction.

B. Expiration. The approval or conditional approval of a vesting tentative map shall expire at the same time, and shall be subject to the same extensions established in Section 17.28.010 of this title for the expiration of the approval or conditional approval of a tentative map.

C. Development Rights. The approval or conditional approval of a vesting tentative map shall confer a vested right to proceed with development in substantial compliance with the ordinances, policies and standards in effect at the date that the vesting tentative map application is determined complete. However, if proceedings have been formally initiated in accordance with Government Code Section 66474.2 to amend applicable general or specific plans or zoning or subdivision ordinances before the complete application is received, such policies, ordinances or standards may be applied to the application if they are in effect on the date the vesting tentative map is approved or disapproved.

D. Limits of Vested Rights. A permit, approval, extension or entitlement (including all subsequent approvals) may be conditional or denied, if it is determined that a failure to do so would place the residents of the subdivision or the immediate community in a condition dangerous to their health or safety, or the condition or denial is required in order to comply with Federal or State law.

E. Applications Inconsistent With Current Policies. A property owner or his designee may seek approvals or permits for development which departs from the ordinances, policies and standards described in subsection C of this section, and these approvals may be granted or permits issued to the extent that the departures are authorized under applicable law.

F. Expiration of Vested Rights.

1. The rights referred to in this section shall expire if a final map is not approved prior to the expiration of the vesting tentative map, as provided under subsection B of this section. If the final map is approved, these rights shall last for the following periods of time:

- a. An initial time period of one year. Where several final maps are recorded in various phases of a project covered by a single vesting tentative map, this initial time period shall begin for each phase when the final map for that phase is recorded;
  - b. A subdivider may apply to the Planning Commission for a one-year extension at any time before the initial time period expires. If the extension is denied, the subdivider may appeal that denial to the City council within fifteen days;
  - c. If the subdivider submits a complete application for a building permit during the time set forth in subsections F1a and F1b above, the rights referred to shall continue until expiration of that permit, or any extension of that permit;
  - d. The initial time period set forth in subsection F1a of this subsection shall automatically be extended by any time used for processing a complete application for a grading permit or architectural review, if such processing exceeds thirty days from the date a complete application is filed.
2. If the applicant lets one of these time periods expire, the applicant is then treated the same as if he or she were any ordinary applicant without the rights conferred by the "vesting" map. (Ord. 958 § 2, 1986)

## **Chapter 17.28 FINAL MAPS AND PARCEL MAPS**

Sections:

**17.28.010 Preparation—Submission time—Extensions.**

**17.28.020 Form, contents and conditions.**

**17.28.030 Examination—Approval conditions—Certification.**

**17.28.040 Council approval—Conditions—Recordation.**

**17.28.050 Map certificates—Tax bond.**

**17.28.060 Improvement agreement and bond.**

**17.28.070 Reversion to acreage.**

**17.28.010 Preparation—Submission time—Extensions.**

A. After approval or conditional approval of a tentative map or a tentative parcel map, the subdivider shall cause the subdivision, or any part thereof, to be surveyed and shall cause to be prepared a final map or a parcel map, in conformance with the tentative parcel map as approved or conditionally approved, and in compliance with the provisions of the Subdivision Map Act and this chapter. The subdivider shall submit such map, comply with all conditions of approval, and the final map or parcel map shall have been recorded within twenty-four months of such approval or conditional approval.

B. An extension of time, up to twelve additional months, for filing a final map or parcel map, may be granted by the Planning Commission, provided that written application for such extension is made by the subdivider prior to expiration of the twenty-four-month period. (Ord. 959 § 1, 1986; Ord. 879 § 1 Ex. A (part), 1981)

**17.28.020 Form, contents and conditions.**

1. Form and Scope. The form of a final map or parcel map shall be as provided in the Map Act. The scale of the map shall be not more than one inch per one hundred feet, unless a different scale is approved by the City Engineer.

2. Certificates. The final map or parcel map shall contain all certificates required by this title or the Map Act.

3. Compliance with Conditions. All conditions of approval of the tentative map or tentative parcel map shall be fulfilled prior to approval of a final map or parcel map, except those conditions which are fulfilled by the filing of an agreement to perform those conditions as specified in this title.

4. Expiration of Maps. Unless a final map or parcel map is filed, and all conditions of approval are fulfilled within such eighteen-month period, or such extension as may be granted, the tentative map or tentative parcel map shall expire and all proceedings shall terminate. Thereafter, no final or parcel map shall be filed without first processing a tentative map or tentative parcel map.

5. Dedications. All streets, highways and other public ways, and all other easements, dedication of access rights or areas required or offered for public use and dedication shall be shown on the final map. In the case of a parcel map, such

dedications may be made either on the parcel map or by separate instrument, as determined by the City Engineer.

6. Number of Prints. Tracings and an additional number of prints of the final or parcel map, as determined by the Director of Planning, which conform to the requirements of the Map Act shall be submitted to the Director of Planning.

7. Additional Documents. The subdivider shall submit along with the final map or the parcel map the following documents:

a. A preliminary title report with each dedication or offer of dedication for public use, issued by a title insurance company in the name of the record owner, issued to or for the benefit and protection of the City, showing all parties whose consent is necessary and their interest therein;

b. The instrument prohibiting traffic over the sidelines of a major highway, street or freeway, when and if the same is required by this title;

c. Sheets and drawings showing closures and the computation of all distances, angles and courses shown on the final map, ties to existing and proposed monuments, and adjacent subdivisions, street corners, and/or highway stations. The allowable field survey error shall not exceed one part in five thousand in distance or thirty seconds in angular measurement;

d. A copy of the proposed deed restrictions;

e. Any other documents, certifications or instruments necessary to fulfill requirements of State law or requirements imposed at the time the tentative map or tentative parcel map was approved or conditionally approved.

8. Key Map and Legend. When the final map or parcel map consists of two or more sheets, except sheets showing only certificates and similar in text, a key map showing the relation of the sheets shall be placed on the first sheet. Every sheet shall bear the scale, north point, legend, sheet number, and the number of sheets comprising the map.

9. System. Whenever the City Engineer has established a system of coordinates, the survey shall be tied into such system. The map shall show clearly what stakes, monuments or other evidences were found on the ground to determine the boundary of the tract. The corners of all adjoining recorded subdivisions shall be identified by lot and block numbers, tract name and place of record, or other proper designation.

10. Block Numbers. Block numbers, if used, shall begin with the number "1" and continuing consecutively without omission or duplication throughout the tract. The numbers or letters shall be solid and of sufficient size and thickness to stand out and shall be so placed as not to obliterate any figure and shall not be enclosed in any design. Each block in its entirety shall be shown on the sheet. Where adjoining blocks appear on separate sheets, the street adjoining both blocks shall be shown on both sheets complete with centerline and property line data.

11. Boundary. The boundary of the subdivision shall be designated by a distinctive border applied to the reverse side of the tracing and on the face of the blueline prints. Such border shall not interfere with the legibility of figures or other data.

12. City Boundary Line. City boundary lines crossing or abutting the subdivision shall be clearly designated and referenced.

13. Easements. The map shall show the sideline of all easements to which the lots are subject. The easements must be clearly labeled and identified and, if already of record, their recorded references given. If any easement is not definitely located of record, a statement of such easement must appear on the title sheet. Easements for storm drain, sewers and other purposes shall be denoted by fine dotted lines. Building lines shall be indicated by dotted lines of the same width as the lines denoting street boundaries. The width of the easement and the lengths and bearings of the lines thereof and sufficient ties thereto to definitely locate the easement with respect to the subdivision must be shown. If the easement is being dedicated by the map, it shall be properly referenced in the owner's certificate of dedication.

14. High Water Line. The map shall show the line of high water if the subdivision or any part thereof is adjacent to a stream and/or an area or areas subject to periodic inundation by floodwaters. If any portion of any land within the boundary shown on any final map or parcel map is subject to overflow, inundation or flood hazard by stormwaters, such fact and such portion shall be clearly shown on the final map or parcel map. Such portion shall be enclosed in a separate border on each sheet of the map upon which such portion appears.

15. Lot Lines and Boundary Lines. Sufficient data shall be shown to determine readily the bearing and length of every street centerline, lot line, block line and boundary line. Dimensions of lots shall be given as the net dimensions, corner to

corner, and shall be shown in feet and hundredths of a foot. No ditto marks shall be used. Bearings and distances of straight lines and radii and arc length of curves, as may be necessary to determine the location of the curves and tangent points, shall be shown. Lots containing one acre or more shall show total acreage to nearest hundredth of an acre. No lot shall be dimensioned to contain any part of any existing or proposed public right-of-way.

16. Lot Numbers. Lot numbers shall begin with the number "one" and shall continue consecutively through the block, with no omissions or duplications. They shall be numbered in a clockwise direction from the upper left-hand corner. North shall be generally up on the map.

17. Monument Line. Whenever the City Engineer has established the monument line of a street or alley adjacent to or in the proposed subdivision, the map shall show the date that all such monuments were established, shall indicate all such monuments found, and shall refer such monuments to a field book or map. If the points were reset by ties, the course and detail of relocation data used by the City Engineer shall be stated.

18. Monuments. The map shall show the location and description of all monuments found in making the survey of the proposed subdivision, and shall include the bearings and distances to such other existing monuments as may be necessary to establish each portion of the proposed subdivision in relation to such existing monuments.

19. Use of Lots. The map shall particularly define, delineate and designate all lots intended for sale or reserved for private purposes, all parcels offered for dedication for any purpose, public or private, with all dimensions, boundaries and courses clearly shown and defined in every case. Parcels offered for dedication but not accepted shall be designated by letter.

20. Soils and/or Geologic Report. When a soils and/or geologic report has been prepared, the date of the report(s) and the name(s) of the engineer(s) making the report(s) shall be recorded on the map.

21. Streets and Other Rights-of-Way. The map shall show the centerlines of all streets, the total width of all streets, the width of the portion being dedicated and the width of existing dedications, and the width each side of the centerline. It shall also show width of any railroad rights-of-way appearing on the map.

22. Additional Data. The map shall show all other data that is or may be required by law. (Ord. 879 § 1 Ex. A (part), 1981)

#### **17.28.030 Examination—Approval conditions—Certification.**

A. Action on Parcel Map. Upon receipt of the parcel map check prints and other data as submitted to the City Engineer, he shall examine the same to determine that the subdivision as shown complies with the requirements of the Map Act and any conditions of approval of the tentative parcel map. If the City Engineer determines that the map does not so comply, he shall advise the subdivider of the changes or additions that must be made, and when the City Engineer is satisfied that compliance has been made, he shall advise the subdivider who shall then submit the original, one linen copy and three blueline or blackline prints of the map to the City Engineer for signature. The City Engineer shall then affix his signature and seal to the map and cause the map to be presented to the County Recorder for filing.

B. Action on Final Map—Approval of City Engineer. When the final map and other data are received by the City Engineer, he shall examine such to determine that the subdivision as shown is substantially the same as it appeared on the tentative map, and any approved alterations thereof, that all provisions of the law and of this title applicable at the time of approval of the tentative map have been complied with and that he is satisfied that the map is technically correct. If the City Engineer shall determine that full conformity has not been made, he shall advise the subdivider of the changes or additions that must be made to bring the map into conformity and give the subdivider an opportunity to make such changes or additions. When the City Engineer determines that full conformity has been made, he shall so certify on said map and shall transmit the map to the City Council. (Ord. 879 § 1 Ex. A (part), 1981)

#### **17.28.040 Council approval—Conditions—Recordation.**

A. At its first regular meeting following the filing of the final map with the City Clerk, or within ten days following the filing thereof, whichever is later, the City Council shall consider the map, the plan of subdivision, and the offers of dedication. The City Council may reject any or all offers of dedication. If the City Council shall determine that the map is in conformity with the requirements of this title and the Map Act, it shall approve the map.

B. When the subdivider has filed with the City Clerk any agreement and bonds or deposits required, and when such agreement and bond shall have been approved by the City Attorney and City Engineer, the City Clerk shall transmit a final map to the Clerk of the County Board of Supervisors. The City Clerk shall transmit a parcel map approved by the City directly to the County Recorder.

C. If the City Council determines that the map is not in conformity with the requirements of this title and Map Act, it shall disapprove the map, specifying its reason or reasons therefor, and the City Clerk shall, in writing, advise the subdivider of such disapproval and of the reason or reasons for such disapproval. Within thirty days after the City Council has disapproved any map, the subdivider may file with the City Engineer a map altered to meet the requirements of the City Council. In such case, the subdivider shall conform to all the requirements imposed upon him by this title when filing the first final map with the City Engineer.

D. No map shall have any force or effect until the same has been approved by the City Council and no title to any property described in any offer of dedication shall pass until the recordation of the final map. (Ord. 879 § 1 Ex. A (part), 1981)

**17.28.050 Map certificates—Tax bond.**

The following certificates and acknowledgements and any other now or hereafter required by law shall appear on the final map. (Such certificates may be combined where appropriate.)

A. A certificate signed and acknowledged by all parties having any record title interest in the land subdivided, consenting to the preparation and recordation of the map, provided that the signatures of parties owning the following types of interests may be omitted if their names and the nature of their interest are set forth on the map:

1. Rights-of-way, easements or other interest none of which can ripen into a fee;
2. Rights-of-way, easements or reversions, which by reason of changed conditions, long disuse or laches appear to be no longer of practical use or value, and which signature it is impossible or impractical to obtain. In this case, a reasonable statement of the circumstances preventing the procurement of the signature shall be set forth on the map;
3. Any subdivision map including land originally patented by the United States or the state of California, under permit reserving interest to either or both of these entities, may be recorded under the provision of this title without the consent of the United States or the State thereto, or to dedication made thereon;

B. Dedication Certificate. A certificate, properly signed and acknowledged, offering for dedication all parcels of land shown on the final map and intended for any public use, except those parcels other than streets which are intended for the exclusive use of the lot owners in the subdivision, their licensees, visitors, tenants and servants;

C. Engineer's Certificate. A certificate by the civil engineer or licensed surveyor responsible for the survey and final map. The signature of such civil engineer or surveyor unless accompanied by his seal must be attested;

D. A certificate for execution by the City Engineer;

E. A certificate for execution by the City Clerk;

F. A certificate for execution by the County Recorder. (Ord. 879 § 1 Ex. A (part), 1981)

**17.28.060 Improvement agreement and bond.**

A. Agreement and Bond for Improvements. Upon the approval by the City Council of the final map, the subdivider shall execute and file an agreement between himself and the City, specifying the period within which he or his agent or contractor shall complete all improvement work to the satisfaction of the City Engineer, and providing that if he shall fail to complete such work within said period, the City may complete the same and recover the full cost and expense thereof from the subdivider. The agreement shall also provide for the inspection of all improvements by the City Engineer and reimbursement of the City by the subdivider for the cost of such inspection. Such agreement may also provide the following:

1. For the construction of the improvements in units;
2. For an extension of the time to perform specified improvements, with appropriate conditions on such extension;
3. For the termination of the agreement upon the completion of proceedings under an assessment district for the construction of improvements deemed by the City Engineer to be at least the equivalent of the improvements specified in said agreement and required to be constructed by the subdivider; and
4. For progress payment.

B. Improvement Bond. The subdivider shall also file with said agreement, to assure his full and faithful performance, a bond for such sum as the City Council deems sufficient to cover cost of the improvements, engineering, inspection and incidental expenses, to cover replacement and repair of existing streets, other improvements damaged in the development of the

subdivision and to cover costs and reasonable expenses and fees, including attorney's fees, to guarantee the work for two years following completion against defective work and/or materials. Such bond shall be executed by a surety company authorized to transact a surety business in the state, and must be satisfactory to and be approved by the City Attorney as to form and by the City Engineer as to sufficiency; the form of such bond shall be as prescribed by Government Code Section 66499.1. In lieu of such bond, the following may apply:

1. The subdivider may deposit with the City Treasurer cash in an amount fixed by the City Engineer; or
2. Certification by a bank or other reputable lending institution that money is being held to cover the cost of the improvements, engineering and inspection, and it will be released only upon authorization of the City Engineer.

C. Liability of Subdivider. In the event the subdivider shall fail to complete all improvement work in accordance with the provisions of this title, and the City completes it, or if the subdivider fails to reimburse the City for the cost of inspection, engineering and incidental expenses, or to cover the cost of replacement and repair of existing streets or other improvements damaged in the development of the subdivision, the City shall call upon the surety for reimbursement. If the amount of surety bond or cash deposit exceeds all costs and expense incurred by the City, it shall release the remainder of such bond or cash deposit. If the amount of the surety bond, cash deposit or certification is less than the cost and expense incurred by the City, the subdivider shall be liable to the City for such difference.

D. Requirement for Final Release of Funds. No extension of time, progress payments from cash deposits, or releases of surety bond, cash deposit or certification shall be made except upon a written statement by the City Engineer that work covered thereby has been satisfactorily completed, and upon recommendation of the City Manager and approval of the City Council. (Ord. 879 § 1 Ex. A (part), 1981)

#### **17.28.070 Reversion to acreage.**

A reversion to acreage shall be accomplished in conformance with Chapter 6 of the Subdivision Map Act. A parcel map may be filed for the purpose of reverting to acreage land previously subdivided and consisting of four or less contiguous parcels under one ownership. All maps filed for the purpose of reverting land to acreage shall be conspicuously so designated under the title "The Purpose of this Map is a Reversion to Acreage." (Ord. 879 § 1 Ex. A (part), 1981)

### **Chapter 17.32 DEDICATIONS**

Sections:

**17.32.010 Required when—Procedures.**

**17.32.020 Dedication of improvements—Scope.**

**17.32.030 Park and recreation land dedications or in-lieu fees.**

**17.32.040 Park and recreation land dedications or in-lieu fees—Exemptions.**

#### **17.32.010 Required when—Procedures.**

A. The subdivider shall dedicate or offer to dedicate to the City or other appropriate public agency any and all rights-of-way and easements necessary for the design, construction, maintenance and operation of all public improvements required or permitted under this title or by specific conditions of the subdivision approval. Such dedications or offers shall be made upon the final map or, in the case of a parcel map, on the parcel map or by separate instrument, at the option of the City Engineer. All easements and rights-of-way shall be of a width specified in this title or the conditions of approval, and shall be of sufficient size to meet the requirements of the purpose for which they are dedicated.

B. Required dedications shall include, but not limited to:

1. Easements for public utility, sanitary sewer and drainage purposes, and for the overhead pole lines and anchors;
2. Improved planting strips;
3. Improved service roads and/or improved parking areas;
4. Installed street-name signs and traffic-control signal system, signs and markings;
5. Rights-of-way for public streets and alleys;
6. Rights-of-way for storm drainage;

7. Bicycle paths required or shown on the tentative map or tentative parcel map;
8. Transit facilities required or shown on the tentative map or the tentative parcel map;
9. Dedication of access rights.

C. In the case of dedications and offers of dedication that are made by certificate on a parcel map, the City Engineer may accept or reject such dedications or offers of dedication. (Ord. 879 § 1 Ex. A (part), 1981)

**17.32.020 Dedication of improvements—Scope.**

Whenever any dedication for public improvements is required by this title, dedication shall include not only such right-of-way and easement as is required for the improvements, but also any such improvements constructed, installed or erected by the subdivider. (Ord. 879 § 1 Ex. A (part), 1981)

**17.32.030 Park and recreation land dedications or in-lieu fees.**

A. This section is enacted pursuant to the authority granted by Section 66477 et seq. of the Government Code of the state.

B. The park and recreation facilities for which dedication of land and/or payment of a fee is required by this title are in accordance with the recreational element of the adopted General Plan, as contained in the land use, open space and conservation elements of the General Plan.

C. As a condition of approval of any final subdivision map, the subdivider shall dedicate land, pay a fee in lieu thereof, or both, at the option of the City, for park or recreational purposes according to the following standards:

1. **Dedication of Sites.** Where a park or recreational facility has been designated in the General Plan, and the park or facility is to be located in whole or in part within a proposed subdivision to serve the immediate and future needs of the residents of the subdivision, the subdivider shall be required to dedicate land for park and recreational facilities sufficient in size to serve the residents of the subdivision area. The park land to be so dedicated shall conform to locations and standards set forth in the General Plan of the City. The slope, topography and geology of the site, as well as its surroundings, must be suitable for the intended park or recreation purpose. The amount of land to be provided shall be determined pursuant to the standards set forth in the land and fee requirements provisions of this section establishing the formula for land dedication or for payment of fees in lieu thereof.

2. **Fees in Lieu of Land Dedication.** If there is no park or recreational facility designated or required in whole or in part within a proposed subdivision, and the proposed subdivision is within a one-half-mile radius of a neighborhood park or recreational facility, proposed neighborhood park or proposed recreational facility, designated in the plan, the subdivider shall be required to pay a cash payment in lieu of the land equal to the value of the land as determined in this section.

3. A fee in lieu of land dedication hereunder shall be required, unless otherwise exempted by Section 17.32.040 of this chapter, when:

- a. A subdivider is subdividing land on which no park is shown or proposed; or
- b. When dedication is impossible, impractical or undesirable; or
- c. When the proposed subdivision contains fifty parcels of land or fewer.

4. **Dedication and Fees Required.** In certain subdivisions in excess of fifty parcels of land, a combination of land dedication and fee payment may be required. These shall be subdivisions in which:

- a. Only a portion of the land to be subdivided is proposed in the General Plan as the location for a park or recreational facility, in which case that land, or a portion thereof within the subdivision, shall be dedicated for park purposes, and a fee shall then be required in lieu of any additional land that would have been required to be dedicated under this title; or
  - b. A major part of the park or recreational site falling within the subdivision has already been acquired, and only a small portion of land is needed from the subdivider to complete the park or recreational site, in which case the land needed shall be required for dedication, and a fee shall then be required in lieu of the additional land that would have been required to be dedicated under this title.
5. **Use of and Basis for In-Lieu Fees.** The money collected pursuant to this title is to be used only for the purpose of providing park or recreational facilities

Table 17.32.030 PARK AND RECREATION LAND REQUIREMENTS

Dwelling Type	Dwelling Units Per Acre	Density of Persons per Dwelling Unit	Acreage Requirement per Dwelling Unit Within Subdivision
Single-family	1 — 4	3.1	.00775
Medium density	4.1 + 15	1.9	.00475
High density	15.1 — 30	1.9	.00475
Higher density	30.1 +	1.9	.00475

to serve the subdivision from which fees are collected. Fees so collected shall be used to purchase land, buy equipment or construct improvements in neighborhood parks and recreational facilities serving such subdivision. The fee so required shall be based on the fair market value of the land that otherwise would have been required for dedication.

#### 6. Land and Fee Requirements.

- a. In accordance with the recreation element of the General Plan, it is found and determined that the public interest, convenience, health, welfare and safety require that four acres of property for each one thousand persons residing within the City. The requirement will be partially satisfied by cooperative arrangements between the City and local School Districts to make available one and one-half acres of property for each one thousand persons and the remainder of two and one-half acres per one thousand persons shall be supplied by the requirement of this title.
- b. In calculating dedication and in-lieu fee payment requirements under this title, the following table, derived from density assumptions of the General Plan, shall apply. (See Table 17.32.030, below.)

#### 7. Procedure. The Planning Commission or City Council, as appropriate, shall, upon approving a tentative or tentative parcel map, determine the conditions necessary to comply with the requirements for park land dedication or fees in lieu thereof as set forth in this title, and such conditions shall be attached as conditions of approval of the map.

8. Calculation of Fair Market Value. At the time of filing of the final map for approval, the Director of Planning shall, in those cases where a fee in lieu of dedication is required either in whole or in part, determine the fair market value of the land in the proposed subdivision, and this determination shall be used in calculating the fee to be paid. If the subdivider objects to the determination, he may, at his own expense, obtain an appraisal of the property by a qualified real estate appraiser approved by the City, which appraisal may be accepted by the City Council if found reasonable. Alternatively, the City and the subdivider may agree as to the fair market value.

#### 9. Calculation of Requirement.

- a. Calculations shall be made using the following formulas and shall be submitted in a form capable of being checked.

Formula in calculating land required:

$$A \times B = L.$$

Formula in calculating in-lieu fees required:

$$A \times B \times C = F.$$

Where: A = The acreage required per dwelling unit within the proposed subdivision for park and recreational facilities from this title.

B = The number of dwelling units in the proposed subdivision.

C = The fair market value per acre of land in the proposed subdivision.

F = Fee required to be paid under this title.

L = Land required to be dedicated under this title.

- b. The "in-lieu" fee required to be paid under this title for multifamily residential subdivisions shall not exceed, on an average per-dwelling-unit basis, more than fifty percent of the highest in-lieu fee, on an average per-dwelling-unit basis, collected by the City for a single-family residential subdivision since March 1, 1976.

10. Commencement of Development. At the time of approval of the final map, the City shall specify when development of the park and/or recreational facilities shall begin.

11. Credit for Private Open Space. Where private open space for park and recreational purposes is provided in a proposed subdivision, and such space is to be privately owned and maintained by the future residents of the subdivision, such areas may be credited against the requirement of dedication for park and recreation purposes or the payment of fees in-lieu thereof, provided that the City Council finds it is in the public interest to do so and that the following standards are met:

- a. Yards, court area, setbacks and other open areas required to be maintained by the zoning and building regulations shall not be included in the computation of such private open space; and
- b. Private ownership and maintenance of the open space is adequately provided for by written agreement; and
- c. Use of the private open space is restricted for park and recreational purposes by recorded covenants which run with the land in favor of the future owners of property within the tract and which can not be defeated or eliminated without the consent of the City Council; and
- d. The proposed private open space is reasonably adaptable for use for park and recreational purposes, taking into consideration such factors as size, shape, topography, geology, access and location of the private open space land; and
- e. Facilities proposed for the open space are in substantial accordance with the provisions of the recreational element of the General Plan and are approved by the City Council. (Ord. 1173 § 1 (part), 1995; Ord. 879 § 1 Ex. A (part), 1981)

#### **17.32.040 Park and recreation land dedications or in-lieu fees—Exemptions.**

The contribution of land for park or recreational purposes or an in-lieu fee shall not be required for the following subdivisions:

- A. Commercial, retail, office and industrial subdivisions and uses with no residential development or uses. In-lieu fees shall be required where a residential dwelling unit is constructed in conjunction with commercial or industrial subdivisions;
- B. Condominium projects and stock cooperatives which consist of the subdivision of airspace in an existing apartment building which is more than five years old and when no new dwelling units are added;
- C. Reconstruction, rehabilitation, remodel or replacement of a residential structure, provided the replacement structure is the same type of unit, does not create additional residential units, and is substantially the same size as the structure it replaces;
- D. Subdivisions or development for which park dedication requirements have previously been met and evidence acceptable to the city is submitted. However, subsequent division of such parcels may require dedications and/or in-lieu fees set forth in this chapter. (Ord. 1173 § 1 (part), 1995)

### **Chapter 17.36 IMPROVEMENTS**

Sections:

**17.36.010 Conformity with specifications.**

**17.36.020 Plans, costs, construction and supervision.**

**17.36.030 Completion and approval conditions.**

**17.36.040 Specific improvements required.**

**17.36.050 Drainage facilities and requirements.**

**17.36.060 Survey and monument requirements.**

#### **17.36.010 Conformity with specifications.**

All improvements hereinafter mentioned in this chapter shall conform to the adopted San Carlos Standard Subdivision Improvement Specifications, copies of which are on file in the offices of the Planning Commission and the City Engineer. All improvements shall include facilities for the handicapped if required by Federal, State or Local law. Fire protection facilities shall be installed and operable prior to placement of any combustible materials on the site. (Ord. 879 § 1 Ex. A (part), 1981)

**17.36.020 Plans, costs, construction and supervision.**

- A. Improvements Required of All Subdivisions. The improvements set forth in this chapter shall be required of all subdivisions. The subdivider shall pay the expense of all required improvements.
- B. Approval by City Engineer. Improvement work shall not be commenced until improvement plans and profiles for such work have been submitted to and approved by the City Engineer. All such plans and profiles shall be prepared in accordance with requirements of the City Engineer. Final plans on tracing cloth or polyester film shall be filed with the City Engineer.

C. Notification. Improvement work shall not be commenced until the City Engineer has been notified in advance. If work has been discontinued for any reason, it shall not recommence until the City Engineer has been notified.

D. Construction of Improvements. The inspection and control of work and the access to said work shall be as follows:

1. All work done in constructing the improvements and all materials furnished shall be subject to inspection and testing by the City Engineer;
2. The City Engineer shall have access to the work at all times during its construction, and shall be furnished with every reasonable facility for ascertaining that the materials used and the workmanship are in accordance with the requirements of this title.

E. Work Done Without Approved Plans. If any work or improvement is done by the subdivider prior to the approval of the improvement plans or prior to the inspections or tests required by the City Engineer, such work may be rejected, and shall be deemed to have been done at the risk and peril of the subdivider. If any portion of the work has been done at the time of filing the improvement plans, the subdivider shall pay to the City all necessary costs for the inspection and testing required to verify the quantity and quality of the work done.

F. Prosecution of the Work. The subdivider shall prosecute the work to completion without undue delay. Delay in completion of the work beyond the period stated in the subdivision agreement, unless an extension thereof is approved by the City Council and the surety company, may result in forfeiture of the security, or a portion thereof, for the completion of the work. (Ord. 879 § 1 Ex. A (part), 1981)

**17.36.030 Completion and approval conditions.**

A. City Engineer's Certificate of Completion. When all improvement work required by the improvement plans, or a complete unit thereof, is complete to the satisfaction of the City Engineer, he shall issue a certificate to the City Council stating that the work, or a portion thereof, has been satisfactorily completed and recommend the acceptance by the City Council of the completed portion.

B. As-Built Drawings. A map showing all subdivision improvements, as built, shall be filed with the City Engineer upon completion of the improvements, together with a final written report by the subdivider's engineer on all such improvements.

C. Refund of Cash Deposit. Any unexpended cash deposits not required for completion of the work shall be refunded upon acceptance of the improvements by the City Council subject to posting of a satisfactory maintenance guarantee.

D. Improvement Approval by City Engineer. The subdivider, his engineer and his contractor shall develop plans and complete all improvement work in accordance with the provisions of this chapter and subject to the approval of the City Engineer. (Ord. 879 § 1 Ex. A (part), 1981)

**17.36.040 Specific improvements required.**

The subdivider shall install improvements in accordance with the general requirements set forth in this chapter, provided that the City Engineer may require changes in typical sections and details if unusual conditions arise during construction to warrant such change in the interest of the City, such changes to be at the expense of the subdivider.

A. Utilities Constructed Prior to Surfacing Streets. All underground utilities, sanitary sewers and storm drains installed in streets, service roads, alleys or highways shall be constructed prior to the surfacing of such streets, service roads, alleys or highways. Service connections for all underground utilities and sanitary sewers shall be placed at such a length as to prevent the necessity for disturbing the street or alley improvements when service connections thereto are made.

B. Street Improvements.

1. Pavement design shall be as follows:

- a. Structural Design. The structural design of the roadbed includes the determination of the thickness and type of subbase, base and surfacing to be placed over the basement soil according to an accepted method used by the City Engineer, who shall specify the structural design for the streets in accordance with their classification. It is the intent of this section that pavements be designed for a minimum maintenance-free life of ten years;
- b. Soil Tests. The subdivider shall, at his expense, make tests of the soil over which the surfacing and base is to be constructed and furnish the test reports to the City Engineer for use in determining a preliminary structural design of the roadbed. After rough grading has been completed, the City Engineer may require the subdivider to have additional tests performed to determine the final structural design of the roadbed.

2. Street Intersections.

- a. Street intersections shall be designed to provide reasonable approaches from side streets, and to provide continuous flow of drainage, without overflow from the gutters due to change of direction, warp of street or gutter grade;
- b. Concrete valley gutters shall be provided to carry drainage across intersections whenever underground drainage facilities cannot reasonably be provided. Valley gutters shall not be permitted across major or industrial streets.

C. Structures for Access or Drainage. Structures shall be installed as deemed necessary by the City Engineer for drainage, access and/or public safety, such structures to be placed to grades and to be of a design approved by the City Engineer.

D. Retaining Walls. Whenever a retaining wall is required within a public right-of-way, it shall be constructed out of masonry, brick, rock, reinforced concrete, or other similar nondeteriorating materials, and be of a design approved by the City Engineer. Retaining walls may be built of other materials only after first obtaining express approval thereof by the City Council.

E. Sidewalks, Curbs, Gutters, Handicapped Ramps. Sidewalks, curbs and gutters and handicapped ramps shall be required for the entire frontage of every subdivision in multiple-family, commercial and industrial zones, and in all subdivisions in single-family residential zones, except as permitted in hillside subdivisions or where, for small subdivisions, the Planning Commission determines that it is the predominant desire of the residents in the vicinity of the subdivision that the street be improved to rural standards.

F. Sewers. Sanitary sewer facilities connecting with the existing City sewer system shall be installed to serve each lot and to grades, location, design and sizes approved by the City Engineer. No septic tanks or cesspools will be permitted. Stormwater sewers shall be installed as required by the City Engineer.

G. Water. Water mains and fire hydrants of design, layout and locations approved by the City Engineer, Fire Chief, and utility serving the City, and connecting to the water system serving the City, shall be installed.

H. Fire Alarms. Fire alarms and fire alarm boxes and system of design layout approved by the Fire Chief shall be installed, as needed.

I. Street Trees. Street trees shall be of a type approved by the Director of Planning and planted in locations approved by him.

J. Street Signs. Street signs shall be of a type approved by the City Engineer and installed in locations approved by him.

K. Underground Utilities. All telephone, electric wires or cables or other distribution lines to be constructed in and for the purpose of providing service to any subdivision shall be placed underground. All transformers and electrical equipment used and maintained in such residential subdivisions in connection with the distribution lines shall be installed in underground vaults.

1. Commercial and industrial subdivisions are excluded from the provisions of this subsection.

L. Street Lighting. Adequate street lighting shall be provided in all new subdivisions and shall meet the following:

1. Standards. Street lighting shall be accomplished by the installation of metal standards carrying pendant luminaires of a type and size to meet with the approval of the City Engineer;
2. Power. Power to electroliers shall be supplied through one and one-half inch minimum underground conduit. Overhead wires shall not be permitted;
3. Spacing and Size. Spacing of electroliers and type and size of luminaires shall be such as to furnish not less than the minimum light intensity over the entire right-of-way as determined appropriate by the City Engineer.

M. Traffic-control Devices. The subdivider shall furnish and install such traffic-control devices within the subdivision as may be recommended by the Traffic Commission and Chief of Police, and as specified by the City Engineer.

N. Slope Planting and Erosion Control. All exposed slopes resulting from grading operations shall be protected from erosion due to stormwater overflow or other causes. Initial protection shall be by seeding with approved plant materials. Permanent protection shall be by planting with shrubs and trees of species approved by the Director of Planning. (Ord. 879 § 1 Ex. A (part), 1981)

#### **17.36.050 Drainage facilities and requirements.**

The subdivision shall be protected from inundation, flood, hazards, sheet overflow and ponding stormwater, springs, and other surface waters. The design of improvements shall be such that water occurring within or flowing onto the subdivision will be carried off such subdivision without injury to any improvements, building sites and structures to be installed on sites within the subdivision, or to adjoining areas. Waters occurring within the subdivision shall be carried to a storm drainage facility or to a natural watercourse by such improvements as may be required by the City Engineer. Drainage design within the subdivision shall accommodate anticipated future development within the drainage area. Any off-tract outlet drainage facility required to carry stormwater from the proposed subdivision to a defined channel or conduit shall be made adequate for ultimate development in the drainage area.

A. Design Flows. Runoff quantities shall be determined by the Modified Rational Method using basic data supplied by the City Engineer for the frequency or occurrence stipulated herein. Drainage facilities directly affecting the proposed subdivision shall have the following minimum capacities:

1. Major drainage channels and conduits shall have sufficient capacity to contain a one-hundred-year frequency of occurrence runoff;
2. Secondary drainage channels and conduits shall have sufficient capacity to contain a twenty-five-year frequency of occurrence runoff;
3. Minor drainage facilities shall have sufficient capacity to contain a twenty-five-year frequency of occurrence runoff.

B. Closed Conduits. Drainage waters within street areas shall be contained in closed conduits when the maximum depth of computed flow exceeds the capacity of the gutter or creates a traffic hazard or endangers property. Stormwater in natural or artificial drainage channels shall be contained in closed conduits or concrete-lined channels where the quantity does not exceed eighty cubic feet per second, except that, when recommended by the Planning Commission, an existing natural watercourse endowed with significant natural beauty in the form of trees, shrubs or scenic attraction may be utilized for an open drainage facility, with such drainage improvements as may be designated by the City Engineer, when such areas are dedicated as an easement.

C. Design Standards. Design of drainage channels, conduits and appurtenances shall conform with design standards approved by the City Engineer.

D. Culverts, Gutters and Appurtenances. Culverts, gutters and appurtenances shall be as follows:

1. Minimum Sizes. All storm sewers shall be of a size adequate to carry the design flow, but shall not be smaller than fifteen inches in diameter.
2. Erosion Control. Drainage within the street right-of-way but outside the surfaced area shall be controlled to prevent erosion by such methods as approved by the City Engineer.
3. Catchbasins. Catchbasins shall be of a design approved by the City Engineer. Inlets shall be so designed that water is diverted into the catchbasin without a reversal of direction or flow.
4. Allowance for Tidal Action and Flood Stage. Drainage structures shall account for tidal action and flood stage, where applicable.

E. Open Channels, Conduits and Appurtenances. Open channels, conduits and appurtenances shall be designed in accordance with accepted engineering practice.

F. Drainage Easements. Widths of drainage easements shall be as follows:

1. Closed Conduits. Minimum widths of drainage easements for closed conduits shall be ten feet. For conduits having a diameter or width greater than four feet, the minimum width of drainage easement shall be equal to the diameter or width

of the conduit, plus ten feet.

2. Open Channels. The width of drainage easements for natural channels, excavated earth channels, and channels lined with concrete shall contain the full width of the channel and the required adjacent access strips.

G. Subdrainage. Subdrain facilities shall be provided when recommended in the soils report, or as required by the City Engineer, and shall be shown on the improvement plans, where applicable.

H. Specifications. All construction materials, methods, tests and workmanship shall comply with the requirements of the San Carlos Standard Specifications, referred to in this chapter. (Ord. 879 § 1 Ex. A (part), 1981)

#### **17.36.060 Survey and monument requirements.**

An accurate and complete survey shall be made of the land to be subdivided. A traverse sheet in a form approved by the City Engineer and showing the mathematical closure, together with complete sets of blue-line or black-and-white check prints of the final map, shall be submitted to the City Engineer for checking and approval. The traverse of the exterior boundaries of the tract and of each block, when computed from field measurements of the ground, must close within a limit of error of one foot to ten thousand feet of perimeter before balancing the survey. Wherever the County Engineer or City Engineer has established a system of coordinates, then the survey shall be tied into such system. All monuments, property lines, centerlines of streets, alleys and easements, adjoining or within the tract, shall be tied into the survey.

A. Monuments. Monuments shall be defined as consisting of either:

1. New galvanized iron pipe not less than one inch in diameter and thirty-six inches long; or
2. Reinforced concrete posts six inches by six inches in cross-section, or six inches in diameter and thirty inches long.

B. Monument Requirements.

1. All monuments shall have a copper plate or disk, securely attached to the top of the monument by a copper dowel or nail not less than two and one-half inches long firmly embedded in concrete and marking the exact center. The registered license number of the engineer or surveyor shall be stamped upon the copper plate or disk.
2. In making the survey, the engineer or surveyor shall set monuments in such a manner that the property lines may be retraced in any area of the subdivision with a minimum of difficulty.
3. Where the exterior boundaries of the subdivision are existing street lines, and on all interior street lines of the subdivision, the engineer or surveyor shall set monuments in the street areas, preferably on the street centerline, and located so as to determine the street lines bounding each block. Due consideration shall be given to visibility of monuments, one from another, for the purpose intended.
4. The monuments in the street areas shall be set so that the tops are at least seven and one-half inches below top of finished pavement grade, and enclosed in cast iron receptacles, with cast iron covers of a type acceptable to the City Engineer set flush with the top of finished pavement grade and supported independently of the monuments.
5. Monuments may be set after approval of the final map, but not later than the time of completion of subdivision improvements, provided a cash deposit or approved bond in an amount set by the City Engineer is filed with the City, guaranteeing such work.
6. All monuments, and their location, shall be subject to inspection and approval by the City Engineer.
7. Redwood hubs, each two inches square in cross-section and not less than twelve inches in length, shall be driven flush with the surface of the ground at all lot corners, angle points and curve points where no monuments are set, and in each case the exact corner shall be marked by a metal tack. (Ord. 879 § 1 Ex. A (part), 1981)

### **Chapter 17.40 CONDITIONAL EXCEPTIONS**

Sections:

**17.40.010 Application and procedures.**

**17.40.020 Required findings.**

**17.40.010 Application and procedures.**

A. Review Authority. The Planning Commission shall approve, conditionally approve or deny applications for a conditional exception based on consideration of the requirements of this chapter.

B. Application Requirements. Applications for a conditional exception shall be filed with the Planning Division with the tentative map or the tentative parcel map for which the exception is requested on the prescribed application forms in accordance with the procedures in Chapter 17.24, Tentative Maps and Tentative Parcel Maps, and shall be reviewed and processed concurrently with said map. In addition to any other application requirements, the application for a conditional exception shall include data or other evidence showing that the requested conditional exception conforms to the required findings set forth in Section 17.40.020, Required findings.

C. Public Notice and Hearing. An application for a conditional exception shall require public notice and hearing before the Planning Commission pursuant to Chapter 17.24, Tentative Maps and Tentative Parcel Maps. (Ord. 1439 § 4 (Exh. F (part)), 2011: Ord. 879 § 1 Ex. A (part), 1981)

**17.40.020 Required findings.**

The Planning Commission must make all of the following findings in order to approve or conditionally approve a conditional exception application. The inability to make one or more of the findings is grounds for denial of an application.

- A. There are special circumstances or conditions affecting the property;
- B. The exception is necessary for the preservation and enjoyment of a substantial property right of the applicant;
- C. The granting of the exception will not be detrimental to the public welfare or injurious to other property in the territory in which the property is located;
- D. The granting of the exception will not violate the requirements, goals, policies, or spirit of the law;
- E. The granting of the exception is consistent with the General Plan and any specific plan. (Ord. 1439 § 4 (Exh. F (part)), 2011: Ord. 879 § 1 Ex. A (part), 1981)

**Chapter 17.44  
APPEALS**

Sections:

**17.44.010 Procedure for and effect of appeal.**

**17.44.020 Review by Council— Held when.**

**17.44.030 Review by Council— Notice and hearing.**

**17.44.040 Review by Council— Determination authority.**

**17.44.050 Extensions of time.**

**17.44.010 Procedure for and effect of appeal.**

A. An appeal may be made to the City Council by any person aggrieved by any decision of the Planning Commission. Such appeal shall be made within ten calendar days from the date of such decision, and shall be in writing and filed with the City Clerk.

B. An appeal stays all proceedings from furtherance of the action appealed, unless the Commission certifies to the Council, after the notice of appeal has been filed with the City Clerk, that by reason of facts stated in the certificates, a stay would, in its opinion, cause imminent peril to life or property. In such case, proceedings shall be stayed only upon a restraining order granted by the Council upon application by a court of record. (Ord. 912 § 1 (part), 1982)

**17.44.020 Review by Council—Held when.**

A. Within ten calendar days following the date of a decision by the Commission, on its own motion, the Council may initiate proceedings to review the decision of the Commission.

B. Within five days of the date of the action by the Council initiating review proceedings, the Planning Department shall transmit to the City Clerk all data filed in connection with the case, the minutes of the public hearing, the findings of the Commission, and its decision on the case. In addition, the Commission may transmit to the Council a report setting forth the facts and circumstances of the case. (Ord. 912 § 1 (part), 1982)

**17.44.030 Review by Council—Notice and hearing.**

Upon receipt of an appeal, or initiation of review proceedings by the Council on its own motion, the City Clerk shall fix a date and time for the public hearing of the appeal; such hearing shall be held within thirty days of the date the appeal is filed or initiated by the Council. The City Clerk shall publish notice as required by the Government Code for public hearings, and shall give notice to the applicant and to the appellant (if the applicant is not the appellant), and shall give notice to any other interested person who has filed with the City Clerk a written request for such notice of the date and time when the appeal will be considered by the Council. (Ord. 912 § 1 (part), 1982)

**17.44.040 Review by Council—Determination authority.**

A. The Council shall hold a public hearing on an appeal from the decision of the Commission, or a review of proceedings upon its own initiation after notice shall have been given as prescribed in this chapter.

B. All evidence submitted at such hearing, except original public records or certified copies thereof, may be given under oath administered by the Mayor or Vice-Mayor.

C. The Council may affirm, reverse or modify a decision of the Commission, provided that if a decision for denial is reversed or a decision to grant is modified, the Council shall, on the basis of the record transmitted by the Planning Commission and such additional evidence as may be submitted, make the findings prerequisite to the granting prescribed in this title.

D. Within seven days after the conclusion of the hearing, the Council shall make its decision. If the Council fails to act upon the appeal within the time limits specified in this chapter, the action of the Planning Commission shall be deemed affirmed. The decision of the Council upon the appeal shall be final and conclusive. (Ord. 912 § 1 (part), 1982)

**17.44.050 Extensions of time.**

Any time limits contained in this chapter, except the ten calendar days for filing a notice of appeal, may be extended by the mutual consent of the appellant, the subdivider, and the agency before which the appeal is pending. (Ord. 912 § 1 (part), 1982)

## **Chapter 17.48 COMMUNITY HOUSING SUBDIVISIONS**

Sections:

**17.48.010 Definitions.****17.48.020 Conversions—Submittal requirements.****17.48.030 Planning Commission and City Council approval criteria.****17.48.010 Definitions.**

As used in this chapter:

A. “Community housing subdivision” means the division of land or air space for one or a combination of the following projects:

1. “Community apartment project” means a project in which an undivided interest in land is coupled with the right of exclusive occupancy of any apartment located on the land.
2. “Community housing project” means a project in which an undivided interest in land is coupled with the right of exclusive occupancy of any dwelling units located on the land.
3. “Condominium” means an estate in real property, consisting of a separate interest in a building on such real property, together with an undivided interest in common to other portions of the same property, the owners being the grantees of the units, each grantee owning a separate interest in his unit, and an interest as a tenant in common in the common areas.
4. “Stock cooperative” means a corporation which is formed or availed of primarily for the purpose of holding title to, either in fee simple or for a term of years, improved real property, if all or substantially all of the shareholders of such corporation receive a right of exclusive occupancy in a portion of the real property, title to which is held by the corporation, which right of occupancy is transferable only concurrently with the transfer of the shares of stock in the corporation held by the person having such right of occupancy.

B. “Conversion” means a proposed change in the ownership of a parcel or parcels of land or air space, together with an existing structure or added structures, some or all of which were previously occupied, from that established to the type of ownership defined as community housing subdivision ownership.

C. "Vacancy rate" means the number of apartments being offered for rent or lease in the City, shown as a percentage of the total number of the apartments offered for or under rental or lease agreement in the City, as determined by the State Department of Finance, or as otherwise required by the City and paid for by the applicant. (Ord. 1439 § 4 (Exh. F (part)), 2011; Ord. 1180 § 2, 1995; Ord. 871 § 1 Ex. A (part), 1980)

#### **17.48.020 Conversions—Submittal requirements.**

The following shall be required to be submitted with or as part of the required tentative map in addition to the requirements for a tentative map as specified in Chapter 17.24 for all proposed community housing subdivisions:

- A. Approximate plan and location of all units, common areas, private open space areas, storage spaces outside of each unit, common areas reserved for exclusive use of unit owners, parking spaces, and facilities and amenities provided within the common area;
- B. Estimated square footage of the building, each unit and the number of bedrooms in each unit;
- C. Proposed covenants, conditions and restrictions affecting the owners of the dwelling units within the project;
- D. A plan demonstrating compliance with Chapter 18.16, Affordable Housing Programs;
- E. A plan providing sufficient detail demonstrating compliance with the regulations of Title 18, Zoning, pertaining to transportation demand management (TDM), landscaping, parking and loading, fences and walls, lighting and illumination, trash and recycling collection areas;
- F. A property report detailing the condition and useful life of the roof, foundation, mechanical, electrical, plumbing and structural elements of all existing buildings and structures, prepared by a qualified engineer or building official. A copy of this report shall be furnished to each prospective purchaser by the applicant prior to sale of the unit;
- G. A report identifying all items not consistent with the City's existing zoning other than specified in subsection E of this section, building and fire codes. A copy of this report shall be furnished to each prospective purchaser by the applicant prior to sale of the unit;
- H. A list of the full names and addresses of each tenant occupying the building on the date of application;
- I. A statement of repairs and improvements which will be accomplished prior to sale of the units;
- J. A vacancy rate survey demonstrating the vacancy rate existing at the time of the submittal of the application. This survey may be waived by the Planning Director if the applicant chooses to utilize the State Department of Finance statistics for purposes of determining the City's existing vacancy rate. The applicant shall inform the City in writing of their decision to either conduct a vacancy rate survey or utilize the State Department of Finance vacancy rate for purposes of their application, at the time of application submittal. (Ord. 1439 § 4 (Exh. F (part)), 2011; Ord. 1180 §§ 4, 5, 1995; Ord. 871 § 1 Ex. A (part), 1980)

#### **17.48.030 Planning Commission and City Council approval criteria.**

No proposed community housing subdivision or portion thereof shall be approved or conditionally approved, in whole or in part, unless the Planning Commission or City Council shall have found that the proposed project complies with all of the following requirements. In order to assure compliance, the Planning Commission or City Council may impose such conditions as are necessary to implement the spirit and intent of this section.

- A. The tentative map or tentative parcel map meets the required findings pursuant to Section 17.24.110(D).
- B. Transportation demand management (TDM), landscaping, parking and loading, fences and walls, lighting and illumination, trash and recycling collection areas are consistent or provisions have been made to be consistent with the regulations as specified in Title 18, Zoning, unless otherwise approved by the Planning Commission.
- C. Covenants, Conditions and Restrictions.
  1. Each community housing subdivision shall be required to have covenants, conditions and restrictions (hereinafter referred to as "CC&Rs") which, if approved, shall be recorded by the County Recorder at the time of recordation of the final map or parcel map.
  2. The project homeowner's association shall be incorporated as a California corporation when the project contains fifteen or more units.

3. The subdivider shall provide a copy of the proposed budget for the homeowners association, including therein provisions for an initial developer contribution to the association establishing reserves for depreciated components (i.e., roof, mechanical equipment), in an amount equal to the total replacement value of such components times the ratio of the number of years past since the original installation of the new component, divided by the total useful life of the individual component, less any salvage value. The determination of the values within these ratios shall be verified by the Chief Building Official or other appropriate City Official prior to approval of the tentative map.
- D. A vacancy rate study, as required in Section 17.48.020 and defined by Section 17.48.010(C), showing that there is an acceptable vacancy rate within the City consistent with the intent of the San Carlos Housing Element and General Plan and that the residential condominium conversion is in the best interests of the community. The Planning Commission shall consider the following factors in determining whether a condominium conversion is in the best interests of the community prior to approval of a tentative map or tentative parcel map:
1. The impact of the proposed residential conversion on the existing apartment housing supply;
  2. The ratio of the number of residential condominium units available to the number of apartment units available;
  3. The affordability level of both rental and purchase units, in relation to the current needs of the community.
- E. Submission of Final and Parcel Maps. After approval or conditional approval of a tentative map or a tentative parcel map, the subdivider shall cause the community housing subdivision, or any part thereof, to be surveyed, and shall cause to be prepared a final map or parcel map in conformance with the tentative map or tentative parcel map as approved or conditionally approved, and in compliance with the provisions of the Subdivision Map Act and Title 17. The subdivider shall submit such map, complying with all conditions of approval, and the final map or parcel map shall have been recorded within eighteen months of such approval or conditional approval. In no case shall a condominium plan, as provided for in Title 6, Chapter 1 of the California Civil Code, be used to comply with the provisions of this chapter. In addition to the regulations of Chapter 17.28, Final Maps and Parcel Maps, the following information shall be submitted:
1. Tenant Protection in Conversion Projects. At the time the subdivider submits a final map to the City Council for approval, he shall provide written evidence that each of the following tenant-protection measures has been accomplished:
    - a. Each of the tenants of the proposed community housing subdivision project has been or will be given one hundred twenty days' written notice of intention to convert prior to termination of tenancy due to the conversion or proposed conversion;
    - b. Each of the tenants of the proposed community housing project has been or will be given notice of an exclusive right to contract for the purchase of their respective units upon the same terms and conditions that such unit will be initially offered to the general public, or terms more favorable to the tenant. The right shall run for a period of not less than sixty days from the date of issuance of the subdivision public report unless the tenant gives prior written notice of his intention not to exercise the right;
    - c. Relocation assistance in the form of information about available rental units at similar prices and in the same general area shall be provided each tenant, together with a relocation allowance equal to two months' rent at the tenant's rate in effect at the time the application is filed, for all tenants who are unable or unwilling to purchase a unit.
  2. Design and Improvements. The following design and improvement items shall be accomplished prior to recordation of the final map or parcel map, or shall be included in the subdivision agreement to be accomplished subsequent to recordation of the final map or parcel map:
    - a. An inspection shall be performed of the premises to ascertain that structures are consistent with the public health and safety, and shall be completed at the applicant's expense by the City or the City's designee. Hazardous and unsafe conditions shall be eliminated and/or repaired.
    - b. The community housing subdivision project shall meet the standards of the City's building codes currently in effect, with the exception of energy and sound-transmission requirements required in new construction. Energy and sound-transmission requirements shall be as specified below in this section.
    - c. Parking shall be consistent with ordinances and standards currently in effect.
    - d. All public improvements necessary to comply with current City standards shall be installed.

- e. A smoke detector shall be installed in each unit, as required by the Fire Department.
- f. Electric and gas meters shall be provided to serve each individual unit in accordance with current rules of the servicing utility on file with the California Public Utilities Commission.
- g. Water shutoff valves shall be provided for each unit.
- h. Mechanical equipment intended to serve the entire building and appurtenant structures shall be shock-mounted to prevent noise and vibration.
- i. A structural report shall be provided by the subdivider for existing buildings, and all improvements recommended in that report shall be accomplished.
- j. Sound control between units and between units and public areas shall provide an airborne sound insulation equal to that required to meet a sound transmission class ("STC") of 43 by field testing. Impact insulation class ("IIC") of 43 by field testing is required. Entrance doors and perimeter seals shall meet a rating of not less than 26 STC. To assure compliance with the above, all units must be field tested and certified by an approved testing agency.
- k. Energy conservation measures shall be included. Roof and ceiling assemblies shall meet the R-20 standard. Exterior openings shall be weatherstripped. If the glazing areas exceed the allowance areas of the State energy regulations by ten percent, modifications shall be made to bring the structure within the limits specified herein. The energy compliance alterations may be made in any manner provided in the State regulations. Calculations by a person authorized in the State regulations will be required. Exposed heating ducts and hot water piping and hot water tanks shall be insulated.

F. Requirements and Conditions for Final and Parcel Maps. Final and parcel maps for community housing subdivision shall comply with the requirements and conditions for other final and parcel maps specified in this title and the Subdivision Map Act. (Ord. 1439 § 4 (Exh. F (part)), 2011: Ord. 1180 §§ 6, 7, 1995; amended during 1989 recodification; Ord. 871 § 1 Ex. A (part), 1980)

## Chapter 17.52

### CONVERSION OF NONRESIDENTIAL BUILDINGS TO CONDOMINIUM OR SIMILAR TYPES OF OWNERSHIP

Sections:

**17.52.010 Definitions.**

**17.52.020 Map and plan requirements.**

**17.52.030 Planning Commission and City Council approval criteria.**

**17.52.010 Definitions.**

A. "Conversion" means a proposed change in the ownership of a parcel or parcels of land or air space, together with existing or added structures, some or all of which were previously occupied, from that established to the type of ownership defined in subsection B of this section.

B. "Conversion of nonresidential buildings to condominium or similar types of ownership" means the division of land or air space for one or a combination of the following:

1. A project in which an undivided interest in land is coupled with the right of exclusive occupancy of any office, unit, suite or portion of a building located on the land;
2. An estate in real property, consisting of a separate interest in a building on such real property, together with an undivided interest in common to other portions of the same property, the owners being the grantees of the units, each grantee owning a separate interest in his unit and an interest as a tenant in common in the common areas;
3. A corporation which is formed or availed of primarily for the purpose of holding title to, either in fee simple or for a term of years, improved real property, if all or substantially all of the shareholders or members of such corporation receive a right of exclusive occupancy in a portion of the real property, title to which is held by the corporation, which right of occupancy is transferable only concurrently with the transfer of the share or shares of stock or the membership in the corporation held by the person having such right of occupancy. (Ord. 890 § 1 Ex. A (part), 1980)

**17.52.020 Map and plan requirements.**

The following shall be required to be submitted with or as a part of the required tentative map in addition to the requirements for a tentative map as specified in Chapter 17.24 for all proposed conversions of nonresidential buildings to condominium or other similar types of ownership:

- A. Approximate plan and location of all offices, units, suites or portions of buildings to be individually occupied; common areas; storage spaces outside of each unit; common areas reserved for exclusive use of owners; parking spaces; and facilities and amenities provided within the common area;
- B. Estimated square footage of the building, each unit and number of rooms in each unit;
- C. Proposed covenants, conditions and restrictions affecting the owners of the units within the project;
- D. A plan demonstrating compliance with the lot and density development standards of the site's underlying zoning district and the regulations pertaining to transportation demand management (TDM), landscaping, parking and loading, fences and walls, lighting and illumination, trash and recycling collection areas, all in accordance with Title 18, Zoning;
- E. A property report detailing the condition and useful life of the roof, foundation, mechanical, electrical, plumbing and structural elements of all existing buildings and structures, prepared by a qualified engineer or building official. A copy of this report shall be furnished to each prospective purchaser by the applicant prior to sale of the unit;
- F. A statement of repairs and improvements which will be accomplished prior to sale of the units. (Ord. 1439 § 4 (Exh. F (part)), 2011: Ord. 890 § 1 Ex. A (part), 1980)

**17.52.030 Planning Commission and City Council approval criteria.**

No proposed conversion of a nonresidential building or portion thereof to condominium or other similar types of ownership shall be approved or conditionally approved in whole or in part unless the Planning Commission or City Council finds that the proposed project complies with all of the following requirements. In order to assure compliance, the Planning Commission or City Council may impose such conditions as are necessary to implement the spirit and intent of this chapter.

- A. The tentative map or tentative parcel map meets the required findings pursuant to Section 17.24.110(D).
- B. The minimum lot and density development standards of the site's underlying zoning district have been met in accordance with Title 18, Zoning.
- C. Transportation demand management (TDM), landscaping, parking and loading, fences and walls, lighting and illumination, trash and recycling collection areas are consistent or provisions have been made to be consistent with the regulations as specified in Title 18, Zoning, unless otherwise approved by the Planning Commission.
- D. Covenants, Conditions and Restrictions. Each conversion of a nonresidential building to condominium or similar types of ownership shall have covenants, conditions and restrictions (hereinafter referred to as "CC&Rs") which, if approved, shall be recorded by the County Recorder at the time of recordation of the final map or parcel map.
- E. Submission of Final and Parcel Maps. After approval or conditional approval of a tentative map or a tentative parcel map, the subdivider shall cause the subject site and improvements to be surveyed, and shall cause to be prepared a final map or parcel map in conformance with the tentative map or tentative parcel map, as approved or conditionally approved, and in compliance with the provisions of the Subdivision Map Act and Title 17. A condominium plan, as provided for in Title 6, Chapter 1 of the California Civil Code, may not be used to comply with the provisions of this chapter. In addition to the regulations of Chapter 17.28, Final Maps and Parcel Maps, the following information shall be submitted:
  1. Design and Improvements. The following design and improvement items shall be accomplished prior to recordation of the final map or parcel map:
    - a. An inspection of the premises shall be performed to ascertain that the structures are consistent with the public health and safety, and shall be completed at the applicant's expense by the City or the City's designee. Hazardous and unsafe conditions shall be eliminated and/or repaired.
    - b. A conversion of a nonresidential building or structure to condominium or other similar types of ownership project shall meet the standards of the City's codes in effect on the date that the application for conversion is accepted for filing by the City, including but not limited to building (notwithstanding Section 104(a), (b), (c), (d) and (e) of the 1976 Uniform Building Code or any similar provision of any future Uniform Building Code adopted by the City), and fire codes and zoning regulations.

- c. All public improvements shall be installed that are required by current City standards on the date the application for conversion is accepted for filing by the City.
- d. Smoke detectors and automatic fire-sprinkler systems shall be installed in each unit as required by the building and fire codes in effect on the date that the application for conversion is accepted for filing by the City to the satisfaction of the Fire Chief and the Chief Building Inspector.
- e. Electric and gas meters shall be provided to serve each individual unit in accordance with rules of the servicing utility on file with the California Public Utilities Commission and in effect on the date the application for conversion is accepted for filing by the City.
- f. Water shutoff valves shall be provided for each unit.
- g. A structural pest report shall be provided by the subdivider for existing buildings and all improvements recommended in that report shall be accomplished.

F. Requirements and Conditions for Final and Parcel Maps. Final and parcel maps for subdivisions of property and improvements specified in this title shall comply with the requirements and conditions for other final and parcel maps specified in this title and the Subdivision Map Act. (Ord. 1439 § 4 (Exh. F (part)), 2011; amended during 1989 recodification; Ord. 890 § 1 Ex. A (part), 1980)

**Title 18  
ZONING Revised 6/23 Revised 8/23 Revised 1/24**

**Chapters:**

**Article I. General Provisions**

- 18.01 Introductory Provisions**
- 18.02 Rules for Construction of Language**
- 18.03 Rules of Measurement Revised 1/24**

**Article II. Base and Overlay Districts**

- 18.04 Residential Districts Revised 6/23 Revised 1/24**
- 18.05 Mixed-Use Districts Revised 6/23**
- 18.06 Commercial Districts Revised 8/23**
- 18.07 Industrial Districts Revised 8/23**
- 18.08 Public and Semi-Public Districts**
- 18.09 Airport District**
- 18.10 Planned Development District**
- 18.11 Gateway (G) Overlay District**
- 18.12 Hillside (H) Overlay District Revised 1/24**
- 18.13 Neighborhood Hub (NH) Overlay District**
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**Article III. Regulations Applying to Some or All Districts**

- 18.15 General Site Regulations Revised 1/24**
- 18.16 Affordable Housing Programs**
- 18.17 Affordable Housing Incentives**

**18.18 Landscaping****18.19 Nonconforming Uses, Structures, and Lots****18.20 Parking and Loading Revised 6/23 Revised 1/24****18.21 Performance Standards****18.22 Signs****18.23 Standards for Specific Uses and Activities Revised 1/24****18.24 Wireless Telecommunications Facilities****18.25 Transportation Demand Management****Article IV. Administration and Permits****18.26 Planning Authorities Revised 1/24****18.27 Common Procedures Revised 1/24****18.28 Zoning Clearance****18.29 Design Review and Objective Design Standards Compliance Review Revised 1/24****18.30 Use Permits****18.31 Temporary Use Permits****18.32 Variances****18.33 Waivers****18.34 Amendments to General Plan****18.35 Amendments to Zoning Ordinance and Map****18.36 Planned Development****18.37 Development Agreements****18.38 Prezoning and Annexation Procedure****18.39 Enforcement and Abatement Procedures****Article V. General Terms****18.40 Use Classifications Revised 1/24****18.41 Terms and Definitions Revised 6/23 Revised 8/23 Revised 1/24****Chapter 18.01  
INTRODUCTORY PROVISIONS**

Sections:

**18.01.010 Title and authority.****18.01.020 Purpose.****18.01.030 Structure of zoning regulations.****18.01.040 Applicability.****18.01.050 Severability.****18.01.060 Fees.**

**18.01.070 Districts established.****18.01.080 Official Zoning Map and district boundaries.****18.01.010 Title and authority.**

This title shall be known and cited as the "San Carlos Zoning Ordinance," "Zoning Ordinance of the City of San Carlos," "Zoning Ordinance," or "Ordinance."

The San Carlos Zoning Ordinance is adopted pursuant to the authority contained in Section 65850 of the California Government Code. (Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.01.020 Purpose.**

The purpose of this title is to implement the City's General Plan and to protect and promote the public health, safety, peace, comfort, convenience, prosperity and general welfare. More specifically, the ordinance codified in this title is adopted to achieve the following objectives:

- A. To provide a precise guide for the physical development of the City in a manner as to progressively achieve the arrangement of land uses depicted in the San Carlos General Plan, consistent with the goals and policies of the General Plan.
- B. To foster a harmonious, convenient and workable relationship among land uses and ensure compatible infill development, consistent with the General Plan.
- C. To support economic development and job creation.
- D. To provide for the housing needs of all economic segments of the community.
- E. To promote high quality architecture and design, consistent with the General Plan.
- F. To promote the stability of existing land uses that conform with the General Plan, protecting them from inharmonious influences and harmful intrusions.
- G. To promote a safe and efficient traffic circulation system, foster the provision of adequate off-street parking and off-street loading facilities, bicycle facilities and pedestrian amenities, and support a multi-modal transportation system.
- H. To facilitate the appropriate location of community facilities, institutions and parks and recreational areas.
- I. To protect and enhance real property values.
- J. To safeguard and enhance the appearance of the City.
- K. To define duties and powers of administrative bodies and officers responsible for implementation of this title. (Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.01.030 Structure of zoning regulations.**

- A. Organization of Regulations. This title consists of five parts:

1. Article I: General Provisions;
2. Article II: Base and Overlay Districts;
3. Article III: Regulations Applying to Some or All Districts;
4. Article IV: Administration and Permits;
5. Article V: General Terms.

- B. Types of Regulations. Four types of zoning regulations control the use and development of property:

1. Land Use Regulations. These regulations specify land uses permitted, conditionally permitted or specifically prohibited in each zoning district, and include special requirements, if any, applicable to specific uses. Land use regulations for base zoning districts and for overlay districts are in Article II of this title. Certain regulations applicable in some or all of the districts, and performance standards which govern special uses, are in Article III.

2. Development Regulations. These regulations control the height, bulk, location and appearance of structures on development sites. Development regulations for base zoning districts and for overlay districts are in Article II of this title. Certain development regulations applicable to some or all districts are in Article III. These include regulations for specific uses, development and site regulations, performance standards, parking, signs, antennas and wireless communications and nonconforming uses.
3. Administrative Regulations. These regulations contain detailed procedures for the administration of this title, and include common procedures, processes and standards for discretionary entitlement applications and other permits. Administrative regulations are in Article IV.
4. General Terms and Use Classifications. Article V provides a list of use classifications and a list of terms and definitions used in this title. (Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.01.040 Applicability.****A. General Rules for Applicability of Zoning Regulations.**

1. Applicability to Property. This title shall apply, to the extent permitted by law, to all property within the corporate limits of the City of San Carlos and to property for which applications for annexation and/or subdivisions have been submitted to the City of San Carlos, including all uses, structures and land owned by any private person, firm, corporation or organization, or the City of San Carlos or other local, State or Federal agencies. Any governmental agency shall be exempt from the provisions of this title only to the extent that such property may not be lawfully regulated by the City of San Carlos.
2. Compliance with Regulations. No land shall be used, and no structure shall be constructed, occupied, enlarged, altered, demolished or moved in any zoning district, except in accordance with the provisions of this title.

**B. Relation to Other Regulations.**

1. General. The regulations of this title and requirements or conditions imposed pursuant to this title shall not supersede any other regulations or requirements adopted or imposed by the San Carlos City Council, the State of California, or any Federal agency that has jurisdiction by law over uses and development authorized by this title. All uses and development authorized by this title shall comply with all other such regulations and requirements. Where conflict occurs between the provisions of this title and any other City ordinance, chapter, resolution, guideline or regulation, the more restrictive provisions shall control, unless otherwise specified.
2. Permit Streamlining Act. It is the intent of this title that all actions taken by the decision-making body pursuant to this title that are solely adjudicatory in nature be within a time frame consistent with the provisions of Government Code Section 65920 et seq. (the Permit Streamlining Act). Nothing in this title shall be interpreted as imposing time limits on actions taken by the decision-making body pursuant to this title that are legislative in nature or that require both adjudicatory and legislative judgments.
3. Relation to Private Agreements. This title shall not interfere with or annul any recorded easement, covenant, or other agreement now in effect; provided, that where this title imposes greater restriction than imposed by an easement, covenant, or agreement, this title shall control.
4. Relation to Prior Ordinances. The provisions of this title supersede all prior Zoning Ordinances codified in Title 18 of the San Carlos Municipal Code and any amendments. No provision of this title shall validate any land use or structure established, constructed or maintained in violation of the prior Zoning Ordinance, unless such validation is specifically authorized by this title and is in conformance with all other regulations.
5. Application During Local Emergency. The City Council may authorize a deviation from a provision of this title during a local emergency declared and ratified under the San Carlos Municipal Code. The City Council may authorize a deviation by resolution without notice or public hearing.

**C. Consistency with the General Plan.** Any permit, license or approval issued pursuant to this title must be consistent with the San Carlos General Plan and all applicable specific plans. In any case where there is a conflict between this title and the General Plan, the General Plan shall prevail.**D. Effect on Previously Approved Projects and Projects in Progress.** Any building or structure for which a building permit has been issued may be completed and used in accordance with the plans, specifications and permits on which said building permit was granted, provided at least one inspection has been requested and posted for the primary structure on the site where the

permit is issued and provided construction is diligently pursued and completed within six months of permit issuance. No extensions of time except as provided for in the California Building Code shall be granted for commencement of construction, unless the applicant has secured an allowed permit extension from the Planning Department. (Ord. 1438 § 4 (Exh. A (part)), 2011)

#### **18.01.050 Severability.**

If any section, subsection, paragraph, sentence, clause or phrase of this title is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this title. The San Carlos City Council hereby declares that it would have passed this title, and each section, subsection, sentence, clause and phrase thereof, regardless of the fact that any or one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional. (Ord. 1438 § 4 (Exh. A (part)), 2011)

#### **18.01.060 Fees.**

The City Council shall establish by resolution, and may amend and revise from time to time, fees for processing the discretionary entitlement applications and other permits authorized or required by this title. All fees shall be paid at the time an application is filed, and no processing shall commence until the fees are paid in full. (Ord. 1438 § 4 (Exh. A (part)), 2011)

#### **18.01.070 Districts established.**

The City shall be classified into districts or zones, the designation and regulation of which are set forth in this title and as follows:

- A. Base Zoning Districts. Base zoning districts into which the City is divided are established as shown in Table 18.01.070, Base and Overlay Zoning Districts.
- B. Overlay Zoning Districts. Overlay zoning districts, one or more of which may be combined with a base district, are established as shown in Table 18.01.070, Base and Overlay Zoning Districts.

**TABLE 18.01.070: BASE AND OVERLAY ZONING DISTRICTS**

Short Name / Map Symbol	Full Name
Residential Districts	
RS-3	Single-Family, Low Density
RS-6	Single-Family
RM-20	Multifamily, Low Density
RM-59	Multifamily, Medium Density
Mixed-Use Districts	
MU-DC	Mixed-Use Downtown Core
MU-D	Mixed-Use Downtown
MU-SA	Mixed-Use Station Area
MU-SC	Mixed-Use San Carlos Avenue
MU-NB	Mixed-Use North Boulevard
MU-SB	Mixed-Use South Boulevard
MU-N	Neighborhood Mixed-Use
Commercial Districts	
NR	Neighborhood Retail
GCI	General Commercial/Industrial
LC	Landmark Commercial
Industrial Districts	
IA	Industrial Arts
IL	Light Industrial
IH	Heavy Industrial
IP	Industrial Professional

Public and Semi-Public Districts	
P	Public
PK	Park
OS	Open Space
Other Base Districts	
A	Airport District
PD	Planned Development
Overlay Districts	
G	Gateway
H	Hillside
SDM	Stream Development and Maintenance
NH	Neighborhood Hub

C. References to Classes of Base Districts. Throughout this title, the following references apply:

1. "RS district" or "residential single-family district" means one or more of the following districts: RS-3 Single-Family, Low Density or RS-6 Single-Family.
2. "RM district" or "residential multifamily district" means one or more of the following districts: RM-20 Multifamily, Low Density or RM-59 Multifamily, Medium Density.
3. "R district" or "residential district" means one or more of the following districts: RS-3 Single-Family, Low Density, RS-6 Single-Family, RM-20 Multifamily, Low Density or RM-59 Multifamily, Medium Density.
4. "Nonresidential district" means any base zoning district except RS or RM districts.
5. "MU district" or "mixed-use district" means one or more of the following districts: MU-DC Mixed-Use Downtown Core, MU-D Mixed-Use Downtown, MU-SA Mixed-Use Station Area, MU-SC Mixed-Use San Carlos Avenue, MU-NB Mixed-Use North Boulevard, MU-SB Mixed-Use South Boulevard, or MU-N Neighborhood Mixed-Use.
6. "C district" or "commercial district" means one or more of the following districts: NR Neighborhood Retail, GCI General Commercial/Industrial, or LC Landmark Commercial.
7. "I district" or "industrial district" means one or more of the following: IA Industrial Arts, IL Light Industrial, IH Heavy Industrial, or IP Industrial Professional. (Ord. 1464 § 3 (Exh. A), 2013: Ord. 1438 § 4 (Exh. A (part)), 2011)

#### **18.01.080 Official Zoning Map and district boundaries.**

The boundaries of the zoning districts established by this title are not included in this title but are shown on the official Zoning Map maintained by the City Clerk. The official Zoning Map, together with all legends, symbols, notations, references, zoning district boundaries, map symbols, and other information on the maps, have been adopted by the Council and are hereby incorporated into this title by reference, together with any amendments previously or hereafter adopted, as though they were fully included here.

- A. Application of Pre-Annexation Zoning. The City may apply pre-annexation zoning to unincorporated property located within the planning area boundary consistent with the San Carlos General Plan. The pre-annexation zoning process shall comply with the provisions of Chapter 18.38, Prezoning and Annexation Procedure. The zoning provisions and requirements so established shall become applicable at the same time that the annexation of such territory becomes effective.
- B. Uncertainty of Boundaries. If an uncertainty exists as to the boundaries of any district shown on the official Zoning Map, the following rules shall apply:

1. Boundaries indicated as approximately following the centerlines of alleys, lanes, streets, highways, streams or railroads shall be construed to follow such centerlines.
2. Boundaries indicated as approximately following lot lines, city limits, or extraterritorial boundary lines shall be construed as following such lines, limits or boundaries.

3. In the case of unsubdivided property or where a district boundary divides a lot and no dimensions are indicated, the following shall apply:
  - a. Lots Greater Than One Acre. The location of such boundary shall be determined by the use of the scale appearing on the official Zoning Map.
  - b. Lots Less Than One Acre. The lot shall be deemed to be included within the zone which is the more restrictive.
4. In the case of any remaining uncertainty, the Director shall determine the location of boundaries.
5. Where any public street or alley is officially vacated or abandoned, the regulations applicable to each parcel of abutting property shall apply to that portion of such street or alley added thereto by virtue of such vacation or abandonment.
6. Where any private right-of-way or easement of any railroad, railway, transportation or public utility company is vacated or abandoned and said property is unclassified, said property shall be automatically classified as being in the Public (P) District. (Ord. 1438 § 4 (Exh. A (part)), 2011)

## **Chapter 18.02 RULES FOR CONSTRUCTION OF LANGUAGE**

Sections:

**18.02.010 Purpose.**

**18.02.020 Rules for construction of language.**

**18.02.030 Rules of interpretation.**

**18.02.010 Purpose.**

The purpose of this chapter is to provide precision in the interpretation of the zoning regulations. The meaning and construction of words and phrases defined in this chapter apply throughout this title, except where the context indicates a different meaning. (Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.02.020 Rules for construction of language.**

In interpreting the various provisions of this title, the following rules of construction shall apply:

- A. The particular controls the general.
- B. Unless the context clearly indicates the contrary, the following conjunctions shall be interpreted as follows:
  1. "And" indicates that all connected words or provisions shall apply.
  2. "And/or" indicates that the connected words or provisions may apply singularly or in any combination.
  3. "Or" indicates that the connected words or provisions may apply singularly or in any combination.
  4. "Either...or" indicates that the connected words or provisions shall apply singularly but not in combination.
- C. In case of conflict between the text and a diagram or graphic, the text controls.
- D. All references to departments, committees, commissions, boards, or other public agencies are to those of the City of San Carlos, unless otherwise indicated.
- E. All references to public officials are to those of the City of San Carlos, and include designated deputies of such officials, unless otherwise indicated.
- F. All references to days are to calendar days, unless otherwise indicated. If a deadline falls on a weekend or holiday, or a day when the City offices are closed, it shall be extended to the next working day. The end of a time period shall be the close of business on the last day of the period.
- G. The words "shall," "will," "must" and "is to" are always mandatory and not discretionary. The words "should" or "may" are permissive.
- H. The present tense includes the past and future tenses, and the future tense includes the past.

I. The singular number includes the plural, and the plural, the singular.

J. Sections and section headings contained herein shall not be deemed to govern, limit, modify, or in any manner affect the scope, meaning, or intent of any section. (Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.02.030 Rules of interpretation.**

The Director shall make the interpretation for any definition not expressly identified in this title or provide clarification and determination of these rules. (Ord. 1438 § 4 (Exh. A (part)), 2011)

**Chapter 18.03  
RULES OF MEASUREMENT Revised 1/24**

Sections:

**18.03.010 Purpose.**

**18.03.020 General provisions.**

**18.03.030 Fractions.**

**18.03.040 Measuring distances.**

**18.03.050 Measuring height.** Revised 1/24

**18.03.060 Measuring lot width and depth.**

**18.03.070 Determining average slope.**

**18.03.080 Determining floor area.** Revised 1/24

**18.03.090 Determining floor area ratio.**

**18.03.100 Determining lot coverage.** Revised 1/24

**18.03.110 Determining lot frontage.**

**18.03.120 Determining setbacks (yards).**

**18.03.130 Measuring signs.**

**18.03.140 Measuring parking lot landscaping.**

**18.03.150 Measuring pedestrian clearance.**

**18.03.010 Purpose.**

The purpose of this chapter is to explain how various measurements referred to in this title are to be calculated. (Ord. 1537 (Exh. A (part)), 2018: Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.03.020 General provisions.**

For all calculations, the applicant shall be responsible for supplying drawings illustrating the measurements that apply to a project. These drawings shall be drawn to scale and of sufficient detail to allow easy verification upon inspection by the Director. (Ord. 1537 (Exh. A (part)), 2018: Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.03.030 Fractions.**

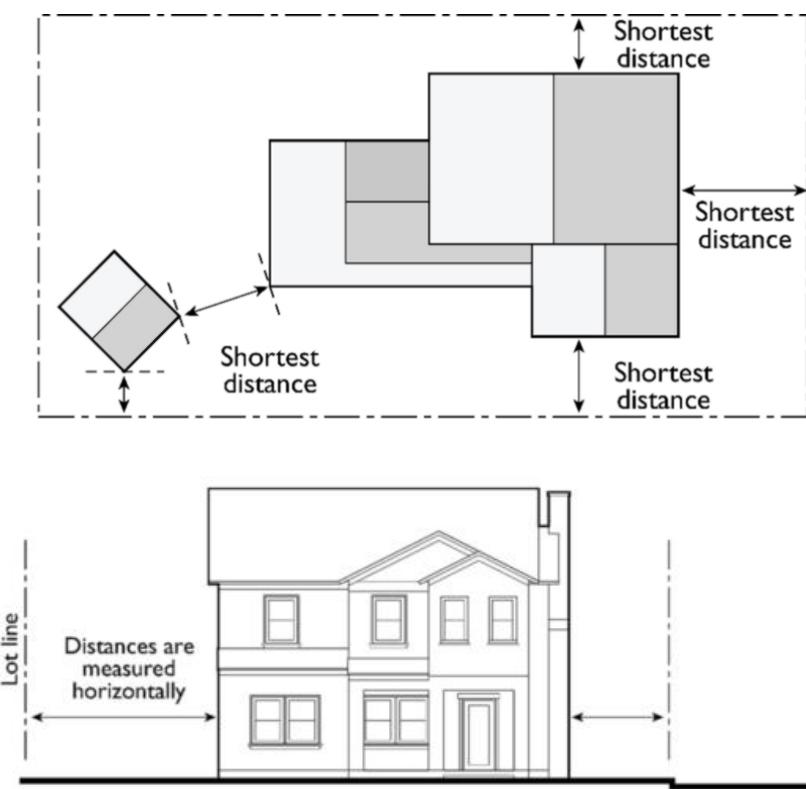
Whenever this title requires consideration of distances, parking spaces, dwelling units or other aspects of development or the physical environment expressed in numerical quantities, and the result of a calculation contains a fraction of a whole number, the results will be rounded as follows:

A. General Rounding. Fractions of one-half or greater shall be rounded up to the nearest whole number and fractions of less than one-half shall be rounded down to the nearest whole number, except as otherwise provided.

B. Exception for State Affordable Housing Density Bonus. The calculation of fractions related to permitted bonus density units for projects eligible for bonus density pursuant to Government Code Section 65915 or any successor statute, and Chapters 18.16, Affordable Housing Programs, and 18.17, Affordable Housing Incentives, is described in Chapters 18.16, Affordable Housing Programs, and 18.17, Affordable Housing Incentives. (Ord. 1537 (Exh. A (part)), 2018: Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.03.040 Measuring distances.**

- A. Measurements Are Shortest Distance. When measuring a required distance, such as the minimum distance between a structure and a lot line, the measurement is made at the closest or shortest distance between the two objects.
- B. Distances Are Measured Horizontally. When determining distances for setbacks and structure dimensions, all distances are measured along a horizontal plane from the appropriate line, edge of building, structure, storage area, parking area, or other object. These distances are not measured by following the topography or slope of the land.
- C. Measurements Involving a Structure. Measurements involving a structure are made to the closest support element of the structure. Structures or portions of structures that are entirely underground are not included in measuring required distances.
- D. Measurement of Vehicle Stacking or Travel Areas. Measurement of a minimum travel distance for vehicles, such as garage entrance setbacks and stacking lane distances, is measured down the center of the vehicle travel area. For example, curving driveways and travel lanes are measured along the center arc of the driveway or traffic lane.
- E. Measuring Radius. When a specified land use is required to be located a minimum distance from another land use, the minimum distance is measured in a straight line from all points along the lot line of the subject project, in all directions.

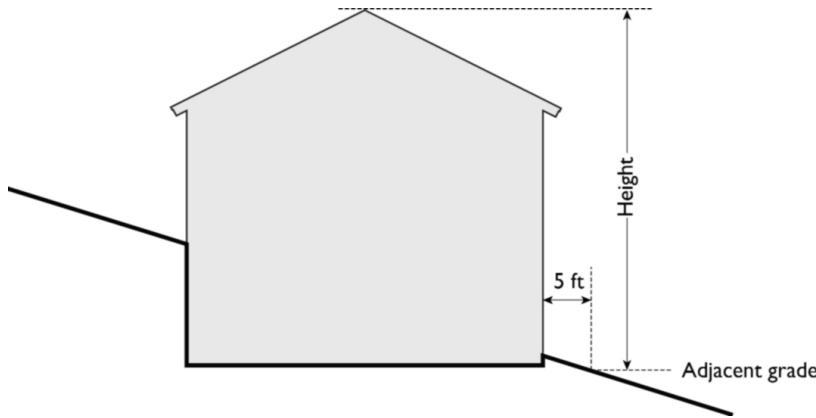
**FIGURE 18.03.040: MEASURING DISTANCES**

(Ord. 1537 (Exh. A (part)), 2018: Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.03.050 Measuring height. Revised 1/24**

- A. Measuring Building Height. Building height is the vertical distance measured in feet between the finished grade and the highest point of the structure directly above (the roof beams of a flat roof, the deck line of a mansard roof or the highest peak or gable of a pitched or hipped roof), unless otherwise specified in this title.

**FIGURE 18.03.050-A(1): MEASURING BUILDING HEIGHT ON SLOPED LOTS**

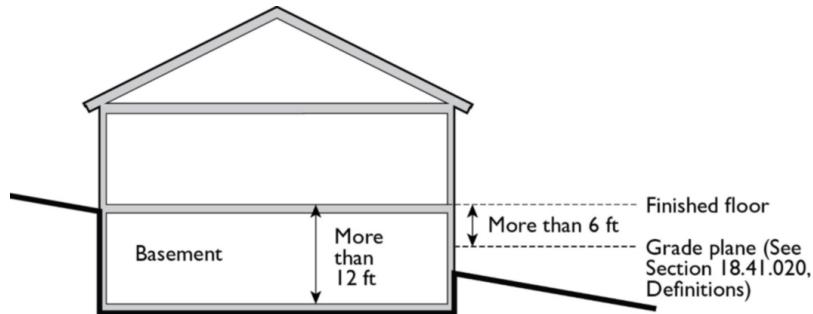


1. Exceptions. Antennas, belfries, chimneys, cooling towers, cupolas, domes, elevator bulkheads, flagpoles, ornamental towers, penthouses, solar collectors, spires and standpipes and necessary mechanical equipment may exceed the height limits pursuant to Section 18.15.060, Height and height exceptions.

B. Measuring the Number of Stories in a Building. In measuring the height of a building in stories, the following measurement rules shall apply:

1. A balcony or mezzanine shall be counted as a full story if its floor area exceeds one-third (1/3) of the total area of the nearest full floor directly below it or if it is enclosed on more than two (2) sides.
2. A basement shall be counted as a full story if the finished surface of the floor above the basement is:
  - a. More than six (6) feet above grade plane; or
  - b. More than twelve (12) feet above the finished grade at any point.

**FIGURE 18.03.050-B(2): DETERMINING IF A BASEMENT IS A STORY**

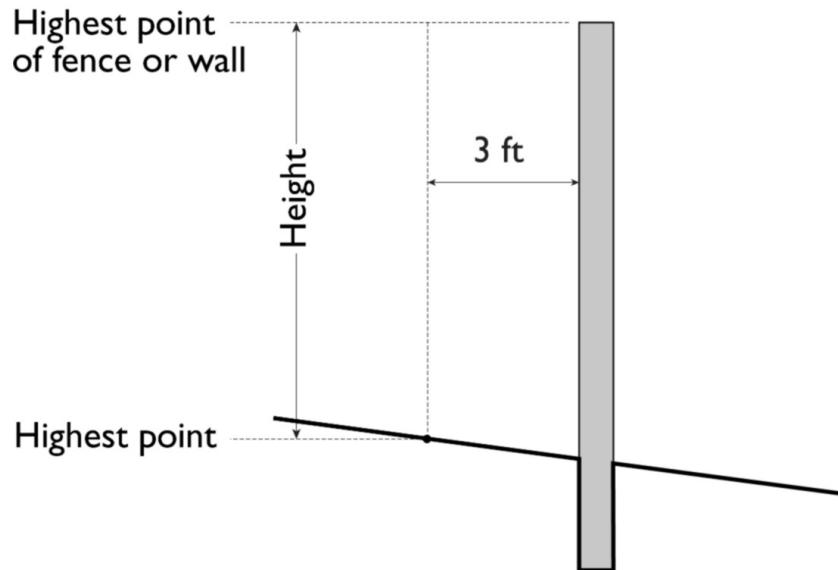


3. A story shall not exceed twenty-five (25) feet in height from the upper surface of the floor to the ceiling above.

C. Measuring Height of Fences or Walls. The height of any fence or wall shall be determined by measuring the vertical distance from the highest existing grade at a point within a three-foot radius of any point on such fence or structure to the highest point of such structure. In the case of fences or walls between the setback line and lot line, height shall be measured from highest finished grade adjacent to the structure to the top of the structure as determined by the Director.

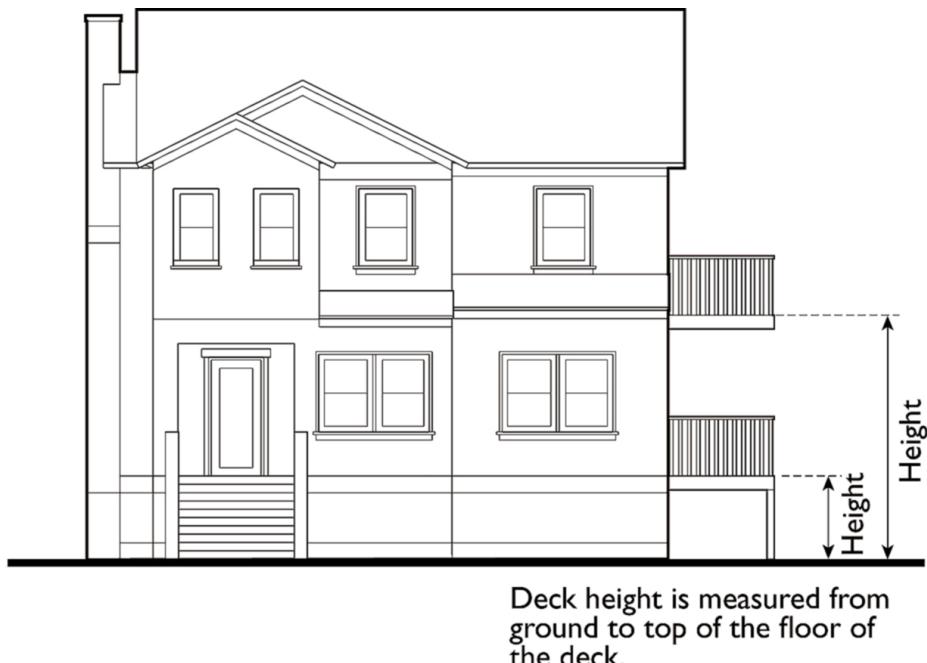
1. Measuring Height of Fences on Retaining Walls. The height of a fence that is on top of a retaining wall is measured from the highest existing grade point within a three-foot radius of any point on such fence to the highest point of the fence on the highest side of the wall. Any fence or railing required to comply with minimum height in applicable Building Code requirements is permitted.

**FIGURE 18.03.050-C: MEASURING HEIGHT OF FENCES AND WALLS**



D. Measuring the Height of Decks. Deck height is determined by measuring from the ground to the top of the floor of the deck directly above the ground below.

**FIGURE 18.03.050-D: MEASURING HEIGHT OF DECKS**



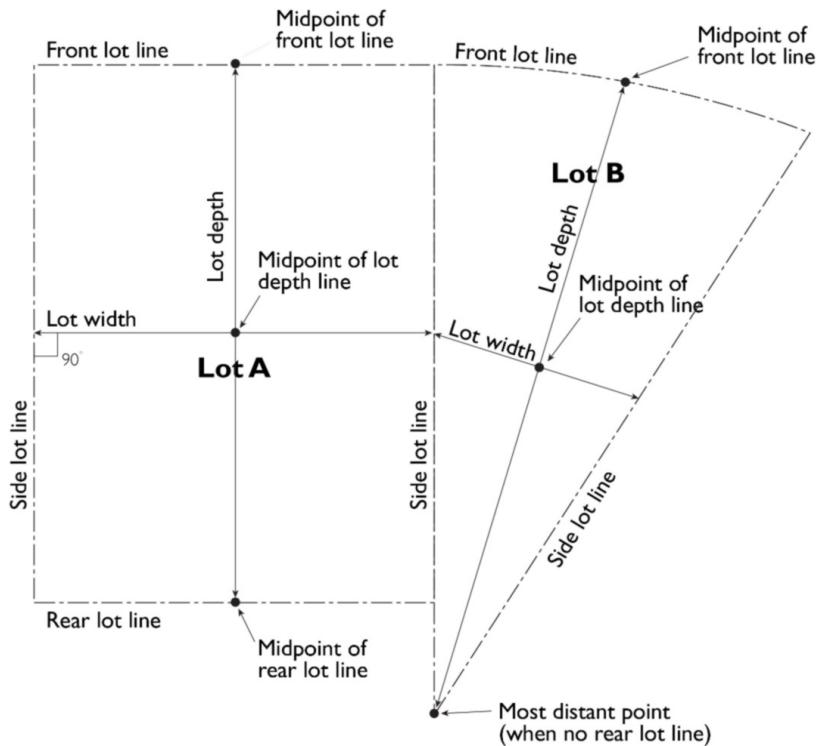
(Ord. 1603 § 3 (Exh. A), 2023; Ord. 1537 (Exh. A (part)), 2018; Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.03.060 Measuring lot width and depth.**

A. Lot Width. Lot width is the horizontal distance between the side lot lines, measured at right angles to the lot depth at a point midway between the front and rear lot lines.

B. Lot Depth. Lot depth is measured along a straight line drawn from the midpoint of the front property line of the lot to the midpoint of the rear property line or to the most distant point on any other lot line where there is no rear lot line.

**FIGURE 18.03.060: MEASURING LOT WIDTH AND DEPTH**



(Ord. 1537 (Exh. A (part)), 2018: Ord. 1438 § 4 (Exh. A (part)), 2011)

#### **18.03.070 Determining average slope.**

The average slope of a parcel is calculated using the following formula:  $S = 100(I)(L)/A$ , where:

- A.  $S$  = Average slope (in percent);
- B.  $I$  = Contour interval (in feet);
- C.  $L$  = Total length of all contour lines on the parcel (in feet);
- D.  $A$  = Area of subject parcel (in square feet). (Ord. 1537 (Exh. A (part)), 2018: Ord. 1438 § 4 (Exh. A (part)), 2011)

#### **18.03.080 Determining floor area. Revised 1/24**

The floor area of a building is the sum of the gross horizontal areas of all floors of a building or other enclosed structure, measured from the outside perimeter of the exterior walls and/or the centerline of interior walls.

A. Included in Floor Area. Floor area includes, but is not limited to, all habitable space (as defined in the California Building Code) that is below the roof and within the outer surface of the main walls of principal or accessory buildings or the centerlines of party walls separating such buildings or portions thereof or within lines drawn parallel to and two (2) feet within the roof line of any building without walls. Garages in the RS-6 zoning district shall be included in floor area calculations. In the case of a multi-story building that has covered or enclosed stairways, stairwells or elevator shafts, the horizontal area of such features shall be counted only once at the floor level of their greatest area of horizontal extent.

B. Excluded From Floor Area. Floor area does not include mechanical, electrical, and communication equipment rooms that do not exceed two percent (2%) of the building's gross floor area; Statewide exemption accessory dwelling units in accordance with Section 18.23.210; up to eight hundred (800) square feet of any accessory dwelling unit; bay windows or other architectural projections where the vertical distance between the lowest surface of the projection and the finished floor is thirty (30) inches or greater; areas that qualify as usable open space; and in nonresidential buildings, areas used for off-street parking spaces or loading spaces, driveways, ramps between floors of a multi-level parking garage, and maneuvering aisles that are located below the finish grade of the property.

In addition, in the RS-6 zoning district the following shall be excluded from floor area calculations:

1. Basements that are located directly beneath the house footprint (with exceptions for lightwells and access to areas underground) and with an exposed area of no more than three feet from finished grade to finished floor above.

2. Up to four hundred fifty square feet of garage area, provided the garage is detached and located to the rear of residential structures, and is a minimum of forty feet away from the front lot line.
  
- C. Nonresidential Uses. For nonresidential uses, gross floor area includes pedestrian access interior walkways or corridors, interior courtyards, walkways, paseos, or corridors covered by a roof or skylight. Nonresidential gross floor area does not include arcades, porticoes, and similar open areas that are located at or near street level and are accessible to the general public but are not designed or used as sales, display, storage, service, or production areas. (Ord. 1604 § 4 (Exh. B), 2023; Ord. 1537 (Exh. A (part)), 2018: Ord. 1438 § 4 (Exh. A (part)), 2011)

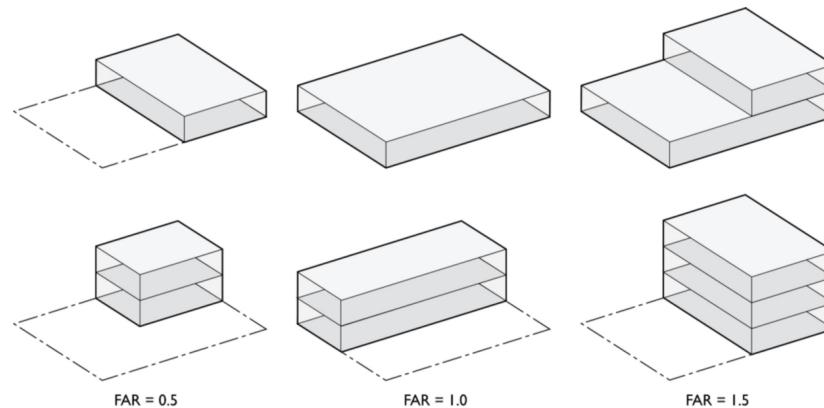
**18.03.090 Determining floor area ratio.**

The floor area ratio (FAR) is the ratio of the floor area, excluding the areas described below, of all principal and accessory buildings on a site to the site area. To calculate the FAR, floor area is divided by site area, and typically expressed as a decimal. For example, if the floor area of all buildings on a site totals twenty thousand square feet, and the site area is ten thousand square feet, the FAR is expressed as 2.0.

A. Excluded from Floor Area in Calculating FAR.

1. Underground Areas. Floor area located below finished grade.
2. Parking. Parking areas located below finished grade or finished floor of habitable space where the vertical distance between finished grade and finished floor is five feet or less. Structured parking areas located above finished grade or finished floor of habitable space where the vertical distance between finished grade of finished floor is more than five feet are included as floor area in calculating FAR.
3. Sideloaded or Detached Garages. Sideloaded or detached garages not exceeding four hundred fifty square feet, located to the rear of residential structures, a minimum of forty feet away from the front lot line and accessed by a driveway the entire length of which is less than twelve feet in width.

**FIGURE 18.03.090: DETERMINING FLOOR AREA RATIO**



(Ord. 1537 (Exh. A (part)), 2018: Ord. 1480 (Exh. A), 2015: Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.03.100 Determining lot coverage. Revised 1/24**

Lot coverage is the ratio of the total footprint area of all structures on a lot to the net lot area, typically expressed as a percentage. The footprints of all principal and accessory structures, including garages, carports, covered patios, and roofed porches, shall be summed in order to calculate lot coverage. The following structures shall be excluded from the calculation:

- A. Unenclosed and unroofed decks, uncovered patio slab, porches, landings, balconies and stairways less than eighteen (18) inches in height at surface of deck (and less than six (6) feet including railings);
- B. Eaves and roof overhangs projecting up to two (2) feet from a wall;
- C. Trellises and similar structures that have roofs that are at least fifty percent (50%) open to the sky with uniformly distributed openings;
- D. Swimming pools and hot tubs that are not enclosed in roofed structures or decks; and
- E. One (1) small, nonhabitable accessory structure under one hundred twenty (120) square feet. Structures above quantity of one (1) shall be included in lot coverage.

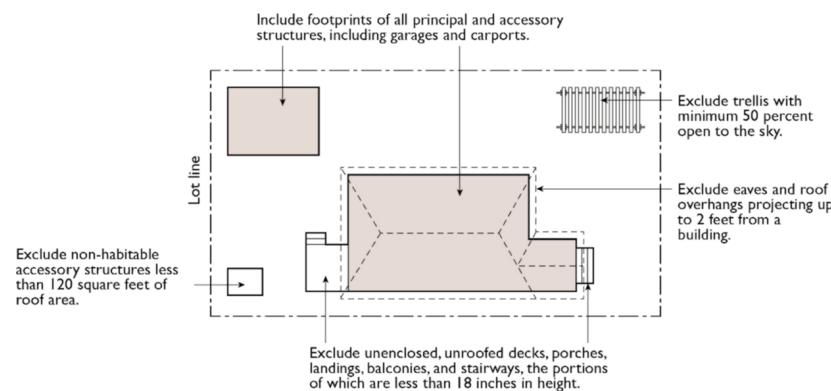
F. Statewide exemption accessory dwelling units in accordance with Section 18.23.210.

G. In the RS-6 zoning district and not subject to the Hillside Overlay District:

1. Unenclosed and unroofed decks that are greater than eighteen inches in height at surface of deck and where the surface of the deck is equal to or lower than the lowest living level above grade, up to two hundred fifty square feet shall be excluded from lot coverage.

2. Covered porches in the front yard area that are greater than eighteen inches in height at surface of porch, and where the porch floor surface is at or below the level of the front door, up to two hundred square feet shall be excluded from lot coverage calculations.

**FIGURE 18.03.100: DETERMINING LOT COVERAGE**



(Ord. 1604 § 4 (Exh. B), 2023; Ord. 1537 (Exh. A (part)), 2018: Ord. 1438 § 4 (Exh. A (part)), 2011)

#### **18.03.110 Determining lot frontage.**

A. Corner Lot. The front of a lot is the narrowest dimension of the lot with street frontage.

B. Through Lot. The front yard of a through lot abuts the street that neighboring lots use to provide primary access. (Ord. 1537 (Exh. A (part)), 2018: Ord. 1438 § 4 (Exh. A (part)), 2011)

#### **18.03.120 Determining setbacks (yards).**

A setback line defining a required yard is parallel to and at the specified distance from the corresponding front, side, or rear property line. The following special regulations for determining yards apply when a lot abuts a proposed street or alley.

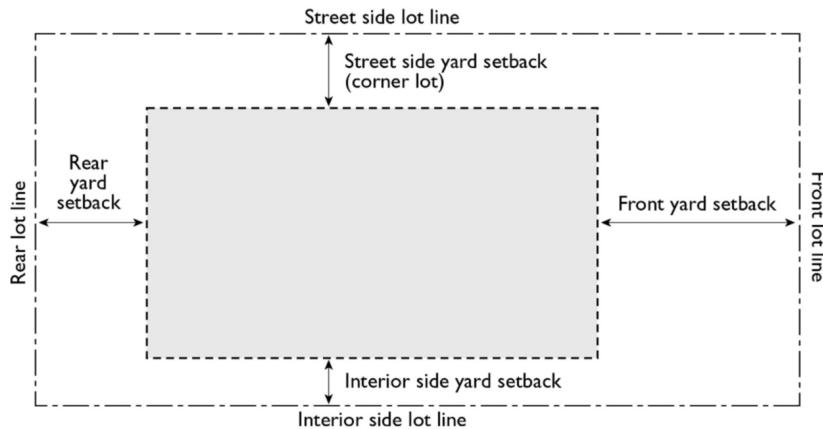
A. Yards Abutting Planned Street Expansions. If a property abuts an existing or proposed street for which the existing right-of-way is narrower than the right-of-way ultimately required for the street, the required setback shall be established from the future right-of-way rather than the property line.

B. Yards on Alleys.

1. If a side lot line abuts an alley, the yard shall be considered an interior side yard rather than a corner side yard.
2. In computing the minimum yard for any lot where such yard abuts an alley, no part of the width of the alley may be considered as part of the required yard.

C. Measuring Setbacks. Setbacks shall be measured as the distance between the nearest lot line and the closest point on the exterior of a building or structure along a line at right angles to the lot line. Setbacks shall be unobstructed from the ground to the sky except where allowed pursuant to Section 18.15.080, Projections into yards, subject to compliance with the California Building Code.

**FIGURE 18.03.120: DETERMINING SETBACKS (YARDS)**



(Ord. 1537 (Exh. A (part)), 2018: Ord. 1438 § 4 (Exh. A (part)), 2011)

#### **18.03.130 Measuring signs.**

The calculations of measurements related to signs are described in Chapter 18.22, Signs. (Ord. 1537 (Exh. A (part)), 2018: Ord. 1438 § 4 (Exh. A (part)), 2011)

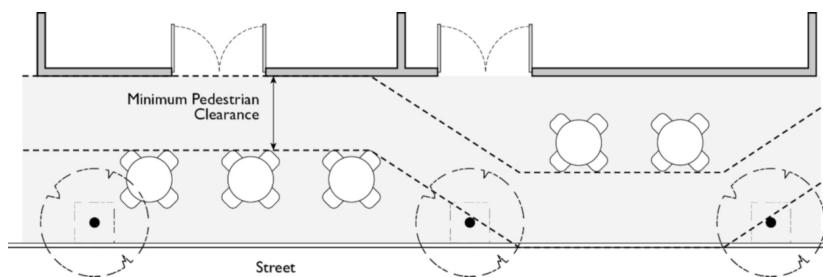
#### **18.03.140 Measuring parking lot landscaping.**

For the purpose of calculating required parking lot landscaping, parking lot areas are deemed to include parking and loading spaces as well as aisles, vehicle entry and exit areas, and any adjacent paved areas. Parking lot area does not include enclosed vehicle storage areas. (Ord. 1537 (Exh. A (part)), 2018: Ord. 1438 § 4 (Exh. A (part)), 2011)

#### **18.03.150 Measuring pedestrian clearance.**

The minimum distance shall be measured from the edge of any table, chair, bench, planter, or other appurtenance used as part of an outdoor dining area to any obstruction within the sidewalk area.

**FIGURE 18.03.150: MEASURING PEDESTRIAN CLEARANCE**



(Ord. 1537 (Exh. A (part)), 2018: Ord. 1438 § 4 (Exh. A (part)), 2011)

### **Chapter 18.04 RESIDENTIAL DISTRICTS Revised 6/23 Revised 1/24**

Sections:

**18.04.010 Purpose.** Revised 6/23 Revised 1/24

**18.04.020 Land use regulations.** Revised 6/23 Revised 1/24

**18.04.030 Development standards—RS districts.** Revised 6/23 Revised 1/24

**18.04.040 Objective design standards for RS districts.** Revised 6/23 Revised 1/24

**18.04.050 Development standards—RM districts.** Revised 6/23

**18.04.060 Supplemental regulations—RM districts.** Revised 6/23

**18.04.070 Residential development types.** Revised 6/23 Revised 1/24

**18.04.080 Duplex standards.** Revised 1/24

**18.04.090 Townhouse development.** Revised 1/24

**18.04.100 Small lot subdivisions. Revised 1/24****18.04.010 Purpose. Revised 6/23 Revised 1/24**

The specific purposes of the residential districts are to:

- A. Preserve, protect, and enhance the character of the City's different residential neighborhoods.
- B. Ensure adequate light, air, and open space for each dwelling.
- C. Ensure that the scale and design of new development and alterations to existing structures are compatible with surrounding homes and appropriate to the physical characteristics of the site and the area where the project is proposed.
- D. Provide sites for public and semi-public land uses, such as parks and public safety facilities, that will serve City residents and will complement surrounding residential development.

Additional purposes of each residential district which follow implement General Plan classifications of "Single-Family, 3 du/acre," "Single-Family, 6 du/acre," "Multiple-Family, 15—20 du/acre," "Multiple-Family, 45—59 du/acre," and "Multiple-Family, 75—100 du/acre."

E. RS-3 Single-Family. This district is intended for residential densities up to three (3) units per net acre. Development types may include single-unit housing and accessory dwelling units, second single-units pursuant to Government Code Sections 65852.21 and 66411.7 ("urban infill units"), duplexes, and small lot subdivisions. In addition to single-unit homes, this district provides for uses such as small and large family child care, park and recreation facilities, and community gardens that may be appropriate in a single-family residential neighborhood.

F. RS-6 Single-Family. This district is intended for residential densities up to six (6) units per net acre. Development types may include single-unit housing, accessory dwelling units, second single-units pursuant to Government Code Sections 65852.21 and 66411.7 ("urban infill units"), duplexes, townhomes, and small lot subdivisions. This district also allows for uses such as small and large family child care, park and recreation facilities, and civic and institutional uses such as schools and places for community assembly that may be appropriate in a single-family residential neighborhood.

G. RM-20 Multiple-Family. This district is intended for residential densities of up to twenty (20) units per net acre developed at a scale and form that is appropriate to its neighborhood context and adjacent uses. Dwelling types include small lot single-unit development, bungalow courts, front or rear loaded townhomes, multi-unit buildings, and accessory dwelling units. This district also allows for limited uses such as small and large family day care, park and recreation facilities, and civic and institutional uses such as schools and places for community assembly that are appropriate in a low density multifamily residential environment.

H. RM-59 Multiple-Family. This district is intended for residential development at densities up to fifty-nine (59) units per net acre. This density range accommodates townhomes and multi-unit buildings developed at a scale and form that is appropriate to its neighborhood context and adjacent single-family residential uses and forms. Small lot single-unit and bungalow court development is allowed where site conditions exist rendering the development type equal to or better than multi-unit or townhome development. Accessory dwelling units are also permitted in this district. In addition to residential uses, this district allows for a limited number of public and semi-public uses such as day care centers, public safety facilities, and residential care facilities that are appropriate in a medium density multifamily residential environment.

I. RM-100 Multiple-Family. This district is intended for residential development at densities up to one hundred (100) units per net acre. This density range accommodates townhomes and multi-unit buildings developed at a scale and form that exemplifies high quality development. Accessory dwelling units are also permitted in this district. In addition to residential uses, this district allows for a limited number of public and semi-public uses such as day care centers, public safety facilities, and residential care facilities that are appropriate in a high density multifamily residential environment. (Ord. 1603 § 3 (Exh. A), 2023; Ord. 1596 § 6 (Exh. A), 2023; Ord. 1568 § 1 (Exh. A), 2021; Ord. 1566 (Exh. B (part)), 2020; Ord. 1537 (Exh. B (part)), 2018; Ord. 1480 (Exh. B (part)), 2015; Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.04.020 Land use regulations. Revised 6/23 Revised 1/24**

Table 18.04.020 prescribes the land use regulations for residential districts. The regulations for each district are established by letter designations as follows:

"P" designates permitted uses.

"M" designates use classifications that are permitted after review and approval of a minor use permit by the Zoning Administrator.

"C" designates use classifications that are permitted after review and approval of a conditional use permit by the Planning and Transportation Commission.

"(#)" numbers in parentheses refer to specific limitations listed at the end of the table.

"-" designates uses that are not permitted.

Use classifications are defined in Chapter 18.40, Use Classifications. In cases where a specific land use or activity is not defined, the Director shall assign the land use or activity to a classification that is substantially similar in character. Use classifications and sub classifications not listed in the table or not found to be substantially similar to the uses below are prohibited. The table also notes additional use regulations that apply to various uses. Section numbers in the right-hand column refer to other sections of this title.

**TABLE 18.04.020: LAND USE REGULATIONS—RESIDENTIAL DISTRICTS**

Use Classification	RS-3	RS-6	RM-20	RM-59	RM-100	Additional Regulations
<b>Residential Uses</b>						
Residential Housing Types	See subclassifications below					
Single-Unit Dwelling	P	P	-	-	-	See Section 18.04.100, Small lot subdivision standards
Small Lot Single-Unit Subdivision Development	C (1)	C (1)	P	C (2)	C (2)	See Section 18.04.070, Residential development types
Accessory Dwelling Unit	P	P	P	P	P	See Section 18.04.080, Duplex standards
Junior Accessory Dwelling Unit	P	P	-	-	-	See Section 18.04.090, Townhouse standards
Duplex	P	P	P	-	-	*For townhouse development in RM districts, Development Standards of RM District shall apply
Urban Infill Units	P	P	-	-	-	
Townhouse Development	-	C	P*	P*	P*	
Multi-Unit Residential	-	-	P	P	P	
Elderly and Long-Term Care	-	-	-	C	C	
Family Day Care	See subclassifications below					
Small	P	P	P	P	P	
Large	P	P	P	P	P	
Group Residential	-	-	-	P	P	
Residential Care Facilities	See subclassifications below					
General	-	-	M	M	M	See Section 18.23.200, Residential care facilities
Limited	P	P	P	P	P	
Senior	-	-	M	M	M	See Section 18.23.200, Residential care facilities
Single Room Occupancy	-	-	C	C	C	See Section 18.23.220, Single room occupancy hotels
Transitional Housing	P	P	P	P	P	See Section 18.23.250, Transitional and supportive housing

Use Classification	RS-3	RS-6	RM-20	RM-59	RM-100	Additional Regulations
Supportive Housing	P	P	P	P	P	See Section 18.23.250, Transitional and supportive housing
<b>Public and Semi-Public Uses</b>						
Community Assembly	-	C	-	C	C	See Section 18.23.080, Community assembly facilities
Community Garden	P	P	P	P	P	
Cultural Institution	-	C	-	C	C	
Day Care Centers	-	-	-	P	P	See Section 18.23.090, Day care
Park and Recreation Facilities, Public	P	P	P	P	P	
Public Safety Facilities	-	C	C	C	C	
Schools, Public or Private	-	C	C	C	C	
Social Service Facilities	-	-	-	M	M	
<b>Commercial Uses</b>						
Eating and Drinking Establishments, Convenience	-	C(3)	-	-	-	See Section 18.23.140, Outdoor dining
Retail Sales, Convenience Markets	-	C(3)	-	-	-	
<b>Transportation, Communication, and Utilities Uses</b>						
Communication Facilities	See Chapter 18.24, Wireless Telecommunications Facilities					
Utilities, Minor	P	P	P	P	P	
<b>Other Applicable Types</b>						
Accessory Uses and Structures	See Sections 18.15.020, Accessory buildings and structures, and 18.23.030, Accessory uses					
Home Occupations	P	P	P	P	P	See Section 18.23.120, Home occupations
Nonconforming Use	Chapter 18.19, Nonconforming Uses, Structures, and Lots					
Temporary Use	See Section 18.23.240, Temporary uses					

**Specific Limitations:**

1. In addition to standard use permit findings, the Planning and Transportation Commission must find that the development is designed with massing and height that is sensitive to the building pattern of the area and adjacent properties.
2. In addition to standard use permit findings, the Planning and Transportation Commission must find that specific site conditions exist such that the proposed development type is equal to or better than multi-unit residential or townhouse development types with regard to design and achievable density and the project is designed with massing and height that is sensitive to the building pattern of the area and adjacent properties.
3. Subject to the following limitations:
  - a. Limited to cafes, coffee shops, delis, and neighborhood markets. Full service restaurants are not allowed.
  - b. Limited to one thousand five hundred (1,500) square feet of sales area.
  - c. Hours of operation are limited to between seven (7) a.m. and nine (9) p.m.
  - d. Must be located within a two (2) story building.
  - e. Must be located on a corner lot with frontage on an arterial a minimum of one-half (1/2) mile from the MU-DC-100, MU-D-100 and MU-D-120 districts and other existing neighborhood-serving retail.
  - f. In addition to the findings required for all use permits, the Planning and Transportation Commission must find that the proposed use promotes community health, interaction, and socialization of the neighborhood; complements the residential character of the surrounding neighborhood; and will not adversely impact adjacent properties.

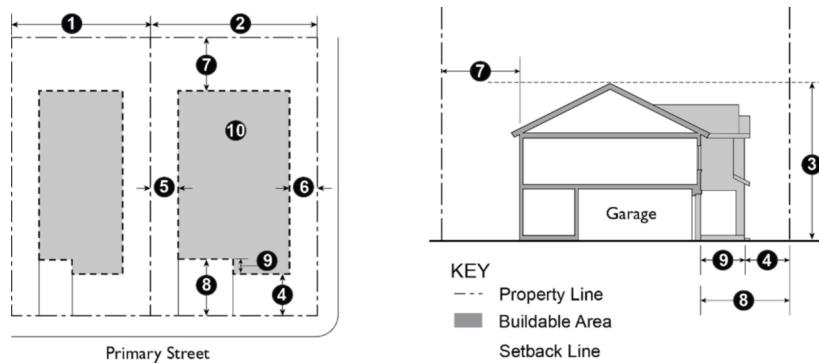
(Ord. 1603 § 3 (Exh. A), 2023; Ord. 1596 § 6 (Exh. A), 2023; Ord. 1568 § 1 (Exh. A), 2021; Ord. 1566 (Exh. B (part)), 2020; Ord. 1537 (Exh. B (part)), 2018; Ord. 1480 (Exh. B (part)), 2015; Ord. 1438 § 4 (Exh. A (part)), 2011)

#### **18.04.030 Development standards—RS districts. Revised 6/23 Revised 1/24**

A. Table 18.04.030 prescribes the development standards for RS districts. Additional regulations are denoted in a right-hand column. Section numbers in this column refer to other sections of this title, while individual letters refer to subsections that directly follow the table. The numbers in each illustration below refer to corresponding regulations in the “#” column in the associated table.

##### B. Deviation From Standards.

1. The standards set forth in this section shall apply to all residential development applications in the RS district. Proposed development projects that comply with all development and objective standards contained in this section shall qualify for approval as a matter of right, and subject only to zoning clearance review pursuant to Chapters 18.28 (Zoning Clearance) and 18.29 (Design Review and Objective Design Standards Compliance Review) unless as specified within Table 18.04.020, Land Use Regulations—Residential Districts. For proposed projects that deviate from one (1) or more objective standards, such applications shall be subject to the design review provisions set forth in Chapter 18.29.
2. Deviations Subject to Design Review. Any application involving a deviation or exception from the objective standards for the following shall be subject to design review for that standard pursuant to Chapter 18.29:
  - a. Building articulation and massing.
  - b. Building materials and colors.
  - c. Building modification to preserve a protected tree unless a setback modification requires a variance.
  - d. Driveway location, width, and configuration.
  - e. Entry location, connectivity, and treatments.
  - f. Garage location and setbacks.
  - g. Landscape design.
  - h. Roof form and detail.
  - i. Window treatments.



**TABLE 18.04.030: DEVELOPMENT STANDARDS—RESIDENTIAL SINGLE-FAMILY DISTRICTS**

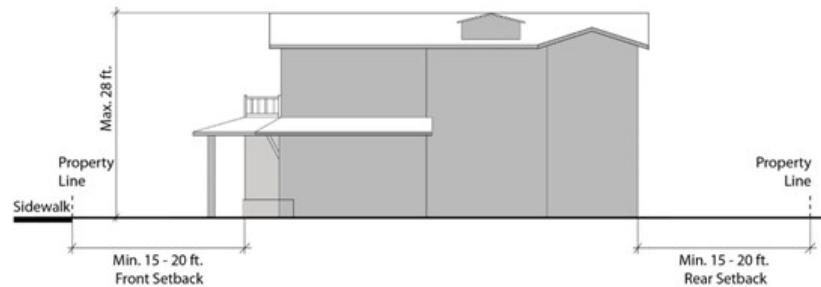
District	RS-3	RS-6	Additional Regulations	#
Lot and Density Standards				
Maximum Density (units/net acre)	3	6		
Minimum Lot Size (sq. ft.)	10,000*	5,000*	*New subdivision lots shall be subject to Table 17.16.030	

District	RS-3	RS-6	Additional Regulations	#
Corner Lots	10,000*	6,000*	*New subdivision lots shall be subject to Table 17.16.030	
Minimum Lot Width (ft.)	75*	40*	*New subdivision lots shall be subject to Table 17.16.030	1
Corner Lots	75*	60*	*New subdivision lots shall be subject to Table 17.16.030	2
<b>Maximum Floor Area</b>				
Maximum Floor Area (MFA)	No MFA	For lots less than or equal to 7,500 sq. ft. MFA is the greater of 1,100 sq. ft. + 35% of the lot area or 50% of the lot area; for lots greater than 7,500 sq. ft. MFA is 50% of the lot area.	See Chapter 18.03, Rules of Measurement; See Section 18.23.210 for accessory dwelling unit and junior accessory dwelling unit standards	
<b>Building Form and Location</b>				
Maximum Height (ft.)	28 (C)	28 (C)	See Section 18.15.060, Height and height exceptions, and see Chapter 18.12 for permissible height within a Hillside Overlay District	3
Public and Semi-Public Uses	28	45		
<b>Minimum Setbacks (ft.)</b>				
Front	20	1st Story: 15 2nd Story: 19	See Section 18.15.080, Projections into yards	4
Interior Side	1st Story: 10 2nd Story: 14 (E, F, G)	1st Story: 5 (D) 2nd Story: 9 (E, F, G)		5
Street Side	1st Story: 10 (G) 2nd Story: 14 (E, F, G)	1st Story: 7.5 (G) 2nd Story: 11.5 (E, F, G)		6
Rear	20	15		7
Garage, from property line	20	20	See Section 18.04.040(A)(3) (d) and (e) Detached garages and see Chapter 18.12 for Hillside Overlay District provisions	8
Garage, from primary facade	5	5		9
Maximum Lot Coverage (Percent of Lot)	25 in H Overlay 35 outside H Overlay	50	See Chapter 18.03, Rules of Measurement	10

C. Building Height Within the Front and Rear Fifteen (15) Feet of the Building. The maximum height within the front and rear fifteen (15) feet of the building shall be measured as indicated in Section 18.03.050 (Measuring height) not exceeding twenty-

eight (28) feet. For buildings located in the Hillside Overlay zoning district, refer to Chapter 18.12 (Hillside Overlay District).

**FIGURE 18.04.030-C: MEASURING BUILDING HEIGHT—RS DISTRICTS**



D. Side Setback Exception. For lots less than fifty (50) feet in width, the minimum ground-floor side setback shall be a minimum of ten percent (10%) of the lot width or three (3) feet, whichever is greater.

E. The upper story may align with the lower story at the required lower story five (5) feet setback for up to thirty percent (30%) of the length of the lower story. The maximum thirty percent (30%) projection shall be measured from the rear wall of the lower story. Any window located on the projecting portion of the building shall be either a clerestory window or shall be glazed, tinted, etched, frosted, or treated in any similar manner that limits views into and from the window.

**FIGURE 18.04.030-E: SECOND STORY PROJECTION**



**FIGURE 18.04.030-F, G: SEVEN (7) FEET INTERIOR SIDE SETBACK**

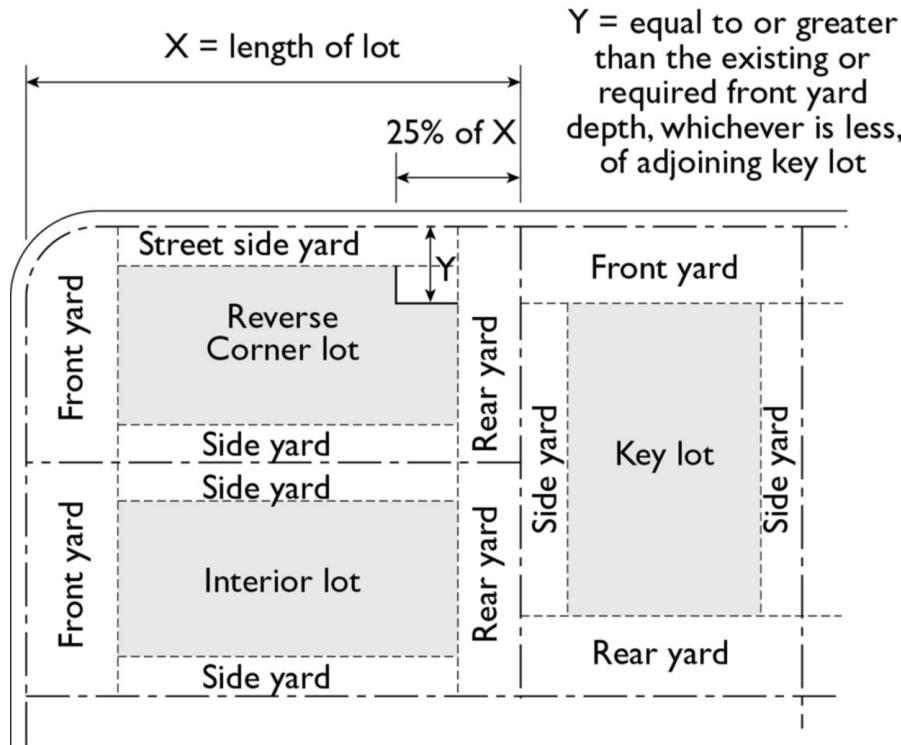


F. Where the entire ground floor is set back at least seven (7) feet from the property line, the upper story may align with the lower story for the entire length of the building.

G. For a ground floor setback of seven (7) feet a projection of up to two (2) feet is allowed on the lower and upper story. The alignment of the stories shall not exceed thirty percent (30%) of the length of the lower story. The maximum thirty percent (30%) projection shall be measured from the rear wall of the lower story. Any window located on the projecting portion of the building shall be either a clerestory window or shall be glazed, tinted, etched, frosted, or treated in any similar manner that limits views into and from the window.

H. Street Side Setbacks on Lots with Reversed Frontage. The exterior side setback in the rear twenty-five percent (25%) of a reversed corner lot shall not be less than the front yard required or existing, whichever is less, on the adjoining key lot.

**FIGURE 18.04.030-H: STREET SIDE SETBACKS ON LOTS WITH REVERSED FRONTAGE**



(Ord. 1603 § 3 (Exh. A), 2023; Ord. 1596 § 6 (Exh. A), 2023; Ord. 1566 (Exh. B (part)), 2020; Ord. 1537 (Exh. B (part)), 2018; Ord. 1480 (Exh. B (part)), 2015; Ord. 1438 § 4 (Exh. A (part)), 2011)

#### **18.04.040 Objective design standards for RS districts. Revised 6/23 Revised 1/24**

##### A. Site Planning.

###### 1. Entry Location and Street Connectivity.

- Entry Location. The principal entry for all new primary units shall be located and oriented to face the adjacent public or private street.
- Street Connectivity.
  - A separate walkway measuring minimum thirty-six (36) inches in width shall be provided from the sidewalk to the primary entry.
  - The driveway shall not serve as the primary walkway to the building entry.
  - The primary walkway shall be differentiated from the driveway with the use of paving materials. Differentiated paving materials may include but are not limited to pavers, stepping stones, flagstones, or gravel.

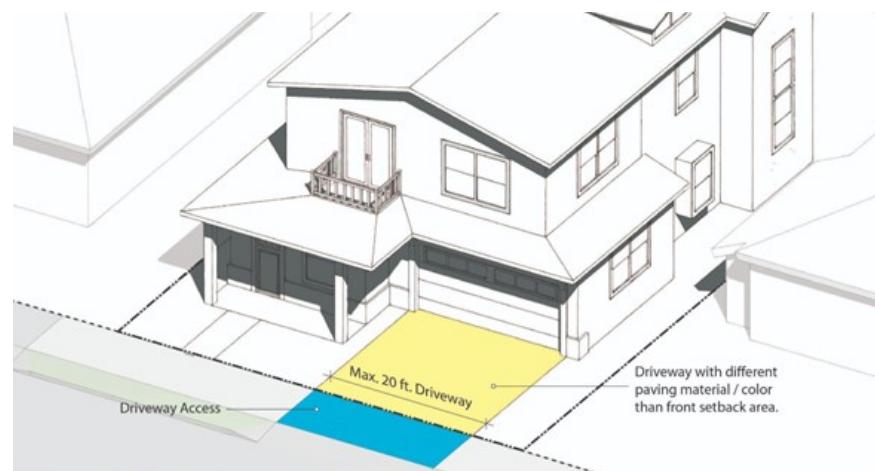
**FIGURE 18.04.040-A(1): ENTRY LOCATION AND STREET CONNECTIVITY—RS DISTRICTS**



2. Parking and Driveways.

- a. **Parking/Garage Access.** Parking spaces shall be provided as required by Chapter 18.20 (Parking and Loading).
- b. **Driveways.**
  - i. Driveway approaches (curb cuts) shall be permitted only to provide access to approved garages, carports, and parking spaces.
  - ii. Curb cuts are permitted pursuant to Chapter 12.04 (Sidewalk and Driveway Approach Construction and Repair).
  - iii. Driveways up to twenty (20) feet wide are permitted to serve the primary unit.
  - iv. Tandem parking configurations are permitted when only a single-car garage is proposed or existing. The driveway shall be a maximum of ten (10) feet wide and a maximum of thirty-eight (38) feet in length.
  - v. Driveways serving two (2) or more units shall be the minimum width required by the City Engineer per Sections 12.04.090, 12.04.100 and 18.20.100.
  - vi. Driveways abutting a side property line shall include a minimum two (2) foot wide pervious surface edge treatment along that abutting property line.
  - vii. Driveways must be distinguished with a use of different color or material than the adjacent material in the front setback area.
  - viii. Driveways on corner lots shall be located at least twenty (20) feet from the property lines at the intersection corner.

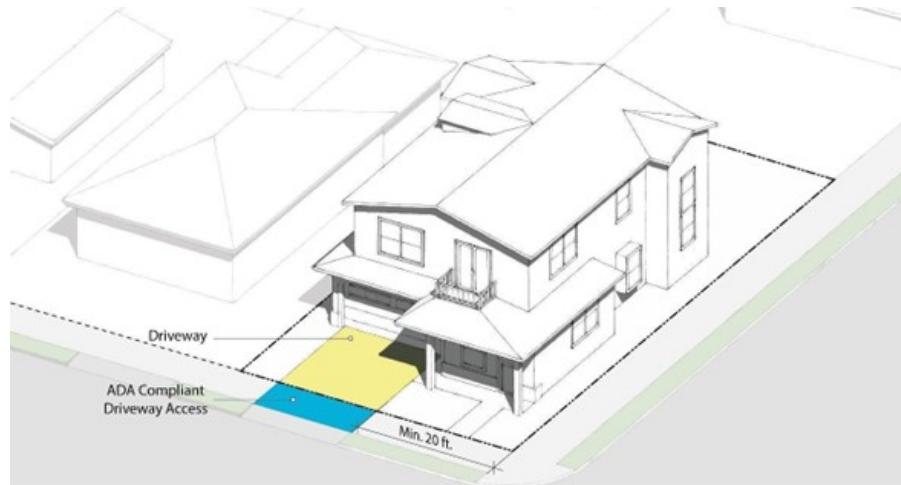
**FIGURE 18.04.040-A(2): PARKING AND DRIVEWAY—RS DISTRICTS**



3. Garage Frontage.

- a. Where a garage is located on the front half of the lot and the garage door faces a street and the lot width is sixty (60) feet or less, the garage frontage including the door width shall not exceed fifty percent (50%) of the width of the front facade of the building. For lots wider than sixty (60) feet, the garage facade including the door shall not exceed forty percent (40%) of the front facade of the building.

**FIGURE 18.04.040-A(3)(a): DRIVEWAY ON CORNER LOTS—RS DISTRICTS**



- b. Garage doors facing the street shall have articulating elements consisting of at least one (1) of the following design elements on the facade:

- An overhang of at least eighteen (18) inches in depth.
- Windows.
- Have the garage doors use colors or materials that are in the same color family as those of the primary building facade.
- Decorative trellis.

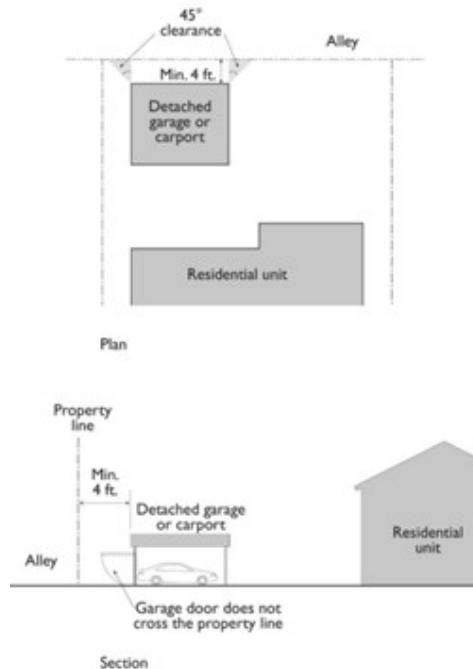
**FIGURE 18.04.040-A(3)(b): GARAGE FRONTAGE STANDARDS—RS DISTRICTS**



- c. Side-loaded garages may be used to diminish the impact of garages along the street frontage. The use of at least one (1) of the following design elements is required to avoid the blank wall of the garage.

- Landscaping with a mature height of at least twenty-four (24) inches.
- Raised planters with a minimum height of twelve (12) inches and landscaping with a mature height of at least twelve (12) inches.
- Windows.
- Decorative trellis.

- v. Material change relative to materials used for the building.
- d. Detached Garages. Detached garages shall have a minimum setback of three (3) feet from a property line and (4) feet from an alley.
- e. Alley Access. A detached garage or carport is permitted to have access to the alley if all following conditions are achieved:
  - i. The garage or carport entrance shall be set back a minimum of four (4) feet from the alley;
  - ii. A forty-five (45) degree visibility triangle shall be provided on either side of the garage or carport; and
  - iii. The garage door does not cross the property line when opening or closing.

**FIGURE 18.04.040-A(3)(e): ALLEY ACCESS—RS DISTRICTS**

## B. Building Design.

1. Massing. The purpose of regulating building mass is to ensure a building fits well on a site, respects the scale of the neighborhood, and avoids bulky appearance. Building walls and the massing of the structure shall not run in a continuous plane of more than twenty-five (25) feet without one (1) or more of the following treatments:
  - a. Incorporate a change in wall plane with a minimum of four (4) feet in depth for the facade.
  - b. Provide a recessed entry of at least three (3) feet in depth.
  - c. Provide a protruding window (such as a bay window) of at least two (2) feet in depth.
  - d. Use at least two (2) distinct materials and colors on each facade (see subsection (B)(8) of this section, Materials).
  - e. Provide an upper story balcony in the front step back area.

**FIGURE 18.04.040-B(1): BUILDING MASSING—RS DISTRICTS**



2. Articulation. The purpose of regulating articulation is to avoid flat, blank walls that may result from massing requirements as indicated within the building design subsection and to create a visual interest to enhance the character of the neighborhood. The following regulations apply:

- No facade shall run in a continuous plane of more than fifteen (15) feet without one (1) of the following treatments included on the facade at every building story:
  - Window.
  - Entry door.
  - Change in material (see subsection (B)(8) of this section, Materials).
  - Decorative shutters.
  - Trellis.

**FIGURE 18.04.040-B(2): BUILDING ARTICULATION—RS DISTRICTS**

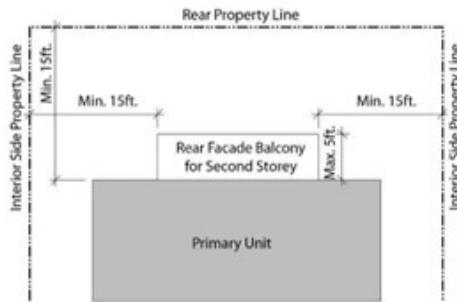


- Balconies.
  - Usable balconies shall not be located on any facade facing a side yard. Juliette/French balconies may be used as an accent feature on side yard facades, provided such balconies have a projection of no more than eighteen (18) inches.
  - Projected and/or recessed balconies shall be at least four (4) feet deep and six (6) feet wide.
  - Projected and/or recessed balconies located on rear facades shall not be located within fifteen (15) feet from any interior side property line.
  - Projected and/or recessed balconies shall incorporate screening features that obstruct views into neighboring yards. Screening may be accomplished by architectural methods or by providing landscape

screening along side-yard property lines. If landscape screening is provided without supporting elements, it shall comprise woody shrubs or trees that are at least fifteen (15) feet in height at installation and that will be less than eight (8) feet wide at maturity.

- v. Projected balconies located on rear facades shall not encroach more than five (5) feet into the rear setback.

**FIGURE 18.04.040-B(2)(b): BALCONY LOCATION FROM INTERIOR PROPERTY LINE—RS DISTRICTS**

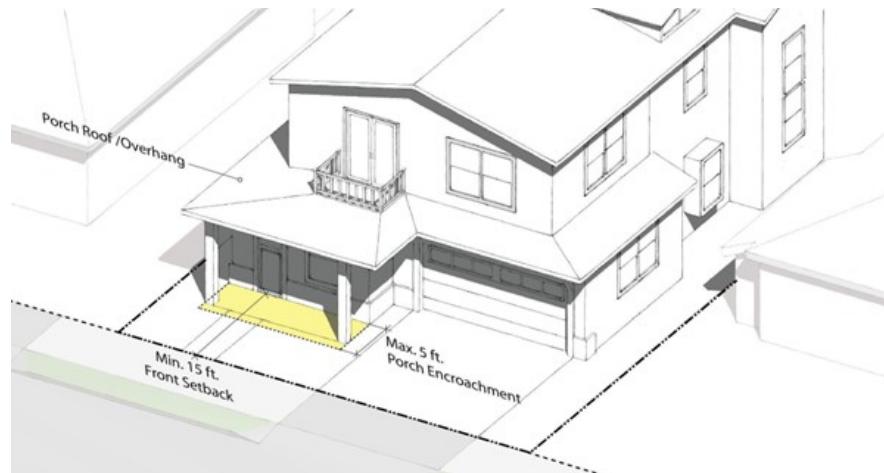


3. Ground Floor Entryways. All units shall have an entryway defined by at least one (1) of the following elements with:
  - a. Porch.
  - b. Recessed entry.
  - c. Deep overhang.
4. Ground Floor Entryway Treatments. Entryways shall be a characteristic component of the selected architectural style unless otherwise specified in the reference guide. The following standards shall apply:
  - a. Porch Design.
    - i. The front porch shall be part of the primary entrance and connected to the front yard.
    - ii. Porches shall have a minimum depth of three (3) feet for up to thirty (30) square feet.
    - iii. Porches shall not encroach more than five (5) feet into the front setback.
    - iv. Porches shall not exceed ten (10) feet in height measured from the finished grade to the bottom of the eave, not including the roof element.

**FIGURE 18.04.040-B(4)(a): PORCH DESIGN—RS DISTRICTS**



- b. Recessed Entry.
  - i. Recessed entries shall be recessed at least three (3) feet from the building facade to create a covered landing area. The recessed entry shall be oriented towards the street.

**FIGURE 18.04.040-B(4)(b): PORCH ENCROACHMENT—RS DISTRICTS****FIGURE 18.04.040-B(4)(b): RECESSED ENTRY—RS DISTRICTS**

- ii. Recessed entries shall not exceed twelve (12) feet in height from floor to ceiling.
- c. Deep Overhang.
  - i. Deep overhangs shall be a minimum depth of three (3) feet and a maximum of five (5) feet.
  - ii. Deep overhangs shall not exceed twelve (12) feet in height measured from the finished grade to the top of the overhang, not including the roof element.
- 5. Architectural Style.
  - a. For the purpose of defining architectural styles as set forth in this section, the reference guide shall be the most currently published version of *A Field Guide to American Houses: the Definitive Guide to Identifying and Understanding America's Domestic Architecture* by Virginia Savage McAlester or *American House Styles: A Concise Guide* by John Milnes Baker, AIA. The City may identify an alternative source or sources, provided such source is made publicly available.
  - b. Using the building design reference document identified above, projects shall identify an architectural design style and include at least four (4) features in their design consistent with the description of the selected style:
    - i. Roof type and characteristic pitch (required).
    - ii. Roof rake, eave overhang, and cornice detail.
    - iii. Wall facade symmetry or asymmetry and detail.
    - iv. Wall material and arrangement relative to roof.

- v. Window type, relative proportion, shape, and detail.
  - vi. Door type, relative proportion, shape, and detail.
  - vii. Porch type, relative proportion, shape, and detail.
6. Roof Treatments.
- a. Roof Form. Rooflines that are thirty (30) feet or longer along a street-facing property line and greater than fifty (50) linear feet for all other sides shall be articulated with at least one (1) of the following techniques:
- i. Change in the roof ridge.
  - ii. Change in the shape of the roof.
  - iii. Change in the angle of the slope.
  - iv. Change in the eave depth.
  - v. Change in detailing in the form of dormers.
  - vi. Change in the detailing in the form of skylights.

**FIGURE 18.04.040-B(6)(a): ROOF FORM AND DETAILS—RS DISTRICTS**



- b. Roof form articulation shall allow an exception where solar panels are to be provided. The applicant shall be required to provide documentation from a qualified designer or contractor citing specific building code requirements that necessitate the exception.
- c. Roof Form Detail.
  - i. Sloped roofs shall incorporate a minimum of eight (8) inch deep eaves to create shadows and add depth to facades. If a particular style based on the architectural style subsection has a roof or eave style that is different from this standard, this standard shall not apply.
  - ii. Flat roofs, when used, shall incorporate a decorative cornice consistent with the architectural style as specified in architectural style subsection and shall visually cap the building at a minimum of three (3) inches deep and twelve (12) inches tall.
- d. Rooftop Utilities and Equipment. Rooftop utilities and equipment shall be screened by a parapet or mansard roof so that such equipment is not visible from the public right-of-way.

**FIGURE 18.04.040-B(6)(d): FLAT ROOF FORM AND DETAILS—RS DISTRICTS**

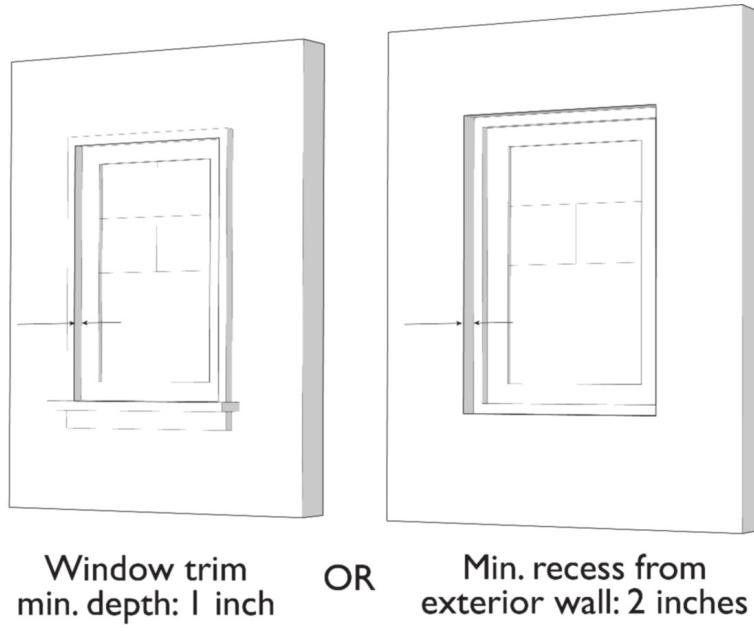


7. Windows.

a. Window Detail.

- i. Window Trim or Recess. Trim at least one (1) inch in depth must be provided around all windows, or window must be recessed at least two (2) inches from the plane of the surrounding exterior wall. For double-hung and horizontal sliding windows, at least one (1) sash shall achieve a two (2) inch recess.
- ii. Windows. Snap-in vinyl mullions between double pane glass are prohibited. If a divided light appearance is desired, mullions must be made of dimensional material projecting in front of the panes on both the inside and outside of the window. Exceptions may be granted through the design review process to accommodate alternative window design complementary to the architectural style of the structure.

**FIGURE 18.04.040-B(7): WINDOW TRIM OR RECESS—RS DISTRICTS**



8. Materials.

- a. At a minimum, at least three (3) materials or color shall be used consistently on the entire building facade and shall consist of materials appropriate to the selected architectural style (per architectural style reference guide) of the building. Roof and glazing material or color are excluded and do not count towards this requirement. The following building elements with materials and colors count towards this requirement:

- i. Main building.

- ii. Wainscoting.
- iii. Trim work.
- iv. Exterior doors.
- v. Garage doors.
- vi. Decorative elements including trellis, iron work, planter boxes, etc., each with a minimum of ten (10) square feet in surface area.

**FIGURE 18.04.040-B(8): MATERIALS—RS DISTRICTS**

- b. Where an exterior wainscoting is provided, such wainscoting shall have a minimum height of eighteen (18) inches from the finished grade. Wainscoting shall not end at the corner of the building but shall wrap around and continue at least eighteen (18) inches to provide a finished appearance.
- c. The exterior use of porous materials, foam for trims, plastic, and plywood as siding materials is prohibited.
- d. The Planning Director shall maintain a list of approved facade and trim materials, with such list accessible to the public.

#### C. Other Details.

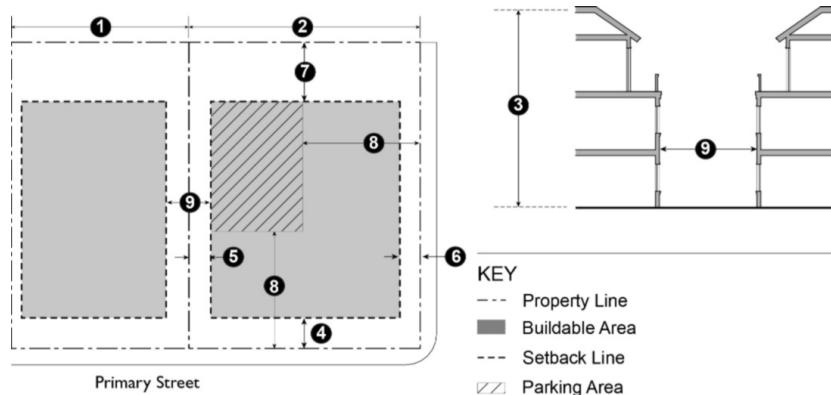
1. Landscape Design. The following standards are supplemental to the standards contained in Chapter 18.18 (Landscaping). Where conflicts exist, the stricter standard shall prevail.
  - a. Front Yard Landscaping.
    - i. Within the required front yard area, impervious surfaces shall not exceed fifty percent (50%).
    - ii. At least fifty percent (50%) of the required front yard area shall consist of landscape as specified in Chapter 18.18 (Landscaping).

**FIGURE 18.04.040-C: LANDSCAPE DESIGN—RS DISTRICTS**



- b. Front Yard Trees. The number and location of required trees shall be governed as specified in Section 18.18.070 (Trees).
2. Lighting. All exterior lighting shall comply with the provisions of Section 18.15.070 (Lighting and illumination). The following standards are supplemental to the existing standards and where conflicts exist, the stricter standard shall prevail.
- Location. Any light fixture located along the pathways shall not obstruct ADA path of travel.
  - Brightness. Shall not exceed four hundred fifty (450) lumens per light fixture (equivalent to thirty (30) watt halogen light bulb) and should not exceed five (5) foot-candles in any given spot.
  - Direction. For freestanding light fixtures, the light elements shall be screened to minimize light spillage and confine light to the site and directed away from neighbors.
    - All outdoor lighting, including in-ground-lighting and parking area lights, shall be located and directed away from windows of residential units to reduce light impact on residents. Such lighting shall be directed downward and away from adjacent residences and public right-of-way.
    - To minimize the light glare and spillage, all wall-mounted fixtures shall be oriented to an angle towards the ground. The optimal angle shall be between fifty (50) to seventy (70) degrees.
    - Bollard lighting used to light walkways and other landscape features shall cast its light downward.
  - Security Lighting. Motion-activated security lighting shall not be capable of being activated by any person(s) in the public right-of-way or on adjacent property.
3. Utilities.
- All utility screening shall comply with Section 18.15.090 (Screening).
  - Ground-level utilities and mechanical equipment directly serving the primary or secondary units shall not be located within any front yard area.
  - Public utilities equipment, where provided above ground, shall comply with the following:
    - Such equipment shall not be located within any required front setback area.
    - Such equipment shall be screened using one (1) or more of the following approaches:
      - Landscaping.
      - Raised planters' minimum height of twelve (12) inches with landscape.
      - Mesh fence for vertical vegetation.
      - Walls or fencing consistent with the overall architecture of the building. (Ord. 1603 § 3 (Exh. A), 2023; Ord. 1596 § 6 (Exh. A), 2023; Ord. 1537 (Exh. B (part)), 2018; Ord. 1438 § 4 (Exh. A (part)), 2011)

Tables 18.04.050-1 and 18.04.050-2 prescribe the development standards for RM districts. Additional regulations are denoted in a right hand column. Section numbers in this column refer to other sections of this title, while individual letters refer to subsections that directly follow the table. The numbers in each illustration below refer to corresponding regulations in the “#” column in the associated table.



**TABLE 18.04.050-1: DEVELOPMENT STANDARDS—RESIDENTIAL MULTIFAMILY DISTRICTS**

District	RM-20	RM-59	RM-100	Additional Regulations	#
<b>Lot and Density Standards</b>					
Maximum Density (units/net acre)	20	59	100		
Minimum Density (units/net acre) <sup>1</sup>	15	45	75		
Minimum Lot Size (sq. ft.)	6,000	10,000	10,000		
Minimum Lot Width (ft.)	60	100	100		1
Corner Lots	70	100	100		2
<b>Building Form and Location</b>					
Maximum Height (ft.)	35	50 (A)	60 (A)	See Section 18.15.060, Height and height exceptions	3
Maximum Stories	3	4 (B)	5 (B)		
<b>Minimum Setbacks (ft.)</b>					
Front	15 (C)	15 (C)	15 (C)		4
Interior Side	5 (A)				5
Street Side	10 (D)	10 (D)	10 (D)	See Section 18.15.080, Projections into required yards	6
Rear	15	15 (A)	15 (A)		7
Parking, from Street-Facing Property Line	40 (E)	40 (E)	40 (E)		8
Maximum Lot Coverage (Percent of Lot)	65	75	75	See Chapter 18.03, Rules of Measurement	
Maximum Floor Area Ratio (FAR)	0.75	2.0	3.0		
<b>Maximum Upper Story Massing (Percent of Ground Floor Footprint)</b>					
2nd Story	100	100	100	Not applicable on lots less than 60 feet wide	
3rd Story and Above	80	80	80		

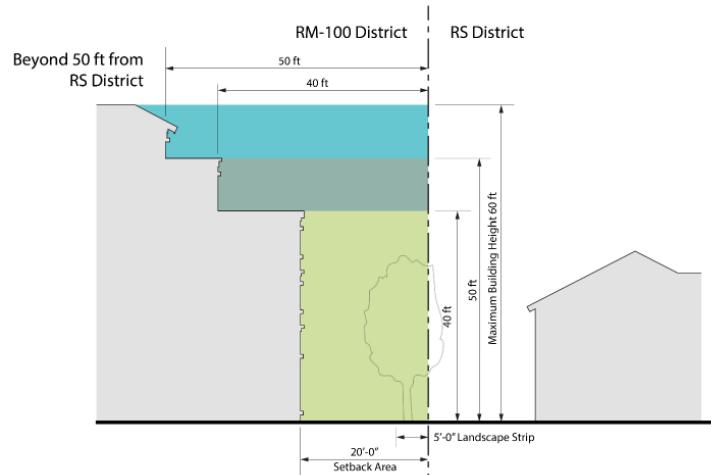
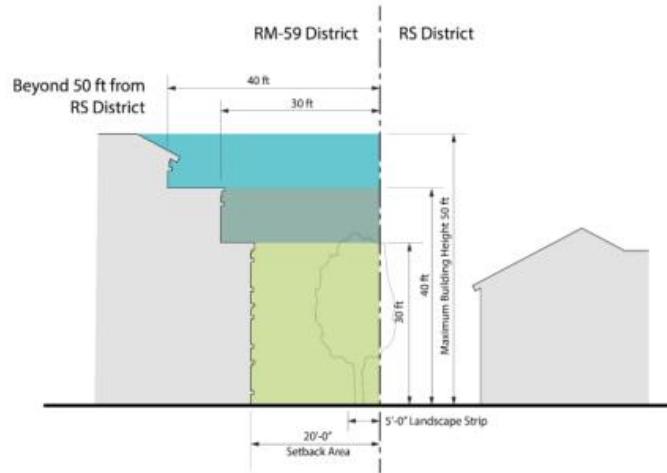
(1) Minimum densities apply to new development and construction of new projects, or when adding residential to an existing commercial use. For wholesale conversion of commercial uses to residential, minimum densities shall apply; but for small conversion of an existing single-space commercial use to residential, minimum densities shall not apply.

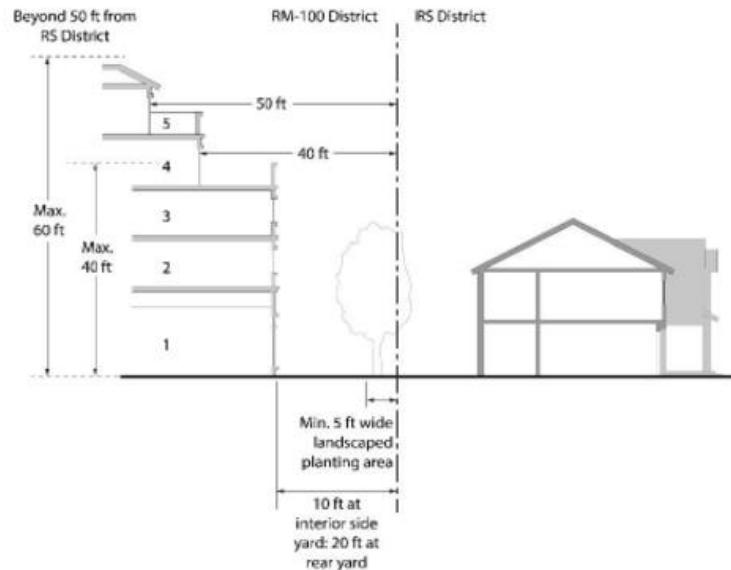
**TABLE 18.04.050-2: ADDITIONAL STANDARDS—RESIDENTIAL MULTIFAMILY DISTRICTS**

District	RM-20	RM-59	RM-100	Additional Regulations
Minimum Common and/or Private Open Space (percent of site area)	15	15	10	(F)
Minimum Amount of Landscaping (percent of site)	20	15	10	See Chapter 18.18, Landscaping
Maximum Paving in Street-Facing Yards (percent of required yard)	50	50	50	

A. Transitional Standards. Where an RM-59 or RM-100 district is adjacent to an RS district, the following standards apply:

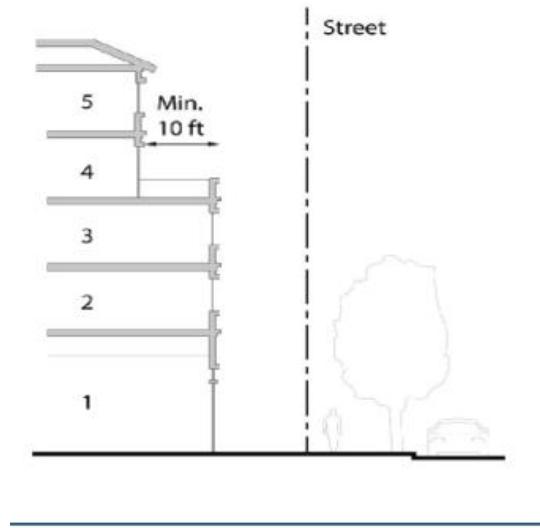
1. For the RM-100 zoning district, the maximum height within forty (40) feet of an RS district is forty (40) feet. The maximum height within fifty (50) feet of an RS district is fifty (50) feet.
2. For the RM-59 zoning district, the maximum height within forty (40) feet of an RS district is thirty (30) feet. The maximum height within fifty (50) feet of an RS district is forty (40) feet.
3. The building setback from an RS district boundary shall be ten (10) feet for interior side yards and twenty (20) feet for rear yards.
4. A landscaped planting area, a minimum of five (5) feet in width, shall be provided along all RS district boundaries. A tree screen shall be planted in this area with trees planted at a minimum interval of fifteen (15) feet.

**FIGURES 18.04.050-A: TRANSITIONAL STANDARDS—RM DISTRICTS**



B. Upper Story Stepback. The fourth and fifth story street-facing building frontages shall be stepped back a minimum of ten (10) feet from the stories below. Exceptions may be granted by the Director; provided, that an entry courtyard with a minimum depth of twenty-five (25) feet, landscaping, and seating amenities are provided on the ground level at grade; or other comparable public amenities are provided.

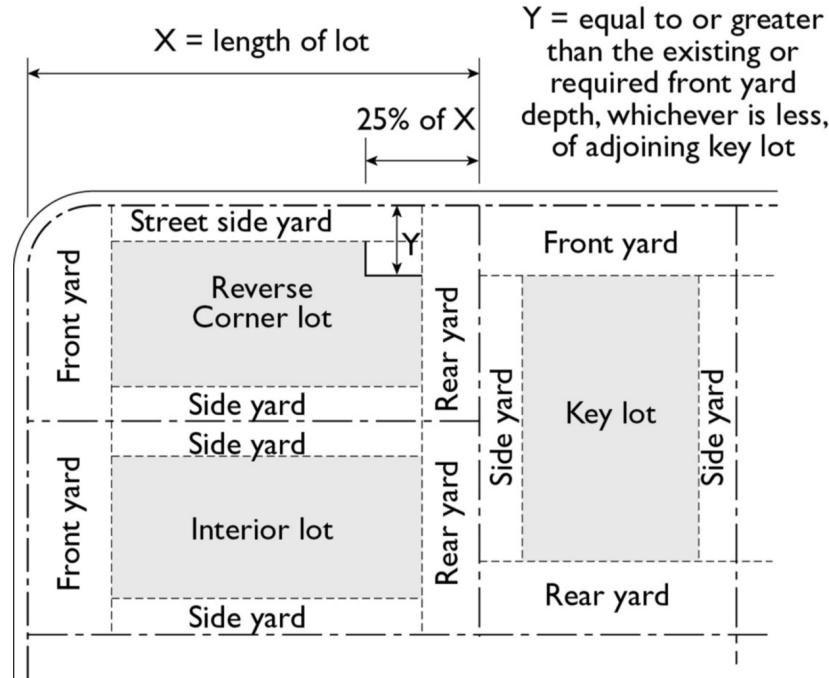
**FIGURE 18.04.050-B: UPPER STORY SETBACK**



C. Front Setback. Where seventy-five percent (75%) or more of the lots in a block, on both sides of the street, have been improved with buildings, the minimum front setback required shall be the average of improved lots or fifteen (15) feet, whichever is less.

D. Street Side Yards on Lots with Reversed Frontage. The rear one-quarter (1/4) of the exterior side yard shall not be less than the front yard required or existing on the lot adjoining such exterior side yard.

**FIGURE 18.04.050-D: STREET SIDE YARDS ON LOTS WITH REVERSED FRONTAGE—RM DISTRICTS**



E. Parking Setback. Parking may be located within forty (40) feet of the street-facing property line in accordance with the following standards:

1. Underground and Partially Submerged Parking. Parking completely or partially underground may match the setbacks of the main structure. The maximum height of a parking podium visible from a street is five (5) feet from finished grade.
2. Surface Parking. Above-ground parking may be located within forty (40) feet of a street-facing property line when the decision making authority can make all of the following findings:
  - a. The design incorporates habitable space built close to the public sidewalk to the maximum extent feasible;
  - b. The parking area is well screened with a wall, hedge, trellis, and/or landscaping; and
  - c. The site is small and constrained such that underground, partially submerged, or surface parking located more than forty (40) feet from the street frontage is not feasible.

F. Open Space. Private and common areas shall be provided in accordance with this section. Private areas typically consist of balconies, decks, patios, fenced yards, and other similar areas outside the residence. Common areas typically consist of landscaped areas, walks, patios, swimming pools, barbecue areas, playgrounds, turf, or other such improvements as are appropriate to enhance the outdoor environment of the development. Landscaped courtyard entries that are oriented towards the public street which create a welcoming entry feature are also considered common areas. All areas not improved with buildings, parking, vehicular accessways, trash enclosures, and similar items shall be developed as common areas with the types of attributes described above.

1. Usability. A surface shall be provided that allows convenient use for outdoor living and/or recreation. Such surface may be any practicable combination of lawn, garden, flagstone, wood planking, concrete, or other serviceable, dust-free surfacing. The slope shall not exceed ten percent (10%).
2. Accessibility.
  - a. Common Open Space. The space shall be accessible to the living units on the lot. It shall be served by any stairway or other accessway qualifying as an egress facility from a habitable room. (Ord. 1596 § 6 (Exh. A), 2023; Ord. 1537 (Exh. B (part)), 2018; Ord. 1480 (Exh. B (part)), 2015; Ord. 1438 § 4 (Exh. A (part)), 2011)

#### **18.04.060 Supplemental regulations—RM districts. Revised 6/23**

##### A. Building Entrances.

1. Orientation. All units located along public rights-of-way must have the primary entrance facing this right-of-way. Exceptions to this requirement may be approved for projects where multiple-family housing is located on four (4) lane

streets carrying high traffic volumes and/or streets that do not allow on-street parking. In such cases, the project may be oriented around courtyards.

2. Projection or Recess. Building entrances must have a roofed projection (such as a porch) or recess with a minimum depth of at least five (5) feet and a minimum horizontal area of fifty (50) square feet. Alternative designs that create a welcoming entry feature facing the street, such as trellis or landscaped courtyard entry, may be approved by the Director.

3. Dwelling Unit Access. Exterior entrances to units shall be in a form of individual or shared entrances at the ground floor of the building. Unit entrances above the ground floor are also permitted; however, no exterior access corridor located above the ground floor may provide access to five (5) or more units.

B. Building Design. Buildings shall include adequate design features to create visual variety and avoid a large-scale and bulky appearance.

1. Building Length. The maximum dimension of any single building shall not exceed one hundred twenty-five (125) feet.

2. Roof Line. The roof line at each elevation shall demonstrate an offset of at least eighteen (18) inches for each one (1) to three (3) units exposed on that elevation. Large, continuous roof planes are prohibited.

3. Window Trim or Recess. Trim at least one (1) inch in depth must be provided around all windows, or window must be recessed at least two (2) inches from the plane of the surrounding exterior wall. For double-hung and horizontal sliding windows, at least one (1) sash shall achieve a two (2) inch recess. Exceptions may be granted through the design review process to accommodate alternative window design complementary to the architectural style of the structure.

4. Windows. Snap-in vinyl mullions between double pane glass are prohibited. If a divided light appearance is desired, mullions must be made of dimensional material projecting in front of the panes on both the inside and outside of the window.

5. Facade Articulation. All street-facing facades shall have at least one (1) horizontal or vertical projection or recess at least four (4) feet in depth, or two (2) projections or recesses at least two and one-half (2 1/2) feet in depth, for every twenty-five (25) horizontal feet of wall. If located on a building with two (2) or more stories, the articulated elements must be greater than one (1) story in height, and may be grouped rather than evenly spaced in twenty-five (25) foot modules. Building entrances and front porches and projections into required yards such as stoops, bays, overhangs, fireplaces, and trellises may count towards meeting this requirement.

6. Facade Detailing and Materials. All visible building facades shall incorporate details, such as window and door trim, window recesses, cornices, changes in materials or other design elements, in an integrated composition. Each side of a building that is visible from a public right-of-way shall be designed with a complementary level of detailing and quality of materials.

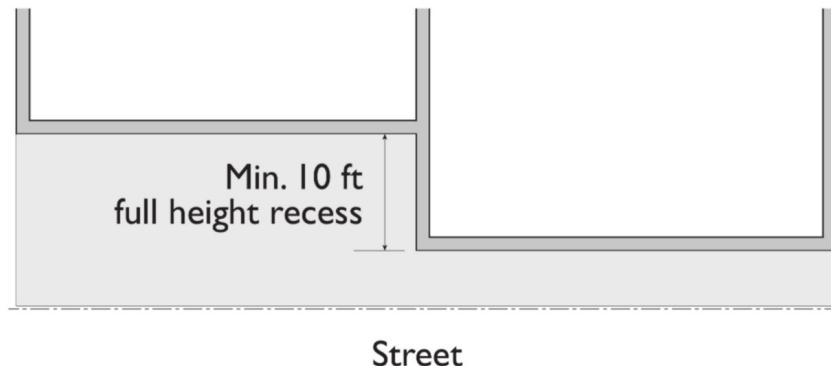
7. Building Colors. Every building shall have at least two (2) complementary colors which demonstrate a harmonious relationship.

8. Building Materials. All materials shall be high quality to allow for long-term durability and appearance. The exterior use of foam for trim and plywood, vinyl or aluminum as siding materials is prohibited.

9. Transition Areas. Where new multifamily developments are built adjacent to existing lower-scaled residential development, the facade facing the existing lower-scaled residential development shall be designed to provide architectural relief and interest, while also respecting the scale of adjacent neighbors.

a. Height. Full-height recesses, a minimum of ten (10) feet deep, shall be provided along the facade to break the building into smaller discrete masses.

**FIGURE 18.04.060-B(8)(a): MINIMUM RECESS**



- b. Window and Balcony Placement. Offset windows to avoid direct sight lines into and from neighboring properties. Position balconies and other private open space so they minimize views into neighboring properties.
- 10. Exceptions. Exceptions to the building design standards may be granted with approval of a conditional use permit based on the finding that adequate design features have been incorporated to create visual variety and avoid a large-scale, bulky, or monolithic appearance.
- C. Private Storage Space. Each unit shall have at least two hundred (200) cubic feet of enclosed, weather-proofed, and lockable private storage space with a minimum horizontal dimension of four (4) feet.
- D. Paving. Differentiated paving materials shall be used for garage aprons, entries, and pedestrian walkways. This may include, but not be limited to, textures or colors, concrete pavers, brick, or stamped concrete. The use of permeable materials to reduce runoff is strongly encouraged.
- E. Pedestrian Access. On-site pedestrian circulation and access must be provided according to the following standards:
  - 1. Internal Connections. A system of pedestrian walkways shall connect all buildings on a site to each other, to on-site automobile and bicycle parking areas, and to any on-site open space areas or pedestrian amenities.
  - 2. To Circulation Network. Regular connections between on-site walkways and the public sidewalk and other planned or existing pedestrian routes, such as safe routes to school, shall be provided. An on-site walkway shall connect the primary building entry or entries to a public sidewalk on each street frontage.
  - 3. To Neighbors. Direct and convenient access shall be provided to adjoining residential and commercial areas to the maximum extent feasible while still providing for safety and security.
  - 4. To Transit. Safe and convenient pedestrian connections shall be provided from transit stops to building entrances.
  - 5. Pedestrian Walkway Design.
    - a. Walkways shall be a minimum of five (5) feet wide, shall be hard-surfaced, and paved with concrete, stone, tile, brick, or comparable material.
    - b. Where a required walkway crosses driveways, parking areas, or loading areas, it must be clearly identifiable through the use of a raised crosswalk, a different paving material, or similar method.
    - c. Where a required walkway is parallel and adjacent to an auto travel lane, it must be raised or separated from the auto travel lane by a raised curb at least four (4) inches high, bollards, or other physical barrier. (Ord. 1596 § 6 (Exh. A), 2023; Ord. 1537 (Exh. B (part)), 2018: Ord. 1480 (Exh. B (part)), 2015; Ord. 1438 § 4 (Exh. A (part)), 2011)

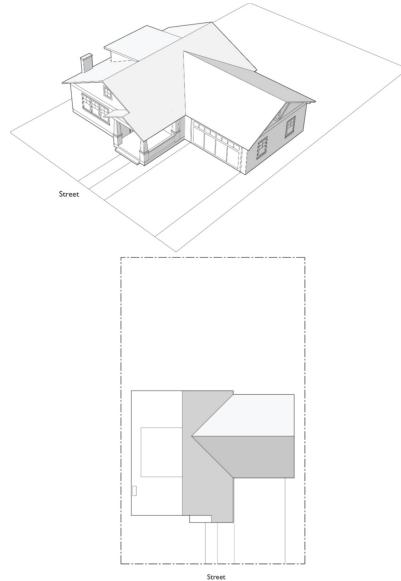
\* Code reviser's note: Ord. 1480 added subsection (B)(3a) of this section as subsection (B)(3). It has been editorially renumbered to avoid duplication.

#### **18.04.070 Residential development types. Revised 6/23 Revised 1/24**

This section prescribes development and supplemental standards specific to each development type allowed within the residential districts. Sections 18.04.080 through 18.04.100 prescribe development and objective standards specific to the following development types allowed within the RS residential districts: duplexes, townhomes, and small-lot subdivisions.

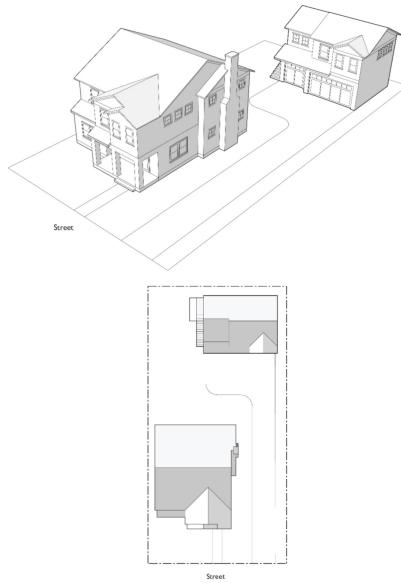
A. Single-Unit Dwellings. Single-unit dwellings are subject to the development standards and objective standards of the RS district, Sections 18.04.030, Development standards—RS districts, and 18.04.040, Objective design standards for RS districts. The figures in this subsection illustrate RS district development standards and what resulting single-unit development might look like.

**FIGURE 18.04.070-A: RESIDENTIAL TYPES—SINGLE-UNIT**



B. Accessory Dwelling Units. Accessory dwelling units are subject to the development standards and objective standards of the RS district, Sections 18.04.030, Development standards—RS districts, 18.04.040, Objective design standards for RS districts, and 18.23.210, Accessory dwelling units/junior accessory dwelling units. The figures in this subsection illustrate accessory dwelling unit development standards and what resulting accessory dwelling unit development might look like.

**FIGURE 18.04.070-B: RESIDENTIAL TYPES—ACCESSORY DWELLING UNITS**



C. Small Lot Single-Unit Development. Small lot single-unit development is subject to the development standards and objective standards of the base district unless modified by Table 18.04.100-G. The figures in this subsection illustrate small lot single-unit development standards and what resulting development might look like.

D. Townhouse Development. Townhouse development is subject to the development standards and objective standards of the base district unless modified by Table 18.04.090-A. The figures in this subsection illustrate townhouse development standards and what resulting development might look like.

E. Duplex Development. Duplex development is subject to the development standards and objective standards of the base district unless modified by Section 18.04.080, Duplex standards. The figures in this subsection illustrate townhouse

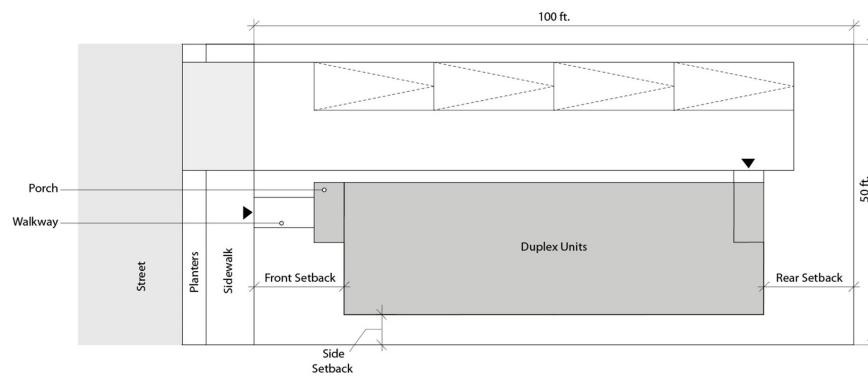
development standards and what resulting development might look like.

F. Urban Infill Units. Urban infill unit development is subject to the development standards and objective standards specified in Sections 18.23.310, Urban infill units, 18.04.030, Development standards—RS districts, 18.04.040, Objective design standards for RS districts, and 18.04.080, Duplex standards. (Ord. 1603 § 3 (Exh. A), 2023; Ord. 1596 § 6 (Exh. A), 2023; Ord. 1566 (Exh. B (part)), 2020; Ord. 1537 (Exh. B (part)), 2018; Ord. 1480 (Exh. B (part)), 2015; Ord. 1438 § 4 (Exh. A (part)), 2011)

#### **18.04.080 Duplex standards. Revised 1/24**

Duplexes are subject to the development standards of the RS districts, specifically Section 18.04.030, Development standards—RS districts, unless modified by the standards specific to duplexes contained in this section. In the event of a conflict between the general standards for the RS districts and the standards specific to duplexes contained in this section, the standards in this section shall prevail.

**FIGURE 18.04.080: TYPES—DUPLEX DEVELOPMENT**



A. Overall Approach. The building design for duplexes shall be treated as a single building with unified massing and articulation to give the appearance of a single-unit development.

B. Building Height Within the Front and Rear Fifteen (15) Feet of the Building. The maximum height shall be measured as indicated in Section 18.03.050 (Measuring height), with no more than twenty-eight (28) feet to the highest point of the roof structure from the lowest finished grade. For buildings located in the Hillside Overlay Zoning District, refer to Chapter 18.12 (Hillside Overlay District).

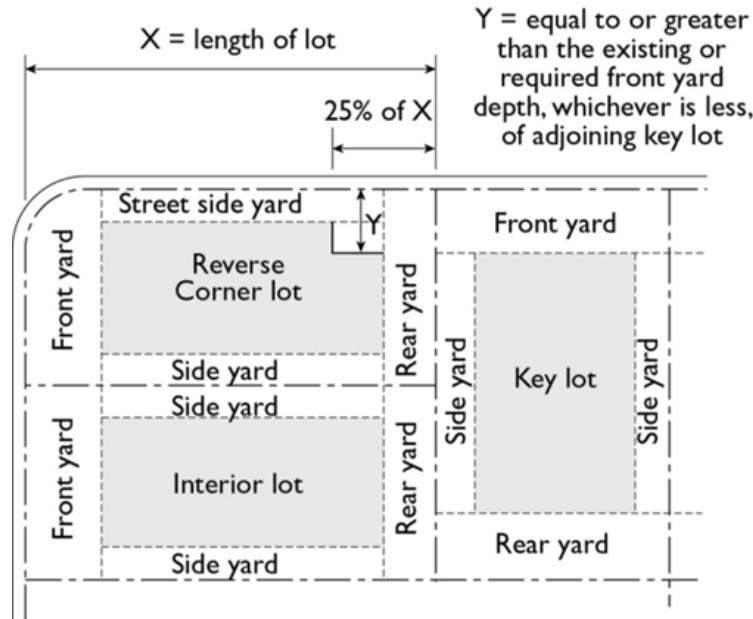
C. Side Setback Exception. For lots less than fifty (50) feet in width, the minimum ground-floor side setback shall be a minimum of ten percent (10%) of the lot width or three (3) feet, whichever is greater.

D. Upper Story Alignment.

1. The upper story may align with the lower story at the required lower story five (5) foot setback up to thirty percent (30%) of the length of the lower story. The maximum thirty percent (30%) projection shall be measured from the rear wall of the lower story. Any window located on the projecting portion of the building shall be either a clerestory window or shall be glazed, tinted, etched, frosted, or treated in any similar manner that limits views into and from the window.
2. Where the ground floor is set back at least seven (7) feet from the property line, the upper story may align with the lower story for the entire length of the building.

E. Street Side Setbacks on Lots With Reversed Frontage. The exterior side setback in the rear twenty-five percent (25%) of a reversed corner lot shall not be less than the front yard required or existing, whichever is less, on the adjoining key lot.

**FIGURE 18.04.080-E: STREET SIDE SETBACKS ON LOTS WITH REVERSED FRONTAGE—DUPLEX DEVELOPMENT**



## F. Objective Design Standards for Duplexes.

### 1. Site Planning.

#### a. Entry Location and Street Connectivity.

i. **Entry Location.** The principal entry to ground-floor, street-facing duplex units shall be located and oriented to face the adjacent public or private street.

(A) **Street Connectivity.** A separate walkway measuring minimum thirty-six (36) inches in width shall be provided to each ground-floor, street-facing duplex unit.

(B) The driveway shall not serve as the primary walkway to the building entry.

(C) The primary walkway shall be differentiated from the driveway with the use of paving materials. Differentiated paving materials may include but are not limited to pavers, stepping stones, flagstones, or gravel.

#### b. Parking and Driveways.

i. **Parking/Garage Access.** Parking spaces shall be provided as required by Chapter 18.20 (Parking and Loading).

##### ii. Driveways.

(A) Driveway approaches (curb cuts) shall be permitted only to provide access to approved garages, carports, and parking spaces.

(B) Curb cuts are permitted pursuant to Chapter 12.04 (Sidewalk and Driveway Approach Construction and Repair).

(C) Driveways up to twenty (20) feet wide are permitted to serve the primary unit. The minimum width of any driveway shall be ten (10) feet.

(D) Tandem parking configurations are permitted when only a single-car garage is proposed or existing. The driveway shall be a maximum of ten (10) feet wide and a maximum of thirty-eight (38) feet in length.

(E) Driveways abutting a side property line shall include a minimum three (3) foot wide pervious surface edge treatment along that abutting property line.

(F) Driveways must be distinguished from any front yard paving with a use of different color or material than the adjacent material in the front yard area.

- (G) Driveways on corner lots shall be located at least twenty (20) feet from the property lines at the intersection corner.
- (H) Driveways that provide access to the side or back of the building shall comply with current Building Division and Fire Department standards in adopted standards manuals.
- c. Garage Frontage.
- i. Where a garage is located on the front half of the lot and the garage door faces a street, the garage frontage, including the door width, shall not exceed fifty percent (50%) of the width of the front facade of the building.
  - ii. Garage doors facing the street shall have articulating elements consisting of at least one (1) of the following design elements on the facade:
    - (A) An overhang of at least eighteen (18) inches in depth.
    - (B) Windows.
    - (C) Have the garage door use colors or materials that are in the same color family as those of the primary building facade.
    - (D) Decorative trellis.
  - iii. The garage door shall not be more than twenty (20) feet wide.
  - iv. Side-loaded garages may be used to diminish the impact of garages along the street frontage. The use of at least one (1) of the following design elements is required to avoid the blank wall of the garage:
    - (A) Landscaping with a mature height of at least twenty-four (24) inches.
    - (B) Raised planters with a minimum height of twelve (12) inches and landscaping with a mature height of at least twelve (12) inches.
    - (C) Windows.
    - (D) Decorative trellis.

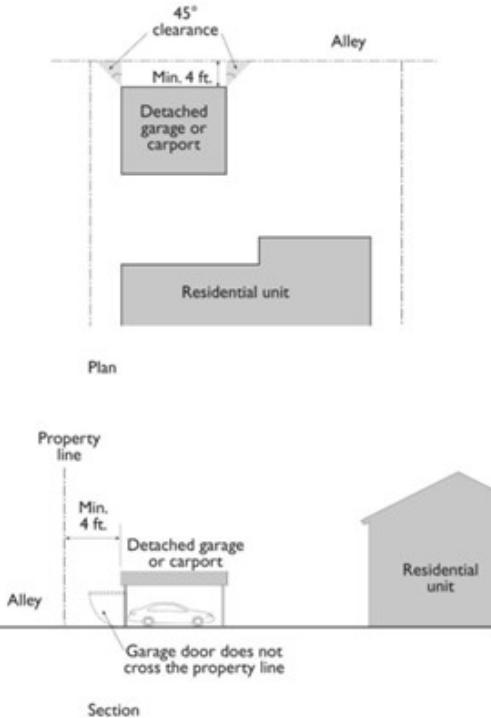
(E) Material change relative to materials used for the building.

v Detached Garages. Detached garages shall have a minimum setback of three (3) feet from a property line and four (4) feet from an alley.

d. Alley Access. A detached garage or carport is permitted to have access to the alley if all following conditions are achieved:

- i. The garage or carport entrance shall be set back a minimum of four (4) feet from the alley;
- ii. A forty-five (45) degree visibility triangle shall be provided on either side of the garage or carport; and
- iii. The garage door shall not cross the property line when opening or closing.

**FIGURE 18.04.080-F: ALLEY ACCESS—DUPLEX DEVELOPMENT**



#### G. Building Design.

1. **Massing.** The purpose of regulating building mass is to ensure a building fits well on a site, respects the scale of the neighborhood, and avoids bulky appearance. Building walls and the massing of the duplex structure shall not run in a continuous plane of more than twenty-five (25) feet without one (1) or more of the following treatments:
  - a. Incorporate a change in wall plane with a minimum of four (4) feet in depth for the facade.
  - b. Provide a recessed entry of at least three (3) feet in depth.
  - c. Provide a protruding window (such as a bay window) of at least two (2) feet in depth.
  - d. Use at least two (2) distinct materials and colors on each facade (see subsection (H)(8) of this section, Materials).
  - e. Provide an upper story balcony in the front step back area.
2. **Articulation.** The purpose of regulating articulation is to avoid flat, blank walls that may result from the massing requirements as specified within the building design subsection and to create a visual interest to enhance the character of the neighborhood. The following regulations apply:
  - a. **Facades.** All facades on every floor shall not run in a continuous plane of more than fifteen (15) feet without one (1) of the following treatments included on the facade at every building story:
    - i. Window.
    - ii. Entry door (ground-floor only).
    - iii. Change in material (see subsection (H)(8) of this section, Materials).
    - iv. Decorative shutters.
    - v. Trellis.
  - b. **Balconies.**
    - i. Usable balconies shall not be located on any facade facing a side yard. Juliette/French balconies may be used as an accent feature on side yard facades, provided such balconies have a projection of no more than eighteen (18) inches.

- ii. Projected and/or recessed balconies shall be at least four (4) feet deep and six (6) feet wide.
  - iii. Projected and/or recessed balconies located on rear facades shall not be located within fifteen (15) feet from any interior side property line.
  - iv. Projected and/or recessed balconies shall incorporate screening features that obstruct views into neighboring yards. Screening may be accomplished by architectural methods or by providing landscape screening along side-yard property lines. If landscape screening is provided without supporting elements, it shall comprise woody shrubs or trees that are at least fifteen (15) feet in height at installation and that will be less than eight (8) feet wide at maturity.
  - v. Projected balconies located on rear facades shall not encroach more than five (5) feet into the required rear setback.
3. Entryways. All ground-floor, street-facing units shall have an entryway defined by at least one (1) of the following elements:
- a. Porch.
  - b. Recessed entry.
  - c. Deep overhang.
  - d. Stoops.
4. Entryway Treatments. Entryways shall be a characteristic component of the selected architectural style. The following standards shall apply to the selected treatment unless otherwise specified in the reference guide:
- a. Porch Design.
    - i. The front porch facing the street shall be part of the primary entrance and connected to the front yard.
    - ii. Porches shall have a minimum depth of three (3) feet for up to thirty (30) square feet.
    - iii. Porches facing the street shall not encroach more than five (5) feet into the front setback.
    - iv. Porches facing the street shall not exceed ten (10) feet in height, as measured from the finished grade to the bottom of the eave, not including the roof element.
  - b. Recessed Entry.
    - i. Recessed entries facing the street shall be recessed at least three (3) feet from the building facade to create a covered landing area and to provide orientation toward the street.
    - ii. Recessed entries facing the street shall not exceed twelve (12) feet in height, not including the roof element.
  - c. Deep Overhang.
    - i. Deep overhangs facing the street shall be a minimum depth of three (3) feet and a maximum of five (5) feet.
    - ii. Deep overhangs facing the street shall not exceed twelve (12) feet in height, as measured from the finished grade to the top of the overhang, not including the roof element.
  - d. Stoops.
    - i. A stoop may be provided to each unit's primary entrance or as a common entrance for both units.
    - ii. The stoop shall be of a minimum height of eighteen (18) inches.
5. Architectural Style.
- a. For the purpose of defining architectural styles as set forth in this section, the reference guide shall be the most currently published version of A Field Guide to American Houses: the Definitive Guide to Identifying and Understanding America's Domestic Architecture by Virginia Savage McAlester or American House Styles: A Concise

Guide by John Milnes Baker, AIA. The City may identify an alternative source or sources, provided such source is made publicly available.

b. Using the building design reference document identified above, projects shall identify an architectural design style and include at least four (4) features in their design consistent with the description of the selected style:

- i. Roof type and characteristic pitch (required).
- ii. Roof rake, eave overhang, and cornice detail.
- iii. Wall facade symmetry or asymmetry and detail.
- iv. Wall material and arrangement relative to roof.
- v. Window type, relative proportion, shape, and detail.
- vi. Door type, relative proportion, shape, and detail.
- vii. Porch type, relative proportion, shape, and detail.

c. Both duplex units shall have a consistent architectural style.

6. Roof Treatments.

a. Roof Form. Rooflines that are thirty (30) feet or longer along a street-facing property line and greater than fifty (50) linear feet for all other sides shall be articulated with at least one (1) of the following techniques:

- i. Change in the roof ridge.
- ii. Change in the shape of the roof.
- iii. Change in the angle of the slope.
- iv. Change in the eave depth.
- v. Change in detailing in the form of dormers.
- vi. Change in the detailing in the form of skylights.

b. Roof form articulation shall allow an exception where solar panels are to be provided. The applicant shall be required to provide documentation from a qualified designer or contractor citing specific building code requirements that necessitate the exception.

c. Roof Form Detail.

- i. Sloped roofs shall incorporate a minimum of eight (8) inch deep eaves to create shadows and add depth to facades. If a particular style based on the architectural style subsection has a roof or eave style that is different from this standard, this standard shall not apply.
- ii. Flat roofs, when used, shall incorporate a decorative cornice consistent with the architectural style selected, as specified in the cited reference book, and shall visually cap the building at a minimum of three (3) inches deep and twelve (12) inches tall.

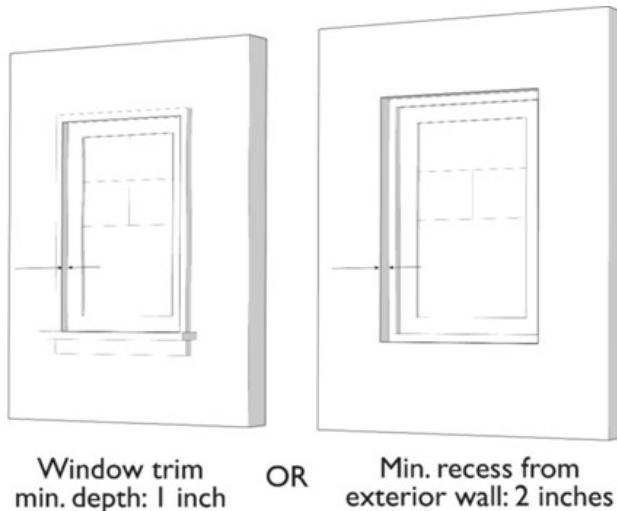
d. Rooftop Utilities and Equipment. Rooftop utilities and equipment shall be screened by a parapet or mansard roof so that such equipment is not visible from the public right-of-way.

7. Windows.

a. Window Detail.

- i. Window Trim or Recess. Trim at least one (1) inch in depth must be provided around all windows, or window must be recessed at least two (2) inches from the plane of the surrounding exterior wall. For double-hung and horizontal sliding windows, at least one (1) sash shall achieve a two (2) inch recess.

**FIGURE 18.04.080-G: WINDOW DETAIL—DUPLEX DEVELOPMENT**



- ii. Windows. Snap-in vinyl mullions between double pane glass are prohibited. If a divided light appearance is desired, mullions must be made of dimensional material projecting in front of the panes on both the inside and outside of the window.

#### 8. Materials.

- a. At a minimum, at least three (3) materials or colors shall be used consistently on the entire building facade and shall consist of materials appropriate to the selected architectural style (per architectural style reference guide) of the building. Roof and glazing material or color are excluded and do not count towards this requirement. The following building elements with materials and colors count towards this requirement:
  - i. Main building.
  - ii. Wainscoting.
  - iii. Trim work.
  - iv. Exterior doors.
  - v. Garage doors.
  - vi. Decorative elements including trellis, iron work, planter boxes, etc., each with a minimum of ten (10) square feet in surface area.
- b. Where an exterior wainscoting is provided, such wainscoting shall have a minimum height of eighteen (18) inches from the finished grade. Wainscoting shall not end at the corner of the building but shall wrap around and continue at least eighteen (18) inches to provide a finished appearance.
- c. The exterior use of porous materials, foam for trims, plastic, and plywood as siding materials is prohibited.
- d. The Planning Director shall maintain a list of approved facade and trim materials, with such a list accessible to the public.

#### H. Other Details.

- 1. Landscape Design. The following standards are supplemental to the standards contained in Chapter 18.18 (Landscaping). Where conflicts exist, the stricter standard shall prevail.
  - a. Front Yard Landscaping.
    - i. Within the required front yard area, impermeable surfaces shall not exceed fifty percent (50%).
    - ii. At least fifty percent (50%) of the required front yard area shall consist of landscape as specified in Chapter 18.18 (Landscaping).

- b. Front Yard Trees. The number of required trees shall be governed as specified in Section 18.18.070 (Trees).
- 2. Lighting. All exterior lighting shall comply with the provisions of Section 18.15.070 (Lighting and illumination). The following standards are supplemental to the existing standards and where conflicts exist, the stricter standard shall prevail.
  - a. Location. Any light fixture located along the pathways shall not obstruct ADA path of travel.
  - b. Brightness. Shall not exceed four hundred fifty (450) lumens per light fixture (equivalent to thirty (30) watt halogen light bulb) and should not exceed five (5) foot-candles in any given spot.
  - c. Direction. When using free standing light fixtures, the light elements shall be screened to minimize light spillage and confine light to site and directed away from neighbors.
    - i. All outdoor lighting, including in-ground lighting and parking area lights, shall be located and directed away from windows of residential units to reduce light impact on residents. All such lighting shall be directed downward and away from adjacent residences and public rights-of-way.
    - ii. To minimize the light glare and spillage all wall-mounted fixtures shall be oriented to an angle towards the ground. The optimal angle shall be between fifty (50) to seventy (70) degrees.
    - iii. Bollard lighting used to light walkways and other landscape features shall cast its light downward.
  - d. Security Lighting. Motion-activated security lighting shall not be capable of being activated by any person(s) in the public right-of-way or on adjacent property.
- 3. Utilities.
  - a. All utility screening shall comply with Section 18.15.090 (General site regulations).
  - b. Ground-level utilities and mechanical equipment directly serving the primary or secondary units shall not be located within any front yard area.
  - c. Public utilities equipment, where provided above ground, shall comply with the following:
    - i. Such equipment shall not be located within any required front setback area.
    - ii. Such equipment shall be screened using one (1) or more of the following approaches:
      - (A) Landscaping.
      - (B) Raised planters' minimum height of twelve (12) inches with landscape.
      - (C) Mesh fence for vertical vegetation.
      - (D) Walls or fencing consistent with the overall architecture of the building. (Ord. 1603 § 3 (Exh. A), 2023)

**18.04.090 Townhouse development. Revised 1/24**

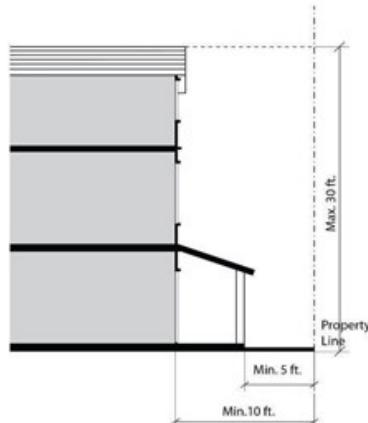
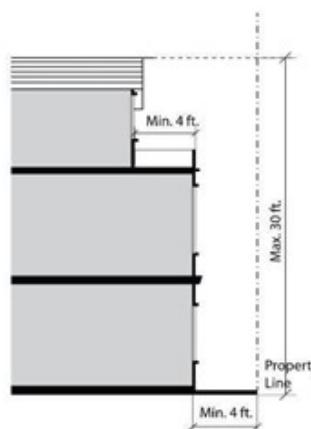
- A. Townhouse development shall be subject to the development standards and objective design standards of the base district unless modified by Table 18.04.090-A.

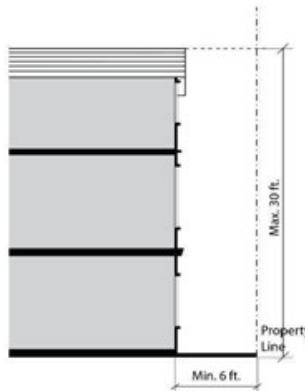
**FIGURE 18.04.090: TOWNHOUSE DEVELOPMENT**

**TABLE 18.04.090-A: DEVELOPMENT STANDARDS—TOWNHOUSE**

Standard	Townhouse
<b>Site Standards</b>	
Minimum Project Site Width	80 ft.
Maximum Project Site Floor Area Ratio (FAR)	1.0 FAR
Maximum Project Site Lot Coverage (percent of site)	35%
<b>Building Height and Form</b>	
Building Height—Maximum	30 feet; see also Chapter 18.12 (Hillside Overlay District)
Building Length—Maximum	125 feet
<b>Setbacks (Minimums)</b>	
<b>Individual Lot</b>	
Front	10 ft. 5 ft. for porch
Side (apply to the end of rows of attached units)	1-story and 2-story portion: 4 ft. 3-story portions: 8 ft. Alternate—6 ft. setback with no stepbacks
Rear	15 ft.; 4 ft. for detached garage on alley
Building Separation of Detached Units	As required by Building and Fire Codes
<b>Parking and Access</b>	
Garage Door Width—Maximum	20 feet for garage facing the street
Access Location	Alley or side street where such is provided. For developments with no alley or side street, a single drive aisle of up to 10 feet width may provide access to garages.
<b>Building Orientation</b>	
Orientation	Facades shall be designed to orient towards the adjacent public street.
Entrance Location	The main entrance to each ground floor dwelling shall be visible to and located directly from the street.
<b>Usable Open Space</b>	
Minimum Common and/or Private Open Space (percent of site)	15%
<b>Minimum Horizontal Dimensions</b>	
Ground Floor, Common	20 ft.

Standard	Townhouse
Ground Floor, Private	10 ft.
Balcony (ft.)	The standards for the RS districts shall apply.
Additional Standards	
Minimum Amount of Landscaping in the front yard (percent of site)	50%
Enclosed Personal Storage—Minimum required per unit	80 cu. ft. To be located in individual garage units, provided a clear area of at least 400 sq. ft. is provided for the parking of vehicles. Alternatively, may be located in a central location or locations serving all units in the development.

**FIGURE 18.04.090-A: FRONT SETBACK****FIGURE 18.04.090-A: SIDE SETBACK—4 ft.****FIGURE 18.04.090-A: SIDE SETBACK—6 ft.**



B. Building Height Within the Front and Rear Fifteen (15) Feet of the Building. The maximum height shall be measured as indicated in Section 18.03.050 (Measuring height), with no more than twenty-eight (28) feet to the highest point of the roof structure from the lowest finished grade. For buildings located in the Hillside Overlay Zoning District, refer to Chapter 18.12 (Hillside Overlay District).

C. Story Alignment.

1. The third story may align with the lower story at the required lower story four (4) foot setback up to thirty percent (30%) of the length of the lower story. The maximum thirty percent (30%) projection shall be measured from the rear wall of the lower story. Any window located on the projecting portion of the building shall be either a clerestory window or shall be glazed, tinted, etched, frosted, or treated in any similar manner that limits views into and from the window.
2. Where the ground floor is set back at least six (6) feet from the property line, the third story may align with the lower stories for the entire length of the building.

D. Objective Design Standards for Townhouse Developments.

1. Site Planning—Entry Location and Street Connectivity.
  - a. Entry Location.
    - i. Street-fronting townhouses shall be designed to orient to the adjacent public street.
    - ii. The main entrance to each street fronting townhouse unit shall be visible to and located directly off a street.
    - iii. Entrances to non-street fronting townhouse units shall be provided directly off a driveway, common courtyard, or common open space.
  - b. Street Connectivity.
    - i. A separate walkway measuring minimum thirty-six (36) inches in width shall be provided to the street fronting townhouses from the sidewalk to the primary entry.
      - ii. The driveway shall not serve as the primary walkway to the building entry.
      - iii. The primary walkway shall be differentiated from the driveway with the use of paving materials. Differentiated paving materials may include but are not limited to pavers, stepping stones, flagstones, or gravel.
  2. Site Planning—Parking and Driveways.
    - a. Parking/Garage Access. Parking spaces shall be provided as required by Chapter 18.20 (Parking and Loading).
    - b. Driveways.
      - i. Driveway approaches (curb cuts) shall be permitted only to provide access to approved garages, carports, and parking spaces.

- ii. Curb cuts are permitted pursuant to Chapter 12.04 (Sidewalk and Driveway Approach Construction and Repair).
- iii. Driveways up to twenty (20) feet wide are permitted to serve the primary unit.
- iv. Tandem parking configurations are permitted when only a single-car garage is proposed or existing. The driveway shall be a maximum of ten (10) feet wide and a maximum of thirty-eight (38) feet in length.
- v. Driveways abutting a side property line shall include a minimum three (3) foot wide pervious surface edge treatment along that abutting property line.
- vi. Driveways must be distinguished from any front yard paving with a use of different color or material than the adjacent material in the front yard area.
- vii. Driveways on corner lots shall be located at least twenty (20) feet from the property lines at the intersection corner.
- viii. Driveways that provide access to the side or back of the building shall comply with current Building Division and Fire Department standards in adopted standards manuals.

### 3. Site Planning—Garage Frontage.

- a. Where a garage is located on the front half of the lot and the garage door faces a street, the garage frontage, including the door width, shall not exceed fifty percent (50%) of the width of the front facade of the building.
- b. Garage doors facing the street shall have articulating elements consisting of at least one (1) of the following design elements on the facade:
  - i. An overhang of at least eighteen (18) inches in depth.
  - ii. Windows.
  - iii. Have the garage door use colors or materials that are in the same color family as those of the primary building facade.
  - iv. Decorative trellis.
- c. The garage door shall not be more than twenty (20) feet wide.
- d. Side-loaded garages may be used to diminish the impact of garages along the street frontage. The use of at least one (1) of the following design elements is required to avoid the blank wall of the garage:
  - i. Landscaping with a mature height of at least twenty-four (24) inches.
  - ii. Raised planters with a minimum height of twelve (12) inches and landscaping with a mature height of at least twelve (12) inches.
  - iii. Windows.
  - iv. Decorative trellis.
- v. Material change relative to materials used for the building.

### 4. Building Design—Massing. The purpose of regulating building mass is to ensure a building fits well on a site, respects the scale of the neighborhood, and avoids bulky appearance. Building walls and the massing of the structure shall not run in a continuous plane of more than twenty-five (25) feet without one (1) or more of the following treatments:

- a. Incorporate a change in wall plane with a minimum of four (4) feet in depth for the facade.
- b. Provide a recessed entry of at least three (3) feet in depth.
- c. Provide a protruding window (such as a bay window) of at least two (2) feet in depth.

- d. Use at least two (2) distinct materials and colors on each facade (see subsection (D)(5)(j) of this section, Materials).
  - e. Provide an upper story balcony, where allowed, in the front stepback area.
5. Building Design—Articulation. The purpose of regulating articulation is to avoid flat, blank walls that may result from massing requirements as indicated within the building design subsection and to create a visual interest to enhance the character of the neighborhood. The following regulations apply:
- a. All facades on every floor shall not run in a continuous plane of more than ten (10) feet without one (1) of the following treatments included on the facade at every building story:
    - i. Window.
    - ii. Entry door (ground-floor only).
    - iii. Change in material (see subsection (D)(5)(j) of this section, Materials).
    - iv. Decorative shutters.
    - v. Trellis.
  - b. Townhouse developments shall be designed and constructed so that each individual residential unit is clearly distinguishable as a distinct living unit. This shall be accomplished by using two (2) or more of the following approaches:
    - i. A change in the front facade wall plane to a minimum depth of two (2) feet for each unit, if three (3) or more units are combined.
    - ii. Use of colors and building materials that are different from but complementary to those used on each attached unit on either side.
    - iii. A change in roof pitch for individual units.
    - iv. A change in door color and/or door materials relative to each attached unit on either side.
    - v. Use of front door overhangs that vary from unit to unit.
    - vi. Use of stoop materials that are different than those used on each attached unit on either side.

**FIGURE 18.04.090-D(5)(b): BUILDING DESIGN—**



**TOWNHOUSE DEVELOPMENT**

- c. Side and rear facades shall have windows and facade treatments that match those on the front facade of that unit.
- d. Balconies.

- i. Usable balconies shall not be located on any facade facing a side yard. Juliette/French balconies may be used as an accent feature on side yard facades, provided such balconies have a projection of no more than eighteen (18) inches.
- ii. Usable balconies shall not be provided on the third story.
- iii. Balconies can be proposed in the front facing the street or in the rear setback area. Balconies can encroach into the setback area to a maximum of four (4) feet.
- iv. Projected and/or recessed balconies shall be at least four (4) feet of depth and six (6) feet of length.
- v. Projected and/or recessed balconies located on rear facades shall not be located within fifteen (15) feet from any interior side property line.
- vi. Projected and/or recessed balconies shall incorporate screening features that obstruct views into neighboring yards. Screening may be accomplished by architectural methods or by providing landscape screening along side-yard property lines. If landscape screening is provided without supporting elements, it shall comprise woody shrubs or trees that are at least fifteen (15) feet in height at installation and that will be less than eight (8) feet wide at maturity.
- vii. Patios on the ground floor facing the side yard are allowed and shall be screened from neighboring units. These balconies/patios spaces may count towards private open space requirement.

e. Entryways. All townhouse development units shall have an entryway facing the street defined by at least one (1) of the following elements unless otherwise specified in the reference guide:

- i. Porch.
- ii. Recessed entry.
- iii. Deep overhang.
- iv. Elevated stoop.

**FIGURE 18.04.090-D(5)(e): BUILDING DESIGN—ENTRYWAYS—TOWNHOUSE DEVELOPMENT**



- f. Entryway Treatments. Entryways shall be a characteristic component of the selected architectural style unless otherwise specified in the reference guide. The following standards shall apply.
  - i. Porch Design.
    - (A) The front porch facing the street shall be part of the primary entrance and connected to the front yard.
    - (B) Porches facing the street shall have a minimum depth of three (3) feet for up to thirty (30) square feet.

- (C) Porches facing the street shall not encroach more than three (3) feet into the front setback.
- (D) Porches facing the street shall not exceed ten (10) feet in height measured from the finished grade to the bottom of the eave, not including the roof element.
- ii. Recessed Entry.
- (A) Recessed entries facing the street shall be recessed at least three (3) feet from the building facade to create a covered landing area and to provide orientation toward the street.
- (B) Recessed entries facing the street shall not exceed twelve (12) feet in height, not including the roof element.
- iii. Deep Overhang.
- (A) Deep overhangs facing the street shall be a minimum depth of three (3) feet and a maximum of five (5) feet.
- (B) Deep overhangs facing the street shall not exceed twelve (12) feet in height measured from the finished grade to the top of the overhang, not including the roof element.
- iv. Stoops.
- (A) Individual stoops shall be provided for each unit.
- (B) The stoop shall have a minimum height of two (2) feet.
- g. Architectural Style.
- i. For the purpose of defining architectural styles as set forth in this section, the reference guide shall be the most currently published version of A Field Guide to American Houses: the Definitive Guide to Identifying and Understanding America's Domestic Architecture by Virginia Savage McAlester or American House Styles: A Concise Guide by John Milnes Baker, AIA. The City may identify an alternative source or sources, provided such source is made publicly available.
- ii. Using the building design reference document identified above, projects shall identify an architectural design style and include at least four (4) features in their design consistent with the description of the selected style:
- (A) Roof type and characteristic pitch (required).
- (B) Roof rake, eave overhang, and cornice detail.
- (C) Wall facade symmetry or asymmetry and detail.
- (D) Wall material and arrangement relative to roof.
- (E) Window type, relative proportion, shape, and detail.
- (F) Door type, relative proportion, shape, and detail.
- (G) Porch type, relative proportion, shape, and detail.
- iii. All attached townhome units shall have a consistent architectural style.
- h. Roof Treatments.
- i. Roof Form. Rooflines that are thirty (30) feet or longer along a street-facing property line and greater than fifty (50) linear feet for all other sides shall be articulated with at least one (1) of the following techniques:
- (A) Change in the roof ridge.
- (B) Change in the shape of the roof.
- (C) Change in the angle of the slope.
- (D) Change in the eave depth.

(E) Change in detailing in the form of dormers.

(F) Change in the detailing in the form of skylights.

ii. Roof form articulation shall allow an exception where solar panels are to be provided. The applicant shall be required to provide documentation from a qualified designer or contractor citing specific building code requirements that necessitate the exception.

iii. Roof Form Detail.

(A) Sloped roofs shall incorporate a minimum of eight (8) inch deep eaves to create shadows and add depth to facades. If a particular style based on the architectural style subsection has a roof or eave style that is different from this standard, this standard shall not apply.

(B) Flat roofs, when used, shall incorporate a decorative cornice consistent with the architectural style as specified in the cited reference book and shall visually cap the building at a minimum of three (3) inches deep and twelve (12) inches tall.

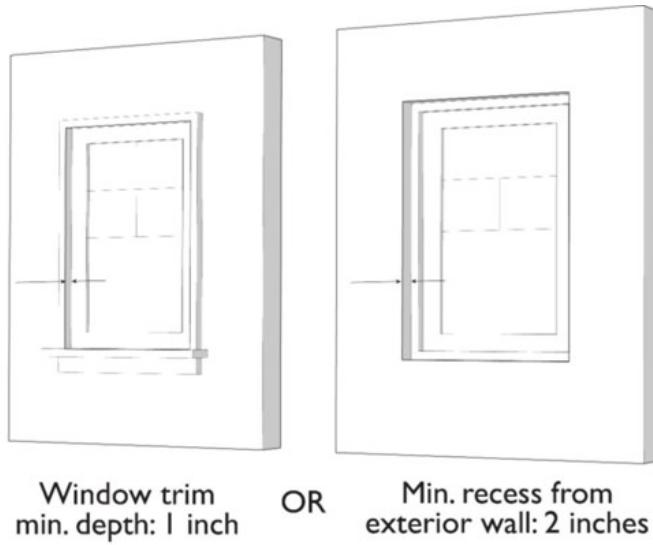
iv. Roof-top Utilities and Equipment. Rooftop utilities and equipment shall be screened by a parapet or mansard roof so that such equipment is not visible from the public right-of-way.

i. Windows.

i. Window Detail.

(A) Window Trim or Recess. Trim at least one (1) inch in depth must be provided around all windows, or window must be recessed at least two (2) inches from the plane of the surrounding exterior wall. For double-hung and horizontal sliding windows, at least one (1) sash shall achieve a two (2) inch recess.

**FIGURE 18.04.090-D(5)(i): WINDOW DETAIL—TOWNHOUSE DEVELOPMENT**



(B) Windows. Snap-in vinyl mullions between double pane glass are prohibited. If a divided light appearance is desired, mullions must be made of dimensional material projecting in front of the panes on both the inside and outside of the window.

j. Materials.

i. At a minimum, at least three (3) materials or colors shall be used consistently on the entire building facade and shall consist of materials appropriate to the selected architectural style (per architectural style reference guide) of the building. Roof and glazing material or color are excluded and do not count towards this requirement. The following building elements with materials and colors count towards this requirement:

(A) Main building.

- (B) Wainscoting.
  - (C) Trim work.
  - (D) Exterior doors.
  - (E) Garage doors.
  - (F) Decorative elements including trellis, iron work, planter boxes, etc., each with a minimum of ten (10) square feet in surface area.
  - (G) Building entrances, including porch and stoop.
- ii. Where an exterior wainscoting is provided, such wainscoting shall have a minimum height of eighteen (18) inches from the finished grade. Wainscoting shall not end at the corner of the building but shall wrap around and continue at least eighteen (18) inches to provide a finished appearance.
  - iii. The exterior use of porous materials, foam for trims, plastic, and plywood as siding materials is prohibited.
  - iv. The Planning Director shall maintain a list of approved facade and trim materials, with such a list accessible to the public.

## 6. Other Details.

- a. Landscape Design. The following standards are supplemental to the standards contained in Chapter 18.18 (Landscaping). Where conflicts exist, the stricter standard shall prevail.
  - i. Front Yard and Rear Yard Landscaping.
    - (A) Within the required front yard and rear yard area, impermeable surfaces shall not exceed fifty percent (50%).
    - (B) At least fifty percent (50%) of the required front yard and rear yard areas shall consist of landscape materials as specified in Chapter 18.18 (Landscaping).
    - (C) Front yard and rear yard landscaping may count towards the private/public open space requirement.
  - ii. Front Yard Trees. The number of required trees shall be governed as specified in Section 18.18.070 (Trees).
- b. Lighting. All exterior lighting shall comply with the provisions of Section 18.15.070 (Lighting and illumination). The following standards are supplemental to the existing standards and where conflicts exist, the stricter standard shall prevail.
  - i. Location. Any light fixture located along the pathways shall not obstruct ADA path of travel.
  - ii. Brightness. Shall not exceed four hundred fifty (450) lumens per light fixture (equivalent to thirty (30) watt halogen light bulb) and should not exceed five (5) foot-candles in any given spot.
  - iii. Direction. When using freestanding light fixtures the light elements shall be screened to minimize light spillage and confine light to site and directed away from neighbors.
    - (A) All outdoor lighting, including in-ground lighting and parking area lights, shall be located and directed away from windows of residential units to reduce light impact on residents. Such lighting shall be directed downward and away from adjacent residences and public rights-of-way.
    - (B) To minimize the light glare and spillage all wall-mounted fixtures shall be oriented to an angle towards the ground. The optimal angle shall be between fifty (50) to seventy (70) degrees.
    - (C) Bollard lighting used to light walkways and other landscape features shall cast its light downward.
  - iv. Security Lighting. Motion-activated security lighting shall not be capable of being activated by any person(s) in the public right-of-way or on adjacent property.
- c. Utilities.

- i. All utility screening shall comply with Section 18.15.090 (Screening).
- ii. Ground-level utilities and mechanical equipment directly serving the townhome units shall not be located within any front or rear yard area.
- iii. Public utilities equipment, where provided above ground, shall comply with the following:
  - (A) Such equipment shall not be located within any required front setback area.
  - (B) Such equipment shall be screened using one (1) or more of the following approaches:
    - (1) Landscaping.
    - (2) Raised planters' minimum height of twelve (12) inches with landscape.
    - (3) Mesh fence for vertical vegetation.
  - (4) Walls or fencing consistent with the overall architecture of the building. (Ord. 1603 § 3 (Exh. A), 2023)

**18.04.100 Small lot subdivisions. Revised 1/24**

- A. Purpose. The purpose of this section is to provide opportunities to increase the supply of smaller dwelling units and rental housing units by allowing the creation of subdivisions with smaller lots and dwellings. It also is intended to establish design and development standards for these projects to ensure that they are compatible with the surrounding neighborhood, where the general plan anticipates no change to existing neighborhood character.
- B. Location. A small lot subdivision may be proposed and approved on any site within the RS district where such development would be compatible with adjacent uses and the character of the area. A small lot subdivision shall not be allowed where the review authority determines that public utilities and services are inadequate or the landform is inappropriate for such development because of grading or impacts on views from adjacent lots.
- C. Development Types. Small lot subdivisions may be proposed and approved for small lot single-unit subdivisions, and townhouse development developed according to Section 18.04.070, Residential development types.
- D. Lot Standards. The lot standards listed in Table 18.04.100-D, Small Lot Subdivision Lot Standards, apply to small lot subdivisions.

**FIGURE 18.04.100: BUILDING DESIGN—SMALL LOT SUBDIVISION DEVELOPMENT**



**TABLE 18.04.100-D: SMALL LOT SUBDIVISION LOT STANDARDS**

Standard	Small Lot	Townhouse
Minimum Lot Size (sq. ft.)	2,000	n/a
Minimum Lot Width (ft.)	30	20

E. Permit Requirement. A proposed small lot subdivision shall require the approval of a conditional use permit in compliance with Chapter 18.30, Use Permits, and a tentative map in compliance with the subdivision ordinance.

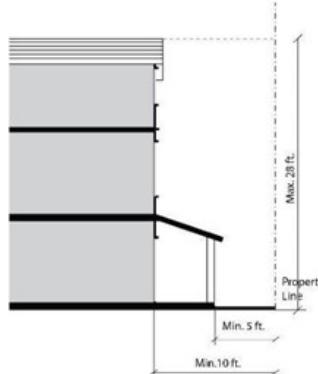
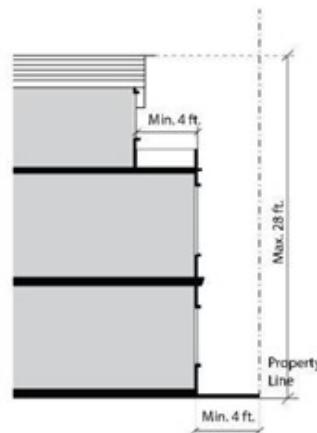
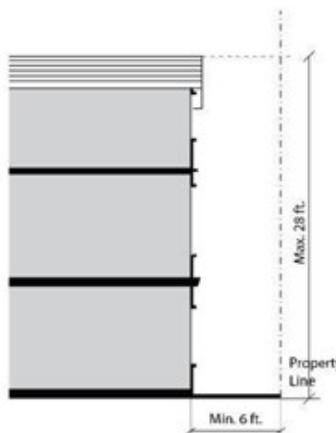
F. Required Findings. In addition to standard use permit findings, the review authority must find that the development is compatible with the neighborhood and that dwellings are proportionate to the lot size.

G. Applicable Development Standards. Small lot single-unit development projects shall conform with the development standards and objective design standards of the base district unless modified by Table 18.04.100-G.

**TABLE 18.04.100-G: DEVELOPMENT STANDARDS—SMALL LOT SUBDIVISION SINGLE-UNIT DEVELOPMENT**

Standard	Small Lot Single-Unit
<b>Site Standards</b>	
Minimum Project Site Width	80 feet
Maximum Project Site Floor Area Ratio (FAR)	0.45
Maximum Project Site Lot Coverage (percent of site)	35%
<b>Building Height and Form</b>	
Maximum Height	28 feet See also Chapter 18.12 (Hillside Overlay District)
Maximum Building Length (ft.)	n/a
<b>Setbacks</b>	
Project Site	The overall project site is subject to the setback requirements of the base district.
<b>Individual Lot</b>	
Front	10 ft.; 5 ft. for porch
Side	1- and 2-story portion: 4 ft. 3-story portion: 8 ft. Alternative: 6-ft. side setback for entire building with no stepbacks
Rear	15 ft.; 4 ft. for detached garage on alley
Building Separation of Detached Units	5 ft.
<b>Parking and Access</b>	
Garage Behind Primary Facade	5 ft.
Maximum Garage Width	20 ft.; common garages not visible from the street may accommodate up to four cars.
Access Location	Alley or side street wherever possible.
<b>Building Orientation</b>	
Orientation	Facades shall be designed to orient towards the public street.
Entrance Location	The main entrance to each ground floor dwelling shall be visible to and located directly off the street.
<b>Usable Open Space</b>	
Minimum Common and/or Private Open Space (percent of site area)	15%
<b>Minimum Horizontal Dimensions</b>	
Ground Floor, Common (ft.)	20
Ground Floor, Private (ft.)	10
Balcony (ft.)	Same as RS standards

Standard	Small Lot Single-Unit
Additional Standards	
Minimum Amount of Landscaping in the Front Yard (percent of site)	50%
Minimum Amount of Enclosed Personal Storage (sq. ft.)	80

**FIGURE 18.04.100-G: FRONT SETBACK****FIGURE 18.04.100-G: SIDE SETBACK—4 ft.****FIGURE 18.04.100-G: SIDE SETBACK—6 ft.**

**Chapter 18.05  
MIXED-USE DISTRICTS Revised 6/23**

Sections:

**18.05.010 Purpose.** Revised 6/23

**18.05.020 Land use regulations.** Revised 6/23

**18.05.030 Development standards.** Revised 6/23

**18.05.040 Supplemental regulations.** Revised 6/23

**18.05.010 Purpose. Revised 6/23**

The specific purposes of the mixed-use districts are to:

- A. Provide for the orderly, well planned, and balanced development of mixed-use districts.
- B. Encourage a mix of uses that promotes convenience, economic vitality, fiscal stability, and a pleasant quality of life.
- C. Promote pedestrian- and transit-oriented, mixed-use commercial centers at appropriate locations.
- D. Establish design standards that improve the visual quality of development and create a unified, distinctive, and attractive character along mixed-use streets.
- E. Provide appropriate buffers and transition standards between commercial and residential uses to preserve both commercial and mixed-use feasibility and residential quality.

Additional purposes of each mixed-use district that follow, implement General Plan classifications of "Mixed Use, 30-40 du/ac," "Mixed Use, 38-50 du/ac," "Mixed Use, 75-100 du/ac," "Mixed Use, 90-120 du/ac," and "Neighborhood Retail/Mixed Use, 75-120."

F. MU-DC-100 Mixed-Use Downtown Core. This district is intended to maintain the pedestrian-oriented environment in the heart of San Carlos's downtown, with a focus on ground-level active storefronts and pedestrian- and transit-oriented development that encourages pedestrian activity and supports multimodal transportation. Physical form is regulated to reflect the urban character of the downtown core. Allowable uses include retail, commercial, and office uses, as well as residential development of up to one hundred (100) units per net acre.

G. MU-D-100 Mixed-Use Downtown. This district is intended to maintain the pedestrian-oriented environment around the downtown core and connect surrounding districts. Physical form is regulated to provide storefront buildings that frame the street and support pedestrian- and transit-oriented development that encourages pedestrian activity and supports multimodal transportation. Allowable uses include retail, commercial, and office uses, as well as residential development of up to one hundred (100) units per net acre.

H. MU-D-120 Mixed-Use Downtown. This district is intended to maintain the pedestrian-oriented environment around the downtown core and connect surrounding districts. Physical form is regulated to provide storefront buildings that frame the street and support pedestrian- and transit-oriented development that encourages pedestrian activity and supports multi-modal transportation. Allowable uses include retail, commercial, and office uses, as well as residential development of up to one hundred twenty (120) units per net acre.

I. MU-SA-50 Mixed-Use Station Area. This district is intended to provide for transit-oriented development to support vitality around transit centers and the historic San Carlos Train Depot and provide linkages to the downtown core and neighborhoods adjacent to Old County Road. Allowable uses include retail, commercial, and office uses, as well as residential development of up to fifty (50) units per net acre.

J. MU-SC-120 Mixed-Use San Carlos Avenue. This district is intended to allow one (1) or more of a variety of residential and nonresidential uses to encourage a greater mix and intensity of uses in a pedestrian- scaled environment at a scale and form that is appropriate to its neighborhood context and adjacent residential uses and forms. This district is also intended to provide transit-oriented development that supports multimodal transportation. Allowable uses include commercial and office uses, as well as residential development up to one hundred twenty (120) units per net acre.

K. MU-NB-120 Mixed-Use North Boulevard. This district is intended to facilitate the transformation of the northern portion of El Camino Real into a multimodal, mixed-use corridor. The physical form varies to reflect the urban character of the El Camino

Real corridor and to transition to surrounding, lower-density districts. This district allows a mix of residential development of up to one hundred twenty (120) units per net acre and retail and commercial uses, as well as hotels and other commercial uses oriented toward a regional market.

L. MU-SB-100 Mixed-Use South Boulevard. This district is intended to facilitate the transformation of the southeastern portion of Laurel Street into a mixed-use corridor. The physical form varies to transition from MU-N-40 west of Laurel Street to MU-SB-120 on El Camino Real. This district allows a mix of residential development of up to one hundred (100) units per net acre and retail and commercial uses.

M. MU-SB-120 Mixed-Use South Boulevard. This district is intended to facilitate the transformation of the southern portion of El Camino Real into a multimodal, mixed-use corridor. The physical form varies to reflect the urban character of the El Camino Real corridor. This district allows a mix of residential development of up to one hundred twenty (120) units per net acre and retail and commercial uses, as well as hotels and other commercial uses oriented toward a regional market.

N. MU-N-40 Neighborhood Mixed-Use. This district is intended to provide an appropriate transition from mixed-use areas into the residential neighborhoods. This district allows a mix of residential and commercial development appropriately scaled to ensure a residential physical form to relate to adjacent single-family residential neighborhoods. Allowable uses include retail, commercial, and office uses, as well as residential development of up to forty (40) units per net acre.

O. MU-N-50 Neighborhood Mixed-Use. This district is intended to provide an appropriate transition from mixed-use areas into the residential neighborhoods. This district allows a mix of residential and commercial development appropriately scaled to ensure a residential physical form to relate to adjacent single-family residential neighborhoods. Allowable uses include retail, commercial, and office uses, as well as residential development of up to fifty (50) units per net acre.

P. MU-N-120 Neighborhood Mixed-Use. This district is intended to reflect the form of El Camino Real while providing a transition from MU-NB-120 to MU-N-50 and RM-100 zoning districts. This district allows a mix of residential and commercial development appropriately scaled to ensure a residential physical form to relate to adjacent single-family residential neighborhoods. Allowable uses include retail, commercial, and office uses, as well as residential development of up to one hundred twenty (120) units per net acre. (Ord. 1596 § 6 (Exh. A), 2023; Ord. 1438 § 4 (Exh. A (part)), 2011)

#### **18.05.020 Land use regulations. Revised 6/23**

Table 18.05.020 prescribes the land use regulations for mixed-use districts. The regulations for each district are established by letter designations as follows:

"P" designates permitted uses.

"M" designates use classifications that are permitted after review and approval of a minor use permit by the Zoning Administrator.

"C" designates use classifications that are permitted after review and approval of a conditional use permit by the Planning Commission.

"#" numbers in parentheses refer to specific limitations listed at the end of the table.

"-" designates uses that are not permitted.

Use classifications are defined in Chapter 18.40, Use Classifications. In cases where a specific land use or activity is not defined, the Director shall assign the land use or activity to a classification that is substantially similar in character. Use classifications and subclassifications not listed in the table or not found to be substantially similar to the uses below are prohibited. The table also notes additional use regulations that apply to various uses. Section numbers in the right-hand column refer to other sections of this title.

**TABLE 18.05.020: LAND USE REGULATIONS—MIXED-USE DISTRICTS**

Use Classifications	MU-DC-100	MU-D-100	MU-D-120	MU-SC-120	MU-NB-120	MU-SB-100	MU-SB-120	MU-N-40	MU-N-50	MU-N-120	Additional Regulations
<b>Residential Uses</b>											
Residential											See subclassifications below

Use Classifications	MU-DC-100	MU-D-100	MU-D-120	MU-SC-120	MU-NB-120	MU-SB-100	MU-SB-120	MU-N-40	MU-N-50	MU-N-120	Additional Regulations
Housing Types											
Multi-Unit Residential	P(1)	P(1)	P(2)	P	P(2)	P	P(2)	P(3)	P(2)	P(2)	
Accessory Dwelling Unit	P	P	P	P	P	P	P	P	P	P	Only if it includes a proposed or existing dwelling
Junior Accessory Dwelling Unit	-	-	-	-	-	-	-	-	-	-	
Elderly and Long-Term Care	-	-	-	C	-	-	-	-	-	-	
Family Child Care	See subclassifications below										
Small	P	P	P	P	P	P	P	P	P	P	
Large	P	P	P	P	P	P	P	P	P	P	See Section 18.23.090, Day care centers and large family child care homes
Residential Care Facilities	See subclassifications below										
General	-	M(1)	M(1)	M	-	-	-	-	-	-	See Section 18.23.200, Residential care facilities
Limited	P	P	P	P	P	P	P	P	P	P	
Senior	-	M(1)	M(1)	M	-	-	-	-	-	-	See Section 18.23.200, Residential care facilities
Single Room Occupancy	C(1)	C(1)	C(1)	C	C(1)	C(1)	C(1)	C(3,14)	C	C	See Section 18.23.220, Single room occupancy hotels
Transitional Housing	P	P	P	P	P	P	P	P	P	P	See Section 18.23.250, Transitional and supportive housing
Supportive Housing	P	P	P	P	P	P	P	P	P	P	See Section 18.23.250, Transitional and supportive housing
Public and Semi-Public Uses											
Colleges and Trade Schools, Public or Private	-	-	-	-	P	P	P	-	-	-	
Community Assembly, Less Than 3,500 Square Feet	-	P	P	P	P	P	P	M	M	M	See Section 18.23.080, Community assembly facilities
Community Assembly, 3,500 Square Feet or More	-	C	C	C	M	M	M	-	-	-	

Use Classifications	MU-DC-100	MU-D-100	MU-D-120	MU-SC-120	MU-NB-120	MU-SB-100	MU-SB-120	MU-N-40	MU-N-50	MU-N-120	Additional Regulations
Community Garden	P	P	P	P	P	P	P	P	P	P	
Cultural Institutions	C(4)	P	P	C	M	M	M	M	M	M	
Day Care Centers	-	P	P	P	P	P	P	P	P	P	See Section 18.23.090, Day care
Emergency Shelter	-	-	-	-	P	P	P	-	-	-	See Section 18.23.110, Emergency shelters
Government Offices	-	P	P	P	P	P	P	P	P	P	
Hospitals and Clinics	-	P	P	-	P	P	P	-	-	-	
Instructional Services	M	P	P	-	P	P	P	P	P	P	See Section 18.23.260, Formula business uses
Park and Recreation Facilities, Public	P	P	P	P	P	P	P	P	P	P	
Public Safety Facilities	-	C	C	-	C	C	C	C	C	C	
Schools, Public or Private	-	-	-	-	C	C	C	C	C	C	
Social Service Facilities	-	-	-	-	C	C	C	C	C	C	
Commercial Uses											
Animal Care, Sales and Services	See subclassifications below										
Grooming and Pet Stores	-	P	P	-	P	P	P	P(5)	P(5)	P(5)	
Veterinary Services	-	C(5)	C(5)	C(5)	C(5)	C(5)	C(5)	C(5)	C(5)	C(5)	
Artists' Studios	M	P	P	-	P	P	P	P(5)	P(5)	P(5)	
Automobile/Vehicle Sales and Services	See subclassifications below										
Automobile Rentals	-	-	-	-	C(6)	C(6)	C(6)	-	-	-	See Section 18.23.050, Automobile/vehicle sales and services, and Section 18.23.260, Formula business uses
Automobile/Vehicle Sales and Leasing	P(6,7)	P(6,7)	P(6, 7)	P(6,7)	P(6,7)	P(6,7)	P(6, 7)	-	-	-	
Automobile/Vehicle Washing	-	-	-	-	C(6)	C(6)	C(6)	-	-	-	
Service Station	-	-	-	-	C(6)	C(6)	C(6)	-	-	-	
Banks and Financial Institutions	P(8)	P	P	M	P	P	P	M(9)	M(9)	M(9)	See Section 18.23.260, Formula business uses
Business Services	-	P(9)	P(9)	P(9)	P(9)	P(9)	P(9)	P(9)	P(9)	P(9)	

Use Classifications	MU-DC-100	MU-D-100	MU-D-120	MU-SC-120	MU-NB-120	MU-SB-100	MU-SB-120	MU-N-40	MU-N-50	MU-N-120	Additional Regulations
Commercial Entertainment and Recreation	See subclassifications below										
Cinema/Theaters	C(17)	C(17)	C(17)	-	C(17)	C(17)	C(17)	-	-	-	See Section 18.23.260, Formula business uses
Small-Scale	-	C(17)	C(17)	-	C(17)	C(17)	C(17)	-	-	-	
Large-Scale	-	C(17)	C(17)	-	C(19)	-	-	-	-	-	
Eating and Drinking Establishments	See subclassifications below										
Bars/Night Clubs/Lounges	C(17)	C(17)	C(17)	-	C(17)	C(17)	C(17)	-	-	-	See Section 18.23.140, Outdoor dining, and Section 18.23.260, Formula business uses
Full Service	P(17)	P(17)	P(17)	P	P(17)	P(17)	P(17)	C(10, 17)	C(10, 17)	C(10, 17)	
Convenience	P(18)	P(18)	P(18)	P	P(18)	P(18)	P(18)	C(10)	C(10)	C(10)	See Section 18.23.260, Formula business uses
Food Preparation	P	P	P	P	P	P	P	P	P	P	See Section 18.23.260, Formula business uses
Funeral Parlors and Mortuaries	-	C	C	C	C	C	C	-	-	-	
Lodging	See subclassifications below										
Bed and Breakfast	P	P	P	P	P	P	P	P	P	P	See Section 18.23.070, Bed and breakfast lodging, and Section 18.23.260, Formula business uses
Hotels and Motels	P(11, 17)	P(17)	P(17)	M	P(17)	P(17)	P(17)	M(14, 17)	M(17)	M(17)	See Section 18.23.260, Formula business uses
Nurseries and Garden Centers	P(9, 20)	P(9, 20)	P(9, 20)	-	P(9, 20)	See Section 18.23.260, Formula business uses					
Offices	See subclassifications below										
Business and Professional	P(12)	P	P	P	P	P	P	P	P	P	See Section 18.23.260, Formula business uses
Medical and Dental	P(12)	P	P	P	P	P	P	P(9)	P(9)	P(9)	See Section 18.23.260, Formula business uses

Use Classifications	MU-DC-100	MU-D-100	MU-D-120	MU-SC-120	MU-NB-120	MU-SB-100	MU-SB-120	MU-N-40	MU-N-50	MU-N-120	Additional Regulations
Walk-In Clientele	P	P	P	P	P	P	P	P	P	P	See Section 18.23.260, Formula business uses
Personal Services	See subclassifications below										
General Personal Services	(13)	P	P	P	P	P	P	P	P	P	See Section 18.23.170, Personal services, and Section 18.23.260, Formula business uses
Tattoo or Body Modification Parlor	-	-	-	-	M	M	M	-	-	-	
Retail Sales	See subclassifications below										
Cannabis Dispensary	-	-	-	-	-	-	-	-	-	-	
Convenience Markets	P(18)	P(18)	P(18)	P	P(18)	P	P	P(15)	P	P	See Section 18.23.260, Formula business uses
Food and Beverage Sales	P(18)	P(18)	P(18)	P	P(18)	P	P	P(16)	P(16)	P(16)	See Section 18.23.260, Formula business uses
General Retail	P	P	P	P	P	P	P	P	P	P	See Section 18.23.260, Formula business uses
Price Point Retail	-	-	-	-	M	M	M	-	-	-	
Second-Hand Store	-	-	-	-	P	P	P	P	P	P	
Retail Establishments Selling Ammunition or Firearms	-	-	-	-	-	-	-	-	-	-	
Industrial Uses											
Recycling Facility, Reverse Vending Machine	-	-	-	P	P	P	P	P	-	-	See Section 18.23.190, Recycling facilities
Transportation, Communication, and Utilities Uses											
Communication Facilities	See subclassifications below										
Antenna and Transmission Towers	See Chapter 18.24, Wireless Telecommunications Facilities										
Facilities within Buildings	-	P	P	P	P	P	P	P	P	P	
Transportation Passenger Terminals	-	-	-	-	-	-	-	-	-	-	
Utilities, Minor	P	P	P	P	P	P	P	P	P	P	
Other Applicable Types											
Accessory Uses	See Section 18.23.030, Accessory uses, and Section 18.15.020, Accessory buildings and structures										

Use Classifications	MU-DC-100	MU-D-100	MU-D-120	MU-SC-120	MU-NB-120	MU-SB-100	MU-SB-120	MU-N-40	MU-N-50	MU-N-120	Additional Regulations
and Structures											
Home Occupations	P	P	P	P	P	P	P	P	P	P	See Section 18.23.120, Home occupations
Drive-In and Drive-Through Facilities	Prohibited in MU districts; see Section 18.23.100, Drive-in and drive-through facilities										
Nonconforming Use	Chapter 18.19, Nonconforming Uses, Structures, and Lots										
Temporary Use	Chapter 18.31, Temporary Use Permits										

## Specific Limitations:

1. Not allowed on the ground floor along Laurel Street and San Carlos Avenue frontages.
2. Conditional use permit approval required to allow residential uses on the ground floor along El Camino Real frontage.
3. Not allowed on the ground floor along Old County Road.
4. Not allowed on Laurel Street or San Carlos Avenue.
5. Provided that such use shall be completely enclosed in a building of soundproof construction.
6. For properties without frontage along El Camino Real, only retail sales consistent with the definition of "general retail" and five thousand (5,000) square feet or less.
7. Must be within an enclosed structure.
8. Limited to establishments with a gross floor area of two thousand five hundred (2,500) square feet or less. Limited to the ground floor of a building located on an interior lot a minimum of five hundred (500) feet from any other financial institution.
9. Limited to establishments with a gross floor area of five thousand (5,000) square feet or less.
10. Permitted after review and approval of a minor use permit by the Zoning Administrator if less than twelve (12) chairs.
11. Limited to upper stories unless at least fifty percent (50%) of ground floor street frontage is occupied by food service use.
12. Limited to upper stories.
13. Permitted if existing. Additions to existing facilities and establishment of new facilities are subject to Section 18.23.170, Personal services.
14. Not allowed along East San Carlos Avenue.
15. Limited to neighborhood groceries with less than one thousand five hundred (1,500) square feet of sales area when located along East San Carlos Avenue.
16. The sale of alcoholic beverages is prohibited.
17. Not permitted on sites where the shopfront of such nonresidential use faces onto R zoning districts.
18. Minor use permit required for sites adjacent to R districts.
19. On the east side of El Camino Real only; in all other areas this use is not permitted.
20. Uses that require a commercial cannabis business permit are not permitted.

(Ord. 1596 § 6 (Exh. A), 2023; Ord. 1568 § 1 (Exh. A), 2021; Ord. 1566 (Exh. B (part)), 2020; Ord. 1540 (Exh. A), 2019; Ord. 1525 § 2(1) (Exh. A (part)), 2017; Ord. 1518 § 3 (Exh. A), 2017; Ord. 1480 (Exh. B (part)), 2015; Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.05.030 Development standards. Revised 6/23**

Tables 18.05.030-1 through 18.050.030-6 prescribe the development standards for mixed-use districts. Additional regulations are denoted in a right-hand column. Section numbers in this column refer to other sections of this title, while individual letters refer to subsections that directly follow the table. The numbers in each illustration in this section refer to corresponding regulations in the "#" column in the associated table.

**TABLE 18.05.030-1: LOT, DENSITY, AND FAR STANDARDS—MIXED-USE DISTRICTS**

District	MU-DC-100	MU-D-100	MU-D-120	MU-SC-120	MU-NB-120	MU-SB-100	MU-SB-120	MU-N-40	MU-N-50	MU-N-120	Additional Regulations #
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District	MU-DC-100	MU-D-100	MU-D-120	MU-SC-120	MU-NB-120	MU-SB-100	MU-SB-120	MU-N-40	MU-N-50	MU-N-120	Additional Regulations #
Maximum Density (units/net acre)	100	100	120	120	120	100	120	40	50	120	
Minimum Density <sup>1</sup> (units/net acre)	75	75	90	90	90	75	90	30	38	90	
Minimum Lot Size (sq. ft.)	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000	
Minimum Lot Width (ft.)	50	50	50	50	50	50	50	50	50	50	
Maximum Floor Area Ratio (FAR)	2.5(A)	3.0(A)	3.0(A)	3.0(A)	3.0(A)	3.0(A)	3.0(A)	3.00(A)	2.5(A)	3.0(A)	

(1) Minimum densities apply to new development and construction of new projects, or when adding residential to an existing commercial use. For wholesale conversion of commercial uses to residential, minimum densities shall apply, but for small conversion of an existing single-space commercial use to residential, minimum densities shall not apply.

A. Increased FAR for Mixed-Use Buildings. The maximum allowable FAR may be increased by up to ten percent (10%) for buildings that contain a mix of residential and nonresidential uses through the provision of one (1) or more of the following elements beyond what is otherwise required, subject to conditional use permit approval:

1. Provision of off-site improvements. This may include off-site amenities and/or infrastructure (other than standard requirements and improvements) such as right-of-way or streetscape improvements or funding for parks, public safety facilities, libraries, senior centers, community meeting rooms, child care or recreation or other community benefit. The Director may require a fiscal and economic impact report, or equivalent, as part of the conditional use permit application.

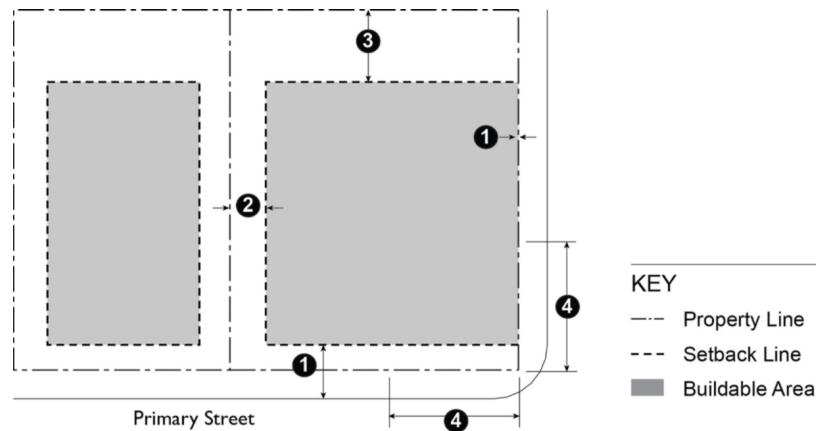


TABLE 18.05.030-2: BUILDING PLACEMENT STANDARDS—MIXED-USE DISTRICTS

District	MU-DC-100	MU-D-100	MU-D-120	MU-SC-120	MU-NB-120	MU-SB-100	MU-SB-120	MU-N-40	MU-N-50	MU-N-120	Additional Regulations #
Street Frontage Setbacks, Commercial and Mixed-Use Development (ft)											
Laurel Street	Property line or 15 ft from curb (the greater) for all MU districts									(B)	1
EI Camino Real	Property line or 20 ft from curb (the greater) shall apply to all Mixed Use Zones along EI Camino Real									(B)	1

District	MU-DC-100	MU-D-100	MU-D-120	MU-SC-120	MU-NB-120	MU-SB-100	MU-SB-120	MU-N-40	MU-N-50	MU-N-120	Additional Regulations	#
San Carlos Avenue	Property line or 15 ft from curb (the greater)	n/a	n/a	Property line or 15 ft from curb (the greater)	n/a	n/a	n/a	n/a	n/a	n/a	(B)	1
Elm Street	0 min, 10 max	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a		1
All Other Streets	5 min, 15 max*	5 min, 15 max	5 min, 15 max	5 min, 15 max	5 min, 15 max	0 min, 5 max	0 min, 5 max	5 min, 15 max	5 min, 15 max	5 min, 15 max		1
Interior Side (ft)	0 min; 10 min adjacent to RS district for all MU districts										(C)	2
Rear (ft)	0 min; 30 min adjacent to RS district for all MU districts										(C)	3
Corner Build Area (ft)	30; buildings must be located in accordance with the required setbacks within 30 feet of every corner. Public plazas may be at the street corner provided buildings are built to the edge of the public plaza.											4

\* Applicable to 700 and 800 blocks of Walnut Street only.

B. Build-To Line. Buildings shall be constructed at the required setback for eighty percent (80%) of linear street frontage. The area between the building and property line shall be paved so that it functions as a wider public sidewalk. This requirement may be modified or waived by the review authority upon finding that:

1. Substantial landscaping is located between the build-to line and ground floor residential units to soften visual impact of buildings;
2. Entry courtyards, plazas, entries, or outdoor eating and display areas are located between the build-to line and building; provided, that the buildings are built to the edge of the courtyard, plaza, or dining area; or
3. The building incorporates an alternative entrance design that creates a welcoming entry feature facing the street.

TABLE 18.05.030-3: HEIGHT STANDARDS—MIXED-USE DISTRICTS

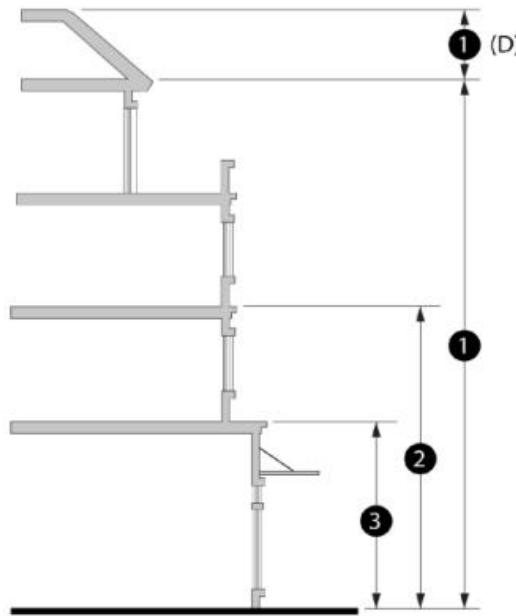
District	MU-DC-100	MU-D-100	MU-D-120	MU-SC-120	MU-NB-120	MU-SB-100	MU-SB-120	MU-N-40	MU-N-50	MU-N-120	Additional Regulations	#
Building Maximum (ft.)	50	60	75	75	75	60	75	50; 35 along East San Carlos Avenue in MU-N-40 District	75		(D); See Section 18.15.060, Height and height exceptions	1
Building Maximum Adjacent to RS District	30 ft. within 40 ft. of an RS district; 40 ft. within 50 ft. of an RS district											
Building Minimum (ft.)	n/a	25; Applicable only along Laurel Street and El Camino Real frontages		n/a								

District	MU-DC-100	MU-D-100	MU-D-120	MU-SC-120	MU-NB-120	MU-SB-100	MU-SB-120	MU-N-40	MU-N-50	MU-N-120	Additional Regulations	#
Maximum Stories	4(1)	5	6	6	6	5	6	4; 3 along E. San Carlos Ave. in MU-N-40 district	4	6		

## Ground Floor Minimum Height

Ground Floor Uses (ft.)	12	12	12	12	12	12	12	12	12	12		3
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1. A use permit is required for the fourth story for parcels with street frontage onto Laurel Street in the 600, 700, and 800 blocks.



## D. Height Limitations and Exceptions.

1. Projections. Except along East San Carlos Avenue, a parapet wall, cornice or sloping roof may project up to four (4) feet above the height limit.
2. Towers. If the project site is greater than fifteen thousand (15,000) square feet and not located along East San Carlos Avenue, a tower or other projecting architectural elements may extend up to ten (10) feet above the top of a pitched roof; provided, that the square footage of the element(s) does not total more than ten percent (10%) of the building footprint. The area above the uppermost permitted floor of the element(s) shall not be habitable space.
  - a. The composition of the tower element shall be balanced, where the width of the tower has a proportional relationship to the height of the tower.
  - b. The tower element shall be proportional to the rest of the building.
- c. The roof shall be sloped and include architectural detailing, such as a cornice or eave.
3. Upper Story Stepbacks.
  - a. Third Story—Laurel Street. The third story along the 600, 700, and 800 blocks of Laurel Street shall be set back a minimum of ten (10) feet from the story below.
  - b. Fourth, Fifth, and Sixth Stories. The fourth, fifth, and sixth stories of all buildings shall be stepped back a minimum of ten (10) feet from the third story below, except as provided in this section.

- c. Laurel Street. The fourth story along the 600, 700, and 800 blocks of Laurel Street may align with the story below.
- d. San Carlos Avenue and El Camino Real. The fourth-, fifth-, and sixth-story front facades may align with the third story below along San Carlos Avenue in the MU-SC District and along El Camino Real (exception: this provision does not apply to the 1100 and 1200 blocks of San Carlos Avenue).

FIGURE 18.05.030-E(2): UPPER STORY STEPBACKS

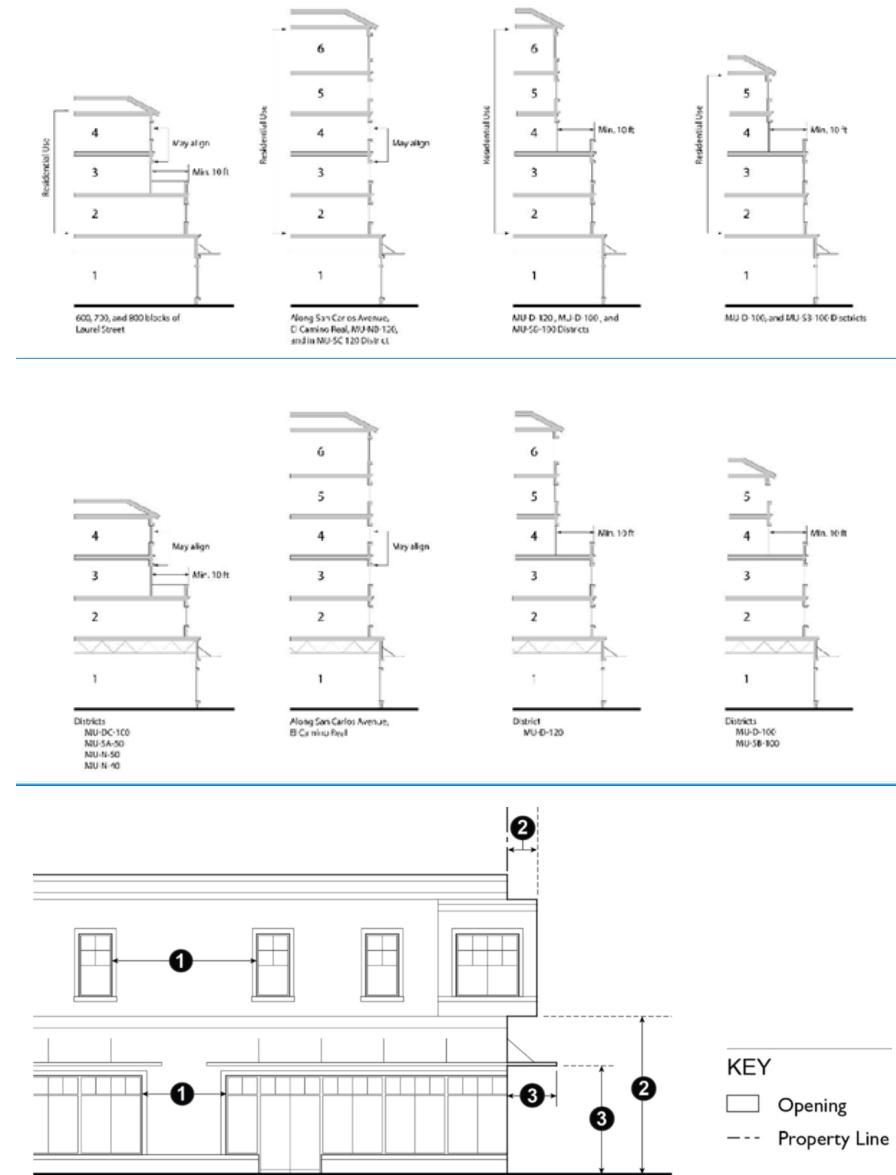


TABLE 18.05.030-4: BUILDING FORM STANDARDS—MIXED-USE DISTRICTS

District	MU-DC-100	MU-D-100	MU-D-120	MU-SC-120	MU-NB-120	MU-SB-100	MU-SB-120	MU-N-40	MU-N-50	MU-N-120	Additional Regulations	#
Maximum Length of Blank Wall (ft.)	Ground floor: 10 Upper floors: 25	25	25	25	25	25	25	25	25	25		1
Maximum Building Projections (ft.)	3; minimum 12 feet above sidewalk grade.										(F)	2
Awnings and	4; minimum 8 feet above sidewalk grade.											3

District	MU-DC-100	MU-D-100	MU-D-120	MU-SC-120	MU-NB-120	MU-SB-100	MU-SB-120	MU-N-40	MU-N-50	MU-N-120	Additional Regulations #
Overhangs (ft.)											

F. Building Projections. The maximum width of any single projection is ten (10) feet and the total width of all projections along a building face shall not be more than twenty-five percent (25%) of the building frontage.

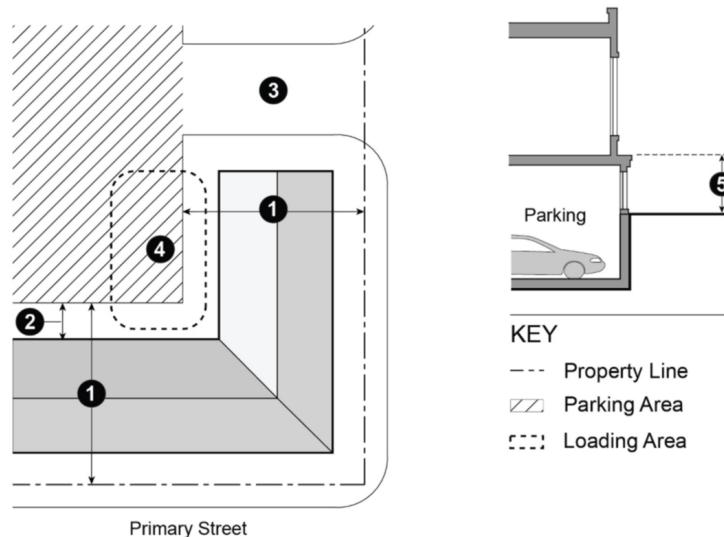


TABLE 18.05.030-5: PARKING AND LOADING STANDARDS—MIXED-USE DISTRICTS

District	MU-DC-100	MU-D-100	MU-D-120	MU-SC-120	MU-NB-120	MU-SB-100	MU-SB-120	MU-N-40	MU-N-50	MU-N-120	Additional Regulations #
Setback from Street Property Line (ft.)	40; buildings shall be placed as close to the street as possible, with parking underground, behind a building, or on the interior side or rear of the site.									(G)	1
Setback from Buildings and Public Plazas (ft.)	8 ft: 5 ft walkway plus 3 ft landscaping; applicable only to above-ground parking.										2
Access Location	Side street or alley wherever possible.										3
Curb Cuts	Prohibited on Laurel	Minimized and in area least likely to impede pedestrian circulation.									
Loading/Service Area	Side or rear of lot; must be screened from public ROW.										4
Parking Podium	Maximum height of a parking podium visible from the street is 5 feet from finished grade.										5

G. Limitations on Location of Parking. Parking may be located within forty (40) feet of the street-facing property line, subject to the following requirements.

1. Underground and Partially Submerged Parking. Parking completely or partially underground may match the setbacks of the main structure. The maximum height of a parking podium visible from a street is five (5) feet from finished grade.
2. Surface Parking. Above-ground surface parking may be located within forty (40) feet of a street-facing property line when the decision making authority can make all of the following findings:
  - a. Buildings are built close to the public sidewalk to the maximum extent feasible;
  - b. The parking area is screened along the public right-of-way with a wall, hedge, trellis, and/or landscaping; and

- c. The site is small and constrained such that underground, partially submerged, or surface parking located more than forty (40) feet from the street frontage is not feasible.

**TABLE 18.05.030-6: LANDSCAPING AND OPEN SPACE STANDARDS—MIXED-USE DISTRICTS**

District	MU-DC-100	MU-D-100	MU-D-120	MU-SC-120	MU-NB-120	MU-SB-100	MU-SB-120	MU-N-40	MU-N-50	MU-N-120	Additional Regulations
Minimum Public and/or Private Open Space (% of site)	10; applicable only to mixed-use and nonresidential development on lots greater than 15,000 square feet and to developments that are 100% residential.										
Minimum Dimensions (ft.)	20	20	20	20	20	20	20	20	20	20	
Minimum Amount of Landscaping (% of site)	10	10	10	10	10	10	10	10	10	10	

H. Landscaping and Residential Open Space. Landscaping and residential open space shall be provided as required by Table 18.05.030-6. Residential open space may be common or private or a combination thereof. Private areas typically consist of balconies, decks, patios, fenced yards, and other similar areas outside the residence. Common areas typically consist of landscaped areas, walks, patios, swimming pools, barbecue areas, playgrounds, turf, or other such improvements as are appropriate to enhance the outdoor environment of the development. Landscaped courtyard entries that are oriented towards a public street are considered common areas. All areas not improved with buildings, parking, vehicular accessways, trash enclosures, and similar items shall be developed as common areas.

1. Usability. A surface shall be provided that allows convenient use for outdoor living and/or recreation. Such surface may be any practicable combination of lawn, garden, flagstone, wood planking, concrete, or other serviceable, dust-free surfacing. The maximum slope shall not exceed ten percent (10%).

2. Accessibility.

a. Private Open Space. The space shall be accessible to only one (1) living unit by a doorway to a habitable room or hallway.

b. Common Open Space. The space shall be accessible to the living units on the lot. It shall be served by any stairway or other accessway qualifying as an egress facility from a habitable room. (Ord. 1596 § 6 (Exh. A), 2023; Ord. 1485 (Exh. A), 2015; Ord. 1480 (Exh. B (part)), 2015; Ord. 1438 § 4 (Exh. A (part)), 2011)

#### **18.05.040 Supplemental regulations. Revised 6/23**

A. Maximum Block Length. Five hundred (500) feet; block length of up to six hundred (600) feet is allowed when a mid-block pedestrian connection is provided.

B. Street Preservation. Existing public right-of-way shall be preserved. Public right-of-way shall not be eliminated or abandoned unless substantial public benefits are provided, such as a new park, as determined by the review authority.

C. Street Frontage Improvements. New development shall provide street frontage improvements in accordance with the following:

1. Between the Property Line and Curb.

a. Sidewalks. Sidewalks shall be provided if none already exist or if the existing sidewalks are in poor condition as determined by the Public Works Director.

b. Street Furniture. Trash receptacles, benches, bike racks, and other street furniture from a list maintained by the Director shall be provided.

c. Street Lights. Pedestrian-scaled street lights, including attachments from which banners may be hung, from a list maintained by the Director shall be provided.

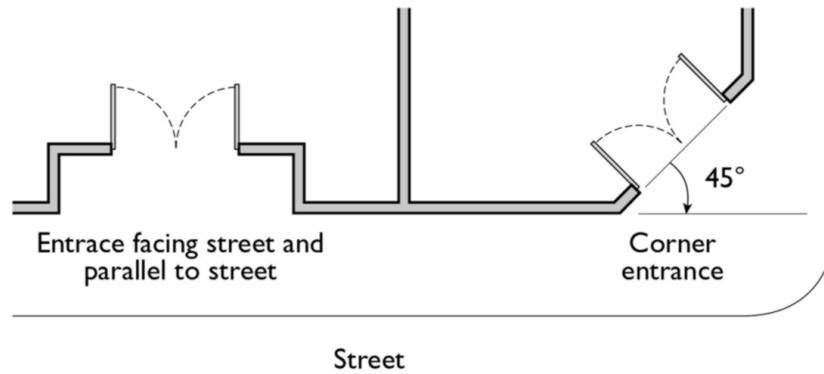
d. Street Trees. Shade trees shall be planted at least thirty (30) feet on center. Tree guards shall be provided. Trees shall be a minimum of fifteen (15) gallons in size, and at least ten percent (10%) of the required trees shall be twenty-four (24) inch box size or larger.

2. Interior from Property Line. Except where occupied by a building or necessary for parking access, the street frontage, for a depth of ten (10) feet from the property line, shall be utilized for active outdoor uses, including but not limited to outdoor dining; paved for public uses so that it functions as part of a wider public sidewalk; or improved with landscaping, public art, and/or pedestrian amenities such as outdoor seating.

#### D. Building Orientation and Entrances.

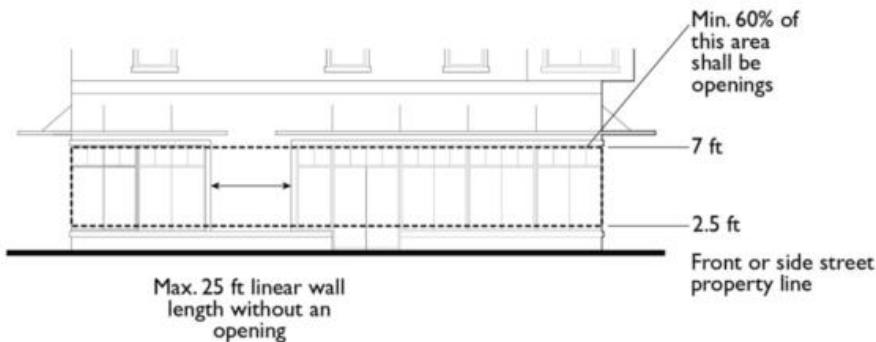
1. Buildings shall be oriented to face public streets.
2. Building frontages shall be generally parallel to streets, and the primary building entrances shall be located on a public street.
3. Building entrances shall be emphasized with special architectural and landscape treatments.
4. Entrances located at corners shall generally be located at a forty-five (45) degree angle to the corner and shall have a distinct architectural treatment to animate the intersection and facilitate pedestrian flow around the corner. Different treatments may include angled or rounded corners, arches, and other architectural elements. All building and dwelling units located in the interior of a site shall have entrances from the sidewalk that are designed as an extension of the public sidewalk and connect to a public sidewalk.
5. Entrances to residential units shall be physically separated from the entrance to the permitted commercial uses and clearly marked with a physical feature incorporated into the building or an appropriately scaled element applied to the facade.

**FIGURE 18.05.040-D: BUILDING ORIENTATION AND ENTRANCES**



E. Building Transparency—Required Openings for Nonresidential Uses. Exterior walls facing and within twenty (20) feet of a front or street side property line shall include windows, doors, or other openings for at least sixty percent (60%) of the building wall area located between two and one-half (2 1/2) and seven (7) feet above the level of the sidewalk. No wall may run in a continuous horizontal plane for more than twenty-five (25) feet without an opening.

**FIGURE 18.05.040-E: BUILDING TRANSPARENCY—MU DISTRICTS**

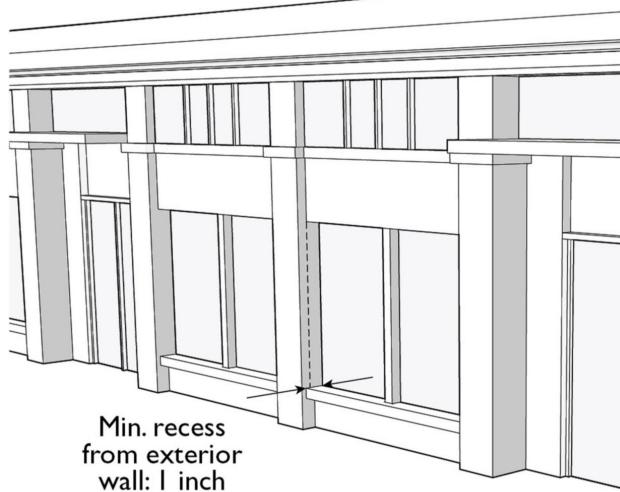


1. Design of Required Openings. Openings fulfilling this requirement shall have transparent glazing and provide views into work areas, display areas, sales areas, lobbies, or similar active spaces, or into window displays that are at least three (3) feet deep.
2. Exceptions for Parking Garages. Multilevel garages are not required to meet the building transparency requirement of this subsection. Instead, they must be screened and treated, consistent with the requirements of Chapter 18.20, Parking and Loading.
3. Alternatives Through Design Review. Alternatives to the building transparency requirement may be approved if the Planning Commission finds that:
  - a. The proposed use has unique operational characteristics with which providing the required windows and openings is incompatible, such as in the case of a cinema or theater; and
  - b. Street-facing building walls will exhibit architectural relief and detail, and will be enhanced with landscaping in such a way as to create visual interest at the pedestrian level.

F. Building Design and Articulation. Buildings shall provide adequate architectural articulation and detail to avoid a bulky and "box-like" appearance. Building design shall reflect and complement the architectural style of significant buildings within the community. This may be accomplished through the incorporation of architectural style, colors, and materials of significant buildings within the community. The following standards apply to commercial and mixed-use development in the MU districts. Residential-only development is subject to the building design standards for the RM districts in Section 18.04.060(B), Building Design.

1. Massing. Building massing shall align with the street grid of adjacent blocks.
2. Relation to Existing Buildings. Buildings shall be designed to appear integrated with existing buildings in the district.
3. Wide Buildings. Any building over fifty (50) feet wide shall be broken down to read as a series of buildings no wider than fifty (50) feet each or thirty (30) feet in the MU-DC District or within one hundred (100) feet of the train depot.
4. Vertical Relationship. Buildings shall be designed to have a distinctive base (ground floor level), middle (intermediate upper floor levels), and top (either top floor or roof level). Cornices, balconies, roof terraces, and other architectural elements should be used, as appropriate, to terminate roof lines and accentuate setbacks between stories.
5. Windows.
  - a. Trim at least one (1) inch in depth must be provided around all windows, or window must be recessed at least two (2) inches from the plane of the surrounding exterior wall.

**FIGURE 18.05.040-F(5)(a): WINDOW TRIM OR RECESS—MU DISTRICTS**



b. Snap-in vinyl mullions between double pane glass is prohibited. If a divided light appearance is desired, mullions must be made of dimensional material projecting in front of the panes on both the inside and outside of the window.

c. Exceptions may be granted through the design review process to accommodate alternative window design complementary to the architectural style of the structure.

6. Exterior Building Materials and Colors.

a. A unified palette of quality materials shall be used on all sides of buildings.

b. Exterior building materials shall be stone, brick, stucco, concrete block, painted wood clapboard, painted metal clapboard or other quality, durable materials approved by the City as part of the project review.

c. A wainscoting of quality materials on the bottom eighteen (18) to thirty-six (36) inches of the ground floor facade is required. Exceptions may be granted through the design review process to accommodate alternative design complementary to the architectural style of the structure.

d. Colors shall be used to help delineate windows and other architectural features to increase architectural interest.

7. Building Details. Buildings shall provide adequate architectural articulation and detail to avoid a bulky and "box-like" appearance.

a. Building facades shall include building projections or recesses, doorway and window trim, and other details that provide architectural articulation and design interest.

b. All applied surface ornamentation or decorative detailing shall be consistent with the architectural style of the building.

c. All balconies that do not meet the minimum size required for private open space, such as Juliet balconies, shall have a minimum horizontal dimension of two (2) feet.

d. Each side of the building that is visible from a public right-of-way shall be designed with a complementary level of detailing.

G. Pedestrian Access. On-site pedestrian circulation and access must be provided according to the following standards:

1. Internal Connections. A system of pedestrian walkways shall connect all buildings on a site to each other, to on-site automobile and bicycle parking areas, and to any on-site open space areas or pedestrian amenities.

2. To Circulation Network. Regular connections between on-site walkways and the public sidewalk and other existing or planned pedestrian routes, such as safe routes to school, shall be provided. An on-site walkway shall connect the primary building entry or entries to a public sidewalk on each street frontage.

3. To Neighbors. Direct and convenient access shall be provided from commercial and mixed-use projects to adjoining residential and commercial areas to the maximum extent feasible while still providing for safety and security.

4. To Transit. Safe and convenient pedestrian connections shall be provided from transit stops to building entrances.
5. Across Rail Corridor. Safe and convenient pedestrian connections shall be provided across the rail corridor. If an aerial viaduct or trench is used for rail alignment, the following standards shall apply to the extent feasible given engineering requirements.
  - a. Extend the street grid below the aerial viaduct or above the trench to provide new street and pedestrian connections across the corridor.
  - b. Locate active commercial uses or public park and recreation space below the aerial viaduct to enhance connectivity and create safe, attractive connections across the rail corridor.
  - c. Enhance connections below the viaduct with lighting and public art.
6. Interior Pedestrian Walkway Design.
  - a. Walkways shall have a minimum clear unobstructed width of five (5) feet, shall be hard-surfaced, and paved with concrete, stone, tile, brick, or comparable material.
  - b. Where a required walkway crosses driveways, parking areas, or loading areas, it must be clearly identifiable through the use of a raised crosswalk, a different paving material, or similar method.
  - c. Where a required walkway is parallel and adjacent to an auto travel lane, it must be raised or separated from the auto travel lane by a raised curb at least four (4) inches high, bollards, or other physical barrier.

H. Residential Notification. Residents of mixed-use development shall be informed of potential noise from refuse collection and other activities typically associated with commercial activity.

I. Rail Station.

1. Rail stations shall be designed to have physical presence and visibility on both sides of the rail corridor, including key architectural features that are visible from major roadways and connections, as well as pedestrian-level entries and vehicle drop-off areas.
2. Rain-protected east-west pedestrian connections shall be provided at the ground level of the station to enhance pedestrian connectivity along the rail corridor. These connections should be extensions of the existing street grid and pedestrian network with a minimum clear width of eight (8) feet. (Ord. 1596 § 6 (Exh. A), 2023; Ord. 1480 (Exh. B (part)), 2015; Ord. 1438 § 4 (Exh. A (part)), 2011)

**Chapter 18.06  
COMMERCIAL DISTRICTS Revised 8/23**

Sections:

**18.06.010 Purpose.**

**18.06.020 Land use regulations.** Revised 8/23

**18.06.030 Development standards.**

**18.06.040 Supplemental regulations.**

**18.06.010 Purpose.**

The specific purposes of the commercial districts are to:

- A. Designate adequate land for a full range of commercial uses and regional-serving retail services consistent with the General Plan to maintain and strengthen the City's economic resources.
- B. Provide appropriate located areas for a range of commercial and industrial uses that provide a variety of goods and services for residents, employees, and visitors, and increase employment opportunities.
- C. Protect the City's interests in orderly, economically sustainable development, traffic, circulation, public safety, and to ensure attractive and functional gateways and exceptional architectural design at landmark sites.

Additional purposes of each commercial district which follow implement General Plan classifications of "Neighborhood Retail" and "General Commercial/Industrial."

D. NR Neighborhood Retail. This district is intended to provide areas for locally oriented retail and service uses in building forms appropriately scaled to relate to adjacent single-family residential neighborhoods.

E. GCI General Commercial/Industrial. This district is intended to accommodate all retail service, office, research and development, and industrial uses. This district offers maximum flexibility to allow the market to determine the mixture of nonresidential uses.

F. LC Landmark Commercial. This district is intended to accommodate key parcels known collectively as landmark sites, which are targeted for economic development of regional retail and destination-oriented uses, including large-scale office complexes and hotels as individual or combined uses that are intended to serve regional users and have significant beneficial results in employment growth and contribute to the economic sustainability of the City and implementation of the City's Economic Development Plan. (Ord. 1464 § 3 (Exh. B (part)), 2013: Ord. 1438 § 4 (Exh. A (part)), 2011)

#### **18.06.020 Land use regulations. Revised 8/23**

Table 18.06.020 prescribes the land use regulations for commercial districts. The regulations for each district are established by letter designations as follows:

"P" designates permitted uses.

"M" designates use classifications that are permitted after review and approval of a minor use permit by the Zoning Administrator.

"C" designates use classifications that are permitted after review and approval of a conditional use permit by the Planning Commission.

"(#)" numbers in parentheses refer to specific limitations listed at the end of the table.

"-" designates uses that are not permitted.

Use classifications are defined in Chapter 18.40, Use Classifications. In cases where a specific land use or activity is not defined, the Director shall assign the land use or activity to a classification that is substantially similar in character. Use classifications and sub classifications not listed in the table or not found to be substantially similar to the uses below are prohibited. The table also notes additional use regulations that apply to various uses. Section numbers in the right-hand column refer to other sections of this title.

**TABLE 18.06.020: LAND USE REGULATIONS—COMMERCIAL DISTRICTS**

Use Classification	NR	GCI	LC	Additional Regulations
<b>Public and Semi-Public Uses</b>				
Colleges and Trade Schools, Public or Private	-	C(3)	-	
Government Offices	-	C(3)	-	
Instructional Services	P	M(3)	-	
Public Safety Facilities	-	M(3)	-	
<b>Commercial Uses</b>				
Automobile/Vehicle Sales and Services	See sub classifications below			
Automobile/Vehicle Sales and Leasing	-	P	C	See Section 18.23.050, Automobile/vehicle sales and services
Automobile/Vehicle Washing	-	C	-	
Service Station	(1)	P	-	
Banks and Financial Institutions	-	P	C	
Business Services	P	P	P(4)	

Use Classification	NR	GCI	LC	Additional Regulations
Commercial Entertainment and Recreation	See subclassifications below			
Cinema/Theaters	-	P	C	
Large-Scale	-	C	C	
Small-Scale	-	P	P(4)	
Eating and Drinking Establishments	See subclassifications below			
Full Service	M	P	P(4)	See Section 18.23.140, Outdoor dining
Convenience	P	P	C	
Food Preparation	P	P	P(4)	
Lodging	See subclassifications below			
Hotels and Motels	C	C	M	
Maintenance and Repair Services	-	P	P(4)	
Nurseries and Garden Centers	-	P	M(6)	See Section 18.23.270, Commercial cannabis businesses
Offices	See subclassifications below			
Business and Professional	P	P	P(4)	
Medical and Dental	-	P	M	
Walk-In Clientele	P	P	P(4)	
Personal Services	See subclassifications below			
General Personal Services	P	P	P(4)	See Section 18.23.170, Personal services
Retail Sales	See subclassifications below			
Building Materials and Services	-	P	M	
Cannabis Dispensary	-	-	-	
Convenience Markets	P	P	M	
Food and Beverage Sales	P	P	M	
General Retail	P	P	P(4)	
Large-Format Retail	-	C	C	See Section 18.23.130, Large-format retail
Price Point Retail	-	P	M	
Second-Hand Store	-	P	M	
Retail Establishments Selling Ammunition or Firearms	C	C	C	See Section 18.23.290, Retail establishments selling ammunition or firearms
Industrial Uses				
Construction and Material Yards	-	C	C	See Section 18.23.160, Outdoor storage
Custom Manufacturing	-	P	M	
Industry, General	-	M	M(6)	See Section 18.23.270, Commercial cannabis businesses
Industry, Limited	-	P	M	
Recycling Facility	See subclassifications below			
Reverse Vending Machine	-	C(3)	-	See Section 18.23.190, Recycling facilities
Recycling Collection Facility	-	C(3)	-	
Research and Development	-	P	M(6)	See Section 18.23.270, Commercial cannabis businesses

Use Classification	NR	GCI	LC	Additional Regulations
Research and Development Activities Requiring BSL-1 and BSL-2 Containment	P	P	P	
Research and Development Activities Requiring BSL-3 Containment	-	-	-	
Research and Development Activities Requiring BSL-4 Containment	-	-	-	
Salvage and Wrecking	-	C(2)	-	See Section 18.23.160, Outdoor storage
Warehousing and Storage	See subclassifications below			
Indoor Warehousing and Storage	-	C(5)	P(4)(5)	
Outdoor Storage	-	C	-	See Section 18.23.160, Outdoor storage
Wholesaling and Distribution	-	P	M(6)	See Section 18.23.270, Commercial cannabis businesses
Cannabis Microbusiness	-	P	-	See Section 18.23.270, Commercial cannabis businesses
Transportation, Communication, and Utilities Uses				
Communication Facilities	See subclassifications below			
Antenna and Transmission Towers	See Chapter 18.24, Wireless Telecommunications Facilities			
Facilities Within Buildings	P	P	M	
Freight/Truck Terminals and Warehouses	-	P(3)	-	
Light Fleet-Based Services	-	P(3)	C	
Utilities, Major	-	C(3)	-	
Utilities, Minor	P	P(3)	-	
Other Applicable Types				
Accessory Uses and Structures	See Sections 18.23.030, Accessory uses, and 18.15.020, Accessory buildings and structures			
Nonconforming Use	Chapter 18.19, Nonconforming Uses, Structures, and Lots			
Temporary Use	Chapter 18.31, Temporary Use Permits			

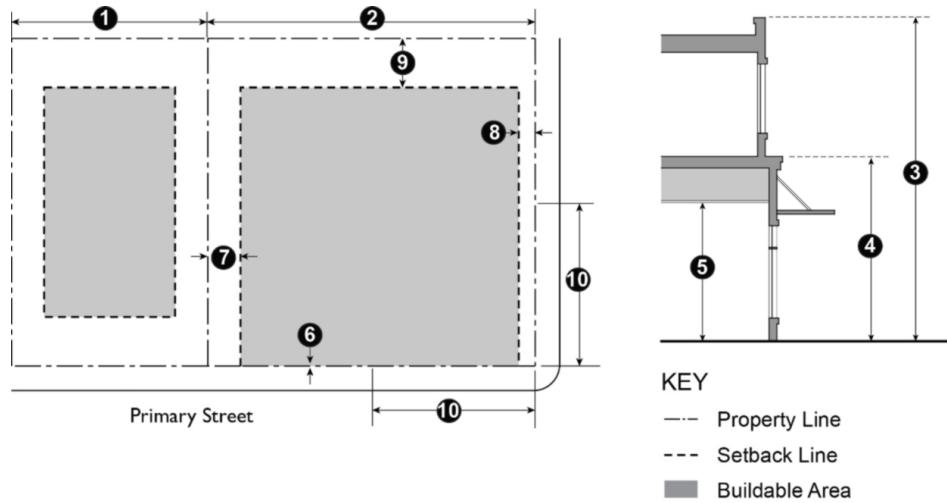
**Specific Limitations:**

1. Permitted if existing. New service stations are not allowed.
2. Shall be conducted entirely within an enclosed building.
3. Not allowed between Industrial Road and Highway 101 and Skyway Road fronting Highway 101.
4. Permitted by right in existing buildings only; additions or enlargements, tear downs and rebuilds may be considered subject to conditional use permit approval by the Planning Commission.
5. Storage in small individual spaces exclusively and directly accessible to a specific tenant is permitted by right on the condition that such uses occupy no more than five percent (5%) of the total square footage of any single building.
6. Uses that require a commercial cannabis business permit are not permitted.

(Ord. 1597 § 3 (Exh. A), 2023; Ord. 1540 (Exh. B), 2019; Ord. 1525 § 2(1) (Exh. A (part)), 2017; Ord. 1480 (Exh. B (part)), 2015; Ord. 1464 § 3 (Exh. B (part)), 2013; Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.06.030 Development standards.**

Table 18.06.030 prescribes the development standards for commercial districts. Additional regulations are denoted in the right-hand column. Section numbers in this column refer to other sections of this title, while individual letters refer to subsections that directly follow the table. The numbers in the illustration in this section refer to corresponding regulations in the “#” column in the associated table.



**TABLE 18.06.030: DEVELOPMENT STANDARDS—  
COMMERCIAL DISTRICTS**

District	NR	GCI	LC	Additional Regulations	#
<b>Lot and Density Standards</b>					
Minimum Lot Size (sq. ft.)	5,000	20,000	25,000		
Corner Lots	6,000	20,000	25,000		
Minimum Lot Width (ft.)	50	50	75		1
Corner Lots	60	60	75		2
<b>Building Form and Location</b>					
Maximum Height (ft.)	35, 28 within 50 ft. of RS district	50	50	See Section 18.15.060, Height and height exceptions	3
<b>Ground Floor Minimum, Commercial Uses (ft.)</b>					
Ground Floor Height	16	16	16		4
First Floor Ceiling Height (ft. clear)	12	12	12		5
<b>Minimum Setbacks (ft.)</b>					
Front	0	10	10	Minimum 30 feet from an RS district boundary; see Section 18.15.080, Projections into yards	6
Interior Side	10	0	0		7
Street Side	5	10	10		8
Rear	15	0	0		9
Corner Lot Build-To Area (ft.)	50 (A)	n/a	n/a		10
Maximum Floor Area Ratio (FAR)	1.0	2.0	2.0	See Chapter 18.03, Rules of Measurement	

A. Corner Lot Build-To Area. Buildings must be located within five feet of the property line within fifty feet of a corner. Gateway amenities, such as landscaping, signage, and art, may be at the street corner, provided buildings are built to the edge of the gateway area. (Ord. 1480 (Exh. B (part)), 2015; Ord. 1464 § 3 (Exh. B (part)), 2013; Ord. 1438 § 4 (Exh. A (part)), 2011)

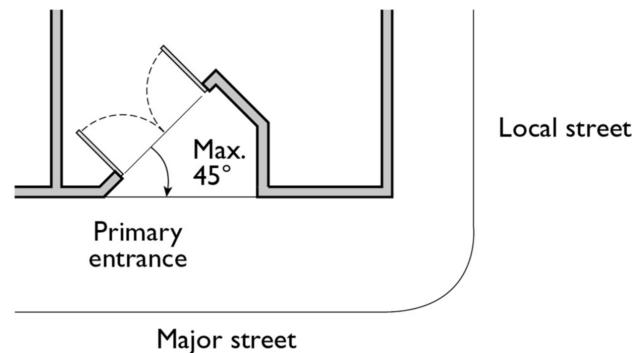
#### **18.06.040 Supplemental regulations.**

A. Commercial Development. Commercial development in the commercial districts is subject to the following standards:

1. Landscaping. A minimum of fifteen percent of the site must be landscaped.

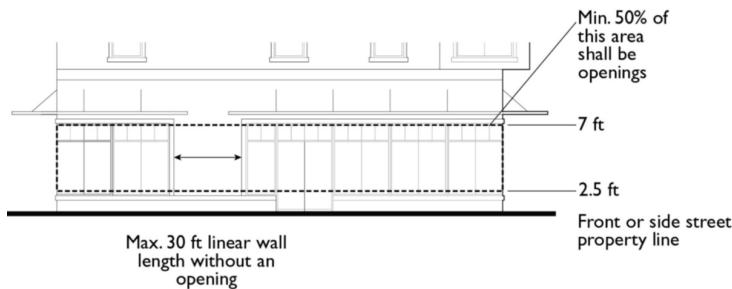
2. Public Improvements.
  - a. Sidewalks. Sidewalks shall be provided if none already exist or if the existing sidewalks are in poor condition.
  - b. Street Furniture. Trash receptacles, benches, bike racks, and other street furniture from a list maintained by the City shall be provided.
  - c. Street Lights. Pedestrian scaled street lights from a list maintained by the City shall be provided.
  - d. Street Trees. Shade trees shall be planted at least thirty feet on center. Tree guards shall be provided. Trees shall be a minimum fifteen gallons in size, and at least ten percent of the required trees shall be twenty-four-inch box size or larger.
3. Orientation of Primary Building Entrance. The primary building entrance shall face or be oriented to within forty-five degrees of or parallel to the street frontage. This entrance(s) must allow pedestrians to both enter and exit the building and must remain unlocked during business hours. Where a site is located on two public streets, a primary entrance shall be oriented toward the street with the higher classification. If a site fronts two public streets of equal classification, the applicant may choose which frontage on which street to meet the requirement.

**FIGURE 18.06.040-A(3): ORIENTATION OF PRIMARY BUILDING ENTRANCES**



4. Building Transparency/Required Openings. Exterior walls facing and within twenty feet of a front or street side lot line shall include windows, doors, or other openings for at least fifty percent of the building wall area located between two and one-half and seven feet above the level of the sidewalk. Such walls may run in a continuous plane for no more than thirty feet without an opening.

**FIGURE 18.06.040-A(4): BUILDING TRANSPARENCY/REQUIRED OPENINGS**



- a. Design of Required Openings. Openings fulfilling this requirement shall have transparent glazing and provide views into work areas, display areas, sales areas, lobbies, or similar active spaces, or into window displays that are at least three feet deep.
- b. Exceptions for Parking Garages. Multilevel garages are not required to meet the ground-floor transparency requirement. Instead, they must be designed and screened consistent with the requirements of Chapter 18.20, Parking and Loading.
- c. Reductions through Design Review. The building transparency requirement may be reduced or waived if it is found that:

- i. The proposed use has unique operational characteristics with which providing the required windows and openings is incompatible, such as in the case of a cinema or theater; and
  - ii. Street-facing building walls will exhibit architectural relief and detail, and will be enhanced with landscaping in such a way as to create visual interest at the pedestrian level.
5. Building Articulation. Buildings shall provide adequate architectural articulation and detail to avoid a bulky and "box-like" appearance.
- a. Any building over seventy-five feet wide shall be broken down to read as a series of buildings no wider than seventy-five feet each.
  - b. Building facades shall include building projections or recesses, doorway and window trim, and other details that provide architectural articulation and design interest.
  - c. Each side of the building that is visible from a public right-of-way shall be designed with a complementary level of detailing.
6. Exterior Building Materials and Colors.
- a. A unified palette of quality materials shall be used on all sides of buildings.
  - b. Exterior building materials shall be stone, brick, stucco, concrete block, painted wood clapboard, painted metal clapboard or other quality, durable materials approved by the City as part of the project review.
  - c. A wainscoting of quality materials on the bottom eighteen to thirty-six inches of the ground floor facade is required. Exceptions may be granted through the design review process to accommodate alternative design complementary to the architectural style of the structure.
7. Pedestrian Access. On-site pedestrian circulation and access must be provided according to the following standards.
- a. Internal Connections. A system of pedestrian walkways shall connect all buildings on a site to each other, to on-site automobile and bicycle parking areas, and to any on-site open space areas or pedestrian amenities.
  - b. To Circulation Network. Regular connections between on-site walkways and the public sidewalk shall be provided. An on-site walkway shall connect the primary building entry or entries to a public sidewalk on each street frontage. Such walkway shall be the shortest practical distance between the main entry and sidewalk, generally no more than one hundred twenty-five percent of the straight line distance.
  - c. To Neighbors. Direct and convenient access shall be provided from commercial and mixed-use projects to adjoining residential and commercial areas to the maximum extent feasible while still providing for safety and security.
  - d. To Transit. Safe and convenient pedestrian connections shall be provided from transit stops to building entrances. Sidewalk "bulb-outs" or bus "pull-outs" may be required at potential bus stops serving commercial centers (building floor area over twenty-five thousand square feet) to provide adequate waiting areas for transit users and safety for passing motorists.
  - e. Interior Pedestrian Walkway Design.
    - i. Walkways shall have a minimum clear unobstructed width of six feet, shall be hard-surfaced, and paved with permeable materials.
    - ii. Where a required walkway crosses driveways, parking areas, or loading areas, it must be clearly identifiable through the use of a raised crosswalk, a different paving material, or similar method.
    - iii. Where a required walkway is parallel and adjacent to an auto travel lane, it must be raised or separated from the auto travel lane by a raised curb at least four inches high, bollards, or other physical barrier.
8. Limitations on Location of Parking. Above-ground parking may not be located within forty feet of a street-facing property line. Exceptions may be granted with the approval of a conditional use permit when the Planning Commission makes the following findings:
- a. The design incorporates habitable space built close to the public sidewalk to the maximum extent feasible;

- b. The site is small and constrained such that underground parking or surface parking located more than forty feet from the street frontage is not feasible.
9. Limitations on Curb Cuts. Curb cuts shall be minimized and located in the location least likely to impede pedestrian circulation. Curb cuts shall be located at least ten feet from an intersection curb return or pedestrian cross walk.
10. Truck Docks, Loading, and Service Areas. Truck docks, loading areas, and service areas must be screened so as not to be visible from public streets. Drop-off areas may be located at the primary building entry.
- B. Commercial Centers. Commercial centers containing twenty-five thousand square feet or more of floor area or four or more establishments in the retail sales use classification are subject to the following standards and criteria for approval.
1. Entry Plazas/Passenger Loading Areas. A plaza shall be provided at the entry to each anchor tenant that provides for pedestrian circulation and loading and unloading. Entry plazas and passenger loading areas shall include unique, decorative paving materials, adequate seating areas, provision of adequate shade from the summer sun, and attractive landscaping including trees or raised planters. Entry plazas, which include features described under subsection (B)(2) of this section, may also be counted toward the public plaza requirements.
  2. On-Site Public Plazas. Outdoor plazas for the use of customers and visitors shall be provided at a rate of five square feet per one thousand square feet of floor area, up to one thousand five hundred square feet of outdoor plaza.
    - a. Location. Such public space shall be visible from a public street, or from on-site areas normally frequented by customers, and shall be accessible during business hours. Areas within required setbacks may count toward the public space requirement. Areas designated for customers to wait for cabs may be combined with required public space areas if they meet all other requirements of this subsection.
    - b. Amenities. On-site public space shall include benches or other seating, and the ground surface shall be landscaped or surfaced with high-quality paving materials. Amenities shall be included that enhance the comfort, aesthetics, or usability of the space, including but not limited to trees and other landscaping, shade structures, drinking fountains, water features, public art, or performance areas.
  3. Design Criteria. In order to receive permit approval for a commercial center, the review authority shall find that all of the following criteria have been met.
    - a. Integrated Theme. Buildings and structures shall exhibit an integrated architectural theme that includes similar or complementary materials, colors, and design details.
    - b. Site Entrance. Community-scale commercial developments (ten acres or larger) shall be developed with at least one major driveway entrance feature that provides an organizing element to the site design. Major driveway entrances include such features as a landscaped entry corridor or a divided median drive separated by a landscaped center dividing island. Buildings must be located within thirty feet of the corner of the driveway and public right-of-way. Building elements with greater vertical emphasis must be used at these corners.
    - c. Building Entrances. Building entrances to anchor tenants and other large stores shall be prominent and inviting. The architectural details of building entrances shall be integrated with the overall building design in terms of materials, scale, proportion, and design elements.
    - d. Vehicular Circulation. Safe, convenient vehicular circulation shall be provided within the development through an appropriate system of internal vehicular circulation routes based on a hierarchy of drive aisles and cross routes. Vehicular and pedestrian conflicts shall be minimized. Where pedestrian circulation routes cross vehicular traffic aisles and driveways within a development, there shall be clearly delineated crosswalks that include clear sight lines, adequate warning signage for both vehicles and pedestrians, adequate lighting, and protective barrier posts or similar features for separation at walkway entrances.
    - e. Cart Corrals. Adequate, convenient cart corrals shall be provided near building entrances and throughout the parking areas.
    - f. Transit Facilities. Transit facilities, where included, shall be developed with effective shading from the summer sun, comfortable seating, attractive landscaping, decorative paving, public art features and efficient pedestrian routes to adjacent development.

- g. Lighting. A combination of attractively designed and located lighting fixtures, including low pole lights, ground-mounted fixtures, light bollards, and architectural lighting shall be used to provide interesting compositions for outdoor lighting, as well as a safe, secure environment.
- h. Shade Areas. Pedestrian areas, such as walkways, building entrances, and gathering areas, shall be adequately shaded from the summer sun through such techniques as the careful placement of trees and landscaping, trellis structures, projecting canopies, covered walkways, arcades, porticos, building orientation, and similar techniques.

C. Industrial Development. Industrial development shall be developed in accordance with the supplemental regulations for industrial districts, Section 18.07.040. (Ord. 1480 (Exh. B (part)), 2015; Ord. 1438 § 4 (Exh. A (part)), 2011)

## **Chapter 18.07 INDUSTRIAL DISTRICTS Revised 8/23**

Sections:

**18.07.010 Purpose.**

**18.07.020 Land use regulations.** Revised 8/23

**18.07.030 Development standards.**

**18.07.040 Supplemental regulations.**

**18.07.010 Purpose.**

The specific purposes of the industrial districts are to:

A. Designate adequate land for businesses, professional offices, and industrial growth consistent with the General Plan to maintain and strengthen the City's economic resources.

B. Provide a range of employment opportunities to meet the needs of current and future residents.

C. Provide areas for a wide range of manufacturing, industrial processing, and service commercial uses and protect areas where such uses now exist.

Additional purposes of each industrial district which follow implement the General Plan classification of "Planned Industrial."

D. IA Industrial Arts. This district is intended to promote a building form and reserve areas for small-scale industrial, artisan, and manufacturing uses. Accessory or secondary small-scale retail uses that serve local employees and visitors are also permitted.

E. IL Light Industrial. This district is intended to accommodate a diverse range of light industrial uses, including general service, research and development, biotechnology, warehousing, and service commercial uses. It includes industrial complexes, flex space, and industrial buildings for single and multiple users, warehouses, wholesale, commercial recreation, and other related uses. Small-scale retail and ancillary office uses are also permitted.

F. IH Heavy Industrial. This district is intended to accommodate the broadest range of industrial uses. It includes industrial buildings and complexes, flex space, warehouses, manufacturing and assembly, and other uses that require large, warehouse-style buildings with flexible floor plans. Small-scale retail and ancillary office uses are also permitted.

G. IP Industrial Professional. This district is intended for large or campus-like office and technology development that includes office, research and development, manufacturing, and other large-scale, professional uses. Permitted uses include incubator research facilities, prototype manufacturing, testing, repairing, packaging, and printing as well as offices and research facilities. Accessory or secondary small-scale retail uses that serve local employees and visitors are also permitted. (Ord. 1480 (Exh. B (part)), 2015; Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.07.020 Land use regulations. Revised 8/23**

Table 18.07.020 prescribes the land use regulations for industrial districts. The regulations for each district are established by letter designations as follows:

"P" designates permitted uses.

"M" designates use classifications that are permitted after review and approval of a minor use permit by the Zoning Administrator.

"C" designates use classifications that are permitted after review and approval of a conditional use permit by the Planning Commission.

"(#)" numbers in parentheses refer to specific limitations listed at the end of the table.

"-" designates uses that are not permitted.

Use classifications are defined in Chapter 18.40, Use Classifications. In cases where a specific land use or activity is not defined, the Director shall assign the land use or activity to a classification that is substantially similar in character. Use classifications and sub classifications not listed in the table or not found to be substantially similar to the uses below are prohibited. The table also notes additional use regulations that apply to various uses. Section numbers in the right-hand column refer to other sections of this title.

**TABLE 18.07.020: LAND USE REGULATIONS—INDUSTRIAL DISTRICTS**

Use Classification	IA	IL	IH	IP	Additional Regulations
<b>Public and Semi-Public Uses</b>					
Colleges and Trade Schools, Public or Private	C	C	C(8)	-	
Government Offices	-	C	C	C	
Hospitals and Clinics	See subclassification below				
Hospitals	-	-	-	C	
Public Safety Facilities	-	M	M	-	
<b>Commercial Uses</b>					
Adult-Oriented Business	C(1)	C(1)	C(1)	-	See Section 18.23.040, Adult-oriented businesses
Animal Care, Sales and Services	See sub classifications below				
Kennels	-	M	-	-	
Veterinary Services	-	M	-	-	
Artist's Studio	P	P	-	-	
Automobile/Vehicle Sales and Services	See sub classifications below				
Automobile/Vehicle Sales and Leasing	-	C(3)	C(5)	C(5)	See Section 18.23.050, Automobile/vehicle sales and services
Automobile/Vehicle Repair, Major	P	P	P	C	
Automobile/Vehicle Service and Repair, Minor	P	P	P	-	
Automobile/Vehicle Washing	-	P	-	-	
Large Vehicle and Equipment Sales, Service and Rental	-	P	P	-	
Service Station	-	P(6)	-	-	
Towing and Impound	-	M	M	-	See Section 18.23.160, Outdoor storage
Vehicle Storage	-	M	M	-	
Business Services	P	P	P	P	
Commercial Entertainment and Recreation	See sub classifications below				
Large-Scale	-	C	C	-	
Small-Scale	-	C	C	-	
Eating and Drinking Establishments	See sub classifications below				
Full Service	-	-	-	M(2)	See Section 18.23.140, Outdoor dining

Use Classification	IA	IL	IH	IP	Additional Regulations
Convenience	M(2)	M(2)	M(2)	M(2)	
Food Preparation	P	P	-	-	
Funeral Parlors and Interment Services	P	-	-	-	
Maintenance and Repair Services	P	P	P	-	
Nurseries and Garden Centers	-	M	M	-	See Section 18.23.270, Commercial cannabis businesses
Offices	See subclassifications below				
Business and Professional	-	C	C	M	
Medical and Dental	-	C	-	M	
Parking, Public or Private	-	P	P	-	See Chapter 18.20, Parking and Loading
Personal Services	See subclassification below				
Tattoo or Body Modification Parlor	M	-	-	-	
Retail Sales	See subclassifications below				
Building Materials and Services	M	M	M	-	
Cannabis Dispensary	-	-	-	-	
Convenience Markets	M(2)	M(2)	M(2)	M(2)	
Food and Beverage Sales	M(2)	M(2)	M(2)	M(2)	
General Retail	M(4)	M(4)	M(4)	M(4)	
Retail Establishments Selling Ammunition or Firearms	C	C	C	C	See Section 18.23.290, Retail establishments selling ammunition or firearms
Industrial Uses					
Construction and Material Yards	P	P	P	-	See Section 18.23.160, Outdoor storage
Custom Manufacturing	P	P	P	-	
Industry, General	P	P	P	-	See Section 18.23.270, Commercial cannabis businesses
Industry, Limited	P	P	P	P	
Recycling Facility	See subclassifications below				
Reverse Vending Machine	P	P	-	-	See Section 18.23.190, Recycling facilities
Recycling Collection Facility	-	C	C	-	
Recycling Processing Facility	-	C	C	-	
Research and Development	P	P	P	P	See Section 18.23.270, Commercial cannabis businesses
Research and Development Activities Requiring BSL-1 and BSL-2 Containment	P	P	P	P	
Research and Development Activities Requiring BSL-3 Containment	-	-	-	-	
Research and Development Activities Requiring BSL-4 Containment	-	-	-	-	
Salvage and Wrecking	M(3)	M	M	-	See Section 18.23.160, Outdoor storage

Use Classification	IA	IL	IH	IP	Additional Regulations
Warehousing and Storage	See subclassifications below				
Chemical, Mineral, and Explosives Storage	-	C(7)	C(7)	-	
Indoor Warehousing and Storage	P	P	P	-	
Outdoor Storage	P(9)	P	P	-	See Section 18.23.160, Outdoor storage
Wholesaling and Distribution	P	P	P	-	See Section 18.23.270, Commercial cannabis businesses
Cannabis Microbusiness	P	P	P	-	See Section 18.23.270, Commercial cannabis businesses
Transportation, Communication, and Utilities Uses					
Communication Facilities	See subclassifications below				
Antenna and Transmission Towers	See Chapter 18.24, Wireless Telecommunications Facilities				
Facilities Within Buildings	M	M	M	M	
Freight/Truck Terminals and Warehouses	-	C	P(10)	-	
Light Fleet-Based Services	P	P	P	-	
Utilities, Major	C	C	C	C	
Utilities, Minor	P	P	P	P	
Waste Transfer Facility	-	P	P	-	
Other Applicable Types					
Accessory Uses and Structures	See Sections 18.23.030, Accessory uses, and 18.15.020, Accessory buildings and structures				
Nonconforming Use	Chapter 18.19, Nonconforming Uses, Structures, and Lots				
Temporary Use	Chapter 18.31, Temporary Use Permits				

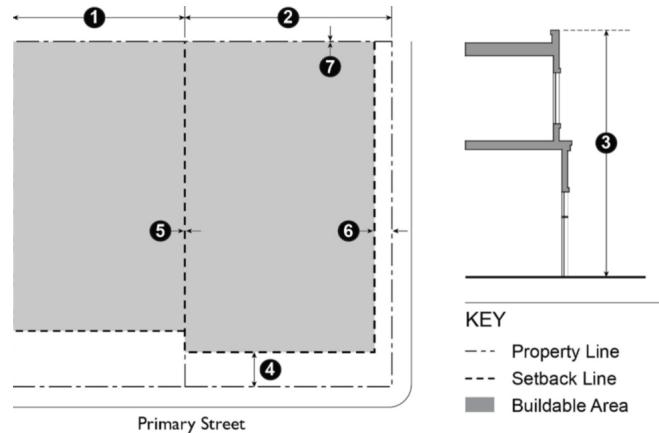
#### Specific Limitations:

1. Permitted only in the area shown on Figure 18.23.040-B: Adult-Oriented Business Area.
2. Permitted only as an ancillary use. The combined floor area of all eating and drinking uses on a site shall not exceed two thousand five hundred (2,500) square feet unless a conditional use permit is approved.
3. Shall be conducted entirely within an enclosed building.
4. Permitted only as an ancillary use, not to occupy more than one thousand (1,000) square feet, unless a conditional use permit is approved.
5. Limited to properties between Industrial Road and Highway 101 and adjacent to Shoreway Road.
6. Limited to alternative fueling stations such as for electric or hybrid vehicles, hydrogen-powered vehicles, and similar vehicles using alternative fuels.
7. Prohibited within five hundred (500) feet of a residential district.
8. Except between Industrial and Highway 101 and Shoreway and Highway 101.
9. Permitted as an accessory use only.
10. Conditional use permit required if adjacent to an R district.

(Ord. 1597 § 3 (Exh. A), 2023; Ord. 1540 (Exh. C), 2019; Ord. 1525 § 2(1) (Exh. A (part)), 2017; Ord. 1480 (Exh. B (part)), 2015; Ord. 1438 § 4 (Exh. A (part)), 2011)

#### **18.07.030 Development standards.**

Table 18.07.030 prescribes the development standards for industrial districts. Additional regulations are denoted in a right-hand column. Section numbers in this column refer to other sections of this title, while individual letters refer to subsections that directly follow the table. The numbers in each illustration in this section refer to corresponding regulations in the “#” column in the associated table.



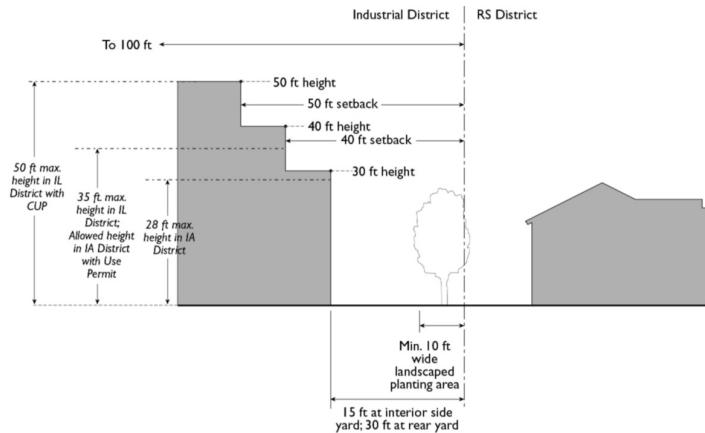
**TABLE 18.07.030: DEVELOPMENT STANDARDS—INDUSTRIAL DISTRICTS**

District	IA	IL	IH	IP	Additional Regulations	#
<b>Lot and Density Standards</b>						
Minimum Lot Size (sq. ft.)	5,000	40,000	20,000	1 acre		
Corner Lots	6,000	40,000	20,000	1 acre		
Maximum Lot Size (sq. ft.)	20,000	n/a	n/a	n/a		
Minimum Lot Width (ft.)	50	50	75	75		1
Corner Lots	60	60	75	75		2
<b>Building Form and Location</b>						
Maximum Height (ft.)	28; 35 with use permit (B)	75 (A)	50 (A)	100	See Section 18.15.060, Height and height exceptions	3
<b>Minimum Setbacks (ft.)</b>						
Front	0	5, 10 along arterials	5, 10 along arterials	20	See Section 18.15.080, Projections into required yards	4
Interior Side	0	0 (A)	0 (A)	0		5
Street Side	0	5	5	5		6
Rear	0	0 (A)	0 (A)	0		7
Maximum Floor Area Ratio (FAR)	1.0	0.5	2.0	2.0	See Chapter 18.03, Rules of Measurement	
Project Sites of More Than One Acre (FAR)	n/a	1.0	1.0	n/a		

A. Transitional Standards. Where an industrial district adjoins an RS district, the following standards apply:

- The maximum height is (a) thirty feet within forty feet of an RS district; (b) forty feet within fifty feet of an RS district; and (c) fifty feet within one hundred feet of an RS district.
- The building setback from an RS district boundary shall be fifteen feet for interior side yards and thirty feet for rear yards.
- A landscaped planting area, a minimum of ten feet in width, shall be provided along all RS district boundaries. A tree screen shall be planted in this area with trees planted at a minimum interval of fifteen feet.

**FIGURE 18.07.030-A: INDUSTRIAL DISTRICT TRANSITIONAL STANDARDS**



B. Maximum Height, IA District. A maximum height of thirty-five feet may be allowed to accommodate a larger floor to ceiling height subject to the approval of a use permit. The maximum height to the parapet is twenty-eight feet. Upper stories shall be set back a minimum of ten feet from the floor below.

C. Maximum Height, IL District. For IL properties adjacent to an RS district, the maximum height shall be thirty-five feet and shall conform to transitional height setbacks contained in subsection A of this section. A conditional use permit shall be required for height greater than thirty-five feet up to a maximum height of fifty feet for IL properties adjacent to an RS district and shall conform to transitional height setbacks in subsection A of this section. (Ord. 1480 (Exh. B (part)), 2015; Ord. 1438 § 4 (Exh. A (part)), 2011)

#### **18.07.040 Supplemental regulations.**

A. Landscaping. A minimum of ten percent of the site must be landscaping.

B. Building Design Near Highway 101. For any site that is fully or partially located within two hundred feet of the right-of-way line of Highway 101, buildings shall be designed with four-sided architecture where each exterior wall is designed equivalent to the primary facade in the extent of building articulation and quality of exterior materials, and consistent with the color scheme of the primary facade.

C. Sidewalks. Sidewalks shall be provided if none already exist or if the existing sidewalks are in poor condition.

D. Parking Location. Parking shall be located at the side or rear of buildings wherever possible.

1. Customer parking should be located near the office area.

2. Where parking is located between a building and a street, a landscaped setback at least ten feet wide must be provided between the parking area and adjacent right-of-way.

E. Limitations on Curb Cuts. Wherever possible, parking and loading entrances shall share curb cuts in order to minimize the overall number of curb cuts. On corner lots, curb cuts shall be located on the street frontage with the least pedestrian activity wherever feasible.

F. Access Location. Access shall be provided from a side street or alley wherever possible.

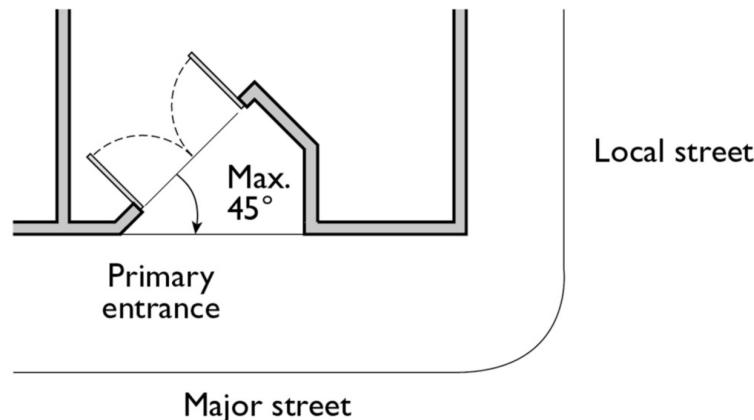
G. Truck Docks, Loading, and Service Areas. The outermost point of the truck docks, loading, and service areas are not permitted within thirty feet of the boundary of an RS district.

H. IA District. Development in the IA District is also subject to the following standards:

1. Build-To Line. Buildings shall be constructed at the property line for a minimum of fifty percent of linear street frontage.

2. Orientation of Primary Building Entrance. The primary building entrance shall face or be oriented to within forty-five degrees or parallel to the street frontage. Where a site is located on two public streets, a primary entrance shall be oriented toward the street with the higher classification.

**FIGURE 18.07.040-H(2): ORIENTATION OF PRIMARY BUILDING ENTRANCES**



3. Building Details. The street-facing facade shall include applied surface ornamentation or decorative detailing to promote visual interest. This may include but not be limited to moldings/trims, brackets, niches, and decorative entrances.

4. Building Articulation Along Old County Road. Buildings along Old County Road over fifty feet wide shall be broken down to read as a series of buildings no wider than fifty feet each.

I. Business, Technology, and Office Parks. Business, technology, and office parks containing eighty thousand square feet or more of floor area shall provide the following:

1. Eating and drinking establishments and personal services that will serve employees of the park. Such uses may occupy up to two thousand five hundred square feet, unless a conditional use permit allowing for more space is approved.
2. Open space areas equal to ten percent of the site area that provide gathering space or opportunities for active or passive recreation. Open space areas shall include benches or other seating. Amenities shall be included that enhance the comfort, aesthetics, or usability of the space, including but not limited to trees and other landscaping, shade structures, drinking fountains, water features, or public art.
3. Pedestrian walkways that connect all parts of the park, and connect to any existing or planned pedestrian facilities in adjacent neighborhoods.
4. Stormwater detention facilities incorporated into the site landscaping as a visual amenity.
5. A lighting, landscaping, and signage design concept for common areas that is approved by the review authority. (Ord. 1438 § 4 (Exh. A (part)), 2011)

## Chapter 18.08 PUBLIC AND SEMI-PUBLIC DISTRICTS

Sections:

**18.08.010 Purpose.**

**18.08.020 Land use regulations.**

**18.08.030 Development standards.**

**18.08.040 Supplemental regulations.**

**18.08.010 Purpose.**

The specific purposes of the public and semi-public districts are to:

- A. Provide land for development of public, quasi-public, and open space uses that provide services to the community and support existing and new residential, commercial, and industrial land uses.
- B. Provide areas for educational facilities, cultural and institutional uses, health services, parks and recreation, general government operations, utility and public service needs, and other similar and related supporting uses.
- C. Provide opportunities for outdoor recreation, and meet the recreational needs of San Carlos residents.

Additional purposes of each public and semi-public district which follow implement General Plan classifications of "Public," "Park," "Open Space," and "Open Space/Schools."

D. P Public. This classification is intended for City facilities, utilities, schools, and other public and quasi-public uses.

E. PK Park. This classification is intended to maintain areas for active and passive public parks, including outdoor and indoor recreation such as playing fields, playgrounds, community centers, and other appropriate recreational uses.

F. OS Open Space. This classification is intended for undeveloped park lands, visually significant open lands, water areas, and wildlife habitat. These areas are set aside as permanent open space preserves and may include trails, trail heads, agricultural uses (such as 4H), and other facilities for low-impact public recreational uses. (Ord. 1438 § 4 (Exh. A (part)), 2011)

#### **18.08.020 Land use regulations.**

Table 18.08.020 prescribes the land use regulations for public and semi-public districts. The regulations for each district are established by letter designations as follows:

"P" designates permitted uses.

"M" designates use classifications that are permitted after review and approval of a minor use permit by the Zoning Administrator.

"C" designates use classifications that are permitted after review and approval of a conditional use permit by the Planning Commission.

"(#)" numbers in parentheses refer to specific limitations listed at the end of the table.

"-" designates uses that are not permitted.

Use classifications are defined in Chapter 18.40, Use Classifications. In cases where a specific land use or activity is not defined, the Director shall assign the land use or activity to a classification that is substantially similar in character. Use classifications and sub-classifications not listed in the table or not found to be substantially similar to the uses below are prohibited. The table also notes additional use regulations that apply to various uses. Section numbers in the right-hand column refer to other sections of this title.

**TABLE 18.08.020: LAND USE REGULATIONS—PUBLIC AND SEMI-PUBLIC DISTRICTS**

Use Classification	P	PK	OS	Additional Regulations
<b>Public and Semi-Public Use Classifications</b>				
Cemeteries	C	-	-	
College and Trade Schools, Public or Private	C	-	-	
Community Assembly	C	C	-	See Section 18.23.080, Community assembly facilities
Community Garden	C	P	-	
Cultural Institutions	C	C	-	
Emergency Shelter	C	-	-	See Section 18.23.110, Emergency shelters
Government Offices	P	-	-	
Hospitals and Clinics	See sub-classifications below			
Hospitals	C	-	-	
Clinics	C	-	-	
Instructional Services	C	-	-	
Park and Recreation Facilities, Public	P	P	P(1)	
Public Safety Facilities	P	-	-	
Schools, Public or Private	C	-	-	

Use Classification	P	PK	OS	Additional Regulations
Social Service Facilities	C	-	-	
Commercial Use Classifications				
Animal Care, Sales, and Services, Kennels	C(2)	-	-	
Parking, Public or Private	C	-	-	See Chapter 18.20, Parking and Loading
Industrial Use Classifications				
Recycling Collection Facilities	See subclassifications below			
Reverse Vending Machine	C	-	-	See Section 18.23.190, Recycling facilities
Recycling Collection Facility	C(3)	-	-	
Recycling Processing Facility	C(3)	-	-	
Warehousing and Storage	See subclassifications below			
Outdoor Storage	P(4)	P(4)	P(4)	See Section 18.23.160, Outdoor storage
Transportation, Communication, and Utilities Use Classifications				
Communication Facilities	See Chapter 18.24, Wireless Telecommunications Facilities			
Utilities, Major	C	-	-	
Utilities, Minor	P	P	P	
Other Applicable Types				
Accessory Uses and Structures	See Section 18.15.020, Accessory uses and structures			
Nonconforming Use	Chapter 18.19, Nonconforming Uses, Structures, and Lots			
Temporary Use	Chapter 18.31, Temporary Use Permits			

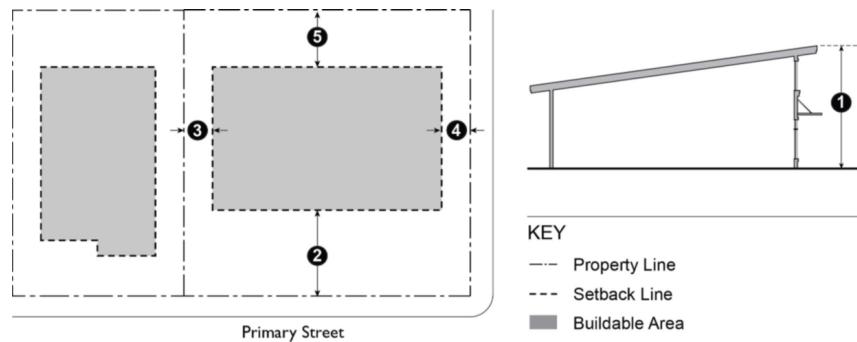
## Specific Limitations:

- Limited to trails, wildlife preserves and open space uses that maintain the site in its natural state. No building, structure or improvements shall be constructed in these areas, except for those required for public access, public restrooms, informational signage, trash containers, parking facilities, structures related to agricultural uses, and facilities needed for protecting environmental resources and general upkeep and maintenance of the property.
- Limited to government or nonprofit animal shelters located a minimum of one hundred feet from a residential use or district.
- Not permitted when the use is directly abutting a residential zoning district.
- Permitted only as an accessory use.

(Ord. 1480 (Exh. B (part)), 2015; Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.08.030 Development standards.**

Table 18.08.030 prescribes the development standards for public and semi-public districts. Additional regulations are denoted in a right-hand column. Section numbers in this column refer to other sections of this title. The numbers in each illustration in this section refer to corresponding regulations in the “#” column in the associated table.



**TABLE 18.08.030: DEVELOPMENT STANDARDS—PUBLIC AND SEMI-PUBLIC DISTRICTS**

District	P	PK	OS	Additional Regulations	#
Building Form and Location					
Maximum Height (ft.)	30	30	30	See Section 18.15.060, Height and height exceptions	1
Minimum Setbacks (ft.)					
Front	30	30	30	See Section 18.15.080, Projections into required yards	2
Interior Side	10	10	10		3
Street Side	10	10	10		4
Rear	20	20	20		5
Maximum Lot Coverage (% of Lot)	n/a	n/a	10		

(Ord. 1480 (Exh. B (part)), 2015: Ord. 1438 § 4 (Exh. A (part)), 2011)

#### **18.08.040 Supplemental regulations.**

- A. Landscaping. A minimum of ten percent of the site must be landscaped.
- B. School Sites. In the event of closure of a school, the primary use of these sites shall be for public or private education and associated recreation purposes.
- C. Truck Docks, Loading and Service Areas. Truck docks, loading areas, and service areas must be located at the rear or interior sides of buildings and screened so as not to be visible from public streets or residential properties. (Ord. 1480 (Exh. B (part)), 2015: Ord. 1438 § 4 (Exh. A (part)), 2011)

### **Chapter 18.09 AIRPORT DISTRICT**

Sections:

#### **18.09.010 Purpose.**

#### **18.09.020 Use restrictions.**

#### **18.09.030 Land use regulations.**

#### **18.09.040 Development standards.**

#### **18.09.010 Purpose.**

The Airport District is established to:

- A. Protect land uses around the San Carlos Airport from potential hazards of airport operations.
- B. Identify a range of uses compatible with airport accident hazard and airport noise exposure.
- C. Prohibit the development of incompatible uses that are detrimental to the general health, safety and welfare and to existing and future airport operations.
- D. Comply with Federal Aviation Administration (FAA) regulations. (Ord. 1540 (Exh. D (part)), 2019: Ord. 1438 § 4 (Exh. A (part)), 2011)

#### **18.09.020 Use restrictions.**

Notwithstanding any other provisions of this chapter, no use may be made of land or water within the Airport District in such a manner that would:

- A. Create a hazard to air navigation, as determined by the FAA;
- B. Result in glare in the eyes of pilots using the airport;
- C. Make it difficult for pilots to distinguish between airport lights and others;

- D. Impair visibility in the vicinity of the airport;
- E. Create steam or other emissions that cause thermal plumes or other forms of unstable air;
- F. Create electrical interference with navigation signals or radio communication between the airport and aircraft;
- G. Create an increased attraction for wildlife. Of particular concern are landfills and certain recreational or agricultural uses that attract large flocks of birds that pose bird strike hazards to aircraft in flight; or
- H. Otherwise in any way endanger or interfere with the landing, takeoff or maneuvering of aircraft intending to use the airport. (Ord. 1540 (Exh. D (part)), 2019: Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.09.030 Land use regulations.**

Table 18.09.030 prescribes the land use regulations for the Airport District. The regulations for the Airport District are established by letter designations as follows:

"P" designates permitted uses.

"M/C" designates uses that are permitted after review and approval of a minor use permit by the Zoning Administrator when uses will be located within an existing building, but requires review and approval of a conditional use permit by the Planning Commission when proposed to be located within a newly constructed building.

"C" designates use classifications that are permitted after review and approval of a conditional use permit by the Planning Commission.

"(#)" numbers in parentheses refer to specific limitations listed at the end of the table.

Land uses not specifically listed in Table 18.09.030 shall be evaluated by the Director based on a use that is substantially similar in character. Uses not listed in the table or not found to be substantially similar to the uses below are prohibited.

**TABLE 18.09.030: LAND USE REGULATIONS—AIRPORT DISTRICT**

Use	A
Airports and heliports	P
Vehicle rental, sales or leasing services	M/C(1)
Flight training and other instruction facilities, including aircraft operation, maintenance and repair and the repair and service of instruments and radios	M/C(1)
Maintenance, repair and testing of local and transient aircraft and aircraft engines	M/C(1)
Reconstruction, assembly, repair and servicing of aircraft and other facilities or equipment related to aircraft or aircraft operation	M/C(1)
Restaurant and on-sale liquor establishment	M/C(1)
Sale, lease, rental or charter of aircraft and aircraft equipment, including fixed-base operations	M/C(1)
Testing, calibration and repair of radios and navigational instruments	M/C(1)
Professional sales, general business and executive offices, and accessory uses	M/C(1)
Hotel or motel	M/C(1)
Warehouse and indoor storage	M/C(1)
Research laboratories	M/C(1)
Prototype development	M/C(1)
Automobile parking lot or structure	M/C
Public and quasi-public uses and facilities, including fire protection, policing, and the furnishing of utility services	M/C
Retail establishments selling ammunition or firearms	C (2)

Specific Limitation:

1. Shall be conducted entirely within an enclosed building.

2. See Section 18.23.290 for additional requirements.

A. Required Findings. In addition to any other findings that this title requires, in order to approve any use permit for a use or facility subject to regulations of this chapter, the review authority must find that the use or uses support the airport, are airport-dependent, or that there is no potential detriment to the airport in terms of population concentrations, interference with airport activities and uses, and height or other safety requirements. (Ord. 1540 (Exh. D (part)), 2019: Ord. 1438 § 4 (Exh. A (part)), 2011)

#### **18.09.040 Development standards.**

Table 18.09.040 prescribes the development standards for the Airport District. Additional regulations are denoted in the right hand column. Section numbers in this column refer to other sections of this title, while individual letters refer to subsections that directly follow the table.

**TABLE 18.09.040: DEVELOPMENT STANDARDS—AIRPORT DISTRICT**

Standard	A	Additional Regulations
Maximum Height (ft.)	50 (A)	
Site Area (sq. ft.)	20,000	
Minimum Yards (ft.)		
Front	15 (B)	
Interior Side	0	
Street Side	15 (B)	
Rear	0	
Maximum Lot Coverage (% of lot)	60	See Chapter 18.03, Rules of Measurement

A. Maximum Height. The maximum height of buildings, structures and vegetation shall not exceed the regulations established in the San Mateo County Airport Use Plan for the San Carlos Airport, and in no case shall exceed fifty feet.

B. Front and Street-Side Yards. All front and street-side yards are subject to the following standards:

1. A landscaped planter, a minimum of five feet in width, shall be provided along all front and exterior side property lines, excluding walkways and accessways;
2. Off-street parking may be located within the portion of required front and exterior side yards outside of the required landscaped planter; and
3. Drives and walks for ingress and egress shall not exceed forty percent of any required yard. (Ord. 1540 (Exh. D (part)), 2019: Ord. 1438 § 4 (Exh. A (part)), 2011)

## **Chapter 18.10 PLANNED DEVELOPMENT DISTRICT**

Sections:

#### **18.10.010 Purpose.**

#### **18.10.020 Zoning Map designation.**

#### **18.10.030 Land use regulations.**

#### **18.10.040 Development regulations.**

#### **18.10.010 Purpose.**

The purpose of this chapter is to establish a Planned Development (PD) District that provides for one or more properties to be developed under a plan that provides for better coordinated development and incorporates development standards crafted to respond to site conditions in order to:

A. Provide flexibility by allowing diversification in regulations such as building relationships, setbacks, height limitations, floor area ratio (FAR), lot sizes, types of structures, parking, landscaping, and the amount and location of open space.

- B. Ensure substantial compliance with and implement the land use and density policies of the General Plan and any applicable specific plan.
- C. Provide for efficient and cost-effective public facilities and services.
- D. Allow for creative development projects that incorporate design features that provide greater amenities than would likely result from conventionally planned development.
- E. Protect public health, safety, and general welfare without unduly inhibiting developers attempting to secure the advantages of modern, large-scale site planning for residential, commercial, or industrial purposes.
- F. A PD District shall also be used for adoption and administration of specific plans, prepared pursuant to the Government Code. (Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.10.020 Zoning Map designation.**

A PD District shall be noted on the Zoning Map by the designation "PD," followed by the number of the planned development or specific plan based on order of adoption. (Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.10.030 Land use regulations.**

No use other than an existing use is permitted in a PD District except in accord with a valid PD plan or adopted specific plan. Any permitted or conditional use authorized by this title may be included in an approved PD plan or an adopted specific plan consistent with the General Plan land use designation(s) for the property. (Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.10.040 Development regulations.**

A. Minimum Area. The minimum area of a PD District shall be as follows; however, the City Council may approve a district smaller than the minimum area if it finds that rezoning to PD would provide greater benefits to the general welfare of San Carlos' residents and property owners than development under conventional zoning because of unique characteristics of the site or the proposed use.

- 1. Mixed-Use Districts: One-half of one contiguous acre.
- 2. Other Districts: Two contiguous acres.

B. Open Space. Open space shall be shown on the PD plan, and the total open area in a PD plan shall be substantially the same as the open area required by the base district for the total area of the planned development.

C. Residential Unit Density. Except where a density bonus is granted in compliance with the City's density bonus regulations for affordable housing and child care, Chapter 18.16, Affordable Housing Programs and Chapter 18.17, Affordable Housing Incentives, the total number of dwelling units in a PD plan shall not exceed the maximum number permitted by the General Plan density for the total area of the planned development designated for residential use, excluding areas devoted to public and private streets, creeks, and storm drains.

D. Performance Standards. The performance standards prescribed by Chapter 18.21, Performance Standards, apply.

E. Other Development Regulations. Minimum lot area, yard requirements, building heights, and other physical development standards shall be as prescribed by the PD plan. Each PD plan shall establish development standards that, at a minimum, address the following:

- 1. Land use;
- 2. Circulation of traffic;
- 3. Landscaping;
- 4. Architecture;
- 5. Specific density;
- 6. Minimum building site;
- 7. Minimum lot dimensions;
- 8. Maximum lot coverage by buildings and structures;

9. Minimum yards;
10. Maximum building or structure heights;
11. Maximum height of fences and walls;
12. Signs;
13. Off-street parking; and
14. Other items as deemed appropriate by the Planning Commission and City Council. (Ord. 1438 § 4 (Exh. A (part)), 2011)

## Chapter 18.11 GATEWAY (G) OVERLAY DISTRICT

Sections:

**18.11.010 Purpose.**

**18.11.020 Applicability.**

**18.11.030 Development standards.**

**18.11.040 Design criteria.**

**18.11.010 Purpose.**

The Gateway (G) Overlay District is intended to foster the creation of aesthetically pleasing gateways by which people can orient themselves and have a sense of arrival to the City of San Carlos. (Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.11.020 Applicability.**

The standards and regulations of this chapter apply to all areas of the City identified as gateways on the Zoning Map. (Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.11.030 Development standards.**

Development in the G Overlay District is subject to the following standards:

A. Primary Gateways.

1. Holly Street East of El Camino Real. This gateway, at Holly Street and Industrial Road, is a point of entry to the City for vehicular traffic traveling on Highway 101. It also serves as the closest point of entry to downtown for vehicles traveling along the freeway.
  - a. West of Industrial Road. Buildings must be located in accordance with the required setbacks within thirty feet of every corner. Public plazas or landscaped areas may be at the street corner provided buildings are built to the edge of the public plaza or landscaped area.
    - i. Building. Building elements with greater vertical emphasis must be used on corners.
    - ii. Public Plaza. The public plaza must be open to the sky, adjacent to and accessible from a public sidewalk and have a minimum horizontal dimension of twenty feet.
    - iii. Landscaped Area. The landscaped area shall have a minimum horizontal dimension of twenty feet and include landscaping and a gateway feature. Landscaping shall be low growing, up to a maximum of three feet in height. The gateway feature may include signage, public art, and water features. Water features shall be designed to be attractive, even when water is not in use.
  - b. East of Industrial Road. A landscaped area with a minimum horizontal dimension of twenty feet shall be provided within twenty feet of every corner. Landscaping shall be low growing, up to a maximum of three feet.
2. San Carlos Avenue at El Camino Real. This gateway, at the intersection of San Carlos Avenue and El Camino Real, marks the entrance to downtown and is located in proximity to the historic train depot and Drake building. As a multi-modal center, gateway landmarks or features at this location shall be oriented towards pedestrians, transit users, bicyclists, and cars.

- a. Buildings must be located in accordance with the required setbacks within thirty feet of the corner. Public plazas may be at the street corner provided buildings are built to the edge of the public plaza.
    - i. Building. Building elements with greater vertical emphasis must be used on corners.
    - ii. Public Plaza. The public plaza must be open to the sky, adjacent to and accessible from a public sidewalk and have a minimum horizontal dimension of twenty feet.
  - b. Design. Design of the building or gateway landmark or feature shall reflect and complement the style of the train depot and Drake Building. This may be accomplished through the incorporation of architectural style, colors, and materials of the train depot and Drake Building.
  - c. Orientation. The gateway landmark or feature shall be oriented to face public streets and engage and facilitate access by vehicles, bicycles and pedestrians from adjacent neighborhoods and mass transit locations.
3. North and South El Camino Real. The North El Camino Real gateway is located at El Camino Real and F Street (in Belmont). The South El Camino Real gateway is located at El Camino Real and Eaton Avenue.
- a. North El Camino Real. Buildings must be located in accordance with the required setbacks within thirty feet of the corner. Public plazas or landscaped areas may be at the street corner, provided buildings are built to the edge of the public plaza or landscaped area.
    - i. Building. Building elements with greater vertical emphasis must be used on corners.
    - ii. Public Plaza. The public plaza must be open to the sky, adjacent to and accessible from a public sidewalk and have a minimum horizontal dimension of twenty feet.
    - iii. Landscaped Area. The landscaped area shall have a minimum horizontal dimension of twenty feet and include landscaping and a gateway feature. Landscaping shall be low growing, up to a maximum of three feet in height. The gateway feature may include signage, public art, and water features. Water features shall be designed to be attractive, even when water is not in use.
  - b. South El Camino Real. A landscaped public plaza or a public gathering area must be located on the east side of El Camino Real in the South El Camino Real gateway area. The landscaped public plaza or gathering space shall include amenities such as benches, trash receptacles, and lighting. Gateway features and landmarks appropriate in this area include:
    - i. Vertical landscaping;
    - ii. Linear signage elements that are engaging to vehicles, bicycles and pedestrians; and
    - iii. Large scale linear elements such as dimensional letters or icons.
4. Brittan Avenue at Highway 101. This gateway, at the City boundary where Highway 101 meets Brittan Avenue, is the second point of entry to San Carlos for vehicular traffic traveling on Highway 101. Landscaped setbacks are the primary design element required at this City gateway.
- a. Landscaped Setbacks. A landscaped setback, a minimum of fifteen feet wide and with common street trees provided, shall be provided along the frontage of Brittan Avenue, between Highway 101 and Industrial Road.
- B. Secondary Gateways.
1. Location of Secondary Gateways.
- a. Industrial Road. The northern gateway on Industrial Road occurs at the San Carlos/Belmont city boundary, adjacent to Belmont Creek. The southern gateway on Industrial Road occurs at G Street (in Redwood City).
  - b. North and South Alameda de las Pulgas. The northern gateway on Alameda de las Pulgas occurs at the intersection of Alameda de las Pulgas, San Carlos Avenue, and Cranfield Avenue. The southern gateway on Alameda de las Pulgas occurs at Eaton Avenue.
  - c. North and South Crestview Drive. The northern gateway on Crestview Drive occurs at the San Carlos/Belmont city boundary. The southern gateway on Crestview Drive occurs at Edmond Drive.

2. Gateway Feature. A landscaped setback with a minimum horizontal dimension of fifteen feet shall be located within fifteen feet of every corner in the gateway. If the lot is not a corner lot, the landscaped setback shall be located at the corner of the lot along the street frontage and city boundary.
- C. Reduction Through Design Review. The requirements of this section may be reduced or waived through design review if the review authority finds the design criteria in Section 18.11.040 have been met. (Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.11.040 Design criteria.**

In order to approve a design review application for development in the G Overlay District, the review authority shall find that all of the following criteria have been met:

- A. A sense of entry to the City has been created through distinctive building massing and design, architecture, streetscape design, public art, signage, landscaping, lighting, pavers, and/or other means; and
- B. Where appropriate, building corners are emphasized at site entries with vertical architectural elements and massing to create a balanced and well-defined physical gateway. (Ord. 1438 § 4 (Exh. A (part)), 2011)

**Chapter 18.12  
HILLSIDE (H) OVERLAY DISTRICT Revised 1/24**

Sections:

**18.12.010 Purpose.** Revised 1/24

**18.12.020 Applicability.** Revised 1/24

**18.12.030 Hillside subdivision standards.** Revised 1/24

**18.12.040 Excavations and grading.** Revised 1/24

**18.12.050 Development standards.** Revised 1/24

**18.12.060 Building design standards.** Revised 1/24

**18.12.070 Landscaping.** Revised 1/24

**18.12.010 Purpose. Revised 1/24**

The Hillside (H) Overlay District is intended to protect the health, safety, and welfare of residents of the City by establishing regulations for managing the development of hillside areas. The specific purposes of the H Overlay District are to:

- A. Protect public health and safety by minimizing hazards, including soil erosion and fire danger associated with development on hillsides;
- B. Preserve and enhance San Carlos' scenic character, including its natural hillsides;
- C. Conserve the City's open spaces and significant natural features;
- D. Require hillside development to be designed and constructed in a manner that respects and minimizes the disturbance of existing terrain, native vegetation, and significant natural landforms and features. (Ord. 1603 § 3 (Exh. A), 2023; Ord. 1480 (Exh. B (part)), 2015: Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.12.020 Applicability. Revised 1/24**

A. The provisions of this chapter apply to all lots and sites that have an average slope of twenty percent (20%) or greater. The average slope shall be determined using the formula set forth in Section 18.03.070, Determining average slope. Depending on the scope of the project, the Director may require a survey and slope analysis to determine whether the provisions of this chapter apply to a specific property or development.

B. These regulations may be combined with any district. In the event of a conflict between the provisions of this chapter and any underlying base district, the most restrictive provisions shall apply. (Ord. 1603 § 3 (Exh. A), 2023; Ord. 1480 (Exh. B (part)), 2015: Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.12.030 Hillside subdivision standards. Revised 1/24**

A. Further Reduction in Number of Allowed Lots. The review authority may reduce further than required by this section the maximum number of lots in a new subdivision based upon site-specific problems or constraints identified through the environmental review of the proposed subdivision.

B. Building Site Requirements. Each proposed lot shall be designed and located to provide at least one (1) building site where all proposed structures can comply with all other applicable requirements of this title.

C. Roads. Each new road shall follow natural terrain contours to minimize grading. Deviation from this standard shall be allowed based on site-specific conditions identified through the preliminary grading plan. Proposed driveways shall comply with the requirements of Section 18.12.050, Development standards. (Ord. 1603 § 3 (Exh. A), 2023; Ord. 1443 § 4 (Exh. A (part)), 2012; Ord. 1438 § 4 (Exh. A (part)), 2011)

#### **18.12.040 Excavations and grading. Revised 1/24**

The following requirements shall be in addition to all other requirements which may from time to time be adopted by the City in various building and engineering regulations, and specifically Chapter 12.08 (Grading and Excavations), unless such regulations specifically repeal or state they supersede the standards of this section.

A. Grading and excavations shall result in the minimal disturbance feasible to the terrain and natural land features. A plan shall be provided identifying ridgelines, hilltops, drainage courses, and rock outcrops, and indicating how those features will be retained on the grading plan.

B. Existing trees and native vegetation shall be retained to stabilize hillsides, reduce erosion and to preserve the natural state site conditions. Deviation from this standard may be allowed based on site-specific conditions identified through the preliminary grading plan.

C. Grading plans shall balance cut and fill materials on site so that the import and export of materials for development is achieved. Where balance cannot be achieved, a plan shall be provided indicating a schedule for import/export activities, the volume of import/export materials anticipated, and haul routes for trucks transporting materials.

D. All areas of the site not planned to be under structures that have a finished average slope greater than fifteen percent (15%) shall not be covered by any impervious surface.

E. Final contours and slopes shall generally reflect existing landforms and transition to existing grades on adjoining property unless retaining walls are used consistent with the provisions of this chapter.

F. Slopes created by grading of the site shall not exceed thirty percent (30%).

G. The outside corners or edges of all cut and fill slopes, except at the tops of slopes, shall be rounded to eliminate the sharp corners and shall have a minimum curvature radius of at least five (5) feet.

H. Exceptions to the standards of this section may be approved by the Planning and Transportation Commission through the design review process pursuant to Chapter 18.29 if the following findings are made:

1. The project design alternative substantially meets the purposes of the H Overlay District; and
2. The project incorporates alternative design solutions that minimize grading, retain more of the project site in its natural state, minimize visual impacts, protect mature trees, and/or protect natural resources and result in a demonstrably superior project designed with greater sensitivity to the natural setting and compatibility with nearby structures. (Ord. 1603 § 3 (Exh. A), 2023; Ord. 1438 § 4 (Exh. A (part)), 2011)

#### **18.12.050 Development standards. Revised 1/24**

A. General Site Planning Standards. Each structure shall be located in the most accessible, least visually prominent, most geologically stable portion or portions of the site, and at the lowest feasible elevation based on unique site conditions, including geology, presence of drainage features, and presence of mature trees and native vegetation. Structures shall also be designed and located to align with the natural contours of the site prior to any planned grading, and to be screened by existing vegetation, depressions in topography, or other natural features.

B. Parking Front Setback Adjustment. To reduce grading, required parking (including a private garage) may be located as close as five (5) feet to the street property line; provided, that portions of the dwelling and accessory structures other than the garage shall comply with the setback requirements of the base zoning district.

C. Natural State. Any area of the lot that is not part of a building pad, underneath any allowed cantilever building section, disturbed to install required utilities, used as an uncovered parking area, a paved patio area or deck adjacent to a structure, or a swimming pool/spa shall remain in a natural state consisting of ungraded terrain and indigenous vegetation, with no improvements whatsoever. That which is not considered natural state is considered disturbed area. The minimum required

percentage of a lot to remain in its natural state and undisturbed is thirty-five percent (35%) notwithstanding the exceptions below. Exceptions include:

1. Any area used as an uncovered surface parking area shall not be larger in area than eight hundred (800) square feet.
2. The combined area of any paved patio area, swimming pool/spa, accessory structure, and/or deck shall not exceed five hundred (500) square feet.
3. A terraced area or areas not exceeding a combined total of one thousand (1,000) square feet may be used for the planting of decorative, nonnative landscaping, including trees.
4. Connecting pathways consisting of pervious surfaces may be constructed to connect the primary unit and/or accessory dwelling units (ADUs) to other improved areas on the lot.
5. A Statewide exemption accessory dwelling unit (ADU) as defined in Section 18.23.210 is not subject to natural state requirements, and its area is not counted as disturbed, for the purposes of demonstrating natural state compliance.

This standard may be reduced for lots zoned PD or developed with clustered development, subject to approval by the review authority. Statewide exemption accessory dwelling units (ADUs) are exempt from natural state calculations.

D. Site Access, Driveways. Each driveway shall follow natural terrain contours to minimize grading. Deviation from this standard shall be allowed based on site-specific conditions identified through the preliminary grading plan. The following additional standards shall apply:

1. Maximum Grade. The finished grade of a driveway shall conform to the finished grade of the lot, but in no case shall exceed an average grade of eighteen percent (18%).
2. Agency Review. The location and design of any driveway shall be referred to the Fire Department for review and comment as to on- and off-street safety of vehicles, vehicle passengers and pedestrians, and access for emergency vehicles consistent with standards established by the Fire Department.

E. Retaining Walls. Large retaining walls in a uniform vertical or horizontal plane shall not be permitted. Retaining walls higher than eight (8) feet shall be divided into terraces and include landscaping on the terraces to screen the walls and stabilize the soils. The horizontal run of any retaining wall shall not extend greater than thirty (30) feet without a recessed offset feature measuring at least three (3) feet in depth to break up the length of the wall. No retaining wall located in the front or rear yard area shall be higher than six (6) feet. (Ord. 1604 § 4 (Exh. B), 2023; Ord. 1603 § 3 (Exh. A), 2023; Ord. 1480 (Exh. B (part)), 2015; Ord. 1438 § 4 (Exh. A (part)), 2011)

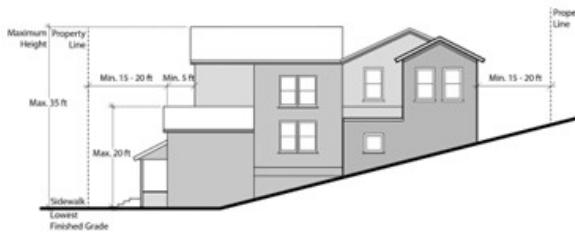
#### **18.12.060 Building design standards. Revised 1/24**

A. Height Limits. A proposed structure shall comply with the setback requirements of the base zoning district and the following:

1. Overall Height Limit. The maximum overall height of a structure shall not exceed a height of thirty-five (35) feet, measured from the lowest finished grade to the highest point of the roof.
2. Downhill Facing, Street-Facing Building Elevation. Where the building elevation at the adjacent street is facing downhill and facing the street, the downhill facing, street-facing building elevation shall have a maximum height of twenty (20) feet from finished grade.
  - i. Required Stepback. The building face of the next highest story shall step back a minimum of five (5) feet from the downhill facing building elevation. The intent of the rule is to create sufficient articulation, shadow lines, and minimized visual height and bulk viewed from the street.

An accessory dwelling unit attached to the main building at the downhill building elevation, and classified as a Statewide exemption accessory dwelling unit, may be constructed with a maximum height of twenty-five (25) feet from finished grade.

#### **FIGURE 18.12.060-A: HILLSIDE OVERLAY DISTRICT HEIGHT LIMITS**

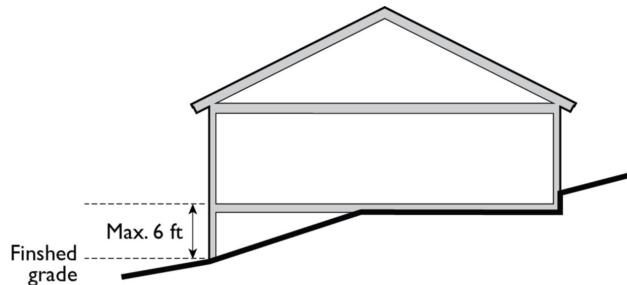


B. Articulation. The exterior wall surfaces visible from off the site shall utilize at least one (1) of the following single-story elements: bays, recesses, stepbacks, overhangs, landscaping, and/or other means of horizontal and vertical articulation. The intent of this regulation is to create changing shadow lines and to break up massive forms.

C. Foundation Design. The use of multi-level foundations (floor levels separated by a minimum of four (4) feet) shall be the standard design for residential structures unless an alternative design involving less grading is approved through the design review process as appropriate for the site based on topography, soils or geologic conditions, protection of on-site natural resources and landforms, and/or presences of mature trees.

D. Underfloors. Areas between the lowest floor and approved finished grade shall not exceed six (6) feet in height and shall be completely enclosed with fire-retardant materials to prevent exposure to wildfire hazard.

**FIGURE 18.12.060-D: MAXIMUM UNDERFLOOR HEIGHT**



E. Decks. No portion of the walking surface of a deck with visible support structures shall exceed a height of six (6) feet above finished grade. Decks shall be integrated into the architecture of the building(s) through, at minimum, use of similar building materials, direct connection to the adjacent building floor at the same level, and alignment of the deck edge with the floor below (no cantilever), and shall not appear as an add-on to the primary building mass.

F. Colors and Materials. Colors and materials shall be used to guard against wildland fire hazards and provide for structures to mimic the natural colors of the hillside vegetation and other natural features.

1. Earth-tone colors shall be used for building walls and roofs. For the purpose of this requirement, earth-tone shall mean colors found in nature that have a variety of hues with brown undertones, including rust, marigold, burnt sienna brown, terracotta, sage, and turmeric. For the purposes of this definition, brown shall mean a hue with a hexadecimal RGB code of 964B00.

2. In areas of potential high fire hazard, exterior building materials shall be fire-retardant and consistent with applicable requirements of the Fire Department. (Ord. 1604 § 4 (Exh. B), 2023; Ord. 1603 § 3 (Exh. A), 2023; Ord. 1480 (Exh. B (part)), 2015; Ord. 1438 § 4 (Exh. A (part)), 2011)

#### **18.12.070 Landscaping. Revised 1/24**

A. Required Landscaping. Landscaping shall provide for the following:

1. Screening of retaining walls over four (4) feet in height, accessory structures, and buildings visible from a downslope;
2. Screening of parking areas in multiple residential or nonresidential developments; and
3. Slope stabilization for all cut, fill, and natural slopes of three (3) feet or more in vertical height with deep-rooted plants.

B. Fire Hazards. Within designated high-fire-hazard zones, landscaping shall comply with the requirements of the San Carlos/Redwood City Fire Department.

C. Installation and Maintenance. Landscaping shall be installed and maintained consistent with the regulations of Chapter 18.18, Landscaping. (Ord. 1603 § 3 (Exh. A), 2023; Ord. 1438 § 4 (Exh. A (part)), 2011)

## **Chapter 18.13 NEIGHBORHOOD HUB (NH) OVERLAY DISTRICT**

Sections:

**18.13.010 Purpose.**

**18.13.020 Applicability.**

**18.13.030 Establishment of a neighborhood hub.**

**18.13.040 Rezoning to NR District.**

**18.13.010 Purpose.**

The Neighborhood Hub (NH) Overlay District is intended to implement the neighborhood hub concept established in the General Plan. The standards and regulations for this district provide for neighborhood-serving small-scale retail and service uses that promote community health, interaction and socialization of neighborhoods that complement the residential character of its immediate surroundings. (Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.13.020 Applicability.**

The NH Overlay District applies to all residential areas located west of El Camino Real and at least one-half mile from the MU-DC and MU-D District boundaries. (Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.13.030 Establishment of a neighborhood hub.**

Neighborhood hubs may be established within the NH Overlay District by changing the General Plan land use classification and rezoning a property to Neighborhood Retail.

A. Location. Neighborhood hubs shall be located a minimum of one-half mile from existing neighborhood-serving retail uses or other NR District boundary.

B. Process. An applicant may apply to establish a neighborhood hub by submitting an application for a General Plan amendment and rezoning according to the procedures of Chapter 18.34, Amendments to General Plan, and Chapter 18.35, Amendments to Zoning Ordinance and Map. (Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.13.040 Rezoning to NR District.**

In addition to the procedures of Chapter 18.35, Amendments to Zoning Ordinance and Map, approval of the rezoning to an NR District within the NH Overlay District is subject to the following requirements:

A. Land Uses. Land uses are limited to neighborhood-serving retail and service uses.

B. Design and Development. The project shall be designed and developed subject to the standards of the NR District. However, the adaptive re-use of existing buildings that do not meet the NR District standards may be allowed, provided the criteria for rezoning in subsection G of this section can still be met.

C. Trash and Recycling. Adequate facilities for trash and recycling shall be provided. A minimum of one permanent, nonflammable trash receptacle shall be installed adjacent to the main entrance/exit of the neighborhood-serving use.

D. Hours of Operation. Hours of operation shall be limited to address impacts to the surrounding area. In no case shall hours of operation be earlier than seven a.m. or later than ten p.m.

E. Access and Parking. Convenient bicycle and pedestrian access and adequate parking shall be provided. The application for a rezoning to an NR District shall demonstrate the project will not have a detrimental impact on parking and circulation in the surrounding area.

F. Loading and Service Plan. Adequate loading and service areas shall be provided on site to minimize congestion and conflict points on pedestrian and traffic routes. An application for a rezoning to an NR District shall demonstrate that loading and service activities will not adversely impact the surrounding area.

G. Criteria for Rezoning. The Planning Commission shall not recommend and the City Council shall not approve a rezoning to an NR District unless the proposed district meets the following criteria:

1. The proposed NR District will accommodate neighborhood-serving small-scale retail and service uses that promote community health, interaction, and socialization of neighborhoods;
2. Development in the proposed NR District has been designed for easy access by bicyclists and pedestrians;
3. The design of structures in the proposed NR District complement the residential character of the surrounding neighborhood; and
4. The uses proposed in the NR District will not adversely impact adjacent properties. (Ord. 1438 § 4 (Exh. A (part)), 2011)

## **Chapter 18.14 STREAM DEVELOPMENT AND MAINTENANCE (SDM) OVERLAY DISTRICT**

Sections:

**18.14.010 Purpose.**

**18.14.020 Applicability.**

**18.14.030 Stream setback requirements.**

**18.14.040 Dedication of drainage and scenic easements.**

**18.14.010 Purpose.**

This Stream Development and Maintenance (SDM) Overlay District is intended to protect waterways and the health, safety and welfare of residents of the City by establishing regulations for development adjacent to creeks. The specific purposes of the SDM Overlay District are to:

- A. Preserve and protect the natural hydrological system and ecological functions of waterways;
- B. Provide reasonable protection to owners of riparian property and the public from the hazards of stream bank failures and flooding, while allowing owners of property near waterways reasonable use of and the opportunity to improve their properties consistent with general safety; and
- C. Avoid excavation, filling, development, or construction that could adversely affect public health and safety by aggravating drainage flows during flooding conditions or interfering with riparian habitat. (Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.14.020 Applicability.**

The provisions of this chapter shall apply to all lots and sites where any portion of the property is within twenty-five feet of top of bank of Cordilleras, Belmont, Brittan and Pulgas Creeks within the City. These regulations may be combined with any district. In the event of a conflict between the provisions of this chapter and any underlying base district, the most restrictive provisions shall apply. (Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.14.030 Stream setback requirements.**

A. Required Setback. All new development shall be set back a minimum twenty-five feet from the top of bank line or such other distance as specified by the Planning Commission.

1. Development. For the purposes of this chapter, development is as defined in Chapter 18.41, Terms and Definitions, and includes structures, buildings of any type, swimming pools, driveways, streets, parking areas, patios, platforms, decks, liquid storage tanks, and broken concrete rubble, earth fill or other structural debris or fill. Retaining walls or channel lining to prevent erosion of the creek bank shall be allowed, but shall be subject to Federal and State permits and a building permit. Fences pursuant to Section 18.15.040, Fences and Walls, shall be allowed.

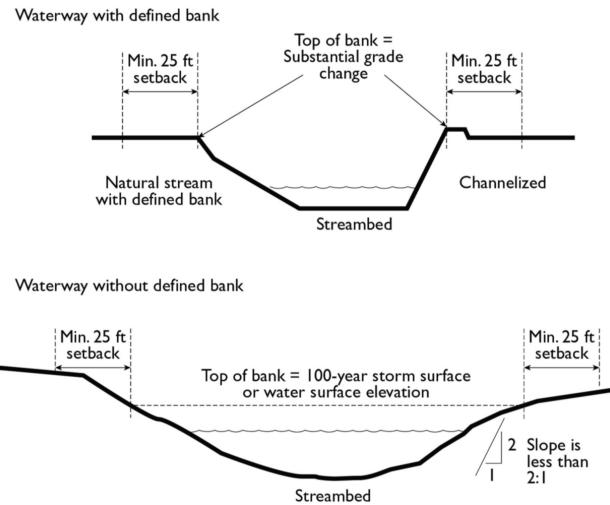
2. Top of Bank Line. Top of bank line is determined as follows:

a. Waterway with Defined Bank. Top of bank line is the line connecting all the points where there is substantial grade change between the creek bank and the property as determined by the applicant's engineer and subject to the review and approval of the City Engineer.

b. Waterway without Defined Bank. Where there is no defined bank and the slope from the streambed is less than 2:1, top of bank is considered the one-hundred-year storm surface elevation established in the most recent flood insurance study for the City of San Carlos or the water surface elevation as calculated by the applicant's engineer and subject to the review and approval of the City Engineer.

- c. Channelized Waterway. Where a fully channelized waterway exists, top of bank is the highest edge of the engineered channel.

**FIGURE 18.14.030-A(2): TOP OF BANK**



B. Exceptions. The only activities allowed within the required setback are those related to storm drainage, erosion control, and streambank stability improvements that comply with the following standards and have been approved, as required by law, by the governmental agencies having jurisdiction over them:

1. Storm drain outflows and the associated drainage facilities shall be designed so as to eliminate or minimize increases in the rate and amount of stormwater discharge.
2. Vegetation shall not be cut or removed except for normal maintenance, to facilitate drainage, prevent flooding, and to permit adequate flow of water. Such cutting or removal of vegetation shall be limited to the minimum amount necessary, with special care to avoid removal of vegetation immediately adjacent to the banks of the stream.
3. Fill, grading, or excavating for purposes of low intensity, passive recreation or conservation uses may be allowed with conditional use permit approval. Such activities shall be kept to the minimum amount necessary to accomplish its aims and designed and executed so as to minimize erosion, sedimentation or runoff in or into the stream channel.
4. Minor restoration or maintenance necessary to prevent flooding, reduce siltation, remove debris, and minor weed abatement activity necessary to protect life or property or otherwise provide for the public health and safety may be approved by the City.
5. Except in the case of emergency, all development, grading, restoration and maintenance shall be confined to the dry months (April 15th to October 15th) and all erodible slopes and surfaces exposed by such work will be hydromulched or secured by equally effective erosion control prior to October 15th to the satisfaction of the City Engineer. (Ord. 1443 § 4 (Exh. A (part)), 2012; Ord. 1438 § 4 (Exh. A (part)), 2011)

#### **18.14.040 Dedication of drainage and scenic easements.**

The City may, as a condition of a development permit or subdivision, require the dedication of a drainage and/or scenic easement over and maintenance, in its natural condition or existing state, of each stream channel within the top of each bank or such other distance as specified by the review authority to avoid excavation, filling, development or construction that could adversely affect the public health and safety by aggravating drainage flows during flooding conditions or interfering with the streamside habitat. (Ord. 1438 § 4 (Exh. A (part)), 2011)

### **Chapter 18.15 GENERAL SITE REGULATIONS Revised 1/24**

Sections:

**18.15.010 Purpose and applicability.**

**18.15.020 Accessory buildings and structures.**

**18.15.030 Development on substandard lots.**

**18.15.040 Fences and walls.****18.15.050 Hazardous material site assessment.****18.15.060 Height and height exceptions.****18.15.070 Lighting and illumination.** Revised 1/24**18.15.080 Projections into yards.** Revised 1/24**18.15.090 Screening.** Revised 1/24**18.15.100 Swimming pools and spas.****18.15.110 Trash and recycling collection areas.****18.15.120 Underground utilities.** Revised 1/24**18.15.130 Visibility at intersections and driveways.****18.15.140 Airport land use compatibility plan consistency.** Revised 1/24**18.15.010 Purpose and applicability.**

The purpose of this chapter is to prescribe development and site regulations that apply, except where specifically stated, to development in all districts. These standards shall be used in conjunction with the standards for each zoning district established in Article II, Base and Overlay District Regulations. In any case of conflict, the standards specific to the zoning district shall override these regulations. (Ord. 1480 (Exh. C (part)), 2015: Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.15.020 Accessory buildings and structures.****A. Applicability.**

1. The provisions of this section apply to roofed structures, including but not limited to garages, carports, sheds, workshops, gazebos, and covered patios, that are detached from and accessory to the main building on the site. These provisions also apply to open, unroofed structures such as decks and trellises that are over six (6) feet in height and that are detached from and accessory to the main building on the site. Premanufactured carports or canopies are prohibited under this classification.

2. When an accessory building or structure is attached to the main building, it shall be made structurally a part of and have a common wall or roof with the main building and shall comply in all respects with the requirements of this title applicable to the main building. Allowed building projections into setbacks are stated in Section 18.15.080, Projections into yards.

3. Detached accessory dwelling units shall comply with Section 18.23.210 and are not subject to the provisions of this section.

B. Relation to Existing Structures. A detached accessory building may only be constructed on a lot on which there is a permitted main building to which the accessory building is related or on an adjacent lot under the same ownership. However, an accessory building may be constructed prior to a permitted main building and used for not more than one (1) year in connection with the construction of the main building; provided, that a building permit is obtained for the entire

project, including the accessory building, prior to the start of any construction.

C. Number of Accessory Structures. There shall be no more than two (2) accessory structures located on any property without prior approval of the Director.

D. Location. Accessory structures shall be located in the rear half of the lot.

1. Corner Lot. On a corner lot, no detached accessory building shall be located so as to project beyond the front yard required or existing on the adjacent lot.

2. Through Lot. On a through lot having frontage on two (2) more or less parallel streets, no detached accessory building shall be located on the one-fourth of the lot nearest either street.

3. Garage Exception. In RS districts, garages may be allowed on the front half of a lot in accordance with Section 18.04.030, Development standards—RS districts.
- E. Height. Accessory structures with slab-type foundation shall be no greater than twelve (12) feet high measured from adjacent grade. Accessory structures with raised floor-type foundation shall be no greater than fifteen (15) feet high measured from adjacent grade.
- F. Setbacks. Accessory structures may be located on an interior side or rear lot line, except as provided below:
  1. Accessory structures shall be set back a minimum of three (3) feet from any alley or lot line.
  2. Accessory structures adjacent to the front one-half of any adjacent lot shall be set back a minimum of five (5) feet from the lot line.
  3. Detached garages with a linear length or depth which exceeds twenty-five (25) feet on a side shall be set back a minimum of five (5) feet from the lot line.
  4. Accessory structures other than detached garages with a linear length or depth which exceeds one-third of the unobstructed distance along a property line shall be set back a minimum of five (5) feet from the lot line.
- G. Rear Yard Area. Detached accessory structures shall not occupy more than thirty percent (30%) of the required rear yard area.
- H. Separation from Main Buildings. No detached accessory structure shall be located closer than six (6) feet from the main building, inclusive of roof covering.
- I. Facilities.
  1. A detached accessory structure that has not been approved as an accessory dwelling unit may contain a toilet, shower and sink upon review and approval by the Director and the Chief Building Official. A bathtub is not permitted. The applicant shall obtain all necessary building permits for work to be performed. The applicant shall sign a statement, at the time of submittal for a building permit, which will prohibit the use of the accessory structure as an accessory dwelling unit. The signed statement shall be in the form of a restrictive covenant, and shall be recorded.
  2. A detached accessory structure may have plumbing for a washer, dryer, and/or utility sink; provided, that it has an open floor plan without interior partitions, and that it is located at least five (5) feet from side and rear lot lines.
- J. Permits. Accessory structures greater than one hundred twenty (120) square feet shall require Director approval and a building permit from the Building Division. (Ord. 1566 (Exh. B (part)), 2020: Ord. 1480 (Exh. C (part)), 2015; Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.15.030 Development on substandard lots.**

Any lot or parcel of land under one ownership and of record on the first day of March 1959 may be used as a building site even when of less area or width than that required by the regulations for the district in which it is located. (Ord. 1480 (Exh. C (part)), 2015: Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.15.040 Fences and walls.**

Fences, walls, dense hedges, and similar structures shall comply with the standards of this section.

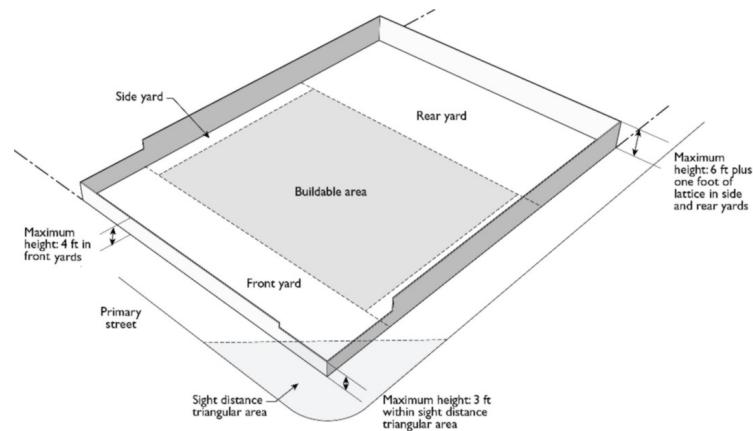
- A. Purpose. To provide residents with greater security and protected outdoor living space through fencing of property while allowing light, access and visibility for the health, safety and welfare of the citizenry. Limitations on fencing also serve to maintain the aesthetic value of the City.
- B. Standard Fences—Height, Regulation and Exceptions in Residential Districts.

1. Front Yards. No fence, wall, hedge or screen planting of any kind located between the front property line and the front-most wall of a residence establishing an existing front setback (or the required front setback, whichever is less) shall be constructed, grown or maintained to exceed four feet in height. However, front yard fences within the sight distance triangular area shall not exceed three feet in height unless an exception is obtained pursuant to subsection (C)(14) of this section. This provision shall not apply to the following items; provided, that such amenities do not significantly obstruct vehicular or pedestrian visibility or significantly obscure light to adjacent properties:

- a. Specimen trees or shrubs that do not form a continuous barrier;
  - b. Light poles, pillars or pilasters (not to exceed six feet in height and eighteen inches in width);
  - c. Front yard fence posts with attached lights (not more than two permitted; posts not to exceed four feet in height and eighteen inches in width and depth plus a two-foot-high light fixture);
  - d. Gates no higher than four feet in height and four feet in width for pedestrian gates; fourteen feet in width for driveway gates;
  - e. Trellises used for pedestrian purposes (not to exceed eight feet in height, five feet in width and five feet in depth);
  - f. One mailbox structure not to exceed six feet in height;
  - g. Up to three statuary structures not to exceed four feet in height, two feet in width and two feet in depth each; and
  - h. Other structures which the Director determines are of a similar nature.
2. Rear and Side Yards. Fences located between the front-most wall establishing an existing front setback (or the required front setback, whichever is less) and the side or rear lot line shall not be constructed or maintained to exceed six feet in height plus one foot of lattice. If the fence falls within a corner lot or driveway area, the fence must also meet the requirements of subsection (B)(3) of this section, Corner Lots.
3. Corner Lots. Fences shall be a maximum of three feet in height within the sight distance triangle, unless an exception is obtained from the Building Official as outlined in subsection (C)(14) of this section. Trees, or any portions thereof, that are

located within this sight distance triangle shall have a clearance of seven feet high minimum between the lowest portion of the canopy and the sidewalk, and thirteen feet high minimum between the lowest portion of the canopy and street.

**FIGURE 18.15.040-B: FENCE AND WALL HEIGHT**



C. Special Fences—Height and Regulations. Special fences are subject to review and approval by the Director, who may impose reasonable conditions or restrictions including, but not limited to, neighbor notification, setbacks and landscape screening as deemed necessary to ensure compatibility of the special fence with adjoining lots and those in the general vicinity, and may require guarantees and evidence that such conditions are being, or will be, complied with. Special fences include, but are not limited to, the following:

1. Recreation Area Fences. Fences not to exceed twelve feet in height may be located around tennis courts, badminton courts, basketball or volleyball courts and similar play areas, providing that all parts of the fence over six feet are made of open-wire construction or other corrosion-resistant material;
2. Security Fences. Fences not to exceed eight feet in height may be located around industrial, manufacturing or research uses where required for security purposes, screening, or containing and protecting hazardous materials;
3. Swimming Pool Fences. Fences required for swimming pools are governed by Chapter 15.40, Swimming Pools, and Section 18.15.100, Swimming pools and spas. Swimming pool fences are not subject to Director approval unless they exceed the standard fence height regulations stated in subsection B of this section;

4. Abutting Nonresidential Fences. Where residential properties abut industrial or commercial areas, or public property other than a public street, fences may be constructed to a height not to exceed eight feet, and meeting minimum sight distance triangle requirements;
5. Trellises used for pedestrian purposes exceeding eight feet in height, five feet in width and five feet in depth;
6. Statuary structures exceeding the exemption limit of three structures and/or exceeding four feet in height and two feet in depth;
7. Fence posts greater than eighteen inches in width or depth;
8. Front yard fence posts with more than two attached lights. In no event shall such posts exceed four feet in height plus a two-foot-high light fixture;
9. Chain-link fencing in residential areas is permitted in the side and rear yards with vinyl-coating and landscape screening. Chain-link fencing shall not exceed six feet in height in these areas. Chain-link fencing in front yards in residential areas is not permitted;
10. Fences not to exceed six feet in height with an additional one foot of lattice for any portion of an irregular lot between the house and property line adjacent to the public right-of-way;
11. Fences not to exceed six feet in height with an additional one foot of lattice for any portion of a lot two hundred feet in depth or greater between the house and property line adjacent to the public right-of-way. Such fences shall not be located closer than fifteen feet to the front property line;
12. Fences not to exceed six feet in height with an additional one foot of lattice within front yards when not located in front of a primary residence and not closer than fifteen feet to a front property line;
13. Gates exceeding four feet in width for pedestrian use or fourteen feet in width for driveway use;
14. Exceptions to sight distance triangles if the necessity for the fence outweighs concerns for public safety as determined by the Building Official;
15. Other structures which the Director determines are of a similar nature.

D. Prohibited Fences. The following types of fences are prohibited:

1. Barbed wire or razor wire, except the use of barbed wire fencing may be permitted for security purposes in industrial districts at the top portion of a fence at least six feet in height upon approval of a conditional use permit;
2. Electrically charged fences;
3. All wire, twine or rope fences consisting of one or more strands;
4. Fences constructed or maintained in the public right-of-way without an encroachment permit;
5. Fences constructed or maintained closer than three feet to any fire hydrant;
6. Fences constructed or maintained so as to sag or lean;
7. Dilapidated fences;
8. Fences creating a safety hazard to motorists and/or pedestrians;
9. Construction fencing where no valid building permit exists; and
10. Chain-link fencing in front and corner side yards in residential districts.

E. Fencing in Commercial Zoning Districts. All fencing over six feet in height within commercially zoned districts shall be subject to review and approval by the Director. In no case shall fencing exceed eight feet in height.

F. Fencing in the Public Right-of-Way. All fencing in the public right-of-way requires an encroachment permit from the City Engineer and shall be subject to all requirements of this chapter, in addition to those of the Public Works Department.

**G. Building Permit and Staff Approval Requirements.**

1. No person shall erect, construct or maintain any solid fence or wall exceeding six feet in height (exclusive of lattice) without first obtaining a permit from the Building Division.
2. No person shall erect, construct or maintain fences in combination with retaining walls of any height without first obtaining a permit from the Building Division.
3. No person shall erect, construct or maintain pressure treated wood retaining walls over three feet tall without first obtaining a permit from the Building Division. Walls three feet and under must have backfill no steeper than 2:1.
4. No person shall erect, construct or maintain concrete or masonry retaining walls over four feet tall, measured from the bottom of the footing to the top of the wall without first obtaining a permit from the Building Division.

**H. Nonconforming Fences and Vegetation.** Nonconforming fences and vegetation shall comply with the following:

1. All existing nonconforming fences and walls in the public right-of-way shall be immediately removed or otherwise made to conform to this title's standards.
2. Any shrubs, trees or other foliage which, in the opinion of the Chief of Police, obscures safe sight distance from driveways and corners shall be trimmed by the property owner to a condition satisfactory to the Chief of Police.
3. Any other existing legally nonconforming fence may remain; provided, that it is not replaced as defined in Section 18.41.020, Definitions, or constituting a hazardous condition as determined by the Building Official. (Ord. 1480 (Exh. C (part)), 2015; Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.15.050 Hazardous material site assessment.**

A. Site Assessment. All development proposals in areas identified in the General Plan as sites with current or historic environmental contamination, as well as other sites determined by the Director to have the potential for contamination based on prior land use, require a hazardous and toxic soil contamination site assessment. The Director may impose reasonable conditions of approval, as warranted, to implement recommendations of the site assessment.

B. Waiver of Assessment. No assessment is required for a development proposal located in an area for which the Director determines that sufficient information exists because of previous assessments or reports. (Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.15.060 Height and height exceptions.**

The structures listed in the following table may exceed the maximum permitted building height for the district in which they are located, subject to the limitations stated; and further provided, that no portion of a structure in excess of the building height limit may contain habitable areas or advertising. Additional height, above this limit, may be approved with a conditional use permit, pursuant to the provisions of Chapter 18.30, Use Permits.

**TABLE 18.15.060: ALLOWED PROJECTIONS ABOVE HEIGHT LIMITS**

Structures Allowed Above the Height Limit	Maximum Coverage, Locational Restrictions	Maximum Vertical Projection Above the Height Limit (ft.)
Skylights	20% of roof area	1
Chimneys not over 6 feet in width	10% of roof area	8
Flagpoles	5% of roof area	8
Rooftop open space features such as sunshade and windscreens devices, open trellises, and landscaping (for multifamily and nonresidential buildings only)	10% of roof area. Must be set back from the exterior wall one foot for every foot of projection above the height limit	10
Elevator and stair towers (for multifamily and nonresidential buildings only)	10% of roof area. Must be set back from the exterior wall one foot for every foot of projection above the height limit	16

Structures Allowed Above the Height Limit	Maximum Coverage, Locational Restrictions	Maximum Vertical Projection Above the Height Limit (ft.)
Decorative features such as spires, bell towers, domes, cupolas, obelisks, and monuments	10% of roof area. Must be set back from the exterior wall one foot for every foot of projection above the height limit	6 for residential development in RS districts; 10 elsewhere
Fire escapes, catwalks, and open railings required by law Solar panels, and other energy production facilities located on a rooftop	No restriction	10
Distribution and transmission towers, lines, and poles Water tanks Windmills Radio towers Industrial structures where the manufacturing process requires a greater height	25% of the area of the lot, or 10% of the roof area of all on-site structures, whichever is less. Must be located at least 25 feet from any lot line	10
Building-mounted telecommunications facilities, antennas, and microwave equipment	Subject to the provisions of Chapter 18.24, Wireless Telecommunications Facilities	

(Ord. 1438 § 4 (Exh. A (part)), 2011)

#### **18.15.070 Lighting and illumination. Revised 1/24**

A. Applicability. The standards of this section apply to all new development and additions that expand existing floor area by ten percent (10%) or more.

B. General Standards.

1. Multiple-Unit Residential Buildings. Aisles, passageways, and recesses related to and within the building complex shall be illuminated with an intensity of at least one-quarter (1/4) foot-candle at the ground level during the hours of darkness. Lighting devices shall be protected by weather and vandal-resistant covers.
2. Nonresidential Buildings. All exterior doors, during the hours of darkness, shall be illuminated with a minimum of one-half (1/2) foot-candle of light.
3. Pedestrian-Oriented Lighting. In the mixed-use districts, exterior lighting shall be provided for a secure nighttime pedestrian environment by reinforcing entrances, public sidewalks and open areas with a safe level of illumination.
4. Maximum Height. Lighting standards shall not exceed the maximum heights specified in the following table:

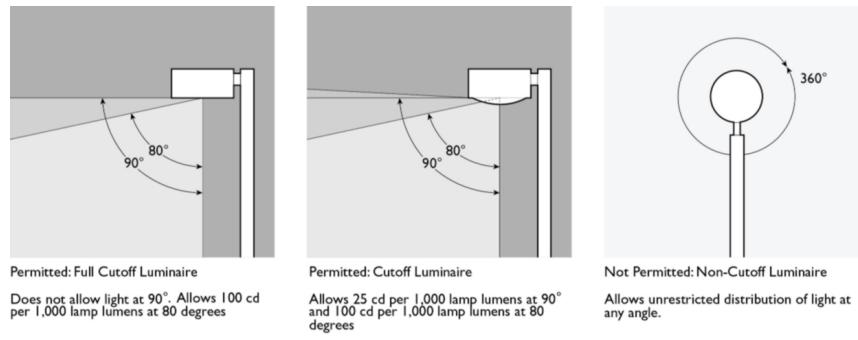
**TABLE 18.15.070-B(4): MAXIMUM HEIGHT OF LIGHTING STANDARDS**

District	Maximum Height (ft.)
Residential Districts	16
Commercial and Mixed-Use Districts	16 feet within 100 feet of any street frontage; 20 feet in any other location.
Industrial Districts	20 feet within 100 feet of any street frontage; 25 feet in any other location.
Public and Semi-Public and Airport District	25, or as necessary for safety and security.

### C. Control of Outdoor Artificial Light.

1. Purpose. This subsection is intended to minimize outdoor artificial light that may have a detrimental effect on the environment, astronomical research, amateur astronomy, and enjoyment of the night sky. These provisions are also intended to reduce the unnecessary illumination of adjacent lots and the use of energy.
2. Exemptions. The following types of lighting fixtures are exempt from the requirements of this section:
  - a. Public and private street lighting.
  - b. Athletic Field Lights. Athletic field lights used within a school campus or public or private park.
  - c. Safety and Security Lighting. Safety and security lighting for public facilities, including but not limited to the airport and hospitals.
  - d. Construction and Emergency Lighting. All construction or emergency lighting fixtures, provided they are temporary and are discontinued immediately upon completion of the construction work or abatement of the emergency.
  - e. Seasonal Lighting. Seasonal lighting displays related to cultural or religious celebrations.
3. Prohibited Lighting. The following types of exterior lighting are prohibited:
  - a. Drop-down lenses;
  - b. Mercury vapor lights; and
  - c. Searchlights, laser lights, or any other lighting that flashes, blinks, alternates, or moves.
4. Fixture Types. All lighting fixtures shall be shielded so as not to produce obtrusive glare onto the public right-of-way or adjoining properties. Lighting fixtures shall adhere to the below requirements:
  - a. Freestanding Fixtures. When using freestanding light fixtures, the light elements shall be screened to minimize light spillage, confine light to site, and directed away from neighbors.
  - b. Outdoor and Parking Lights. All outdoor and parking lights shall be situated away from windows of residential units to reduce light impact on residents and shall be directed downward and away from adjacent residences and public right-of-way.
  - c. Wall-Mounted Fixtures. To minimize the light glare and spillage all wall-mounted fixtures shall be oriented to an angle towards the ground. The optimal angle shall be between fifty (50) and seventy (70) degrees.
  - d. Bollard Lighting. Bollard lighting can be used to light walkways and other landscape features but shall cast its light downward.
  - e. Security Lighting. Motion-activated security lighting shall not be capable of being activated by any person(s) in the public right-of-way or on adjacent property.
  - f. Luminaires. All luminaires shall meet the most recently adopted criteria of the Illuminating Engineering Society of North America (IESNA) for cutoff or full cutoff luminaires.

**FIGURE 18.15.070-C(4): FIXTURE TYPES**



Source: IESNA

5. Glare. No use shall be operated such that significant, direct glare incidental to the operation of the use is visible beyond the boundaries of the lot where the use is located. Light or glare from mechanical or chemical processes, high-temperature processes such as combustion or welding, or from reflective materials on buildings or used or stored on a site, shall be shielded or modified to prevent emission of adverse light or glare onto other properties.

6. Light Trespass. Lights shall be placed to deflect light away from adjacent lots and public streets, and to prevent adverse interference with the normal operation or enjoyment of surrounding properties.
- Direct or sky-reflected glare from floodlights shall not be directed into any other lot or street.
  - No light or combination of lights, or activity shall cast light exceeding one foot-candle onto a public street, with the illumination level measured at the centerline of the street.
  - No light, combination of lights, or activity shall cast light exceeding one-half (1/2) foot-candle onto a residentially zoned lot, or any lot containing residential uses.

7. Required Documentation. Project applicants shall submit photometric data from lighting manufacturers to the City to demonstrate that the lighting requirements have been satisfied.

8. Alternate Materials and Methods of Installation. Designs, materials, or methods of installation not specifically prescribed by this section may be approved; provided, that the proposed design, material, or method provides approximate equivalence to the specific requirements of this section or is otherwise satisfactory and complies with the intent of these provisions. (Ord. 1603 § 3 (Exh. A), 2023; Ord. 1438 § 4 (Exh. A (part)), 2011)

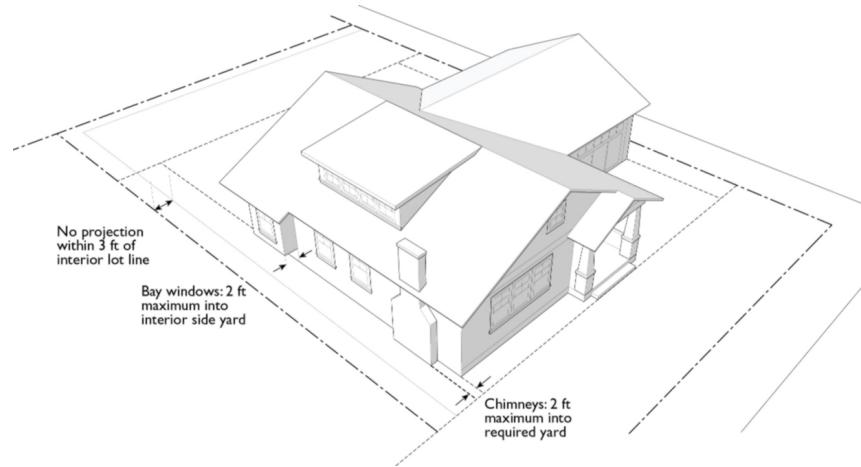
#### **18.15.080 Projections into yards. Revised 1/24**

Building projections may extend into required yards, according to the standards of Table 18.15.080, Allowed Building Projections into Required Yards, subject to all applicable requirements of the California Building Code. The "Limitations" column states any dimensional, area, or other limitations that apply to such structures where they project into required yards.

**TABLE 18.15.080: ALLOWED BUILDING PROJECTIONS INTO REQUIRED YARDS**

Projection	Front or Street Side Yard (ft.)	Interior Side Yard (ft.)	Rear Yard (ft.)	Limitations
All projections				Notwithstanding any other subsection of this section, no projection may extend closer than three feet to an interior lot line or into a public utility easement. Where any setback of this title conflicts with the California Building Code, the more restrictive shall apply.
Cornices, canopies, eaves, and similar architectural features; chimneys	2	2	2	
Bay windows	3	2	3	Shall not occupy more than one-third of the length of the building wall on which they are located or one-half of the length of a single room.

Projection	Front or Street Side Yard (ft.)	Interior Side Yard (ft.)	Rear Yard (ft.)	Limitations
Balconies	3	2	5	Applies only to RS-3 and RS-6 zoning districts.
Fire escapes required by law or public agency regulation	4	4	4	
Uncovered stairs, ramps, stoops, or landings that service above first floor of building	3	2	3	
Depressed ramps or stairways and supporting structures designed to permit access to parts of buildings that are below average ground level	3.5	3.5	3.5	
Decks, porches and stairs				
Less than 18 inches above ground elevation	6	2	Any distance if uncovered; 10 if covered	Must be open on at least three sides and no closer than 7 ft to a street-facing property line or 3 ft to an interior property line. The Director may grant exceptions in the Hillside Overlay District to provide access to a driveway or street.
18 inches or more above ground elevation	5	2	3	
Ramps and similar structures that provide access for persons with disabilities				Reasonable accommodation will be made, consistent with the Americans with Disabilities Act; see Chapter 18.33, Waivers.

**FIGURE 18.15.080: BUILDING PROJECTIONS**

(Ord. 1603 § 3 (Exh. A), 2023; Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.15.090 Screening. Revised 1/24**

A. Applicability. The standards of this section apply to all new development and additions that expand existing floor area by ten percent (10%) or more.

B. Screening of Mechanical and Electrical Equipment. All exterior mechanical and electrical equipment shall be screened by a parapet or mansard roof, or incorporated into the design of buildings, so as not to be visible to pedestrians from the adjacent street, highway, train tracks, or adjacent residential districts. Equipment to be screened includes, but is not limited to, all roof-

mounted equipment, air conditioners, heaters, utility meters, cable equipment, telephone entry boxes, backflow preventions, irrigation control valves, electrical transformers, pull boxes, and all ducting for air conditioning, heating, and blower systems. Screening materials shall be consistent with the exterior colors and materials of the building. Exceptions may be granted by the Director where screening is infeasible due to health and safety or utility requirements.

C. Outdoor Storage Areas. Outdoor storage areas shall be screened from view from any public street or freeway; existing or planned residential area; or publicly accessible open space area, parking area, access driveway, or similar thoroughfare.

1. Screening walls and fences visible from any public street or highway; residential or mixed-use district; or publicly accessible open space area, parking area, access driveway, or similar thoroughfare shall be architecturally compatible with the main structure on the site and shall not have barbed wire or razor wire visible from any street or public access.

2. Screening walls and fences shall not exceed maximum fence heights established in Section 18.15.040, Fences and walls, except fencing and screening fences and walls up to fifteen (15) feet in height may be allowed outside required setback areas in the GCI, IL, and IH Districts with Director approval. No stored goods may exceed the height of the screening wall or fence.

D. Common Property Lines. A screening wall eight (8) feet in height shall be provided on the interior lot lines of any lot that contains any industrial use, or transportation, communication and utilities use (except communication facilities and minor utilities), or use allowed in the Mixed-Use Neighborhood District on East San Carlos Avenue and Old County Road, as defined in Chapter 18.40, Use Classifications, and abuts a residential district. Such screening wall shall be provided at the time of new construction or expansion of buildings, or changes from one use classification to another nonresidential use classification.

1. Location. Screening walls shall follow the lot line of the lot to be screened, or shall be so arranged within the boundaries of the lot so as to substantially hide from adjoining lots the building, facility, or activity required to be screened.

2. Materials. Industrial uses must provide a solid screening wall of stucco, decorative block, or concrete panel. Screening walls for other uses may be constructed of stucco, decorative block, concrete panel, wood or other substantially equivalent material. Chain-link fencing does not fulfill the screening wall requirement.

3. Berms. An earth berm may be used in combination with the above types of screening walls, but not more than two-thirds of the required height of such screening may be provided by the berm.

4. Maintenance. Screening walls shall be maintained in good repair, including painting, if required, and shall be kept free of litter or advertising. Where hedges are used as screening, trimming or pruning shall be employed as necessary to maintain the maximum allowed height. (Ord. 1603 § 3 (Exh. A), 2023; Ord. 1438 § 4 (Exh. A (part)), 2011)

#### **18.15.100 Swimming pools and spas.**

Swimming pools and spas shall comply with Chapter 15.40, Swimming Pools, as well as the following standards:

A. If located in a residential district, the swimming pool or spa is to be solely for the use and enjoyment of residents and their guests.

B. The swimming pool or spa, or the entire lot on which it is located, shall be walled or fenced from the street or from adjacent lots; and where located less than thirty feet to any lot line, shall be screened by a masonry wall or solid fence not less than six feet in height on the side facing such lot line.

C. Swimming pool or spa filtration equipment shall not be closer than fifteen feet to the main building on an adjoining lot.

D. Swimming pool or spa filtration equipment and pumps shall not be located in the front or street side yard. All equipment shall be mounted and enclosed so that its sound is in compliance with Section 18.21.050, Noise.

E. The outside wall of the water-containing portion of any swimming pool or spa shall be located at least five feet from all interior side and rear lot lines.

F. Swimming pools shall be built and maintained per the requirements of the California Building Code. (Ord. 1480 (Exh. C (part)), 2015; Ord. 1438 § 4 (Exh. A (part)), 2011)

#### **18.15.110 Trash and recycling collection areas.**

A. Purpose. The purposes of this section are to:

1. Establish design and locational criteria for the construction of solid waste and recycling-container enclosures.

2. Ensure that enclosures are functional, serviceable, durable, unobtrusive, and architecturally compatible with adjacent buildings.
  3. Ensure adequate area for the storage of recyclable materials as required by the California Solid Waste Reuse and Recycling Act of 1991, as amended.
- B. General Requirements and Alternatives. Chapter 8.04, Solid Waste, requires that all trash and garbage be placed in an appropriate receptacle. All garbage cans, mobile trash bins, receptacles, as defined and regulated in Chapter 8.04, and all recycling materials and containers for such recycling materials shall be maintained and stored in accord with this section.
1. Applicability. Solid waste and recycling-container enclosures are required for new dwelling groups of three or more dwelling units and for all new nonresidential development, for any nonresidential addition, and for remodels of nonresidential buildings as determined by the Building Official.
  2. Alternatives. Projects with ten or fewer residential units may have individual trash containers for each unit; provided, that there is a designated screened location for each individual trash container adjacent to the dwelling unit; and provided, that solid waste and recycling containers for each unit are brought to the curbside for regular weekly or bi-weekly collection.
  3. Compliance with Other Regulations. All trash and refuse collection enclosures shall comply with the California Fire Code and the California Regional Water Quality Control Board San Francisco Bay Region Municipal Regional Stormwater NPDES Permit.
- C. Size. Trash and recycling enclosures shall be sized to accommodate all trash, garbage, and recyclables until such items are picked up by the City or its contracted solid waste and recycling collector(s).
- D. Location and Orientation. All trash and recycling enclosures shall meet the following requirements unless the Director determines that compliance is infeasible. A building permit shall not be issued for a project until documentation of approval of the location is provided by the Director.
1. The solid waste and recycling storage area shall not be visible from a public right-of-way and shall not be located within any required front yard, street side yard, any required parking and landscaped areas, or any other area required by this title to be constructed or maintained unencumbered according to fire and other applicable building and public safety codes.
  2. Solid waste and recycling areas shall be consolidated to minimize the number of collection sites and located so as to reasonably equalize the distance from the building spaces they serve. For multi-unit residential projects, there should be a minimum of one trash enclosure per fifty units and the enclosure should be located within one hundred feet of the residential units.
  3. Solid waste and recycling storage areas shall be accessible so that trucks and equipment used by the City or its contracted solid waste and recycling collector(s) have sufficient maneuvering areas and, if feasible, so that the collection equipment can avoid backing.
- E. Materials, Construction, and Design.
1. Minimum Height of Screening. Solid waste and recycling storage areas located outside or on the exterior of any building shall be screened with a solid enclosure at least six feet high.
  2. Enclosure Material. Enclosure material shall be wood, solid masonry or concrete tilt-up with decorated exterior-surface finish compatible to the main structure(s).
  3. Gate Material. Gate material shall be decorative, solid, heavy-gauge metal or a heavy-gauge metal frame with a covering of a view-obscuring material.
  4. Access to Enclosure from Residential Projects. Each solid waste and recycling enclosure serving a residential project shall be designed to allow disposal to the appropriate receptacle without having to open the main enclosure gate.
  5. Enclosure Pad. Pads shall be a minimum of four-inch-thick concrete.
  6. Bumpers. Bumpers shall be two inches by six inches thick and made of concrete, steel, or other suitable material and shall be anchored to the concrete pad.

7. Protection for Enclosures. Concrete curbs or equivalent shall protect enclosures from adjacent vehicle parking and travel ways.
8. Landscaping. The perimeter of the recycling and trash enclosure shall be planted, if feasible, with drought-resistant landscaping, including a combination of shrubs and/or climbing evergreen vines.
9. Clear Zone. The area in front of and surrounding all enclosure types shall be kept clear of obstructions, and shall be painted, striped, and marked "No Parking."
10. Drainage. The floor of the enclosure shall have a drain that connects to the sanitary sewer system.
11. Travelways and Area in Front of Enclosure. An adequate base to support a truck weight of sixty-two thousand pounds. (Ord. 1480 (Exh. C (part)), 2015; Ord. 1438 § 4 (Exh. A (part)), 2011)

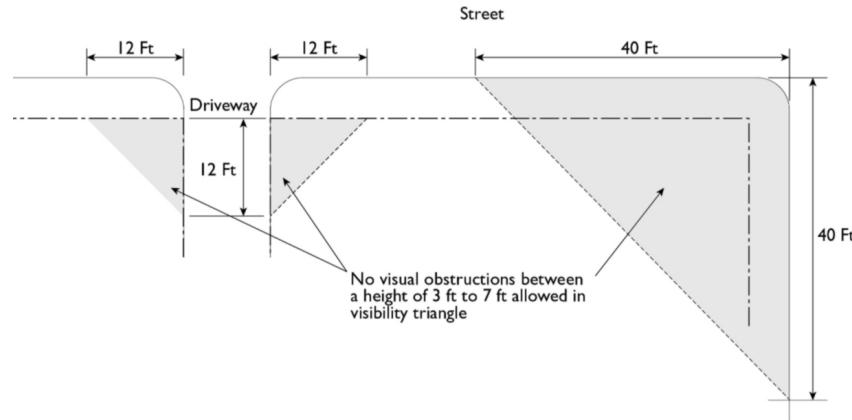
**18.15.120 Underground utilities. Revised 1/24**

- A. Underground Utilities. All electrical, telephone, cable television, and similar distribution lines providing direct service to a project shall be installed underground within the site. This requirement may be waived by the Director upon determining that underground installation is infeasible.
- B. Above-Ground Utilities. Public utilities equipment, where provided above ground, shall comply with the following:
  1. Such equipment shall not be located within any required front setback area.
  2. Such equipment shall be screened using one (1) or more of the following approaches:
    - a. Landscaping.
    - b. Raised planters' minimum height of twelve (12) inches with landscape.
    - c. Mesh fence for vertical vegetation.
    - d. Walls or fencing consistent with the overall architecture of the building. (Ord. 1603 § 3 (Exh. A), 2023; Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.15.130 Visibility at intersections and driveways.**

- A. Street Intersections. Vegetation and structures may not exceed a height of three feet within the sight distance triangular area formed by the intersecting curb lines (or edge of pavement when no curbs exist) and a line joining points on these curb lines at a distance of forty feet along both lines from their intersection, unless an exception is obtained from the Building Official. Trees, or any portions thereof, that are located within this sight distance triangle shall have a clearance of seven feet high minimum between the lowest portion of the canopy and the sidewalk, and thirteen feet high minimum between the lowest portion of the canopy and street.
- B. Driveways. Visibility of a driveway crossing a street lot line shall not be blocked above a height of three feet by vegetation or structures for a depth of twelve feet as viewed from the edge of the right-of-way on either side of the driveway at a distance of twelve feet. Street trees that are pruned at least seven feet above the established grade of the curb so as not to obstruct clear view by motor vehicle drivers are permitted.
- C. Exempt Structures and Plantings. The regulations of this section do not apply to permanent buildings; public utility poles; saplings or plant species of open growth habits and not planted in the form of a hedge that are so planted and trimmed as to leave at all seasons a clear and unobstructed cross view; official warning signs or signals; or places where the contour of the ground is such that there can be no cross visibility at the intersection.

**FIGURE 18.15.130: INTERSECTION AND DRIVEWAY VISIBILITY**



(Ord. 1438 § 4 (Exh. A (part)), 2011)

#### **18.15.140 Airport land use compatibility plan consistency. Revised 1/24**

Where required, conformance with applicable airport land use compatibility plan standards, as described in Section 18.21.150, San Carlos Airport land use compatibility plan consistency, is required. (Ord. 1606 (Exh. A), 2023)

### **Chapter 18.16 AFFORDABLE HOUSING PROGRAMS\***

Sections:

- 18.16.010 Purpose.**
- 18.16.020 Definitions.**
- 18.16.030 Below market rate housing requirements.**
- 18.16.040 Exemptions to below market rate housing requirements.**
- 18.16.050 Below market rate unit standards.**
- 18.16.060 Compliance procedures.**
- 18.16.070 Alternatives.**
- 18.16.080 Eligibility for below market rate units (owner-occupied and rental units).**
- 18.16.090 Owner-occupied units.**
- 18.16.100 Rental units.**
- 18.16.110 Below market rate fund.**
- 18.16.120 Periodic review and enforcement.**
- 18.16.130 Waivers of affordable housing requirements.**

\* Prior legislation: Ords. 1081, 1126 and 1263.

#### **18.16.010 Purpose.**

The purpose of this chapter is to:

- A. Encourage the development and availability of housing affordable to a broad range of households with varying income levels within the City as mandated by State law, California Government Code Section 65580 et seq.
- B. Enhance the public health, safety, and welfare within the City. Requiring builders of new market rate housing to provide some housing affordable to very low-, low-, and moderate-income households is also reasonably related to the impacts of such developments, because there is a need to offset the demand for affordable housing that is created by new development and mitigate environmental and other impacts that accompany new residential and commercial development by: protecting the economic diversity of the City's housing stock; reducing traffic, transit, and related air quality impacts; promoting jobs/housing balance; and reducing the demands placed on transportation infrastructure in the region.

- C. Promote the City's goal to add affordable housing units to the City's housing stock in proportion to the overall increase in new jobs and housing units.
- D. Support the Housing Element policy to consider use of funds for developments with a higher percentage of below market rate units or deeper affordability than otherwise is required.
- E. Support the Housing Element policy to encourage accessory dwelling units as a form of affordable housing.
- F. Support the Housing Element goal of assisting in the development of new housing that is affordable at all income levels and the policies and actions that support this goal.
- G. Support the Housing Element goal of removing and/or mitigating potential governmental constraints to the provision of adequate, affordable housing and the policies and actions that support this goal.
- H. Support the guiding principle of the Housing Element that housing in San Carlos supports an economically and socially diverse population.
- I. Support the guiding principle of the Housing Element that housing in San Carlos creates and supports vibrant neighborhoods and a cohesive sense of community.
- J. Meet the housing needs identified by the Housing Element of the General Plan.
- K. Encourage the production of the very low-, low-, and moderate-income units planned for in the Housing Element of the General Plan.
- L. Comply with the provisions of Government Code Section 65915 mandating the adoption of a City ordinance that specifies procedures for providing density bonuses and other incentives and concessions.
- M. Provide and maintain affordable housing opportunities in the City through an affordable housing program for both ownership and rental housing, and, in furtherance of that goal, include rental affordable housing requirements in this chapter consistent with Government Code Sections 65850(g) and 65850.01.
- N. Provide builders with alternatives to construction of below market rate units on the same site as the market rate residential development. Therefore, this chapter includes a menu of options from which a builder may select an alternative to the construction of below market rate units on the same site as the market rate residential development. (Ord. 1583 § 2 (Exh. A), 2022; Ord. 1566 (Exh. B (part)), 2020: Ord. 1550 § 2 (part), 2019: Ord. 1480 (Exh. C (part)), 2015; Ord. 1438 § 4 (Exh. A (part)), 2011: Ord. 1416 § 3 (Exh. A (part)), 2010: Ord. 1340 § 1 (part), 2004. Formerly 18.200.010)

#### **18.16.020 Definitions.**

As used in this chapter and in Chapter 18.17, the following terms shall have the following meanings:

- A. "Administrator" means the Housing Manager of the City or other person designated by the City Manager.
- B. "Affordable ownership cost" means a sales price for a below market rate unit, based on a reasonable down payment, that results in a monthly housing cost (including mortgage principal and interest, property taxes, insurance, a reasonable allowance for utilities (pursuant to a schedule provided by the San Mateo County Housing Authority), parking, and homeowners' association costs, if any) that does not exceed:
  1. For very low-income households, one-twelfth (1/12) of fifty percent (50%) of area median income, adjusted for assumed household size based on unit size, multiplied by thirty percent (30%).
  2. For low-income households, one-twelfth (1/12) of seventy percent (70%) of area median income, adjusted for assumed household size based on unit size, multiplied by thirty percent (30%).
  3. For moderate-income households, one-twelfth (1/12) of one hundred ten percent (110%) of area median income, adjusted for assumed household size based on unit size, multiplied by thirty-five percent (35%).
- C. "Affordable rent" means monthly rent, including a reasonable allowance for utilities (pursuant to a schedule provided by the San Mateo County Housing Authority), parking, and any separately charged fees for use of the property for a below market rate unit that does not exceed:
  1. For very low-income households, one-twelfth (1/12) of fifty percent (50%) of area median income, adjusted for assumed household size based on unit size, multiplied by thirty percent (30%).

2. For low-income households, one-twelfth (1/12) of sixty percent (60%) of area median income, adjusted for assumed household size based on unit size, multiplied by thirty percent (30%).
- D. "Area median income" means the median household income for San Mateo County as published by the State of California pursuant to California Code of Regulations, Title 25, Section 6932, or successor provision.
- E. "Assumed household size based on unit size" means a household of one (1) person in a studio unit, two (2) persons in a one (1) bedroom unit, three (3) persons in a two (2) bedroom unit, and one (1) additional person for each additional bedroom, unless the requirements of another funding source require an alternate method of calculating assumed household size.
- F. "Below market rate housing agreement" means a written agreement between a builder and the City as provided by Section 18.16.060(C).
- G. "Below market rate housing plan" means a plan for a residential development submitted by a builder as provided by Section 18.16.060(B).
- H. "Below market rate incentives" means incentives provided by the City for below market rate (BMR) units and density bonus BMR units pursuant to Chapter 18.17.
- I. "Below market rate (BMR) unit" means a dwelling unit that shall be offered at an affordable rent or affordable ownership cost to moderate-, low- and very low-income households and is required by the City pursuant to Section 18.16.030.
- J. "Builder" means any person, firm, partnership, association, joint venture, corporation, or any entity or combination of entities that seeks City approvals for all or part of a residential development.
- K. "City" means the City of San Carlos.
- L. "Density bonus" is as defined in Chapter 18.17.
- M. "Density bonus below market rate (BMR) unit" is as defined in Chapter 18.17.
- N. "First approval" means the first discretionary approval to occur with respect to a residential development, or, for residential developments not requiring a discretionary approval, the issuance of a building permit.
- O. "Household" means one (1) person living alone or two (2) or more persons sharing residency whose income is considered for housing payments.
- P. "In lieu fee" is as defined in Section 18.16.030(C).
- Q. "Low-income household" means a household whose annual income does not exceed the qualifying limits set for lower-income households in California Health and Safety Code Section 50079.5.
- R. "Market rate unit" means a dwelling unit in a residential development that is not a below market rate unit or a density bonus BMR unit or is not otherwise required by this chapter to be affordable to very low-, low-, or moderate-income households.
- S. "Moderate-income household" means a household whose income does not exceed the qualifying limits set for persons and families of low or moderate income in California Health and Safety Code Section 50093.
- T. "Off-site below market rate unit" means a below market rate unit that will be built separately or at a different location than the residential development.
- U. "On-site below market rate unit" means a below market rate unit that will be built at the same location as the residential development.
- V. "Residential development" means any development project requiring any discretionary permit from the City, or a building permit, and which would create one (1) or more additional dwelling units and/or lots by construction or alteration of structures, or by subdivision of existing lots, or which would add one thousand (1,000) square feet or more to an existing dwelling unit. A residential development includes dwelling units that are part of a mixed-use development and the conversion of existing dwelling units to community housing subdivision ownership as defined in Chapter 17.48.
- W. "Residential ownership development" means any residential development project that includes the creation of one (1) or more residential dwelling units and/or lots that may be sold individually, or that would add one thousand (1,000) square feet or

more to an existing dwelling unit that may be sold individually. A residential ownership development also includes the conversion of existing dwelling units to community housing subdivision ownership as defined in Chapter 17.48.

X. "Residential rental development" means any residential development project that creates one (1) or more residential dwelling units that cannot be sold individually, or that would add one thousand (1,000) square feet or more to an existing dwelling unit that cannot be sold individually.

Y. "Very low-income household" means a household whose income does not exceed the qualifying limits set for very low-income households in California Health and Safety Code Section 50105. (Ord. 1583 § 2 (Exh. A), 2022; Ord. 1550 § 2 (part), 2019; Ord. 1438 § 4 (Exh. A (part)), 2011; Ord. 1416 § 3 (Exh. A (part)), 2010; Ord. 1340 § 1 (part), 2004. Formerly 18.200.030)

**18.16.030 Below market rate housing requirements.**

A. Residential Development. For all residential ownership developments of five (5) or more dwelling units, at least twenty percent (20%) of the total units shall be below market rate units restricted for sale to and occupancy by low-income households unless the residential development is exempt under Section 18.16.040. For all residential rental developments of seven (7) or more dwelling units, at least fifteen percent (15%) of the total units shall be below market rate units restricted for rent to and occupancy by low and very low-income households unless the residential development is exempt under Section 18.16.040. The number and type of below market rate units required for a particular residential development will be determined at first approval of the residential development in accordance with the provisions of Section 18.16.060. If a change in the residential development design results in a change in the total number of units, the number of below market rate units required will be recalculated to coincide with the final approved project.

1. Residential Ownership Development. At least twenty percent (20%) of the total units in a residential ownership development shall be below market rate units affordable to low-income households unless an alternative is approved as described in Section 18.16.070.

2. Residential Rental Development. At least fifteen percent (15%) of the total units in a residential rental development shall be below market rate units, of which ten percent (10%) shall be affordable to very low-income households and five percent (5%) affordable to low-income households unless an alternative is approved as described in Section 18.16.070. Projects may alternatively, but are not required to, designate fifteen percent (15%) of the units as affordable to very low-income households in order to maximize the benefits allowed by the State Density Bonus Law, Government Code Section 65915.

B. Calculation. In determining the number of whole below market rate units required, calculations shall be based on the number of dwelling units in the residential development, excluding any units above the otherwise maximum allowable density that are approved pursuant to the State Density Bonus Law, Government Code Section 65915 et seq. Any decimal fraction less than one-half (0.5) shall be rounded down to the nearest whole number, and any decimal fraction of one-half (0.5) or more shall be rounded up to the nearest whole number.

C. In Lieu Fee. Under the circumstances specified in this subsection, the below market rate housing requirements in subsection A of this section may be satisfied by the payment of a fee to the City in lieu of constructing the below market rate units within the residential development.

1. For a residential ownership development of one (1) dwelling unit, or for an addition of one thousand (1,000) square feet or more to an existing dwelling unit that may be sold individually, the builder shall pay an in lieu fee or construct an accessory dwelling unit consistent with Section 18.23.210, Accessory dwelling units/junior accessory dwelling units.

2. For a residential development that creates one (1) additional lot, or two (2) to six (6) rental dwelling units and/or lots, or two (2) to four (4) ownership dwelling units and/or lots, or for a residential development that triggers a decimal fraction of less than one-half (0.5), the builder shall pay an in lieu fee for the fractional unit requirement or build a below market rate unit affordable to a low-income household.

3. The in lieu fee may be established from time to time by resolution of the City Council or may be determined for a specific residential development through the preparation of an affordability gap analysis that will determine the difference between the affordable sales price or rent and the fair market value for the unit, but in no event shall the in lieu fee exceed the cost of mitigating the impact of market rate units in a residential development on the need for affordable housing in the City.

4. Nothing in this chapter or Chapter 18.17 shall deem or be used to deem the in lieu fee authorized pursuant to this subsection C as an ad hoc exaction or as a mandated fee required as a condition to developing property. Any in lieu fee

adopted by the City Council is a menu option that may serve as an alternative to the on-site below market rate housing requirements set forth in this chapter.

D. Below Market Rate Units Eligible for State Density Bonus. If a residential development receives a density bonus pursuant to Government Code Section 65915, any density bonus BMR unit and any dedication of property that made the residential development eligible for the density bonus that also satisfies the requirements of this chapter shall be counted as below market rate units pursuant to this chapter. (Ord. 1583 § 2 (Exh. A), 2022; Ord. 1566 (Exh. B (part)), 2020; Ord. 1550 § 2 (part), 2019; Ord. 1438 § 4 (Exh. A (part)), 2011; Ord. 1416 § 3 (Exh. A (part)), 2010; Ord. 1340 § 1 (part), 2004. Formerly 18.200.040)

#### **18.16.040 Exemptions to below market rate housing requirements.**

The requirements of Section 18.16.030 do not apply to:

- A. Residential development of a legal accessory dwelling unit consistent with Section 18.23.210, Accessory dwelling units/junior accessory dwelling units.
- B. The reconstruction of any dwelling units that have been destroyed by fire, flood, earthquake or other act of nature; provided, that the reconstruction of the site does not increase the number of legally constructed dwelling units or increase the area of the legally constructed dwelling units by one thousand (1,000) square feet or more.
- C. Additions to existing dwelling units of less than one thousand (1,000) square feet.
- D. Residential developments that already have more deed-restricted units that are affordable to moderate-, low- and very low-income households than Section 18.16.030 requires. (Ord. 1583 § 2 (Exh. A), 2022; Ord. 1566 (Exh. B (part)), 2020; Ord. 1438 § 4 (Exh. A (part)), 2011; Ord. 1416 § 3 (Exh. A (part)), 2010; Ord. 1340 § 1 (part), 2004. Formerly 18.200.050)

#### **18.16.050 Below market rate unit standards.**

Below market rate units built under Section 18.16.030 shall conform to the following standards:

- A. Design. Except as otherwise provided in this chapter, and subject to the approval of the Administrator, below market rate units shall be evenly dispersed by floor and general location throughout a residential development and, consistent with Health and Safety Code Section 17929, may not be isolated to a specific floor or area on a specific floor and must have the same access to the common entrances to a structure as the market rate units. Below market rate units may have different interior finishes and features than market rate units in the same residential development, so long as the finishes and features are durable, of good quality, compatible with the market rate units, and consistent with contemporary standards for new housing. Below market rate units must in aggregate be no smaller in average size than market rate units in the same residential development and the number of bedrooms in below market rate units shall be in the same proportion as in the total number of units in the residential development.
- B. Timing. All below market rate units shall be constructed and occupied concurrently with or prior to the construction and occupancy of market rate units, and in phased residential developments, below market rate units may be constructed and occupied in proportion to the number of units in each phase of the residential development, unless an alternative phasing plan is approved as part of the below market rate housing plan for the residential development.
- C. Duration of Affordability Requirement. Below market rate units produced under this chapter and Chapter 18.17 shall be legally restricted to occupancy by households of the income levels for which the units were designated in perpetuity.
- D. Parking. Below market rate units must be provided parking spaces at a ratio equivalent to the distribution of parking spaces among market rate units for an equivalent bedroom size (for instance, if one and one-half (1.5) parking spaces on average are provided for each two (2) bedroom market rate unit, then the two (2) bedroom below market rate units must be provided one and one-half (1.5) parking spaces on average). Any fractional result must be rounded up. For residential ownership developments, any additional cost for the parking spaces must be included in calculating the affordable ownership cost for the below market rate units. For residential rental developments, any additional cost for the parking spaces must be included in calculating the affordable rent for the below market rate units. (Ord. 1583 § 2 (Exh. A), 2022; Ord. 1438 § 4 (Exh. A (part)), 2011; Ord. 1416 § 3 (Exh. A (part)), 2010; Ord. 1340 § 1 (part), 2004. Formerly 18.200.060)

#### **18.16.060 Compliance procedures.**

- A. General. Approval of a below market rate housing plan and recordation of an approved below market rate housing agreement prior to the recordation of any final or parcel map, or, if no final or parcel map is required, prior to issuance of any building permit, is a condition of the first approval of any residential development to which Section 18.16.030 applies. This

section does not apply to exempt projects or to residential developments where the requirements of Section 18.16.030 are satisfied by payment of a fee under Section 18.16.030(C).

B. Below Market Rate Housing Plan. The decision-making body for the first approval (either the Planning Commission or the City Council) shall approve, conditionally approve or reject the below market rate housing plan. No application for a first approval for a residential development to which Section 18.16.030 applies shall be deemed complete until a below market rate housing plan, in a form satisfactory to the Administrator, is deemed complete by the Administrator. The below market rate housing plan shall include:

1. The location, structure (attached, semi-attached, or detached), proposed tenure (for sale or rental), number of bedrooms, and size of the proposed market rate and below market rate units and the basis for calculating the number of below market rate units;
2. A floor or site plan depicting the location of the market rate and below market rate units and the location of the common entrances;
3. The income levels to which each below market rate unit will be made affordable;
4. The same information for any below market rate units provided to meet other requirements of State law, including but not limited to density bonus law, Government Code Section 65915; streamlined approval (SB 35; Government Code Section 65913.4); or the Housing Crisis Act of 2019 (Government Code Section 66300);
5. For a phased residential development, a phasing plan that provides for the timely development of the number of below market rate units proportionate to each proposed phase of development, or with an alternative phasing plan;
6. A description of any below market rate incentive requested pursuant to Chapter 18.17;
7. Any alternative means designated in Section 18.16.070(A) proposed for the residential development, along with information necessary to support the findings required by Section 18.16.070(B) for approval of such alternatives;
8. Builder's agreement to conform to the provisions of this chapter, including but not limited to the provisions of Sections 18.16.080 through 18.16.100; and
9. Any other information reasonably requested by the Administrator to assist with evaluation of the below market rate housing plan under the standards of this chapter.

C. Below Market Rate Housing Agreement. The forms of the below market rate housing agreement and any resale and rental restrictions, deeds of trust, options to purchase, and other documents authorized by this subsection, and any change in the form of any such document which materially alters any policy in the document, shall be approved by the Administrator and the City Attorney or his or her designee prior to being executed with respect to any residential development prior to the recordation of any final or parcel map, or, if no final or parcel map is required, prior to issuance of any building permit. The form of the below market rate housing agreement will vary, depending on the manner in which the provisions of this chapter are satisfied for a particular development. All below market rate housing agreements shall include, at minimum, the following:

1. Description of the residential development, including whether the below market rate units will be rented or owner-occupied;
2. The number, size, number of bedrooms, and location of all below market rate units;
3. Below market rate incentives granted by the City, if any, pursuant to Chapter 18.17;
4. Provisions and/or documents for resale restrictions, deeds of trust, options to purchase, rental restrictions, or other documents as appropriate;
5. Provisions for monitoring the ongoing affordability of the units, and the process for qualifying prospective resident households for income eligibility;
6. Formula for calculating affordable rent and/or affordable ownership cost and the proposed initial sales price for the below market rate units, any density bonus BMR units, and any very low- or low-income housing units required to meet any other requirements of State law, including but not limited to density bonus law, Government Code Section 65915; streamlined approval (SB 35; Government Code Section 65913.4); or the Housing Crisis Act of 2019 (Government Code Section 66300), as applicable;

7. Builder's agreement to conform to the provisions of this chapter, including but not limited to the provisions of Sections 18.16.080 through 18.16.100; and
8. Any additional obligations relevant to the compliance with this chapter.

If a builder chooses to satisfy all or a portion of the below market rate requirement with rental units, as permitted by Government Code Section 65589.8, then the below market rate housing agreement shall include the builder's agreement to the limitations on rents and applicable terms and conditions required by Section 18.16.030(C).

D. Recording of Agreement. Prior to the recordation of any final or parcel map for a residential development, or, if no final or parcel map is required, prior to issuance of any building permit for a residential development, below market rate housing agreements that are approved and fully executed shall be recorded against residential developments containing below market rate units. Additional rental or resale restrictions, deeds of trust, options to purchase, and/or other documents acceptable to the Administrator shall also be recorded at the time of sale against owner-occupied below market rate units. In cases where the requirements of this chapter are satisfied through the development of off-site below market rate units, the below market rate housing agreement shall simultaneously be recorded against the property where the off-site below market rate units are to be developed.

E. Amendments. Modifications to the below market rate housing plan shall be considered a change in the approved conditions of approval and processed in the same manner as the original below market rate housing plan. (Ord. 1583 § 2 (Exh. A), 2022; Ord. 1550 § 2 (part), 2019; Ord. 1480 (Exh. C (part)), 2015; Ord. 1438 § 4 (Exh. A (part)), 2011; Ord. 1416 § 3 (Exh. A (part)), 2010; Ord. 1340 § 1 (part), 2004. Formerly 18.200.070)

#### **18.16.070 Alternatives.**

A. Builder Proposal. A builder may propose an alternative means of compliance in a below market rate housing plan required by Section 18.16.060(B) according to the following provisions. The builder may also partner with a nonprofit affordable housing provider to meet its below market rate housing obligations through one of the alternatives set forth in this section.

1. Provision of a Greater Level of Affordability. The builder may propose a greater level of affordability than required under this chapter and reduce the total number of units otherwise required.
2. Off-Site Construction. Below market rate units may be proposed off-site within the City limits if it the proposal meets all of the following conditions:
  - a. The off-site construction proposal would result in a minimum of ten percent (10%) more total below market rate units than required by this chapter.
  - b. The below market rate units will be located in an area where, based on the availability of affordable housing, the decision-making body finds that the need for such units is greater than the need in the area of the proposed development.
  - c. The off-site location is suitable for the proposed below market rate housing, consistent with any adopted guidelines and the Housing Element, and will not tend to cause residential segregation or concentrations of poverty.
  - d. If the builder proposes to provide rental off-site below market rate units in place of ownership on-site below market rate units, the rental off-site below market rate units shall meet the affordability and other requirements specified in Section 18.16.030.
  - e. Off-site below market rate units shall meet or exceed minimum quality standards specified in conditions of approval and may include any combination of new dwelling units, new dwelling units created in existing structures, or the preservation of existing affordable units at risk of loss or by conversion of existing market rate units to below market rate units if the preservation or conversion of these units is consistent with Government Code Section 65583.1 and allows the City to use the preserved or converted units to help meet its regional housing needs allocation.

The following information, to the satisfaction of the Administrator, is required for submittal of a proposal for off-site below market rate units:

- i. If the off-site below market rate units will not be constructed concurrently with the market rate units, the builder shall specify the security to be provided to the City to ensure that the below market rate units will be constructed in a timely manner, including evidence of ownership or control of any sites proposed for the below

market rate units, to the satisfaction of the Administrator, and clear and convincing evidence that financing has been secured for the off-site below market rate units.

ii. For preservation of existing affordable units at risk of loss or conversion of existing market rate units to below market rate units:

- (A) Existing rent or appraised value of each unit on the property to be converted, proposed rents or sales prices after conversion or preservation, and any existing rent limits, resale price restrictions, or other affordability restrictions imposed by any public agency, nonprofit agency, land trust, or other body.
- (B) Size of households occupying each unit on the property to be converted, vacancy rates for each month during the past two (2) years, and existing tenant incomes.
- (C) A property inspection report prepared by a certified housing inspector and a termite report, both prepared no more than sixty (60) days before the filing of the application. The property inspection report shall include a full examination of all common and private areas within the existing dwelling units for compliance with applicable building codes.
- (D) Plans and a written description of rehabilitation to be completed, including correction of all code violations and completion of all termite repairs described in the property inspection report and termite report; cost of rehabilitation; and the appraised value of the property, including land, buildings, and all other improvements, after rehabilitation.
- (E) Description of benefits to be offered existing tenants, including but not limited to right of first refusal to remain in the unit, and required relocation assistance for existing tenants.
- (F) Evidence that the proposal complies with the provisions of Government Code Section 65583.1 and that the City may utilize the units to help meet its regional housing needs allocation.

3. Land Dedication. Below market rate units may be proposed off site within the City limits if the proposal meets all of the following conditions:

- a. The land dedication proposal would result in a minimum of ten percent (10%) more total below market rate units than required by this chapter.
- b. The dedicated land is located either on the site of the housing development or in an area where, based on the availability of affordable housing, the decision-making body finds that the need for such units is greater than the need in the area of the proposed development.
- c. The dedicated land is suitable for the proposed below market rate housing, consistent with any adopted guidelines and the Housing Element, and will not tend to cause residential segregation or concentrations of poverty.
- d. The affordable housing to be built on the dedicated land shall meet or exceed minimum quality standards specified in this chapter.

The builder shall specify the security to be provided to the City to ensure that the below market rate units will be constructed on the dedicated land in a timely manner, including evidence of ownership or control of the sites to be dedicated, to the satisfaction of the Administrator, and clear and convincing evidence that financing has been secured for the construction of the below market rate units on the dedicated land. Prior to issuance of any building permit for the residential development, the property shall either be dedicated to the City or to the developer of the below market rate units on the dedicated land, as determined by the City.

4. Preservation of Historically Significant Structures and Resources. Adjustments may be made to the required number and affordability level of the below market units based on the economics associated with preservation of historically significant structures and resources as identified under guidelines as set forth by the California Environmental Quality Act (CEQA).

5. Rental Units in Place of Ownership Units. The builder may propose rental on-site below market rate units in a residential ownership development rather than sell below market rate units. If the builder proposes this alternative, then at least fifteen percent (15%) of the total units (excluding any units approved beyond the otherwise maximum allowable

density pursuant to the State Density Bonus Law) shall be below market rate units which meet the standards set forth in Section 18.16.030 for residential rental developments.

6. Combination. The decision-making body may accept any combination of the above options.

B. Findings. The decision-making body for the first approval may approve, conditionally approve or reject any alternative proposed by a builder as part of a below market rate housing plan. Any approval or conditional approval shall be based on the following finding:

1. That the purposes of this chapter would be better served by implementation of the proposed alternative(s) and that the proposal meets the greatest community needs at the time the alternative is reviewed. As one of the factors determining whether the purposes of this chapter would be better served under the proposed alternative, the decision-making body shall consider whether implementation of an alternative would cause or exacerbate racial segregation and, if so, shall reject the alternative. (Ord. 1583 § 2 (Exh. A), 2022; Ord. 1550 § 2 (part), 2019; Ord. 1438 § 4 (Exh. A (part)), 2011; Ord. 1416 § 3 (Exh. A (part)), 2010; Ord. 1340 § 1 (part), 2004. Formerly 18.200.080)

**18.16.080 Eligibility for below market rate units (owner-occupied and rental units).**

A. General Eligibility. If the City or its designee maintains a list of eligible households, initial and subsequent occupants will be selected first from the list of eligible households, to the maximum extent possible, in accordance with any rules approved by the Administrator.

B. Preferences. Preferences will be given to those households where at least one (1) member in the household lives or works in San Carlos, including part-time and household workers, or works for a public agency, such as a school district or fire district, serving residents living in the City of San Carlos, except for those households deemed ineligible due to conflict of interest listed in subsection C of this section.

C. Conflict of Interest. The following individuals are ineligible to purchase or rent a below market rate unit as specified below:

1. Elected City Council officials and all Planning Commissioners (including their spouses and dependents);
2. All City staff members (including their spouses and dependents) who participated in the approval process for the residential development or who establish policy for City housing programs;
3. The builder and its officers and employees (and their spouses and dependents); and
4. The project or land owner of the residential development and its officers and employees (and their spouses and dependents).

D. Occupancy. Any household which occupies a rental below market rate unit or purchases a below market rate unit shall occupy that unit as its principal residence and shall not lease or sublease to a different party. (Ord. 1583 § 2 (Exh. A), 2022; Ord. 1438 § 4 (Exh. A (part)), 2011; Ord. 1416 § 3 (Exh. A (part)), 2010; Ord. 1340 § 1 (part), 2004. Formerly 18.200.100)

**18.16.090 Owner-occupied units.**

A. Initial Sales Price for Below Market Rate Units. The initial sales price of a below market rate unit shall be set by the City at the time a building permit is issued for the below market rate unit so that the eligible household will pay an affordable ownership cost. The initial sales price shall be based on the builder's estimate of homeowners' association dues, if any, the City's assumptions for interest rates and other factors, and the formula for calculating sales prices contained in the below market rate housing agreement. The City shall provide the builder with an estimate of the initial sales price for the below market rate units at an earlier date upon written request by the builder. After the building permit is issued, the initial sales price may be adjusted by the City due to changes in market factors upon written request by the builder no less than ninety (90) days prior to marketing of the below market rate units. In no case will the initial sales price be adjusted below the initial sales price calculated when the building permit was issued.

B. Certification of Eligibility. The income of each household proposed to purchase a below market rate unit shall be certified to the City or the City's designee prior to the sale of a below market rate unit. Each household shall provide written verification of income, including but not limited to such documents as income tax returns for the previous calendar year, W-2 statements, and pay stubs. Income verification shall be submitted on a form approved by the City.

C. Initial Sales Deed Restrictions. Deed restrictions provided by the City and recorded against title to the below market rate unit shall be required as a condition of sale for all owner-occupied below market rate units and shall include, but are not limited to, the City's purchase option, resale restrictions, and procedures and policies regarding changes in title to ensure that owner-

occupied below market rate units remain affordable in perpetuity. (Ord. 1583 § 2 (Exh. A), 2022; Ord. 1438 § 4 (Exh. A (part)), 2011; Ord. 1416 § 3 (Exh. A (part)), 2010; Ord. 1340 § 1 (part), 2004. Formerly 18.200.110)

**18.16.100 Rental units.**

A. Initial Rents for Below Market Rate Units. The initial rent of below market rate units shall be set by the City at least thirty (30) days prior to marketing of the below market rate units so that the eligible households will pay an affordable rent. The initial rent shall be based on a schedule provided by the San Mateo County Housing Authority and the formula for calculating rents contained in the below market rate housing agreement. The City shall provide the builder with an estimate of the initial rent for the below market rate units at an earlier date upon written request by the builder.

B. Selection of Tenants. Rental units will be offered to eligible households at an affordable rent. If no eligible households are identified by the City pursuant to Section 18.16.080, the owners of rental below market rate units shall fill vacant units by selecting income-eligible households from the San Mateo County Office of Housing, Section 8 Housing Choice Voucher program or similar program. If no eligible households are identified from the County program or similar program, owners may fill vacant units through their own selection process; provided, that they publish notice of the availability of below market rate units according to guidelines established by the Administrator.

C. Certification of Eligibility. The owner of rental below market rate units shall certify each tenant household's income to the City or City's designee at the time of initial rental and annually thereafter. The owner shall obtain and review documents from each tenant household that provide written verification of income, including but not limited to such documents as income tax returns for the previous calendar year, W-2 statements, and pay stubs. Income verification shall be submitted on a form approved by the City.

D. Nondiscrimination. When selecting tenants, the owners of below market rate units shall follow all fair-housing laws, rules, regulations, and guidelines. The owner shall apply the same rental terms and conditions to tenants of below market rate units as are applied to all other tenants, except as required to comply with this chapter (for example, rent levels and income requirements) or with other applicable government subsidy programs.

E. Move-In Costs. Total deposits, including security deposits, required of households occupying a below market rate unit shall be limited to first and last month's rent plus a cleaning deposit not to exceed one month's rent.

F. Annual Report. The owner shall submit an annual report summarizing the occupancy of each below market rate unit for the year, demonstrating the continuing income eligibility of each tenant, and the rent charged for each below market rate unit. The Administrator may require additional information to confirm household income and rents charged for the unit if he or she deems it necessary.

G. Periodic Audit. The City maintains the right to periodically audit the information supplied to the City for the annual report if deemed necessary to ensure compliance with this chapter. In addition, owners of below market rate units shall cooperate with any audits conducted by the City, State agencies, Federal agencies, or their designees.

H. Rent Regulatory Agreements. A rent regulatory agreement provided by the City shall be recorded against any residential rental development prior to final inspection or issuance of any certificate of occupancy for any dwelling unit in the residential development. The rent regulatory agreement shall include the developer's agreement to rent the below market rate units at affordable rents in perpetuity. The rent regulatory agreement shall include, but not be limited to, the limitations on rents required by this section, provisions for selection of tenants and tenant eligibility, provisions for nondiscrimination and monitoring, and other provisions required to ensure compliance with this chapter.

I. Changes in Tenant Income. If, after moving into a below market rate unit, a tenant's household income exceeds the limit for that unit, the following shall apply:

1. If the tenant's income does not exceed the income limits of other below market rate units in the residential development, the owner may, at the owner's option, allow the tenant to remain in the original unit and redesignate the unit as affordable to households of a higher income level, as long as the next vacant unit is redesignated for the income category previously applicable to the tenant's household. Alternatively, if a below market rate unit meeting the tenant's revised income threshold becomes available within six (6) months and the tenant meets the income eligibility for that unit, the owner shall allow the tenant to apply for that unit.
2. If there are no units designated for a higher income category within the residential development that may be substituted for the original unit, the owner may raise the tenant's monthly rent to an amount, net of utilities, that is the lesser of rent for a comparable market rate unit in the residential development or one-twelfth (1/12) of thirty percent (30%)

of the tenant's household income. Upon vacancy by the tenant, the unit must be rented to a household in the income category previously applicable to the unit.

3. If the tenant's income exceeds the income designated for all below market rate units in the residential development, the tenant shall be given six (6) months' notice to vacate the unit. If within those six (6) months another unit in the residential development is vacated, the owner may, at the owner's option, allow the tenant to remain in the original unit, increase the rent to that for a comparable market rate unit in the residential development, and designate the newly vacated unit as a below market rate unit affordable at the income level previously applicable to the unit converted to market rate. The newly vacated unit shall be comparable in size (for example, number of bedrooms, bathrooms, square footage, etc.) to the original unit. (Ord. 1583 § 2 (Exh. A), 2022; Ord. 1480 (Exh. C (part)), 2015; Ord. 1438 § 4 (Exh. A (part)), 2011; Ord. 1416 § 3 (Exh. A (part)), 2010; Ord. 1340 § 1 (part), 2004. Formerly 18.200.120)

#### **18.16.110 Below market rate fund.**

A. Trust Fund. A fund for the deposit of fees established under this and similar prior municipal codes exists as Fund 29 (the "fund"). This fund shall receive all fees contributed under this chapter and may also receive monies from other sources.

B. Purpose and Limitations. Monies deposited in the fund shall be used to increase and improve the supply of housing affordable to moderate-, low-, very low-, and extremely low-income households. Monies may also be used to cover reasonable administrative or related expenses associated with the administration of this chapter.

C. Administration. The fund shall be administered by the Administrator, who may develop procedures to implement the purposes of the fund consistent with the requirements of this chapter and subject to any adopted budget of the City.

D. Expenditures. Fund monies shall be used in accordance with the City's Housing Element, or subsequent plans adopted by the City Council to maintain or increase the quantity, quality, and variety of affordable housing units or assist other governmental entities, private organizations or individuals to do so. Permissible uses include, but are not limited to, land acquisition, debt service, parcel assemblage, gap financing, housing rehabilitation, grants, unit acquisition, new construction, and other pursuits associated with providing affordable housing. The fund may be used for the benefit of both rental and owner-occupied housing. (Ord. 1583 § 2 (Exh. A), 2022; Ord. 1480 (Exh. C (part)), 2015; Ord. 1438 § 4 (Exh. A (part)), 2011; Ord. 1416 § 3 (Exh. A (part)), 2010; Ord. 1340 § 1 (part), 2004. Formerly 18.200.130)

#### **18.16.120 Periodic review and enforcement.**

A. Periodic Review. It is the intent of the City Council to review the provisions of this chapter concurrently with the review of the City's Housing Element, including provisions for income targeting, funding priorities, fees, and other provisions, to ensure that such provisions are economically feasible and are designed to serve the community's highest priorities for the provision of affordable housing.

B. Penalty for Violation. It shall be a misdemeanor to violate any provision of this chapter. Without limiting the generality of the foregoing, it shall also be a misdemeanor for any person to sell or rent to another person a below market rate unit or density bonus BMR unit at a price or rent exceeding the maximum allowed under this chapter or Chapter 18.17 or to sell or rent a below market rate unit or density bonus BMR unit to a household not qualified under this chapter. It shall further be a misdemeanor for any person to provide false or materially incomplete information to the City or to a seller or lessor of a below market rate unit or density bonus BMR unit to obtain occupancy of housing for which he or she is not eligible.

C. Legal Action. The City may institute any appropriate legal actions or proceedings necessary to ensure compliance with this chapter, including:

1. Actions to revoke, deny or suspend any permit, including a building permit, certificate of occupancy, or discretionary approval;
2. Actions to recover from any violator of this chapter civil fines, restitution to prevent unjust enrichment from a violation of this chapter, and/or enforcement costs, including attorneys' fees;
3. Eviction or foreclosure; and
4. Any other appropriate action for injunctive relief or damages. Failure of any official or agency to fulfill the requirements of this chapter shall not excuse any person, owner, household or other party from the requirements of this chapter. (Ord. 1583 § 2 (Exh. A), 2022; Ord. 1480 (Exh. C (part)), 2015; Ord. 1438 § 4 (Exh. A (part)), 2011; Ord. 1416 § 3 (Exh. A (part)), 2010; Ord. 1340 § 1 (part), 2004. Formerly 18.200.140)

#### **18.16.130 Waivers of affordable housing requirements.**

A. Requests for waivers shall be made concurrent with application submittal. As part of an application for the first approval of a residential development, a builder may request that the requirements of this chapter be reduced, adjusted, or waived based upon a showing that applying the requirements of this chapter would result in an unconstitutional taking of property or would result in any other unconstitutional result. Any such request shall be submitted concurrently with the below market rate housing plan required by this chapter. The builder shall set forth in detail the factual and legal basis for the claim, including all supporting technical documentation, and shall bear the burden of presenting the requisite evidence to demonstrate the alleged unconstitutional result. The City may assume each of the following when applicable:

1. The builder will benefit from the incentives set forth in the municipal code; and
2. If required to provide below market rate units, the builder will provide the most economical affordable housing units feasible in terms of financing, construction, design, location and tenure.

B. The City Council, based upon legal advice provided by or at the behest of the City Attorney, may approve a reduction, adjustment, or waiver if the Council determines that applying the requirements of this chapter would effectuate an unconstitutional taking of property or otherwise have an unconstitutional application to the property. The reduction, adjustment, or waiver may be approved only to the extent necessary to avoid an unconstitutional result after adoption of written findings, based on legal analysis and the evidence. If a reduction, adjustment, or waiver is granted, any change in the residential development shall invalidate the reduction, adjustment, or waiver, and a new application shall be required for a reduction, adjustment, or waiver. (Ord. 1583 § 2 (Exh. A), 2022; Ord. 1480 (Exh. C (part)), 2015; Ord. 1438 § 4 (Exh. A (part)), 2011; Ord. 1416 § 3 (Exh. A (part)), 2010. Formerly 18.200.150)

## **Chapter 18.17 AFFORDABLE HOUSING INCENTIVES**

Sections:

**18.17.010 Purpose.**

**18.17.020 Definitions.**

**18.17.030 City incentives for below market rate units.**

**18.17.040 State mandated density bonuses.**

**18.17.050 State mandated concessions and incentives, parking reductions, and waivers.**

**18.17.060 Review procedures for State mandated density bonuses, concessions, incentives, waivers, and parking reductions.**

**18.17.070 Requirements for density bonus below market rate units.**

**18.17.080 Interpretation.**

**18.17.010 Purpose.**

The purpose of this chapter is to provide procedures for granting incentives for the construction of affordable housing to encourage the production of affordable housing and to achieve the following additional goals:

A. Housing Element Goals and Policies. To implement goals and policies contained in the Housing Element providing for incentives for the construction of affordable housing.

B. Compliance with State Law. To comply with the provisions of Government Code Section 65915 et seq. ("State Density Bonus Law"), which mandates the adoption of a City ordinance specifying procedures for providing the density bonuses and other incentives and concessions required by those sections. (Ord. 1583 § 2 (Exh. A), 2022; Ord. 1438 § 4 (Exh. A (part)), 2011; Ord. 1416 § 4 (Exh. A (part)), 2010. Formerly 18.204.010)

**18.17.020 Definitions.**

Terms defined in Section 18.16.020 shall have the same meaning in this chapter. In addition, the following terms shall have the following meanings when used in this chapter:

A. "Bonus units" means dwelling units allowed pursuant to Section 18.17.030(A) or Section 18.17.040 that exceed the otherwise allowable maximum gross residential density for a housing development.

B. "Concessions and incentives" means regulatory concessions and incentives as defined by Government Code Section 65915(k).

C. "Density bonus" means a density increase over the otherwise allowable maximum gross residential density for a housing development, pursuant to Section 18.17.030(A) or Section 18.17.040.

D. "Density bonus below market rate (BMR) unit" means a dwelling unit that is offered at an affordable rent or affordable ownership cost to moderate-, low- or very low-income households; and qualifies a housing development for a density bonus pursuant to Section 18.17.040.

E. "Development standard" means a site or construction condition that applies to a housing development pursuant to any ordinance, General Plan element, specific plan, or other local condition, law, policy, resolution, or regulation. A "site and construction condition" is a development regulation or law that specifies the physical development of a site and buildings on the site in a housing development.

F. "Maximum allowable gross residential density" means the maximum number of dwelling units permitted in a housing development by the City's Zoning Ordinance and by the Land Use Element of the General Plan on the date that the application for the housing development is submitted, excluding any density bonus. If the maximum density allowed by the Zoning Ordinance is inconsistent with the density allowed by the Land Use Element of the General Plan, the Land Use Element density shall prevail.

G. "Senior citizen housing development" means a housing development with at least thirty-five (35) dwelling units, meeting the definition of a senior citizen housing development set forth in California Civil Code Section 51.3 or a mobile home park that limits residency based on age requirements pursuant to Civil Code Section 798.76 or 799.5. (Ord. 1583 § 2 (Exh. A), 2022; Ord. 1438 § 4 (Exh. A (part)), 2011; Ord. 1416 § 4 (Exh. A (part)), 2010. Formerly 18.204.020)

#### **18.17.030 City incentives for below market rate units.**

The incentives provided by this section are available to housing developments that provide on-site below market rate units in compliance with Chapter 18.16. Housing developments which have been granted a density bonus pursuant to Section 18.17.040 are not eligible for the City density bonus described in subsection A of this section but may be granted another incentive included in this section as a concession or incentive granted pursuant to Section 18.17.050.

##### A. City Density Bonus.

1. Bonus for Owner-Occupied Units. Upon the discretionary issuance of a conditional use permit by the Planning Commission, residential owner-occupied developments with one or more on-site below market rate units that are affordable to low-income households, or to a lower income category, may be granted one (1) additional unit for each unit affordable to low-income households or to a lower income category. This density bonus shall not apply to single-family residential developments and is an alternative to density bonuses allowed under California Government Code Section 65915 and Section 18.17.040.

2. Bonus for Rental Units. Upon the discretionary issuance of a conditional use permit by the Planning Commission, residential rental developments with one (1) or more on-site below market rate units that are affordable to low-income households may be granted two (2) additional units for each unit affordable to low-income households. Residential rental developments with one (1) or more on-site below market rate units that are affordable to very low-income households, or to a lower income category, may be granted four (4) additional units for each unit affordable to very low-income households or to a lower income category. This density bonus shall not apply to single-family residential developments and is an alternative to density bonuses allowed under California Government Code Section 65915 and Section 18.17.040.

B. Modified Development Standard Calculations. Bonus unit(s) approved under the density bonus incentive described in subsection A of this section shall be exempted from floor area ratio and density requirements. In addition, the bonus unit(s) will not be counted in determining the required number of below market rate units.

C. Flexible Parking Standards. Residential developments with one (1) or more on-site below market rate units shall be allowed limited reductions in the parking requirements related to any dwelling units or allowed limited use of tandem and/or shared parking arrangements or allowed a combination of these modified parking standards.

D. Flexible Setback Allowance. Residential developments with one (1) or more on-site below market rate units may be allowed limited reductions in the minimum setback requirements if the following findings are made through the design review

process:

1. That the proposed alternative design at the proposed location will not be detrimental or injurious to improvements in the vicinity and will not be detrimental to the public health, peace, safety, comfort, general welfare or convenience; and
  2. The proposed alternative design shall not significantly reduce the privacy of the adjoining property owners or significantly reduce sunlight into adjoining properties.
- E. Permit Streamlining. In certain zoning districts, the requirement of a conditional use permit for dwelling units above the ground floor may be eliminated for residential developments with one (1) or more on-site below market rate units.
- F. Financial Assistance. To the extent budgeted by the City Council and otherwise available, financial assistance from the City or from sources as may be available to the City may be available to the builder in the form of loans or grants for the below market rate housing component of the residential development. The builder shall be responsible for complying with all requirements associated with the particular funding source(s), including any requirements imposed by the State for payment of prevailing wages. Rental residential developments that offer the deepest affordability and which lack alternative funding sources shall be given the highest priority for financial assistance, in particular, rental residential developments affordable to very low- and low-income households.
- G. Below Market Rate Housing Plan. All requests for City incentives provided pursuant to this section shall be submitted with the below market rate housing plan required by Section 18.16.060(B). The builder shall include the following additional information in the below market rate housing plan:

1. A site plan depicting the number and location of all market rate, below market rate and bonus units.
2. A calculation of the maximum number of dwelling units permitted by the City's Zoning Ordinance and General Plan for the residential development, excluding any density bonus.
3. Description of any City incentives requested pursuant to this section. (Ord. 1583 § 2 (Exh. A), 2022; Ord. 1438 § 4 (Exh. A (part)), 2011; Ord. 1416 § 4 (Exh. A (part)), 2010. Formerly 18.204.030)

**18.17.040 State mandated density bonuses.**

- A. Eligibility for Density Bonus. A "housing development" as defined in State Density Bonus Law shall be eligible for a density bonus and other regulatory incentives that are provided by State Density Bonus Law when the builder seeks and agrees to provide affordable and other types of housing in the threshold amounts specified in State Density Bonus Law. A "housing development" includes only the residential component of a mixed-use project.
- B. Calculation of State Mandated Density Bonus.
1. The amount of density bonus to which a housing development is entitled shall be as specified in State Density Bonus Law. Each housing development is entitled to only one (1) density bonus, which may be selected on the basis of only one (1) category, as described in the subparagraphs of Government Code Section 65915(b)(1). Density bonuses from more than one (1) category may not be combined.
  2. When calculating the number of permitted bonus units, any calculations resulting in fractional units shall be rounded to the next larger whole number, including base density and bonus density.
  3. The bonus units shall not be included when determining the number of density bonus BMR units required to qualify for a density bonus. When calculating the required number of density bonus BMR units, any calculations resulting in fractional units shall be rounded to the next larger integer.
  4. The builder may request a lesser density bonus than the housing development is entitled to, but no reduction will be permitted in the minimum percentages of required density bonus BMR units pursuant to State Density Bonus Law. Regardless of the number of density bonus BMR units, no housing development may be entitled to a density bonus of more than that authorized by State Density Bonus Law. (Ord. 1583 § 2 (Exh. A), 2022; Ord. 1438 § 4 (Exh. A (part)), 2011; Ord. 1416 § 4 (Exh. A (part)), 2010. Formerly 18.204.040)

**18.17.050 State mandated concessions and incentives, parking reductions, and waivers.**

- A. Eligibility for Concessions and Incentives. A builder may request concessions and incentives pursuant to this section only when the builder is eligible for a State density bonus pursuant to Section 18.17.040. The number of incentives that may be requested shall be based upon the number the applicant is entitled to pursuant to State Density Bonus Law.

B. Concessions Not Requiring Evidence of Cost Reduction from Applicant. The following concessions and incentives shall be available to the builder without any requirement that the builder submit reasonable documentation to the City demonstrating that the requested concession or incentive results in identifiable and actual cost reductions:

1. A reduction in the usable open space requirement;
2. An increase in the maximum lot coverage requirement;
3. A reduction in minimum lot dimensions;
4. A reduction in minimum distance between buildings;
5. A reduction in landscaping area requirements;
6. Deferral until occupancy of development impact fees;
7. Any of the City incentives listed in Section 18.17.030(A) through (E), inclusive.

C. Concessions Requiring Evidence of Cost Reduction from Applicant. All other concessions and incentives shall require the builder to demonstrate to the City Council through the provision of reasonable documentation that the requested concession or incentive results in identifiable and actual cost reductions to the housing development to provide for affordable housing costs or rents.

D. Parking Reduction. If a housing development is eligible for a density bonus pursuant to Section 18.17.040(A), the builder may request an on-site vehicular parking ratio that does not exceed the number of spaces specified in Government Code Section 65915(p).

A builder may request this parking reduction in addition to concessions and incentives permitted by subsection A of this section.

E. Waiver. Applicants may seek a waiver of any development standards that will have the effect of physically precluding the construction of a housing development that is eligible for a density bonus pursuant to Section 18.17.040(A) at the densities or with the concessions and incentives permitted by Section 18.17.040 or subsection (A) of this section. The builder shall provide reasonable documentation demonstrating that the development standards that are requested to be waived will have the effect of physically precluding the construction of the housing development at the densities or with the concessions and incentives permitted by Section 18.17.040 or subsection (A) of this section.

F. City Financial Participation Not Required. Nothing in this chapter requires the provision of direct financial incentives for the housing development, including but not limited to the provision of financial subsidies, publicly owned land, fee waivers, or waiver of dedication requirements. The City at its sole discretion may choose to provide such direct financial incentives.

G. Prevailing Wages. Financial and certain other incentives may require payment of prevailing wages by the housing development if required by State law. (Ord. 1583 § 2 (Exh. A), 2022; Ord. 1438 § 4 (Exh. A (part)), 2011; Ord. 1416 § 4 (Exh. A (part)), 2010. Formerly 18.204.050)

**18.17.060 Review procedures for State mandated density bonuses, concessions, incentives, waivers, and parking reductions.**

A. Below Market Rate Housing Plan. All requests for density bonuses, concessions and incentives, City incentives, parking reductions, and waivers provided pursuant to Sections 18.17.040 and 18.17.050 shall be submitted with the below market rate housing plan required by Section 18.16.060(B). The builder shall include the following additional information in the below market rate housing plan:

1. A tentative map or site plan or both, drawn to scale, depicting the number and location of all market rate units, below market rate units, density bonus BMR units, and bonus units.
2. Summary table showing the maximum number of dwelling units permitted by the City's Zoning Ordinance and General Plan for the housing development, excluding any density bonus, proposed density bonus BMR units by income level, calculation of proposed bonus percentage, number of bonus units proposed, total number of dwelling units proposed on the site, and resulting density in units per acre.
3. The zoning and general plan designations and assessor's parcel number(s) of the housing development site.
4. A description of all dwelling units existing on the site in the five (5) year period preceding the date of submittal of the application and identification of any units rented in the five (5) year period. If dwelling units on the site are currently rented,

income and household size of all residents of currently occupied units, if known. If any dwelling units on the site were rented in the five (5) year period but are not currently rented, the income and household size of residents occupying dwelling units when the site contained the maximum number of dwelling units, if known.

5. Description of any recorded covenant, ordinance, or law applicable to the site that restricted rents or prices to levels affordable to very-low or lower income households in the five (5) year period preceding the date of submittal of the application.

6. If a density bonus is requested for a land donation, the location of the land to be dedicated, proof of site control, and reasonable documentation that each of the requirements included in California Government Code Section 65915(g) can be met.

7. If the application proposes any concessions or incentives pursuant to Section 18.17.050, the below market rate housing plan shall also include the following information:

a. The City's usual regulatory requirement and the requested regulatory incentive, described both in writing and shown on the submitted site plans elevations, or other submitted plans, as appropriate.

b. Except where mixed-use zoning is proposed as a concession or incentive pursuant to Government Code Section 65915(k)(2), reasonable documentation to show that any requested incentive will result in identifiable and actual cost reductions to provide for affordable housing costs or rents.

c. If approval of mixed-use zoning is proposed, reasonable documentation that nonresidential land uses will reduce the cost of the housing development and that the nonresidential land uses are compatible with the housing development and the existing or planned development in the area where the proposed housing development will be located.

8. If the application proposes waivers of development standards, the below market rate housing plan shall also include the following information:

a. The City's usual development standard and the requested development standard, described both in writing and shown on the submitted site plans elevations, or other submitted plans, as appropriate.

b. Reasonable documentation that the development standards for which each waiver is requested will have the effect of physically precluding the construction of the housing development at the densities or with the concessions or incentives permitted by State Density Bonus Law.

9. If the application proposes a reduction of parking standards, the below market rate housing plan shall also include a table showing parking required by the zoning regulations, parking proposed under Government Code Section Section 65915(p), and reasonable documentation that the project is eligible for the requested parking reduction.

10. If a density bonus or concession is requested for a child care facility or condominium conversion, the below market rate housing plan shall provide reasonable documentation that the requirements of Government Code Section 65915(h) or 65915.5, as appropriate, can be made.

11. Other requested information included on the City's application forms.

12. Payment of any fee in an amount set by resolution of the City Council for City costs necessary to determine compliance of the application with State Density Bonus Law.

B. City Review of Application for State Mandated Density Bonus, Concessions, and Incentives. Any request for a density bonus, concessions, incentives, waivers, or parking reductions provided pursuant to Sections 18.17.040 and 18.17.050 shall be submitted concurrently with the filing of the planning application for the first discretionary permit required for the housing development and shall be processed, reviewed, and approved or denied by the decision-making body (Planning Commission or City Council) concurrently with the below market rate housing plan required for the housing development. The applicant shall be informed whether the application is complete consistent with Government Code Section 65943. In accordance with State law, neither the granting of a concession or incentive, nor the granting of a density bonus, shall be interpreted, in and of itself, to require a General Plan amendment, zoning code amendment, zone change, or other discretionary approval, or the waiver of a city ordinance or provisions of a city ordinance unrelated to development standards.

C. Eligibility for State Mandated Density Bonus, Concessions and Incentives, Waivers, and Parking Reductions. To ensure that an application for a housing development conforms with the provisions of State Density Bonus Law, the staff report presented to the decision-making body shall state whether the application conforms to the following provisions of State Density Bonus Law as applicable:

1. The housing development is eligible for a density bonus and any concessions, incentives, waivers, or parking reductions requested and has complied with requirements for the replacement of units as required by State Density Bonus Law.
2. If an incentive or concession is requested, any requested incentive or concession will result in identifiable and actual cost reductions to provide for affordable housing or costs or rents; except that, if a mixed-use development is requested, the application must instead meet all of the requirements of Government Code Section 65915(k)(2).
3. If the density bonus is based all or in part on donation of land, the requirements of Government Code Section 65915(g) have been met.
4. If the density bonus, incentive, concession, waiver, or parking reduction is based all or in part on the inclusion of a child care facility or condominium conversion, the requirements included in Government Code Section 65915(h) or 65915.5, as appropriate, have been met.
5. If a waiver is requested, the housing development project is eligible for a waiver, and the development standards for which a waiver is requested would have the effect of physically precluding the construction of the housing development at the densities or with concessions or incentives permitted.

D. Findings for Denial of Incentives, Concessions or Waivers.

1. Denial of Concessions and Incentives. The decision-making body may deny a concession or incentive only if it makes a written finding, supported by substantial evidence, of any of the following:
  - a. The proposed incentive or concession does not result in identifiable and actual cost reductions to provide for affordable housing costs, as defined in Health and Safety Code Section 50052.5, or for affordable rents, as defined in Health and Safety Code Section 50053, for the BMR density bonus units.
  - b. The concession or incentive would have a specific adverse impact upon public health or safety or on any real property that is listed in the California Register of Historical Resources, and 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. For the purpose of this subsection, "specific adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified, written public health or safety standards, policies, or conditions as they existed on the date that the application for the housing development was deemed complete.
  - c. The concession or incentive would be contrary to State or Federal law.
2. Denial of Waivers. The decision-making body may deny a waiver only if it makes a written finding, supported by substantial evidence, of any of the following:
  - a. The waiver would have a specific adverse impact upon health or safety, and 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. For the purpose of this subsection, "specific adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, and identified, written public health or safety standards, policies, or conditions as they existed on the date that the application was deemed complete.
  - b. The waiver would have an adverse impact on any real property that is listed in the California Register of Historical Resources.
  - c. The waiver would be contrary to State or Federal law.
3. Denial of Incentive or Bonus for Child Care Center. If the findings required by a child care center comply with the requirements of Government Code Section 65915(h), the decision-making body may deny a density bonus, incentive, or concession that is based on the provision of child care facilities only if it makes a written finding, based on substantial

evidence, that the City already has adequate child care facilities. (Ord. 1583 § 2 (Exh. A), 2022; Ord. 1438 § 4 (Exh. A (part)), 2011: Ord. 1416 § 4 (Exh. A (part)), 2010. Formerly 18.204.060)

#### **18.17.070 Requirements for density bonus below market rate units.**

In addition to any requirements included in Sections 18.17.040 and 18.17.050, density bonus BMR units shall conform to the following provisions applicable to below market rate units:

- A. Below market rate unit standards (Section 18.16.050), except that for-rent density bonus BMR units that are affordable to very low- and low-income households that are not also BMR units required by Section 18.16.030 shall be affordable for fifty-five (55) years or as long a period of time as permitted by current law. All for-sale density bonus BMR units shall be affordable in perpetuity.
- B. Compliance procedures (Section 18.16.060), except that the below market rate housing plan shall also include the provisions described in Section 18.17.040(A).
- C. Eligibility for below market rate units (Section 18.16.080).
- D. Owner-occupied below market rate units (Section 18.16.090).
- E. Rental units (Section 18.16.100). (Ord. 1583 § 2 (Exh. A), 2022; Ord. 1438 § 4 (Exh. A (part)), 2011: Ord. 1416 § 4 (Exh. A (part)), 2010. Formerly 18.204.070)

#### **18.17.080 Interpretation.**

If any portion of this chapter conflicts with State Density Bonus Law or other applicable State law, State law shall supersede this chapter. Any ambiguities in this chapter shall be interpreted to be consistent with State Density Bonus Law. (Ord. 1583 § 2 (Exh. A), 2022)

## **Chapter 18.18 LANDSCAPING**

Sections:

**18.18.010 Purpose.**

**18.18.020 Applicability.**

**18.18.030 Landscape design principles.**

**18.18.040 Landscape plans.**

**18.18.050 Areas to be landscaped.**

**18.18.060 General landscaping standards.**

**18.18.070 Trees.**

**18.18.080 Water efficient landscaping and irrigation.**

**18.18.090 Irrigation specifications.**

**18.18.100 Installation and completion.**

**18.18.110 Maintenance.**

**18.18.120 Liability limitations.**

**18.18.010 Purpose.**

The specific purposes of the landscaping regulations are to:

- A. Improve the appearance of the community by requiring aesthetically pleasing landscaping on public and private sites which is permanently maintained;
- B. Aid in energy conservation by providing shade from the sun and shelter from the wind;
- C. Soften the appearance of parking lots and other development through landscaping;

- D. Encourage conservation of water resources through the use of native and drought-tolerant plants, and water-conserving irrigation practices;
- E. Minimize or eliminate conflicts between potentially incompatible but otherwise permitted land uses on adjoining lots through visual screening;
- F. Provide areas for residential gardening and raising of food crops;
- G. To preserve, maintain and provide for reforestation of trees for the health and welfare of the City in order to preserve the scenic beauty; provide habitat; maintain and increase property values; prevent erosion of topsoil; protect against flood hazards and the risk of landslides; counteract the pollutants in the air; maintain the climatic balance; promote healthy streams and riparian corridors; enhance the urban forest; minimize the urban heat island effect; provide shade, store carbon and decrease wind velocities; and promote the general welfare and prosperity of the City;
- H. Establish regulations for the preservation and removal of protected trees within the City in order to retain as many trees as possible consistent with the purpose hereof and the reasonable economic enjoyment of private property; and
- I. To enhance walkability by encouraging shaded sidewalks and accessible passageways. (Ord. 1480 (Exh. C (part)), 2015; Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.18.020 Applicability.**

The standards of this section apply to all new development and additions except as follows:

- A. Second dwelling units and additions less than ten percent of the floor area of the main building are exempt from the standards of this chapter, except that Section 18.18.070, Trees, and 18.18.110, Maintenance, shall apply.
- B. Landscaping that is part of a registered historic site, plant collections as part of botanical gardens and arboretums open to the public, or ecological restoration projects that do not require a permanent irrigation system. (Ord. 1480 (Exh. C (part)), 2015; Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.18.030 Landscape design principles.**

The following design principles are to be used by decision-makers in evaluating whether landscape plans conform to the requirements of this section:

- A. Natural Landscapes. Landscape designs should incorporate and enhance existing natural landscapes and existing specimen trees and native vegetation (including canopy, understory, and ground cover). Particular care should be given to preserve intact natural landscapes. Where previous landscaping has dramatically altered natural landscapes, new designs should seek to reestablish natural landscape patterns and plantings.
- B. Composition. The quality of a landscape design is dependent not only on the quantity and selection of plant materials but also on how that material is arranged. Landscape materials should be arranged in a manner as to provide the following qualities and characteristics:
  1. Texture. Landscape designs should provide a textured appearance through the use of a variety of plant material rather than a single species, by contrasting large leaf textures with medium and small leaf textures, and with a variety of plant heights. Spacing of key landscaping components, such as trees and shrubs, should be consistent with the overall design approach of the landscape plan. Formal landscape designs benefit from a uniform spacing of plants, whereas varied spacing and clustering of trees is more compatible with a naturalistic design.
  2. Color. Landscape designs shall include a variety of plants to provide contrasting color to other plants in the design. Designs are encouraged to include flowering plants and especially a mix of plants that display colorful flowers throughout the year.
  3. Form. Landscape designs should consider the complete three-dimensional form of the landscaping, not simply the form of individual elements. The interrelationship of all landscape elements should be considered so that the final design presents a coherent whole.
- C. Buffering and Screening. The placement of natural landscape materials (trees, shrubs, and hedges) is the preferred method for buffering differing land uses, for providing a transition between adjacent lots, and for screening the view of any parking or storage area, refuse collection, utility enclosures, or other service area visible from a public street, alley, or pedestrian area. Plants may be used with fences or berms to achieve the desired screening or buffering effect. Plant material

should be mature enough at the time of planting to provide an effective buffer or screen, and should be planted in an appropriate location to allow for desired growth within a reasonable period of time. When used to screen an activity area such as a parking lot, landscaping shall not obstruct the visibility of motorists or pedestrians or interfere with public safety.

D. Responsive to Local Context and Character. Landscape designs should build on the site's and area's unique physical characteristics, conserving and complementing existing natural features. Naturalistic design elements such as irregular plant spacing, undulating berm contours, and mixed proportions of plant species should be used to ensure that new landscaping blends in and contributes to the quality of the surrounding area. Selection and spacing of plant material should be reflective of the surrounding area's character.

E. Use of Native and Drought-Resistant Plants. Landscape designs should feature native and/or related plant species, especially in areas adjacent to existing native vegetation, to take advantage of the unique natural character and diversity of the San Francisco peninsula region and the adaptability of native plants to local environmental conditions. Where feasible, the re-establishment of native habitats should be incorporated into the landscape design. In the same manner, landscape designs should utilize drought-tolerant plant materials to the maximum extent feasible. The use of drought-tolerant plants should enrich the existing landscape character, conserve water and energy, and provide as pleasant and varied a visual appearance as plants that require more water.

F. Continuity and Connection. Landscaping should be designed within the context of the surrounding area; provided, that the landscaping is also consistent with these design principles. Where the design intent and the surrounding landscape is naturalistic, plant materials should blend well with adjacent properties, particularly where property edges meet, to create a seamless and natural landscape. Where the design intent and the surrounding landscape is formal, consistent or similar plant material and spacing should be utilized. Exceptions should be made when seeking to create a transition between uses or zoning districts.

G. Enhancing Architecture. Landscape designs should be compatible with and enhance the architectural character and features of the buildings on site, and help relate the building to the surrounding landscape. Major landscape elements should be designed to complement architectural elevations and roof lines through color, texture, density, and form on both vertical and horizontal planes. Landscaping should be in scale with on-site and adjacent buildings. Plant material shall be installed at an appropriate size and allowed to accomplish these intended goals. When foundation planting is required, plantings and window boxes should incorporate artistic elements and be compatible with a building's architectural character. (Ord. 1480 (Exh. C (part)), 2015; Ord. 1438 § 4 (Exh. A (part)), 2011)

#### **18.18.040 Landscape plans.**

A landscape plan shall be submitted with the permit application for all projects for which landscaping is required.

A. Information Required. Landscape plans shall be drawn to scale and shall include the following:

1. Proposed plant locations, species, sizes, and plant factor. Plants with similar water needs shall be grouped together on the landscape plan. The plant factor, established in the California Department of Water Resources study, Water Use Classification of Landscape Species, shall be identified for all landscaped areas on a site. All water features shall be identified as high water use, and temporarily irrigated areas shall be identified as low water use.
2. Location of any existing trees over six inches in diameter, as measured at forty-eight inches above natural grade, and whether each such tree is proposed for retention or removal.
3. Measures to prepare the soil for planting based on soil texture, infiltration rate, pH, total soluble salts, sodium, and percent organic matter.
4. A grading plan that indicates existing and proposed contours, height of graded slopes, drainage patterns, pad elevations, finish grade, and stormwater retention improvements.
5. An irrigation plan that indicates the location, type and size of all components of the irrigation system, including automatic controllers, main and lateral lines, valves, sprinkler heads, moisture sensing devices, rain switches, quick couplers, and backflow prevention devices.
6. Any additional proposed landscape elements and measures to facilitate plant growth or control erosion.

B. Alternative Landscape Plan. An applicant may demonstrate that the intent of the landscape requirements of this section can be achieved through an alternative landscape plan. The alternative landscape plan shall be prepared in accord with the

principles and design criteria set forth in this section and shall clearly describe the modifications being requested from the provision of this section and how they reflect one or more of the evaluation criteria listed below.

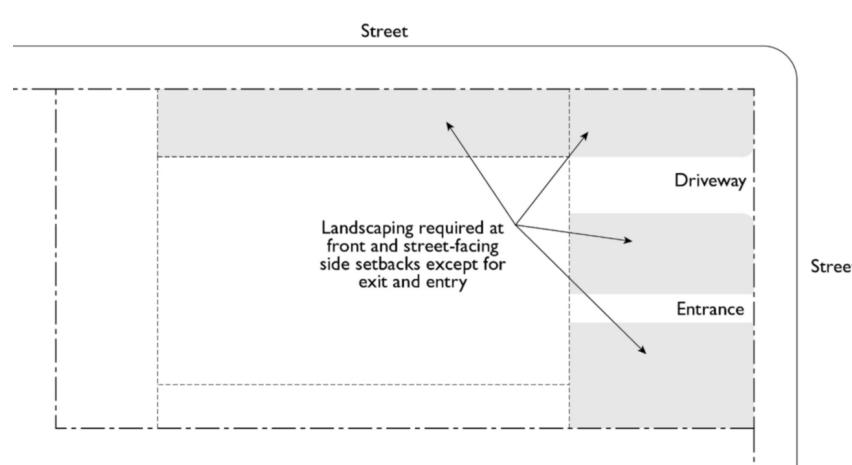
1. Innovative use of plant materials and design techniques in response to unique characteristics of the site or the proposed use.
  2. Preservation or incorporation of existing native vegetation.
  3. Incorporation of naturalistic design principles, such as variations in topography, meandering or curvilinear plantings, and grouping of dominant plant materials (trees, large shrubs) in a manner consistent with existing native vegetation.
  4. Integration of landscaping and pedestrian facilities in a manner that improves access or incorporates pedestrian-friendly design. This may include reduced ground-level planting along the front setback if canopy shade trees along sidewalks are provided.
  5. Use of additional shade trees to create a greater canopy effect.
  6. A greater degree of compatibility with surrounding uses than a standard landscape plan would offer.
- C. Preparation by Qualified Person. Landscaping for commercial projects, industrial projects, institutional projects, and residential projects consisting of more than five units shall be prepared by a California registered landscape architect. (Ord. 1438 § 4 (Exh. A (part)), 2011)

#### **18.18.050 Areas to be landscaped.**

The following areas shall be landscaped, and may count toward the total area of site landscaping required by the zoning district regulations:

- A. Required Setbacks. All required front and street-facing side setbacks, except for areas used for exit and entry, shall be landscaped.

**FIGURE 18.18.050-A: REQUIRED SETBACKS**



- B. Lot Perimeters. Landscape buffers shall be installed and maintained along side and rear lot lines between differing land uses, in accordance with the following standards:

1. Required Landscape Buffers. Table 18.18.050-B(1), Required Landscape Buffers, shows when a buffer treatment is required, and of what type, based on the proposed and the adjoining use. Only the proposed use is required to provide the buffer yard. Adjoining uses are not required to provide the buffer yard. The type of buffer yard required refers to buffer yard-type designations as shown in Table 18.18.050-B(2), Buffer Yard Requirements. “-” means that a buffer yard is not required unless required by another section of this title.

**TABLE 18.18.050-B(1): REQUIRED LANDSCAPE BUFFERS**

Use	Adjoining Use					
	Park or Open Space	Single-Unit Residential	Multi-Unit Residential	Mixed-Use	General Commercial	Industrial

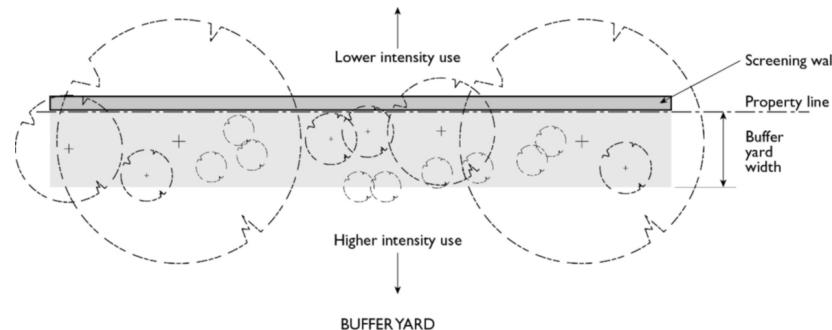
Use	Adjoining Use					
	Park or Open Space	Single-Unit Residential	Multi-Unit Residential	Mixed-Use	General Commercial	Industrial
Multi-Unit Residential	Type 1	Type 1, Type 2 along East San Carlos Avenue	-	-	-	-
Mixed-Use	Type 2	Type 2	Type 2	-	-	-
Commercial	Type 2	Type 2	Type 2	-	-	Type 1
Industrial	Type 2	Type 2	Type 2	Type 2	Type 2	-

2. Buffer Yard Types. Table 18.18.050-B(2), Buffer Yard Requirements, describes the minimum width, plant materials, and wall requirements for each type of buffer yard. The listed number of trees and shrubs is required for each one hundred lineal feet of buffer yard. Trees shall be planted at least forty feet on center. Natural areas with native vegetation or alternative planting materials which achieve equivalent buffering effects may be approved by the Director.

TABLE 18.18.050-B(2): BUFFER YARD REQUIREMENTS

Buffer Yard Type	Minimum Width (ft.)	Trees		Shrubs	
		Canopy (mature height of 40 ft or more)	Understory (mature height of less than 40 ft.)	Large (mature spread of 2 ft. or more)	Small (mature spread of less than 2 ft.)
Type 1	5	2	2	4	8
Type 2	10	2	3	6	8

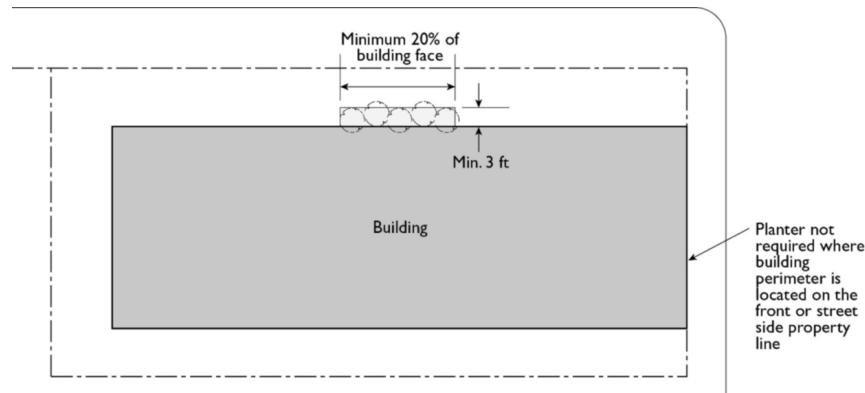
FIGURE 18.18.050-B(2): BUFFER YARD REQUIREMENTS



3. Width Reduction for Adjacent Landscaped Buffer. If an equivalent landscape buffer exists on the adjacent lot, the width of the required buffer may be reduced fifty percent; provided, that the abutting property owners have provided a written agreement restricting the use of the adjacent landscape buffer.

C. Building Perimeters. The portions of a building that front a public street shall have one or more landscape planters installed along a minimum twenty percent of that building face. The minimum width of the planter shall be three feet. This standard does not apply where a building is located on the front or street side property line.

FIGURE 18.18.050-C: BUILDING PERIMETERS



D. Parking Areas. Parking areas as required by Chapter 18.20, Parking and Loading.

E. Unused Areas. All areas of a project site not intended for a specific use, including areas planned for future phases of a phased development, shall be landscaped or left in a natural state. (Ord. 1438 § 4 (Exh. A (part)), 2011)

#### **18.18.060 General landscaping standards.**

##### **A. Materials.**

1. General. Landscaping may consist of a combination of ground covers, shrubs, vines, and trees. Landscaping may also include incidental features such as stepping stones, benches, fountains, sculptures, decorative stones, or other ornamental features, placed within a landscaped setting. Landscaped areas may include paved or graveled surfaces, provided they do not cover more than ten percent of the area required to be landscaped. Plant materials shall be selected from among those species and varieties known to thrive in the San Carlos climate and, where applicable, selected from an approved list maintained by the City. Recirculating water shall be used for decorative water features. Garden areas and other areas dedicated to edible plants are considered landscaped areas and count toward required landscaping.

2. Ground Cover Materials. Ground cover shall be of live plant material. Ground cover may include grasses. Nonplant materials such as gravel, colored rock, cinder, bark, and similar materials may not be used to meet the minimum planting area requirements required by this section, except with approval of an alternative landscape plan under Section 18.18.040(B).

3. Turf Allowance/Drought-Tolerant Materials. The maximum amount of lawn in required landscape areas shall be twenty-five percent, except for turf areas that comprise an essential component of a project (e.g., golf courses or playing fields), which are exempt from this limit. The installation of turf on slopes greater than twenty-five percent is prohibited. The use of drought-tolerant plant materials is preferred to conserve the City's water resources.

4. Mulch. A minimum two-inch layer of mulch shall be applied on all exposed soil surfaces of planting areas except in turf areas, creeping or rooting ground covers or other special planting situations where mulch is not recommended. Stabilizing mulching products shall be used on slopes.

5. Size and Spacing. Plant materials shall be grouped in hydrozones in accordance with their respective water, cultural (soil, climate, sun and light) and maintenance needs. Plants shall be of the following size and spacing at the time of installation:

a. Ground Covers. Ground cover plants other than grasses must be at least the four-inch pot size. Areas planted in ground cover plants other than grass seed or sod must be planted at a rate of one per twelve inches on center.

b. Shrubs. Shrubs shall be a minimum size of one gallon. When planted to serve as a hedge or screen, shrubs shall be planted with two to four feet of spacing, depending on the plant species.

c. Trees. A minimum of fifteen percent of the trees planted shall be twenty-four-inch box or greater in size. All other trees shall be a minimum of fifteen gallons in size with a one-inch diameter at forty-eight inches from grade. Newly planted trees shall be supported with stakes or guy wires.

B. Dimension of Landscaped Areas. No landscaped area smaller than three feet in any horizontal dimension shall count toward required landscaping.

C. Prescribed Heights. The prescribed heights of landscaping shall indicate the height to be attained within three years after planting.

D. Drivers' Visibility. Trees and shrubs shall be planted and maintained so that at maturity they do not interfere with traffic safety sight areas, or public safety. Notwithstanding other provisions of this section, landscaping must comply with Section 18.15.130, Visibility at intersections and driveways. (Ord. 1438 § 4 (Exh. A (part)), 2011)

#### **18.18.070 Trees.**

A. Intent and Purpose. This chapter is adopted with the intent and purpose of promoting the preservation and development of a healthy, diverse tree canopy in San Carlos, which is highly valued by the community and is vital to the character and health of the City.

Protected trees are valued for their many contributions to the environment, public health and quality of life of the San Carlos community. Examples of those benefits include:

1. Provide shade;
2. Resiliency to climate change;
3. Improve air quality;
4. Provide shelter from wind;
5. Prevent erosion and landslides;
6. Protect against flood hazards;
7. Add to the City's scenic beauty and character;
8. Recognize historical significance to our City;
9. Create natural gathering places;
10. Reduce noise pollution;
11. Enhance privacy;
12. Enhance neighborhood property values;
13. Provide habitat for wildlife;
14. Improve storm water management and improve water quality;
15. Offset carbon emissions;
16. Minimize the urban heat island effect.

B. Definitions.

1. "Applicant" is the person seeking a permit to remove or perform pruning on a protected tree under this chapter.
2. "Administrative guidelines" means staff-prepared regulations for implementation and interpretation of this chapter.
3. "Construction activity" means any construction work associated with or requiring a permit for any new building, building addition, building demolition, grading, excavation or paving. This includes all necessary related activities which may or may not be shown on site plans, including but not limited to: storing/staging of materials, site access, parking, placement of temporary structures, debris disposal, additional excavation and landscaping.
4. "Pruning" means the removal of one-fourth (25%) or more than one-fourth (25%) of the crown or existing foliage of the tree or one-fourth (25%) or more than one-fourth (25%) of the root system.
5. "Trimming" means the cutting or removal of a portion of a tree which removes less than one-fourth (25%) of the crown or existing foliage of a tree, removes less than one-fourth (25%) of the root system, and does not kill the tree.
6. "City arborist" means City-retained arborist.

7. "Community of trees" means a group or grove of trees that are dependent upon each other for their survival and/or structural stability.

8. "Tree protection zone (TPZ)" means the area surrounding a tree to be protected based upon tree species, age, health, soil, and proposed construction. The TPZ shall have a radius measured from the trunk equal to ten times the diameter of the trunk measured at fifty-four inches (54") above grade or as otherwise specified by a project arborist and approved by the City Arborist.

9. "Removal" means cutting to the ground, complete extraction, or killing by spraying, girdling, or any other means; or pruning not done in conformance with a permit.

10. "Protected tree" means any significant or heritage tree, any tree as part of a replacement requirement, an approved development permit or an approved landscaping plan. The following trees shall not be classified as protected trees regardless of size:

- a. Bailey, Green or Black Acacia: *A. baileyana*, *A. decurrens* or *A. melanoxylon*;
- b. Tree of Heaven: *Ailanthus altissima*;
- c. Fruit trees of any kind;
- d. Monterey Pine: *Pinus radiata*;
- e. Eucalyptus genera;
- f. Monocot trees including palms and palm relatives.

11. "Heritage tree" means any:

- a. Indigenous tree whose size, as measured at fifty-four inches (54") above natural grade (unless otherwise indicated), is defined below:
  - i. *Aesculus californica* (buckeye) with a single stem or multiple stems touching each other at fifty-four inches (54") above natural grade and measuring nine inches (9") in diameter or greater.
  - ii. *Arbutus menziesii* (madrone) with a single stem or multiple stems touching each other at fifty-four inches (54") above natural grade and measuring nine inches (9") in diameter or greater.
  - iii. *Quercus agrifolia* (coast live oak) measuring nine inches (9") in diameter or greater.
  - iv. *Quercus lobata* (valley oak) measuring nine inches (9") in diameter or greater.
  - v. *Quercus douglasii* (blue oak) measuring nine inches (9") in diameter or greater.
  - vi. *Quercus wislizenii* (interior live oak) measuring nine inches (9") in diameter or greater.
  - vii. *Sequoia sempervirens* (redwood) measuring fifteen inches (15") in diameter or greater.
  - viii. *Umbellularia californica* (California bay laurel) with a single stem or multiple stems touching each other at fifty-four inches (54") above natural grade and measuring eleven inches (11") in diameter or greater.

Heritage Tree Species	Minimum Protected Diameter
<i>Aesculus californica</i> (buckeye)	9" diameter or greater
<i>Arbutus menziesii</i> (madrone)	9" diameter or greater
<i>Quercus agrifolia</i> (coast live oak)	9" diameter or greater
<i>Quercus lobata</i> (valley oak)	9" diameter or greater

Heritage Tree Species	Minimum Protected Diameter
Quercus douglassii (blue oak)	9" diameter or greater
Quercus wislizenii (interior live oak)	9" diameter or greater
Sequoia sempervirens (redwood)	15" diameter or greater
Umbellularia californica (California bay laurel)	11" diameter or greater

- b. Community of trees;
  - c. Trees designated by the City Council, based upon findings that the particular tree is unique and of importance to the public due to its unusual age, appearance, location or other factors.
12. "Significant tree" means any tree that is eleven inches (11") in diameter (or more), outside of bark, measured at fifty-four inches (54") above natural grade. The following trees shall not be classified as significant or heritage trees regardless of size:
- a. Bailey, Green or Black Acacia: A. baileyana, A. decurrens or A. melanoxylon;
  - b. Tree of Heaven: Ailanthus altissima;
  - c. Fruit trees of any kind;
  - d. Monterey Pine: Pinus radiata;
  - e. Eucalyptus genera;
  - f. Monocot trees including palms and palm relatives.

C. Trees. Trees shall be provided as follows:

1. RS districts: one (1) tree for every one thousand (1,000) square feet of lot coverage for residential development; one (1) tree for every two thousand (2,000) square feet of lot coverage for nonresidential development.
2. RM and mixed-use districts: one (1) tree for every two thousand (2,000) square feet of lot coverage.
3. Commercial districts: one (1) tree for every two thousand (2,000) square feet of lot coverage.
4. Industrial districts: one (1) tree for every five thousand (5,000) square feet of lot coverage.
5. If the lot size or other site conditions make planting of the required trees impractical to comply with, the applicant, at the discretion of the Director and City Arborist, may pay a fee as adopted in a resolution by the City Council.
6. If the required number and size of trees, not including fruit trees, already exist on the site, the applicant may not be required to plant new trees on site unless as required per the City Arborist, replacement requirement and/or an associated condition of approval. Instead, the existing trees shall be shown on the site and landscape plans submitted to the Planning Division, and those trees shall be maintained in compliance with the standards of this chapter.
7. Street-oriented trees: at least one (1) of the required on-site trees must be street oriented unless otherwise approved by the City Arborist.
8. Any tree planted to meet the requirements of this section shall be a minimum of twenty-four inches (24") box size, unless otherwise specified by the City Arborist.
9. Any tree planted to meet the requirements under this section shall not include Bailey, Green or Black Acacia: A. baileyana, A. decurrens or A. melanoxylon; Tree of Heaven: Ailanthus altissima; fruit trees of any kind; Monterey Pine: Pinus radiata; Eucalyptus genera; Monocot trees including palms and palm relatives.

D. Maintenance and Preservation of Protected Trees. The following requirements apply to protected trees, as defined in this chapter and Section 18.41.020:

1. No protected tree shall be removed, pruned, or otherwise materially altered without a permit except as provided in this section. Trimming of a protected tree is allowed without such a permit.
2. Chemicals or other construction materials shall not be stored within the tree protection zone of protected trees.
3. Drains shall be provided as required by the City Arborist whenever soil fill is placed around protected trees. Soil fill shall not be placed around protected trees without approval by an ISA-certified arborist.
4. Signs, wires or similar devices shall not be attached to protected trees.
5. Any construction activity performed within an area ten (10) times the diameter of a protected tree on any property or in the public right-of-way shall require submittal and implementation of a tree protection plan for review and approval by the City Arborist prior to issuance of any grading or construction permit. The tree protection plan shall be prepared by an ISA-certified arborist and shall address issues related to protective fencing and protective techniques as specified in the administrative guidelines to minimize impacts associated with grading, excavation, demolition and construction. The City Arborist may impose conditions on any City permit to assure compliance with this section. These trees and protection zones shall be identified on plans.
6. If the proposed development, including any site work for the development, will encroach upon the tree protection zone of a protected tree, special measures shall be utilized, as approved by the City Arborist, to allow the roots to obtain oxygen, water, and nutrients as needed. Any excavation, cutting, filling, or compaction of the existing ground surface within the protected perimeter, if authorized at all by the review authority, shall be minimized and subject to such conditions as may be imposed by the review authority. No significant change in existing ground level shall be made within the tree protection zone of a protected tree except as approved by the City Arborist. No burning or use of equipment with an open flame shall occur near or within the protected perimeter.
7. Underground trenching for utilities shall avoid major support and absorbing tree roots of protected trees. If avoidance is impractical, tunnels shall be made below the roots. Trenches shall be consolidated to service as many units as possible. Trenching within the tree protection zone of protected trees shall be avoided to the greatest extent possible and shall only be done under the at-site directions of a certified arborist and with approval by the City Arborist.
8. No concrete or asphalt paving shall be placed over the tree protection zone of oaks except as approved by the City Arborist.
9. No compaction of the soil within the tree protection zone of protected trees shall occur.

E. Removal and/or Pruning of Protected Trees Prohibited. It is unlawful for any person to remove, or cause to be removed, any protected tree from any parcel of property in the city, or perform pruning on a protected tree, without obtaining a permit; provided, that in case of emergency, when a protected tree is imminently hazardous or dangerous to life or property, it may be removed by order of the City Arborist. Any person who vandalizes, grievously mutilates, destroys or unbalances a protected tree without a permit or beyond the scope of an approved permit shall be in violation of this chapter.

F. Protected Tree Removal Permit and Decision-Making Criteria.

1. Application. Application and fees for protected tree removal permits and/or pruning of a protected tree shall be submitted in accordance with the provisions set forth in Chapter 18.27, Common Procedures, and the administrative guidelines. The application shall state, among other things per the administrative guidelines, the number and location of the tree(s) to be removed or pruned by type and the reason for removal or pruning of each. The application shall also include a recent colored photograph with correct botanical identification of the subject tree(s).
2. Decision-Making Criteria. The City Arborist may only issue a permit for the removal and/or pruning of a protected tree if he/she/they determines there is good cause for such action. In determining whether there is good cause, the City Arborist shall give consideration to the following:
  - a. Death. The protected tree is dead as designated by the City Arborist.
  - b. Tree Risk Rating. The condition of the protected tree poses a high or extreme risk rating under the International Society of Arboriculture Best Management Practices: Tree Risk Assessment and/or administrative guidelines; and the

risk cannot be reasonably abated to a low risk rating with sound arboricultural treatments. The City Arborist may consider danger to people and property in assessing the risk to make a decision.

c. Tree Health Rating. The protected tree is (i) dying or has a severe disease, pest infestation, intolerance to adverse site conditions, or other condition and/or pruning or other reasonable treatments based on current arboricultural standards will not restore the protected tree to a fair, good or excellent health rating as defined in the Guide for Plant Appraisal, 10th Edition, or its successor manual or the administrative guidelines; or is (ii) likely to die within a year as designated by an ISA-certified arborist and/or the City Arborist.

d. Species. The protected tree is a member of a species that has been designated as invasive or low species desirability by the City Arborist or his/her/their designee in the administrative guidelines.

e. Development. The protected tree interferes with existing or proposed development, repair, alteration or improvement of a site or the protected tree is causing/contributing to structural damage to a habitable building (excluding amenities, such as walkways, patios, pools and fire pits); and there is no reasonable design alternative that would permit preservation of the protected tree while achieving the applicant's reasonable development objectives or of the property. Necessary documentation and/or tree appraisals as established in the administrative guidelines shall be submitted to the City Arborist demonstrating infeasibility of alternatives to the removal and/or pruning.

f. Utility Interference. The removal and/or pruning is requested by a utility, public transportation agency, or other governmental agency due to a health or safety risk resulting from the protected tree's interference with existing or planned public infrastructure and there is no reasonable design alternative that would permit preservation of the protected tree. Necessary documentation as established in the administrative guidelines shall be submitted to the City Arborist demonstrating infeasibility of alternatives to the removal and/or pruning.

3. Review. In reviewing applications for removal and/or pruning of protected trees, the City Arborist shall give priority to those based on hazard or danger of disease. The City Arborist may refer any application to another department, committee, board or commission of the City for a report and recommendation, and may require the applicant to provide an arborist's report which shall be reviewed by the City Arborist.

4. Applicants may choose to professionally move a protected tree on site to accommodate proposed development, repair, alteration or improvement of a site. Any tree proposed to be moved will be construed as tree removed and shall comply with application procedures as set forth within this chapter and the administrative guidelines. The City Arborist may require documentation to certify that the moving work was accomplished according to acceptable tree moving standards and specifications. Additional documentation may be required to prove feasibility of moving, establishing and maintaining the moved protected tree.

5. Noticing Requirements.

a. Notice Before Issuance. Before a protected tree is removed or pruned, notice of removal shall be posted by the applicant on the property containing the protected tree at a conspicuous location when a permit is sought under subsection (F)(2)(e), Development, or (F)(2)(f), Utility Interference, of this section. Property owners within three hundred feet of the exterior boundary of the property containing the protected tree shall be noticed by mail of the pending application. Failure to receive copies of such notice shall not invalidate any action taken by the City.

b. Notice of Issuance. Upon receipt of a tree removal or pruning permit, the property owner shall post a notice of issuance of any permit for a tree removal at the subject property for a period of fourteen (14) calendar days. A proof of posting shall be sent to the City Arborist. The City will furnish the owner with a copy of the notice of issuance.

6. Conditions and Replacement Trees. In granting a tree removal permit, the City Arborist may attach reasonable conditions to ensure compliance with the content and purpose of this chapter, such as, but not limited to, the following:

a. Replacement tree(s) for heritage tree removals shall be from the heritage tree list, with the exception of redwood trees, at a one-to-one (1:1) ratio of a size, as determined by the City Arborist and/or specified in the administrative guidelines. The City Arborist may allow a species not on the heritage tree list if:

i. The species from the heritage tree list is proven to be unsuitable at a given location per an ISA-certified arborist and/or the City Arborist.

- b. Replacement tree(s) for all other significant tree removals shall be at a one-to-one (1:1) ratio of a size, as determined by the City Arborist and/or as specified in the administrative guidelines.
  - c. Replacement trees shall be planted within four (4) months of the permit issuance unless the replacement tree is part of an approved landscape plan associated with a development project, or upon approval by the City Arborist.
  - d. Any tree planted to meet the requirements under this section shall not include Bailey, Green or Black Acacia: A. baileyana, A. decurrens or A. melanoxylon; Tree of Heaven: Ailanthus altissima; fruit trees of any kind; Monterey Pine: Pinus radiata; Eucalyptus genera; Monocot trees including palms and palm relatives.
  - e. Special construction to allow irrigation and aeration of roots and preservation of the protected tree.
  - f. Tree wells or other tree protection techniques.
  - g. Protected tree maintenance requirements to help the tree grow and thrive.
  - h. Other reasonable requirements per the City Arborist.
7. Emergencies. If an emergency develops regarding a protected tree removal and/or pruning which requires immediate response for the safety of life or property, action may be taken by obtaining oral permission of the City Arborist, notwithstanding other provisions contained in this chapter. Such emergencies shall be exempt from protected tree permit application procedures; however, replacement shall occur as provided in this chapter.
8. Expiration. If no action on an approved tree removal permit is taken within a period of one (1) year from the date of approval, the permit shall be considered void.
9. Appeals. Tree removal permit decisions are subject to the appeal provisions of Section 18.27.150, Appeals.
10. Administrative Guidelines. The Director shall have the authority to adopt and modify administrative guidelines to implement this chapter.
- G. Violation. In addition to the provisions of Chapter 18.39, Enforcement and Abatement Procedures, and Chapter 1.20, Penalties, any person who removes or causes to be removed any protected tree, the following shall apply:
- 1. If a violation occurs during development, the City may issue a stop work order suspending and prohibiting further activity on the property pursuant to the grading, demolition, and/or building permit(s) (including construction, inspection, and issuance of certificates of occupancy) until a mitigation plan has been filed with and approved by the City Arborist, agreed to in writing by the property owner(s), and either implemented or guaranteed by the posting of adequate security as determined by the City.
  - 2. Any person violating this chapter shall be subject to a civil fine or penalty in the amount established by this section. If a person commits or maintains a violation of any part of Chapter 18.18, he/she/they will be fined in an amount not to exceed five thousand dollars (\$5,000) per violation; and if the violation resulted in the removal or demise of a protected tree, the fine will not exceed five thousand dollars (\$5,000) per tree or the appraised value of each such tree, as determined by an ISA-certified arborist in consultation with the City Arborist, whichever amount is higher. The arborist shall use the then-current issue of "A Guide to Plant Appraisal" published by the International Society of Arboriculture or as specified in the administrative guidelines. Replacement shall occur as established in this chapter.
  - 3. The Code Enforcement Officer, Director, Building Official, City Arborist or designee are authorized to issue stop work orders, notices of violation, administrative penalties and citations under this chapter.
  - 4. Any citation or penalty received under this chapter may be appealed to the Zoning Administrator or designee whose determination shall be final. Such appeal must be filed within ten (10) days of receipt of the citation or penalty.
  - 5. Whenever the amount of any administrative fine or penalty or administrative cost incurred by the City in connection with a violation of this chapter has not been satisfied in full within ninety (90) days and/or has not been successfully challenged by a timely writ of mandate, this obligation may constitute a lien or, in the alternative, a special assessment against the real property on which the violation occurred.
  - 6. The City Attorney may bring a civil action against the violator to abate, enjoin, or otherwise compel the cessation of violation of any provision in this chapter. In a civil action brought pursuant to this chapter in which the City prevails, the

court may award to the City all costs of investigation and preparation for trial, the costs of trial, reasonable expenses, including overhead and administrative costs incurred in prosecuting the action, and reasonable attorney fees.

7. The remedies provided in this section may be enforced against both the contractor and other person performing work in violation of this chapter as well as the owner of the real property on which the protected tree is located.
8. All remedies provided in this section shall be cumulative and are not exclusive. (Ord. 1580 § 3 (Exh. A), 2022; Ord. 1480 (Exh. C (part)), 2015; Ord. 1438 § 4 (Exh. A (part)), 2011)

#### **18.18.080 Water efficient landscaping and irrigation.**

Landscaping shall be designed and plantings selected so that water use is minimized. The estimated total water use (ETWU) of the proposed landscaping on a site shall not exceed the maximum applied water allowance (MAWA). Calculating MAWA and ETWU is described in subsections A and B of this section. Variables used in the calculations are defined in subsection C of this section.

- A. Calculating Maximum Applied Water Allowance (MAWA). MAWA shall be calculated as follows:

$$\text{MAWA} = (26.54)[(0.7 \times \text{LA}) + (0.3 \times \text{SLA})]$$

- B. Calculating Estimated Total Water Use (ETWU). ETWU shall be calculated as follows:

$$\text{ETWU} = (26.54)[(\text{PFA})/\text{IE} + (\text{SLA})]$$

- C. Variables Used in Water Efficiency Calculations.

1. Landscaped Area (LA). Total landscaped area, expressed in square feet, including all areas dedicated to planting, turf, and water features. The landscape area does not include footprints of building or structures, sidewalks, driveways, parking lots, decks, patios, gravel or stone walks, or other pervious or nonpervious hardscapes, and other nonirrigated areas designated for nondevelopment (e.g., open spaces and existing native vegetation). Landscaped area (LA) includes special landscaped areas (SLA).
2. Special Landscaped Areas (SLA). Area of landscape, expressed in square feet, dedicated solely to edible plants, areas irrigated with recycled water, water features using recycled water, and areas dedicated to active play such as parks, sports fields, golf courses, and where turf provides a playing surface.
3. Plant Factor Adjustment (PFA). The sum of the products of the area in each planting type multiplied by the plant factor established in the California Department of Water Resources study, Water Use Classification of Landscape Species, for that planting type.
4. Irrigation Efficiency (IE). Amount of water beneficially used divided by the amount of water applied. IE value is 0.71 unless verification is provided that greater irrigation efficiency can be expected due to irrigation system design and maintenance. (Ord. 1438 § 4 (Exh. A (part)), 2011)

#### **18.18.090 Irrigation specifications.**

An irrigation system shall be installed that consists of low-volume sprinkler heads, dry emitters, and bubbler emitters with automatic controllers. Each system shall be designed to provide adequate coverage to all plant material. Irrigation systems shall be designed, maintained, and managed to meet or exceed 0.71 IV value for irrigation efficiency.

- A. Irrigation systems and decorative water features shall be designed to allow for the current and future use of recycled water and shall use recycled water unless a written exemption has been granted by the City, stating that recycled water meeting all public health codes and standards is not available and will not be available for the foreseeable future.
- B. Soil types and infiltration rate shall be considered when designing irrigation systems.
- C. All irrigation systems shall be designed to avoid runoff, low head drainage, overspray, or other similar conditions where water flows onto adjacent property, nonirrigated areas, walks, roadways, or structures.
- D. Proper irrigation equipment and schedules, including features such as repeat cycles, shall be used to closely match application rates to infiltration rates therefore minimizing runoff.
- E. Overhead irrigation is prohibited within twenty-four inches of any nonpermeable surface. Overhead irrigation shall be scheduled between eight p.m. and ten a.m. unless weather conditions prevent it.

F. The irrigation plans shall include the following to provide better water efficiency for all landscaped areas:

1. Equipment.

a. Drip and bubbler systems shall be used in areas where watering needs do not exceed one and one-half gallons per minute per device.

b. Slopes greater than twenty-five percent shall not be irrigated with an irrigation system with a precipitation rate exceeding three-quarters of an inch per hour unless it is demonstrated that no runoff or erosion will occur.

2. Water Meters. Separate landscape water meters shall be installed for all projects except for single-family homes or any project with a landscaped area of less than five thousand square feet.

3. Controllers. Automatic control systems shall be required for all irrigation systems and must be able to accommodate all aspects of the design. Automatic controllers shall be digital, and should have multiple programs, multiple cycles, and sensor input capabilities.

4. Valves. Plants which require different amounts of water shall be irrigated by separate valves. If one valve is used for a given area, only plants with similar water use shall be used in that area.

a. Anti-drain (check) valves shall be installed in strategic points to minimize or prevent low-head drainage.

b. Manual shut-off valves are required as close as possible to the point of connection of the water supply.

5. Sprinkler Heads. Heads and emitters shall have consistent application rates within each control valve circuit. Sprinkler heads shall be selected for proper area coverage, application rate, operating pressure, adjustment capability, and ease of maintenance.

6. Rain or Moisture Sensor Devices. Soil moisture sensors and rain or moisture-sensing override devices are required. (Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.18.100 Installation and completion.**

A. Consistency with Approved Plans. All landscaping shall be installed consistent with approved plans and specifications, in a manner designed to promote and maintain healthy plant growth.

B. Timing of Installation. Required landscaping shall be installed prior to the issuance of a certificate of occupancy for the project.

C. Exception—Assurance of Landscaping Completion. The Director may permit the required landscaping to be installed within one hundred twenty days after the issuance of a certificate of occupancy in special circumstances related to weather conditions or plant availability. A surety in the amount equal to one hundred fifty percent of the estimated cost of landscaping, including materials and labor, as well as an agreement that the required landscaping will be installed within one hundred twenty days, must be filed with the City to assure completion of landscaping installation within such time. The surety may take the form of cash deposit, irrevocable letter of credit or bond; and together with the agreement, would provide for payment to the City of any costs incurred in contracting for completion of the required landscaping.

D. Certification of Substantial Completion. Upon completion of the installation of the landscaping and irrigation system, a field observation shall be completed by the licensed project contractor. A certificate of substantial completion shall be submitted to the City by the licensed project contractor. The certificate shall specifically indicate that the plants were installed as specified and that the irrigation system was installed as designed, along with a list of any deficiencies. (Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.18.110 Maintenance.**

A. Responsibility. The City is responsible for trimming and maintaining public trees and landscaping, and private property owners are responsible for trimming and maintaining private trees and landscaping.

1. "Public trees and landscaping" means any landscaping located within any street median, City park or other parcel of publicly owned property, including any tree located in a City maintained park strip on Laurel Street, and San Carlos Avenue (1100 and 1200 blocks only).

2. "Private trees and landscaping" means any landscaping located within the boundaries of privately owned property, and includes any landscaping located within any unimproved public right-of-way abutting a private property and in any

park strip or sidewalk abutting a private property.

B. General. All planting and other landscape elements required by this chapter shall be permanently maintained in good growing condition. Wherever necessary, plantings shall be replaced with other plant materials to ensure continued compliance with applicable landscaping requirements.

C. Public Safety. Property owners of lots fronting on any portion of a street shall maintain private trees and landscaping in such condition that the trees or landscaping will not interfere with the public safety and convenience in the use of the streets or sidewalks. Such owners shall also maintain such trees so that there is an eight-foot pedestrian clearance from the top of the sidewalk or pathway, and a thirteen-foot vehicular clearance from the top of the curb or top of the pavement.

1. The Public Works Director may inspect any and all trees, shrubs and landscaping that occur within, or overhang or project into, a street or sidewalk to determine whether any of the same create an obstruction or a hazard to the public.

2. Upon determining that an obstruction or hazard exists, the Public Works Director shall give written notice to the owner, in person or by mailing a notice to his last known address, as the same appears on the last equalized assessment roll of the County, to remove or abate the obstruction or the hazard within two weeks from the date of the notice.

3. If a property owner fails or refuses to abate a nuisance, the City may abate the condition and the City's cost of such abatement shall be reimbursed to the City by the property owner.

D. Visibility. Any shrubs, trees, or other foliage which, in the opinion of the Sheriff's Captain, obscures safe sight distance from driveways and corners shall be trimmed by the property owner to a condition satisfactory to the Sheriff's Captain.

E. Trees. Trees shall be maintained to be free from physical damage or injury arising from lack of water, chemical damage, accidents, vandalism, insects and disease. Any tree showing such damage to the extent that its life would be impaired shall be replaced with another tree. (Ord. 1480 (Exh. C (part)), 2015; Ord. 1438 § 4 (Exh. A (part)), 2011)

#### **18.18.120 Liability limitations.**

Nothing contained in this chapter shall be deemed to impose any liability upon the City, its officers or employees, nor to relieve the owner of any private property from the duty to keep trees, protected trees, shrubs, hedges, and other landscaping upon such private property, or under his control, or upon streets in front of or contiguous to such private property, in a safe condition. (Ord. 1438 § 4 (Exh. A (part)), 2011)

## **Chapter 18.19 NONCONFORMING USES, STRUCTURES, AND LOTS**

Sections:

**18.19.010 Purpose.**

**18.19.020 Applicability.**

**18.19.030 Establishment of lawful nonconforming uses, structures and lots.**

**18.19.040 Continuation and maintenance of nonconforming structures.**

**18.19.050 Additions and enlargements to nonconforming structures.**

**18.19.060 Expansion of nonconforming uses.**

**18.19.070 Changes and substitutions of nonconforming uses.**

**18.19.080 Repair and replacement of damaged or destroyed nonconforming buildings.**

**18.19.090 Abandonment of nonconforming uses.**

**18.19.100 Abatement.**

**18.19.010 Purpose.**

This chapter is intended to permit continuation of uses and continued occupancy and maintenance of structures that were legally established but do not comply with all of the standards and requirements of this title in a manner that does not conflict with the General Plan. To that end, the chapter establishes the circumstances under which a nonconforming use or structure

may be continued or changed and provides for the removal of nonconforming uses and structures when their continuation conflicts with the General Plan and public health, safety, and general welfare. (Ord. 1438 § 4 (Exh. A (part)), 2011)

#### **18.19.020 Applicability.**

The provisions of this chapter apply to structures, land, and uses that have become nonconforming by adoption of the ordinance codified in this title as well as structures, land, and uses that become nonconforming due to subsequent amendments to its text or to the Zoning Map.

A. Nonconforming structures and uses include:

1. Those made nonconforming by the addition of a standard or requirement previously not required for such use or structure; and
2. Uses and structures reclassified from permitted to being subject to a discretionary permit.

B. Nothing contained in this chapter shall be deemed to require any change in the plans, construction, or designated use of any building or structure for which a building permit has properly been issued, in accordance with the provision of ordinances then in effect and upon which actual construction has been started prior to the effective date of the ordinance codified in this title; provided, that in all such cases, actual construction shall be diligently carried on until completion of the building or structure. (Ord. 1438 § 4 (Exh. A (part)), 2011)

#### **18.19.030 Establishment of lawful nonconforming uses, structures and lots.**

Any lawfully established use, structure, or lot that is in existence on the effective date of the ordinance codified in this title or any subsequent amendment but does not comply with all of the standards and requirements of this title shall be considered nonconforming. Nonconforming uses and structures may only be continued subject to the requirements of this chapter.

A. Nonconformities, Generally. A nonconformity may result from any inconsistency with the requirements of this title including, but not limited to, location, density, floor area, height, yard, usable open space, buffering, performance standards, or the lack of an approved use permit or other required authorization. A use or structure shall not be deemed nonconforming solely because it does not conform with the parking and loading space dimension standards, landscape planting area, or screening regulations of the district in which it is located or does not conform to the standards for the following building features: garage door location; garage door width; cornices, eaves, and other ornamental features that exceed maximum projections into required yards; or bay windows, balconies, and terraces above the second floor that exceed maximum projections into required yards. Also see Section 18.20.030(B), Nonconforming Parking or Loading.

B. Nonconforming Lots. Any lot that is smaller than the minimum lot size required by this title or does not meet any of the applicable dimensional requirements shall be considered a lawful nonconforming lot if it is described in the official records on file in the office of the San Mateo County Recorder as a lot of record under one ownership. A nonconforming lot may be used as a building site subject to compliance with all applicable requirements, unless a variance or other modification or exception is approved as provided for in this title.

C. Airport Hazards. No permit shall be granted that would allow the establishment or creation of an airport hazard or permit a nonconforming structure or nonconforming use to be made or become higher or become a greater hazard to air navigation than it was when the applicable regulation was adopted or than it is when the application for a permit is made. (Ord. 1438 § 4 (Exh. A (part)), 2011)

#### **18.19.040 Continuation and maintenance of nonconforming structures.**

Lawful nonconforming structures may be continued and maintained in compliance with the requirements of this section unless deemed by the Building Official to be a public nuisance because of health or safety conditions.

A. Right to Continue. Any use or structure that was lawfully established prior to the effective date of the ordinance codified in this title or of any subsequent amendments to its text or to the Zoning Map may only be continued and maintained provided there is no alteration, enlargement, or addition to any building or structure; no increase in occupant load; nor any enlargement of the area, space, or volume occupied by or devoted to such use, except as otherwise provided in this chapter. The right to continue a nonconforming use or structure shall attach to the land and shall not be affected by a change in ownership. No substitution, expansion, or other change in use and no alteration or other change in structures is permitted, except as otherwise provided in this chapter.

B. Maintenance and Nonstructural Repairs. Maintenance, nonstructural repairs and nonstructural interior alterations to a nonconforming structure are permitted if the changes and improvements do not enlarge or extend the structure.

C. Structural Repairs. Structural repairs that do not enlarge or extend the structure, including modification or repair of building walls, columns, beams, or girders, may be permitted only when the Building Division determines that such modification or repair is immediately necessary to protect public health and safety, occupants of the nonconforming structure, or occupants of adjacent property, and when the cost of such work does not exceed fifty percent of the appraised value of the nonconforming structure.

D. Metal Structures. Metal structures that do not conform to the Building and Fire Code shall be improved so as to comply with the Building and Fire Code standards or removed. Prior to the issuance of a building permit or zoning clearance for an alteration, change in occupancy, change in ownership or repair of damage by fire or disaster to a nonconforming metal structure, the property owner shall enter into an agreement with the City providing that the structure shall be improved or altered to comply with the City Building and Fire Codes, or shall be removed within fifteen years of the agreement date. This provision shall be imposed:

1. When a change in occupancy (as defined by the Uniform Building Code) is proposed for more than fifty percent of the gross floor area of the building;
  2. When the building or property ownership changes; or
  3. When the building is damaged by fire or other disaster to an extent of more than fifty percent of its appraised value.
- (Ord. 1438 § 4 (Exh. A (part)), 2011)

#### **18.19.050 Additions and enlargements to nonconforming structures.**

Nonconforming structures may be enlarged or extended in compliance with all applicable laws subject to the following provisions:

A. Additions Generally. Additions to and/or enlargements of nonconforming structures are allowed, and no use permit is required, if the addition or enlargement complies with all applicable laws and requirements of this Code and if the existing use of the property is conforming.

B. Residential Additions. Additions or enlargements may be made to a building that is designed for and used as a residence without requiring any additional parking space or changes to an existing driveway; provided, that such alterations or enlargements neither trigger the need for additional parking pursuant to Chapter 18.20, Parking and Loading, nor occupy the only portion of a lot that can be used for required parking or access to parking.

C. Accessory Dwelling Units. Notwithstanding the requirements of subsection B of this section, an accessory dwelling unit in compliance with Section 18.23.210, Accessory dwelling units/junior accessory dwelling units, may be developed on a lot that contains a single-unit dwelling that is nonconforming with respect to development standards.

D. Effect of Nonconforming Setbacks. For the purpose of additions in any residential district, maintaining an existing nonconforming setback shall not be considered an increase in the discrepancy; provided, that:

1. Such maintenance is consistent with the provisions under Sections 18.19.040(B) and (C);
2. In no case shall any existing setback of less than three (3) feet be considered legal for the purposes of this chapter; and
3. Any residential additions shall conform to the setbacks in effect at the time the application for the addition is submitted.

E. Effect of Excessive Lot Coverage. Additions to or enlargements of nonconforming structures that exceed the maximum allowable lot coverage require approval of a variance pursuant to the provisions of Chapter 18.32, Variances, if the addition or enlargement would increase the lot coverage. (Ord. 1566 (Exh. B (part)), 2020: Ord. 1480 (Exh. C (part)), 2015: Ord. 1438 § 4 (Exh. A (part)), 2011)

#### **18.19.060 Expansion of nonconforming uses.**

No lawful nonconforming use may be expanded without the approval of a use permit, subject to the following requirements:

A. Within a Conforming Structure. A nonconforming use occupying a portion of a structure that conforms to this title may expand the portion that it occupies with Zoning Administrator approval of a minor use permit in accord with Chapter 18.30, Use Permits.

B. Expansion within a Structure That Does Not Conform to This Title. A nonconforming use in a structure that does not conform to the requirements of this title but does conform to the requirements of the Building Code may expand its occupancy and building floor area subject to Zoning Administrator approval of a minor use permit in accord with Chapter 18.30, Use Permits; provided, however, that the expansion meets the requirements of this title.

C. Expansion within a Structure That Does Not Conform to the Building Code. Any nonconforming use in a structure that does not conform to the Building Code may not expand the area it occupies until and unless the structure is brought into conformance with all applicable Building Code requirements. (Ord. 1438 § 4 (Exh. A (part)), 2011)

#### **18.19.070 Changes and substitutions of nonconforming uses.**

No lawful nonconforming use shall be changed to a different use type or subclassification without the approval of a use permit unless the new use is permitted by right in the zoning district. This requirement does not apply to a change of ownership, tenancy, or management where the new use is of the same use type and use classification, if applicable, as the previous use, as defined in Chapter 18.40, Use Classifications, and the use is not expanded or intensified.

A. Change from Nonconforming to Permitted Use. Any nonconforming use may be changed to a use that is allowed by right in the district in which it is located and complies with all applicable standards for such use.

B. Absence of Permit. Any use that is nonconforming solely by reason of the absence of a use permit may be changed to a conforming use by obtaining a minor use permit pursuant to the requirements in Chapter 18.30, Use Permits.

C. Substitutions. The Zoning Administrator may allow substitution of a nonconforming use with another nonconforming use, subject to approval of a minor use permit. In addition to any other findings required by this title, the Administrator must find that:

1. The existing nonconforming use was legally established;
2. The proposed new use would not preclude or interfere with implementation of the General Plan or any applicable adopted specific, area, or community plan;
3. The proposed new use will be no less compatible with the purposes of the district and surrounding uses that comply with the requirements of this title than the nonconforming use it replaces;
4. The proposed new use will not be detrimental to the health, safety, peace, comfort, or general welfare of persons residing or working in the surrounding area or be detrimental or injurious to property and improvements of adjacent lots, the surrounding area, or the neighborhood because of noise, odors, dust, glare, vibrations, or other effects; and
5. The proposed new use will comply with all applicable standards of the district and City-wide standards, there are special circumstances peculiar to the property and its relation to surrounding uses or to the district itself that would justify modification to applicable standards, or the impacts of the new use will be mitigated. (Ord. 1438 § 4 (Exh. A (part)), 2011)

#### **18.19.080 Repair and replacement of damaged or destroyed nonconforming buildings.**

A lawful nonconforming building or structure that is damaged or partially destroyed by fire, explosion, earthquake, or natural disaster which is not caused by an act or deliberate omission of a property owner, their agent, or person acting on their behalf or in concert with, may be restored or rebuilt subject to the following provisions.

A. Restoration When Damage Is Fifty Percent or Less of Value. If the cost of repair or reconstruction does not exceed fifty percent of the appraised value of the building or structure replacement of the damaged portions of the building is allowed by right; provided, that the replaced portions are the same size, extent, and configuration as previously existed. The determination of the appraised value shall be made by a professional appraiser selected by the City, whose fee shall be paid by the building owner.

B. Restoration When Damage Exceeds Fifty Percent of Value. If the cost of repair or reconstruction exceeds fifty percent of the appraised value of the building or structure, as determined pursuant to subsection A of this section, the land and building shall be subject to all of the requirements of this title, except as provided below:

1. Nonresidential Structures. The Planning Commission may approve a conditional use permit for the structure to be rebuilt to the same size, extent, and configuration as previously existed. In such cases any expansion or change to the previous use must conform to the requirements of this chapter.

2. Residential Structures. Any nonconforming residential use may be reconstructed, restored, or rebuilt up to the size and number of dwelling units prior to the damage and the nonconforming use, if any, may be resumed subject to a zoning clearance in the case of single-unit dwellings or a conditional use permit approval in the case of other residential uses, unless the Zoning Administrator finds that:
  - a. The reconstruction, restoration, or rebuilding will be detrimental or injurious to the health, safety, or general welfare of persons residing or working in the neighborhood, or will be detrimental or injurious to property and improvements in the neighborhood; or
  - b. The existing nonconforming use of the building or structure can be more appropriately moved to a zoning district in which the use is permitted, or that there no longer exists a district in which the existing nonconforming use is permitted.
3. Any reconstruction, restoration, or rebuilding undertaken pursuant to this section shall conform to all applicable Building Code requirements, and a building permit must be obtained within two years after the date of the damage or destruction. (Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.19.090 Abandonment of nonconforming uses.**

No nonconforming use may be resumed, reestablished, reopened or replaced by any other nonconforming use after it has been abandoned or vacated for a period of six months, except as provided for in this section.

A. Abandonment. The six-month period shall commence when the use ceases and any one of the following occurs:

1. The site is vacated;
2. The business license lapses;
3. Utilities are terminated; or
4. The lease is terminated.

B. Reestablishment. The nonconforming use of a legally established structure may be reestablished if the Planning Commission approves a conditional use permit after making all the following findings in addition to any other required findings. As a condition of approving the resumption of such nonconforming use, the Commission may impose a time limit on its duration if necessary in order to make the required findings.

1. The structure cannot be used for any conforming use because of its original design or because of lawful structural changes made for a previous nonconforming use;
2. The structure can be reasonably expected to remain in active use for a period of twenty years without requiring repairs or maintenance in excess of fifty percent of the replacement cost of the structure, as determined by the Building Official, within any five-year period; and
3. The continuation of the use or structure will not be incompatible with or detrimental to surrounding conforming uses. (Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.19.100 Abatement.**

The provisions of this chapter shall not apply to a use or structure that is or becomes a public nuisance. In the event that a legal nonconforming structure or use is found to constitute a public nuisance, appropriate action may be taken by the City pursuant to the municipal code and Section 18.39.020, Enforcement. (Ord. 1438 § 4 (Exh. A (part)), 2011)

**Chapter 18.20  
PARKING AND LOADING Revised 6/23 Revised 1/24**

Sections:

**18.20.010 Purpose.** Revised 6/23

**18.20.020 Applicability.** Revised 6/23

**18.20.030 General provisions.** Revised 6/23

**18.20.040 Required parking spaces.** Revised 6/23 Revised 1/24

**18.20.050 Parking reductions.** Revised 6/23**18.20.060 Parking in-lieu fee.** Revised 6/23**18.20.070 Location of required parking.** Revised 6/23 Revised 1/24**18.20.080 Bicycle parking.** Revised 6/23**18.20.090 On-site loading.** Revised 6/23**18.20.100 Parking area design and development standards.** Revised 6/23 Revised 1/24**18.20.010 Purpose.** Revised 6/23

The specific purposes of the on-site parking and loading regulations are to:

- A. Ensure that adequate off-street parking and loading facilities are provided for new land uses and major alterations to existing uses;
- B. Minimize the negative environmental and urban design impacts that can result from parking lots, driveways, and drive aisles within parking lots;
- C. Ensure that adequate off-street bicycle parking facilities are provided and promote parking lot designs that offer safe and attractive pedestrian routes;
- D. Establish standards and regulations for safe and well-designed parking, unloading, and vehicle circulation areas that minimize conflicts between pedestrians and vehicles within parking lots and, where appropriate, create buffers from surrounding land uses;
- E. Offer flexible means of minimizing the amount of area devoted to vehicle parking by allowing reductions in the number of required spaces in transit-served locations, shared parking facilities, and other situations expected to have lower vehicle parking demand; and
- F. Reduce urban runoff and heat island effect. (Ord. 1596 § 6 (Exh. A), 2023; Ord. 1537 (Exh. C (part)), 2018: Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.20.020 Applicability.** Revised 6/23

The requirements of this chapter apply to the establishment, alteration, expansion, or change in any use or structure, as provided in this section.

- A. New Buildings and Land Uses. On-site parking shall be provided at the time any main building or structure is erected or any new land use is established.
- B. Reconstruction, Expansion and Change in Use of Existing Nonresidential Buildings. When a change in use, expansion of use, or expansion of floor area creates an increase of ten percent (10%) or more in the number of required on-site parking or loading spaces, additional on-site parking and loading shall be provided for such addition, enlargement, or change in use and not for the entire building or site. The existing parking shall be maintained. If the number of existing parking spaces is greater than the requirements for such use, the number of spaces in excess of the prescribed minimum may be counted toward meeting the parking requirements for the addition, enlargement, or change in use. A change in occupancy is not considered a change in use unless the new occupant is in a different use classification than the former occupant. Additional parking spaces are not required for the reconstruction of an existing building when there is no increase in floor area.
- C. Alterations That Increase the Number of Dwelling Units. The creation of additional dwelling units through the alteration of an existing building or construction of an additional structure or structures requires on-site parking to serve the new dwelling units. This requirement does not apply when sufficient on-site parking exists to provide the number of spaces required for the existing and new dwelling units.
- D. When Constructed. On-site parking facilities required by this chapter shall be constructed or installed prior to the issuance of a certificate of occupancy for the uses that they serve. (Ord. 1596 § 6 (Exh. A), 2023; Ord. 1537 (Exh. C (part)), 2018: Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.20.030 General provisions.** Revised 6/23

A. Existing Parking and Loading to be Maintained. No existing parking and/or loading serving any use may be reduced in amount or changed in design, location or maintenance below the requirements for such use, unless equivalent substitute facilities are provided.

B. Nonconforming Parking or Loading.

1. An existing use of land or structure shall not be deemed to be nonconforming solely because of a lack of on-site parking and/or loading facilities required by this chapter; provided, that facilities used for on-site parking and/or loading as of the date of adoption of the ordinance codified in this title are not reduced in number to less than what this chapter requires.
2. If an existing garage or carport legally constructed with a building permit is less than sixteen (16) feet wide, it is considered physically unsuitable for two (2) cars.

C. Accessibility. Parking must be accessible for its intended purpose during all business hours.

D. Stacked Parking. Stacked or valet parking is allowed if an attendant is present or an automated system is in place to move vehicles. If stacked parking managed by an attendant is used for required parking spaces, an acceptable form of guarantee must be filed with the Director ensuring that an attendant will always be present when the lot is in operation.

E. Unbundling Parking from Residential Uses. For residential projects of ten (10) units or more requesting to unbundle the parking from residential uses, a minor use permit is required and the following rules shall apply to the sale or rental of parking spaces accessory to new multifamily residential uses of ten (10) units or more unless waived by the Director as infeasible:

1. All off-street spaces shall be leased or sold separately from the rental or purchase fees for dwelling units for the life of the dwelling units, such that potential renters or buyers have the option of renting or buying a residential unit at a price lower than would be the case if there were a single price for both the residential unit and the parking space.
2. In cases where there are fewer parking spaces than dwelling units, the parking spaces shall be offered first to the potential owners or renters of three (3) bedroom or more units, second to owners or renters of two (2) bedroom units, and then to owners and renters of other units. Spaces shall be offered to tenants first. Nontenants may lease with a provision for thirty (30) days to terminate the lease.
3. Renters or buyers of on-site inclusionary affordable units shall have an equal opportunity to rent or buy a parking space on the same terms and conditions as offered to renters or buyers of other dwelling units.

F. Residential Garage Conversion. The conversion of single-unit residential garages into living space is allowed only if:

1. The residence was constructed prior to 1954 (the 1954 Zoning Code was the first City zoning code to require one (1) parking space for single-unit dwellings);
2. One (1) off-street parking space will be provided; and
3. The garage dimensions are no more than ten (10) feet wide by thirty (30) feet deep. (Ord. 1596 § 6 (Exh. A), 2023; Ord. 1537 (Exh. C (part)), 2018; Ord. 1480 (Exh. C (part)), 2015; Ord. 1438 § 4 (Exh. A (part)), 2011)

#### **18.20.040 Required parking spaces. Revised 6/23 Revised 1/24**

A. Minimum Number of Spaces Required. Each land use shall be provided at least the number of on-site parking spaces stated in this section.

1. Mixed-Use Districts. The required numbers of on-site parking spaces are stated in Table 18.20.040-A(1), Required On-Site Parking Spaces, Mixed-Use Districts. The parking requirement for any use not listed in Table 18.20.040-A(1) shall be the same as required for the land use in other districts as stated in Table 18.20.040-A(3), Required On-Site Parking Spaces, Other Districts.

**TABLE 18.20.040-A(1): REQUIRED ON-SITE PARKING SPACES, MIXED-USE DISTRICTS**

Land Use	Required Parking Spaces	
<b>Residential</b>		
Studio and one-bedroom units	1 space per unit	1 covered space shall be provided for each unit.

Land Use	Required Parking Spaces	
Two or more bedrooms	1.5 spaces per unit	
Nonresidential		
Office	1 space per 450 square feet	
Retail	1 space per 400 square feet	
Restaurant	1 space per 250 square feet	

2. Industrial Arts District. Each land use in the IA District shall provide one (1) parking space per two thousand (2,000) square feet of industrial use area plus one (1) parking space per three hundred (300) square feet of office or customer area.

3. Other Districts. Each land use in all districts except for mixed-use and industrial arts districts shall be provided at least the number of on-site parking spaces stated in Table 18.20.040-A(3), Required On-Site Parking Spaces, Other Districts. The parking requirement for any use not listed in Table 18.20.040-A(3) shall be determined by the Director based upon the requirements for the most similar comparable use, the particular characteristics of the proposed use, and any other relevant data regarding parking demand.

**TABLE 18.20.040-A(3): REQUIRED ON-SITE PARKING SPACES,  
OTHER DISTRICTS**

Land Use Classification	Required Parking Spaces	
Residential Use Classifications		
Single-Unit Residential	2 spaces per dwelling unit.	In RS-6, both spaces must be either within a garage or carport, or 1 space within a garage or carport with the other space located within a 20-ft.-wide, 2-car driveway or within a 2-car tandem driveway. For all other R districts, parking must be within a garage or carport.
Accessory Dwelling Unit	1 space for each unit. See Section 18.23.210(F)(3) for accessory dwelling units parking exemptions.	
Junior Accessory Dwelling Unit	No parking required. See Section 18.23.210.	
Affordable Housing Developments (Moderate Income and Below)		
Studio	0.75 spaces per unit.	1 additional guest parking space shall be provided for every 4 units, and overall, the number of covered spaces provided shall equal or exceed the number of units. Residential developments with 1 or more on-site below market rate units shall be allowed limited reductions in the parking requirements pursuant to Chapter 18.17, Affordable Housing Incentives.
One- or Two-Bedroom	1 space per unit.	
Three or More Bedrooms	2 spaces per unit.	
Multi-Unit Residential		
Studio	1 space per unit.	1 covered space shall be provided for each unit.
One- or Two-Bedroom	1.5 spaces per unit.	
Three or More Bedrooms	2 spaces per unit.	
Small Family Day Care	None in addition to what is required for the residential use.	
Large Family Day Care	None in addition to what is required for the residential use.	
Elderly and Long-Term Care	2 spaces for the owner-manager plus 1 for every 5 beds and 1 for each nonresident employee.	
Group Residential	1 per bed plus 1 for every 10 beds.	
Residential Care, Limited	None in addition to what is required for the residential use.	

Land Use Classification	Required Parking Spaces
Residential Care, General and Senior	2 spaces for the owner-manager plus 1 for every 5 beds and 1 for each nonresident employee.
Single Room Occupancy	0.5 spaces per unit.
Public and Semi-Public Use Classifications	
Colleges and Trade Schools, Public or Private	1 per 3 members of the school population (including students, faculty, and staff) based on maximum enrollment.
Community Assembly	1 for each 4 permanent seats in main assembly area, or 1 for every 30 sq. ft. of assembly area for group activities or where temporary or moveable seats are provided.
Cultural Institutions	For theaters and auditoriums: 1 for each 4 permanent seats in main assembly area, or 1 for every 30 sq. ft. of assembly area where temporary or moveable seats are provided. Galleries, libraries and museums: 1 for every 1,000 sq. ft. of floor area. Other establishments: as determined by the Director.
Day Care Center	1 per employee plus additional parking as provided in the pick-up/drop-off plan required pursuant to Section 18.23.090, Day care. Reductions in parking may be granted upon approval of a minor use permit.
Emergency Shelter	1 per 200 sq. ft. of floor area.
Government Offices	1 per 300 sq. ft. of floor area.
Hospitals and Clinics	1.75 per bed.
Instructional Services	1 per 200 sq. ft. of public or instruction area.
Schools, Public or Private	Elementary and middle schools: 1 per classroom, plus 1 per 250 sq. ft. of office area. High schools: 7 per classroom.
Social Service Facilities	1 per 200 sq. ft. of floor area.
Commercial Use Classifications	
Animal Care, Sales and Services	
Grooming and Pet Stores	1 per 300 sq. ft. of floor area.
Kennels	1 per employee plus an area for loading and unloading animals on site.
Veterinary Services	1 per 250 sq. ft. of floor area.
Artists' Studios	1 per 1,000 sq. ft. of floor area.
Automobile/Vehicle Sales and Services	
Automobile Rentals	1 per 250 sq. ft. of office area in addition to spaces for all vehicles for rent.
Automobile/Vehicle Sales and Leasing	1 per 3,000 sq. ft. of lot area. Any accessory auto repair: 2 per service bay.
Automobile/Vehicle Repair, Major or Minor	1 space plus 4 per service bay. 1 per 250 sq. ft. of any retail or office on site.
Automobile/Vehicle Washing	1 per 250 sq. ft. of any indoor sales, office, or lounge areas.
Service Station	4 per service bay, if service bays are included on site. 1 per 250 sq. ft. of any retail or office on site.
Banks and Financial Institutions	1 per 300 sq. ft. of floor area.
Business Services	1 per 300 sq. ft. of floor area.
Commercial Recreation	Establishments with seating: 1 for each 4 fixed seats, or 1 for every 30 sq. ft. of seating area where temporary or moveable seats are provided.

Land Use Classification	Required Parking Spaces
	Athletic clubs: 1 per 150 sq. ft. of floor area. Bowling alleys: 2 per lane. Game courts (e.g., tennis): 2 per court. Swimming pools: 1 per 200 sq. ft. of pool area plus 1 per 500 sq. ft. of area related to the pool. Other commercial entertainment and recreation uses: as determined by the Director.
<b>Eating and Drinking Establishments</b>	
Bars/Night Clubs/Lounges	1 per 75 sq. ft. of public area.
Full Service	1 per 75 sq. ft. of customer seating area; no parking is required for outdoor seating when seats provided equal to 50 percent or less of total indoor seating.
Convenience/Fast Food	1 per 100 sq. ft. of floor area.
Food Preparation	1 per 1,500 sq. ft. of use area plus 1 per 300 sq. ft. of office area.
Funeral Parlors and Mortuaries	1 for each 4 permanent seats in assembly areas, plus 1 per 250 sq. ft. of office area or 1 for every 30 sq. ft. of assembly area where temporary or moveable seats are provided.
<b>Lodging</b>	
Bed and Breakfast	1 per room for rent in addition to parking required for residential use.
Hotels and Motels	1 per each sleeping unit, plus 2 spaces adjacent to registration office. Additional parking required for ancillary uses, such as restaurants, according to the parking requirements for the ancillary use.
Maintenance and Repair Services	1 per 600 sq. ft. of floor area, plus 1 space for each fleet vehicle.
Nurseries and Garden Centers	1 per 500 sq. ft. of floor area; 1 per 1,000 sq. ft. of outdoor display area.
<b>Offices</b>	
Business and Professional	1 per 300 sq. ft. of floor area up to 100,000 sq. ft. 1 per 350 sq. ft. over 100,000 sq. ft.
Medical and Dental	1 per 275 sq. ft. of floor area.
Walk-In Clientele	1 per 300 sq. ft. of floor area.
Parking, Public or Private	1 per attendant station (in addition to the spaces that are available on the site).
Personal Services	1 per 300 sq. ft. of floor area.
<b>Retail Sales</b>	
Building Materials and Services	1 per 500 sq. ft. of floor area; 1 per 1,000 sq. ft. of outdoor display area.
All Other Retail Sales Subclassifications	1 per 300 sq. ft. of floor area. 1 per 750 sq. ft. of floor area for appliance and furniture stores.
<b>Industrial Use Classifications</b>	
Cannabis Microbusiness	1 per 1,000 sq. ft. of cultivation area; 1 per 1,500 sq. ft. of manufacturing area; 1 per 2,000 sq. ft. of distribution area up to 10,000 sq. ft. or 1 per 5,000 sq. ft. of distribution area over 10,000 sq. ft.; plus 1 per 300 sq. ft. of office.
Construction and Materials Yards	1 per 2,500 sq. ft. up to 10,000 sq. ft. 1 per 5,000 sq. ft. over 10,000 sq. ft.
Custom Manufacturing	1 per 2,000 sq. ft. of floor area, plus 1 per 300 sq. ft. of office.
Industry, General	1 per 1,500 sq. ft. of use area plus 1 per 300 sq. ft. of office.
Industry, Limited	1 per 1,500 sq. ft. of use area plus 1 per 300 sq. ft. of office.
<b>Recycling Facility</b>	

Land Use Classification	Required Parking Spaces
Collection Facility	See Section 18.23.190, Recycling facilities.
Intermediate Processing Facility	1 for each 2 employees on the maximum work shift, or 1 per 1,000 sq. ft. of floor area, whichever is greater.
Research and Development	1 per 600 sq. ft. of manufacturing and assembly; 1 per 300 sq. ft. of office; 1 per 1,500 sq. ft. of warehousing; and 1 per 800 sq. ft. of laboratory.
Salvage and Wrecking	1 per 500 sq. ft. of building area plus 1 per 0.5 acre of gross outdoor use area.
<b>Warehousing and Storage</b>	
Chemical, Mineral, and Explosives Storage	1 per 2 employees or 1 per 300 sq. ft. of office area, whichever is greater.
Indoor Warehousing and Storage and Outdoor Storage	1 per 2,000 sq. ft. of area up to 10,000 sq. ft., 1 per 5,000 sq. ft. over 10,000 sq. ft., plus 1 per 300 sq. ft. of office.
Personal Storage	1 space per 75 storage units, plus 1 space per 300 sq. ft. of office area. A minimum of 5 spaces shall be provided.
Wholesaling and Distribution	1 per 2,000 sq. ft. of use area up to 10,000 sq. ft., 1 per 5,000 sq. ft. over 10,000 sq. ft., plus 1 per 300 sq. ft. of office.
<b>Transportation, Communication, and Utilities Use Classifications</b>	
Light Fleet-Based Services	1 per 300 sq. ft. of office floor area, plus 1 space for each fleet vehicle.
Utilities, Major	1 for each employee on the largest shift plus 1 for each vehicle used in connection with the use. Minimum of 2.
Utilities, Minor	None.

B. Calculation of Required Spaces. The number of required parking spaces shall be calculated according to the following rules:

1. Fractions. If the calculation of required parking or loading spaces results in the requirement of a fractional space, such fraction, if one-half (1/2) or greater, shall be considered one (1) additional space; if the fraction is less than one-half (1/2), it shall result in no additional spaces.
2. Floor Area. Where an on-site parking or loading requirement is stated as a ratio of parking spaces to floor area, the floor area is assumed to be gross floor area, unless otherwise stated.
3. Employees. Where an on-site parking or loading requirement is stated as a ratio of parking spaces to employees, the number of employees shall be based on the largest shift that occurs in a typical week.
4. Bedrooms. Where an on-site parking requirement is stated as a ratio of parking spaces to bedrooms, any rooms having the potential of being a bedroom and meeting the standards of the California Building Code as a sleeping room shall be counted as a bedroom.
5. Students or Clients. Where a parking or loading requirement is stated as a ratio of parking spaces to students (including children in day care), the number is assumed to be the number of students or clients at the State-certified capacity or at Building Code occupancy where no State certification is required.
6. Seats. Where parking requirements are stated as a ratio of parking spaces to seats, each twenty-four (24) inches of bench-type seating at maximum seating capacity is counted as one (1) seat.

C. Sites with Multiple Uses. If more than one (1) use is located on a site, the number of required on-site parking spaces and loading spaces shall be equal to the sum of the requirements calculated separately for each use unless a reduction is approved pursuant to Section 18.20.050, Parking reductions.

D. Exceptions.

1. Small Commercial Uses Exempt. In the mixed-use and commercial districts, the following commercial uses are not required to provide on-site parking when they contain less than one thousand five hundred (1,500) square feet of floor

area: retail sales, personal services, eating and drinking establishments, food and beverage retail sales, offices—walk-in clientele, and banks and financial institutions. However, when more than four (4) such establishments are located on a single lot, their floor areas shall be aggregated with all other establishments located on the lot in order to determine required parking.

2. Industrial Arts District.

- a. On-street parking along a lot's corresponding frontage lines shall be counted toward the parking requirement.
- b. Where a use with a legal nonconforming parking deficiency is replaced, the new use shall receive a parking credit equal to the number of required automobile parking spaces unmet by the previous use. (Ord. 1603 § 3 (Exh. A), 2023; Ord. 1596 § 6 (Exh. A), 2023; Ord. 1568 § 1 (Exh. A), 2021; Ord. 1566 (Exh. B (part)), 2020; Ord. 1537 (Exh. C (part)), 2018; Ord. 1525 § 2(1) (Exh. A (part)), 2017; Ord. 1480 (Exh. C (part)), 2015; Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.20.050 Parking reductions. Revised 6/23**

The number of on-site parking spaces required by Section 18.20.040, Required parking spaces, may be reduced as follows:

A. Assembly Bill 2097 (Friedman), 2022. Section 68563.2 of the Government Code.

1. The number of minimum required automobile parking spaces shall not be imposed for any residential, commercial, or other development project, as defined by Section 68563.2, that is within one-half (1/2) mile of public transit (a major transit stop as defined in Section 21155 of the Public Resources Code).
2. A minimum automobile parking requirement may be applied on a housing development project if the City makes written findings, within thirty (30) days of the receipt of a completed application, that not imposing or enforcing minimum automobile parking requirements on the development would have a substantially negative impact, supported by a preponderance of the evidence in the record, on the City's ability to meet its share of specified housing needs or existing residential or commercial parking within one-half (1/2) mile of the housing development. This exception does not apply if the housing development project (a) dedicates a minimum of twenty percent (20%) of the total number of housing units to very low, low-, or moderate-income households, students, the elderly, or persons with disabilities; (b) contains fewer than twenty (20) housing units, or (c) is subject to parking reductions based on any other applicable law.
3. An event center shall provide parking as required in this chapter for employees and other workers.
4. A "project" does not include a project where any portion is designated for use as a hotel, motel, bed and breakfast inn, or other transient lodging, except where a portion of the housing development project is designated for use as a residential hotel, as defined in Section 50519 of the Health and Safety Code.
5. This section shall not reduce, eliminate, or preclude the enforcement of any requirement imposed on new multifamily residential or nonresidential development that is located within one-half (1/2) mile of public transit to provide electric vehicle supply equipment installed parking spaces or parking spaces that are accessible to persons with disabilities that would have otherwise applied to the development if this section did not apply.
6. When a project provides parking voluntarily, a public agency may impose requirements on that voluntary parking to require spaces for car share vehicles, require spaces to be shared with the public, or require parking owners to charge for parking. The City may not require that voluntarily provided parking is provided to residents free of charge.
7. This shall not apply to commercial parking requirements if it conflicts with an existing contractual agreement of the public agency that was executed before January 1, 2023; provided, that all of the required commercial parking is shared with the public. This subdivision shall apply to an existing contractual agreement that is amended after January 1, 2023; provided, that the amendments do not increase commercial parking requirements.
8. A project may voluntarily build additional parking that is not shared with the public.

B. Transportation Demand Management Programs. The number of required parking spaces for any project subject to Chapter 18.25, Transportation Demand Management, shall be reduced by twenty percent (20%) of the normally required number of spaces.

C. Transit Accessibility. For any land use except residential single-unit and duplex development, if any portion of the lot is located within one-quarter (1/4) mile of a transit stop with regular, scheduled service during the weekday hours of seven (7)

a.m. to nine (9) a.m. and five (5) p.m. to seven (7) p.m., the number of required parking spaces may be reduced by twenty percent (20%) of the normally required number of spaces. This parking reduction does not apply in the mixed-use or the industrial arts districts because parking requirements for these districts already reflect transit accessibility.

D. Motorcycle Parking. Motorcycle parking may substitute for up to five percent (5%) of required automobile parking. Each motorcycle space must be at least four (4) feet wide and seven (7) feet deep.

E. Shared Parking. Where a shared parking facility serving more than one (1) use will be provided, the total number of required parking spaces may be reduced up to forty percent (40%) with Planning Commission approval of a conditional use permit, if the Commission finds that:

1. The peak hours of use will not overlap or coincide to the degree that peak demand for parking spaces from all uses will be greater than the total supply of spaces;
  2. The proposed shared parking provided will be adequate to serve each use;
  3. A parking demand study prepared by an independent traffic engineering professional approved by the City supports the proposed reduction; and
  4. In the case of a shared parking facility that serves more than one (1) property, a parking agreement has been prepared consistent with the provisions of off-site parking facilities.

F. Restaurant Parking. The total number of required parking spaces for restaurants with more than two thousand five hundred (2,500) square feet of floor area located within the area bounded by the south side of Holly Street, the west side of El Camino Real, the north side of Brittan Avenue and the east side of Walnut Street, as shown on Figure 18.20.050-E, may be reduced with Planning Commission approval of a conditional use permit, subject to the following criteria:

1. The restaurant is open for operation during the evenings until at least nine (9) p.m., a minimum of five (5) days per week including one (1) weekend evening; and
  2. Employees are required to park in permit parking areas of public parking plazas, when such permits are available.

**FIGURE 18.20.050-E: RESTAURANT PARKING REDUCTION AREA**



G. Other Parking Reductions. Required parking for any use may be reduced through Planning Commission approval of a conditional use permit.

1. Criteria for Approval. The Commission may only approve a conditional use permit for reduced parking if it finds that:
    - a. Special conditions, including, but not limited to, the nature of the proposed operation; proximity to frequent transit service; transportation characteristics of persons residing, working, or visiting the site; or because the applicant has undertaken a transportation demand management program, exist that will reduce parking demand at the site;
    - b. The use will adequately be served by the proposed on-site parking; and
    - c. Parking demand generated by the project will not exceed the capacity of or have a detrimental impact on the supply of on-street parking in the surrounding area.
  2. Parking Demand Study. In order to evaluate a proposed project's compliance with the above criteria, the Director may require submittal of a parking demand study that substantiates the basis for granting a reduced number of spaces. (Ord. 1596 § 6 (Exh. A), 2023; Ord. 1537 (Exh. C (part)), 2018; Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.20.060 Parking in-lieu fee. Revised 6/23**

If a parking assessment district has been established, a fee may be paid to the City in lieu of providing required parking within the district.

A. In-Lieu Fee Amount. The amount of the in-lieu fee shall be calculated and paid as set forth in a resolution of the City Council.

B. Use of Funds. In-lieu fees shall be used for programs to reduce parking impacts including, but not limited to, the costs of any of the following:

1. Off-street parking facilities, including acquisition, development, and maintenance of parking facilities located in the parking assessment district;
2. Mass transit equipment, including stock and attendant facilities serving the area in which the buildings for which the payments are made are located;
3. Transit or paratransit passes, coupons, and tickets to be made available at a discount to employees and customers and to promote and support incentives for employee ride-sharing and transit use; or
4. Transportation system management projects. (Ord. 1596 § 6 (Exh. A), 2023; Ord. 1537 (Exh. C (part)), 2018: Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.20.070 Location of required parking. Revised 6/23 Revised 1/24**

A. Residential Uses.

1. Single-Unit Dwellings, Duplexes, Urban Infill Units and Accessory Dwelling Units. Required parking for a single-unit dwelling, duplex, urban infill unit, or accessory dwelling unit shall be located on the same lot as the dwelling(s) served. Parking shall not be located within required setbacks except for accessory dwelling units and for the required parking space in the driveway under the provisions for lots in the RS zoning district.
2. Other Residential Uses. Required parking for residential uses other than single-unit dwellings, duplexes, and accessory dwelling units shall be on the same lot as the dwelling or use they serve or in an off-site facility as provided in subsection C of this section. Parking shall not be located within a required front or street-facing side yard.

B. Nonresidential Uses. Required parking spaces serving nonresidential uses shall be located on the same lot as the use they serve, or in an off-site parking facility as provided in subsection C of this section. If located in an off-site parking facility, a parking agreement shall be filed as provided in subsection C of this section.

C. Off-Site Parking Facilities. Parking facilities for uses other than single-unit dwellings, duplexes, and accessory dwelling units may be provided off site with approval of a minor use permit, provided the following conditions are met:

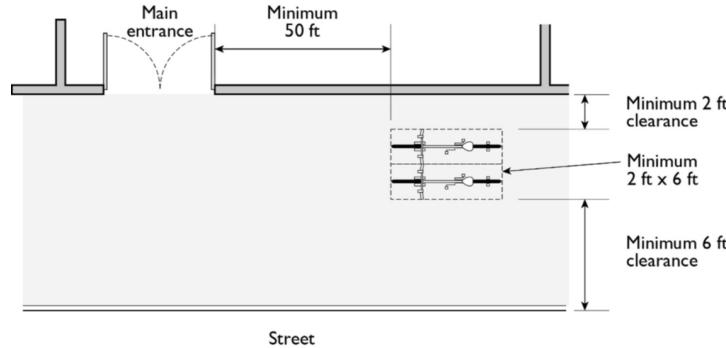
1. Location.
  - a. Residential Uses. Any off-site parking facility must be located within one hundred (100) feet, along a pedestrian route, of the unit or use served.
  - b. Nonresidential Uses. Any off-site parking facility must be located within four hundred (400) feet, along a pedestrian route, of the principal entrance containing the use(s) for which the parking is required.
2. Parking Agreement. A written agreement between the landowner(s) and the City in a form satisfactory to the City Attorney shall be executed and recorded in the Office of the County Recorder. The agreement shall include:
  - a. A guarantee among the landowner(s) for access to and use of the parking facility; and
  - b. A guarantee that the spaces to be provided will be maintained and reserved for the uses served for as long as such uses are in operation. (Ord. 1603 § 3 (Exh. A), 2023; Ord. 1596 § 6 (Exh. A), 2023; Ord. 1566 (Exh. B (part)), 2020: Ord. 1537 (Exh. C (part)), 2018: Ord. 1480 (Exh. C (part)), 2015; Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.20.080 Bicycle parking. Revised 6/23**

A. Short-Term Bicycle Parking. Short-term bicycle parking shall be provided in order to serve shoppers, customers, messengers, guests and other visitors to a site who generally stay for a short time.

1. **Parking Spaces Required.** For the following uses, the number of short-term bicycle parking spaces shall be at least ten percent (10%) of the number of required automobile parking spaces, with a minimum of four (4) parking spaces provided per establishment:
  - a. Multi-unit residential, group residential, and single room occupancy with five (5) or more units.
  - b. All uses in the public and semipublic land use classification except cemeteries and community gardens.
  - c. All uses in the commercial land use classification, except animal care, sales, and services and artists' studios.
2. **Location.** Short-term bicycle parking must be located outside of the public right-of-way and pedestrian walkways and within fifty (50) feet of a main entrance to the building it serves.
  - a. **Commercial Centers.** In a commercial center, bicycle parking must be located within fifty (50) feet of an entrance to each anchor store. Bicycle parking shall be visible from the street or from the main building entrance, or a sign must be posted at the main building entrance indicating the location of the parking.
  - b. **Mixed-Use Districts.** Bicycle parking in mixed-use districts may be located in the public right-of-way with an encroachment permit, provided an unobstructed sidewalk clearance of six (6) feet is maintained for pedestrians at all times.
3. **Anchoring and Security.** For each short-term bicycle parking space required, a stationary, securely anchored object shall be provided to which a bicycle frame and one wheel can be secured with a high-security U-shaped shackle lock if both wheels are left on the bicycle. One (1) such object may serve multiple bicycle parking spaces.
4. **Size and Accessibility.** Each short-term bicycle parking space shall be a minimum of two (2) feet in width and six (6) feet in length and shall be accessible without moving another bicycle. Two (2) feet of clearance shall be provided between bicycle parking spaces and adjacent walls, poles, landscaping, street furniture, drive aisles, and pedestrian ways and at least five (5) feet from vehicle parking spaces.

**FIGURE 18.20.080-A: SHORT-TERM BICYCLE PARKING**



- B. **Long-Term Bicycle Parking.** Long-term bicycle parking shall be provided in order to serve employees, students, residents, commuters, and others who generally stay at a site for four (4) hours or longer.

1. **Parking Spaces Required.**
  - a. **Residential Uses.** A minimum of one (1) long-term bicycle parking space shall be provided for every five (5) units for multi-unit residential and group residential projects.
  - b. **Other Uses.** Any establishment with twenty-five (25) or more full-time equivalent employees shall provide long-term bicycle parking at a minimum ratio of one (1) space per twenty (20) vehicle spaces.
  - c. **Parking Structures.** Long-term bicycle parking shall be provided at a minimum ratio of one (1) space per fifty (50) vehicle spaces.
2. **Location.** Long-term bicycle parking must be located on the same lot as the use it serves. In parking garages, long-term bicycle parking must be located near an entrance to the facility.
3. **Covered Spaces.** At least fifty percent (50%) of required long-term bicycle parking must be covered. Covered parking can be provided inside buildings, under roof overhangs or awnings, in bicycle lockers, or within or under other structures.

4. Security. Long-term bicycle parking must be in:
  - a. An enclosed bicycle locker;
  - b. A fenced, covered, locked or guarded bicycle storage area;
  - c. A rack or stand inside a building that is within view of an attendant or security guard or visible from employee work areas; or
  - d. Other secure area approved by the Director.
5. Size and Accessibility. Each bicycle parking space shall be a minimum of two (2) feet in width and six (6) feet in length and shall be accessible without moving another bicycle. Two (2) feet of clearance shall be provided between bicycle parking spaces and adjacent walls, poles, landscaping, street furniture, drive aisles, and pedestrian ways and at least five (5) feet from vehicle parking spaces. (Ord. 1596 § 6 (Exh. A), 2023; Ord. 1537 (Exh. C (part)), 2018; Ord. 1480 (Exh. C (part)), 2015; Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.20.090 On-site loading. Revised 6/23**

A. Loading Spaces Required. Every new building, and every building enlarged by more than five thousand (5,000) square feet of gross floor area that is to be occupied by a manufacturing establishment, storage facility, warehouse facility, retail store, eating and drinking, wholesale store, market, hotel, hospital, mortuary, laundry, dry-cleaning establishment, or other use similarly requiring the receipt or distribution by vehicles or trucks of material or merchandise shall provide off-street loading and unloading areas as follows:

**TABLE 18.20.090-A: REQUIRED LOADING SPACES**

Gross Floor Area (sq. ft.)	Required Loading Spaces
0—6,999	0
7,000—30,000	1
30,001—90,000	2
90,001—150,000	3
150,001— 230,000	4
230,001 +	1 per each additional 100,000 square feet or portion thereof.

1. Multi-Tenant Buildings. The gross floor area of the entire building shall be used in determining spaces for multi-tenant buildings. A common loading area may be required, if each tenant space is not provided a loading area. Drive-in roll-up doors for multi-tenant industrial projects may be substituted for required loading areas.
  2. Reduction in Number of Loading Spaces Required. The loading space requirement may be waived if the Director finds that the applicant has satisfactorily demonstrated that, due to the nature of the proposed use, such loading space will not be needed.
  3. Additional Loading Spaces Required. The required number of loading spaces may be increased to ensure that trucks will not be loaded, unloaded, or stored on public streets. Such requirement shall be based on the anticipated frequency of truck pick-ups and deliveries and of the truck storage requirements of the use for which the on-site loading spaces are required.
- B. Location. All required loading berths shall be located on the same site as the use served. No loading berth for vehicles over two (2) ton capacity shall be closer than fifty (50) feet to any property in a residential district unless completely enclosed by building walls, or a uniformly solid fence or wall, or any combination thereof, not less than six (6) feet in height. No permitted or required loading berth shall be located within twenty-five (25) feet of the nearest point of any street intersection.
- C. Minimum Size. Each on-site loading space required by this chapter shall not be less than ten (10) feet wide, twenty-five (25) feet long, and fourteen (14) feet high, exclusive of driveways for ingress and egress, maneuvering areas and setbacks.

The minimum size requirement may be modified if the Director finds that the applicant has satisfactorily demonstrated that, due to the nature of the proposed use, such size will not be needed.

D. Driveways for Ingress and Egress and Maneuvering Areas. Each on-site loading space required by this section shall be provided with driveways for ingress and egress and maneuvering space of the same type and meeting the same criteria required for on-site parking spaces. Truck-maneuvering areas shall not encroach into required parking areas, travelways, or street rights-of-way. This requirement may be modified if the Director finds that sufficient space is provided so that truck-maneuvering areas will not interfere with traffic and pedestrian circulation.

E. Surfacing. All open on-site loading berths shall be improved with a compacted base, not less than five (5) inches thick, surfaced with not less than three (3) inches of plant-mix asphalt, concrete, or comparable material approved by the City Engineer. (Ord. 1596 § 6 (Exh. A), 2023; Ord. 1537 (Exh. C (part)), 2018; Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.20.100 Parking area design and development standards. Revised 6/23 Revised 1/24**

All parking areas, except those used exclusively for stacked parking, shall be designed and developed consistent with the following standards. Parking areas used exclusively for stacked parking are subject only to subsections I through R of this section. Stacked parking areas which will allow parking at some times without attendants must be striped in conformance with the layout requirements of this section.

A. Handicapped Parking. Each lot or parking structure where parking is provided for the public as clients, guests, or employees shall include parking accessible to handicapped or disabled persons as near as practical to a primary entrance.

B. Tandem Parking. Tandem parking may be permitted to satisfy the off-street parking requirement in accordance with the following:

1. No more than two (2) vehicles shall be placed one (1) behind the other unless otherwise allowed under this title.
2. Both spaces shall be assigned to a single dwelling unit or nonresidential establishment.
3. Tandem parking to meet required parking for nonresidential uses may be used for employee parking; the maximum number of tandem parking spaces shall not exceed fifty percent (50%) of the total number of spaces.
4. Tandem parking to meet required parking for multi-unit development shall be located within an enclosed structure; the maximum number of tandem parking spaces shall not exceed fifty percent (50%) of the total number of spaces.
5. Tandem parking shall not be used to meet the guest parking requirement.

C. Carpool and Vanpool Parking. At least ten percent (10%) of the required parking spaces for offices and all uses within the industrial use classification shall be designated and reserved for carpools or vanpools. These spaces shall be located closest to the main entrance of the project (exclusive of spaces designated for handicapped).

D. Shopping Cart Storage. When there are businesses that utilize shopping carts, adequate temporary shopping cart storage areas shall be provided throughout the parking lots. No temporary storage of shopping carts is allowed on walkways outside of buildings.

E. Parking Access.

1. Shared Access. Nonresidential projects are encouraged to provide shared vehicle and pedestrian access to adjacent nonresidential properties for convenience, safety, and efficient circulation. A joint access agreement guaranteeing the continued availability of the shared access between the properties approved by the Director shall be recorded in the County Recorder's Office, in a form satisfactory to the City Attorney.
2. Forward Entry. Parking areas of four (4) or more spaces shall be provided with suitable maneuvering room so that all vehicles therein may enter an abutting street in a forward direction.
3. Driveway Length. Driveways providing direct access from a public street to a garage or carport shall be at least twenty (20) feet in depth.
4. Driveway Width.
  - a. The minimum width of a driveway serving one (1) to two (2) residences shall be no less than eight (8) feet total width, with a minimum clearance of ten (10) feet. Maximum width is twenty (20) feet.

- b. The minimum width of a driveway serving three (3) to six (6) residential units is:
  - i. Eight (8) feet for a one (1) way driveway; or
  - ii. Fourteen (14) feet for a two (2) way driveway.
- c. The minimum width of a driveway serving seven (7) or more residential or commercial uses is:
  - i. Ten (10) feet for a one (1) way driveway; or
  - ii. Twenty (20) feet for a two (2) way driveway.
- d. The maximum driveway width is twenty (20) feet for a one (1) way driveway and thirty-three (33) feet for a two (2) way driveway.

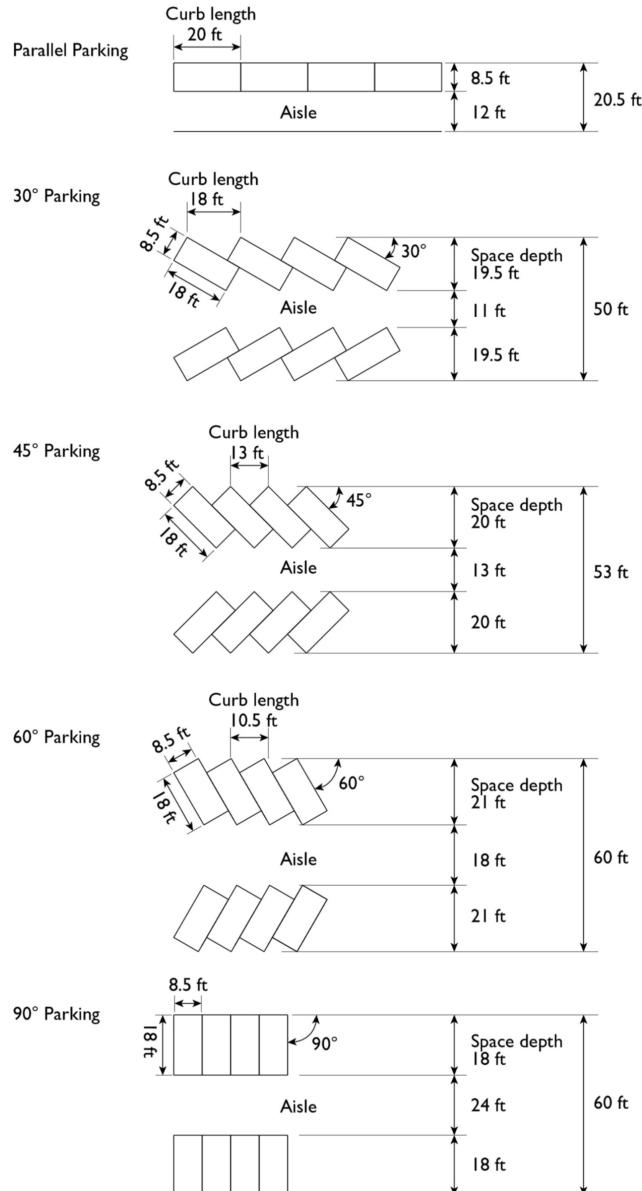
F. Size of Parking Spaces and Maneuvering Aisles. Parking spaces and maneuvering aisles shall meet the minimum dimensions required by this subsection. Screening walls, roof support posts, columns, or other structural members shall not intrude into the required dimensions for parking spaces.

1. Standard Parking Spaces and Drive Aisles. The minimum basic dimension for standard parking spaces is eight and one-half (8 1/2) feet by eighteen (18) feet, with a minimum vertical clearance of seven (7) feet. Table 18.20.100-F(1) provides the dimensions of spaces (stalls) and aisles according to angle of parking spaces. The required aisle width may be modified if the City Engineer finds that sufficient space is provided, so that maneuvering areas will not interfere with traffic and pedestrian circulation.

**TABLE 18.20.100-F(1): STANDARD PARKING SPACE AND AISLE DIMENSIONS**

Angle of Parking	Stall Width (ft.)	Curb Length Per Stall (ft.)	Stall Depth (ft.)	Aisle Width (ft.)
Parallel	8.5	20	8.5	12
30°	8.5	18	19.5	11
45°	8.5	13	20	13
60°	8.5	10.5	21	18
90°	8.5	8.5	18	24

**FIGURE 18.20.100-F(1): STANDARD PARKING SPACES**



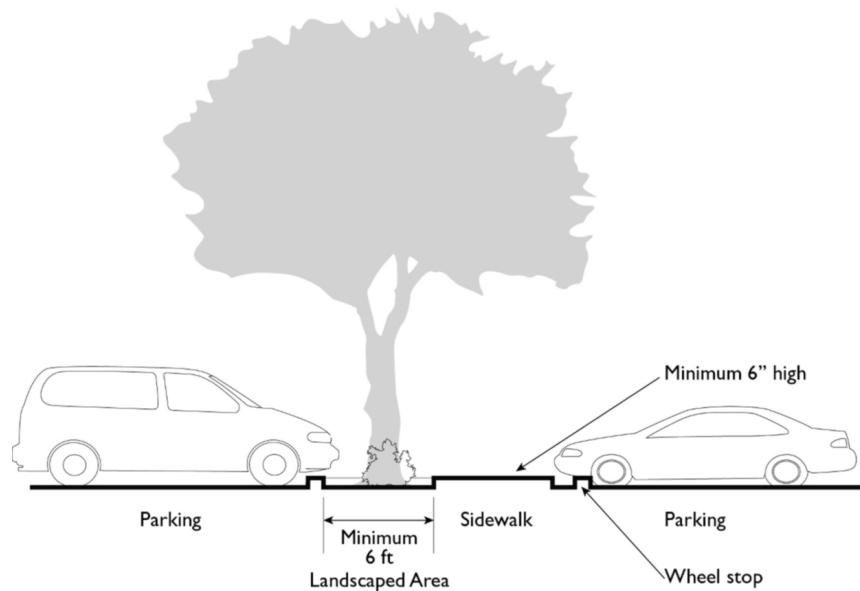
2. **Parking Spaces Abutting Wall or Fence.** Each parking space adjoining a wall, fence, column, or other obstruction higher than one-half (1/2) of one (1) foot in the vicinity of where a vehicle door may be located shall be increased to accommodate access to the vehicle through the door.
3. **Minimum Dimensions for Residential Garages and Carports.** Garages and carports serving residential uses shall be constructed to meet the following minimum inside dimensions and related requirements:
  - a. A single-car garage or carport: ten (10) feet in width by twenty (20) feet in length.
  - b. A two (2) car garage or carport: twenty (20) feet in width by twenty (20) feet in length for a standard garage, and ten (10) feet in width by forty (40) feet in length for a tandem garage.
  - c. A garage or carport containing three (3) or more spaces: nine (9) feet in width by nineteen (19) feet in length per space.
  - d. The vertical clearance for garage or carport parking spaces shall not be less than seven (7) feet.

Stairs may encroach into the parking area of a garage; provided, that the front end of a standard size automobile can fit under the stair projection. The bottom of the stairwell (including exterior finish) shall be a minimum of five (5) feet above the garage floor.

- G. **Parking Lot Striping.** All parking stalls shall be clearly outlined with striping, and all aisles, approach lanes, and turning areas shall be clearly marked with directional arrows and lines as necessary to provide for safe traffic movement.

H. Wheel Stops. Concrete bumper guards or wheel stops shall be provided for all unenclosed parking spaces on a site with ten (10) or more unenclosed parking spaces. A six (6) inch-high concrete curb surrounding a landscape area at least six (6) feet wide may be used as a wheel stop; provided, that the overhang will not damage or interfere with plant growth or its irrigation. A concrete sidewalk may be used as a wheel stop if the overhang will not reduce the minimum required walkway width.

**FIGURE 18.20.100-H: WHEEL STOPS**



I. Surfacing. All parking areas shall be paved and improved, and all sites shall be properly drained, consistent with California Regional Water Quality Control Board San Francisco Bay Region Municipal Regional Stormwater NPDES permit and subject to the approval of the City Engineer. No unpaved area shall be used for parking.

1. Cross-Grades. Cross-grades shall be designed for slower stormwater flow and to direct stormwater toward landscaping, bio-retention areas, or other water collection/treatment areas.
2. Landscaping Alternative. Up to two (2) feet of the front of a parking space as measured from a line parallel to the direction of the bumper of a vehicle using the space may be landscaped with ground cover plants instead of paving.
3. Permeable Paving. Permeable paving shall be used in all overflow parking areas and installed in accordance with manufacturer recommended specifications.
4. Turf Grids/Grassy Pavers. Turf grids/grassy pavers shall be installed in areas of low traffic or infrequent use wherever feasible.

J. Perimeter Curbing. A six (6) inch-wide and six (6) inch-high concrete curb shall be provided along the outer edge of the parking facility pavement, except where said pavement abuts a fence or wall. Curbs separating landscaped areas from parking areas shall be designed to allow stormwater runoff to pass through.

K. Heat Island Reduction. A heat island is the increase in ambient temperature that occurs over large paved areas compared to natural landscape. In order to reduce ambient surface temperatures in parking areas, at least fifty percent (50%) of the areas not landscaped shall be shaded, of light colored materials with a solar reflectance index of at least twenty-nine (29), or a combination of shading and light colored materials.

1. Shade may be provided by canopies, shade structures, trees, or other equivalent mechanism. If shade is provided by trees, the amount of required shading is to be reached within fifteen (15) years.
2. Trees shall be selected from a list maintained by the Planning Division.

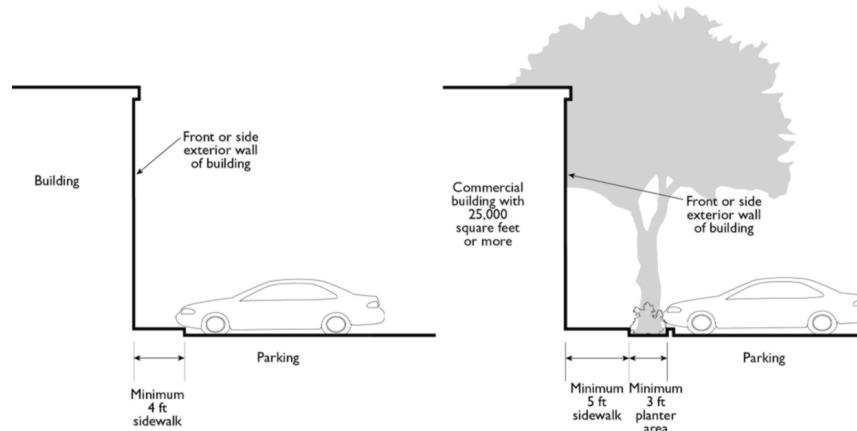
L. Lighting. Public parking areas designed to accommodate ten (10) or more vehicles shall be provided with a minimum of one-half (1/2) foot-candle and a maximum of three (3) foot-candles of light over the parking surface during the hours of use from one-half (1/2) hour before dusk until one-half (1/2) hour after dawn.

1. Lighting design shall be coordinated with the landscape plan to ensure that vegetation growth will not substantially impair the intended illumination.

2. Parking lot lighting shall, to the maximum extent feasible, be designed and installed so that light and glare is not directed onto residential use areas or adjacent public rights-of-way, consistent with Chapter 18.21, Performance Standards.

M. Separation from On-Site Buildings. Parking areas must be separated from the front and side exterior walls of on-site buildings by walkways a minimum of four (4) feet in width. Commercial buildings with twenty-five thousand (25,000) square feet or more of gross floor area must be separated from on-site parking on all sides by a walkway a minimum of five (5) feet in width, as well as a planter area at least three (3) feet in width. These requirements do not apply to parking areas containing five (5) or fewer spaces.

**FIGURE 18.20.100-M: SEPARATION FROM ON-SITE BUILDINGS**



N. Landscaping. Landscaping of parking areas shall be provided and maintained according to the general standards of Chapter 18.18, Landscaping, as well as the standards of this subsection for all uses except single-unit dwellings and duplexes.

1. Landscape Area Required. A minimum of ten percent (10%) of any parking lot area shall be landscaped.
2. Minimum Planter Dimension. No landscape planter that is to be counted toward the required landscape area shall be smaller than twenty-five (25) square feet in area, or four (4) feet in any horizontal dimension, excluding curbing.
3. Layout. Landscaped areas shall be well distributed throughout the parking lot area. Parking lot landscaping may be provided in any combination of:
  - a. Landscaped planting strips at least four (4) feet wide between rows of parking stalls;
  - b. Landscaped planting strips between parking areas and adjacent buildings or internal pedestrian walkways;
  - c. Landscaped islands located between parking stalls or at the ends of rows of parking stalls; and
  - d. On-site landscaping at the parking lot perimeter.
4. Required Landscaped Islands. A landscaped island at least six (6) feet in all interior dimensions and containing at least one (1) fifteen (15) gallon-size tree shall be provided at each end of each interior row of parking stalls and between every six (6) consecutive parking stalls.
5. Landscaped Buffer for Open Parking Adjacent to Right-of-Way. A landscaped area at least five (5) feet wide shall be provided between any surface parking area and any property line adjacent to a public street, unless a different dimension is specified in the base district standards applicable to a site.
6. Landscaped Buffer for Open Parking Abutting Interior Lot Line. A landscaped area at least three (3) feet wide shall be provided between any surface parking area and any adjacent lot for the length of the parking area.
7. Landscaped Buffer for Parking Garages. A parking garage that does not incorporate ground-floor nonresidential or residential use or is not otherwise screened or concealed at street frontages on the ground level must provide a

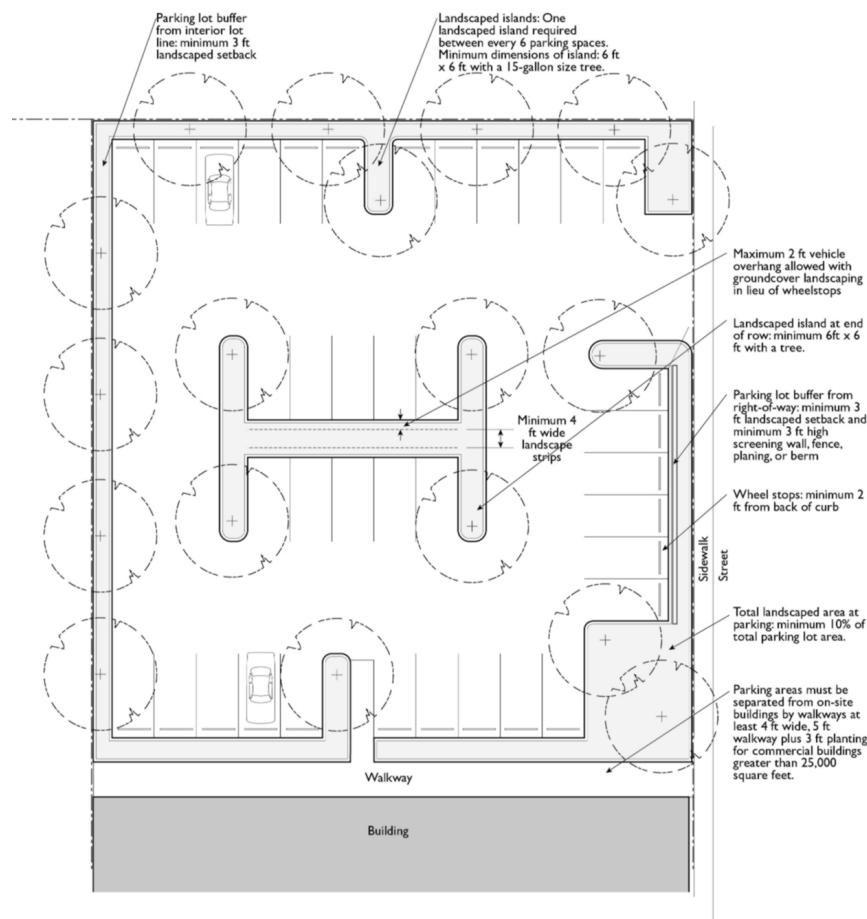
landscaped area at least ten (10) feet wide between the parking garage and public street.

8. Parking Garage Rooftop Planting. Uncovered parking on the top level of a parking structure shall have rooftop planters with a minimum dimension of twenty-four (24) inches around the entire perimeter of the top floor.

9. Trees.

- a. Number Required. One (1) for each five (5) parking spaces.
- b. Distribution. Trees shall be distributed relatively evenly throughout the parking area.
- c. Species. Tree species shall be selected from a list maintained by the Planning Division.
- d. Size. All trees shall be a minimum fifteen (15) gallon size with a one (1) inch diameter at forty-eight (48) inches above natural grade.
- e. Minimum Planter Size. Any planting area for a tree must have a minimum interior horizontal dimension of five (5) feet. Additional space may be required for some tree species.

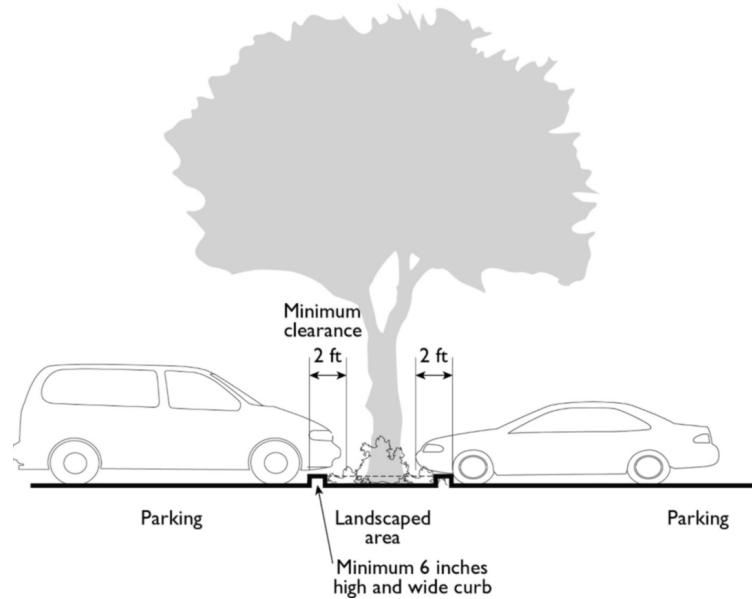
**FIGURE 18.20.100-N: PARKING LOT LANDSCAPING**



10. Protection of Vegetation.

- a. Clearance from Vehicles. All required landscaped areas shall be designed so that plant materials, at maturity, are protected from vehicle damage by providing a minimum two (2) foot clearance of low-growing plants where a vehicle overhang is permitted, or by wheel stops set a minimum of two (2) feet from the back of the curb.
- b. Planters. All required parking lot landscaping shall be within planters bounded by a concrete curb at least six (6) inches wide and six (6) inches high. Curbs separating landscaped areas from parking areas shall be designed to allow stormwater runoff to pass through.

**FIGURE 18.20.100-N(10): PROTECTION OF VEGETATION**



11. **Visibility and Clearance.** Landscaping in planters at the end of parking aisles shall not obstruct driver's vision of vehicular and pedestrian cross-traffic. Mature trees shall have a foliage clearance maintained at eight (8) feet from the surface of the parking area. Other plant materials located in the interior of a parking lot shall not exceed thirty (30) inches in height.

**O. Screening.** Parking areas shall be screened from view from public streets and adjacent lots in a more restrictive district, according to the following standards:

1. **Height.** Screening of parking lots from adjacent public streets shall be three (3) feet in height. Screening of parking lots along interior lot lines that abut residential districts shall be six (6) feet in height, except within the required front setback of the applicable zoning district, where screening shall be three (3) feet in height.

2. **Materials.** Screening may consist of one (1) or any combination of the methods listed below:

- a. **Walls.** Low-profile walls consisting of brick, stone, stucco, or other quality durable material approved by the Director, and including a decorative cap or top finish as well as edge detail at wall ends. Plain concrete blocks are not allowed as a screening wall material unless capped and finished with stucco or other material approved by the Director.
- b. **Fences.** An open fence of wrought iron or similar material combined with plant materials to form an opaque screen. Use of chain-link or vinyl fencing for screening purposes is prohibited.
- c. **Planting.** Plant materials consisting of compact evergreen plants that form an opaque screen. Such plant materials must achieve a minimum height of two (2) feet within eighteen (18) months after initial installation.
- d. **Berms.** Berms planted with grass, ground cover, or other low-growing plant materials.

**P. Circulation and Safety.**

1. Visibility shall be assured for pedestrians, bicyclists, and motorists entering individual parking spaces, circulating within a parking facility, and entering or leaving a parking facility.
2. Off-street parking areas of four (4) or more spaces shall be provided with sufficient maneuvering room so that all vehicles can enter and exit from a public street by forward motion only.
3. Parking lots shall be designed so that sanitation, emergency, and other public service vehicles can provide service without backing unreasonable distances or making other dangerous or hazardous turning movements.
4. Separate vehicular and pedestrian circulation systems shall be provided where possible. Multi-unit residential developments of five (5) or more units must provide pedestrian access that is separate and distinct from driveways. Parking areas for commercial and mixed-use developments that are eighty (80) feet or more in depth and/or include

twenty-five (25) or more parking spaces must have distinct and dedicated pedestrian access from the commercial use to parking areas and public sidewalks, according to the following standards:

- a. Connection to Public Sidewalk. An on-site walkway shall connect the main building entry to a public sidewalk on each street frontage. Such walkway shall be the shortest practical distance between the main building entry and sidewalk, generally no more than one hundred twenty-five percent (125%) of the straight-line distance.
- b. Materials and Width. Walkways shall provide at least five (5) feet of unobstructed width and be hard-surfaced.
- c. Identification. Pedestrian walkways shall be clearly differentiated from driveways, parking aisles, and parking and loading spaces through the use of elevation changes, a different paving material, or similar method.
- d. Separation. Where a pedestrian walkway is parallel and adjacent to an auto travel lane, it must be raised and separated from the auto travel lane by a raised curb at least four (4) inches high, bollards, or other physical barrier.

Q. Alternative Parking Area Designs. Where an applicant can demonstrate to the satisfaction of the Director that variations in the dimensions otherwise required by this section are warranted in order to achieve environmental design and green building objectives, including but not limited to achieving certification under the LEED Green Building Rating System or equivalent, an alternative parking area design may be approved.

R. Maintenance. Parking lots, including landscaped areas, driveways, and loading areas, shall be maintained free of refuse, debris, or other accumulated matter and shall be kept in good repair at all times. (Ord. 1603 § 3 (Exh. A), 2023; Ord. 1596 § 6 (Exh. A), 2023; Ord. 1537 (Exh. C (part)), 2018; Ord. 1480 (Exh. C (part)), 2015; Ord. 1438 § 4 (Exh. A (part)), 2011)

## **Chapter 18.21 PERFORMANCE STANDARDS Revised 1/24**

Sections:

**18.21.010 Purpose.**

**18.21.020 Applicability.**

**18.21.030 General standard.**

**18.21.040 Location of measurement for determining compliance.**

**18.21.050 Noise.** Revised 1/24

**18.21.060 Vibration.**

**18.21.070 Odors.**

**18.21.080 Heat and humidity.**

**18.21.090 Air contaminants.**

**18.21.100 Liquid or solid waste.**

**18.21.110 Fire and explosive hazards.**

**18.21.120 Hazardous and extremely hazardous materials.**

**18.21.130 Electromagnetic interference.**

**18.21.140 Radioactivity.**

**18.21.150 San Carlos Airport land use compatibility plan consistency.** Revised 1/24

**18.21.010 Purpose.**

The purposes of this chapter are to:

- A. Establish permissible limits and permit objective measurement of nuisances, hazards, and objectionable conditions;
- B. Ensure that all uses will provide necessary control measures to protect the community from nuisances, hazards, and objectionable conditions;

- C. Protect industry from arbitrary exclusion from areas of the City; and
- D. Protect and sustain the natural environment by promoting conservation of energy and natural resources, improving waste stream management, and reducing emission of greenhouse gases. (Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.21.020 Applicability.**

The minimum requirements in this chapter apply to all land uses in all zoning districts, unless otherwise specified. (Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.21.030 General standard.**

Land or buildings shall not be used or occupied in a manner creating any dangerous, injurious, or noxious fire, explosive or other hazard that would adversely affect the surrounding area. (Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.21.040 Location of measurement for determining compliance.**

Measurements necessary for determining compliance with the standards of this chapter shall be taken at the lot line of the establishment or use that is the source of a potentially objectionable condition, hazard, or nuisance. (Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.21.050 Noise. Revised 1/24**

A. Noise Limits. No use or activity shall create noise levels that exceed the following standards. The maximum allowable noise levels specified in Table 18.21.050-A, Noise Limits, do not apply to noise generated by automobile traffic or other mobile noise sources in the public right-of-way.

**TABLE 18.21.050-A: NOISE LIMITS**

Land Use Receiving the Noise	Noise-Level Descriptor	Exterior Noise Level Standard in Any Hour (dBA)		Interior Noise-Level Standard in Any Hour (dBA)	
		Daytime (7 a.m. – 10 p.m.)	Nighttime (10 p.m. – 7 a.m.)	Daytime (7 a.m. – 10 p.m.)	Nighttime (10 p.m. – 7 a.m.)
Residential	$L_{50}$	55	45	40	30
	$L_{max}$	70	60	55	45
Medical, convalescent	$L_{50}$	55	45	45	35
	$L_{max}$	70	60	55	45
Theater, auditorium	$L_{50}$	-	-	35	35
	$L_{max}$	-	-	50	50
Church, meeting hall	$L_{50}$	55	-	40	40
	$L_{max}$	-	-	55	55
School, library, museum	$L_{50}$	55	-	40	-
	$L_{max}$	-	-	55	-

1. Adjustments to Noise Limits. The maximum allowable noise levels of Table 18.21.050-A, Noise Limits, shall be adjusted according to the following provisions. No more than one increase in the maximum permissible noise level shall be applied to the noise generated on each property.
  - a. Ambient Noise. If the ambient noise level at a noise-sensitive use is ten dBA or more below the standard, the allowable noise standard shall be decreased by five decibels.
  - b. Duration. The maximum allowable noise level ( $L_{50}$ ) shall be increased as follows to account for the effects of duration:
    - i. Noise that is produced for no more than a cumulative period of fifteen minutes in any hour may exceed the noise limit by five decibels; and

- ii. Noise that is produced for no more than a cumulative period of five minutes in any hour may exceed the noise limits by ten decibels;
- iii. Noise that is produced for no more than a cumulative period of one minute in any hour may exceed the noise limits by fifteen decibels.
- c. Character of Sound. If a noise contains a steady audible tone or is a repetitive noise (such as hammering or riveting) or contains music or speech conveying informational content, the maximum allowable noise levels shall be reduced by five decibels.
- d. Prohibited Noise. Noise for a cumulative period of thirty minutes or more in any hour which exceeds the noise standard for the receiving land use.

B. Noise Exposure—Land Use Requirements and Limitations. Table 18.21.050-B, Noise Exposure—Land Requirements and Limitations, describes the requirements and limitations of various land uses within the listed day/night average sound level (Ldn) ranges.

**TABLE 18.21.050-B: NOISE EXPOSURE—LAND USE REQUIREMENTS AND LIMITATIONS**

Land Use	Day/Night Average Sound Level (Ldn)	Requirements and Limitations
Residential (1) and Other Noise-Sensitive Uses (e.g., Schools, Hospitals, and Churches)	Less than 60	Satisfactory
	60 to 75	Acoustic study and noise attenuation measures required
	Over 75	Acoustic study and noise attenuation measures required
Auditoriums, Concert Halls, Amphitheaters	Less than 70	Acoustic study and noise attenuation measures required
	Over 70	Not allowed
Commercial and Industrial	Less than 70	Satisfactory
	70 to 80	Acoustic study and noise attenuation measures required
	Over 80	Airport-related development only; noise attenuation measures required
Outdoor Sports and Recreation, Parks	Less than 65	Satisfactory
	65 to 80	Acoustic study and noise attenuation measures required; avoid uses involving concentrations of people or animals
	Over 80	Limited to open space; avoid uses involving concentrations of people or animals

Notes:

1. New residential development in noise impacted areas are subject to the following noise levels:
  - a. For new single-unit residential development, maintain a standard of 60 Ldn for exterior noise in private use areas.
  - b. For new multi-unit residential development, maintain a standard of 65 Ldn in community outdoor recreation areas. Noise standards are not applied to private decks and balconies and shall be considered on a case-by-case basis in the MU-DC District.
  - c. Where new residential units (single and multifamily) would be exposed to intermittent noise levels generated during train operations, maximum railroad noise levels inside homes shall not exceed forty-five dBA in bedrooms or fifty-five dBA in other occupied spaces. These single-event limits are only applicable where there are normally four or more train operations per day.

C. Acoustic Study. The Director may require an acoustic study for any proposed project that could cause any of the following:

1. Create an inconsistency with the noise requirements of the San Carlos Airport as defined in Section 18.21.150, San Carlos Airport land use compatibility plan consistency;

- a. Where applicable, noise attenuation measures may be required;
2. Cause noise levels to exceed the limits in Table 18.21.050-A;
3. Create a noise exposure that would require an acoustic study and noise attenuation measures listed in Table 18.21.050-B, Noise Exposure—Land Use Requirements and Limitations; or
4. Cause the Ldn at noise-sensitive uses to increase three dBA or more.

D. Establishing Ambient Noise. When the Director has determined that there could be cause to make adjustments to the standards, an acoustical study shall be performed to establish ambient noise levels. In order to determine if adjustments to the standards should be made either upwards or downwards, a minimum twenty-four-hour-duration noise measurement shall be conducted. The noise measurements shall collect data utilizing noise metrics that are consistent with the noise limits presented in Table 18.21.050-A, e.g.,  $L_{max}$  (zero minutes),  $L_{02}$  (one minute),  $L_{08}$  (five minutes),  $L_{25}$  (fifteen minutes) and  $L_{50}$  (thirty minutes). An arithmetic average of these ambient noise levels during the three quietest hours shall be made to demonstrate that the ambient noise levels are regularly ten or more decibels below the respective noise standards. Similarly, an arithmetic average of ambient noise levels during the three loudest hours should be made to demonstrate that ambient noise levels regularly exceed the noise standards.

E. Noise Attenuation Measures. Any project subject to the acoustic study requirements of subsection C of this section may be required as a condition of approval to incorporate noise attenuation measures deemed necessary to ensure that noise standards are not exceeded.

1. New noise-sensitive uses (e.g., schools, hospitals, churches, and residences) shall incorporate noise attenuation measures to achieve and maintain an interior noise level of forty-five dBA.
2. Noise attenuation measures identified in an acoustic study shall be incorporated into the project to reduce noise impacts to satisfactory levels.
3. Emphasis shall be placed upon site planning and project design measures. The use of noise barriers shall be considered and may be required only after all feasible design-related noise measures have been incorporated into the project.

F. Airport Land Use Compatibility Plan Consistency. Where required, conformance with applicable airport land use compatibility plan standards, as described in Section 18.21.150, San Carlos Airport land use compatibility plan consistency, is required. (Ord. 1606 (Exh. A), 2023; Ord. 1438 § 4 (Exh. A (part)), 2011)

#### **18.21.060 Vibration.**

No vibration shall be produced that is transmitted through the ground and is discernible without the aid of instruments by a reasonable person at the lot lines of the site. Vibrations from temporary construction, demolition, and vehicles that enter and leave the subject parcel (e.g., construction equipment, trains, trucks, etc.) are exempt from this standard. (Ord. 1438 § 4 (Exh. A (part)), 2011)

#### **18.21.070 Odors.**

No use, process, or activity shall produce objectionable odors that are perceptible without instruments by a reasonable person at the lot lines of a site. Odors from temporary construction, demolition, and vehicles that enter and leave the site (e.g., construction equipment, trains, trucks, etc.) are exempt from this standard. (Ord. 1438 § 4 (Exh. A (part)), 2011)

#### **18.21.080 Heat and humidity.**

Uses, activities, and processes shall not produce any emissions of heat or humidity that cause distress, physical discomfort, or injury to a reasonable person, or interfere with ability to perform work tasks or conduct other customary activities. In no case shall heat emitted by a use cause a temperature increase in excess of five degrees Fahrenheit on another property. (Ord. 1438 § 4 (Exh. A (part)), 2011)

#### **18.21.090 Air contaminants.**

A. General Standards. Uses, activities, and processes shall not operate in a manner that emits excessive dust, fumes, smoke, or particulate matter, excluding standards set under State and Federal law.

B. Compliance. Sources of air pollution shall comply with all rules established by the Environmental Protection Agency (Code of Federal Regulations, Title 40), the California Air Resources Board, and the Bay Area Air Quality Management District (BAAQMD).

C. BAAQMD Permit. Operators of activities, processes, or uses that require approval to operate from the BAAQMD shall file a copy of the permit with the Planning Division within thirty days of permit approval. Ord. 1480 (Exh. C (part)), 2015; (Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.21.100 Liquid or solid waste.**

A. Discharges to Water or Sewers. Liquids and solids of any kind shall not be discharged, either directly or indirectly, into a public or private body of water, sewage system, watercourse, or into the ground, except in compliance with applicable regulations of the California Regional Water Quality Control Board (California Administrative Code, Title 23, Chapter 3 and California Water Code, Division 7).

B. Solid Wastes. Solid wastes shall be handled and stored so as to prevent nuisances, health, safety and fire hazards, and to facilitate recycling. There shall be no accumulation outdoors of solid wastes conducive to the breeding of rodents or insects, unless stored in closed containers. (Ord. 1480 (Exh. C (part)), 2015: Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.21.110 Fire and explosive hazards.**

All activities, processes and uses involving the use of, or storage of, flammable and explosive materials shall be provided with adequate safety devices against the hazard of fire and explosion. Fire fighting and fire suppression equipment and devices standard in industry shall be approved by the Fire Department. All incineration is prohibited with the exception of those substances such as, but not limited to, chemicals, insecticides, hospital materials and waste products, required by law to be disposed of by burning, and those instances wherein the Fire Department deems it a practical necessity. (Ord. 1480 (Exh. C (part)), 2015: Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.21.120 Hazardous and extremely hazardous materials.**

The use, handling, storage and transportation of hazardous and extremely hazardous materials shall comply with the provisions of the California Hazardous Materials Regulations and the California Fire and Building Codes, as well as the laws and regulations of the California Department of Toxic Substances Control and the County Environmental Health Agency. Activities, processes, and uses shall not generate or emit any fissionable or radioactive materials into the atmosphere, a sewage system or onto the ground. (Ord. 1480 (Exh. C (part)), 2015: Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.21.130 Electromagnetic interference.**

No use, activity or process shall cause electromagnetic interference with normal radio and television reception in any residential district, or with the function of other electronic equipment beyond the lot line of the site in which it is situated. All uses, activities and processes shall comply with applicable Federal Communications Commission regulations. (Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.21.140 Radioactivity.**

No radiation of any kind shall be emitted that is dangerous to humans. (Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.21.150 San Carlos Airport land use compatibility plan consistency. Revised 1/24**

This section establishes standards and requirements related to consistency within the County of San Mateo's Comprehensive Airport Land Use Compatibility Plan for the Environs of San Carlos Airport (ALUCP). The ALUCP outlines the following requirements and criteria for proposed development projects, alterations, or changes of use that are subject to the ALUCP:

A. Safety Compatibility Evaluation. All proposed development projects, alterations, or changes of use subject to the ALUCP will be reviewed for consistency with the County of San Mateo's Safety Compatibility Policies of the ALUCP. Project applicants shall be required to evaluate potential safety issues if the property is located within any of the safety compatibility zones established in the ALUCP.

B. Airspace Protection Evaluation. All proposed development projects, alterations, or changes of use subject to the ALUCP will be reviewed for consistency with Airspace Protection Policies of the ALUCP. These include notice of proposed construction or alteration, maximum compatible building height and other flight hazards and aviation easement requirements of San Carlos ALUCP Airspace Protection Policy 7.

C. Airport Noise Evaluation and Mitigation. All proposed development projects, alterations, or changes of use subject to the ALUCP will be reviewed for consistency with the noise policies of the ALUCP, including the aviation easement requirements of San Carlos ALUCP Noise Policy 7. Uses listed as "conditionally compatible" in the ALUCP will be required to mitigate impacts to comply with the interior noise standards established in the ALUCP or General Plan, whichever is more restrictive.

D. Airport Real Estate Disclosure Notices. Proximity to the airport could affect allowable development and uses. All proposed developments, alterations, or changes of use that are subject to the ALUCP are required to comply with the real estate

disclosure requirements of State law (California Business and Professions Code Section 11010(b)(13)). The following statement by the seller must be included in the notice of intention to offer the property for sale or lease:

Notice of Airport in Vicinity. This property is presently located in the vicinity of an airport, within what is known as an airport influence area. For that reason, the property may be subject to some of the annoyances or inconveniences associated with proximity to airport operations (for example: noise, vibration, or odors). Individual sensitivities to those annoyances can vary from person to person. You may wish to consider what airport annoyances, if any, are associated with the property before you complete your purchase and determine whether they are acceptable to you.

E. Overflight Notification Requirement. All new residential development projects, other than additions and accessory dwelling units (ADUs), within Overflight Notification Zone 2 shall incorporate a recorded overflight notification requirement as a condition of approval in order to provide a permanent form of overflight notification to all future property owners, consistent with ALUCP Overflight Policies.

F. Federal Aviation Administration (FAA) Requirements. Proof of consistency with FAA rules and regulations must be provided through one (1) of the following ways:

1. A Federal Aviation Administration Review Not Required Form must be signed prior to issuance of building permit.
2. Receive a determination of no hazard by the FAA after submittal of FAA Form 7460-1, Notice of Proposed Construction. Instructions and additional information on Form 7460 can found within the ALUCP and on the FAA's website.

G. Local Agency Override of an Airport Land Use Commission Determination. A process under which the City Council may overrule certain Airport Land Use Commission determinations under certain circumstances is established in Sections 21675.1(d), 21676(b) and 21676(c) of the Public Utilities Code and outlined in the ALUCP.

H. Required Disclosures. In the event of local override action of an Airport Land Use Commission determination, disclosures may be required from property owners as a condition of approval for any use listed as conditional in the ALUCP noise or safety compatibility zone that corresponds with the site of the proposed project, including childcare, congregate care facilities, etc. Property owners are encouraged to provide appropriate notices to their tenants. (Ord. 1606 (Exh. A), 2023; Ord. 1438 § 4 (Exh. A (part)), 2011)

## **Chapter 18.22 SIGNS**

Sections:

**18.22.010 Title, authority, purpose, scope.**

**18.22.020 General provisions.**

**18.22.030 Definitions.**

**18.22.040 Examples of sign types.**

**18.22.050 Permits and appeals.**

**18.22.060 General regulations.**

**18.22.070 Signs exempt from the sign permit requirement.**

**18.22.080 Permanent signs on nonresidential properties.**

**18.22.090 Maximum number and size of signs.**

**18.22.100 Temporary signage.**

**18.22.110 Prohibited signs.**

**18.22.120 Historical signs.**

**18.22.130 Residential signs.**

**18.22.140 Violations.**

**18.22.010 Title, authority, purpose, scope.**

- A. Title. This chapter shall be known as the sign ordinance of the City of San Carlos, California.
- B. Authority. This chapter is enacted pursuant to the following provisions of State law: the California Constitution, Article XI, Section 7; Government Code Sections 65000 et seq., 65850(b), 38774, and 38775; Business and Professions Code Sections 5200 et seq. and 5490 et seq.; Civil Code Section 713; Penal Code Section 556 et seq.; as well as the City's inherent police and zoning powers.
- C. Purpose. This chapter sets forth a comprehensive system for the regulation of signs which are within the corporate limits of the City. This chapter governs the number, size, type, location, and physical aspects of signs. By adopting this chapter, the City Council intends to serve and advance various public and governmental interests, which include, but are not limited to, the following:
1. To protect the right to free speech by the display of protected message(s) on a sign, while balancing this right against public interests;
  2. To implement the sign-related goals, strategies and policies of the General Plan;
  3. To reduce hazards that may be caused or worsened by driver and pedestrian distraction caused by signs, especially those projecting over public rights-of-way or near roadway intersections;
  4. To preserve and enhance the aesthetic and environmental values of the community, while at the same time providing adequate channels of communication to the public;
  5. To reduce excessive and confusing sign displays;
  6. To preserve and improve the appearance of the City as a place in which to live and to work and as an attraction to nonresidents who come to visit or trade;
  7. To safeguard and improve property values;
  8. To reduce "visual shouting matches" and visual clutter by setting reasonable time, place and manner limits on sign displays, which apply equally to all persons who are similarly situated;
  9. To protect the peaceful, quiet, residential nature of neighborhoods from intrusion or degradation by inappropriate commercial signage;
  10. To protect public and private investment in buildings and open spaces;
  11. To state and enforce City policies regarding new billboards;
  12. To promote the public health, safety and general welfare;
  13. To state policies regarding private party signs on City-owned property and public rights-of-way.

D. Scope. As to signs on private property, this chapter is regulatory; it does not abrogate, override, limit, modify or nullify any easements, covenants, leases or other existing private agreements which are more restrictive than this chapter. Except as to new billboards on City property authorized under Chapter 12.28, this chapter does not regulate signs that are displayed on public streets, sidewalks, and public spaces; those matters are covered by Title 12. This chapter does not modify State or Federal laws pertaining to the regulation or display of signs. (Ord. 1497 § 3 (Exh. A (part)), 2015: Ord. 1466 § 3 (Exh. A (part)), 2013: Ord. 1438 § 4 (Exh. A (part)), 2011: Ord. 1415 § 4 (Exh. A (part)), 2010. Formerly 18.150.010)

#### **18.22.020 General provisions.**

- A. Compliance Required. Signs may be erected, installed or displayed only in compliance with this chapter. Unless explicitly exempted from the permit requirement, signs may be displayed only pursuant to a sign permit or other approval, and in compliance with all other applicable permit requirements. A sign that is exempt from the sign permit requirement may still be subject to other permit requirements or legal approvals, including those required by governmental or regulatory agencies other than the City.
- B. Responsibility for Compliance. The responsibility for compliance with this chapter rests jointly and severally upon the sign owner, the sign operator (if different from the sign owner), all parties holding the present right of possession and control of the property whereon a sign is located, mounted or installed, and the legal owner of the lot or parcel, even if the sign was mounted,

installed, erected or displayed without the consent of the owner and/or other parties holding the legal right to immediate possession and control.

C. Violations. When a sign is displayed in violation of the rules of this chapter, or in violation of other applicable laws, rules, regulations, or policies regarding signs, each day is a separate violation.

D. Enforcement. The Director is authorized and directed to enforce and administer this chapter.

E. Interpretations. The Director, in consultation with the City Attorney, shall interpret this chapter as the need for interpretation arises, including for application to specific issues and proposed signs; such interpretations may be appealed first to the Planning Commission and then to the City Council. All interpretations are to be made in light of the policies of message neutrality and message substitution, and the overall purposes and intent of this chapter.

F. Message Neutrality. It is the City's policy and intent to regulate signs in a manner consistent with the U.S. and California Constitutions, and which is content-neutral as to protected noncommercial speech.

G. Message Substitution. Subject to the property owner's consent, a protected noncommercial message of any type may be substituted, in whole or in part, for the message displayed on any sign for which the sign structure or mounting device is legal, without consideration of message content. Such substitution of message may be made without any additional approval, permitting, registration or notice to the City. The purpose of this provision is to prevent any inadvertent favoring of commercial speech over noncommercial speech, or favoring of any particular noncommercial message over any other noncommercial message.

1. Whenever a given parcel or land use has not used all of its permissible sign area, then the unused portion may be exercised for the display of signs displaying noncommercial messages; in such a case, a permit is required only if the sign qualifies as a structure that is subject to a building permit under the Building Code.

2. Any on-site commercial message may be substituted, in whole or in part, for any other on-site commercial message; provided, that the sign structure or mounting device is legal without consideration of message content.

3. This message substitution provision does not:

- a. Create a right to increase the total amount of signage on a parcel, lot or land use;
- b. Affect the requirement that a sign structure or mounting device be properly permitted;
- c. Allow a change in the physical structure of a sign or its mounting device; or
- d. Authorize the substitution of an off-site commercial message in place of an on-site commercial message or in place of a noncommercial message.

H. Discretionary Approvals. Whenever any sign permit, variance, conditional use permit, sign program, or other sign-related decision is made by any exercise of official discretion, such discretion shall be limited to the noncommunicative aspects of the sign, as defined herein, architectural compatibility of the proposed sign with the surrounding area, and other factors listed in this chapter.

1. When discretion is authorized, it may be exercised to the following factors, as applicable:

- a. Style or character of existing improvements upon the site and lots adjacent to the site;
- b. Construction materials and details of structural design;
- c. The number and spacing of signs in the area;
- d. The sign's display area, height, and location in relation to its proposed use;
- e. The sign's relationship with other nearby signs, other elements of street and site furniture and adjacent structures;
- f. Form, proportion, and scale;
- g. Potential effect of the proposed sign on driver and pedestrian safety;

- h. Potential blocking of view (whole or partial) of a structure or facade or public view of historical, cultural or architectural significance;
  - i. Potential obstruction of views of users of adjacent buildings to side yards, front yards, open space, or parks; and
  - j. Potential negative impact on visual quality of public spaces.
2. Discretion may not be exercised as to the graphic design or message content of the subject sign; however, graphic design themes, including color and coverage ratios, may be evaluated for sign programs, but then only as to commercial messages on signs within the area subject to the sign program.

I. Prospective Regulation. This chapter applies to signs that may be proposed or erected in the future, including those for which applications may be pending or anticipated at the time of adoption of this chapter. It also applies to existing signs which are not legal under prior law. All existing legal signs may continue in use, but any change in use must comply with this chapter.

J. On-Site/Off-Site Distinction. Within this chapter, the distinction between on-site signs and off-site signs applies only to commercial speech messages. It does not apply to signs displaying noncommercial messages or messages providing factual direction information.

K. Noncommunicative Aspects. All rules and regulations concerning the noncommunicative aspects of signs, such as location, size, height, illumination, spacing, orientation, etc., stand enforceable independently of any permit or approval process.

L. Legal Nature of Sign Rights and Duties. As to all signs attached to real property, the signage rights, duties and obligations arising from this chapter attach to and travel with the land or other property on which a sign is mounted, installed or displayed. A sign permit is an official authorization of legal right to a certain use of a particular parcel of land; it is not a certificate of ownership. This provision does not modify or affect the law of fixtures, sign-related provisions in private leases (so long as they are not in conflict with this chapter or other applicable law), or the ownership of sign structures. This provision does not apply to temporary handheld signs or visual images that are aspects of personal appearance. This provision does not prevent a sign owner from removing a sign structure from a given location and installing it in another location, so long as all then-current legal requirements applicable to the new location are satisfied.

M. Owner's Consent. No sign may be placed on private property without the consent of the legal owner of the property and all persons holding the present right of possession and control.

N. Signs as Accessory Uses. Unless otherwise provided herein, permanent structure signs displaying commercial messages are to be accessories to, auxiliary to, or appurtenant to another main, principal or primary use on the same parcel.

O. Policy Regarding New Billboards. Except as authorized on City property under Chapter 12.28, new billboards, as defined herein, are prohibited. The City completely prohibits the construction, erection or use of any new billboards. This policy does not affect existing, legal billboards, or new billboards authorized by Chapter 12.28, or prevent relocation agreements, as authorized by Business and Professions Code Section 5412, so long as such agreements are not contrary to other applicable law. This policy does not prohibit permanent directional signs that are under four square feet in area, are allowed pursuant to the provisions of this chapter or otherwise conform to the current edition of the Manual on Uniform Traffic Control Devices. Violation of this policy is declared to be a public nuisance that may be abated by any method authorized by law.

1. Billboard Policy—Severability. In adopting the “no new billboards” provision, the City Council affirmatively declares that it would have adopted this billboard policy even if it were the only provision in this chapter. The City Council intends for this billboard policy to be severable and separately enforceable even if other provision(s) of this chapter may be declared, by a court of competent jurisdiction, to be unconstitutional, invalid or unenforceable.

P. Mixed-Use Zones. In any zoning district where both residential and nonresidential land uses are allowed, the sign-related rights and responsibilities applicable to any particular parcel or land use shall be determined as follows: residential uses shall be treated as if they were located in a zone where a use of that type would be allowed as a matter of right, and nonresidential uses shall be treated as if they were located in a zone where that particular use would be allowed, either as a matter of right or subject to a conditional use permit or similar discretionary process. (Ord. 1497 § 3 (Exh. A (part)), 2015: Ord. 1466 § 3 (Exh. A (part)), 2013: Ord. 1438 § 4 (Exh. A (part)), 2011: Ord. 1415 § 4 (Exh. A (part)), 2010. Formerly 18.150.015)

#### **18.22.030 Definitions.**

The following definitions apply to this chapter:

"A-frame" and "I-frame" signs mean portable freestanding signs mounted on one or two connected surfaces spread so the message may be read from different directions.

"Advertising message" means any visual image displayed for the purpose of attracting the attention of the public or potential customers, or communicating a commercial message. Noncommercial messages are not within this definition.

"Animated sign, readerboard" means a sign in which the sign copy can be changed.

"Apartment or multifamily identification sign" means a sign identifying an apartment or multifamily building.

"Awning sign" means a sign painted, printed or affixed to an awning.

"Barber pole" means a rotating or stationary cylindrical pole in a traditional red, white, and blue spiral striped design that identifies the premises as a barber shop.

"Base of the sign structure" means the structural component of a freestanding sign located below the display surface.

"Billboard" means a permanent structure sign in a fixed location, which meets any one or more of the following criteria:

1. It is intended to be used for, or is actually used for, the display of general advertising or general advertising for hire;
2. It is used for or intended to be used for the display of commercial advertising messages which pertain to products and/or services which are offered at a different location, also known as off-site commercial messages;
3. It constitutes a separate principal use of the property, in contrast to an auxiliary, accessory or appurtenant use of the principal use of the property.

"Billboard vehicle" means any wheeled vehicle used primarily for the display of general advertising or general advertising for hire, by means of traversing upon any public street or parking on any public street in a manner that the advertising image(s) on the vehicle are visible from any portion of the public right-of-way. Also known as "sign truck" or "billboard truck." This definition does not apply to vehicles displaying images related to the same business or establishment of which the vehicle is an operating instrument, such as, by way of example and not limitation, an advertisement for a grocery store on a truck delivering merchandise to that store. Also, it does not apply to vehicles which are on the public road for the primary purpose of transportation, such as taxis and buses, even if such vehicles display general advertising.

"Church sign" means a sign displayed on the premises of a church, synagogue, temple, mosque, sanctuary, or other religiously oriented meeting facility.

"City" means the City of San Carlos, California.

"Commercial mascot" means a live person or animal attired in commercial speech imagery, in public view, for the principal purpose of attracting attention to the commercial imagery.

"Commercial message" means a message which is primarily concerned with debate in the marketplace of goods and services, or the economic interests of the speaker and/or the audience, or which proposes a commercial transaction. Contrast: "noncommercial message."

"Construction site sign" means a temporary sign displayed on the site of an ongoing construction project, during the time which begins when all necessary permits and approvals have been granted and ending with the latest of: a certificate of completion, a final inspection, or a certificate of occupancy, or the functional equivalent of any of them.

"Digital display" means a device which allows the image on a sign to be changed by electronic control methods; such devices typically use light emitting diodes or their functional equivalent to create the visible image. Both slide show type and moving image type displays are within this definition.

"Digital sign" means a sign which uses a digital display device to present the visual image to the public.

"Direct illumination" means a light source by which the light rays go through the face of the sign from behind; the term "illuminated" includes tubing and strings of lights.

"Directional sign" means a sign which serves primarily to provide directional information and which does not include commercial messages or images.

"Director" means the City's Planning Director. The term includes all delegates and designees.

"Directory sign" means a sign listing the names and locations of occupants.

"Display face" means that portion of a sign upon which is mounted or attached the visually communicative image. Contrast: "noncommunicative aspects."

"Double-sided" or "double-faced sign" means a sign that has two display surfaces connected on one edge, with the display faces visible only from different angles or locations.

"Election period" means the time which begins sixty calendar days before any special, general, or primary election in which at least some residents of San Carlos are eligible to vote, and ends seven calendar days after such election.

"Establishment" means a use of land other than residential, agricultural, or nature preservation, involving the use of a permanent structure which is subject to the safety codes, and the typical presence of live humans for at least ten hours per week. By way of example and not limitation, this definition includes businesses, factories, warehouses, hospitals, libraries, amusement parks, theaters, meeting halls, and churches, but does not include dwelling units, automated facilities (such as power transmitting stations or broadcasting towers), or raw land without improvements.

"Flag" means any fabric, textile, or material of any shape or size, with colors and/or patterns, which displays a symbol of a nation, state, company, or idea. Includes pennants even if they do not display a visual image separate from the fabric.

"Flashing sign" means a sign which produces intermittent illumination, revolving or rotating lighting, or constant lighting whereby the brilliance is varied by mechanical or other means.

"Freestanding sign" means a sign supported primarily by one or more uprights, poles, piers, pylons or braces in or upon the ground, in contrast to receiving primary support from a wall, fence, window, roof or other stable structure. This definition applies even when the pole or poles are covered with skirting or cladding. Monuments and pole signs are types of freestanding signs.

Frontage, Primary. See "primary business frontage."

Frontage, Secondary. See "secondary business frontage."

"Garage sale sign" means a sign pertaining to the occasional sale, from a residence, of used or handmade goods. Signs pertaining to similar events, such as yard sales and moving sales, are within this definition. Auctions, estate sales and other sales conducted by licensed or bonded professionals, from a residential location, are within this definition.

"Gasoline price sign" means a sign identifying the grade and/or type and price of gasoline sold on the premises.

"General advertising" means the business or enterprise of making a sign display face available to a variety of advertisers, whether they be businesses or other establishments. This definition applies even when the display face is donated or made available at a reduced rate or for in-kind consideration. Also known as "general advertising for hire." General advertising is in contrast to self-promotion advertising.

Governmental or Other Sign Required by Law. See "official sign."

"Graphic design" means the lettering, logos, pictures, symbols, patterns, depictions, and colors on a sign. Also known as sign copy or ad copy.

"Identification sign" means a sign that indicates the occupation conducted on the premises, or the occupant of the premises.

"Illuminated sign" means a sign where an artificial source of light is used to make the message readable and includes signs that are internally or externally lighted, reflectorized, flowing, glowing, or radiating. Signs which receive only ambient lighting are not within this definition.

"Inflatable signs, hot air balloons or blimps" means objects enlarged, inflated or activated by wind, air, or compressed gas to a volume of five or more cubic feet, used to display visually communicative images to public view.

"Information sign" means a sign which is on display for the safety and convenience of the public, providing information such as "restrooms," "telephone," "danger," "impaired clearance," "no smoking," "parking in rear," and other signs of a similar nature.

"Institutional sign" means a sign that identifies a church, school, hospital, rest home, government building or similar facility.

"Logo" means the name, symbol or trademark of a company, establishment or organization.

"Major tenant" means a single tenant who occupies at least seven thousand aggregated square feet of floor area in a building, center or complex of buildings.

"Marquee (fixed awning)" or "canopy" means an overhead covering or shelter (attached to a building) used as a sign, including: a sign attached to the front edge of the canopy or marquee; a sign placed along the sides or front edges of a canopy or marquee; a sign that is attached to the top or face of or beneath a marquee, canopy, cantilevered covered walkway or arcade, parallel or at right angles to the building.

"Marquee top" means a sign attached to the top of the canopy or marquee, or placed along the sides or front edges of a canopy or marquee.

"Marquee underside" means a sign attached to the underside of the canopy or marquee, or a sign placed along the sides or front edges of a canopy or marquee, or sign suspended above the public right-of-way under a canopy, awning, or marquee of a building.

"Monument sign" means a freestanding sign which is solid from the ground to the top; a freestanding sign without exposed poles.

"Multifamily dwelling sign" means a sign which identifies a multifamily building or set of such buildings operated under one management office. It refers to a master sign displayed by the management office, but not to signs displayed by persons in dwelling units.

"Multisided sign" means a sign with three or more display surfaces. Compare: "double-sided sign."

"Mural" means an artistic creation that contains no text and no commercial images, and is visible to the public from any public right-of-way.

"Nameplate" means a sign that displays name and/or address of the occupant or location of a residential land use.

"Neon sign" means a sign which incorporates lighted neon tubes or other fluorescing gas as all or a portion of the advertising message.

"Noncommercial message" means a message which pertains primarily to debate in the marketplace of ideas. Such messages typically cover subjects such as politics, religion, philosophy, social policy, as well as commentary on sports, arts and entertainments, etc. There is no on-site/off-site distinction as to noncommercial messages.

"Noncommunicative aspects" means those characteristics of a sign which do not present a communicative visual image to the public, such as size, height, setback, structural strength or weight, illumination method, density, orientation, etc.

"Off-site sign" means a sign displaying a commercial message pertaining to a product or service which is not available at the same location. This definition applies only to commercial messages.

"Office complex" means three or more buildings with multiple tenants, collectively containing at least twelve thousand square feet of building floor area, that are located on one or more contiguous parcels and that utilize common off-street parking and access.

"Official sign" means a sign posted pursuant to or in the discharge of any governmental function by public officials in the performance of their duties (including traffic and street name signs, as well as notices, emblems, or other forms of identification and signs required by law).

"On-site sign" means a sign which directs attention to a business, commodity, service, industry, or other activity which is sold, offered, or conducted on the premises upon which the sign is located or to which it is affixed. Signs which promote products or services that are expected to be offered or available in the near future, at the same location, are within this definition. Signs mounted on public rights-of-way that are adjacent to the establishment premises, or on parking lots which serve the establishment premises, are considered on site. As to signs on construction sites, all commercial messages related to the persons, firms, and entities involved in the construction project, and information pertaining to the future use of the completed project, are considered on site, so long as the sign is not used for general advertising for hire. On parcels which are adjacent to freeways, any sign installed within three hundred feet of any portion of the parcel on which an establishment is located is considered on site as to commercial messages related to that establishment. As to officially approved redevelopment projects,

any sign located within the project is considered on site as to any commercial message related to any establishment within the same project. This definition applies only to signs displaying commercial messages.

“Parking lot sign” means a sign placed or displayed on a parking lot to supply information to people using the lot, including liability, entry, exit and directional information, as necessary to facilitate the safe movement of vehicles and pedestrians.

“Pennant” means any lightweight plastic, fabric, or other material, whether or not containing a message of any kind, attached to a rope, wire, or string, usually in a series, designed to move in the wind and attract attention. Flags are not within this definition.

“Pole sign” means a sign attached or suspended from a pole, post, pylon or pier, which is embedded in the ground. Typically, the poles are left exposed; however, this definition applies even when the poles are skirted or cladded.

“Primary business frontage” means that frontage of the building abutting a public right-of-way providing the primary or most important approach or entrance to the premises. When there is more than one approach or entrance to the premises, staff or the Architectural Review Committee shall determine which frontage is primary. This definition applies to all establishments, not just businesses.

“Professional and occupation sign” means a sign that displays the name and profession of the occupant.

“Projecting sign” means a sign attached at an angle or perpendicular to a building other than mounted flat on the surface of a building. Any sign which projects twelve inches or more from the surface to which it is attached is within this definition.

“Public and quasi-public building sign” means a permanent sign mounted or displayed on the premises of a public or quasi-public building, such as City Hall, public libraries, churches, etc.

“Public entrance” means an entrance into a building that is recognized as a main entrance and is open for use by the general public. A “fire exit only” doorway is not a public entrance.

Public Sign. See “official sign.”

“Readerboard” means a sign with detachable and interchangeable letters which are easily changed. Within this definition, “readerboards” may include digital signs, as well as older technologies using channel lettering and functionally similar devices.

“Real estate sign” means a temporary sign providing information about real estate which is offered for sale, rent, exchange or other economic transaction, but not including signs promoting transient accommodations at hotels, motels, and inns. All signs described in Civil Code Section 713 are within this definition.

“Residential address sign” means a sign with street numbers and/or names not exceeding two square feet per sign for single-family or duplex structures.

“Roofline” means the peak of the roof, top of a parapet or top of the wall or an angular plane projected parallel to the verge rafter of a gable roof, whichever is higher.

“Safety codes” means those codes adopted to protect public safety, such as, by way of example and not limitation, building, electrical, plumbing, grading, etc.

“Secondary business frontage” means that frontage of a building abutting a public right-of-way other than the primary business frontage.

“Shopping center” means a multitenant facility including businesses, a group of businesses or other establishments that function as an integral unit on a single parcel or on contiguous parcels, and that utilize common off-street parking and access. This definition applies even if some of the rentable or leasable units are occupied by, or are available for, uses other than profit-seeking businesses.

“Sign” means any device for displaying visual images, graphics, symbols, and/or written copy for the primary purpose of communicating with the public, when such image is visible from any public right-of-way. “Sign” shall include any moving part, lighting, sound equipment, framework, background material, structural support, or other part thereof. A display, device, or thing need not contain lettering to be a sign. Notwithstanding the generality of the foregoing, the following are not within this definition:

1. Aerial signs or banners towed behind aircraft;

2. Automated teller machines (ATMs) when the lettering is not wider than the machine;
3. Architectural features. Decorative or architectural features of buildings (not including lettering, trademarks or moving parts), which do not perform a communicative function;
4. Fireworks, etc. The legal use of fireworks, candles and artificial lighting not otherwise regulated by this chapter;
5. Foundation stones and cornerstones;
6. Grave markers, gravestones, headstones, mausoleums, shrines, and other markers of the deceased;
7. Historical plaques;
8. Holiday and cultural observance decorations on private residential property which are on display for not more than forty-five calendar days per year (cumulative, per parcel or use) and which do not include commercial advertising messages;
9. Inflatable gyms. Inflatable, temporary, moveable gymnasium devices commonly used for children's birthday parties, and similar devices. Also called "party jumps";
10. Interior graphics or signage. Visual communicative devices that are located entirely within a building or other enclosed structure and are not visible from the exterior thereof, or located on the inside of a building and at least three feet from the window;
11. Manufacturers' marks. Marks on tangible products which identify the maker, seller, provider or product, and which customarily remain attached to the product even after sale;
12. Mass transit graphics. Graphic images mounted on duly licensed and authorized mass transit vehicles that legally pass through the City;
13. Menu boards not exceeding four square feet per display area at establishments serving food to customers who eat on the premises, or eight square feet at establishments where the menu board serves customers who take out their food;
14. Merchandise on public display and presently available for purchase on site;
15. Murals (these are regulated as public art, not signs);
16. Newsracks and newsstands;
17. Overhead signs. Graphic images which are visible only from above, such as those visible only from airplanes or helicopters, when such images are not visible from the street surface or public right-of-way;
18. Personal appearance. Items or devices of personal apparel, decoration or appearance, including tattoos, makeup, wigs, costumes, masks, etc. (but not including commercial mascots or handheld signs);
19. Searchlights and klieg lights when used as part of a search and rescue or other emergency service operation; this exclusion does not apply to searchlights or klieg lights used as attention-attracting devices for commercial or special events;
20. Shopping carts, golf carts, horse drawn carriages, and similar devices; any motorized vehicle which may be legally operated upon a public road is not within this exclusion;
21. Symbols embedded in architecture. Symbols of noncommercial organizations or concepts including, but not limited to, religious or political symbols, when such are permanently integrated into the structure of a permanent building which is otherwise legal; by way of example and not limitation, such symbols include stained glass windows on churches, carved or bas relief doors or walls, bells, religious statuary, etc.;
22. Vehicle and vessel insignia. On street legal vehicles and properly licensed watercraft: license plates, license plate frames, registration insignia, noncommercial messages, messages relating to the business of which the vehicle or vessel is an instrument or tool (not including general advertising) and messages relating to the proposed sale, lease or exchange of the vehicle or vessel;

23. Vending machines and product dispensing devices which do not display off-site commercial messages or general advertising messages;

24. Window displays. The display, in a store window, of merchandise which is available for immediate purchase.

"Sign area" means the display surface area, including any background or backing constructed, painted or installed as an integral part of the sign, as follows:

1. Where separate backing or individual cutout figures or letters are used, the area shall be measured as the area of the smallest polygon, and not to exceed six straight sides which will completely enclose all figures, letters, designs and tubing which are a part of the sign.
2. Where separate or individual component elements of a sign are spaced or separated from one another, each component element shall be considered a separate sign.
3. Total sign area shall be measured to include all sides of a double-faced or multi-sided sign. However, flag area is measured one side only.

"Sign height" means the distance from the sidewalk or roadbed grade nearest the base of the sign to the top of the highest element of the sign. Where there is no sidewalk, the grade of the roadbed nearest the sign shall be used.

"Sign program" means a comprehensive scheme for a consistent visual theme applicable to multiple establishments located in a single development project, or to large projects on large sites. Such programs often include standardized fonts, lighting, backgrounds, other elements of graphic design, and placement rules. Also known as "coordinated sign design."

"Sign structure" means a structure which supports or is intended to support a sign. A sign structure may or may not be incorporated as an integral part of a building. Any sign which is within the definition of "structure" in the Building Code is also within this definition.

"Subdivision sign" means a sign concerning real property which has been divided into five or more lots, parcels or units for sale, lease or rent.

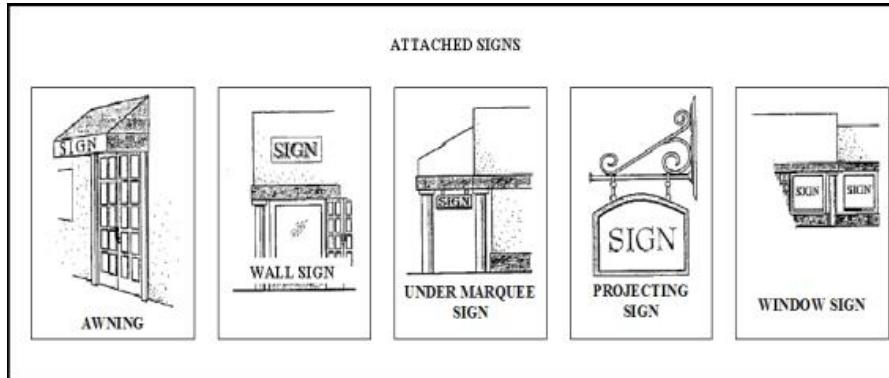
"Temporary sign" means a sign which, by its physical nature, is not suitable for long-term display. Temporary signs are typically made of lightweight or flimsy material, and can be easily installed with ordinary hand tools. Any sign which is within the definition of "structure" in the Building Code is not within this definition. The definition also includes signs mounted on permanent structures, such as windows, walls, or fences, but which may be on display only for a limited period of time.

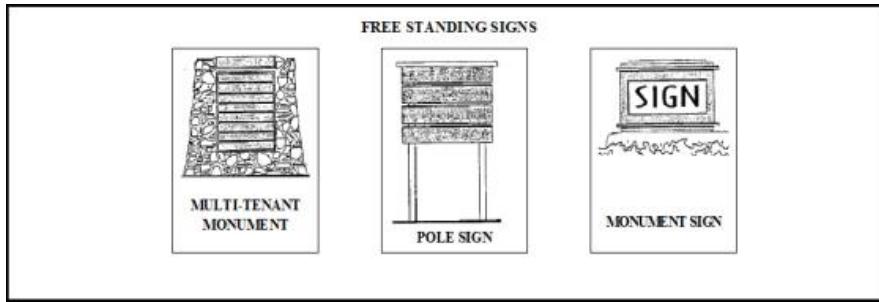
"Wall sign" means a sign painted on or attached parallel to the wall face of a building.

"Window sign, permanent" means a sign displayed within three feet from the inside of the window face or on the window face, and that is visible from a public street or walkway, on display without change in image for more than thirty days per calendar year.

"Window sign, temporary" means a sign displayed within three feet from the inside of the window face, or on the window face (interior or exterior), that is visible from the public right-of-way, on display thirty or fewer days per calendar year. (Ord. 1497 § 3 (Exh. A (part)), 2015: Ord. 1466 § 3 (Exh. A (part)), 2013: Ord. 1438 § 4 (Exh. A (part)), 2011: Ord. 1415 § 4 (Exh. A (part)), 2010. Formerly 18.150.020)

#### **18.22.040 Examples of sign types.**





(Ord. 1497 § 3 (Exh. A (part)), 2015: Ord. 1466 § 3 (Exh. A (part)), 2013: Ord. 1438 § 4 (Exh. A (part)), 2011: Ord. 1415 § 4 (Exh. A (part)), 2010.  
Formerly 18.150.021)

#### **18.22.050 Permits and appeals.**

A. Scope. This section applies to all signs that may be altered, erected, maintained or displayed only by a sign permit. The internal review and appeal procedures also apply to any other sign-related decision made by the City, including but not limited to removal orders, revocation of permits, orders to abate, placement of any new billboards on City property pursuant to Chapter 12.28, etc.

B. Permit—Generally—Required. It shall be unlawful for any person, firm, or corporation to authorize, erect, construct, maintain, move, alter, change, place, suspend or attach any sign, as defined in this chapter, within the City of San Carlos without first obtaining a sign permit to do so, and paying the appropriate fees prescribed therefor. This rule does not apply to signs which are exempted from the permit requirement by an explicit provision of this chapter.

#### C. Types of Review.

1. Director. A sign that must be reviewed by Planning Division staff for compliance with the provisions of this chapter. If the permit application satisfies all requirements of this chapter, and the requirements of this chapter are not changed during the review period, then the permit shall be approved. Approval of a sign permit may be conditional upon satisfaction of other applicable laws, rules, policies, conditions, permits and approvals.

2. Planning Commission. As detailed herein, certain signs are subject to design review by the Planning Commission. Such review is subject to the limitations stated in Section 18.22.020(H) for discretionary review. Planning Commission review shall be required for the following proposed signs:

- a. All signs visible from the U.S. 101 right-of-way and if not already included as part of an approved sign program;
- b. Signs that exceed twenty-five feet in height as measured from finished grade to topmost point of sign or sign structure;
- c. Initial or revised sign programs;
- d. New pole signs, per Section 18.22.080(G)(1) and (2);
- e. Appeals of Director review decisions;
- f. Such other signs as may be designated elsewhere in this chapter for design review;
- g. The Director may refer design review directly to the Planning Commission when in his/her opinion the public interest would be better served by having the Planning Commission conduct design review.

D. Approval Process—Necessary Findings. Prior to approving an application for design review, the following findings must be made by the approving body:

1. That the proposal is consistent with the San Carlos General Plan and this title;
2. That the design of the proposal is appropriate to the City, the neighborhood, and the lot in which it is proposed;
3. That the design of the proposal is compatible with its environment with respect to use, forms, materials, setbacks, location, height, design, or similar qualities;
4. That the proposed sign satisfies all rules stated in this chapter;

5. New billboards, as authorized on City property pursuant to Chapter 12.28, are subject to the following additional findings:

- a. The proposed billboard must be consistent with the California Outdoor Advertising Act and the Federal Highway Beautification Act, as applicable;
- b. The billboard must be oriented primarily for viewing from the adjacent freeway;
- c. The billboard design and orientation takes into account visibility from surrounding residential neighborhoods.

E. Right to Permit or Display. When any sign permit application fully complies with all applicable provisions of this chapter, and all other applicable laws, rules and regulations, and such laws, rules and regulations are not changed within the review period, then the permit shall be approved and issued within the required time. In the case of signs that are expressly exempt from the permit requirement, there is a right to erect, display and maintain such signs as are authorized by this chapter, subject to the applicable rules.

F. Exemptions—Alterations. Signs legally existing prior to the effective date of the ordinance codified in this chapter are subject to a permit requirement only when a structural alteration is made, or the sign area is enlarged. No permit is required when only the sign face is changed, and the message continues to qualify as noncommercial or on-site commercial. In the case of such structural alterations or expansion, or electrical changes, a permit is required.

G. Application for Sign Permit. Any person seeking a permit for a sign, for which design review is required, shall submit to the Director a written application for such review. The Director shall prepare a sign permit application form and provide it to any person on request. The same form may be used for both the application and the decision thereon. A single form may be used for multiple signs on the same site. A sign permit application is complete only when it is accompanied by the appropriate application fee, in an amount set by resolution of the City Council.

H. Application—Format and Fee.

1. Persons wishing to submit application materials in electronic form may consult with City staff about acceptable file formats and other technical requirements.
2. Each sign permit application shall be accompanied by a nonrefundable fee in an amount set by resolution of Council.

I. Application—Information. The application form may call for the following information:

1. A sign permit application shall contain the location by street and number of the proposed sign structure, as well as the name and address of the owner and the sign contractor or erector.
2. Three sets of a site plan indicating the position of the sign or awning in relation to the structures and other exterior improvements on the same parcel, with the linear frontage of building sides shown.
3. Three sets of dimensioned plans, elevations and specifications showing the sign(s) and/or awning(s), method of construction, method of attachment to the building or in the ground, and a description of all materials. Plans need not be larger than eight and one-half by eleven inches if proper detail is shown. At least one set of the dimensioned plans must be in color.
4. If the proposed sign is a new, freestanding structure, a site survey prepared and signed by a civil engineer or land surveyor with currently valid registration in the State of California.
5. One set of photographs that show the site and location of the proposed sign(s) and/or awning(s) on the site, and each property immediately adjacent to the proposed site for context and placement and evaluation of impact, including impairments to visibility, to the neighboring properties.
6. Elevation plan, fully dimensioned, showing height and size of each proposed sign, colors, method of illumination and materials of construction, and, if a wall sign, the exact location on the face of the building.
7. When the area of the sign exceeds twenty-five square feet and the height of the sign exceeds six feet: structural plans and details, including calculations, for signs supported by existing structures, prepared and signed by civil or structural engineer, or architect, with currently valid registration in the State of California.

8. For new sign structures with pier or pile foundations, a soils report prepared and signed by a soils engineer, or civil engineer, or geotechnical engineer, with a currently valid registration in the State of California.
9. Electrical plans.
10. A statement by the owner of the proposed sign as to whether the sign is to display commercial messages, noncommercial messages, or both, and whether the display face will be permanent, changeable, or a permanent structure with changeable elements. If the proposed sign is to be used to display commercial messages, then the applicant shall also state whether the message is to be on site or off site, and whether the sign will be used for general advertising.
11. A statement or graphical description as to whether the proposed sign, or any part of it, is proposed to utilize any of the following physical methods of message presentation: sound; odor, smoke, fumes or steam; rotating, moving or animated elements; activation by wind or forced air; neon or other fluorescing gases; fluorescent or day-glow type colors; flashing or strobe lighting; liquid crystal displays or other video-like methods; digital display technology; live animals or living persons as part of the display; mannequins or statuary.
12. A statement as to whether the property or parcel on which the sign is proposed to be erected or displayed, or any currently existing sign thereon, is the subject of any outstanding notice of zoning violation or notice to correct, including whether any such deficiencies are to be remedied by the proposed application.
13. Written evidence of all owners' consents, such as land owner or lessor.
14. In the case of any proposed sign which is subject to a discretionary process, such as a variance, conditional use permit, or sign program, all information required by such process(es).
15. The Director is authorized to modify the list of information to be provided on a sign permit application; however, additions may be made only after thirty days' public notice.
16. For sign applications consisting of a new billboard on City property, as authorized in Chapter 12.28, a visual simulation is required and shall be submitted with application materials.

J. Completeness. The Director shall determine whether the application contains all the required information. If the application is not complete, the applicant shall be so notified in person or in writing within thirty days of the date of receipt of the application; the notice shall state the points of incompleteness and identify any additional information necessary. The applicant shall then have one opportunity, within thirty calendar days, to submit additional information to render the application complete; failure to do so within the thirty-day period shall render the application void. In such case, the application fee is not refundable.

K. Disqualification. No sign permit application will be approved if:

1. The applicant has installed a sign in violation of the provisions of this chapter and, at the time of submission of the application, each illegal or nonpermitted sign has not been legalized, removed or a cure included in the application;
2. There is any other existing code violation located on the site of the proposed sign(s) (other than an illegal or nonconforming sign that is not owned or controlled by the applicant and is located at a different establishment) which has not been cured at the time of the application, unless the noncompliance is proposed to be cured as part of the application;
3. The sign application is substantially the same as an application previously denied, unless:
  - a. Twelve months have elapsed since the date of the last application, or
  - b. New evidence or proof of changed conditions is furnished in the new application; or
4. The applicant has not obtained any applicable required use permit or conditional use permit. However, applications for such permits may be processed simultaneously with a sign permit application.

L. Multiple Sign Applications. When an application proposes two or more signs, the application may be granted either in whole or in part, with separate decisions as to each proposed sign. When a multiple sign application is denied in whole or in part, the Director's written notice of determination shall specify the grounds for such denial.

M. Signs Which Are Part of a Larger Project. Permit applications for sign programs as part of planned commercial, office-professional and industrial development shall include the above information as part of a site development plan. When approval

is sought for a development that includes one or more signs, then the sign aspects of the proposed development must satisfy the applicable provisions of this chapter. All such applications are subject to design review.

N. Revocation or Cancellation. The Director may revoke any approval or permit upon refusal or failure of the permittee to comply with the provisions of the permit and the requirement of this chapter, after written notice of noncompliance and at least fifteen calendar days' opportunity to cure. The notice and opportunity to cure do not apply when a sign, by virtue of its physical condition, constitutes an immediate and significant threat to public safety.

O. Permits Issued in Error. Any approval or permit issued in error may be summarily revoked by the City upon written notice to the permittee stating the reason for the revocation. "Issued in error" means that the permit should not have been issued in the first place.

P. Other Sign-Related Decisions. Challenges to or appeals of sign-related decisions, other than approval or denial of a sign review or permit, do not require a particular form, but must be in writing, signed by the applicant or challenger, and state the matter challenged and the grounds therefor. Such appeals shall use the same form as other zoning appeals.

Q. Conditional Approval. A sign permit may be approved subject to conditions, so long as those conditions are required by this chapter or some other applicable law, rule or regulation.

R. Safety Codes. When a sign qualifies as a structure under the Building Code, a building permit shall also be required. Compliance with all applicable safety codes shall be a condition of all sign permits.

S. Permit Denial. When a sign permit application is denied, the denial shall be in writing and sent or delivered to the address shown on the applicant's application form, and shall state the grounds for denial.

T. Timely Decision. Other than initial review for completeness, at each level of review or appeal, the decision shall be rendered in writing within sixty calendar days. The time period begins running when the application is complete (or is deemed complete because no notice of incompleteness has been given), or the notice of appeal has been filed, whichever applies. The timely decision requirement may be waived by the applicant or appellant. If a decision is not rendered within the required time, then the lower level decision shall be deemed affirmed.

U. Appeal. Any decision on a sign permit application, or any other sign-related decision, may be appealed by any affected or interested person. Appeals go first to the Planning Commission, and then, if the appellant is still not satisfied, to the City Council, after which judicial review may be sought. All appeals of sign-related matters shall generally be processed in accordance with Section 18.27.150, but subject to the timely decision rules of this chapter and the limitations on discretion.

V. When Appeal Right Arises. The appeal right arises at the earlier of:

1. Whenever a written decision is delivered to the applicant; or
2. The time for decision has run without a written decision.

In this context, "delivered" means personally delivered or placed in the U.S. mail, whichever occurs first.

W. Time and Method for Appeal. Any affected or interested person may appeal any sign permit or other sign-related decision to the next level of review, by delivering a written notice of appeal to the City Clerk within ten calendar days of the subject decision. If the tenth calendar day falls on a day when City offices are closed, then the time period is extended until the next day that City offices are open. The notice of appeal must state particularly the matter appealed from, and the grounds for the appeal.

X. Status Quo. During the pendency of review or appeal, the status quo of the subject sign(s) shall be maintained. This does not apply whenever a sign, by virtue of its physical condition, constitutes a threat to public safety.

Y. Judicial Review. Following final decision by the City Council, any concerned person may seek judicial review of the final decision on a sign permit application pursuant to California Code of Civil Procedure Section 1094.5 or 1094.8, as applicable.

Z. Notices. Written notices required within this chapter shall be deemed given on the earliest of the following: when personally delivered, when publicly posted, or on the day of mailing. Notices are deemed effective when sent to the last known address of the addressee. (Ord. 1497 § 3 (Exh. A (part)), 2015: Ord. 1480 (Exh. C (part)), 2015; Ord. 1466 § 3 (Exh. A (part)), 2013: Ord. 1438 § 4 (Exh. A (part)), 2011: Ord. 1415 § 4 (Exh. A (part)), 2010. Formerly 18.150.030)

## **18.22.060 General regulations.**

A. Sign Location Requirements.

1. All signs identifying an occupant, business, establishment or use shall be located on site, as that term is defined in this chapter. A sign may project over an adjacent public right-of-way only when authorized by an encroachment permit as well as a sign permit.
2. No sign shall be located within the public right-of-way, except as otherwise authorized by this chapter or a resolution or ordinance duly adopted by City Council.
3. Signs must be located in a manner to ensure pedestrian and vehicular safety.

B. Materials. Materials selected for permanent signs shall be durable and capable of withstanding weathering over the life of the sign with reasonable maintenance.

C. Proportionate Size and Scale. The scale of on-site signs should be appropriate for the building on which they are placed and the area in which they are located. The size and shape of an on-site sign should be proportionate with the scale of the structure.

D. Size Limits on Display Face. As to on-site signs on nonresidential establishments, the maximum display area of all permanent signs on a given parcel is 1.6 square feet per linear foot of primary business frontage, with a one-hundred-square-foot maximum, plus 0.8 square feet of sign area for any secondary business frontage, with a fifty-square-foot maximum. This general rule applies unless there is an explicit provision to the contrary in this chapter; this general rule does not apply to sign programs.

E. Sign Programs. A sign program shall be required for multiple-tenant projects, and for larger projects, at the discretion of the Director, that are constructed after the effective date of the ordinance codified in this chapter. Such programs may deviate from the otherwise applicable rules regarding the noncommunicative aspects of signs. The intent of a sign program is to achieve uniformity in lettering style, height and color. The sign program shall be subject to Planning Commission review. For projects constructed prior to the effective date of the ordinance codified in this chapter, a sign program shall be established at the time the first modification of an existing sign is proposed that requires the replacement or alteration of an existing sign on the premises. Thereafter, any replacement or alteration of any sign shall be in compliance with this chapter and the approved coordinated sign program.

F. Code Compliance. Every sign and all parts, portions, units and materials comprising the sign, together with the frame, background, supports and anchorage, shall be manufactured, fabricated, assembled, constructed, erected, and maintained in compliance with the building, electrical, sign, and fire codes and the zoning regulations of the City as they exist as of the effective date of the ordinance codified in this chapter or may thereafter be amended. Prior to installing signs, all necessary building permits shall be obtained.

G. Construction and Maintenance. Every sign and all parts, portions, units, and materials comprising the sign, together with the frame, background, supports, and anchorage, shall be maintained in proper repair by the owner and/or possessor of such sign and the owner of the property on which the sign is located.

H. Repainting. Repainting to like colors or replacement of faded or damaged sign face is not subject to a sign permit; provided, that the sign meets current sign ordinance requirements and there is no change to the sign structure.

I. New Establishment. Changing the sign panels for a new establishment shall require design review to verify that the sign cabinet and other structural elements are still legal. (Ord. 1497 § 3 (Exh. A (part)), 2015: Ord. 1466 § 3 (Exh. A (part)), 2013: Ord. 1438 § 4 (Exh. A (part)), 2011: Ord. 1415 § 4 (Exh. A (part)), 2010. Formerly 18.150.035)

**18.22.070 Signs exempt from the sign permit requirement.**

Subject to the rules stated in this section, the signs listed in this section are exempt from the sign permit requirement, but are still subject to other applicable laws, rules and regulations.

A. Directional signs (not including temporary real estate directional signs) may be erected on site when necessary to facilitate circulation to and on the site. Such signs shall not be counted against the site's allowed sign area. Individual directional signs may not exceed two square feet in area or six feet in height, except that directional signs located on properties greater than one acre in area may have individual directional signs up to four square feet in area.

B. Information signs not exceeding three square feet in display face area.

C. Nameplates not exceeding one square foot in display face area.

D. Professional and occupation signs may not exceed four square feet in area for all professionals on the property. When added to other signage on the property, the professional signage shall not exceed total allowed signage on the property. (Administrative review is required for signs over four square feet.)

E. Official signs posted by the City or another governmental entity authorized to do so. Legal notices, as required by law or as ordered by a court of competent jurisdiction, such as notices of eviction, notices of violation, notice of application for liquor permits, etc.

F. Signs on residential uses. See Section 18.22.130.

G. Temporary signs displaying exclusively noncommercial messages on nonresidential properties; provided, that such temporary signage does not exceed one hundred square feet at all times, or one hundred square feet during the election period. Such signs may be illuminated only by ambient lighting, and are subject to building permit requirements only when they meet the definition of "structure" in the Building Code. (Ord. 1497 § 3 (Exh. A (part)), 2015: Ord. 1466 § 3 (Exh. A (part)), 2013: Ord. 1438 § 4 (Exh. A (part)), 2011: Ord. 1415 § 4 (Exh. A (part)), 2010. Formerly 18.150.040)

**18.22.080 Permanent signs on nonresidential properties.**

The signs described in this section may be displayed on all nonresidential properties, subject to the rules stated in this section, as well as all other applicable laws, rules and policies. Unless otherwise stated, all signs described in this section are subject to design review.

A. Awning signs.

B. Barber poles.

C. Monument signs may be placed within required setback or yard areas, in which case they may be either parallel or substantially at right angles to such right-of-way.

1. Maximum height: eight feet above finished grade, but no higher than one and one-half times the length of the base.
2. If placed on a foundation or planter, the total height includes the height of the planter or foundation.
3. Monument signs shall be placed at least six feet away from any public or private driveway.
4. In areas with sidewalks, monument signs shall be placed at least twelve feet from public roadway.
5. Square footage for monument signs shall be deducted from overall permitted sign area, with both sides of the sign calculated as signage if the sign is intended to be read from two or more directions.
6. Monuments are subject to design review.

D. Marquee (fixed awning) or canopy signs must be placed along the sides or front edges of a canopy or marquee, attached to the top or face of or beneath a marquee, canopy, cantilevered covered walkway or arcade, parallel or at right angles to the building.

1. Such signs may be projecting or parallel to the surface to which they are attached.
2. Such signs may not be made of cloth, canvas or other material of a similar lightweight nature.
3. Such signs shall not hang lower than the marquee or canopy.
4. Such signs may not project higher than the marquee or canopy.

E. Marquee (fixed awning) or canopy signs must be of a permanent nature and attached to and supported by a building.

1. Such signs shall not exceed the permitted signage allowed for the location.

F. Marquee underside signs must be suspended above the public right-of-way under a canopy, awning, or marquee of a building.

1. The canopy or marquee must be of a permanent nature and attached to and supported by a building.

2. Such signs shall not exceed the permitted signage for the location.

3. Clearance: minimum eight feet above grade or walkways.

G. Pole signs. New pole signs are prohibited in all areas of the City except:

1. Between Industrial Road and the Highway 101 Corridor and adjacent to Skyway Road and Shoreway Road.

a. Within these areas, new pole signs may not exceed forty feet in height or one hundred square feet in display face area (measured one side) if used exclusively by a single establishment, or up to three hundred square feet per display face area when shared by two or more establishments, all of whom qualify as on site.

b. Maximum number of pole signs per establishment, or shared between two or more on-site establishments: one.

c. Such signs may not be used for general advertising.

2. With the exception of R districts, pole signs may be placed within required setback or yard areas, in which case they may be either parallel or substantially at right angles to such right-of-way.

a. They may not project over the public right-of-way.

b. Freestanding pole signs shall be no taller than twenty-five feet at their uppermost top edge measured from the surrounding grade level below.

c. Posts or structural supports below the sign shall not be considered in determining the sign area.

d. The lowermost portion of the image display area shall be at least eight feet above grade to allow for visibility and access.

e. Freestanding sign pedestals or poles shall be placed at least six feet from any building or structure.

f. The sign cabinet shall be placed at least six feet from any private and/or public driveway.

g. Freestanding pedestal signs shall not extend into or over any public property or access. In areas without any sidewalks, freestanding sign pedestals or poles shall be placed at least six feet from the edge of paving, provided the sign does not extend into or over a public right-of-way.

h. The square footage of the image display area of the pole sign shall fall at or below the maximum permitted square footage for the establishment.

i. In no case shall one side of the display face exceed one hundred square feet.

H. Professional/occupational signs count toward the total allowed signage on the property. If signs of this type are cumulatively less than four square feet, for the entire property, then they are all exempt from the permit requirement.

I. Projecting signs shall be securely attached to the wall and shall not project more than four feet from the mounting wall. However, if a permanent, structural overhang is part of the building and extends into the public right-of-way, a sign may be placed on top of it so long as the sign projects no more than four feet from the building face.

1. The uppermost top edge of the sign may be no higher than the adjoining wall, parapet or roofline of the building to which it is attached.

2. If projecting over private or public access or right-of-way, the lowest bottom edge shall be at least eight feet above the ground or grade.

3. If double-sided, both sides of the sign shall be added together to determine total sign area which shall be deducted from the overall permitted sign area.

4. Signs over the public right-of-way shall not extend into or occupy more than two-thirds the width of the sidewalk or walkway, as measured from the building.

J. Readerboards, subject to the following standards:

1. Readerboards may not exceed twelve square feet.

2. Digital/LED type readerboards are prohibited.

K. Wall signs, subject to the following standards:

1. Wall signs shall be placed no further than twelve inches from the wall surface and shall be no higher than the top of the wall or parapet upon which they are mounted.

2. Wall signs may be in cabinets, on wood or similar material attached to the wall, or painted directly on the wall.

L. Window signs, permanent, subject to the following standards:

1. Window signs may not cover more than twenty percent of the window surface.

2. Combined area of permanent and temporary window signs shall not exceed forty percent of the window area.

M. Billboards on City property, as authorized under Chapter 12.28:

1. New billboards as authorized on City property under Chapter 12.28 may have a sign height up to fifty-five feet, and each display face of such signs may have a sign area of up to six hundred seventy-two square feet.

2. The number of billboards as authorized on City property under Chapter 12.28 is not limited by parcel or lot, and each billboard may have up to two display faces, which may be digital and may be configured as a double-sided sign or in a V-shaped arrangement, such that the display faces may be visible from different angles or locations. (Ord. 1497 § 3 (Exh. A (part)), 2015: Ord. 1466 § 3 (Exh. A (part)), 2013: Ord. 1438 § 4 (Exh. A (part)), 2011: Ord. 1415 § 4 (Exh. A (part)), 2010. Formerly 18.150.050)

**18.22.090 Maximum number and size of signs.**

A. Individual Tenant Occupancy Signs.

1. Maximum number per building or center: five; total allowable area is calculated at 1.6 square feet of signage for every lineal foot of primary business frontage, but not exceeding one hundred square feet.
2. If a building is located where there is a secondary frontage (or frontages), the secondary business frontages are allowed 0.8 square feet of signage for each linear foot of secondary business frontage the business occupies, not to exceed a total of fifty square feet.
3. The applicant can distribute the square footage permitted among proposed signs.

B. Multitenant Occupancy (Nonresidential).

1. One sign per tenant, plus one additional sign on the site to identify the project.
2. Total sign area for each tenant or occupant shall not exceed one and one-half square feet per lineal foot of primary business frontage of the occupancy.
3. As to secondary frontage, total sign area for each tenant or occupancy shall not exceed one-half square foot per lineal foot of frontage.
4. Maximum cumulative sign area per tenant or occupancy shall not exceed one hundred square feet.
5. Signage for new multitenant buildings and sign programs require design review.

C. Public and Quasi-Public Building Signs, Including Churches.

1. Maximum number: one per street frontage.
2. Maximum area determined in the same manner as other establishments. (Ord. 1497 § 3 (Exh. A (part)), 2015: Ord. 1466 § 3 (Exh. A (part)), 2013: Ord. 1438 § 4 (Exh. A (part)), 2011: Ord. 1415 § 4 (Exh. A (part)), 2010. Formerly 18.150.055)

**18.22.100 Temporary signage.**

This section applies to temporary signs on establishments. Unless otherwise noted, all signs described in this section are subject to administrative review.

A. Banners and other temporary signs painted on the window or constructed of paper, cloth, or similar expendable material affixed on the window, wall, or building surface are permitted; provided, that all of the following conditions are met:

1. The total area of such signs shall not exceed the total allowable sign area which would be allowed for new or existing permanent signs on the property. If permanent signage already exists on the property, the allowed square footage of the banner shall be within the permanent signage allotment.
2. Such signs shall be fixed to the surface for no more than thirty continuous calendar days and for no more than sixty days each calendar year.
3. Temporary banners shall not be erected or supported by attachment to any structure, pole, framework or device constructed or placed upon public property or right-of-way. Any such temporary banner may not be erected to extend or span over public right-of-way and must be supported from or attached to supports erected upon or attached to privately owned property or structures not on public right-of-way.
4. The design and construction details of the banners shall be made with adequate allowance for stresses, the strength of materials incorporated into the banner, the manner of attachment to supports, and loads to be placed on the banner by the effect of the wind and other natural phenomena. This rule prevents flimsy or shoddily mounted signs which could easily become dislodged and pose a safety threat to the public. Minimum six-foot, eight-inch clearance to any walking surface on private property.

B. Inflatable signs, hot air balloons or blimps shall comply with the provisions for temporary banners and signs and shall meet the following additional criteria:

1. They may be on display for no more than thirty days per calendar year;
2. They shall be ground-mounted or roof-mounted, not to exceed a height of twenty-five feet above finished grade of the building;
3. Maximum number per location: one;
4. Maximum size: one thousand square feet of surface area.

C. Real estate/open house/directional signs may not exceed four square feet in area (per side) or three feet in height, and may be on display only during daytime hours when the subject property is open for public inspection or actually on the market for the proposed transaction. Such signs may not be placed on City-owned property or the public right-of-way unless authorized by Title 12.

D. Real estate/subdivision signs may display one sign on each property or saleable dwelling unit, not to exceed six square feet in area; if that is the only sign on display, then it is exempt from the permit requirement.

1. One additional sign, applicable to the entire subdivision project, maximum twenty square feet in area, may be on display for up to one year; that display time may be extended by the Planning Commission upon a showing that new units remain unsold, up to the expiration of the tentative map.
2. Up to three subdivision directional signs may also be displayed on private property with the owner's consent, subject to:
  - a. Not exceeding twenty-five square feet of total sign area in GCI, LC, IH, IL, A, and mixed-use districts; and
  - b. Eight square feet of total sign area in R, PD, or O-S districts.
3. Such subdivision directionals may be displayed only during the time period that the project sign is on display.
4. Subdivision signs may be mounted or displayed on City-owned property or the public right-of-way only as authorized by Title 12.
5. All signs described in this subsection are subject to design review.

E. Construction Site Signs.

1. Maximum number per construction site: at the discretion of the Director.

2. Maximum size: six square feet.
3. Maximum height: four feet.
4. Special illumination prohibited.

F. Community activity signs may be displayed on City-owned property and/or the public right-of-way only as authorized by Title 12. (Ord. 1497 § 3 (Exh. A (part)), 2015: Ord. 1466 § 3 (Exh. A (part)), 2013: Ord. 1438 § 4 (Exh. A (part)), 2011: Ord. 1415 § 4 (Exh. A (part)), 2010. Formerly 18.150.060)

**18.22.110 Prohibited signs.**

The signs and messages described in this section are prohibited, unless allowed by another explicit provision of this chapter.

- A. Unprotected Speech. Any message or image which is outside the protection of the First Amendment to the U.S. Constitution and/or the corollary provisions of the California Constitution is prohibited. Examples include threats against the President or Vice President of the United States, material that meets the legal definition of obscenity, misleading or deceptive commercial messages, messages which promote illegal products or services, etc.
- B. Abandoned signs, those which no longer advertise a bona fide business, product, service or establishment available to the public. Signs are presumed abandoned after one hundred eighty days of nonuse or nonapplicability. If a legal sign is left in place by the tenant or landowner for the next occupant, opaque plastic inserts must be installed for any cabinet type sign and the sign shall be maintained during vacancy.
- C. A-frame and I-frame signs, except as authorized by Title 12.
- D. Animated signs.
- E. Banners.
- F. Billboards, except for new billboards as permitted on City property under Chapter 12.28, and billboard vehicles.
- G. Confusing signs. Signs (other than when used for traffic direction) which contain or are an imitation of an official traffic sign or signal, or contain the words "stop," "go," "slow," "caution," "danger," "warning," or similar words, or signs which imitate or may be confused with other public notices, such as zoning violations, building permits, business licenses, and the like.
- H. Despoliation of nature. Signs tacked, posted, cut, burnt, limed, painted or otherwise affixed on trees, fields, vegetation, rocks, or other natural features.
- I. Digital signs and digital displays, except as authorized for gasoline station price signs, and new billboards on City property under Chapter 12.28.
- J. Fluorescent. Permanent signs containing fluorescent or day-glow colors as all or part of their copy.
- K. Hazardous signs. Any sign erected in any manner that would create a hazardous condition to pedestrians or traffic, either by obstructing the free use of exits, buildings or sites, or by creating visual distractions by using color, sound or glare.
  1. Note: Graffiti is covered by the owner's consent requirement.
- L. Pole signs, except as allowed by Section 18.22.080(G).
- M. Roof signs erected on or above the roof ridgeline of a building or placed above the roofline or eaves of a building or a sign painted on or attached directly to the roof.
- N. Rotating signs that turn on an axis, allowing different faces or images to be viewed from a single location.
- O. Stored signs may not be located on premises so as to be visible from beyond the property line after removal, prior to erection, or in storage.
- P. Vandalized signs. Any sign damaged, defaced or painted by acts of vandalism must be repaired and restored by the sign owner or responsible party, or removed within three days. Repair, restoration, or removal of signs requires a sign permit.
- Q. Drop-in plastic signs. Drop-in plastic signs, which do not include raised or individual lettering, are prohibited.

R. Damaged or dilapidated signs. Any damaged or dilapidated sign from any cause must be repaired and restored by the sign owner or responsible party. Repair or restoration requires a sign permit. (Ord. 1497 § 3 (Exh. A (part)), 2015: Ord. 1480 (Exh. C (part)), 2015; Ord. 1466 § 3 (Exh. A (part)), 2013: Ord. 1438 § 4 (Exh. A (part)), 2011: Ord. 1415 § 4 (Exh. A (part)), 2010. Formerly 18.150.065)

#### **18.22.120 Historical signs.**

This section states special rules for signs in historic districts and on historic sites.

Signs that reflect the unique historical characteristics of the development and heritage of San Carlos, but do not conform to the provisions of this chapter, may be allowed to remain on display upon the granting of an historical sign permit by the Planning Commission. Granting of the permit will be subject to the Planning Commission's findings that:

- A. Time. The sign existed at the effective date of the ordinance codified in this chapter and was originally erected at least thirty years prior to the date of the application.
- B. Structural Soundness. The sign is structurally sound and complies with the provisions of the current building and associated codes. A structural report from a licensed structural engineer may be required at the time of application.
- C. Typical Design. The design of the sign is typical of the styles in vogue at the time of original installation, consistent with the structures on the site, and complements the unique characteristics of San Carlos.
- D. No Clutter. Retaining the sign will not result in visual clutter or blight and will not adversely affect the adjoining properties.
- E. Repair and Maintenance. Historic signs shall be maintained in good repair. The historical sign permit shall be subject to revocation if the sign is altered or falls into disrepair, and such disrepair is not cured.
- F. Historical Significance. Application for review of significance shall be processed as a Planning Commission use permit, with associated fees.
- G. Grandfathering. Approval of an historical sign permit authorizes the sign to remain, subject to continued maintenance. Continued maintenance or restoration may also be added as a condition of approval for this permit.
- H. Other Designations. The provisions of this section shall not apply to signs that have been identified as an historic resource to the City by inclusion on the San Carlos Historical Resources Survey, or to signs which have been given historical status in a proceeding other than the historical sign permit process by the City of San Carlos or agency of the County, State, or Federal government. Such signs are deemed authorized by any of those alternate procedures. (Ord. 1497 § 3 (Exh. A (part)), 2015: Ord. 1480 (Exh. C (part)), 2015; Ord. 1466 § 3 (Exh. A (part)), 2013: Ord. 1438 § 4 (Exh. A (part)), 2011: Ord. 1415 § 4 (Exh. A (part)), 2010. Formerly 18.150.070)

#### **18.22.130 Residential signs.**

This section controls signs on legal dwelling units, whether located in a residential zone or otherwise.

- A. Subject to property owner's consent, each legal dwelling unit may display signs as specified in this section. A permit is required only when the sign qualifies as a structure under the Building Code. All safety code requirements must be satisfied.
- B. Total allowable display area (counting only one side of each double-sided sign): three square feet at all times; this area allowance may be increased to one hundred square feet during the election period. Flags and nameplates do not count toward this total.
- C. Message Types. Any and all protected speech of a noncommercial nature; signs described in Civil Code Section 713; garage sale signs, nameplates and identification signs; warning signs. Prohibited: off-site commercial messages, home occupation signs.
- D. Number of Signs. Not limited.
- E. Illumination. Ambient lighting only, special illumination is prohibited. Neon and other fluorescing gases are prohibited.
- F. Physical Types.
  1. Freestanding height not to exceed four feet within required setbacks; attached to walls, doors, fences, windows or poles.
  2. No mounting on roofs.

3. If mounted on a fence, neither the fence nor the sign thereon may exceed the height limits of the fence ordinance, which are: four feet in the front setback of fifteen feet, and seven feet elsewhere.

G. Flags.

1. Maximum number of poles: one.
2. Maximum height of pole: not exceeding the roofline.
3. Special illumination allowed only on national or State holidays; maximum number of flags: not limited; maximum area of all flags combined: one hundred square feet (measured one side only).

H. Vehicles used to display commercial messages may not be parked in the public street in a residential district.

I. For multiple-unit residential properties, in addition to the signage allowed for each dwelling unit, the property may display one master sign, subject to:

1. Maximum area: ten square feet if the lot is less than one hundred feet wide, or twenty square feet if the lot is one hundred or more feet wide.
2. Such sign is subject to design review. (Ord. 1497 § 3 (Exh. A (part)), 2015: Ord. 1466 § 3 (Exh. A (part)), 2013: Ord. 1438 § 4 (Exh. A (part)), 2011: Ord. 1415 § 4 (Exh. A (part)), 2010. Formerly 18.150.080)

**18.22.140 Violations.**

Any violation of this chapter may be remedied by any method provided by law. Each day that the violation continues is a new violation. All violations are declared to be public nuisances. (Ord. 1497 § 3 (Exh. A (part)), 2015: Ord. 1466 § 3 (Exh. A (part)), 2013: Ord. 1438 § 4 (Exh. A (part)), 2011: Ord. 1415 § 4 (Exh. A (part)), 2010. Formerly 18.150.090)

**Chapter 18.23  
STANDARDS FOR SPECIFIC USES AND ACTIVITIES Revised 1/24**

Sections:

**18.23.010 Purpose.**

**18.23.020 Applicability.**

**18.23.030 Accessory uses.**

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The purpose of this chapter is to establish standards for specific uses and activities that are permitted or conditionally permitted in several or all districts. These provisions are supplemental standards and requirements to minimize the impacts of these uses and activities on surrounding properties and to protect the health, safety, and welfare of their occupants and of the general public. (Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.23.020 Applicability.**

Each land use and activity covered by this chapter shall comply with the requirements of the section applicable to the specific use or activity, in addition to any applicable standard this title requires in the district where the use or activity is proposed and all other applicable provisions of this title.

A. The uses that are subject to the standards in this chapter shall be located only where allowed by base district or overlay district use regulations.

B. The uses that are subject to the standards in this chapter are allowed only when authorized by the planning permit required by base district regulations, such as a conditional use permit, except where this chapter establishes a different planning permit

requirement for a specific use. (Ord. 1480 (Exh. C (part)), 2015; Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.23.030 Accessory uses.**

An accessory use, which shall not occupy more than thirty percent of gross floor area, shall be secondary to a primary use and shall be allowed only in conjunction with a principal use or building to which it relates under the same regulations as the main use in any zoning district. These regulations are found in the use regulations tables in Article II, Base and Overlay Districts, and may be subject to specific standards found in this chapter or within each district, as specified in the tables. Accessory uses and structures are also subject to the development and site regulations found in Chapter 18.15, General Site Regulations. (Ord. 1480 (Exh. C (part)), 2015; Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.23.040 Adult-oriented businesses.**

Adult-oriented businesses shall be located, developed, and operated in compliance with the following standards:

A. Permits and Licenses. Adult-oriented businesses shall be subject to the following:

1. An adult-oriented business must, prior to commencement or continuation of such business, apply for and receive from the Planning Commission or the City Council, upon appeal, a conditional use permit. Reasonable conditions may be

imposed, such as limitation on hours of operation, exterior lighting, display materials, and other similar conditions, as may be necessary to protect the public health, safety and welfare.

2. An adult-oriented business shall be subject to and in conformance with the provisions of Chapter 8.44 et seq.
  3. Subsequent to receipt of an approved conditional use permit, but prior to establishment of the adult-oriented business, the applicant shall apply for and receive a valid adult entertainment license, as provided for in Title 5.
- B. Location. Adult-oriented businesses shall be located only in the area shown in Figure 18.23.040-B, Adult-Oriented Business Area, in compliance with the following minimum distances:
1. From any residential district of the City of San Carlos or of any other city: one thousand feet.
  2. From any educational, religious and/or cultural institution or public park: one thousand feet.
  3. From another adult-oriented business: one thousand feet.

**FIGURE 18.23.040-B: ADULT-ORIENTED BUSINESS AREA**



C. Hours of Operation. Hours of operation of the business shall be limited to the time period between ten a.m. and midnight daily or as established through the conditional use permit. (Ord. 1480 (Exh. C (part)), 2015; Ord. 1438 § 4 (Exh. A (part)), 2011)

#### **18.23.050 Automobile/vehicle sales and services.**

Automobile/vehicle sales and service establishments shall be located, developed and operated in compliance with the following standards:

A. Landscaping and Screening.

1. A masonry wall at least six feet in height shall be provided along all lot lines adjacent to a residential use or district.
2. At least ten percent of the site must be landscaped. All landscaped areas shall be permanently maintained in compliance with Chapter 18.18, Landscaping.
3. A landscaped planter with a minimum inside width of six feet and enclosed within a six-inch-high curb shall be provided along the front and street side property lines, except for vehicular circulation openings. A landscaping buffer with a minimum inside width of at least three feet shall be provided along all other property lines.
4. A six-hundred-square-foot planter with a minimum dimension of twenty feet shall be provided at the corner of intersecting streets unless a building is located at the corner.
5. Additional screening and landscaping may be required where necessary to prevent visual impacts on adjacent properties.

B. Application Review and Findings for Approval. The decision-making authority shall only approve a use permit for an automobile/vehicle sales and service facility only if it finds that:

1. The project is designed so that form and scale are harmonious and consistent with the character of the specific site, the adjacent uses and structures, and the surrounding neighborhood.
2. The site design, including the location and number of driveways, will promote safe and efficient on-site and off-site traffic circulation.
3. Service bay openings are designed to minimize the visual intrusion on surrounding streets and properties.
4. Lighting is designed to be low-profile, indirect or diffused and to avoid adverse impacts on surrounding uses.
5. The washing facility will not have an adverse impact on water supply and quality.

C. Conditions of Approval. Conditions of approval may include limitations on operational characteristics of the use; restrictions on outdoor storage and display, location of pump islands, canopies and service bay openings; and/or requirements for buffering, screening, lighting, planting areas, or other site elements, in order to avoid adverse impacts on adjacent lots or the surrounding area.

D. Automobile/Vehicle Sales and Leasing. Automobile/vehicle sales and leasing establishments are subject to the following standards:

1. Accessory Uses. Automotive servicing or repair is permitted as an accessory use for automobile/vehicle dealers that offer maintenance and servicing of the type of vehicles sold on site.
2. Temporary Signs. Temporary signs for grand opening events or special sales are subject to Section 18.22.100, Temporary signage.

E. Automobile/Vehicle Service and Repair, Major and Minor. Major and minor automobile/vehicle service and repair uses, as well as any other uses, such as auto dealerships or service stations, that perform auto servicing as an accessory activity, are subject to the following standards:

1. Noise. All body and fender work or similar noise-generating activity shall be conducted within an enclosed masonry or similar building with sound-attenuating construction to absorb noise. Air compressors and other service equipment shall be located inside a building.
2. Work Areas. All work shall be conducted within an enclosed building except: pumping motor vehicle fluids, checking and supplementing various fluids, and mechanical inspection and adjustments not involving any disassembly.
3. Vehicle Storage. Vehicles being worked on or awaiting service or pick-up shall be stored within an enclosed building or in a parking lot on the property that is screened in compliance with Section 18.15.090, Screening. Unattended vehicles may not be parked or stored on the sidewalk adjoining the property, in the street, or in any portion of the public right-of-way within the City.
4. Litter. The premises shall be kept in an orderly condition at all times. No used or discarded automotive parts or equipment or permanently disabled, junked, or wrecked vehicles may be stored outside a building.

F. Automobile/Vehicle Washing. Automobile/vehicle washing facilities are subject to the following standards:

1. Washing Facilities. No building or structure shall be located within thirty feet of any public street or within twenty feet of any interior property line of a residential use or residential district. Vehicle lanes for car wash openings shall be screened from public streets to a height of forty inches. Screening devices shall consist of walls and/or berms with supplemental plant materials.
2. Hours of Operation. Automobile/vehicle washing facilities are limited to seven a.m. to ten p.m., seven days a week. When abutting a residential district, the hours of operation shall be between eight a.m. to eight p.m., seven days a week.

G. Service Stations. Service stations and any other commercial use that includes fuel pumps for retail sales of gasoline are subject to the following standards:

1. Pump Islands. Pump islands shall be located a minimum of fifteen feet from any property line to the nearest edge of the pump island. A canopy or roof structure over a pump island may encroach up to ten feet within this distance.

2. Abandonment. Any service station shall in the case of abandonment or non-operation of the primary use be dismantled and the site cleared within twelve months subsequent to the close of the last business day. (Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.23.060 Bars/nightclubs/lounges and commercial entertainment and recreation.**

Bars/nightclubs/lounges and commercial entertainment and recreation establishments shall be located, developed, and operated in compliance with the following standards:

A. Security. On-site security shall be provided at a rate to be determined by the Sheriff's Captain, and shall generally be provided at the rate of one security guard for each one hundred patrons on the property for bar or entertainment uses. Adequate security lighting shall be provided in all parking areas, entrances, and exits as well as building security systems. An agreement with the Sheriff's Captain or designated law enforcement authority may be required as a condition of approval for the provision of sworn officers at special events and for traffic control as needed.

B. Sewer Capacity. Based on the size and type of facility proposed, a sewer capacity fee shall be calculated, pursuant to municipal code requirements, for the additional sewer usage. The sewer capacity fee shall be paid in its entirety at the time of building permit issuance. Construction of a new sewer line may be required to handle the additional capacity. (Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.23.070 Bed and breakfast lodging.**

Bed and breakfast establishments shall be located, developed, and operated in compliance with the following standards:

A. Type of Residence. Bed and breakfast establishments must be located, developed and operated within a single-unit dwelling.

B. Number of Rooms. No more than two rooms may be rented. Additional rooms may be rented only with approval of a minor use permit.

C. Appearance. The exterior appearance of a structure housing a bed and breakfast establishment shall not be altered from its original single-unit character.

D. Limitation on Services Provided. Meals and rental of bedrooms shall be limited to registered guests. Separate or additional kitchens for guests are prohibited. (Ord. 1480 (Exh. C (part)), 2015; Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.23.080 Community assembly facilities.**

Community assembly facilities shall be located, developed, and operated in compliance with the following standards:

A. Location. Community assembly facilities shall be located on a corner lot, not at mid-block, unless the site area is greater than twenty thousand square feet.

B. Access. Community assembly facilities shall take primary access from a public street with a minimum of fifty feet in width and improved with curbs, gutters, sidewalks and street lights.

C. Buffer. A minimum twenty-foot perimeter buffer shall be included adjacent to any residential use or district. This buffer area may be used for parking or landscaping but shall not be used for structures or outside activities.

D. Outdoor Recreation. Outdoor recreation areas shall be at least fifty feet from any residential use or district.

E. Parking Area Screening. Parking areas adjacent to any residential use or district shall be screened with a three-foot-high wall.

F. Outdoor Lighting. Outdoor lighting shall not exceed an intensity of one foot-candle of light throughout the facility. (Ord. 1480 (Exh. C (part)), 2015; Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.23.090 Day care centers.**

Day care centers shall be located, developed and operated in compliance with the following standards:

A. License. The operator shall secure and maintain a license from the State of California Department of Social Services.

B. Screening. A periphery wall, constructed of wood or masonry, shall be provided to screen and secure outdoor play areas and shall achieve seventy-five (75) percent opacity. Chain metal fencing or barbed wire is prohibited.

C. *Repealed by Ord. 1568.*

D. Hours of Operation. Hours of operation shall only be within the hours of six (6) a.m. and ten (10) p.m. Additional hours may be allowed subject to approval of a minor use permit.

E. Noise. Outdoor activities shall comply with the San Carlos noise ordinance.

F. Pick-Up and Drop-Off Plan. A plan and schedule for the pick-up and drop-off of children or clients shall be provided for approval by the Director. The plan shall demonstrate that adequate parking and loading are provided to minimize congestion and conflict points on travel aisles and public streets. The plan shall include an agreement for each parent or client to sign that includes, at a minimum:

1. A scheduled time for pick-up and drop-off with allowances for emergencies; and

2. Prohibitions of double-parking, blocking driveways of neighboring properties, or using driveways of neighboring properties to turn around.

If, for any reason, the applicant cannot meet the above requirements, the minimum parking requirements, or there are concerns with the proposed parking plan or drop-off pick-up plan, the Director may refer this item and require a minor use permit. (Ord. 1568 § 1 (Exh. A), 2021; Ord. 1480 (Exh. C (part)), 2015: Ord. 1438 § 4 (Exh. A (part)), 2011)

#### **18.23.100 Drive-in and drive-through facilities.**

Drive-in or drive-through facilities shall be located, developed and operated in compliance with the following standards:

A. Where Allowed. Drive-in and drive-through facilities are allowed, subject to approval of a conditional use permit, in the GCI District.

B. Drive-In and Drive-Through Aisles. Drive-in and drive-through aisles shall be designed to allow safe, unimpeded movement of vehicles at street access points and within the travel aisles and parking space areas.

1. A minimum fifteen-foot interior radius at curves and a minimum twelve-foot width is required.

2. Each drive-in and drive-through entrance and exit shall be at least one hundred feet from an intersection of public rights-of-way, measured at the closest intersecting curbs, and at least twenty-five feet from the nearest curb cut on an adjacent property.

3. Each entrance to an aisle and the direction of flow shall be clearly designated by signs and/or pavement markings or raised curbs outside of the public right-of-way.

C. Drive-In and Drive-Through Queue Area. Each drive-through aisle shall provide a sufficient queue for four cars, of at least eighty feet, and the queue area shall not interfere with public rights-of-way or streets, or with on- or off-site circulation and parking. Exceptions to the queue size may be granted based on an interior traffic circulation study prepared for review by the Planning Commission.

D. Landscaping. Each drive-through aisle shall be screened with a combination of decorative walls and landscape to a height of twenty inches to prevent headlight glare and direct visibility of vehicles from adjacent streets and parking lots.

E. Menu Boards. Menu boards shall not exceed twenty square feet in area, with a maximum height of six feet, and shall face away from public rights-of-way unless located at least thirty-five feet from the street and adequately screened from view. All outdoor speakers shall be directed away from any residential district or residential use.

F. Pedestrian Walkways. Pedestrian walkways shall not intersect drive-in or drive-through aisles, unless no alternative exists. In such cases, pedestrian walkways shall have clear visibility, emphasized by enhanced paving or markings. (Ord. 1480 (Exh. C (part)), 2015; Ord. 1438 § 4 (Exh. A (part)), 2011)

#### **18.23.110 Emergency shelters.**

Emergency shelters shall be located, developed, and operated in compliance with the following standards:

A. Number of Residents. The number of adult residents, not including staff, who may be housed on a lot that is smaller than one acre shall not exceed the number of persons that may be accommodated in any hospital, elderly and long-term care facility, residential, transient occupancy, or similar facility allowed in the same district.

B. Length of Occupancy. Occupancy by an individual or family may not exceed one hundred eighty consecutive days unless the

management plan provides for longer residency by those enrolled and regularly participating in a training or rehabilitation program.

C. Outdoor Activities. All functions associated with the shelter, except for children's play areas, outdoor recreation areas, parking, and outdoor waiting must take place within the building proposed to house the shelter. Outdoor waiting for clients, if any, may not be in the public right-of-way, must be physically separated from the public right-of-way, and must be large enough to accommodate the expected number of clients.

D. Minimum Hours of Operation. At least eight hours every day between seven a.m. and seven p.m.

E. Supervision. On-site supervision must be provided at all times.

F. Toilets. At least one toilet must be provided for every fifteen shelter beds.

G. Management Plan. The operator of the shelter must submit a management plan for approval by the Director. The plan must address issues identified by the Director, including transportation, client supervision, security, client services, staffing, and good neighbor issues. (Ord. 1480 (Exh. C (part)), 2015; Ord. 1438 § 4 (Exh. A (part)), 2011)

#### **18.23.120 Home occupations.**

A. Purpose. The purpose of this section is to:

1. Permit home occupations, including cottage food operations, as an accessory use in a dwelling unit;
2. Allow residents to operate small businesses in their homes, under certain specified standards, conditions, and criteria;
3. Allow for "telecommuting" and reduced vehicle use;
4. Ensure that home occupations are compatible with, and do not have an adverse effect on, adjacent and nearby residential properties and uses;
5. Ensure that public and private services, such as streets, sewers, or water or utility systems, are not burdened by the home occupation to the extent that usage exceeds that normally associated with residential use; and
6. Preserve the livability of residential areas and the general welfare of the community.

B. Applicability. This chapter applies to all residential units and properties in the City regardless of their zoning designation. It does not apply to family child care homes, which are regulated separately in Section 18.23.090, Day care centers and large family child care homes.

C. Permit Requirements.

1. For home occupations that are not cottage food operations, a zoning clearance is required, and is not transferable. A zoning clearance is required for each home occupation, pursuant to the provisions of Chapter 18.28, Zoning Clearance. A zoning clearance to conduct a home occupation at a particular address is not transferable from one party to another, nor may the type of business be modified. A new zoning clearance must be obtained for each new home occupation.

2. For cottage food operations, which include operations whereby individuals use their home kitchens to prepare, for sale, foods that are not potentially hazardous, the following regulations apply:

a. Cottage food operations either with or without an outside employee and without direct sales on site are permitted by right, provided a zoning clearance pursuant to the provisions of Chapter 18.28 is obtained.

b. Cottage food operations having direct sales on site require a minor use permit and are subject to the following findings:

i. The establishment, maintenance, and/or conducting of the use will not be detrimental to the health, safety, or welfare of persons residing or working in or adjacent to the neighborhood of such use, and will not be detrimental to the public welfare or injurious to property in such neighborhood; and

ii. The home occupation will not be objectionable and undesirable because of potential noise, increased pedestrian or vehicular traffic, or any other condition which may interfere with the general welfare of the surrounding residential area.

- c. All cottage food operations are subject to the following standards:
  - i. Only immediate family members and residents of the dwelling, plus one full-time equivalent outside employee, are allowed to participate in the operation.
  - ii. Driveways shall be kept free and clear to accommodate parking for any outside employee or direct sales customer.
  - iii. There shall be no outdoor storage of goods or materials visible from off site.
  - iv. No commercial vehicles bearing advertising or other business identification shall be visible from the public right-of-way. No more than one commercial vehicle associated with the operation shall be parking on or near the site.
  - v. Customer and delivery parking shall not occur by double-parking or blocking of neighboring driveways.
  - vi. Customer visits shall be limited to no more than four persons at any given time, or twenty persons in any twenty-four-hour period.
  - vii. There shall be no on-site consumption of products other than small samples.
  - viii. One nameplate sign measuring no more than two square feet may be placed on the premises attached to the main building near the business entrance, indicating property address, name of business, hours of operation, contact information, and goods provided.

D. Operational and Performance Standards. Home occupations and cottage food operators must be located and operated consistent with the following standards:

- 1. Residential Appearance. The residential appearance of the unit within which the home occupation is conducted shall be maintained, and no exterior indication of a home occupation is permitted.
- 2. Location. All activities shall be conducted entirely within the residential unit, or within a garage that is attached to, and reserved for, the residential unit. When conducted within a garage, the doors thereof shall be closed, and the area occupied shall not preclude the use of required parking spaces for parking.
- 3. Structural Modification Limitation. No dwelling shall be altered to create an entrance to a space devoted to a home occupation that is not from within the building, or to create features not customary in dwellings.
- 4. Maximum Size. The space exclusively devoted to the home occupation (including any associated storage) shall not exceed twenty-five percent of the residential unit floor area.
- 5. Employees. Notwithstanding the provision for one full-time equivalent cottage food employee, no employees or independent contractors other than residents of the dwelling shall be permitted to work at the location of a home occupation.
- 6. On-Site Client Contact. Notwithstanding the provision for direct sales on site for cottage food operators, no customer or client visits are permitted except for personal instruction services (e.g., musical instruction or training, art lessons, academic tutoring) which may have up to two students at one time.
- 7. Direct Sales Prohibition. Notwithstanding the provision for direct sales on site for cottage food operators, home occupations involving the display or sale of products or merchandise are not permitted from the site except by mail, telephone, Internet, or other mode of electronic communication.
- 8. Storage. There shall be no storage of materials, supplies, and/or equipment in an accessory building, or outdoors. Storage may only occur within a garage if it does not occupy or obstruct any required parking space. Contractors whose work is conducted entirely off site (and who use their home solely for administrative purposes related to the contracting business) may store construction, electrical, landscaping, plumbing, or similar supplies or materials within a single vehicle of less than one ton carrying capacity.
- 9. Equipment. Operations shall not be permitted which involve mechanical or electrical equipment which is not customarily incidental to domestic use. Facsimile machines, copy machines, computers, and other similar business

equipment are permitted. Small power tools and similar equipment/machinery not exceeding one horsepower are also permitted.

10. Hazardous Materials. Activities conducted and equipment or materials used shall not change the fire safety or occupancy classifications of the premises, nor use utilities different from those normally provided for residential use. There shall be no storage or use of toxic or hazardous materials other than the types and quantities customarily found in connection with a dwelling unit.

11. Nuisances. Operations shall be conducted such that no offensive or objectionable noise, dust, vibration, smell, smoke, heat, humidity, glare, refuse, radiation, electrical disturbance, interference with the transmission of communications, interference with radio or television reception, or other hazard or nuisance is perceptible at or beyond any lot line of the unit or structure within which the operation is conducted, or outside the dwelling unit if conducted in other than a single-family detached residence.

12. Traffic and Parking Generation. Operations shall not generate a volume of passenger or commercial traffic that is inconsistent with the normal level of traffic on the street on which the dwelling is located or which creates the need for additional parking spaces, or involve deliveries to or from the premises in excess of that which is customary for a dwelling unit.

13. Commercial Vehicles and Attachments. Operations involving more than one commercial vehicle parked on site shall not be permitted. No attachments of equipment or machinery used for business purposes shall be permitted either on the vehicle or on the site when the vehicles are not in use and such equipment or machinery is within view from the public right-of-way or neighboring properties. Storage of attachments of equipment and machinery are not permitted in areas visible from public rights-of-way or neighboring properties, unless part of an active approved construction project on the site.

E. Prohibited Home Occupations. The following specific businesses are not permitted as home occupations:

1. Adult-oriented business;
2. Ambulance services;
3. Automotive/vehicle repair, painting, body/fender work, upholstering, detailing, washing, including motorcycles, trucks, trailers and boats;
4. Automotive/vehicle sales with any on-site storage or sale of vehicles;
5. Barber, beauty and nail salons;
6. Animal boarding, care, training, breeding, raising or grooming, or veterinary services, conducted on the premises;
7. Carpentry and cabinet-making businesses;
8. Firearms manufacture, sales, or repair;
9. Furniture refinishing or upholstery;
10. Gymnastic facilities;
11. Medical and dental offices, clinics, and laboratories, or any type of physical therapy or psychotherapy, or massage therapy;
12. Mini storage;
13. Mortuaries;
14. Instructional services for more than two students at one time;
15. Print shops;
16. Recording studio (electronic composition, recording, and re-mixing conducted with headphones and using no amplification, live instruments or live performance excepted);

17. Repair, fix-it or plumbing shops;
18. Restaurant;
19. Retail sales;
20. Towing service;
21. Welding, metal working, and machining businesses;
22. Yoga/spa retreat center;
23. Businesses that require a commercial cannabis business permit.

F. Denial and Revocation of Home Occupation Zoning Clearances. A home occupation or cottage food operation approval may be revoked or modified by the Zoning Administrator subsequent to an administrative hearing for violation of any standard of this section. In the event of the revocation of any home occupation approval, or of objection to the limitations placed thereon, appeal may be made in accordance with Section 18.27.150, Appeals. (Ord. 1525 § 2(1) (Exh. A (part)), 2017; Ord. 1480 (Exh. C (part)), 2015: Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.23.130 Large-format retail.**

Large-format retail establishments shall be designed, located, and operated to meet all of the standards and requirements applicable to commercial centers that contain twenty-five thousand square feet of floor area or more and to comply with the following standards:

- A. Surety Bond. As a condition of approval for a large-format retail establishment, the applicant shall be required to post a cash or surety bond in a form and amount acceptable to the City Manager to cover the cost of complete building demolition and maintenance of the vacant building site if the primary building is ever vacated or abandoned, and remains vacant or abandoned for a period of more than twelve consecutive months following primary business closure.
- B. Vacated Facility. If the facility is vacated, the owner or operator, within twelve months, shall submit, to the Planning Commission, a plan contemplating the removal or reuse of the facility. If the owner or operator is unable to provide a plan that is

acceptable to the Planning Commission, the City may utilize the surety bond to take whatever action is permitted by law to assure appropriate demolition, redevelopment, or reuse of the facility. (Ord. 1480 (Exh. C (part)), 2015: Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.23.140 Outdoor dining.**

Eating and drinking establishments with outdoor dining areas shall be located, developed, and operated in compliance with the following standards:

- A. Application Information. Applicant shall submit a site plan and description of the proposed outdoor dining area. The plan shall be drawn to scale showing the location of buildings and structures and in the case of dining in the public right-of-way, the location of street furnishings and trees, curb and on-street parking, adjacent to the proposed outdoor dining. The plan shall show locations, number and the arrangement of planters, fencing, umbrellas, sun screens, tables, chairs, and other portable or affixed appurtenances proposed. Colors and commercial grade materials shall be specified. An electrical plan, when applicable, shall include any lighting and electrical connection proposed including specification of fixtures, type and location. In addition to any other application materials required, an application for an outdoor dining area shall state the anticipated periods of use during the year, and the proposed hours of daily use, including Saturdays, Sundays, and holidays; and whether any liquor will be sold or consumed in the area to be covered by the permit.

- B. Hours of Operation. Hours of operation shall be limited to the hours of operation of the associated eating and drinking establishment and shall be open for a minimum of two service periods per day, except when the establishment is open for only

one service per day.

C. Permits and Licenses. The applicant shall obtain a City of San Carlos zoning clearance/minor architectural review approval and an annual business registration. The applicant shall also obtain approval from the San Mateo County Health Department. In the case of outdoor dining in the public right-of-way, an annual City of San Carlos encroachment permit is required pursuant to Chapter 12.36. As applicable, a current and valid liquor license issued by the California Department of Alcoholic Beverages Control is also required.

D. Outdoor Dining Area in the Public Right-of-Way.

1. Encroachment Permit Required. An encroachment permit approved by the City Engineer is required for any outdoor dining area located in the public right-of-way. No part of an outdoor dining area shall be permanently attached to the building, public right-of-way or sidewalk.

2. Minimum Clearance. For outdoor dining in the MU-DC zoning district, the outdoor dining area may be located no further than the extent of the brick demarcation line that is closest to the front property line. For all other areas, a minimum of four feet of unobstructed sidewalk must remain available for pedestrians. For purposes of the minimum clear path, parking meters, traffic signs, trees, tree grates and all similar obstacles shall constitute obstructions within the sidewalk area.

a. Adjacent to Street. Where the outdoor dining area is located adjacent to a street, an eighteen-inch clearance shall be maintained from the face of the curb to the outdoor dining area unless there is parking parallel to the street, in which case a two-foot clearance is required.

b. No Obstructions. Minimum width of access opening shall be forty-four inches. No outdoor dining area shall obstruct any points of building ingress and/or egress.

c. Corner Lots. On a corner lot, the outdoor dining area shall not be located within the area bound by the extensions of the corner building walls between the building and the curb.

d. Vertical Clearance. Vertical clearance of seven feet shall be maintained.

3. Design.

a. No Permanent Attachments. Roofs, awnings or umbrellas may be used in conjunction with an outdoor eating area, although permanent shelters over an outdoor eating area are prohibited. Awnings shall be adequately secured, retractable, and shall comply with the Building Code.

b. Barriers. The outdoor dining area may be delineated by an edge perpendicular to the sidewalk, but is not required, by the use of barriers such as planter boxes or wrought iron fencing.

c. Design. The design of all improvements and furniture shall be of a quality to sustain weather and wear, and shall be of commercial grade materials.

i. Furniture shall be of durable materials such as wrought iron, wood, steel, or cast aluminum. Tables shall be a size suitable for seating of two to four patrons. Plastic chairs and table and vinyl or plastic tablecloths are not permitted.

ii. Planter boxes shall be of quality materials such as finished wood, precast concrete, terra cotta, or other pottery.

iii. Umbrellas and awnings shall be solid color canvas. Sun screens shall be a durable fabric and retractable. No generic advertising or signage is permitted.

4. Operation.

a. Noise Limits. No entertainment or use, operation, or playing of any musical instrument, loudspeaker, sound amplifier, or other machine for the production or reproduction of sound is permitted in the outdoor dining area.

b. No Outdoor Cooking or Open Flames. No electrical appliances, heating or cooking of food or open flames shall be allowed in the outdoor dining area. Use of portable heating devices may be permitted with approval from the Fire Marshal.

- c. No Storage. No structure or enclosure to accommodate the serving or clean-up stations, storage of trash or garbage shall be erected or placed on, adjacent to, or separate from an outdoor dining area on the public sidewalk or right-of-way.
  - d. Parking. Outdoor dining areas are exempt from the parking requirements of Chapter 18.20, Parking and Loading.
  - e. No Overnight Use. All umbrellas, tables, chairs and other portable appurtenances shall be removed from the outdoor dining area at the end of each business day. No storage in the public right-of-way shall be permitted.
5. Maintenance.
- a. The permittee and the property owner shall maintain the outdoor dining area and the adjoining street, curb, gutter and sidewalk in a neat, clean and orderly condition at all times, regardless of the source of the refuse and litter.
  - b. Activities involving the outdoor dining area shall be conducted in a manner that does not interfere with pedestrians, parking or traffic.
  - c. If necessary, the permittee or the property owner shall clean the surface of the sidewalk by washing or buffing to remove any stains, marks, or discoloration and in accordance with prevailing stormwater and water quality regulations.
  - d. Furniture and appurtenances shall be kept clean and in good condition. Umbrellas shall be kept secure in windy conditions, and fire-treated. (Ord. 1480 (Exh. C (part)), 2015; Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.23.150 Outdoor retail sales.**

Outdoor retail sales shall be located, developed, and operated in compliance with the standards of this section.

- A. Temporary Outdoor Display and Sales. The temporary outdoor display and sale of merchandise shall comply with Section 18.23.240, Temporary uses, and Chapter 18.31, Temporary Use Permits. An encroachment permit is required for any temporary outdoor display and sales within the public right-of-way; reasonable conditions of approval of such permits may be imposed to ensure unobstructed pedestrian movement in a minimum clear zone and to maintain clean sidewalks.
- B. Downtown Outdoor Display and Sales. Outdoor display and sale of merchandise in downtown districts shall comply with this section and Title 12. Outdoor display and sale of merchandise is permitted on private property in the MU-DC, MU-D, MU-N and the MU-SB. Outdoor display and sale of merchandise is permitted on public property and in the right-of-way in the MU-DC, MU-D with frontage on Laurel Street and San Carlos Avenue, MU-N with frontage on Holly Street, MU-N south of Arroyo Avenue and the MU-SB with frontage on Laurel Street. The display area shall not encroach in a public right-of-way, street, alley, sidewalk or other public property without first obtaining an encroachment permit.

1. General Requirements.
  - a. Application Information. Applicant shall submit a site plan and description of the proposed outdoor display and sales area. The plan shall be drawn to scale showing the location of buildings and structures. In cases where outdoor sales are proposed for location in the public right-of-way, the site plan shall include the location of street furnishings and trees adjacent to the proposed outdoor display and sales area. The plan shall show locations, number and the arrangement of portable appurtenances proposed. Colors and commercial grade materials shall be specified. In addition to any other application materials required, an application for an outdoor display and sales area shall state the anticipated periods of use during the year, and the proposed hours of daily use, including Saturdays, Sundays, and holidays.
  - b. Hours of Operation. Hours of outdoor display and sales shall be limited to the hours of operation of the associated commercial establishment.
  - c. Permits and Licenses. The applicant shall obtain a City of San Carlos zoning clearance/minor architectural review approval and an annual business registration. In the case of outdoor display and sales in the public right-of-way, an annual City of San Carlos encroachment permit is required.
2. Outdoor Retail Sales Standards.
  - a. Design.

- i. The design of all improvements, sales racks and furniture shall be of a quality to sustain weather and wear, and shall be of commercial grade materials. Vinyl or plastic tablecloths are not permitted.
- ii. The merchandise in the outdoor display and sales area including but not limited to the display racks, tables and stands shall not exceed a height of six feet and in no case be lower than two feet.
- iii. Display and sales area fixtures and appurtenances shall be stable and secure in all wind and weather conditions. Umbrellas and awnings shall be solid color canvas. Sun screens shall be a fabric and retractable. No generic advertising or signage is permitted.
- iv. The display and sales area shall not exceed twenty-five percent of the width of the frontage of the associated business storefront.

b. Operation.

- i. Outdoor display and sales conducted by a business shall be located in front of the associated business storefront.
- ii. All merchandise or services displayed outdoors shall be of the same types ordinarily sold indoors at the business conducting the sale. All sale transactions shall be conducted indoors.
- iii. Outdoor display and sales areas are exempt from the parking requirements of Chapter 18.20, Parking and Loading.
- iv. All display and sale merchandise, furniture and fixtures and other portable appurtenances shall be removed from outdoors at the end of each business day. No outside storage shall be permitted.

c. Maintenance.

- i. The permittee and the property owner shall maintain the outdoor display and sales area and the adjoining street, curb, gutter and sidewalk in a neat, clean and orderly condition at all times, regardless of the source of the refuse and litter.
- ii. Activities involving the outdoor display and sales area shall be conducted in a manner that does not interfere with pedestrians, parking or traffic.
- iii. If necessary, the permittee or the property owner shall clean the surface of the sidewalk by washing or buffing to remove any stains, marks, or discoloration and in accordance with prevailing stormwater and water quality regulations.
- iv. Furniture, fixtures and appurtenances shall be kept clean and in good condition.

3. Outdoor Retail Sales in the Public Right-of-Way.

- a. Encroachment Permit Required. An encroachment permit approved by the City Engineer is required for any outdoor display and sales located in the public right-of-way. No part of an outdoor display and sales area shall be permanently attached to the building, public right-of-way or sidewalk.
- b. Minimum Clearance. For outdoor retail sales in the MU-DC zoning district, the outdoor retail sales area may be located no further than the extent of the brick demarcation line that is closest to the front property line. For all other areas, a minimum of four feet of unobstructed sidewalk must remain available for pedestrians. For purposes of the minimum clear path, parking meters, traffic signs, trees, tree grates and all similar obstacles shall constitute obstructions within the sidewalk area.
  - i. Where the outdoor display and sales area is located adjacent to a street, an eighteen-inch clearance shall be maintained from the face of the curb to the outdoor retail sales area unless there is parking parallel to the street, in which case a two-foot clearance is required.
  - ii. Minimum width of access opening shall be forty-four inches. No outdoor display and sales area shall obstruct any points of building ingress and/or egress.

iii. On a corner lot, the outdoor display and sales area shall not be located within the area bound by the extensions of the corner building walls between the building and the curb.

iv. Vertical clearance of seven feet shall be maintained.

C. Ongoing Outdoor Display/Sales. The ongoing outdoor display of merchandise, except for automobile/vehicle sales and leasing, which is subject to Section 18.23.050, Automobile/vehicle sales and services, requires approval of a conditional use permit in accordance with Chapter 18.30, Use Permits, and shall comply with the following minimum standards:

1. Location. Outdoor sales shall be located entirely on private property outside any required setback (or landscaped planter in zoning districts that do not have required setbacks), fire lane, or fire access way. A minimum setback of fifteen feet from any public right-of-way is required.

2. Screening. All outdoor sales and activity areas other than vehicle sales lots, produce stands, and nursery product sales shall be screened from adjacent public rights-of-way and residential districts by decorative solid walls, solid fences, or landscaped berms.

3. Location of Merchandise. Displayed merchandise shall occupy a fixed, specifically approved and defined location that does not disrupt the normal function of the site or its circulation and does not encroach upon parking spaces, driveways, pedestrian walkways, or required landscaped areas. These displays shall also not obstruct sight distances or otherwise create hazards for vehicle or pedestrian traffic. (Ord. 1480 (Exh. C (part)), 2015; Ord. 1438 § 4 (Exh. A (part)), 2011)

#### **18.23.160 Outdoor storage.**

Outdoor storage shall be located, developed and operated in compliance with the following standards:

A. Applicability. Open storage of goods, materials, machines, equipment, and vehicles or parts outside of a building for more than seventy-two hours must conform to the standards of this section. The regulations of this section do not apply to temporary storage of construction materials reasonably required for construction work on the premises pursuant to a valid building permit. All storage in the public right-of-way shall be subject to an encroachment permit.

B. Permitted Locations. Table 18.23.160-B states the districts where outdoor storage is permitted and prohibited.

**TABLE 18.23.160-B: OUTDOOR STORAGE REGULATIONS BY DISTRICT AND LOCATION**

Base Districts	Permissibility of Open Storage
Residential, Mixed-Use, LC and NR Districts	Not permitted (all storage must be within an enclosed building).
IA, IP, and Public and Semi-Public Districts	Permitted as an accessory use outside of required yards, parking and circulation areas, and required landscaped areas subject to the standards of this section.
IL and IH Districts	Permitted as a principal use outside of required yards, parking and circulation areas, and required landscaped areas subject to the standards of this section.
GCI	Requires a conditional use permit as a principal use and must occur outside of required yards, parking and circulation areas, and required landscaped areas subject to the standards of this section.

C. Surfacing. Outdoor storage areas shall be surfaced with a minimum thickness of two inches of Type A asphalt concrete over ninety-five percent relative compaction native soil, or a minimum thickness of six inches of Class B concrete. Such surfacing shall be permanently maintained free of structural defects. The Director may allow outdoor storage of nonhazardous materials on other surfacing only if the following findings can be made:

1. The proposed surfacing is appropriate to the type of product stored.
2. The proposed surfacing will conform to all applicable Federal and State air and water quality standards. (Ord. 1480 (Exh. C (part)), 2015; Ord. 1438 § 4 (Exh. A (part)), 2011)

#### **18.23.170 Personal services.**

Personal service establishments shall be located, developed, and operated in compliance with the following standards:

A. Hours of Operation. Hours of operation shall be limited to seven a.m. to ten p.m. unless otherwise specified in a zoning clearance, conditional use permit or other permit.

B. Location. As specified in the base district regulations, with additional provisions specified in this section.

C. MU-DC District. Personal services are permitted within the 600, 700 and 800 blocks of Laurel Street and the 1100 and 1200 blocks (south side only) of San Carlos Avenue, in accordance with the following criteria:

1. Existing personal services uses may continue to occupy their current location but shall not expand greater than twenty-five percent of their floor area as it existed on August 22, 1994.

2. New personal services uses may move into a location that was previously a personal services use, provided:

- a. That location has not been vacant for more than six months; and

- b. The new business type is the same as the previous business type, i.e., beauty salon for beauty salon, shoe repair for shoe repair, etc.

3. New personal services may move into a location that was previously retail, restaurant, personal services, or a space that was vacant for more than six months, provided no other personal service use of any type exists within a three-hundred-foot radius of the proposed use.

D. Massage Establishments. Regulation of the operation of massage establishments is provided for in Title 5 in the interest of public health, safety and welfare by providing minimum sanitation and health standards for such establishments and by ensuring that persons offering services therein possess the minimum qualifications necessary to operate such businesses and to perform such services.

1. Permits and Licenses.

- a. A massage establishment shall be subject to and in conformance with the provisions of Chapter 5.40 et seq.

- b. Prior to establishment of the massage establishment, the applicant shall apply for and receive an annual business registration as set forth in Chapter 5.04.

E. *Repealed by Ord. 1525.*

F. Tattoo or Body Modification Parlor. The following standards regulate the operation of facilities that perform tattooing and body modification to provide for the health, safety and welfare of the public and ensure compliance with California Health and Safety Code Section 119300 et seq.

1. Location. Tattoo and body modification parlors shall be located a minimum of five hundred feet from any other such establishment, any public park and any school for students in any grade from kindergarten through twelfth grade.

2. Registration Required. Any person who is engaged in the business of tattooing or body modification shall provide evidence of registration with the San Mateo County Department of Health.

3. No Persons Under Eighteen. A sign shall be posted on the door or in view of the entrance stating that no person under the age of eighteen is allowed on site, unless accompanied by his or her parent or documented legal guardian. The operator of the establishment shall require all customers to show proof of age. (Ord. 1525 § 2(1) (Exh. A (part)), 2017; Ord. 1480 (Exh. C (part)), 2015; Ord. 1438 § 4 (Exh. A (part)), 2011)

#### **18.23.180 Personal storage.**

Personal storage facilities shall be located, developed and operated in compliance with the following standards:

A. Business Activity. All personal storage facilities shall be limited to inactive items such as furniture and files. No retail, repair, or other commercial use shall be conducted out of the individual rental storage units.

B. No Hazardous Materials Storage. No storage of hazardous materials is permitted.

C. Notice to Tenants. As part of the rental process, the facility manager shall inform all tenants of conditions restricting storage of hazardous materials and limitation on the use of the storage units. These restrictions shall be included in rental contracts and posted at a conspicuous location within the front of each rental unit.

D. Open Storage. Open storage, outside an enclosed building, shall be limited to vehicles and trailers and screened from public view by building facades or solid fences.

E. Circulation. Driveway aisles shall be a minimum of twenty feet wide.

F. Exterior Wall Treatments and Design. Exterior walls visible from a public street or residential district shall be constructed of decorative block, concrete panel, stucco, or similar material. These walls shall include architectural relief through articulation, trim, change in color at the base, variations in height, the use of architectural "caps," attractive posts, or similar measures. A gate(s) shall be decorative iron or similar material.

G. Screening. Where exterior walls are required or proposed, they shall be constructed of decorative block, concrete panel, stucco, or similar material. The walls shall include architectural relief through variations in height, the use of architectural "caps," attractive posts, or similar measures. A gate(s) shall be decorative iron or similar material.

H. Fencing. A six-foot-high security fence shall be provided around the perimeter of the development at locations where the solid facades of the storage structures do not provide a perimeter barrier. (Ord. 1438 § 4 (Exh. A (part)), 2011)

#### **18.23.190 Recycling facilities.**

Recycling facilities shall be located, developed, and operated in compliance with the following standards:

A. Reverse Vending Machines.

1. Accessory Use. Reverse vending machines may be installed as an accessory use to a permitted or conditionally permitted primary use on the same site.
2. Location. Machines shall be located adjacent to the entrance of the commercial host use and shall not obstruct pedestrian or vehicular circulation.
3. Identification. Machines shall be clearly marked to identify the type of material to be deposited, operating instructions, and the identity and phone number of the operator or responsible person to call if the machine is inoperative.
4. Signs. The maximum sign area on a machine is four square feet, exclusive of operating instructions.
5. Lighting. Machines shall be illuminated to ensure comfortable and safe operation between dawn and dusk.
6. Trash Receptacle. Machines shall provide a forty-gallon garbage can for nonrecyclable materials located adjacent to the reverse vending machine.

B. Recycling Collection Facilities.

1. Size. Recycling collection facilities shall not exceed a building site footprint of three hundred fifty square feet or include more than three parking spaces (not including space periodically needed for the removal or exchange of materials or containers).
2. Equipment. No power-driven processing equipment, except for reverse vending machines, may be used.
3. Location. Facilities shall not be located within fifty feet of a residential district.
4. Setback. Facilities shall be set back at least ten feet from any street lot line and not obstruct pedestrian or vehicular circulation.
5. Containers. Containers shall be constructed of durable waterproof and rustproof material(s) and secured from unauthorized removal of material. Capacity sufficient to accommodate materials collected in the collection schedule.
6. Identification. Containers shall be clearly marked to identify the type of accepted material, the name and telephone number of the facility operator and the hours of operation.
7. Signs. The maximum sign area shall be twenty percent of the area of the side of facility or container or sixteen square feet, whichever is larger. In the case of a wheeled facility, the side is measured from the pavement to the top of the container. The Director may authorize increases in the number, size and nature of additional signs for necessary directional or identification purposes but not for outdoor advertising.

8. Parking. Patrons and the attendant shall not reduce available parking spaces below the minimum number required for the main use unless a parking study shows available capacity during recycling facility operation.
  9. Site Maintenance. Sites shall be maintained clean, sanitary, and free of litter and any other undesirable materials.
- C. Recycling Processing Facility.
1. Location. Facilities shall not abut a residential district.
  2. Screening. The facility must be screened from public rights-of-way, by solid masonry walls or located within an enclosed structure.
  3. Outdoor Storage. Exterior storage of material shall be in sturdy containers or enclosures that are secured and maintained in good condition. Storage shall not be visible above the height of the required solid masonry walls.
  4. Identification. Facilities shall be clearly marked with the name and phone number of the facility operator and hours of operation. (Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.23.200 Residential care facilities.**

Residential care facilities shall be located, developed and operated in compliance with the following standards:

- A. Location. Minimum distance from other residential care facilities shall be three hundred feet.
- B. Screening and Landscaping. A minimum six-foot-high solid wall or fence shall be provided for purposes of screening and securing outdoor recreational areas. Chain metal fencing and barbed wire are prohibited. All other provisions of Chapter 18.18, Landscaping, shall apply.
- C. Licensing. 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.
- D. No Drug or Alcohol Use. Residents and staff shall sign an agreement affirming that use of drugs or alcohol on the premises is prohibited and acknowledging that drug or alcohol use will result in termination or eviction. (Ord. 1480 (Exh. C (part)), 2015; Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.23.210 Accessory dwelling units/junior accessory dwelling units. Revised 1/24**

- A. Purpose and Applicability. The purpose of this section is to:
1. Provide for accessory dwelling units and junior accessory dwelling units in accordance with the provisions of State law (California Government Code Section 65852 et seq.).
  2. Maintain the character of single-family residential neighborhoods in the City to the greatest extent possible.
  3. In cases of conflict between this chapter and any other provision of this title, the provisions of this chapter shall prevail. To the extent that any provision of this chapter is in conflict with State law, the applicable provision of State law shall control, but all other provisions of this chapter shall remain in full force and effect.
- B. Definitions.
1. Junior Accessory Dwelling Unit. A unit that is no more than five hundred (500) square feet in size and contained entirely within a single-family dwelling unit (must contain a separate, external entrance). A junior accessory dwelling unit may include separate sanitation facilities (bathroom containing, at minimum, a sink, toilet, and shower) or may share sanitation facilities with the single-family dwelling. An efficiency kitchen is required, which must include a sink and a built-in cooking facility with appliances (e.g., microwave, toaster oven, hot plate), as well as a food preparation counter and storage cabinets.
  2. Accessory Dwelling Unit. An attached or detached residential dwelling unit that provides complete independent living facilities for one (1) or more persons and located on a single lot with a proposed or existing single-unit dwelling. It shall include a separate external entrance and permanent provisions for living, sleeping, eating, cooking, and sanitation (at minimum, a sink, toilet, and shower) on the same parcel as the single-family or multifamily dwelling. At a minimum, the kitchen shall contain a sink, standard refrigerator, and either a built-in cooktop or range, as well as a food preparation counter and storage cabinets.

3. Statewide Exemption ADU. A Statewide exemption ADU, found in Government Code Section 65852, subdivision (e), is an ADU of up to eight hundred (800) square feet, sixteen (16) feet in height (eighteen (18) feet near transit or when the primary dwelling has more than one (1) story, twenty-five (25) feet or the underlying zoning height limit, whichever is lower, for an attached ADU), as potentially limited by a local agency, and with four (4) foot side and rear yard setbacks. State ADU law requires that no lot coverage, floor area ratio, open space, front setback or minimum lot size will preclude the construction of a Statewide exemption ADU. Further, State ADU law allows the construction of a detached new construction Statewide exemption ADU to be combined on the same lot with a JADU in a single-family residential zone. In addition, ADUs are allowed in any residential or mixed uses regardless of zoning and development standards imposed in an ordinance.

4. Public Transit. A bus stop or train station where public transportation runs on fixed routes.

C. Land Use Regulations. Accessory dwelling units shall be a permitted use within an existing single-unit dwelling or multi-unit dwelling, in residential (R) zoning districts, in mixed-use (MU) zoning districts and in any planned development (PD) zoning district where residential uses are permitted or conditionally permitted as part of an approved planned development plan. Junior accessory dwelling units shall be permitted in the single-family (RS) zoning districts within an existing single-unit dwelling, or as part of a proposed new single-unit dwelling. Regardless of any required development standards, a minimum ADU of eight hundred (800) square feet shall be allowed. Any ADU or JADU does not count towards the allowable density for the lot upon which it is located.

D. Number of Units and Location.

1. Junior Accessory Dwelling Units, Number and Location.

a. Where permitted as specified in Table 18.04.020, one (1) junior accessory dwelling unit may be developed on any legally created lot and shall be located within the walls of an existing or proposed single-unit dwelling. Enclosed spaces within the residence, such as attached garages and crawlspaces, are considered part of the existing or proposed single-unit dwelling.

2. Accessory Dwelling Units, Number and Location.

a. Multifamily Dwelling Structures, Accessory Dwelling Units Inside an Existing or Proposed Multifamily Dwelling Structure. Up to twenty-five percent (25%) of the number of existing or proposed multifamily units in the building, but at least one (1) accessory dwelling unit, shall be allowed in existing or proposed multifamily dwelling structures within the portions of the structure that are not used as livable space; provided, that the unit complies with the California Building Standards Code as set forth in Title 15 for dwellings. An accessory dwelling unit shall not be created within any portion of the habitable area of an existing dwelling unit in a multifamily structure.

b. Multifamily Dwelling Structures, Detached Accessory Dwelling Units. Up to two (2) detached accessory dwelling units on a lot with an existing or proposed multifamily dwelling structure.

c. Single-Family Residential Lots or Dwellings. One (1) accessory dwelling unit is permitted per residential lot containing an existing or proposed single-unit dwelling. An accessory dwelling unit may be allowed in conjunction with a junior accessory dwelling unit when the requirements of subsection F of this section, Development Standards, are met. Where permitted, an accessory dwelling unit may be located in any of the following places on a legally created lot:

i. Attached to an existing or proposed single-unit dwelling;

ii. Located within the walls of the existing or proposed single-unit dwelling, including all or a portion of an attached garage;

iii. Located within or added onto an existing accessory structure;

iv. Located over or below a legally established detached garage;

v. Detached from the existing or proposed single-unit dwelling or multifamily structure, but located on the same lot as the existing or proposed single-unit dwelling or multifamily structure.

E. Rental and Ownership Standards.

1. Junior Accessory Dwelling Units.
  - a. Junior accessory dwelling units shall not be sold separately from the primary residence.
  - b. Junior accessory dwelling units may be rented independently of the primary residence.
  - c. Junior accessory dwelling units shall not be rented for fewer than thirty (30) consecutive calendar days.
  - d. Where a lot contains both an accessory dwelling unit and a junior accessory dwelling unit, either the single-unit dwelling or the junior accessory dwelling unit shall be owner-occupied.
2. Accessory Dwelling Units.
  - a. Accessory dwelling units shall not be sold separately from the primary residence, unless permitted by State law.
  - b. Accessory dwelling units may be rented independently of the primary residence.
  - c. Accessory dwelling units shall not be rented for fewer than thirty (30) consecutive calendar days.
  - d. For applications received prior to January 1, 2025, there is no owner-occupancy requirement for accessory dwelling units.

#### F. Development Standards.

1. Junior accessory dwelling units and accessory dwelling units shall conform to the height, setbacks, lot coverage, and any other development or supplemental standards of any applicable zoning district(s), the development standards below, other requirements of the Zoning Ordinance, and other applicable City codes. In any case of conflict between this section and any other part of the San Carlos Municipal Code, the standards specific to this section shall take precedence.
2. Building Code Requirements. Junior accessory dwelling units and accessory dwelling units shall comply with all applicable building code requirements and applicable State laws regarding ADUs and JADUs.
3. Junior Accessory Dwelling Units (JADUs).
  - a. Interior Requirements. Junior accessory dwelling units shall contain at least an efficiency kitchen equipped with a sink, a built-in cooking facility with appliances (e.g., microwave, toaster oven, hot plate) as well as a food preparation counter and storage cabinets.
  - b. Size Requirements. A junior accessory dwelling unit shall be no larger than five hundred (500) square feet in size; and no junior accessory dwelling unit shall be smaller than the size required to allow an efficiency unit pursuant to Health and Safety Code Section 17958.1.
  - c. Bathroom Access. A junior accessory dwelling unit may, but is not required to, include separate sanitation facilities. If separate sanitation facilities are not provided, the junior accessory dwelling unit shall share sanitation facilities with the single-unit dwelling and shall provide a direct entry from the JADU to the main unit.
  - d. Entrances. A junior accessory dwelling unit shall have a separate external entrance from the primary dwelling unit. The entrance of a junior accessory dwelling unit shall not be located along any street-facing facade unless required to meet minimum ingress and egress requirements to the unit.
  - e. Setbacks. The single-family unit first floor side and rear setbacks may be reduced to no less than four (4) feet to accommodate access to a ground floor junior accessory dwelling unit, or an exterior stair and landing that provide required access to the unit if it is located on the second story.
  - f. Architectural Compatibility. Junior accessory dwelling units shall satisfy applicable objective design criteria and conform to any applicable objective design guidelines of the underlying zoning district.
  - g. Balconies and Openings. Balconies, decks, and open stair landings above the first floor shall not face the side property lines, except stair or entrance landings as needed to meet minimum requirements to allow ingress and egress.
  - h. Nonconformities. Junior accessory dwelling units must be allowed within a single-unit dwelling, including nonconforming single-unit dwellings. A permit to construct a junior accessory dwelling unit in a nonconforming single-

unit dwelling shall not require nonconforming conditions to be corrected, unless otherwise required for health and safety.

4. Accessory Dwelling Units (ADUs).

a. Interior Requirements. An accessory dwelling unit shall include a separate external entrance and permanent provisions for living, sleeping, eating, cooking, and sanitation (at minimum, a sink, toilet, and shower) on the same parcel as the single-family or multifamily dwelling. At a minimum, the kitchen shall contain a sink, standard refrigerator (minimum twenty (20) inch width, minimum twenty (20) inch depth, and minimum fifty (50) inch height or eleven (11) cubic feet), and either a built-in cooktop or range, as well as a food preparation counter and storage cabinets.

b. Limits on Lot Coverage, Maximum Floor Area (MFA), Front Setbacks, and Natural State. Accessory dwelling units shall comply with lot coverage requirements, MFA, required front setbacks of the underlying zoning district, and natural state and open space requirements when applicable, as well as other applicable development standards, except that: a maximum of eight hundred (800) square feet of ADU floor area is exempt from the MFA requirement that applies to the RS-6 zoning district; and unless classified as a Statewide exemption ADU per subsection (F)(4)(c) of this section.

c. Statewide Exemption ADU. Notwithstanding the development standards set forth in subsection (F)(4)(b) of this section, if there is no alternative to constructing an accessory dwelling unit in accordance with the development standards listed in subsection (F)(4)(b) of this section, one (1) or more of these development standards may be waived only to the extent necessary to allow a Statewide exemption ADU of up to eight hundred (800) square feet with a maximum of sixteen (16) feet in height (except as specified in subsection (F)(4)(i) of this section), with minimum four (4) foot side and four (4) foot rear yard setbacks. The front setback requirement may be reduced to the extent necessary so as not to preclude a Statewide exemption ADU and must not unduly constrain the creation of all types of accessory dwelling units.

The proposal must meet all other objective development standards. The applicant must also demonstrate that an accessory dwelling unit cannot be constructed in accordance with applicable development standards.

d. Entrances. An accessory dwelling unit shall have a separate external entrance from the single-unit dwelling.

e. Setbacks. Except as indicated in this section, an accessory dwelling unit shall be required to comply with the setback requirements of the zone in which the unit is to be located.

i. Detached ADUs. Detached accessory dwelling units must be set back a minimum of four (4) feet from rear and four (4) feet from the side property lines. Accessory dwelling units that are not classified as statewide exemption ADUs must meet the required front setback unless located within a legal, nonconforming structure.

ii. Conversions of Existing Living Area or Accessory Structures. No setback is required for an existing living area or an existing accessory structure converted to an accessory dwelling unit, or for a new accessory dwelling unit constructed in the same location and built to the same dimensions as an existing structure.

iii. Attached Accessory Dwelling Units. There is no minimum requirement for setbacks between an accessory dwelling unit and the primary dwelling; however, all proposals shall meet any applicable building and fire requirements. Newly constructed attached ADUs shall meet minimum four (4) feet side and four (4) feet rear setbacks on the first floor. Newly constructed ADUs on the second floor shall conform to the required setbacks of the underlying zoning district, unless classified as a statewide exemption ADU. Newly constructed ADUs shall meet the required front setback for the main residence, unless classified as a Statewide exemption ADU. On reversed corner lots (as defined in Section 18.41.020), the rear setback for an attached ADU located on the second floor shall be a minimum of five (5) feet, unless classified as a Statewide exemption ADU.

f. Maximum Size. The floor area of an accessory dwelling unit shall be limited to the maximum allowable floor area permissible on the lot based on the underlying zoning district requirements, except that: conversions of garages, sheds, barns, and other existing accessory structures, either attached or detached from a single-unit dwelling, are not subject to any additional development standard, such as unit size, height, and lot coverage requirements. If there is an existing primary dwelling, the total floor area of an attached or detached accessory dwelling unit shall not exceed fifty percent (50%) of the existing primary dwelling, unless classified as a Statewide exemption ADU. If the accessory dwelling unit does not meet all development standards of the applicable zoning district, the maximum floor area permitted is eight hundred (800) square feet, subject to the provisions of subsection (F)(4)(c) of this section. No

accessory dwelling unit shall be smaller than the size required to allow an efficiency unit pursuant to Health and Safety Code Section 17958.1.

g. **Architectural Compatibility.** Accessory dwelling units shall conform to any applicable objective design guidelines of the underlying zoning district. If there is no alternative to constructing an accessory dwelling unit in accordance with the objective design standards of the underlying zoning district or development standards listed in subsection (F)(4) (b) of this section, one (1) or more of these development standards and/or objective standards may be waived only to the extent necessary to allow a Statewide exemption ADU. The applicant must also demonstrate that an accessory dwelling unit or a junior accessory dwelling unit cannot be constructed in accordance with applicable development or objective standards.

h. **Balconies and Openings.** Balconies, decks or open stair landings above the first floor and within ten (10) feet of a side or rear property line shall not be permitted, except as needed to meet minimum requirements to allow ingress and egress, but in no case shall be less than three (3) feet from the property line.

Windows above the first floor and within five (5) feet of the property line shall have obscured glass or have sills that are at least five (5) feet high.

i. **Maximum Height.** An attached accessory dwelling unit shall not exceed twenty-five (25) feet. A detached accessory dwelling unit on a lot with an existing or proposed single-family or multifamily dwelling unit shall be no greater than eighteen (18) feet in height. An additional two (2) feet in height shall be permitted to accommodate a roof pitch on the accessory dwelling unit that is aligned with the roof pitch of the primary single-unit dwelling. Heights shall be measured in accordance with Section 18.03.050 (Measuring height).

j. Accessory dwelling units developed within an existing accessory structure on a lot with a single-unit dwelling may include an expansion of up to one hundred fifty (150) square feet beyond the existing physical structure of the accessory structure only to accommodate ingress and egress if the side and rear setbacks are sufficient for safety. Any other additions to an existing accessory structure shall comply with all other standards in effect including but not limited to setbacks, height, and lot coverage.

k. **Passageway.** No passageway, as defined in California Government Code Section 65852.2, shall be required in conjunction with the construction of an ADU or JADU.

**Table 18.23.210(E)(4): Accessory Dwelling Unit Development Standards**

Detached ADUs	Non-Statewide Exemption	Statewide Exemption
Maximum Height (ft.)	18 + 2 to match main building roof pitch 18 if on same lot as a multistory multifamily building 20 if located above a detached garage	18 + 2 to match main building roof pitch 18 if on same lot as a multistory multifamily building 20 if located above a detached garage
Maximum Size	Floor area is limited to the Maximum Allowable Floor Area of the Underlying Zoning District; Up to 800 sq. ft. exempt from Maximum Floor Area of Underlying Zoning District No larger than 50% of existing dwelling unit	800 sq. ft. Exempt from Maximum Floor Area of Underlying Zoning District
Lot Coverage	Nonexempt from Lot Coverage requirement of underlying zoning district	800 sq. ft. Exempt from Lot Coverage requirement of underlying zoning district
Minimum Setbacks (ft.)		
Front	Comply with Underlying District	May be reduced to 0' if no other location is feasible
Interior Side	1st Story: 4 2nd Story: Underlying District	1st Story: 4 2nd Story: 4

Detached ADUs	Non-Statewide Exemption	Statewide Exemption
Street Side	1st Story: 4 2nd Story: Underlying District	1st Story: 4 2nd Story: 4
Rear	1st Story: 4 2nd Story: Underlying District	1st Story: 4 2nd Story: 4
Building Separation	Defer to Building Code	Defer to Building Code
Balconies, Decks, Open Stair Landings (2nd Story and Up)	10; up to 3 if needed to meet minimum ingress and egress	10; up to 3 if needed to meet minimum ingress and egress

**Table 18.23.210(E)(4): Accessory Dwelling Unit Development Standards**

Attached ADUs	Non-Statewide Exemption	Statewide Exemption
Maximum Height (ft.)	25'	25'
Maximum Size	Floor area is limited to the Maximum Allowable Floor Area of the Underlying Zoning District; Up to 800 sq. ft. exempt from Maximum Floor Area of Underlying Zoning District No larger than 50% of existing dwelling unit	800 sq. ft. Exempt from Maximum Floor Area of Underlying Zoning District
Lot Coverage	Nonexempt from Lot Coverage requirement of underlying zoning district	800 sq. ft. Exempt from Lot Coverage requirement of underlying zoning district
Minimum Setbacks (ft.)		
Front	Comply with Underlying District	May be reduced to 0' if no other location is feasible
Interior Side	1st Story: 4 2nd Story: Underlying District	1st Story: 4 2nd Story: 4
Street Side	1st Story: 4 2nd Story: Underlying District	1st Story: 4 2nd Story: 4
Rear	1st Story: 4 2nd Story: Underlying District; Reverse Corner Lots 5	1st Story: 4 2nd Story: 4
Building Separation	Defer to Building Code	Defer to Building Code
Balconies, Decks, Open Stair Landings (2nd Story and Up)	10; up to 3 if needed to meet minimum ingress and egress	10; up to 3 if needed to meet minimum ingress and egress

**Table 18.23.210(E)(4): Accessory Dwelling Unit Development Standards**

<b>Existing Space Converted to ADU (attached or detached); or new accessory dwelling unit constructed in the same location and built to the same dimensions as an existing structure</b>	<b>Non-Statewide Exemption</b>	<b>Statewide Exemption</b>
Maximum Height (ft.)	None	None
Maximum Size	No larger than 50% of existing dwelling unit	800 sq. ft.
Lot Coverage	Nonexempt from Lot Coverage requirement of underlying zoning district	800 sq. ft. Exempt from Lot Coverage requirement of underlying zoning district
Minimum Setbacks (ft.)		
Front	None	None
Interior Side	None	None
Street Side	None	None
Rear	None	None
Building Separation	Defer to Building Code	Defer to Building Code
Balconies, Decks, Open Stair Landings (2nd Story and Up)	10; up to 3 if needed to meet minimum ingress and egress	10; up to 3 if needed to meet minimum ingress and egress

**Table 18.23.210(E)(4): Accessory Dwelling Unit Development Standards**

<b>ADU over Detached Garage</b>	<b>Non-Statewide Exemption</b>	<b>Statewide Exemption</b>
Maximum Height (ft.)	20	None
Maximum Size	Floor area is limited to the Maximum Allowable Floor Area of the Underlying Zoning District; Up to 800 sq. ft. exempt from Maximum Floor Area of Underlying Zoning District No larger than 50% of existing dwelling unit	800 sq. ft. Exempt from Maximum Floor Area of Underlying Zoning District
Lot Coverage	Non-exempt from Lot Coverage requirement of underlying zoning district	800 sq. ft. Exempt from Lot Coverage requirement of underlying zoning district
Minimum Setbacks (ft.)		
Front	Comply with Underlying Zoning District	ADU: May be reduced to 0' if no other location is feasible; detached garage setback must comply with Underlying Zoning District
Interior Side	1st Story: 4 2nd Story: Underlying District	1st Story: 4 2nd Story: 4
Street Side	1st Story: 4	1st Story: 4

<b>ADU over Detached Garage</b>	<b>Non-Statewide Exemption</b>	<b>Statewide Exemption</b>
	2nd Story: Underlying District	2nd Story: 4
Rear	1st Story: 4 2nd Story: Underlying District; Reverse Corner Lots 5	1st Story: 4 2nd Story: 4
Building Separation	Defer to Building Code	Defer to Building Code
Balconies, Decks, Open Stair Landings (2nd Story and Up)	10; up to 3 if needed to meet minimum ingress and egress	10; up to 3 if needed to meet minimum ingress and egress

5. Additional Development Standards for Accessory Dwelling Units Located Above or Below Detached Garages. In addition to the standards specified in subsections (F)(4)(a) through (i) of this section, accessory dwelling units that are located over or below detached garages are subject to the following additional requirements:

- a. The accessory dwelling unit must meet the minimum required front setback of the zoning district in which the lot is located, unless it meets the criteria of a statewide exemption ADU. See Section 18.04.030(H) for requirements to locate a detached garage in the front half of a single-family-zoned lot.
- b. Balconies and decks shall not face rear and side property lines except as needed to meet minimum requirements to allow ingress and egress.
- c. The maximum height of the structure shall be twenty (20) feet as measured in accordance with Section 18.03.050 (Measuring height).
- d. Stairs or access to the accessory dwelling unit shall not encroach into any required parking area. Stairs may encroach into the parking area of a garage; provided, that the front end of a standard size automobile can fit under the stair projection. The bottom of the stairwell (including exterior finish) shall be a minimum of five (5) feet above the garage floor.

G. Parking. Parking for a junior accessory dwelling unit and an accessory dwelling unit shall be provided in compliance with the following standards:

- 1. Except as provided in subsection (G)(3) of this section, one (1) parking space shall be provided per accessory dwelling unit. Accessory dwelling unit parking requirements are in addition to the parking required for the single-unit dwelling as provided in Chapter 18.20.
- 2. Parking spaces may be provided as tandem parking on a driveway or in setback areas. No parking may extend into a public sidewalk or right-of-way that would require walking into the street. A minimum of eight and one-half (8 1/2) feet in width and eighteen (18) feet in depth is required for any uncovered parking space.
- 3. No parking shall be required for an accessory dwelling unit if any of the following apply:
  - a. The accessory dwelling unit is contained within an existing single-unit dwelling, multi-unit dwelling, or accessory structure, or proposed single-unit dwelling or multi-unit dwelling.
  - b. The accessory dwelling unit is located within one-half (1/2) mile walking distance of public transit.
  - c. The accessory dwelling unit is located within an architecturally and historically significant district.
  - d. Where on-street parking permits are required but not offered to the occupants of the accessory dwelling unit.
  - e. When a designated parking area for one (1) or more car-share vehicles is located within one (1) block of the accessory dwelling unit.
  - f. When a garage, carport, or covered parking structure is demolished or converted in conjunction with the construction of an accessory dwelling unit, the parking spaces for the primary residence need not be replaced.
- 4. Junior accessory dwelling units shall not be required to provide for any additional parking, except that any parking displaced by their construction, including full or partial conversion of an existing garage, shall be replaced.

#### H. Utilities and Impact Fees.

1. No junior accessory dwelling unit or accessory dwelling unit shall be permitted if it is determined that there is not adequate water or sewer service to the property.
2. Except as provided in subsection (H)(3) of this section, an accessory dwelling unit may be required to have a new or separate utility connection, including a separate sewer lateral, between the accessory dwelling unit and the utility. A connection fee or capacity charge may be charged that is proportionate to the size in square feet of the accessory dwelling unit or its drainage fixture unit (DFU) values. Separate electric and water meters shall be required for the accessory dwelling unit.
3. The following accessory dwelling units shall be exempt from any requirement to install a new or separate utility connection and to pay any associated connection or capacity fees or charges:
  - a. Junior accessory dwelling units.
  - b. Standard accessory dwelling units converted from interior space unless the unit is constructed within a new single-unit dwelling.
4. All utility extensions shall be placed underground if required for the single-unit dwelling.
5. Impact Fees.
  - a. No impact fees may be imposed on a junior accessory dwelling unit or accessory dwelling unit that is less than seven hundred fifty (750) square feet in size. For purposes of this section, "impact fees" includes the fees specified in Government Code Sections 66000 and 66477, but does not include utility connection fees or capacity charges.
  - b. For accessory dwelling units that have a floor area of seven hundred fifty (750) square feet or more, impact fees shall be charged proportionately in relation to the square footage of the single-unit dwelling.

#### I. Delay of Enforcement of Building Standards.

1. Prior to January 1, 2030, the owner of an accessory dwelling unit that was built before November 25, 2020, may submit an application to the Building Official requesting that correction of any violation of building standards be delayed for five (5) years. For purposes of this section, "building standards" refers to those standards enforced by local agencies under the authority of California Health and Safety Code Section 17960.
2. The Building Official shall grant the application if the Building Official determines that enforcement of the building standard is not necessary to protect health and safety. In making this determination, the Community Development Director shall consult with the Fire Marshal and Building Official.
3. No applications pursuant to this section shall be approved on or after January 1, 2030. However, any delay that was approved by the City of San Carlos before January 1, 2030, shall be valid for the full term of the delay that was approved at the time of the approval of the application.
4. Until January 1, 2030, any notice to correct a violation of building standards that is issued to the owner of an accessory dwelling unit built before November 25, 2020, shall include a statement that the owner has a right to request a delay in enforcement of the building standard for an accessory dwelling unit pursuant to this section.
5. This section shall remain in effect until January 1, 2035, and as of that date is repealed. (Ord. 1604 § 4 (Exh. A), 2023; Ord. 1584 § 4 (Exh. A), 2022) (Ord. 1584 § 4 (Exh. A), 2022)

#### **18.23.220 Single room occupancy hotels.**

Single room occupancy (SRO) hotels shall be located, developed, and operated in compliance with the following standards:

- A. Maximum Occupancy. Each SRO living unit shall be designed to accommodate a maximum of two persons.
- B. Minimum Size. An SRO living unit must have at least one hundred fifty square feet of floor area, excluding closet and bathroom. No individual unit may exceed four hundred square feet.
- C. Minimum Width. An SRO of one room shall not be less than twelve feet in width.

D. Entrances. All SRO units must be independently accessible from a single main entry, excluding emergency and other service support exits.

E. Cooking Facilities. Cooking facilities shall be provided either in individual units or in a community kitchen. Where cooking is in individual SRO units, SRO units shall have a sink with hot and cold water; a counter with dedicated electrical outlets and a microwave oven or properly engineered cook top unit pursuant to Building Code requirements; a small refrigerator; and cabinets for storage.

F. Bathroom. An SRO unit is not required to but may contain partial or full bathroom facilities. A partial bathroom facility shall have at least a toilet and sink; a full facility shall have a toilet, sink and bathtub, shower or bathtub/shower combination. If a full bathroom facility is not provided, common bathroom facilities shall be provided in accordance with the California Building Code for congregate residences with at least one full bathroom per floor.

G. Closet. Each SRO unit shall have a separate closet.

H. Common Area. Four square feet per living unit shall be provided, excluding janitorial storage, laundry facilities and common hallways. At least two hundred square feet in area of interior common space provided as a ground floor entry area that provides a central focus for tenant social interaction and meetings.

I. Tenancy. Tenancy of SRO units shall be limited to thirty or more days.

J. Facility Management. An SRO facility with ten or more units shall provide full-time on-site management. An SRO facility with less than ten units shall provide a management office on site.

K. Management Plan. A management plan shall be submitted with the permit application for all SRO projects. At minimum, the management plan must include the following:

1. Security/Safety. Proposed security and safety features such as lighting, security cameras, defensible space, central access, and user surveillance;
2. Management Policies. Management policies including desk service, visitation rights, occupancy restrictions, and use of cooking appliance;
3. Rental Procedures. All rental procedures, including weekly and monthly tenancy requirements;
4. Staffing and Services. Information regarding all support services, such as job referral and social programs; and
5. Maintenance. Maintenance provisions, including sidewalk cleaning and litter control, recycling programs, general upkeep, and the use of durable materials. (Ord. 1480 (Exh. C (part)), 2015; Ord. 1438 § 4 (Exh. A (part)), 2011)

#### **18.23.230 Social service facilities.**

All social service facilities shall be located, developed, and operated in compliance with the following standards:

- A. Adequate and accessible sanitary facilities, including lavatories, restrooms and refuse containers;
- B. Sufficient patron seating facilities for dining, whether indoor or outdoor;
- C. Effective screening devices such as landscaping and masonry fences in conjunction with outdoor activity areas;
- D. A plan of operation, including but not limited to patron access requirements, hours of operation, control of congregate activity, security measures, litter control, and noise attenuation; and
- E. Evidence of compliance with all building and fire safety regulations and any other measures necessary and appropriate to ensure compatibility of the proposed use or uses with the surrounding area. (Ord. 1438 § 4 (Exh. A (part)), 2011)

#### **18.23.240 Temporary uses.**

This section establishes standards for certain uses that are intended to be of limited duration of time and that will not permanently alter the character or physical facilities of the site where they occur.

- A. Temporary Uses Not Requiring a Temporary Use Permit. The following types of temporary uses may be conducted without a temporary use permit. Other permits, such as building permits, may be required.

1. Garage Sales. Garage sales of personal property conducted by a resident of the premises may be conducted in accordance with the following standards:
    - a. A nonprofit organization or association of persons may conduct a garage sale at the residence of one or more of its members pursuant to all of the requirements of this section. One such sale may be held per year without such sale being deemed one chargeable to the premises in question for the purpose of applying the three sales per year limitation set forth in subsection (A)(1)(b) of this section.
    - b. No more than three garage sales shall be conducted on a site in any calendar year; however, a fourth sale shall be permitted if satisfactory proof of a bona fide change in ownership of real property is first presented to the Director.
    - c. No single sale event shall be conducted for longer than three consecutive days.
    - d. Garage sales shall not be held for more than two consecutive weekends. Each weekend that sales are conducted constitutes a single sale event.
    - e. Garage sales shall be conducted between the hours of nine a.m. and six p.m.
    - f. Property offered for sale at a garage sale may be displayed only within the perimeters of the residence, the driveway, or the rear yard of the property on which the garage sale is being conducted.
    - g. A maximum of four off-site directional signs, not to exceed eighteen inches by twenty-four inches, shall be permitted. Signs may be displayed only during the hours the garage sale is actively being conducted and shall be removed at the completion of the sale. No signs shall be placed on utility poles or in the public right-of-way.
    - h. The conduct of general retail sales or commercial activities in residential zones, except as is otherwise expressly authorized under this title, shall be prohibited.
  2. Nonprofit Fund Raising. Fund raising sales for up to three days per event are permitted on a site by a nonprofit organization, not to be conducted more frequently than three times per year per site.
  3. Temporary Construction Office Trailers. On-site temporary construction offices during the period of construction. Screening may be required by the Director.
  4. Tents. Tents are defined as a structure, enclosure, or shelter, with or without sidewalls or drops, constructed of fabric or pliable material supported in any manner except by air or the content it protects and are allowed as a temporary use, and are allowed to be erected consistent with the time limits set forth for temporary uses defined in this section and shall be subject to the same criteria listed under Section 18.15.020, Accessory buildings and structures.
- B. Temporary Uses Requiring a Temporary Use Permit. Other temporary uses may be permitted pursuant to Chapter 18.31, Temporary Use Permits, subject to the following standards. Additional or more stringent requirements may be established through the temporary use permit process in order to prevent the use from becoming a nuisance with regard to the surrounding neighborhood or the City as a whole.
1. Seasonal Sales. The annual sales of holiday related items such as Christmas trees, pumpkins and similar items may be permitted in accordance with the following standards:
    - a. Time Period. Seasonal sales associated with holidays are allowed up to a month preceding and one week following the holiday. Christmas tree sales are allowed from Thanksgiving Day through December 31st.
    - b. Goods, Signs and Temporary Structures. All items for sale, as well as signs and temporary structures, shall be removed within ten days after the end of sales, and the appearance of the site shall be returned to its original state.
  2. Special Events and Sales. Other short-term special events, outdoor sales, and displays that do not exceed three consecutive days may be permitted in accordance with the following standards:
    - a. Location. Events are limited to nonresidential districts.
    - b. Number of Events. No more than four events at one site shall be allowed within any twelve-month period.
    - c. Signs. Outdoor uses may include the addition of one nonpermanent sign up to a maximum size of four square feet in area, subject to Chapter 18.22, Signs.

- d. Existing Parking. The available parking shall not be reduced to less than seventy-five percent of the minimum number of spaces required by Chapter 18.20, Parking and Loading.
  - e. Recreational Special Events. Short-term recreational special events shall be part of an existing commercial recreation or personal service use located on the same site.
  - f. Carnivals, Fairs, and Festival Events. Carnivals, fairs, and festival events are also subject to the following standards:
    - i. Location. Carnivals, fairs, and festival events are limited to areas within commercial or employment districts, or on land owned by a school.
    - ii. Time Limit. When located adjacent to a residential district, the hours of operation shall be limited to eight a.m. to nine p.m.
3. Temporary Outdoor Sales. Temporary outdoor sales, including, but not limited to, grand opening events and other special sales events, are also subject to the following standards:
- a. Temporary outdoor sales shall be part of an existing business on the same site.
  - b. Outdoor display and sales areas must be located on a paved or concrete area on the same lot as the structure(s) containing the business with which the temporary sale is associated.
  - c. Location of the displayed merchandise must not disrupt the normal circulation of the site, nor encroach upon driveways, pedestrian walkways, or required landscaped areas, or obstruct sight distances or otherwise create hazards for vehicle or pedestrian traffic.

C. Temporary Uses Requiring a Minor Use Permit. Other special events, outdoor sales, and displays that exceed three consecutive days but not more than one month may be allowed with the approval of a minor use permit so long as they are not intended to extend longer than one month and they are determined to not impact neighboring uses or otherwise create significant impacts. (Ord. 1480 (Exh. C (part)), 2015; Ord. 1438 § 4 (Exh. A (part)), 2011)

#### **18.23.250 Transitional and supportive housing.**

Transitional and supportive housing constitute a residential use and are subject only to those restrictions that apply to other residential uses of the same type in the same district. (Ord. 1438 § 4 (Exh. A (part)), 2011)

#### **18.23.260 Formula business uses.**

Formula business uses shall be located, developed and operated in compliance with the following standards:

- A. Applicability. This section applies to the ground floor only of properties with frontage on the 600, 700 and 800 blocks of Laurel Street. Primary uses, accessory uses, and incidental uses are included.
- B. Concurrent Processing. When a formula business use requires a conditional use permit, sign permit, design review, or any other discretionary approval, the applications shall be submitted and reviewed concurrently.
- C. Permit Requirements. All new formula business uses, existing formula business uses that desire to relocate to a new tenant space, and formula business uses that expand by ten percent or more of floor area shall require a conditional use permit from the Planning Commission.

1. Necessary Findings. Prior to approving an application for a conditional use permit for a formula business use, the Planning Commission must make all of the findings for a use permit application found in Section 18.30.060 and the following additional findings:
  - a. The design of the proposed use does not detract from the City's unique, small-town character and architecture; and
  - b. The use will enhance the economic health of the downtown core area. In considering this finding, the decision-maker may consider economic factors such as vacancies and unmet needs; and
  - c. The use will contribute to a mixture of independent businesses and formula businesses in the downtown core area.

2. To evaluate a proposed project's compliance with the above findings, the Director may require submittal of additional studies that substantiate the basis for granting the use permit.
- D. Design Standards. When evaluating the design review and sign permit applications for an existing formula business use or proposed formula business use subject to subsection C of this section, the decision-maker shall consider the design criteria found at Chapter 18.29 and sign regulations found at Chapter 18.22. (Ord. 1518 § 3 (Exh. B), 2017)

**18.23.270 Commercial cannabis businesses.**

A. Applicability. This section applies to businesses that require a commercial cannabis business permit per Chapter 8.09, Regulation of Commercial Cannabis Activities—Permit Required.

B. Permit Requirements.

1. All new commercial cannabis business uses, existing commercial cannabis business uses that desire to relocate to a new tenant space, and commercial cannabis business uses that expand by ten percent or more of floor area shall require a zoning clearance, pursuant to the provisions of Chapter 18.28, Zoning Clearance, or, if required, a minor use permit, pursuant to the provisions of Chapter 18.30, Use Permits.
2. Any zoning clearance or minor use permit application for a commercial cannabis business use must specify the State cannabis license type under which the business will operate.
3. A commercial cannabis business shall be subject to and in conformance with the provisions of Chapter 8.09 et seq.

C. Operational and Performance Standards. Commercial cannabis businesses must be located and operated in compliance with the following standards:

1. Buffers.
  - a. A commercial cannabis business shall provide a minimum six-hundred-foot buffer from R zoning districts.
  - b. A commercial cannabis business shall provide a minimum six-hundred-foot buffer from a school, day care center, or youth center as defined in Section 11353.1 of the State of California Health and Safety Code.
2. Cultivation.
  - a. Commercial cannabis cultivation shall only occur as a nursery or a component of a microbusiness.
  - b. All commercial cannabis cultivation shall occur indoors.
  - c. Commercial cannabis cultivation shall not be visible from any public right-of-way.
  - d. Cultivation may rely on artificial lighting or mixed light, which is a combination of natural and supplemental artificial lighting.
3. Building and Site Modifications. No physical modification of a building or site used for an existing or new commercial cannabis business is allowed without written prior permission by the City and payment of any required fees.
4. Parking. Commercial cannabis uses shall comply with the parking requirements of the relevant use classifications set forth in Chapter 18.20, Parking and Loading.
5. Signage. Signage for commercial cannabis uses shall comply with Chapter 18.22, Signs. No commercial cannabis business use may be considered exempt under Section 18.22.070, Signs exempt from the sign permit requirement.
6. Noise. Use of air conditioning and ventilation equipment shall comply with Chapter 9.30, Noise Control. The use of generators is prohibited, except as short-term temporary emergency back-up systems.
7. Screening. All outdoor equipment shall comply with the screening requirements in Section 18.15.090, Screening.
8. Consumption. There shall be no on-site consumption of cannabis or cannabis products.
9. No Persons Under Twenty-One. A sign shall be posted on the door or in view of the entrance stating that no person under the age of twenty-one is allowed on site, unless accompanied by his or her parent or documented legal guardian. The operator of the establishment shall require all customers to show proof of age. (Ord. 1525 § 2(1) (Exh. A (part)), 2017)

**18.23.280 Personal cannabis cultivation.**

- A. Applicability. This section applies to the cultivation of up to six cannabis plants for personal use in compliance with all applicable local regulations and the Compassionate Use Act, the Medical Marijuana Program Act, SB 94 (Cannabis: medicinal and adult use), Proposition 64, and the California Health and Safety Code.
- B. Permit Requirements. Personal cannabis cultivation is permitted in all zoning districts; no permit is required.
- C. Operational Standards.

1. Personal cannabis cultivation shall not be visible from any public right-of-way. (Ord. 1525 § 2(1) (Exh. A (part)), 2017)

**18.23.290 Retail establishments selling ammunition or firearms.**

A. Purpose. The purpose of this section is to provide for the appropriate location of any person, corporation, partnership or other entity engaging in the business of selling, leasing, or otherwise transferring any firearm or ammunition through the permitting process.

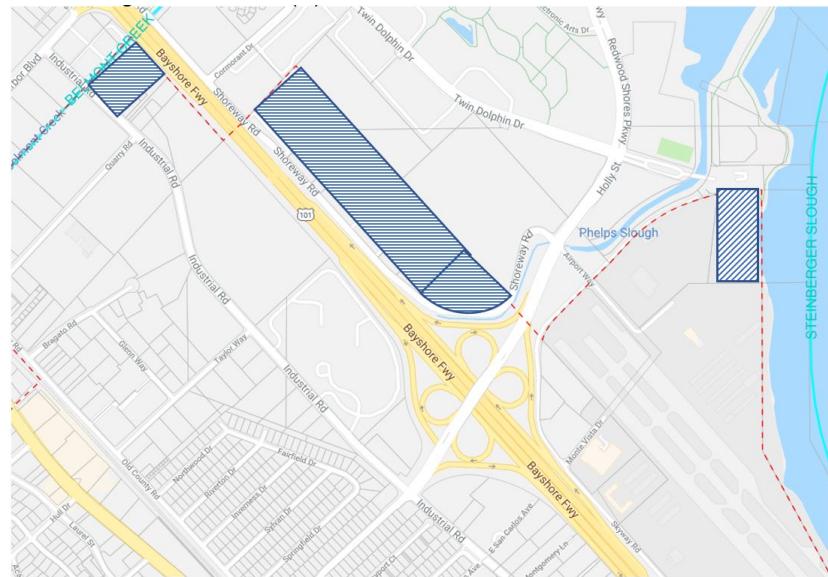
B. Applicability. This section applies to all businesses that sell ammunition or firearms. A retail establishment that sells ammunition or firearms will be considered new for purposes of this section if the establishment, having obtained all required permits, opens for business after the effective date of the ordinance codified in this section.

C. Permit Requirements. All new businesses selling ammunition or firearms shall obtain a use permit pursuant to the provisions of Chapter 18.30, Use Permits.

D. Operational and Performance Standards. Retail establishments selling ammunition or firearms must be located and operated in compliance with the following standards:

1. Shall be located only in the area shown in Figure 18.23.290(E), Firearm Establishment Business Area, and in compliance with the following minimum distances:
  - a. A minimum one thousand feet distance from residential zoning districts.
  - b. A minimum one thousand feet distance from a school, day care center, youth center, community center, places of worship, or parks as defined in Section 11353.1 of the State of California Health and Safety Code and Commercial Entertainment and Recreation uses listed in Section 18.40.040(G).
  - c. One thousand feet of distance from another retail establishment selling ammunition or firearms.
  - d. The distance requirements described in subsections (D)(1)(a) through (c) of this section shall be calculated based on uses in operation on March 11, 2019, and based on uses in operation on the date any use permit may be granted.
2. Law Enforcement Permit. The applicant shall have secured a law enforcement permit as outlined in Chapter 5.13 from the San Mateo County Sheriff's Department prior to submitting an application for a conditional use permit.
  - a. Conditions. An approved use permit is not effective until the applicant satisfies the following terms and conditions:
    - i. Possession of a valid law enforcement permit if required under Chapter 5.13;
    - ii. Possession of all licenses and permits required by Federal, State and local law; and
    - iii. Compliance with the requirements of the City's building code, fire code and other technical codes and regulations which govern the use, occupancy, maintenance, construction or design of the building or structure. The use permit shall require that the applicant obtain a final inspection from the City building official demonstrating code compliance before the applicant may begin business at the premises at issue.

**FIGURE 18.23.290(E): FIREARM ESTABLISHMENT BUSINESS AREA**



(Ord. 1540 (Exh. E (part)), 2019)

#### **18.23.300 Indoor shooting ranges.**

- A. Purpose. The purpose of this section is to provide for the appropriate location of any person, corporation, partnership or other entity engaging in operating an indoor shooting range through the permitting process.
- B. Applicability. This section applies to businesses that include an indoor shooting range on site.
- C. Permit Requirements. All new businesses operating a shooting range shall obtain a use permit pursuant to the provisions of Chapter 18.30, Use Permits. A shooting range will be considered new for purposes of this section if, after all required permits are obtained, the range opens for business after the effective date of the ordinance codified in this section.
- D. Operational and Performance Standards. Indoor shooting ranges must be located and operated in compliance with the following standards:
  - 1. Shall be located only in the area shown in Figure 18.23.290(E), Firearm Establishment Business Area, and in compliance with the following minimum distances:
    - a. A minimum one thousand feet distance from residential zoning districts.
    - b. A minimum one thousand feet distance from a school, day care center, youth center, community center, places of worship, or parks as defined in Section 11353.1 of the State of California Health and Safety Code and commercial entertainment and recreation uses listed in Section 18.40.040(G).
    - c. One thousand feet of distance from a retail establishment selling ammunition or firearms and one thousand feet of distance from another indoor shooting range.
    - d. The distance requirements described in subsections (D)(1)(a) through (c) of this section shall be calculated based on uses in operation on March 11, 2019, and based on uses in operation on the date any use permit may be granted.
  - 2. Conditions. An approved use permit is not effective until the applicant satisfies the following terms and conditions:
    - a. Possession of a valid law enforcement permit if required under Chapter 5.13;
    - b. Possession of a valid law enforcement permit as required under Chapter 5.14;
    - c. Possession of all licenses and permits required by Federal, State and local law;
    - d. Compliance with the requirements of the City's building code, fire code and other technical codes and regulations which govern the use, occupancy, maintenance, construction or design of the building or structure. The use permit shall require that the applicant obtain a final inspection from the City building official demonstrating code compliance before the applicant may begin business at the premises at issue; and

- e. Provides a plan to the satisfaction of the Building Official and Police Chief demonstrating solid construction of exterior walls and roof elements to ensure projectiles cannot exit the building. (Ord. 1540 (Exh. E (part)), 2019)

**18.23.310 Urban infill unit subdivision and development (SB 9 units). Revised 1/24**

A. Purpose and Applicability. The purpose of this section is to:

1. Establish regulations and objective standards to govern the development of qualified Senate Bill 9 subdivisions and development projects on RS-3 (single-family, low density) and RS-6 (single-family) properties within San Carlos.
2. Maintain the character of single-family residential neighborhoods in the City to the greatest extent possible.
3. In cases of conflict between this chapter and any other provision of this title, the provisions of this chapter shall prevail. To the extent that any provision of this chapter is in conflict with State law, the applicable provision of State law shall control, but all other provisions of this chapter shall remain in full force and effect.

B. Urban Infill Subdivision.

1. Eligibility for Subdivision. The following parcels are not eligible for a subdivision or development under this section:
  - a. Any parcel that was established through a prior exercise of a subdivision as provided for in this section.
  - b. Any parcel proposing to be subdivided that is adjacent to another parcel where either the owner of the parcel proposing to be subdivided or any person acting in concert with said owner has previously subdivided that adjacent parcel using the provisions in this article. For the purposes of this section, "any person acting in concert" with the owners includes, but is not limited to, an individual or entity operating on behalf of, acting jointly with, or in partnership or another form of cooperative relationship with, the property owner.
  - c. Any parcel located within an historic district or included on the State Historic Resources Inventory, as defined in Section 5020.1 of the Public Resources Code, or a parcel within a site that is designated or listed as a City of San Carlos or San Mateo County landmark or historic property or district pursuant to a City of San Carlos or San Mateo County ordinance.
  - d. Any parcel where the subdivision or the proposed housing development would require the demolition or alteration of any of the following types of housing:
    - i. Housing that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income.
    - ii. Housing that is subject to any form of rent or price control through a public entity's valid exercise of its police power.
    - iii. A parcel or parcels on which an owner of residential real property has exercised the owner's rights under Government Code Section 7060 et seq. to withdraw accommodations from rent or lease within fifteen (15) years before the date that the development proponent submits an application.
    - iv. Housing that has been occupied by a tenant in the last three (3) years.
  - e. Any parcel locations under Government Code Sections 65913.4(a)(6)(B) through (K), such as in an earthquake fault zone, lands under conservation easement, a federally designated flood plain, and high fire hazard severity zones as defined under State law.
  - f. Any parcel where the building official makes a written finding, based upon a preponderance of the evidence, that the proposed housing development project would have a specific, adverse impact, as defined and determined in paragraph (2) of subdivision (d) of Section 65589.5, upon public health and safety or the physical environment and for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact.
2. Objective Standards and Requirements for an Urban Infill Subdivision. The following objective standards and regulations apply to all subdivisions under this article. All applicable objective standards and requirements within Title 17 shall apply in addition to the objective standards and requirements under the provisions of this section:
  - a. A parcel map and an application for subdivision application shall be submitted to the City for all proposed subdivisions.

- b. The subdivision shall create no more than two (2) new parcels of approximately equal area; provided, that one (1) parcel shall not be smaller than forty percent (40%) of the lot area of the original parcel proposed for subdivision. In no instance shall any resulting parcel be smaller than one thousand two hundred (1,200) square feet in area.
- c. Existing corner parcels shall be split approximately perpendicular to the longest contiguous property line.
- d. Flag lots are not allowed.
- e. No setbacks shall be required for an existing dwelling structure on the parcel from a proposed property line.
- f. All new urban infill units shall comply with San Carlos Municipal Code, adopted California Building Code, and California Fire Code.
- g. Subdivisions under this section are subject to all development and impact fees related to the creation of a new parcel.
- h. Development projects pursuant to this section shall be subject to all impact or development fees.
- i. No dedications of rights-of-way or the construction of off-site improvements for the parcels being created pursuant to this section shall be required as a condition of approval.
- j. A note on the parcel map and a recorded deed restriction in a form approved by the City Attorney shall be applied to all newly created parcels indicating that the parcel was split using the provision of this section and that no further subdivision of the parcels is permitted.
- k. Prior to the recordation of the parcel map, the applicant shall sign and record an affidavit stating that the applicant intends to reside in one (1) of the proposed or existing primary dwelling units or urban infill units for three (3) years from the date of the approval of the subdivision. This requirement shall not apply if the applicant is a community land trust or a qualified nonprofit corporation as provided in Sections 402.1 and 214.15 of the Revenue and Taxation Code.

C. Urban Infill Unit Development Projects. The following objective standards and regulations apply to all development on a parcel under the provisions of this section. In addition, all applicable objective standards within this title shall apply in addition to the objective standards under the provisions of this section:

1. Dwelling units on a parcel subdivided pursuant to this section.
  - a. A maximum of two (2) units shall be allowed per subdivided parcel.
  - b. The following development is permitted on the parcel:
    - i. An existing primary dwelling unit and an urban infill unit; or
    - ii. Two (2) urban infill units;
    - iii. A primary dwelling unit and ADU or JADU;
    - iv. If there is an existing primary dwelling unit and ADU or JADU on the property, then no further development is permitted for that property.
  - c. If the parcel is fully developed with the number of units, floor area, or lot coverage permitted under this section, the applicant or property owner shall record a deed restriction in a form approved by the City Attorney stipulating that no further development of the parcel is permitted.
  - d. If the proposed dwelling units are developed subsequent to a subdivision completed pursuant to this section, the owner shall sign and record an affidavit placing a covenant that will run with the parcel to confirm that the owner intends to reside in either the primary dwelling unit or an SB 9 unit on the parcel for three (3) years from the issuance of an SB 9 dwelling unit's certificate of occupancy and closing of all construction permits pertaining to the parcel.
  - e. Floor Area. The combined maximum floor area for all units shall be subject to the underlying zoning district, unless otherwise exempted under this title or State law. The floor area of the rear-most unit shall be no greater than eight hundred (800) square feet.
2. Dwelling Units on a Parcel Not Proposed for Subdivision.

- a. The maximum of four (4) units are allowed per lot.
  - b. The following development is permitted on the parcel:
    - i. a primary dwelling unit and an urban infill unit;
    - ii. Two (2) urban infill units;
    - iii. A primary dwelling unit and an ADU; and
    - iv. A primary dwelling unit and a JADU.
  - c. Floor Area. The combined maximum floor area for all units shall be subject to the underlying zoning district, unless otherwise exempted under this title or State law. If maximum floor area and/or maximum lot coverage are reached prior to the creation of an urban infill unit, eight hundred (800) square feet of additional floor area and lot coverage are permitted for an SB 9 unit that is not the primary dwelling.
3. Objective Standards Requirements for All Urban Infill Units.
- a. Grading shall not exceed nine hundred ninety-nine (999) cubic yards.
  - b. Parking. One (1) uncovered parking space is required per urban infill unit. The parking space shall be at least ten (10) feet wide by twenty (20) feet deep and shall be contained entirely on the private property. No parking is required when the parcel is located within one-half (1/2) mile walking distance of either a high-quality transit corridor, as defined in subdivision (b) of Section 21155 of the Public Resources Code, or a major transit stop, as defined in Section 21064.3 of the Public Resources Code; or if there is a car share vehicle located within one (1) block of the parcel. The uses shall be limited to those permitted in the underlying zoning district.
  - c. Setbacks. The minimum front setback for any new primary dwelling unit or SB 9 dwelling unit shall adhere to the underlying zoning district and be a minimum of four (4) feet from the interior side and rear property lines. No setback is required for a new SB 9 dwelling unit constructed in the same location as an existing structure on the parcel.
  - d. Floor Area. The combined maximum floor area for all units shall be subject to the underlying zoning district, unless otherwise exempted under this title or State law. If maximum floor area and/or maximum lot coverage are reached prior to the creation of an urban infill unit, eight hundred (800) square feet of additional floor area and lot coverage are permitted for an SB 9 unit that is not the primary dwelling.
  - e. Height. The maximum height of all new urban infill units (attached or detached) shall be sixteen (16) feet. If there is an existing primary dwelling on the parcel, the maximum height per the underlying zoning district of the existing residence cannot be increased. Basements are permitted. The maximum height of urban infill units within Hillside Overlay Districts shall be twenty (20) feet.
  - f. All outdoor patios, covered patios, decks, and other hardscape shall meet the City's requirements with regard to lot coverage, setbacks, natural state, height, etc.
  - g. All new urban infill units shall comply with San Carlos Municipal Code and adopted California Building Code.
  - h. Fire access to all new units shall be compliant with the Redwood City—San Carlos Fire Department standard specifications and the California Fire Code.
  - i. No dwelling unit shall be rented for a period of less than thirty (30) days and cannot be occupied as a short-term rental unit.
  - j. An SB 9 unit may be rented separately from the primary dwelling unit.
  - k. If the two (2) urban infill units are configured as a duplex on a parcel, a deed restriction in a form approved by the City Attorney shall be recorded stipulating that the duplex shall be maintained as two (2) separate units.
  - l. Feasibility of Urban Infill Units. If it is not feasible to comply with all applicable objective design standards when constructing up to two (2) eight hundred (800) square foot residential units on a property, the applicant shall provide all necessary information requested by the City (e.g., a topographic survey, etc.) to demonstrate that it is infeasible to construct one (1) or both of the two (2) eight hundred (800) square foot residential units while complying with all

applicable objective design standards for review by the City. On review of the complete feasibility study, the Planning Director shall determine which of these objective design standards may be reduced and/or waived to allow for up to two (2) residential units that are no more than eight hundred (800) square feet and evaluate feasible locations for the residential unit(s) to find the location(s) that create the fewest impacts to environmentally sensitive areas such as hillside districts, stream overlays, etc.

- m. All additional applicable objective standards within this title regarding landscaping, lighting, trash enclosures, utilities, equipment, screening, and fencing apply.
- n. If attached, two (2) urban infill units are required to comply with objective design standards for duplexes.
- o. All other units under this section shall comply with single-family objective design standards.

D. Permit Review Process and Fees.

1. All applications for lot splits and new development using this section shall be ministerially approved without public hearings or discretionary review.
2. Development projects pursuant to this section shall be subject to all impact or development fees related to the development of a new dwelling unit.
3. The City Council may establish and set by resolution all fees and charges, consistent with Government Code Sections 65852.2 and 65852.22, and related provisions, as may be necessary to effectuate the purpose of this section.  
(Ord. 1603 § 3 (Exh. A), 2023)

**Chapter 18.24  
WIRELESS TELECOMMUNICATIONS FACILITIES\***

Sections:

- 18.24.010 Purpose.**
- 18.24.020 Applicability.**
- 18.24.030 Receive-only antennas permit exemptions.**
- 18.24.040 Permitted use.**
- 18.24.050 Use permit and permitting fees required.**
- 18.24.060 Application requirements – Contents of permit application.**
- 18.24.070 Review of permit application – Noticing.**
- 18.24.080 General requirements.**
- 18.24.090 Design standards.**
- 18.24.100 Required findings for approval.**
- 18.24.110 Section 6409(a) modification applications.**
- 18.24.120 Small wireless facility applications.**
- 18.24.130 Time to act on application.**
- 18.24.140 Standard permit conditions.**
- 18.24.150 Compliance report.**
- 18.24.160 Operational regulations.**
- 18.24.170 Modifications of a WCF permit.**
- 18.24.180 Revocation of a WCF permit.**
- 18.24.190 Abandonment, removal, or relocation of facilities.**

**18.24.200 Transfer of an interest.****18.24.210 Violations are infractions.****18.24.220 Controlling provisions.****18.24.230 Definitions and acronyms.**

\*Prior legislation: Ords. 1429, 1438 and 1480.

**18.24.010 Purpose.**

A. The purpose of this chapter is to establish comprehensive requirements and standards for the development, siting, installation, and operation of wireless communications antennas and related facilities. These regulations are intended to protect and promote public safety, community welfare, and the aesthetic quality of the City, consistent with the goals, objectives, and policies of the General Plan, while providing for managed development of wireless communications infrastructure in compliance with the Federal Telecommunications Act of 1996 and related requirements in Federal and State law.

B. The specific objectives of this chapter are to:

1. Maintain an aesthetically pleasing community environment by ensuring that antenna support structures and associated communications equipment will not create excessive visual clutter, unreasonably block or degrade views, or diminish the architectural character of buildings and neighborhoods;
2. Protect the safety and welfare of persons who live and work in the City by regulating the erection and maintenance of commercial and private satellite dishes and large antenna support structures to reduce the potential property damage or personal injury that these items may cause during weather incidents and periods of high-velocity wind;
3. Discourage the location of antennas and related facilities for cellular and mobile phones and personal communication systems in residential zoning districts because they are a commercial use that is usually separate from and rarely accessory to the primary use of residential property, unless the City is required to permit them in such locations to avoid violating State or Federal law and the facilities are designed to minimize degradation of the residential character of the neighborhood;
4. Minimize the number of antenna structures in the City by promoting collocation and encouraging small cell facilities as a less intrusive alternative;
5. Establish a review and approval process that provides greater certainty to both applicants and the public and improves the ability of wireless communications providers to offer services quickly, effectively, and efficiently, while ensuring compliance with all applicable requirements;
6. Support the provision of wireless communications to maintain and enhance personal and public health and safety, provide for economic growth, and promote the general welfare and convenience of persons living, working, and visiting in the City;
7. Establish and maintain telecommunications facilities that are components of a wireless telecommunications infrastructure designed to enhance the City's emergency response capacity; and
8. Require wireless communications providers to use the best available design and technology to mitigate adverse impacts caused by antennas, support structures, and associated equipment.

C. It is not the purpose or intent of this chapter to:

1. Prohibit or to have the effect of prohibiting wireless communications services; or
2. Unreasonably discriminate among providers of functionally equivalent wireless communications services; or
3. Regulate the placement, construction or modification of WCFs on the basis of the environmental effects of radio frequency ("RF") emissions where it is demonstrated that the WCF does or will comply with the applicable FCC regulations; or
4. Prohibit or effectively prohibit collocations or modifications that the City must approve under State or Federal law.  
(Ord. 1539 (Exh. A (part)), 2019)

**18.24.020 Applicability.**

The provisions in this chapter shall apply to all permit applications to install, operate, or modify a WCF, including, without limitation, applications to collocate, modify, replace, or remove any new or existing wireless tower or base station within the City. Nothing in this chapter is intended to allow the City to preempt any State or Federal law or regulation applicable to a WCF. This chapter does not apply to WCFs owned by or exclusively operated for government agencies.

WCFs installed or operated at the direction of the City for the sole use of the City, regardless of where located in the City, shall be exempt from this chapter, but as a matter of policy shall be designed and located consistent with the design requirements of this chapter.

The provisions of this chapter are in addition to, and do not replace, any obligations a WCF permit holder may have under any franchises, licenses, or other permits issued by the City. (Ord. 1539 (Exh. A (part)), 2019)

**18.24.030 Receive-only antennas permit exemptions.**

Receive-only radio or television antennas and other over the air reception device (OTARD) antennas are subject to the requirements of this chapter. However, those receive-only antennas that do not exceed the maximum height in a zoning district are permitted by this chapter and do not require a permit, so long as the diameter of the support pole on which it is affixed does not exceed eight inches and conforms to the following requirements:

**A. Residential and Mixed-Use Districts.**

1. **Satellite Dish One Meter or Less.** A satellite dish not exceeding one meter (39.37 inches) in diameter that is for the sole use of a resident occupying the same parcel is permitted. Antennas extended vertically shall be no higher than ten feet and six inches in height and must be placed on the ground between the rear of the main structure and the rear property line or on the rear half of the roof, and not located in any required parking or loading area. Antennas may not be located in the area between a building and the front or corner side property line or within five feet of the required setback, whichever is less, of any interior property line without approval of a use permit.
2. **Other Antennas.** A receive-only antenna other than a satellite dish that is for the sole use of a resident occupying the same parcel is permitted if it does not exceed twelve feet above the height of the roof.
3. **Additional Requirements.** In addition to the other requirements of this section, antennas in residential and mixed-use zoning districts shall meet all the following criteria:
  - a. Roof- or building-mounted antenna support structures shall be no higher than needed to receive adequate reception of localized signals, not to exceed thirty feet above the roof line unless approved by the Planning Commission;
  - b. A television satellite dish antenna shall be screened, to the degree feasible, by structures or landscaping so it is not readily visible from public right-of-way and neighboring properties;
  - c. Antenna support structures and appurtenant structural surfaces shall have subdued colors that blend with surroundings; and
  - d. In addition to being screened from view from public right-of-way and neighboring properties, ground-mounted television satellite dish antennas shall be within a fenced area. The fence shall be at least four feet in height, and shall have no openings, holes or gaps larger than four inches in any dimension to prevent climbing. All gates and doors through the fence shall be equipped with a self-closing latching device capable of keeping the door or gate securely closed when not in actual use. If the entire yard is enclosed by a fence higher than four feet in height with a self-closing gate, this provision will be satisfied.

**B. Commercial, Industrial, and Airport Districts.**

1. **Satellite Dish Two Meters or Less.** Two satellite dish antennas each of which does not exceed two meters (78.74 inches) in diameter that are for the sole use of a permitted business occupying the same parcel are permitted if not located between the front of the building and the front property line, in any required side or rear yard, or in any required parking or loading area. A roof-mounted antenna shall be located as close to the center of the roof as practical and may not exceed three feet in height when extended vertically. Antennas may not be located in the area between a building and the front or corner side property line or in a required interior rear yard without approval of a minor use permit.

2. Other Antennas. A receive-only antenna other than a satellite dish that is for the sole use of a permitted business occupying the same parcel is permitted if it is not located between the front of the building and the front property line, in any required side or rear yard, or in any required parking or loading area or exceeding thirty feet above the height of the roof, without approval of a minor use permit.

C. Amateur Radio Facilities. One amateur radio antenna structure and one whip antenna that meet the following requirements and are operated by a Federally licensed amateur radio station operator who resides on the same property if the facility is located in a residential district.

1. No part of the antenna shall exceed sixty-five feet in height or thirty feet above the height of the roof, when fully extended.
2. Any antenna that is capable of a maximum extended height exceeding forty feet, with the exception of whip antennas, shall be equipped with a motorized or hand-cranked device to allow the antenna to be easily lowered when it is not in operation.
3. When an amateur radio facility is not in operation, no part of any antenna, except for whip antennas, shall extend to a height that exceeds the maximum height permitted in the district.
4. No part of the antenna shall be located in the area between a building and the front or corner side property line, in a required interior yard, or in any parking or loading area.
5. An antenna that exceeds these height limits or is located in a required setback may be allowed with approval of a use permit. (Ord. 1539 (Exh. A (part)), 2019)

**18.24.040 Permitted use.**

Subject to compliance with this chapter and other applicable provisions of this Code and other laws, WCFs are a permitted use in all zoning districts, as defined in Section 18.01.070. (Ord. 1539 (Exh. A (part)), 2019)

**18.24.050 Use permit and permitting fees required.**

A. A WCF may not be installed, collocated, or modified without a use permit, except as provided herein. A building permit must be obtained prior to performing any work to remove a WCF.

B. A permit shall not be issued:

1. Unless the applicant shows that it has the necessary permission from the owner of private property, including a homeowners' association, to place the WCF as proposed on private property or from the public entity owning public property that it proposes to occupy (including the authority to make modifications to any support structure or wireless tower associated with the installation or modification); and
  2. In the case of a WCF in the right-of-way unless the applicant holds a franchise, license, or similar authorization from the City or the State that entitles it to occupy the right-of-way to install or modify a WCF.
- C. A permit shall not be effective and shall not authorize installation, collocation, or modification of any WCF or installation or modification of a support structure or wireless tower unless the conditions of this subsection are satisfied:

1. Applicant must obtain all other required permits, authorizations, approvals, or declarations that may be required for installation or modification of the WCF or for installation or modification of the support structure under Federal, State, or local law, including but not limited to building permits, CEQA declarations, or FCC approvals. A WCF use permit is not in lieu of any other permit required under this Code, except as specifically provided herein, nor is it a franchise, license, or other authorization to occupy the right-of-way, or a license, lease or agreement authorizing occupancy of any other private or public property. It does not create a vested right in occupying any particular location, and a permittee may be required to move and remove facilities at its expense consistent with other provisions of applicable law.
  2. Applicant must provide proof to the City that it has obtained all insurance and/or security required by this Code, and must pay any fees owed to the City.
- D. A permit issued in error, based on incomplete or false information submitted by an applicant, or that conflicts with the provisions of this chapter, is not valid.
- E. The applicant shall pay all applicable fees as enacted by the City Council prior to the issuance of a permit.

F. Permit Classifications. No WCF shall be constructed or erected without first obtaining approval by the Planning Commission, Zoning Administrator, or the Planning Director pursuant to the requirements of this chapter and any permits required under the California Building Code unless exempt pursuant to Section 18.24.030. Applications for approval of a WCF will be processed and reviewed by the Planning Director, Zoning Administrator, or the Planning Commission based on their classification as defined in this section. The Planning Director has the authority to refer any application that is not exempt from the requirements of this chapter for review and approval by the Zoning Administrator.

1. Conditional Use Permit. Review and approval of a conditional use permit by the Planning Commission is required for all facilities that do not meet one or more of the criteria listed in subsections (F)(2) and (F)(3) of this section for a minor use permit and decision by the Zoning Administrator or Planning Director or are exempt from review pursuant to this chapter or applicable Federal or State statutes and regulations.
2. Minor Use Permit. The following facilities may be approved by the Zoning Administrator subject to the requirements of Chapter 18.30, Use Permits, and Section 18.24.100, Required findings for approval:
  - a. A new wireless facility that will be located more than six hundred feet outside of all residential and mixed-use districts.
  - b. Collocation applications that propose to alter the size and/or shape of the existing facility's support structure.
  - c. On structures in mixed-use districts that are not readily visible or are completely concealed from view because of integration into the design of a building or structure constructed and approved for use other than as wireless communications support structure, except for power poles and other structures in the right-of-way.
  - d. On existing power poles or other structures in the right-of-way in nonresidential districts.
  - e. A distributed antenna system (DAS) that is comprised of antennas installed on more than one of the support structures listed in subsections (F)(2)(a) through (d) of this section.
  - f. A small wireless facility or group of small wireless facilities within six hundred feet of or inside a residential or mixed-use district.
  - g. A 6409(a) modification application for an applicant that does not currently hold a permit for a WCF at the proposed site.
3. The Planning Director may administratively approve a minor use permit for:
  - a. Permit modifications for 6409(a) modification applications submitted by an applicant who holds an existing permit for the WCF to be modified at the proposed site.
  - b. Collocation applications that do not propose to alter the size or shape of the existing facility's support structure.
  - c. A small wireless facility or group of small wireless facilities which are not within six hundred feet of or inside a residential or mixed-use district. (Ord. 1539 (Exh. A (part)), 2019)

#### **18.24.060 Application requirements – Contents of permit application.**

A. In all cases, an applicant for a WCF permit shall utilize the form of application required by the City. The Planning Director is authorized to prepare application forms and submittal checklists and may develop application forms that distinguish between different types of installations and modifications in order to streamline processing of applications, and to comply with legal requirements. These generally applicable requirements shall be available for review in the City's Planning Department during normal business hours and shall be provided to an applicant upon request. The Planning Director may also from time to time require additional application materials and/or information in any publicly stated format. An application will not be considered complete until the applicant has submitted all forms and supporting documents or items as required by the Planning Director. Notwithstanding the foregoing, an application shall not be deemed complete unless it includes the following:

1. Installer Statement. A statement from the installer stating the method used to determine the desired height and placement, a statement of the signals desired, manufacturer's specifications showing installation specifications, a statement noting what prior testing was done to determine the location of the installation, and a statement mentioning if alternative placements were considered.
2. Map and Inventory of Existing Sites. Each applicant for a WCF antenna or wireless tower shall provide to the Planning Division an inventory of the service provider's existing facilities that are either within the jurisdiction of the City or

within one-quarter mile of the City's border, including a map showing the location of the provider's existing facilities that serve customers in San Carlos and the specific site that is the subject of the application. The inventory shall include specific information about the location, height, power rating, frequency range, signal coverage, drive test data, and design of each facility or tower structure. The Planning Division may share such information with other applicants applying for administrative approvals or use permits under this chapter or other organizations seeking to locate antennas within the jurisdiction of the City; provided, however, that the Planning Division is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.

3. Compliance Verification.

a. Copies of, or a sworn statement by an authorized representative that the applicant holds, all applicable licenses or other approvals required by the FCC, the PUC, and any other agency of the Federal or State government with authority to regulate wireless communications facilities that are required in order for the applicant to construct the proposed facility.

b. Documentation of, or a sworn statement by an authorized representative that applicant is in, compliance with all conditions imposed in conjunction with such licenses or approvals, a description of the number, type, power rating, frequency range, and dimensions of antennas, equipment cabinets, and related WCF proposed to be installed, and engineering calculations demonstrating that the proposed facility will comply with all applicable FCC requirements and standards.

4. Description of Proposed Facility.

a. A site plan, plans, and elevations drawn to scale that identify all antennas by type (e.g., microcell; ground-, building-, or roof-mounted, etc.) and all related equipment. Elevations shall include all structures on which facilities are proposed to be located.

b. A description of the proposed approach for screening or camouflaging all facilities from public view including plans for installation and maintenance of landscaping, sample exterior materials and colors, and an explanation of the measures by which the proposed facility will be camouflaged or rendered not readily visible. If any part of the proposed facility would be readily visible, the application shall include an explanation as to why it cannot be rendered not readily visible. Any representation that the use of state of the art design techniques and technology is not feasible shall be supported by technical and financial analysis and may, at the discretion of the Planning Director, be subject to technical review in subsection (A)(5) of this section.

c. When an applicant proposes a lower ranked design approach and location according to the preferences in Section 18.24.090(A), the application must include technical information demonstrating that a higher ranked option is not technically feasible in light of the provider's service objectives and may at the discretion of the Planning Director be subject to technical review in subsection (A)(5) of this section.

d. If any part of the facility will be readily visible from the public right-of-way or from neighboring properties, a visual impact analysis including scaled elevation diagrams within the context of the building, before and after photo simulations, and a map depicting where the photos were taken. The Planning Director may require the submission of photo overlays, scaled models, renderings, or mockups to document the effectiveness of techniques proposed to minimize visibility.

e. If a ground-mounted or freestanding tower is proposed, the application must include an explanation as to why collocation or other facility types are not a feasible means of meeting the provider's service objectives.

5. Technical Review. The application shall include sufficient information for an approved radio frequency engineer or licensed electrical engineer specializing in EMF or RF studies (hereinafter, "an approved engineer") retained by the City to review the information provided in response to technological considerations described in this section.

a. The application shall also include an agreement to pay the reasonable actual cost and an administrative fee for hiring an approved engineer to provide technical review if such review is required.

b. Any proprietary information disclosed to the City and/or the approved engineer in confidence shall not be a public record and shall remain confidential and not be disclosed to any third party without the express consent of the applicant. It is the responsibility of the applicant to designate what information it considers proprietary, and the City shall assume any information not explicitly designated as such is public record. The City and/or the approved

engineer shall return all proprietary information to the applicant and not retain any copies of such information once its decision is final.

6. Financial Assurances. A statement that, prior to obtaining a building permit to erect or install the proposed facility, the applicant shall either secure a bond or provide financial assurances, in a form acceptable to the City Manager, for the removal of the facility in the event that its use is abandoned or the approval is otherwise terminated.

7. Other Information. Any other information the Planning Director deems necessary to process the application in compliance with the requirements of this chapter. This may include, but is not limited to, information concerning noise that might be generated by equipment associated with a WCF, such as air conditioning equipment, if the physical circumstances of the proposed facility suggest that such noise may be detrimental. For downtown core and residential districts, the Planning Director may also request that the applicant simulate the appearance of the proposed facility through renderings, story poles, mock-ups, or similar display.

B. Where a WCF is part of a network of WCFs that will be installed contemporaneously or sequentially, such as a distributed antenna system (DAS), the applications for each of the facilities in the proposed network shall be submitted simultaneously.

C. In addition to the requirements of this chapter, applications to construct, modify, upgrade, or otherwise alter a WCF in a public right-of-way require an encroachment permit subject to the provisions of Chapter 12.01.

D. Proof of Neighborhood Outreach. For facilities proposed in R districts, the applicant shall be required to conduct neighborhood outreach and provide proof of outreach to all property owners no less than three hundred feet from the proposed facility site as part of the required WCF application submittal package as set forth by the Planning Director. (Ord. 1539 (Exh. A (part)), 2019)

#### **18.24.070 Review of permit application – Noticing.**

A. All persons submitting an application for a WCF permit shall also submit an application for a building permit at the time that the WCF permit application is submitted. The WCF permit application shall be deemed incomplete if not accompanied by a building permit application. All persons wishing to submit an application for a WCF permit shall schedule an appointment with the Planning Division to submit the application and perform an initial check to determine whether the application appears to meet all required application submittal requirements as set forth by the Planning Director. Applications shall only be accepted at a scheduled meeting.

B. Unless the application is deemed incomplete at the initial check pursuant to subsection A of this section, the Planning Director shall review all WCF permit applications for completeness with applicable submittal requirements and compliance with the provisions of this chapter and other applicable laws and regulations.

C. If the application submitted by the applicant is incomplete, the Planning Director shall notify the applicant in writing within ten days. Said notice shall include a list of items missing from the application and the Municipal Code section(s) and/or submittal checklist item(s) which require additional submittals to deem an application complete.

D. When an application is deemed incomplete, the applicant may submit additional materials to complete the application. An applicant may only submit a revised application or supplemental materials to a previously deemed incomplete application by appointment. The Planning Director shall schedule an applicant's appointment for resubmission within five business days of the applicant's request.

E. When an applicant resubmits an application with the additional required materials, the Planning Director will determine whether the resubmitted application is complete within ten days of submission. If the resubmitted application is not complete, the Planning Director will provide notice to the applicant within ten days and include a list of items missing from the application and the Municipal Code section(s) which require the items in order to deem an application complete.

F. Once the WCF permit application has been deemed complete, notice of any public hearing at which the Zoning Administrator or Planning Commission will consider the proposed WCF shall be provided by the City to all owners of real property any part of which is located within three hundred feet of the real property, or if the WCF is to be located in the City's right-of-way within three hundred feet of the proposed WCF location, consistent with the City's standard noticing times and methods. (Ord. 1539 (Exh. A (part)), 2019)

#### **18.24.080 General requirements.**

The following requirements apply to all WCFs that are not exempt from regulation under this chapter unless the decision-making authority approves a waiver or modification based on the findings required in Section 18.24.100:

A. State or Federal Requirements. All towers and antennas must meet or exceed current standards and regulations of the FCC, the Federal Aviation Administration, and any other agency of the State or Federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, the owners of the towers and antennas governed by this chapter shall bring such towers and antennas into compliance with such revised standards and regulations within six months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling State or Federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense.

B. Building Codes and Safety Standards. To ensure the structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable State or local building codes and the applicable standards for towers that are published by the Electronic Industries Association, as amended from time to time. If, upon inspection, the City concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have thirty days to bring such tower into compliance with such standards. Failure to bring such tower into compliance within said thirty days shall constitute grounds for the removal of the tower or antenna at the owner's expense.

C. Collocated Facilities. A WCF proposed to be collocated on a facility that was subject to a discretionary permit issued on or after January 1, 2007, is not subject to discretionary review if an environmental impact report was certified, or a negative declaration or mitigated negative declaration was adopted for the wireless communications collocations facility in compliance with the California Environmental Quality Act and the collocation facility incorporates required mitigation measures specified in that environmental impact report, negative declaration, or mitigated negative declaration.

D. Setbacks and Separation. Facilities shall comply with the setback requirements specified for the zoning district, except as provided in this chapter. For the purposes of this section, all distances shall be measured in a straight line without regard to intervening structures, from the nearest point of the proposed major WCF to the nearest point of another major WCF. For purposes of measurement, tower setbacks and separation distances shall be calculated and applied to all facilities located in the City irrespective of jurisdictional boundaries.

1. Setbacks from Property Lines. Ground-mounted WCFs shall comply with the applicable setback requirements in the zoning district or be sited at least five feet from all property lines, whichever distance is greater.

2. Minimum Separation Required. In commercial, industrial, and airport districts, a tower more than sixty-five feet in height shall not be located within one-quarter mile from any other tower that is more than sixty-five feet in height.

3. Roof Setbacks. Roof-mounted facilities, except for satellite dish antennas, shall meet all of the following requirements unless the decision-maker finds that alternative placement or design would more effectively reduce the visual impact of the facility:

a. Maintain a one-to-one ratio for equipment setback (example: ten-foot-high antenna requires ten-foot setback from facade);

b. Avoid or minimize interference with significant view corridors;

c. Facilities shall not be mounted on the front half of any building facing a public street, except for standard UHF/VHF antenna support structures, which shall be permitted on the rear two-thirds of the building facing a public street when attached to a chimney for support. On corner lots, facilities shall not be mounted on the front one-third of the building adjacent to the narrowest frontage facing a public street.

4. Encroachment onto Adjacent Property Not Permitted. Booms, elements, and other parts of the antenna support structure shall not extend onto an adjacent lot under the same or different ownership.

E. Conditions of Approval. In approving a minor use permit or conditional use permit pursuant to this chapter, the reviewing authority may impose any conditions allowed by applicable Federal and State law that are deemed necessary to ensure compliance with the findings required in Section 18.24.100, including but not limited to requiring:

1. Future modification of an installation that is not a stealth facility to further reduce or eliminate its aesthetic impacts based on the results of a review process, which shows that new technology is available and could be employed to reduce the facility's visual and aesthetic impacts.

2. Periodic review, at the permittee's expense, by a qualified independent engineer, approved by the City, to ensure compliance with the most current Federal and State regulatory and operational standards including, but not limited to, FCC radio frequency emission standards and Federal Aviation Administration height standards.
3. Periodic review to verify that the permittee and any authorized representative of the permittee are in full compliance with this Code, the California Vehicle Code and OSHA standards with regard to noise, construction, vehicles, property maintenance and other such codes and regulations that are applicable to the operation, maintenance, construction and management of the facility and site.
4. Allow collocation with other existing WCFs and accommodate the future collocation of other future facilities, where technically, practically, and economically feasible. The City reserves the right to notify other registered wireless communications providers of new WCF applications to promote collocation.
5. Evidence of a removal bond or other documentation ensuring removal of the wireless communications antennas.

F. Maintenance. All facilities shall be operated and maintained in compliance with the following requirements:

1. WCFs and sites shall be kept clean and free of litter and debris. Lighting, fences, shields, cabinets, and poles shall be maintained in good repair and free of graffiti and other forms of vandalism, and any damage from any cause, including degradation from wind and weather, shall be repaired as soon as reasonably possible to minimize occurrences of dangerous conditions or visual blight. Graffiti shall be removed from any facility or equipment as soon as practicable, and in no instance more than forty-eight hours from the time of notification by the City.
2. The owner or operator of a WCF shall be responsible for maintaining landscaping in accordance with the approved landscape plan and for replacing any damaged or dead trees, foliage, or other landscaping elements shown on the approved plan. A landscape performance and maintenance agreement with the City may be required to ensure the installation and establishment of the landscaping. Amendments or modifications to the landscape plan shall be submitted to the Planning Director for approval.
3. WCFs shall be operated in a manner that will minimize noise impacts to surrounding residents and persons using nearby parks, trails, and similar recreation areas.
  - a. Except for emergency repairs, testing and maintenance activities that will be audible beyond the property line shall only occur between the hours of eight a.m. and seven p.m., Monday through Friday, excluding holidays.
  - b. All air conditioning units and any other equipment that may emit noise that would be audible from beyond the property line shall be enclosed or equipped with noise attenuation devices to the extent necessary to ensure compliance with applicable noise limitations under Chapter 9.30, Noise Control.
  - c. Backup generators shall only be operated during periods of power outages or for testing.

G. City Business License. The permittee shall report to the City annually, in conjunction with permittee's business license, contact information for the permittee and the agent responsible for maintenance of the wireless communications facility. Emergency contact information shall be included. (Ord. 1539 (Exh. A (part)), 2019)

**18.24.090 Design standards.**

The purpose of this section is to identify preferences and requirements for the location and design of WCFs, to provide guidance to prospective applicants as they seek appropriate WCF locations within the City, and to provide guidance to the Planning Commission and Planning Director in determining whether to grant, grant with conditions, or to deny a WCF application.

This section applies to all new WCFs and to all collocations and modifications to existing WCFs, except collocations and modifications to existing WCFs that qualify as a Section 6409(a) modification.

A. Design and Location Preferences. Based on their potential effect on the aesthetic character of residential and mixed-use areas, the alternatives for design and siting of new antennas, new and existing antenna support structures, and new and existing cabinets and associated equipment have been ranked by preference as indicated in the following lists. When an applicant proposes a lower ranked alternative, the applicant must demonstrate that a higher ranked option is not feasible.

1. Design Preferences.

- a. Building- or structure-mounted antennas and associated cabinets and equipment that are not readily visible or are completely concealed from view because of placement and/or integration into design of nonresidential buildings or structures erected and approved for use other than as wireless telecommunications support.
- b. Building- or structure-mounted antennas and associated cabinets and equipment set back from roof edge and/or not visible from the public right-of-way or from surrounding properties.
- c. On existing nonresidential structures located more than six hundred feet from a residential district such as buildings, communication towers, existing signal, power, light or similar kinds of permanent poles, or utility facilities not subject to the City's franchise agreements or on new nonresidential buildings where the facility is incidental to the building or property use.
- d. On new nonresidential structures such as buildings, communication towers, existing signal, power, light or similar kinds of permanent poles, or utility facilities not subject to the City's franchise agreements and located more than six hundred feet from a residential district.

2. Location Preferences.

- a. In an industrial or airport district and collocated with existing WCFs that conform to the requirements of this chapter.
- b. In any other nonresidential district and collocated with existing conforming facilities.
- c. In industrial or airport districts.
- d. In commercial districts.
- e. On nonresidential structures in mixed-use districts.
- f. On nonresidential structures in residential districts.
- g. On nonresidential use sites in mixed-use or residential districts.
- h. In public districts.

B. Siting on Residential Parcels. Wireless communications facilities shall not be permitted on properties zoned and used for residential purposes or undeveloped parcels intended for residential use, unless the residential property owner provides written consent and:

1. The applicant demonstrates that all alternative nonresidential sites (including collocation) have been explored and the proposed site is the less intrusive of the feasible alternative sites; and
2. No significant visual impacts would result from the proposed facility.

C. Visual Impact. WCFs should be collocated with existing WCFs if within one thousand five hundred feet of an existing visible WCF, unless the City determines that the collocation would create excessive visual clutter or would otherwise create harms the City may ameliorate.

D. Tower-Mounted WCFs. Tower structures shall be sited to maximize screening by existing environmental features such as topography, vegetation, buildings, or other structures. Any visible components and accessory facilities shall be painted or coated with subdued and nonreflective colors and textures that will blend with the visual environment.

1. The decision-making authority may require the facility to be enclosed in a structure such as a clock tower, cupola, sign, or other facility.
2. Installations that are designed to replicate trees, rocks, or other natural features shall match the scale, color, type, and appearance of existing or typical natural features.

E. A WCF located in the right-of-way:

1. Shall, with respect to its pole-mounted components, be located on an existing streetlight pole when feasible;

2. If it is not feasible to install the pole-mounted components on an existing streetlight pole, then those components shall be located on an existing utility pole serving another utility;
3. Shall be concealed and/or shall be painted to be consistent with other existing natural or manmade features in the right-of-way near the location where the WCF is to be located; and
4. With respect to its pole-mounted components, if installing on an existing utility pole is not feasible and there are no reasonable alternatives, the applicant may propose to construct a new utility pole or unipole.

F. The pole-mounted components of a WCF on a utility pole, shall, whether in or outside of the right-of-way:

1. Comply with CPUC General Order 95 and General Order 128 as they may be amended or replaced;
2. Shall be located, designed, and installed to cause as little visual intrusion as possible to views from habitable structures and publicly accessible areas;
3. To the extent feasible, shall be located on a pole located at intersections (i.e., near corner lots); and
4. Be consistent with the size and shape of pole-mounted equipment installed by communications companies on utility poles near the WCF.

G. The ground-mounted components of a WCF, including but not limited to utility boxes, whether in or outside of the right-of-way:

1. Shall be located underground to the maximum extent feasible; and
2. If not underground, shall be located flush to grade where necessary to avoid inconveniencing the public, or creating a hazard; and
3. To the extent permitted aboveground, shall otherwise be appropriately screened, landscaped and camouflaged to blend in with the surroundings, and nonreflective paints shall be used. All equipment associated with the WCF must be screened.

H. The support equipment associated with a WCF, whether in or outside the right-of-way:

1. Shall be designed to be architecturally compatible with surrounding structures and/or screened using appropriate techniques to camouflage, disguise, and/or blend into the environment including shelters, buildings, landscaping, fencing, color, and other techniques to minimize their visual impact; and
2. If an equipment cabinet cannot be adequately screened from surrounding properties or from public view or architecturally treated to blend in with the environment, it shall be placed underground or inside the existing building where the antenna is located or in a new equipment shelter that meets the requirements of this chapter.

I. Height Restrictions. All applicable height restrictions contained within this Code regarding building height for structures, including but not limited to poles, towers, and buildings, shall apply to all base stations and wireless towers, except in the following circumstances:

1. The applicant demonstrates the necessity to build above the applicable height restriction, and that no alternative equipment exists that would allow the WCF to operate without need to build above the applicable height restriction;
2. The application proposes a Section 6409(a) modification to an existing structure; or
3. The application proposes to collocate WCF equipment at an existing site whose structure is nonconforming with the applicable height restriction and the application does not propose to increase the height of the existing structure.

J. Maintenance of City Character. A WCF shall be designed and located to minimize the impact on the surrounding neighborhood, and to maintain the character and appearance of the City, consistent with other provisions of this Code. To that end, WCFs should:

1. Employ the least intrusive design for the proposed location in terms of size, mass, visual and physical impact, and effects on properties from which the WCF is visible; and
2. Accommodate collocation consistent with the other design requirements of this chapter; and

3. Where proposed to be located on an existing pole or other structure, and where location is feasible at multiple sites, be located on the site that provides the greatest consistency with these design standards and is least visibly intrusive; and
4. Use the best available technology and design techniques to eliminate or reduce noise, vibration, heat, or other adverse impacts to the surrounding community, and to reduce or eliminate intrusion to publicly accessible areas; and
5. Be consistent with the General Plan.

K. Camouflage. Without limiting the foregoing, all portions of a WCF affixed to a support structure shall be designed to blend in architecturally or be screened from view in a manner consistent with the support structure's architectural style, color, and materials when viewed from any part of the City. WCFs shall be painted and textured or otherwise camouflaged to match the color and texture of the support structure on which they are mounted. Where the support structure is a building, the WCF, including without limitation base station cabinets, remote transmitters and receivers, and antenna amplifiers, shall be placed within the building or mounted behind a parapet screened from public view unless that is not feasible. If the Planning Director determines that such in-building placement is not feasible, the equipment shall be roof-mounted in an FRP screen or similar enclosure or otherwise screened from public view as approved by the Planning Commission or Planning Director.

L. Lighting. WCFs shall not be lighted except in one of the following instances and when the lowest feasible intensity lighting is used:

1. For proximity-triggered and/or timer-controlled security lighting;
2. To comply with regulations for the illumination of any flag attached to a WCF; or
3. Where such lighting is required by the Planning Director to protect public health or welfare, or as part of the camouflage for a particular design.

M. Signage. No advertising signage shall be displayed on any WCF except for government required signs shown in the WCF permit application. Additionally, site identification, address, warning, and similar information plates may be permitted where approved by the Planning Commission or Planning Director.

Notwithstanding the foregoing, each equipment cabinet shall have a sign visible from a publicly accessible area, identifying the name, address, twenty-four-hour local or toll-free contact telephone number for both the permittee and the party responsible for maintenance of the facility. Information shall be updated in the event of any changes.

N. Americans with Disabilities Act. The WCF shall comply with all requirements of the Americans with Disabilities Act of 1990 ("ADA") as may be amended or replaced.

O. Obstructions. The WCF shall not incommodate the public (including, without limitation, persons with disabilities) in its use of any structure, or any portion of the right-of-way.

P. Camouflage of Wireless Towers and Base Stations. All wireless towers and base stations shall be concealed. The installation of an uncamouflaged wireless tower or base station is prohibited.

Q. Additional Requirements for Dish-Type Antennas. Dish-type antennas visible from any public or private street or any neighboring property shall meet the following standards and criteria in addition to any other applicable provisions of this chapter:

1. Diameter and Height. Television satellite dish antennas shall meet the following requirements:
  - a. Industrial, Commercial, and Airport Districts. Antennas shall not be larger than twelve feet in diameter and twelve feet six inches in height above the ground when extended vertically (if ground-mounted) or twelve feet six inches in height above the roof line when extended vertically (if roof-mounted). If another diameter dish is used under twelve feet in diameter, the dish shall not be more than the dish diameter plus six inches in height above the ground when extended vertically (if ground-mounted) or the dish diameter plus six inches in height above the roof when extended vertically (if roof-mounted).
  - b. Residential and Mixed-Use Districts. Antennas shall not be larger than ten feet in diameter and ten feet six inches in height above the ground when extended vertically. If roof-mounted, a satellite dish antenna shall not exceed the height permitted in the district.
2. Location. No dish-type antenna shall be located in a required parking or loading area or in a driveway area.

3. Screening and Design. Antennas shall be designed and screened to minimize their appearance:
  - a. The dish shall be constructed of open mesh, rather than solid material, unless the use of mesh is not feasible for technical or other reasons.
  - b. The antenna and supporting structure shall be a neutral color that blends with the surrounding dominant color, helps camouflage the dish antenna, and is neither bright nor metallic.
  - c. No advertising shall be permitted on any part of a dish antenna, except for a six-inch square displaying the manufacturer's or distributor's name.
  - d. The antenna shall be screened by recessing the antenna into the roof line or by constructing a screen out of similarly textured roofing, or exterior wall material, or microwave transparent material.
  - e. No more than twenty-five percent of the dish antenna shall be visible from surrounding streets and properties at ground level. (Ord. 1539 (Exh. A (part)), 2019)

**18.24.100 Required findings for approval.**

A. It is the applicant's burden to show that a permit should be granted. In reviewing an application, the Planning Commission or Planning Director may consider the WCF as proposed and as it may be modified as a matter of right, through a Section 6409(a) modification application or otherwise, should the application be granted. When considering an application, the Planning Commission or Planning Director may consider any matter it is entitled to or required to consider as a matter of law. In addition to any other findings that this chapter requires, in order to approve any use permit for a facility subject to regulation under this chapter, the Planning Director or the Planning Commission must make all of the following findings that are applicable to the facility based on substantial information in the record, including, where required, technical analysis by a radio frequency engineer, calculations by a State-licensed structural engineer, or other evidence:

1. The application was deemed complete by the Planning Director and proper notice has been provided pursuant to Section 18.24.070;
2. The application and proposed WCF are consistent with the general requirements and design standards set forth in Sections 18.24.080 and 18.24.090;
3. The WCF and support structure additions and modifications proposed are consistent with the General Plan and will not adversely affect the policies and goals set forth therein or alter the character of the community;
4. The WCF and support structure modifications and additions proposed comply with the design standards herein, and other applicable provisions of this Code;
5. The WCF and support structure modifications and additions proposed comply with applicable safety codes and laws (including without limitation the ADA);
6. The WCF and support structure modifications and additions do not interfere with the public's use of right-of-way, or create undue risks to persons or property;
7. The applicant has made the required affirmation regarding compliance with the FCC's RF regulations, as the same may be amended;
8. If the facility is located on any property that is a historic resource pursuant to the California Public Resources Code, that it has been designed and sited to avoid any adverse effect on the historic character of the building, structure, or site and will not affect its eligibility for designation;
9. The applicant was authorized to file the application;
10. The applicant has or will have necessary local, State, or Federal regulatory approvals required in connection with the WCF (including but not limited to necessary CEQA approvals, if any; and approvals for structures on private property);
11. The proposed design is consistent with the General Plan and otherwise minimizes the impact of the WCF and support structure modifications and additions to the greatest extent possible;
12. If a modification of height, separation, setback, landscaping, or other requirements of this chapter is requested, that the proposed modification is consistent with the purposes of this chapter, will be the least intrusive feasible means of

meeting the provider's service objectives, is sited and designed compatible with the aesthetic character of the surroundings, and is necessary to ensure reasonable and effective transmission; and

13. If the facility is a satellite dish or parabolic antenna that exceeds applicable width and height standards:

- a. A smaller or different type of facility could not meet the technical requirements necessary to provide reasonable signal access; or
- b. The cost of complying with the applicable requirements would exceed the cost of the purchase and installation of the facility.

B. Notwithstanding any other provision of this section to the contrary, if in the opinion of the Planning Director, in consultation with the City Attorney, any of the provisions of this section are preempted or superseded by Federal or State law, the Planning Commission or Planning Director may approve an application which does not comply with the design standards and/or required findings for approval which are determined to be preempted or superseded.

C. A WCF located on private property shall also be subject to any design review provisions of this Code to the extent that it involves a modification to a support structure which is subject to separate review under this Code and shall complement the surrounding structures and/or improvements. (Ord. 1539 (Exh. A (part)), 2019)

**18.24.110 Section 6409(a) modification applications.**

A. For applications designated by the applicant as a Section 6409(a) modification, or if determined by the Planning Director that the applicant is proposing a Section 6409(a) modification, the review process and approval, approval with conditions, or denial of the application shall be made by the Planning Director.

B. Pursuant to 47 U.S.C. Section 1455(a), the Planning Director shall approve a Section 6409(a) modification except when:

1. The collocation or modification would result in a substantial change (as defined in Section 18.24.230(EE)) to the existing wireless tower or base station;
2. The collocation or modification would violate any applicable building code, electrical code, structural code, fire code or any other law, regulation, rule or prior condition of approval based on objective factors and reasonably related to public health and safety;
3. The collocation or modification involves the replacement of the wireless tower or other support structure; or
4. 47 U.S.C. Section 1455(a) does not apply to the collocation or modification for any lawful reason.

C. Any denial of a Section 6409(a) modification shall be without prejudice. Subject to subsection D of this section, the applicant may submit the same or substantially the same permit application, together with all required fees and deposits, for either a WCF permit or a Section 6409(a) modification permit.

D. The City shall be entitled to recover the reasonable costs for its review of any Section 6409(a) modification permit application, whether approved, deemed granted or denied without prejudice. In the event that the Planning Director denies a Section 6409(a) modification permit, the City shall return any unused deposit fees within sixty days after a written request from the applicant. If the fees in the deposit account do not cover the reasonable cost for the City's review, an applicant shall not be allowed to submit an application for the same or substantially the same change unless all fees for the prior-denied permit application are paid in full. (Ord. 1539 (Exh. A (part)), 2019)

**18.24.120 Small wireless facility applications.**

A. For applications designated by the applicant as a small wireless facility application or modification, or if determined by the Planning Director that the applicant is proposing a small wireless facility application or modification, the review process and approval, approval with conditions, or denial of the application shall be made by the Zoning Administrator. Applicants may include multiple proposed small cells in one application; however, required fees are calculated per site. An application that proposes both small cell and non-small cell installations shall be handled as separate applications, and all proposed non-small cell facilities shall be subject to individual requirements, review criteria, and fees, as their own applications.

B. If a small cell is installed on or affixed to a City-owned support structure, the owner of the small cell/permit holder shall obtain a license for use of the structure from the City prior to or in conjunction with the permitting process, shall pay an additional processing fee for the license, and shall pay an annual fee for such use. (Ord. 1539 (Exh. A (part)), 2019)

**18.24.130 Time to act on application.**

A. Except in instances where the City has entered into a tolling agreement with the applicant, the Planning Commission or Planning Director shall act to approve, approve with conditions, or deny all applications within the following periods:

1. Within sixty days for:
  - a. Section 6409(a) modification applications; and
  - b. Small wireless facilities proposed to be collocated or attached to existing support structures.
2. Within ninety days for:
  - a. Collocations of non-small cell WCFs;
  - b. Installations of non-small cell WCFs onto existing support structures; and
  - c. New small wireless facilities (including new support structure).
3. Within one hundred fifty days for new non-small cell WCFs (including new support structure).

B. Tolling Periods. If the applicant is timely notified that its application is incomplete pursuant to Section 18.24.070, the time to act on the application as defined by this section shall toll from the day after such notice is given to the applicant in writing to the day that the applicant submits additional documents to render the application complete. Should that supplemental submission fail to render the application complete, the time to act on the application shall again toll on the day after written notice to the applicant that the supplemental submission was insufficient until the day that the applicant submits additional documents to render the application complete.

C. Small Cell Time Reset. Notwithstanding the above, if the applicant submits an incomplete application that proposes to install a small wireless facility and is timely notified that the application is incomplete, the period in which the application must be acted upon shall not run until the applicant makes a supplemental submission to complete the application. Should the subsequent submittal still fail to complete the application and the applicant is notified timely, the tolling periods provisions above shall apply. (Ord. 1539 (Exh. A (part)), 2019)

#### **18.24.140 Standard permit conditions.**

A. As a condition of every permit issued pursuant to this chapter, the City may establish a reasonable construction build-out period for a WCF.

B. The WCF permit holder shall also comply with all other applicable requirements of this Code, including but not limited to building codes and provisions related to work in rights-of-way.

C. The WCF permit holder shall obtain and maintain all other applicable permits, approvals, and agreements necessary to install and operate the WCF in conformance with Federal, State, and local laws, rules and regulations.

D. The City may inspect permitted facilities and property and may enter onto a site to inspect facilities upon reasonable notice to the WCF permit holder. In case of an emergency or risk of imminent harm to persons or property within the vicinity of permitted facilities, the City reserves the right to enter upon the site of the WCF and to support, disable, or remove those elements of the WCF posing an immediate threat to public health and safety.

E. The WCF permit holder shall maintain on file with the City and on site at the WCF contact information of all parties responsible for maintenance of the WCF, including without limitation contact information for a representative of the facility operator, representatives of all wireless carriers utilizing the WCF, and representatives of all contractors and subcontractors responsible for maintaining the WCF.

F. The WCF permit holder and, if applicable, the private property owner shall defend, indemnify and hold harmless the City of San Carlos, its agents, officers, officials, and employees (1) from any and all damages, liabilities, injuries, losses, costs and expenses and from any and all claims, demands, lawsuits, writs of mandamus, and other actions or proceedings brought against the City or its agents, officers, officials, or employees to challenge, attack, seek to modify, set aside, void or annul the City's approval of the WCF permit, and (2) from any and all damages, liabilities, injuries, losses, costs and expenses and any and all claims, demands, lawsuits, or causes of action and other actions or proceedings of any kind or form, whether for personal injury, death or property damage, arising out of or in connection with the activities or performance of the WCF permit holder or, if applicable, the private property owner or any of each one's agents, employees, licensees, contractors, subcontractors, or independent contractors (subsections (F)(1) and (2) of this section collectively are "actions"). Further, WCF permit holders shall be strictly liable for interference caused by their WCFs with the City's communications systems. The WCF

permit holder shall be responsible for costs of determining the source of the interference, all costs associated with eliminating the interference, and all costs arising from third party claims against the City attributable to the interference ("claims"). In the event the City becomes aware of any such actions or claims the City shall promptly notify the WCF permit holder and the private property owner and shall reasonably cooperate in the defense. It is expressly agreed that the City shall have the right to approve, which approval shall not be unreasonably withheld, the legal counsel providing the City's defense, and the property owner and/or WCF permit holder (as applicable) shall reimburse City for any costs and expenses directly and necessarily incurred by the City in the course of the defense.

G. A permit may be terminated if the City determines that the permit was granted based on false, misleading, or incomplete information; if a material provision of the permit is no longer enforceable; or if the permit holder violates a condition of the permit, or modifies the WCF or support structures without permission.

H. The WCF permit holder shall make a good faith effort to minimize project-related disruptions to adjacent properties. Site improvement and construction work, including set-up, loading or unloading of materials or equipment, performed as part of this project is subject to all provisions of this Code related to permitted work. Emergency maintenance and repairs are exempt from the restricted hours. Violation of this condition may result in issuance of a stop work order or administrative citations.

I. In addition to all other standard conditions of approval required under this section, and to all conditions of approval permitted under State and Federal law that the Zoning Administrator, Planning Commission, or Planning Director may deem appropriate for a specific WCF, all Section 6409(a) modifications, whether granted by the Planning Director under the Federal directive in 47 U.S.C. Section 1455(a), or deemed granted by the operation of law, shall automatically include all the conditions of approval as follows:

1. Grant, deemed-grant or acceptance of a Section 6409(a) modification permit shall not renew or extend the permit term for the underlying WCF;
2. In the event that a court of competent jurisdiction invalidates or limits, in part or in whole, 47 U.S.C. Section 1455(a), such that such statute would not mandate approval for the collocation or modification granted or deemed granted under a Section 6409(a) modification permit, such permit shall automatically expire twelve months from the date of that opinion;
3. Grant, deemed-grant or acceptance of Section 6409(a) modification permit shall not waive and shall not be construed or deemed to waive the City's standing in a court of competent jurisdiction to challenge 47 U.S.C. Section 1455(a) or any Section 6409(a) modification permit issued pursuant to 47 U.S.C. Section 1455(a) or this Code. (Ord. 1539 (Exh. A (part)), 2019)

#### **18.24.150 Compliance report.**

A. Within thirty days after installation of a WCF, the applicant shall deliver to the City a written report that demonstrates that its WCF, as constructed and normally operating fully, complies with the conditions of the permit, including height restrictions, and applicable safety codes, including structural engineering codes. The demonstration shall be provided in writing to the Planning Director containing all technical details to demonstrate such compliance, and certified as true and accurate by qualified professional engineers, or, in the case of height or size restrictions, by qualified surveyors. This report shall be prepared by the applicant and reviewed by the City at the sole expense of the applicant, which shall promptly reimburse the City for its review expenses. The Planning Director may require other RF emission compliance proof at his or her discretion, including additional study upon construction and/or regular compliance reports during the operation of the WCF.

B. If the initial report required by this section shows that the WCF does not so comply, the permit shall be deemed suspended, and all rights thereunder of no force and effect, until the applicant demonstrates to the City's satisfaction that the WCF is compliant. Applicant shall promptly reimburse the City for its compliance review expenses.

C. If the initial report required by this section is not submitted within the time required, the Planning Director or his or her selected and qualified professionals may, but are not required to, undertake such investigations as are necessary to prepare the report described in subsection A of this section. The applicant shall, within five days after receiving written notice from the City that the City is undertaking the review, deposit such additional funds with the City to cover the estimated cost of the City obtaining the report. Once said report is obtained by the City, the City shall then timely refund any unexpended portion of the applicant's deposit. The report shall be provided to the applicant. If the report shows that the applicant is noncompliant, the City may suspend the permit until the applicant demonstrates to the City's satisfaction that the WCF is compliant. During the suspension period, the applicant shall be allowed to activate the WCF for short periods, not to exceed one hundred twenty minutes during any twenty-four-hour period, for the purpose of testing and adjusting the site to come into compliance.

D. If the WCF is not brought into compliance promptly, and in no case within sixty days, the City may revoke the permit and require removal of the WCF. (Ord. 1539 (Exh. A (part)), 2019)

#### **18.24.160 Operational regulations.**

A. All WCFs within the City shall be designed, maintained, and shall be operated at all times to comply with the provisions of this chapter and the following other requirements:

1. Conditions in any permit or license issued by a local, State, or Federal agency, which has jurisdiction over the WCF;
2. Rules, regulations, and standards of the State and Federal governments and the City, including without limitation the FCC, the CPUC, and this Code;
3. Easements, covenants, conditions, and/or restrictions on or applicable to the underlying real property;
4. Rules, regulations, and standards of the City governing underground utilities;
5. All other laws, codes, and regulations applicable to a WCF, including the California Environmental Quality Act (CEQA).

B. Without limiting the foregoing, all WCFs shall be maintained in good working condition and to the visual standards established at the time of approval over the life of the WCF permit. The WCF and surrounding area shall remain free from trash, debris, litter, graffiti, and other forms of vandalism. Any damage shall be repaired as soon as is practicable, and in no instance more than ten days from the time of notification by the City or after discovery by the WCF permit holder. If landscaping was required, the landscaping must be maintained by the permittee. (Ord. 1539 (Exh. A (part)), 2019)

#### **18.24.170 Modifications of a WCF permit.**

A. The City may modify a permit before its termination date where necessary to protect public health and safety, or where the permit as issued is no longer enforceable in accordance with its terms.

B. A permit holder may modify a permit by seeking either a Section 6409(a) modification or other modification. Modifications other than Section 6409(a) modifications shall be treated the same as requests for a new WCF and require Planning Commission or Planning Director approval.

C. Requests for modifications will be reviewed in accordance with the provisions of this chapter at the time modification is sought, and not at the time the permit initially issued. (Ord. 1539 (Exh. A (part)), 2019)

#### **18.24.180 Revocation of a WCF permit.**

A. A WCF permit may be revoked if permittee is not in compliance with permit conditions, if the permit conditions are not enforceable, or for a failure to comply with any provision of this Code relating to the permit, or relating to the WCF associated with the permit ("default event"). By way of example and not limitation, a refusal to timely remove facilities located in the right-of-way where required in connection with a public works project would be a default event.

B. The City may revoke a WCF permit only after:

1. Written notice of the default event has been provided to the WCF permit holder; and
  2. The WCF permit holder has been afforded at least thirty days to cure and comply with its permit, or demonstrate that no default event occurred.
- C. If the WCF permit holder fails to cure, the City Council may revoke the permit consistent with Section 18.27.140.
- D. Upon revocation, the City may require the removal of the WCF or take any other legally permissible action or combination of actions necessary to protect the health and welfare of the City. (Ord. 1539 (Exh. A (part)), 2019)

#### **18.24.190 Abandonment, removal, or relocation of facilities.**

A. Any WCF permit holder who abandons or discontinues use of a WCF for a continuous period of ninety days shall so notify the City by certified mail within thirty days after the ninety-day period.

B. If the Planning Director believes a WCF has been abandoned or discontinued for a continuous period of ninety days, the Planning Director shall send a notice by certified mail of abandonment or discontinuation to the WCF permit holder stating why he or she believes the WCF to be abandoned or discontinued. Failure of the WCF permit holder to reply to this notice in writing

within thirty days after receiving, rejecting, or returning the City's certified letter shall entitle the Planning Director to make the determination that the WCF is, in fact, abandoned or discontinued.

C. Upon declaration of the Planning Director that a WCF located on public property or in the public right-of-way is abandoned or discontinued, the City may remove the WCF and any supporting structures installed solely in connection with the WCF and restore the site to be consistent with the then-existing surrounding area. The City shall not be required to, but may at its discretion, store any removed equipment. The cost of this removal and restoration work and storage, if applicable, shall be paid by the permit holder, who shall be provided with an invoice by the City. Until the cost of removal, repair, restoration and storage is paid in full, a lien shall be placed on any related real or personal property owned by the permit holder, including but not limited to the removed equipment. The City Clerk shall cause the lien to be recorded with the San Mateo County recorder. No person or entity may apply for a new or renewed permit under this chapter if he/she/it owes any amounts invoiced by the City under this section.

D. Upon declaration of the Planning Director that the WCF located on private property is abandoned or discontinued, the WCF permit holder or owner of the affected real property shall have ninety days from the date of the declaration or a further reasonable time as may be approved by the Planning Director, within which to complete one of the following actions:

1. Reactivate use of the WCF, subject to the terms and conditions of the applicable WCF permit;
2. Transfer the rights to use the WCF to another entity (who shall be subject to all the provisions of this chapter) and the entity immediately commences use of the WCF; or
3. Remove the WCF and any supporting structures installed solely in connection with the WCF and restore the site to be consistent with the then-existing surrounding area.

E. If ninety days after the declaration by the Planning Director that a WCF located on private property is abandoned or discontinued none of the required actions in subsections (D)(1) through (D)(3) of this section has occurred, the City Council at a noticed public hearing may declare that the WCF is abandoned. The City shall provide notice of such finding to the WCF permit holder and to the telecom carrier last known to use the WCF and, if applicable, to the owner of the affected private real property, providing thirty days from the date of the notice within which to complete one of the following actions:

1. Reactivate use of the WCF, subject to the terms and conditions of the applicable WCF permit;
2. Transfer the rights to use the WCF to another operator (who shall be subject to all the provisions of this chapter); or
3. Remove the WCF and any supporting structures installed solely in connection with the WCF and restore the site to be consistent with the then-existing surrounding area.

F. Any cost incurred by the City to remove, repair, restore, or store a WCF site or WCF equipment shall be charged to and paid by the permit holder and/or the private real property owner. Until these costs are paid in full, a lien shall be placed on the WCF and any related personal property and any private real property on which the WCF was located for the full amount of the cost of removal, repair, restoration and storage. The City Clerk shall cause the lien to be recorded with the San Mateo County Recorder.

G. After adequate written notice to the WCF permit holder, the City Council or Planning Director may require the relocation, at the WCF permit holder's expense and according to the then-existing standards for WCFs, of any WCF located in the right-of-way, as necessary for maintenance or reconfiguration of the City's right-of-way or for other public projects, or take any other action or combination of actions necessary to protect the health and welfare of the City.

H. If an existing utility pole that hosts a WCF must be replaced, the WCF permit holder shall within thirty days after the installation of the replacement pole either relocate its WCF in the same configuration on the replacement pole or remove the prior-existing WCF rather than relocate it, and notify the City of the removal, and surrender its WCF permit for cancellation by the City.

I. If the WCF permit holder fails to relocate or remove the WCF as required by this section, the City may elect to treat the WCF as a nuisance to be abated. (Ord. 1539 (Exh. A (part)), 2019)

#### **18.24.200 Transfer of an interest.**

A WCF permit holder shall not assign or transfer any interest in its permits for WCFs without advance written notice to the City. The notice shall specify the identity of the assignee or transferee of the permit, as well as the assignee's or transferee's address, telephone number, name of primary contact person(s), and other applicable contact information, such as an email

address or facsimile number. The new assignee or transferee shall comply with all of the WCF's terms and conditions of approval and shall submit to the City a written acceptance of the WCF permit's terms and conditions and a written assumption of the obligations thereafter accruing under such permit prior to the date that such assignment or transfer is intended to take effect. (Ord. 1539 (Exh. A (part)), 2019)

#### **18.24.210 Violations are infractions.**

It is unlawful for any person to violate any provision or to fail to comply with any of the requirements of this chapter. Any person, firm, partnership, or corporation violating any provision herein or failing to comply with any of these requirements will be deemed guilty of an infraction and upon conviction thereof will be punished by a fine not exceeding one thousand dollars. Each such person, firm, partnership, or corporation will be deemed guilty of a separate offense for each and every day or any portion thereof during which any violation of any of the provisions of this chapter is committed, continued or permitted by such person, firm, partnership, or corporation, and will be deemed punishable therefor as provided in this chapter. (Ord. 1539 (Exh. A (part)), 2019)

#### **18.24.220 Controlling provisions.**

In the event of any inconsistency between the provisions of this chapter and any other provision of this Code, the more specific provision shall control. Without limiting the generality of the foregoing, WCFs shall be governed by the permitting procedures and design standards set forth herein. (Ord. 1539 (Exh. A (part)), 2019)

#### **18.24.230 Definitions and acronyms.**

Unless otherwise specified, the terms this chapter uses shall have the following meanings:

A. "Antenna" shall mean a device used to transmit and/or receive radio or electromagnetic waves such as but not limited to panel antennas, reflecting discs, panels, microwave dishes, whip antennas, directional and nondirectional antennas consisting of one or more elements, multiple antenna configurations, or other similar devices and configurations.

B. "Antenna array" shall mean two or more antennas having elements extending in one or more directions, and directional antennas mounted upon and rotated through a vertical mast or tower interconnecting the beam and antenna support, all of which are elements deemed to be part of the antenna.

C. "Antenna equipment" means equipment, switches, wiring, cabling, power sources, shelters, or cabinets associated with an antenna, located in the same fixed location as the antenna.

D. "Applicant" shall mean the owner(s) or the owner's agent of property upon which wireless communications facilities are proposed to be located. In instances where wireless communication facilities are proposed to be located on public right-of-way, the applicant is the carrier or entity which will operate the facility or the newly added components of the facility upon its completion.

E. "Base station" shall mean the transmission equipment and non-tower support structure at a fixed location that enable FCC-licensed or authorized wireless communications between user equipment and a communications network. A "non-tower support structure" means any structure (whether built for wireless purposes or not) that supports wireless transmission equipment under a valid permit at the time the applicant submits its application.

F. "Camouflaged or concealed WCF" shall mean a wireless communications facility that (1) is integrated as an architectural feature of an existing structure such as (but not limited to) a cupola; or (2) is integrated in an outdoor fixture such as (but not limited to) a flagpole; or (3) uses a design and paint which mimics and is consistent with nearby natural or architectural features, or is incorporated into or replaces existing permitted facilities (including but not limited to stop signs or other traffic signs or freestanding light standards) so that the presence of the WCF is not readily apparent due to its design and/or color.

G. "Carrier" shall mean a wireless communications service provider licensed by the FCC and/or by the California Public Utilities Commission.

H. "City" shall mean the City of San Carlos, California.

I. "City Council" shall mean the City Council of the City of San Carlos, California.

J. "City Manager" shall mean the City Manager of the City of San Carlos, California, or his or her designee.

K. "Code" shall mean the San Carlos Municipal Code.

L. "Collocation" shall mean the placement or installation of transmission equipment on an existing wireless tower or base station for the purpose of transmitting or receiving radio frequency signals for communications purposes.

M. "CPUC" shall mean the California Public Utilities Commission.

N. "Distributed antenna system" or "DAS" shall mean a network of one or more antennas and related fiber optic nodes typically mounted to streetlight poles, or utility poles, which provide access and signal transfer for wireless service providers. A DAS also includes the equipment location, sometimes called a "hub" or "hotel" where the DAS network is interconnected with one or more wireless service provider's facilities to provide the signal transfer services.

O. "FCC" shall mean the Federal Communications Commission.

P. "Feasible" means, in light of technical feasibility, radio signal transmitting and receiving requirements, aesthetics, electromagnetic fields, costs, landowner permission, facility owner permission, and all necessary approvals under this chapter and the California Building Code, as well as the common meaning of the term.

Q. "FRP screening" shall mean screening using fibre-reinforced plastic or fibre-reinforced polymer.

R. "Lattice tower" shall mean an open framework structure used to support one or more antennas, typically with three or four support legs.

S. "Monopole" shall mean a single freestanding pole used to act as or support an externally mounted antenna or antenna arrays.

T. "OTARD antennas" shall mean antennas covered by the "over-the-air reception devices" rule in 47 CFR Section 1.4000 et seq., as may be amended or replaced from time to time.

U. "Outdoor fixture" shall mean any wall (excluding any retaining wall eighteen inches or less in height), utility box, fence, gate, column, pillar, post, flag pole, light post or similar lighting fixture, either freestanding or incorporated into a fence or wall.

V. "Planning Director" shall mean the Planning Director of the City of San Carlos or his or her designee.

W. "Public property" shall mean property owned or under the control of the City and specifically excludes the City's right-of-way. By way of example and not limitation, public property includes structures and outdoor fixtures owned by the City.

X. "Public Works Director" shall mean the Director of the City of San Carlos Public Works Department or his or her designee.

Y. "Radome" shall mean a visually opaque, radio frequency transparent enclosure which may contain transmission equipment.

Z. "Readily visible" means an object that can be identified as a WCF when viewed with the naked eye from public right-of-way or neighboring property.

AA. "RF or RF emissions" shall mean radio frequency emissions.

BB. "Right-of-way" shall mean the public streets and rights-of-way.

CC. "Screening" shall mean design features or architectural techniques that shield a WCF from sight. This may include, but is not limited to, FRP screening.

DD. "Section 6409(a)" shall mean Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012, codified as 47 U.S.C. Section 1455(a), as may be amended or interpreted in judicial or administrative decisions.

EE. "Section 6409(a) modification" shall mean a collocation or modification of transmission equipment at an existing wireless tower or base station that does not result in a substantial change in the physical dimensions of the existing wireless tower or base station. For the purposes of a Section 6409(a) modification, the term "substantial change" means:

1. For wireless towers outside the public right-of-way:

a. The proposed collocation or modification increases the overall height more than ten percent or the height of one additional antenna array more than twenty feet (whichever is greater);

- b. The proposed collocation or modification increases the width more than twenty feet from the edge of the wireless tower or the width of the wireless tower at the level of the appurtenance (whichever is greater); or
  - c. The proposed collocation or modification involves excavation outside the current boundaries of the leased or owned property surrounding the wireless tower, including any access or utility easements currently related to the site.
2. For wireless towers within the public right-of-way and for all base stations:
    - a. The proposed collocation or modification increases the overall height more than ten percent or ten feet (whichever is greater);
    - b. The proposed collocation or modification increases the width more than six feet from the edge of the wireless tower or base station; or
    - c. The proposed collocation or modification involves excavation outside the area in proximity to the structure and other transmission equipment already deployed on the ground.
  3. For all proposed collocations and modifications:
    - a. The proposed collocation or modification involves more than the standard number of new equipment cabinets for the technology involved, but not to exceed four equipment cabinets;
    - b. The proposed collocation or modification would defeat the concealment elements of the support structure; or
    - c. The proposed collocation or modification violates a prior condition of approval; provided, however, that the collocation need not comply with any prior condition of approval that is inconsistent with the thresholds for a substantial change described in this section.
    - d. The proposed collocation or modification involves excavation outside of the existing leased or licensed area upon which the existing WCF sits, and/or excavation outside of the existing pad upon which ground-mounted equipment is affixed.

The thresholds and conditions for a "substantial change" described in this section are disjunctive; the violation of any individual threshold or condition results in a substantial change. The height and width thresholds for a substantial change described in this section are cumulative for each individual wireless tower or base station. The cumulative limit is measured from the physical dimensions of the original structure for base stations and all sites in the public right-of-way, and from the smallest physical dimensions that existed on or after February 22, 2012, for wireless towers on private property.

FF. "Small wireless facility" or "small cell" is a WCF which meets each of the following conditions:

1. The support structure or wireless tower on which the facility's antennas are mounted is:
  - a. Fifty feet or less in height;
  - b. No more than ten percent taller than adjacent structures; or
  - c. In the case of collocation, not extended to a height of more than ten percent above its height prior to the collocation; and
2. Each antenna is no more than three cubic feet in volume; and
3. All antenna equipment associated with the facility is cumulatively no more than twenty-eight cubic feet in volume.

GG. "Structure" shall mean anything constructed or erected that requires location on the ground or attached to something having location on the ground, but not including outdoor fixtures or hardscape. Examples of a structure include, but are not necessarily limited to, any dwelling, building, accessory dwelling unit, garage, carport, toolhouse, guesthouse, greenhouse, pool house, satellite dish antenna, solar collector panel, tree house or other play structure, swimming pool, tennis court, play court, and deck. For purposes of this chapter, the definition of "structure" does not include utility poles or any other pole or structure otherwise defined within this section.

HH. "Support equipment" shall mean the physical, electrical and/or electronic equipment included within a wireless communications facility used to house, power, and/or process signals from or to the antenna or antennas but specifically excluding the base station.

II. "Support structure(s)" shall mean a structure, outdoor fixture, tower, or utility pole capable of safely supporting a WCF, but does not necessarily include a wireless tower or base station.

JJ. "Tolling agreement" shall mean an agreement between the City and an applicant proposing a new or modified WCF to postpone the deadline to make a final determination on the permit application and waive any claims or rights against each other during that period.

KK. "Transmission equipment" shall mean any equipment that facilitates transmission for any FCC licensed or authorized wireless communication service, including, but not limited to, radio transceivers, antennas and other relevant equipment associated with and necessary to their operation, including coaxial or fiber-optic cable and associated conduit housing, and regular and backup power supply.

LL. "Unipole" shall mean a uniform width pole with one or more antennas and associated equipment and cables contained within the interior of the pole, and with a radome at the top of the pole being the same width as the pole.

MM. "Utility box" shall mean any transformer, switch box, telephone, cable television box, service panel, meter or similar device, either ground-mounted or mounted to a support structure.

NN. "Utility pole" shall mean a steel or wood pole or structure located in the right-of-way and dedicated to use by multiple utilities and providers of communications franchised by the State or City.

OO. "Whip antenna" shall mean an omni-directional antenna.

PP. "Wireless" shall mean any FCC licensed or authorized communication service transmitted over frequencies in the electromagnetic spectrum.

QQ. "Wireless communications facility" or "WCF" shall mean a facility used to "provide personal wireless services" as defined at 47 U.S.C. Section 332(c)(7)(C); or wireless information services provided to the public or to such classes of users as to be effectively available directly to the public via licensed or unlicensed frequencies; or wireless utility monitoring and control services; or any other FCC-licensed or authorized service. A WCF does not include a facility entirely enclosed within a permitted building outside of the right-of-way where the installation does not require a modification of the exterior of the building; nor does it include a device attached to a building, used for serving that building only and that is otherwise permitted under other provisions of this Code. A WCF consists of an antenna or antennas, including, but not limited to, directional, omni-directional and parabolic antennas, base station, support equipment, and (if applicable) a wireless tower. It does not include the support structure to which the WCF or its components are attached. The term does not include mobile transmitting devices used by wireless service subscribers, such as vehicle or handheld radios/telephones and their associated transmitting antennas, nor does it include other facilities specifically excluded from the coverage of this chapter.

RR. "Wireless tower" or "tower" shall mean any structure built for the sole or primary purpose of supporting FCC-licensed antennas and their associated facilities. This does not include structures that were installed to replace or collocate upon existing power poles, light poles, energy transmission towers, or buildings. A support structure, which is modified or replaced to allow for the installation of transmission equipment, retains its prior use as its primary use, and the wireless use is only a secondary use thereof, even if the transmission equipment is the only attachment to the support structure. (Ord. 1566 (Exh. B (part)), 2020; Ord. 1539 (Exh. A (part)), 2019)

## **Chapter 18.25 TRANSPORTATION DEMAND MANAGEMENT**

Sections:

**18.25.010 Purpose.**

**18.25.020 Applicability.**

**18.25.030 Performance requirements.**

**18.25.040 Trip reduction measures.**

**18.25.050 Submittal requirements.**

**18.25.060 Required findings.**

**18.25.070 Modifications and changed plans.**

**18.25.080 Monitoring.****18.25.010 Purpose.**

The specific purposes of this chapter are to:

- A. Reduce the amount of traffic generated by new development and the expansion of existing development;
- B. Promote the more efficient utilization of existing transportation facilities and ensure that new developments are designed in ways to maximize the potential for alternative transportation usage; and
- C. Establish an ongoing monitoring and enforcement program to ensure that the City's desired alternative mode use percentages are achieved. (Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.25.020 Applicability.**

The requirements of this chapter apply to:

- A. New multi-unit development of ten units or more;
- B. New nonresidential development of ten thousand square feet or more;
- C. Additions to nonresidential buildings that are ten thousand square feet or more in size that expand existing gross floor area by ten percent or more; and
- D. Establishment of a new use, change of use, or change in operational characteristics in a building that is ten thousand square feet or more in size that results in an average daily trip increase of more than ten percent of the current use, based on the most recent Institute of Traffic Engineers (ITE) trip generation rates. (Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.25.030 Performance requirements.**

All projects subject to the requirements of this chapter shall incorporate measures to meet vehicle trip generation rates that are twenty percent lower than the standard rates as established in the most recent edition of the Institute of Transportation Engineers (ITE) trip generation manual. (Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.25.040 Trip reduction measures.**

All projects subject to the requirements of this chapter shall implement any combination of the following measures to achieve the required minimum vehicle trip generation reduction. Guidelines listing the number of trips that are reduced per trip reduction measure are available from the City/County Association of Governments of San Mateo County.

- A. Passenger Loading Zones. Passenger loading zones for carpool and vanpool drop-off located near the main building entrance.
- B. Direct Route to Transit. A well-lighted path or sidewalk utilizing the most direct route to the nearest transit or shuttle stop from the building.
- C. Pedestrian Connections. Safe, convenient pedestrian connections provided from the project to surrounding public streets and, if applicable, trails. Under this requirement, lighting, landscaping and building orientation are designed to enhance pedestrian safety.
- D. Bicycle Connections. If a site is abutting a bicycle path, lane or route, provision of a bicycle connection close to an entrance to the building on the site.
- E. Land Dedication for Transit/Bus Shelter. Where appropriate, land dedicated for transit or a bus shelter provided based on the proximity to a transit route.
- F. Long-Term Bicycle Parking. Covered and secure long-term bicycle parking located within seventy-five feet of a main entrance. Long-term bicycle parking must be in at least one of the following facilities:
  1. An enclosed bicycle locker;
  2. A fenced, covered, locked or guarded bicycle storage area; or
  3. A rack or stand inside a building that is within view of an attendant or security guard or visible from employee work areas.

G. Short-Term Bicycle Parking. Secure short-term bicycle parking located within fifty feet of a main entrance to the building.

H. Free Preferential Carpool and Vanpool Parking. Ten percent of vehicle spaces reserved for carpools or vanpools, with a minimum of one space required. The preferential parking spaces shall be provided free of charge.

I. Showers/Clothes Lockers. Shower and clothes locker facilities free of charge.

J. Transportation Management Association (TMA). Participation in or requirement for tenant to participate in a local TMA, the Peninsula Congestion Relief Alliance (Alliance) or a similar organization approved by the Director, that provides ongoing support for alternative commute programs.

K. Paid Parking at Prevalent Market Rates. Parking provided at a cost equal to the prevalent market rate, as determined by the City based on a survey of paid parking in the City and adjacent communities.

L. Alternative Commute Subsidies/Parking Cash Out. Provide employees with a subsidy, determined by the applicant and subject to review by the Director, if they use transit or commute by other alternative modes.

M. Carpool and Vanpool Ride-Matching Services. Matching of potential carpoolers and vanpoolers by administering a carpool/vanpool matching program.

N. Guaranteed Ride Home. Guaranteed rides home in emergency situations for carpool, vanpool and transit riders. Rides shall be provided either by a transportation service provider (taxi or rental car) or an informal policy using company vehicles and/or designated employees.

O. Shuttle Program. Provision of a shuttle program or participation in an existing shuttle program approved by the Director and subject to any fees for the existing program.

P. Information Boards/Kiosks. Display of the following information in a prominent location, maintained by a designated TDM contact: transit routes and schedules; carpooling and vanpooling information; bicycle lanes, routes and paths and facility information; and alternative commute subsidy information.

Q. Promotional Programs. Promotion and organization of events for the following programs: new tenant and employee orientation packets on transportation alternatives; flyers, posters, brochures, and emails on commute alternatives; transportation fairs; Spare the Air (June through October); Rideshare Week (October); trip planning assistance routes and maps.

R. Compressed Work Week. Allow employees or require tenants to allow employees to adjust their work schedule in order to complete the basic work requirement of five eight-hour workdays by adjusting their schedule to reduce vehicle trips to the worksite.

S. Flextime. Provide or require tenants to provide employees with staggered work hours involving a shift in the set work hours of all employees at the workplace or flexible work hours involving individually determined work hours.

T. On-Site Amenities. One or more of the following amenities provided on site: ATM, day care, cafeteria, limited food service establishment, dry cleaners, exercise facilities, convenience retail, post office, on-site transit pass sales.

U. Telecommuting. Provide or require tenants to provide opportunities and the ability for employees to work off site.

V. Other Measures. Additional measures not listed in this chapter, such as child care facilities or an in-lieu fee that would be negotiated in a development agreement with the City. (Ord. 1438 § 4 (Exh. A (part)), 2011)

#### **18.25.050 Submittal requirements.**

All projects subject to the requirements of this chapter shall submit a transportation demand management plan in conjunction with the development application. These plans must demonstrate that, upon implementation, they will achieve the required alternative mode use and shall include the following.

A. Checklist. A completed checklist of the trip reduction measures chosen by the applicant pursuant to Section 18.25.040, Trip reduction measures.

B. Trip Generation. Estimated daily trip generation for the proposed use based on the ITE trip generation rates.

C. Implementation Plan. A description of how the applicable minimum alternative mode use will be achieved and maintained over the life of the project, including, but not limited to, the transportation demand management goals targeted for the various

measures.

D. Designated TDM Contact. Designation of an employee or resident as the official contact for the transportation demand management program. The City shall be provided with a current name and phone number of the designated TDM contact who administers carpool and vanpool ride-matching services and promotional programs, updates information on the information boards/kiosks, and is the official contact for the administration of the annual survey and triennial report.

E. Site Plan. A site plan that designates transportation demand management design elements including:

1. External: preferential parking areas, paid parking areas, bicycle connections, bicycle parking, location of on-site amenities, passenger loading areas, land dedicated for transit facilities and bus shelters, direct route to transit, and pedestrian connections.
2. Internal: showers/lockers, information boards/kiosks, ATM, dry cleaners, day care, convenience retail, post office, cafeteria, limited food service establishment, exercise facilities, on-site transit pass sales. (Ord. 1438 § 4 (Exh. A (part)), 2011)

#### **18.25.060 Required findings.**

Prior to approval of a permit for a project subject to the requirements of this chapter, the review authority shall make both of the following findings:

- A. The proposed trip reduction measures are feasible and appropriate for the project, considering the proposed use or mix of uses and the project's location, size, and hours of operation; and
- B. The proposed performance guarantees will ensure that the target alternative mode use established for the project by this chapter will be achieved and maintained. (Ord. 1438 § 4 (Exh. A (part)), 2011)

#### **18.25.070 Modifications and changed plans.**

- A. Minor Modifications. The Director may approve minor modifications to an approved transportation demand management plan that are consistent with the original findings and conditions approved by the review authority and would result in the same target minimum alternative mode use.
- B. Changed Plans. A change in an approved project that would result in the addition of ten percent of the building area or a ten percent increase in the number of average daily trips shall be treated as a new application. (Ord. 1438 § 4 (Exh. A (part)), 2011)

#### **18.25.080 Monitoring.**

A report, documenting the TDM activities undertaken and their results, shall be submitted to the Director annually at the responsibility of the applicant. A five-year review shall evaluate the overall effectiveness of all of the TDM activities and may suggest new or modified activities or substitute activities to meet the program's objectives, per the Director's review and approval. The Director may impose reasonable changes to assure the program's objectives will be met. (Ord. 1438 § 4 (Exh. A (part)), 2011)

### **Chapter 18.26 PLANNING AUTHORITIES Revised 1/24**

Sections:

**18.26.010 Purpose.** Revised 1/24

**18.26.020 City Council.** Revised 1/24

**18.26.030 Planning and Transportation Commission.** Revised 1/24

**18.26.050 Community Development Director.** Revised 1/24

**18.26.060 Zoning Administrator.** Revised 1/24

**18.26.070 Summary of review authorities for decisions and appeals.** Revised 1/24

**18.26.010 Purpose.** Revised 1/24

The purpose of this chapter is to identify the bodies, officials, and administrators with designated responsibilities under various chapters of the Zoning Ordinance. Subsequent chapters of Article IV provide detailed information on procedures, applications, and permits, including zoning and General Plan text and map amendments, establishment of fees, and enforcement. When

carrying out their assigned duties and responsibilities, all bodies, administrators, and officials shall interpret and apply the provisions of this title as minimum requirements adopted to implement the policies and achieve the objectives of the General Plan. (Ord. 1603 § 3 (Exh. A), 2023; Ord. 1438 § 4 (Exh. A (part)), 2011)

#### **18.26.020 City Council. Revised 1/24**

The powers and duties of the City Council under this title include but are not limited to the following:

- A. Consider and adopt, reject or modify amendments to the General Plan map and text pursuant to the provisions of Chapter 18.34, Amendments to General Plan, and of the Government Code, following a public hearing and recommended action by the Planning and Transportation Commission.
- B. Consider and adopt amendments to the Zoning Map and to the text of this title pursuant to the provisions of Chapter 18.35, Amendments to Zoning Ordinance and Map, and the Government Code, following a public hearing and recommended action by the Planning and Transportation Commission.
- C. Adopt guidelines for design review pursuant to Chapter 18.29, Design Review.
- D. Hear and decide proposals to revoke permits, pursuant to Section 18.27.140, Revocation of permits, following a public hearing and recommended action by the Planning and Transportation Commission.
- E. Hear and decide applications for development agreements, pursuant to Chapter 18.37, Development Agreements.
- F. Hear and decide appeals from decisions of the Planning and Transportation Commission on use permits, variances, and any other permits that can be appealed, pursuant to Section 18.27.150, Appeals.
- G. Hear and decide appeals on environmental determinations by the Director or the Planning and Transportation Commission, pursuant to Section 18.27.050, Environmental review.
- H. Appoint and remove members of the Planning and Transportation Commission as provided for in Title 2, Administration and Personnel.
- I. Establish, by resolution, a municipal fee schedule listing fees, charges, and deposits for various applications and services provided pursuant to this title. (Ord. 1603 § 3 (Exh. A), 2023; Ord. 1438 § 4 (Exh. A (part)), 2011)

#### **18.26.030 Planning and Transportation Commission. Revised 1/24**

The Planning and Transportation Commission is established and organized pursuant to Chapter 2.24, Commissions, and the requirements of the Government Code. The powers and duties of the Planning and Transportation Commission under this title include but are not limited to the following:

- A. Initiate, conduct hearings, and make recommendations to the City Council on proposed amendments to the General Plan map and text, pursuant to Chapter 18.34, Amendments to General Plan.
- B. Annually review progress towards implementation of the General Plan and recommend to the City Council changes needed due to new legislation, development trends and changing economic, social and environmental conditions.
- C. Initiate, conduct hearings, and make recommendations to the City Council on proposed amendments to the Zoning Map and to the text of this title, pursuant to Chapter 18.35, Amendments to Zoning Ordinance and Map.
- D. Approve, conditionally approve, modify or deny conditional use permits and variances, pursuant to Chapter 18.30, Use Permits, and Chapter 18.32, Variances.
- E. Hear and decide on modifications to approved conditional use permits and variances, pursuant to Section 18.27.130, Modification of approved plans.
- F. Conduct hearings and make recommendations to the City Council on applications for preliminary development plans, pursuant to Chapter 18.36, Planned Development.
- G. Conduct hearings and make recommendations to the City Council on proposed revocations of permits, pursuant to Section 18.27.140, Revocation of permits.
- H. Hear and decide appeals from decisions of the Community Development Director or the Zoning Administrator on decisions, determinations, or interpretations made in the enforcement of this title and any other decisions that are subject to appeal, pursuant to Section 18.27.150, Appeals.

I. Make environmental determinations on any approvals it grants that are subject to environmental review under the California Environmental Quality Act and the City of San Carlos' adopted environmental review guidelines pursuant to the State law and the procedures in Section 18.27.050, Environmental review.

J. Prepare and recommend to the City Council for adoption guidelines for conducting design review, pursuant to Chapter 18.29, Design Review.

K. Conduct design review on any approvals it grants that are subject to design review pursuant to Chapter 18.29, Design Review.

L. Such other duties and powers as assigned or directed by the City Council. (Ord. 1603 § 3 (Exh. A), 2023; Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.26.050 Community Development Director. Revised 1/24**

The powers and duties of the Community Development Director (the "Director") under this title include but are not limited to the following:

A. Maintain and administer the Zoning Ordinance, including processing of applications, abatements and other enforcement actions.

B. Interpret the Zoning Ordinance to members of the public and to other City departments.

C. Prepare and effect rules and procedures necessary or convenient for the conduct of the Director's business. These rules and procedures must be as approved by a resolution of the City Council following review and recommendation of the Planning and Transportation Commission. They may include the administrative details of hearings officiated by the Director (e.g., scheduling, rules of procedure and recordkeeping).

D. Issue administrative regulations for the submission and review of applications subject to the requirements of this title and Government Code Section 65950, Deadlines for Project Approval Conformance; Extensions.

E. Review applications for permits and licenses for conformance with this title and issue a zoning clearance when the proposed use, activity or building is allowed by right and conforms to all applicable development and use standards.

F. Review applications for discretionary permits and approvals under this title for conformance with applicable submission requirements and time limits.

G. Review applications for discretionary permits and approvals to determine whether the application is exempt from review under the California Environmental Quality Act and the City's environmental review requirements and notify the applicant if any additional information is necessary to conduct the review.

H. Process and make recommendations to the City Council on all applications, amendments, appeals and other matters upon which the Council has the authority and the duty to act under this title.

I. Process and make recommendations to the Planning and Transportation Commission on all applications, appeals and other matters upon which the Commission has the authority and the duty to act under this title.

J. Conduct design review pursuant to Chapter 18.29, Design Review.

K. Refer items to the Planning and Transportation Commission where, in their opinion, the public interest would be better served by a Planning and Transportation Commission public hearing and action.

L. Approve, conditionally approve, modify or deny requests for tree removal, pursuant to Section 18.18.070(C), Tree Removal Permit.

M. Approve, conditionally approve, modify or deny requests for waivers to dimensional requirements, pursuant to Chapter 18.33, Waivers.

N. Negotiate the components and provisions of development agreements for recommendation to the City Council.

O. Serve as staff of the Planning and Transportation Commission.

P. Investigate and make reports to the Planning and Transportation Commission on violations of permit terms and conditions when the City has initiated revocation procedures.

- Q. Delegate administrative functions as he/she so deems to members of the Planning Division.
- R. Appoint a Zoning Administrator pursuant to Section 18.26.060, Zoning Administrator.
- S. Other duties and powers as may be assigned by the City Council or established by legislation. (Ord. 1603 § 3 (Exh. A), 2023; Ord. 1438 § 4 (Exh. A (part)), 2011)

#### **18.26.060 Zoning Administrator. Revised 1/24**

The Zoning Administrator is a City staff member appointed by the Director with the following powers and duties:

- A. Hear and decide applications for minor use permits, modifications to conditions of approved minor use permits, and time extensions of use permits, pursuant to Chapter 18.30, Use Permits.
- B. Approve, conditionally approve, modify or deny applications for temporary use permits, pursuant to Chapter 18.31, Temporary Use Permits.
- C. Hear and decide requests for minor modifications to approved permits, pursuant to Section 18.27.130, Modification of approved plans.
- D. Refer items to the Planning and Transportation Commission where, in their opinion, the public interest would be better served by a Planning and Transportation Commission public hearing and action.
- E. Other duties and powers as may be assigned by the Director. (Ord. 1603 § 3 (Exh. A), 2023; Ord. 1438 § 4 (Exh. A (part)), 2011)

#### **18.26.070 Summary of review authorities for decisions and appeals. Revised 1/24**

**TABLE 18.26.070: REVIEW AUTHORITY**

Application or Action	Found in Chapter	Advisory Body	Decision-Maker	Appeal Body
<b>Type One: Ministerial Actions</b>				
Zoning Clearance	18.28	N/A	Director	Planning and Transportation Commission
Interpretations	18.27	N/A	Director	Planning and Transportation Commission
Minor Changes to an Approved Permit	18.27	N/A	Zoning Administrator	Planning and Transportation Commission
<b>Type Two: Discretionary Quasi-Judicial Actions</b>				
Tree Removal	18.18	N/A	Director	Planning and Transportation Commission
Waiver from Dimensional Standards	18.33	N/A	Director	Planning and Transportation Commission
Permit Modifications, Major	18.27	Zoning Administrator	Review Authority of Original Permit	City Council
Permit Revocation	18.27	Planning and Transportation Commission	City Council	Superior Court
Temporary Use Permits	18.31	N/A	Zoning Administrator	Planning and Transportation Commission
Design Review	18.29	N/A	Director or Planning and Transportation Commission	Planning and Transportation

Application or Action	Found in Chapter	Advisory Body	Decision-Maker	Appeal Body
				Commission or City Council
Minor Use Permits	18.30	N/A	Zoning Administrator	Planning and Transportation Commission
Conditional Use Permits	18.30	Director	Planning and Transportation Commission	City Council
Deviation or Exceptions to Objective Design Standards	18.04	Director	Planning and Transportation Commission	City Council
Variances	18.32	Director	Planning and Transportation Commission	City Council
<b>Type Three: Discretionary Legislative Actions</b>				
General Plan Text and Map Amendments	18.34	Planning and Transportation Commission	City Council	Superior Court
Zoning Ordinance and Map Amendments	18.35	Planning and Transportation Commission	City Council	Superior Court
Planned Development Districts	18.36	Planning and Transportation Commission	City Council	Superior Court
Development Agreements	18.37	Director	City Council	Superior Court
Prezoning	18.38	Planning and Transportation Commission	City Council	Superior Court

(Ord. 1603 § 3 (Exh. A), 2023; Ord. 1438 § 4 (Exh. A (part)), 2011)

## **Chapter 18.27 COMMON PROCEDURES Revised 1/24**

Sections:

**18.27.010 Purpose.**

**18.27.020 Application forms and fees.**

**18.27.030 Pre-application review.**

**18.27.040 Review of applications.**

**18.27.050 Environmental review.**

**18.27.060 Public notice.**

**18.27.070 Conduct of public hearings.**

**18.27.080 Timing and notice of action and findings required.**

**18.27.090 Ex parte communications.**

**18.27.100 Scope of approvals.**

**18.27.110 Effective dates.**

**18.27.120 Expiration and extension.**

**18.27.130 Modification of approved plans.****18.27.140 Revocation of permits.****18.27.150 Appeals.** Revised 1/24**18.27.160 Interpretations and determinations.****18.27.010 Purpose.**

This chapter establishes procedures that are common to the application and processing of all permits and approvals provided for in this title, unless superseded by specific requirement of this title or State law. (Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.27.020 Application forms and fees.**

A. Applicant. The owner of property or the owner's authorized agent. If the application is made by someone other than the owner or the owner's agent, proof, satisfactory to the Director, of the right to use and possess the property as applied for, shall accompany the application.

**B. Application Forms and Materials.**

1. Application Forms. The Director shall prepare and issue application forms and lists that specify the information that will be required from applicants for projects subject to the provisions of this title.

2. Supporting Materials. The Director may require the submission of supporting materials as part of the application, including but not limited to statements, photographs, plans, drawings, renderings, models, material samples and other items necessary to describe existing conditions and the proposed project and to determine the level of environmental review pursuant to the California Environmental Quality Act.

3. Availability of Materials. All material submitted becomes the property of the City, may be distributed to the public, and shall be made available for public inspection. At any time upon reasonable request, and during normal business hours, any person may examine an application and materials submitted in support of or in opposition to an application in the Planning Division offices. Unless prohibited by law, copies of such materials shall be made available at a reasonable cost.

**C. Application Fees.**

1. Schedule of Fees. The City Council shall approve by resolution a municipal fee schedule that establishes fees for permits, informational materials, penalties, copying, and other such items.

2. Payment of Fees. No application shall be accepted as complete and processed without payment of a fee unless a fee waiver has been approved.

3. Multiple Applications. The City's processing fees are cumulative. For example, if an application for design review also includes a conditional use permit, both fees shall be charged.

4. Fee Waiver. No fee shall be required when the applicant is the City, or if it is waived under any other provision of the municipal code.

5. Refund of Fees. Application fees are nonrefundable unless otherwise provided for in the San Carlos Municipal Code or by policy of the City Council. (Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.27.030 Pre-application review.**

Pre-application review is a review process that is intended to provide information on relevant policies, zoning regulations, and procedures. This review is intended for large or complex projects and projects that are potentially controversial.

A. Exemption from Permit Streamlining Act. Pre-application review is not subject to the requirements of the California Permit Streamlining Act (the Act). An application that is accepted for pre-application review shall not be considered complete pursuant to the requirements of the Act unless and until the Director has received an application for approval of a development project, reviewed it, and determined it to be complete under Section 18.27.040, Review of applications.

B. Review Procedure. The Planning Division shall conduct pre-application review. The Director may consult with or request review by any City agency or official with interest in the application.

C. Recommendations Are Advisory. Neither the pre-application review nor the provision of information and/or pertinent policies shall be construed as a recommendation for approval or denial of the application by City representatives. Any

recommendations that result from pre-application review are considered advisory only and shall not be binding on either the applicant or the City. (Ord. 1438 § 4 (Exh. A (part)), 2011)

#### **18.27.040 Review of applications.**

A. **Review Process.** The Director shall determine whether an application is complete within thirty days of the date the application is filed with the required fee.

B. **Incomplete Application.** If an application is incomplete, the Director shall provide written notification to the applicant listing the applications for permit(s), forms, information and any additional fees that are necessary to complete the application.

1. **Zoning Ordinance Violations.** An application shall not be found complete if conditions exist on the site in violation of this title or any permit or other approval granted in compliance with this title, unless the proposed project includes the correction of the violations.

2. **Appeal of Determination.** Determinations of incompleteness are subject to the provisions of Section 18.27.150, Appeals, except there shall be a final written determination on the appeal not later than sixty days after receipt of the appeal. The fact that an appeal is permitted to both the Planning Commission and the City Council does not extend the sixty-day period.

3. **Submittal of Additional Information.** The applicant shall provide the additional information within the time limit specified by the Director, which must be no sooner than thirty days. The Director may grant one extension of up to ninety days.

4. **Expiration of Application.** If an applicant fails to correct the specified deficiencies within the specified time limit, the application shall expire and be deemed withdrawn. After the expiration of an application, project review shall require the submittal of a new, complete application, along with all required fees.

C. **Complete Application.** When an application is determined to be complete, the Director shall make a record of that date. If an application requires a public hearing, the Director shall schedule it and notify the applicant of the date and time.

D. **Extensions.** The Director may, upon written request and for good cause, grant extensions of any time limit for review of applications imposed by this title. (Ord. 1438 § 4 (Exh. A (part)), 2011)

#### **18.27.050 Environmental review.**

As part of the review to determine whether an application for a development project is complete, the Director shall conduct a preliminary assessment of potential environmental issues. The purpose of this review is to help the City decide if the project is subject to environmental review and, if so, which issues may require analysis. An application subject to environmental review pursuant to the California Environmental Quality Act (CEQA) shall not be considered complete until the applicant has submitted all studies and other documentation the Director has deemed necessary to make an environmental determination together with all required fees. Environmental review shall be conducted pursuant to the State CEQA Guidelines unless otherwise stated in this section.

A. **Review for Exemption.** If the Director determines that the application is subject to review under CEQA, within thirty days after determining that the application is complete, he shall determine if the project is exempt from environmental review pursuant to State law, CEQA Guidelines and any environmental guidelines that the City has adopted in compliance with CEQA.

1. If the Director has determined that a project is exempt from environmental review under CEQA, such determination shall be announced in any required public notice. The notice shall include a citation to the State Guidelines section or statute under which it is found to be exempt.

2. Following approval of a project that is exempt from CEQA review, the Director or the applicant may file a notice of exemption with the San Mateo County Clerk. The applicant for a private project shall be responsible for any fees required to file such notice.

3. A determination of exemption by any decision-making authority other than the City Council may be appealed to the City Council in the same manner provided for other appeals in Section 18.27.150, Appeals.

B. **Environmental Review Application.** If the proposed project is not exempt from environmental review, the applicant shall submit an application for environmental review accompanied by the required fee. After receiving an environmental review application, the Director shall determine whether to require preparation of an environmental impact report (EIR) or negative declaration or mitigated negative declaration. In order to make this determination, the Director shall prepare, with his/her own

staff or by contract with a consultant chosen by the City, an initial study at the applicant's expense. If the Director and project applicant agree that an EIR is necessary, an initial study is not required.

C. Preparation of Initial Study. The initial study shall consider all phases of project planning, implementation, and operation and may rely upon expert opinion supported by facts, including documentation submitted by the applicant, technical studies, or other substantial evidence to document its findings regarding the project's potential impacts. Following completion of the initial study, the Director shall notify the applicant in writing of changes to the project that staff has deemed necessary to reduce or avoid the significant effects identified in the initial study. Within thirty days following the date of the letter, the applicant shall provide written notification to the Director indicating that the proposed modifications are acceptable or shall propose alternative measures that will achieve the same result. If the applicant does not agree to revise the project, an EIR shall be prepared.

D. Determination of Environmental Significance. Based on the initial study, the Director will make one of the following findings:

1. The project will have no significant impacts on the environment, and a negative declaration will be prepared;
2. The project has been modified to mitigate potential environmental impacts to a level of insignificance and a mitigated negative declaration will be prepared; or
3. The proposed project will have, or may have, significant impact(s) and an EIR will be required.

E. Public Notice of Environmental Determination. If the Director has determined that the proposed project will not have a significant effect on the environment, the Director, at the applicant's expense, shall prepare a negative declaration for public review. If the applicant has agreed to incorporate mitigation measures in order to reduce environmental impacts to a point of insignificance, the Director shall prepare a mitigated negative declaration for public review. The Director shall provide public notice of the proposed environmental determination for a period of at least twenty days at the same time and in the same manner required for the underlying permit in accordance with this chapter.

F. Preparation of a Draft EIR. If it is determined that an EIR is required, the Director shall prepare, distribute, and post a notice of intent to prepare an EIR. The purpose of this notice is to inform interested parties that an EIR is being prepared, and to seek guidance about significant environmental issues and mitigation measures that should be explored. The applicant or any aggrieved party who believes that a negative declaration, rather than an EIR, should be prepared for the proposed project may appeal to the City Council within ten days after the notice has been posted. The City Council's decision shall be final. The City will prepare the draft EIR with its own staff or by contract with a consultant chosen by the City. The applicant shall pay the cost of preparing an EIR and reasonable costs for administering the work of outside consultants.

G. Public Review of Draft EIR. Following completion of a draft EIR, the Director shall prepare and post a notice of completion initiating a minimum thirty-day public review period or forty-five days if the project is subject to review by a State agency. The Director shall mail a notice of the availability of a draft EIR to those requesting such notice in writing, to local and regional agencies, and interested Federal agencies. The City shall make copies of the draft EIR available for public review at the Planning Division office during regular office hours and at the San Carlos Public Library.

H. Final EIR. After the public review period has expired, the City or its consultant will prepare a final EIR for certification by the decision-making bodies responsible for action on the project. The final EIR will consist of the draft EIR, all of the comments received, a list of persons, organizations and public agencies commenting on the draft EIR, and a response from the City on significant environmental issues raised in the draft EIR and comments.

I. Responsibility for Action on Environmental Document. Any City official or body responsible for taking action on a project for which a negative or mitigated negative declaration or EIR has been prepared shall use the environmental assessment to make its decision on the development proposal. If the project is approved, the decision-maker shall impose conditions to mitigate any adverse environmental impacts. The decision-maker responsible for action on an application for a development permit shall approve the negative declaration or mitigated negative declaration or certify the final EIR prior to the time the project is considered for approval. The decision-maker may decline to approve or certify the environmental document and request further review or analysis if, in its judgment, approval of the negative declaration or mitigated negative declaration or certification of the final EIR would not comply with the requirements of CEQA and applicable State and local environmental review requirements. Approval of a negative declaration or mitigated negative declaration or certification of a final EIR shall be deemed to be a finding that the document has been prepared in compliance with CEQA and State and local CEQA guidelines and not an approval of a project.

J. Mitigation Monitoring and Reporting Program. The City shall approve a mitigation monitoring and reporting program (MMRP) for all projects that it approves with a mitigated negative declaration or a final EIR. The purpose of the MMRP is to ensure that the project applicant complies with all of the provisions or changes identified as mitigation measures during implementation of the project.

1. Submittal and Approval. The MMRP shall be prepared and considered as part of a mitigated negative declaration or EIR.
2. Enforcement. Failure to comply with the conditions and requirements of an approved MMRP shall be considered a violation of the conditions of approval of a project, subject to enforcement under this title.
3. Amendment of Mitigation Program Not Permitted Following Adoption. Unless specifically authorized or required by the conditions of project approval, neither CEQA nor this title authorize the City to modify or add mitigation measures if the MMRP shows that the mitigation measures have not achieved the desired result.

K. Appeals. Notwithstanding other provisions of this title, the applicant or any aggrieved person may appeal the following environmental determinations directly to City Council in the manner described in Section 18.27.150, Appeals, unless the City Council is the approving authority for the project:

1. Determination that a project is or is not subject to environmental review.
2. Determination that a project is exempt from environmental review.
3. Approval of a negative declaration or mitigated negative declaration.
4. Certification of a final EIR. (Ord. 1438 § 4 (Exh. A (part)), 2011)

#### **18.27.060 Public notice.**

Unless otherwise specified, whenever the provisions of this title require public notice, the City shall provide notice in compliance with State law as follows:

- A. Mailed Notice. At least ten days before the date of the public hearing, the Director, or the City Clerk for hearings before the City Council, shall provide notice by first-class mail delivery to:
  1. The applicant, the owner, and any occupant of the subject property;
  2. All property owners of record within a minimum three-hundred-foot radius of the subject property as shown on the latest available assessment roll or a larger radius if deemed necessary by the Director in order to provide adequate public notification;
  3. All neighborhood and community organizations that have previously filed a written request for notice of projects in the area where the site is located; and
  4. Any person or group who has filed a written request for notice regarding the specific application.
- B. Posted Notice. Notices shall be posted at three public places within the City of San Carlos. In addition, the applicant shall erect a temporary sign or post a poster, in a format approved by the Planning Division, in a prominent place on the site for the ten days prior to the hearing.
- C. Newspaper Notice. At least ten days before the date of the public hearing the Director, or the City Clerk for hearings before the City Council, shall publish a notice in at least one newspaper of general circulation in the City.
- D. Alternative Method for Large Mailings. If the number of owners to whom notice would be mailed or delivered is greater than one thousand, instead of mailed notice, the Director or City Clerk may provide notice by placing a display advertisement of at least one-eighth page in at least one newspaper of general circulation in the City at least ten days prior to the hearing.
- E. Contents of Notice. The notice shall include the following information:
  1. The location of the real property, if any, that is the subject of the application;
  2. A general description of the proposed project or action;
  3. The date, time, location, and purpose of the public hearing or the date of action when no public hearing is required;

4. The identity of the hearing body or officer;
5. The names of the applicant and the owner of the property that is the subject of the application;
6. The location and times at which the complete application and project file, including any environmental impact assessment prepared in connection with the application, may be viewed by the public;
7. A statement that any interested person or authorized agent may appear and be heard;
8. A statement describing how to submit written comments; and
9. For Council hearings, the Planning Commission recommendation.

F. Failure to Notify Individual Properties. The validity of the proceedings shall not be affected by the failure of any property owner, resident or neighborhood or community organization to receive a mailed notice. (Ord. 1443 § 4 (Exh. A (part)), 2012; Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.27.070 Conduct of public hearings.**

Whenever the provisions of this title require a public hearing, the hearing shall be conducted in compliance with the requirements of State law as follows:

- A. Generally. Hearings shall be conducted pursuant to procedures adopted by the hearing body. They do not have to be conducted according to technical rules relating to evidence and witnesses.
- B. Scheduling. Hearings before the City Council shall be scheduled by the City Clerk. All other hearings shall be scheduled by the Director.
- C. Presentation. An applicant or an applicant's representative may make a presentation of a proposed project.
- D. Public Hearing Testimony. Any person may appear at a public hearing and submit oral or written evidence, either individually or as a representative of a person or an organization. Each person who appears at a public hearing representing an organization shall identify the organization being represented.
- E. Time Limits. The presiding officer may establish time limits for individual testimony and require that individuals with shared concerns select one or more spokespersons to present testimony on behalf of those individuals.
- F. Continuance of Public Hearing. The body conducting the public hearing may by motion continue the public hearing to a fixed date, time and place or may continue the item to an undetermined date and provide notice of the continued hearing.
- G. Investigations. The body conducting the hearing may cause such investigations to be made as it deems necessary and in the public interest in any matter to be heard by it. Such investigation may be made by a committee of one or more members of the hearing body or by City staff. The facts established by such investigation shall be submitted to the hearing body either in writing, to be filed with the records of the matter, or in testimony before the hearing body, and may be considered by the body in making its decision.
- H. Decision. The public hearing must be closed before a vote is taken. (Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.27.080 Timing and notice of action and findings required.**

When making a decision to approve, approve with conditions, modify, revoke or deny any discretionary permit under this title, the responsible authority shall issue a notice of action and make findings of fact as required by this title.

A. Date of Action. The responsible authority shall decide to approve, modify, revoke, or deny any discretionary permit following the close of the public hearing, or if no public hearing is required, within the time period set forth below. These deadlines do not apply to any action that has been appealed to the City Council in accordance with Section 18.27.150, Appeals. Time extensions may be granted pursuant to Section 18.27.120, Expiration and extension.

1. Project Exempt from Environmental Review. Within thirty days of the date the City has determined an application to be complete, a determination must be made whether the project is exempt from environmental review per State CEQA requirements.
2. Project for Which a Negative Declaration or Mitigated Negative Declaration Is Prepared. Within sixty days of the date a negative declaration or mitigated negative declaration has been completed and adopted for project approval, the City shall take action on the accompanying discretionary project.

3. Project for Which an EIR Is Prepared. Within one hundred eighty days from the date the decision-making authority certifies a final EIR, the City shall take action on the accompanying discretionary project.
- B. Notice of Action. After the Director or Planning Commission takes any action to approve, modify, or deny an application that is subject to appeal under the terms of this title, the Director shall issue a notice of action. The notice shall describe the action taken, including any applicable conditions, and shall list the findings that were the basis for the decision. The Director shall file the notice with the City Clerk and mail the notice to the applicant and to any other person or entity that has filed a written request for such notification with the Planning Division.

C. Findings. Findings, when required by State law or this title, shall be based upon consideration of the application, plans, testimony, reports, and other materials that constitute the administrative record and shall be stated in writing in the resolution or record of the action on the permit. (Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.27.090 Ex parte communications.**

- A. Disclosure of Communications. Any official who receives an ex parte communication, or engages in any other exchange of information covered by this section or who participates in a site visit shall place the communication in the public record or shall enter into the record a statement describing the time, place, and content of the communication.
- B. Applicability. Ex parte communications are oral or written off-the-record communications made to or by members of the Commission or Council with applicants, neighbors, or other interested parties. Such contacts include, but are not limited to, one-on-one meetings, site visits, discussions, telephone calls, or email messages that occur outside of a public meeting of the body on which the City official serves at which the matter discussed has been publicly noticed. The provisions of this section also apply to meetings between ad hoc committees including less than a majority of the body's total membership that the Planning Commission or the City Council may establish to meet with applicants and/or surrounding property owners on a particular application.

C. Exceptions. Ex parte communications do not include communications between City staff and elected or appointed City officials acting in their official capacity, the receipt of expert opinion, or the review of mail and other correspondence relating to the proceedings.

D. Effect. Actions taken by the decision-making body are not invalidated by the occurrence of ex parte communication. (Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.27.100 Scope of approvals.**

- A. Scope. Any approval permits only those uses and activities actually proposed in the application, and excludes other uses and activities. Unless otherwise specified, the approval of a new use shall terminate all rights and approvals for previous uses no longer occupying the same site or location.
- B. Conditions of Approval. The site plan, floor plans, building elevations and/or any additional information or representations, whether oral or written, indicating the proposed structure or manner of operation submitted with an application or submitted during the approval process shall be deemed conditions of approval. Any approval may be subject to requirements that the applicant guarantees, warranties or insures that he will comply with the permit's plans and conditions in all respects.
- C. Actions Voiding Approval. If the construction of a building or structure or the use established is contrary to the description or illustration in the application, so as to either violate any provision of this title or require additional permits, then the approval shall be deemed null and void.
- D. Periodic Review. All approvals may be subject to periodic review to determine compliance with the permit and applicable conditions. If a condition specifies that activities or uses allowed under the permit are subject to periodic reporting, monitoring or assessments, it shall be the responsibility of the permit holder, the property owner or successor property owners to comply with such conditions. (Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.27.110 Effective dates.**

A final decision on an application for any discretionary approval subject to appeal shall become effective after the expiration of the ten-day appeal period following the date of action, unless an appeal is filed. No building permit or business license shall be issued until the eleventh day following the date of the action. If a different termination date is fixed at the time of granting, or if actual construction or alteration has begun under valid building permits, the ten-day period may be waived. (Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.27.120 Expiration and extension.**

- A. Expiration. The decision-maker, in the granting of any permit, may specify a time, consistent with the purposes of the use and necessary to safeguard the public safety, health and welfare, within which the proposed use must be undertaken and actively and continuously pursued. If no time period is specified, any permit granted under this title shall automatically expire if it is not exercised or extended within one year of its issuance.
- B. Exercise of Use Permit. A permit for the use of a building or a property is exercised when, if required, a valid City business license has been issued, and the permitted use has commenced on the site.
- C. Exercise of Building Permit. A permit for the construction of a building or structure is exercised when a valid City building permit, if required, is issued, and construction has lawfully commenced.
- D. Extensions. The Zoning Administrator may approve a two-year extension of any permit or approval granted under this title upon receipt of a written application with the required fee within one year of the date of the approval. (Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.27.130 Modification of approved plans.**

No change in the use or structure for which a permit or other approval has been issued is permitted unless the permit is modified as provided for in this title. For the purpose of this section, the modification of a permit may include modification of a design review approval.

- A. Minor Modifications. The Zoning Administrator may approve minor changes to approved plans that are consistent with the original findings and conditions approved by the hearing body and would not intensify any potentially detrimental effects of the project.
- B. Major Modifications. A request for changes in conditions of approval of a discretionary permit or a change in an approved site plan or building plan that would affect a condition of approval shall be treated as a new application, except that the Zoning Administrator may approve changes that he determines to be minor. (Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.27.140 Revocation of permits.**

Any permit granted under this title may be revoked or modified for cause if any of the conditions or terms of the permit are violated or if any law or ordinance is violated. Notwithstanding this provision, no lawful residential use can lapse regardless of the length of time of the vacancy.

- A. Initiation of Proceeding. Revocation proceedings may be initiated by the City Council, Planning and Transportation Commission, Director, or Zoning Administrator.

**B. Public Notice, Hearings and Action.**

1. Planning and Transportation Commission. After conducting a duly-noticed public hearing, the Planning and Transportation Commission shall make a recommendation on the proposed revocation within thirty days.
  2. City Council. Within forty-five days after receipt of the recommendation of the Planning and Transportation Commission, the City Council shall conduct a duly-noticed public hearing and act on the proposed revocation.
- C. Required Findings. The Planning and Transportation Commission may recommend and the City Council may revoke or modify the permit if it makes any of the following findings:
    1. The approval was obtained by means of fraud or misrepresentation of a material fact;
    2. The use, building, or structure has been substantially expanded beyond what is set forth in the permit or substantially changed in character;
    3. The use in question has ceased to exist or has been suspended for one year or more;
    4. There is or has been a violation of or failure to observe the terms or conditions of the permit or variance, or the use has been conducted in violation of the provisions of this title, or any applicable law or regulation; or
    5. The use to which the permit or variance applies has been conducted in a manner detrimental to the public safety, health and welfare, or so as to be a nuisance.

- D. Notice of Action. Following City Council action to revoke or modify a permit, the City Clerk shall within seven days issue a notice of action describing the Council's action, with its findings. The City Clerk shall mail notice to the permit holder and to any

person who requested the revocation proceeding. (Ord. 1438 § 4 (Exh. A (part)), 2011)

#### **18.27.150 Appeals. Revised 1/24**

A. Applicability. Any action by the Zoning Administrator, Director, or Planning and Transportation Commission in the administration or enforcement of the provisions of this title may be appealed in accordance with this section.

1. Appeals of Zoning Administrator Decisions. Decisions of the Zoning Administrator may be appealed to the Planning and Transportation Commission by filing a written appeal with the Planning Division.

2. Appeals of Director Decisions. Decisions of the Director may be appealed to the Planning and Transportation Commission by filing a written appeal with the Planning Division.

3. Appeals of Planning and Transportation Commission Decisions. Decisions of the Planning and Transportation Commission may be appealed to the City Council by filing a written appeal with the City Clerk.

B. Rights of Appeal. Appeals may be filed by the applicant, by the owner of property, or by any other person aggrieved by a decision that is subject to appeal under the provisions of this title.

C. Time Limits. Unless otherwise specified in State or Federal law, all appeals shall be filed in writing within ten (10) days of the date of the action, decision, motion, or resolution from which the action is taken. In the event an appeal period ends on a Saturday, Sunday, or any other day the City is closed, the appeal period shall end at the close of business on the next consecutive business day.

D. Procedures.

1. Filing. The appeal shall identify the decision being appealed and shall clearly and concisely state the reasons for the appeal. The appeal shall be accompanied by the required fee.

2. Proceedings Stayed by Appeal. The timely filing of an appeal shall stay all proceedings in the matter appealed including, but not limited to, the issuance of City building permits and business licenses.

3. Transmission of Record. The Director, or in the case of appeals to the City Council, City Clerk, shall schedule the appeal for consideration by the authorized hearing body within forty-five (45) days of the date the appeal is filed. The Director shall forward the appeal, the notice of action, and all other documents that constitute the record to the hearing body. The Director shall also prepare a staff report that responds to the issues raised by the appeal and may include a recommendation for action.

E. Calls for Review. A majority of the City Council may call for review of a decision of the Director, Zoning Administrator, or Planning and Transportation Commission within the ten (10) day appeal period. The call for review shall be processed in the same manner as an appeal by any other person. Such action shall stay all proceedings in the same manner as the filing of an appeal. Such action shall not require any statement of reasons and shall not represent opposition to or support of an application or appeal.

F. Standards of Review. When reviewing any decision on appeal, the appeal body shall use the same standards for decision-making required for the original decision. The appeal body may adopt the same decision and findings as were originally approved; it also may request or require changes to the application as a condition of approval.

G. Public Notice and Hearing. Public notice shall be provided and the hearing conducted by the applicable appeal body pursuant to this chapter. Notice of the hearing shall also be given to the applicant and party filing the appeal and any other interested person who has filed with the City Clerk a written request for such notice. In the case of an appeal of a Planning and Transportation Commission decision, notice of such appeal shall also be given to the Planning and Transportation Commission. The Planning and Transportation Commission may be represented at the hearing.

H. Action. An action to grant an appeal shall require a majority vote of the hearing body members. A tie vote shall have the effect of rejecting the appeal. (Ord. 1603 § 3 (Exh. A), 2023; Ord. 1438 § 4 (Exh. A (part)), 2011)

#### **18.27.160 Interpretations and determinations.**

Requests for interpretations of this title and verifications relating to prior approvals or permits may be made to the Director. Requests shall be in writing. The decision of the Director on such requests may be appealed under Section 18.27.150, Appeals. (Ord. 1438 § 4 (Exh. A (part)), 2011)

**Chapter 18.28  
ZONING CLEARANCE Revised 1/24**

Sections:

**18.28.010 Purpose.**

**18.28.020 Applicability.**

**18.28.030 Review and decision.** Revised 1/24

**18.28.040 Appeals.**

**18.28.010 Purpose.**

This chapter establishes procedures for conducting a zoning clearance to verify that each new or expanded use, activity, or structure complies with all of the applicable requirements of this title. (Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.28.020 Applicability.**

A zoning clearance is required for buildings or structures erected, constructed, altered, repaired or moved, the use of vacant land, changes in the character of the use of land or building, or for substantial expansions in the use of land or building, which are allowed as a matter of right by this title. (Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.28.030 Review and decision. Revised 1/24**

Before the City may issue any business license, building permit, subdivision approval, or lot line adjustment, the Director shall review the application to determine whether the use, building, or change in lot configuration complies with all provisions of this title or any design review, use permit or variance approval and that all conditions of such permits and approvals have been satisfied.

A. Application. Applications and fees for a zoning clearance shall be submitted in accordance with the provisions set forth in Section 18.27.020, Application forms and fees. The Director may request that the zoning clearance application be accompanied by a written narrative, plans and other related materials necessary to show that the proposed development, alteration, or use of the site complies with all provisions of this title and the requirements and conditions of any applicable use permit or variance approval.

B. Determination. If the Director determines that the proposed use or building is allowed as a matter of right by this title, and conforms to all the applicable development and use standards, the Director shall issue a zoning clearance. An approved zoning clearance may include attachments of other written or graphic information, including but not limited to statements, numeric data, site plans, floor plans and building elevations and sections, as a record of the proposal's conformity with the applicable regulations of this title.

C. Airport Land Use Compatibility Plan Consistency. When applicable, zoning clearance for any proposed development, alteration or change of use that is subject to the ALUCP shall include an applicability determination of Section 18.21.150, San Carlos Airport land use compatibility plan consistency. Where required, the applicant shall seek a consistency determination with Section 18.21.150.

D. Exceptions. No zoning clearance shall be required for the continuation of previously approved or permitted uses and structures, or uses and structures that are not subject to any building or zoning regulations. (Ord. 1606 (Exh. A), 2023; Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.28.040 Appeals.**

Zoning clearance decisions are subject to the appeal provisions of Section 18.27.150, Appeals. (Ord. 1438 § 4 (Exh. A (part)), 2011)

**Chapter 18.29  
DESIGN REVIEW AND OBJECTIVE DESIGN STANDARDS COMPLIANCE REVIEW Revised 1/24**

Sections:

**18.29.010 Purpose.** Revised 1/24

**18.29.020 Applicability.** Revised 1/24

**18.29.030 Assignment of review responsibilities.** Revised 1/24

**18.29.040 Procedures.** Revised 1/24

**18.29.050 Scope of design review.** Revised 1/24**18.29.060 Design review criteria.** Revised 1/24**18.29.070 Required findings.** Revised 1/24**18.29.080 Conditions of approval.** Revised 1/24**18.29.090 Appeals—Expiration, extensions, and modifications.** Revised 1/24**18.29.010 Purpose.** Revised 1/24

This chapter establishes the design review and compliance review procedure to ensure that new development supports the General Plan's goal of creating a vibrant pedestrian- and transit-oriented core and distinctive neighborhoods and districts with a diversity of building types that provide continuity in scale and character with appropriate transitions, where needed. The specific purposes of the design review and compliance review process are to:

- A. Promote excellence in site planning and design and the harmonious appearance of buildings and sites;
- B. Ensure that new and modified uses and development will be compatible with the existing and potential development of the surrounding area; and
- C. Supplement other City regulations and standards in order to ensure control of aspects of design that are not otherwise addressed. (Ord. 1603 § 3 (Exh. A), 2023; Ord. 1537 (Exh. D (part)), 2018; Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.29.020 Applicability.** Revised 1/24

Design review is required for all projects that require a permit for new construction, reconstruction, rehabilitation, alteration, or other improvements to the exterior of a structure, site, or a parking area except for:

- A. Construction, reconstruction, alterations, improvements, and landscaping for a project developed in compliance with a previous design review approval; and
- B. Additions of floor area within an existing building envelope not including accessory dwelling units or junior accessory dwelling units.
- C. As specified by the State law.

Compliance review is required for any residential improvement in the RS districts that are subject to the objective design standards of the specified district. (Ord. 1604 § 4 (Exh. B), 2023; Ord. 1603 § 3 (Exh. A), 2023; Ord. 1537 (Exh. D (part)), 2018; Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.29.030 Assignment of review responsibilities.** Revised 1/24

A. Planning and Transportation Commission. The Planning and Transportation Commission shall have design review authority for all projects requiring Planning and Transportation Commission approval (such as conditional use permits, deviations or exceptions to the objective design standards, and variances).

B. Director.

1. The Director shall conduct compliance review of any residential improvement in the RS districts subject to objective design standards.
2. Upon written request by the applicant, adjacent or directly facing neighbors of the project site, the Director shall conduct verification of any compliance review decision.
3. The Director shall have design review authority for all projects that do not meet subsection A of this section for a decision by the Planning and Transportation Commission, including outdoor dining and outdoor retail sales pursuant to Sections 18.23.140 and 18.23.150.
4. The Director may refer items directly to the Planning and Transportation Commission when in his/her/their opinion the public interest would be better served by having the Planning and Transportation Commission conduct design review.
5. If an application to create or serve an accessory dwelling unit or a junior accessory dwelling unit is submitted with an application to create a new single-family or multifamily dwelling on the lot, staff may delay approving or denying the permit application for the accessory dwelling unit or the junior accessory dwelling unit until staff approves or denies the permit application for the new dwelling.

application to create the new single-family or multifamily dwelling, but the application to create or serve the accessory dwelling unit or junior accessory dwelling unit shall be considered without discretionary review or hearing. (Ord. 1604 § 4 (Exh. B), 2023; Ord. 1603 § 3 (Exh. A), 2023; Ord. 1537 (Exh. D (part)), 2018: Ord. 1438 § 4 (Exh. A (part)), 2011)

#### **18.29.040 Procedures. Revised 1/24**

- A. Forms and Fees. Written applications for design review applications shall be submitted to the Planning Division in compliance with the application procedures in Chapter 18.27, Common Procedures.
- B. Design Guidelines. Design guidelines where applicable and adopted by the City Council provide recommendations to be used in the design review process. They are intended to promote high-quality design, well-crafted and maintained buildings and landscaping, the use of high-quality building materials, and attention to the design and execution of building details and amenities in both public and private projects.
- C. Concurrent Processing. When a development project requires a use permit, variance, or any other discretionary approval, the design review application shall be submitted to the Planning Division as a part of the application for the underlying permit, use permit, deviation or exception to the objective design standards or variance.
- D. Peer Review. At the sole discretion of the Director, a project may be referred to an architect or design professional retained by the City to provide independent peer review of architectural plans and specifications, landscape plans, and related documents for consistency with the purposes of this section, the General Plan, adopted design guidelines, and the findings required in Section 18.29.070, Required findings. The applicant shall pay the reasonable actual cost and a reasonable administrative fee for hiring an approved architect or design professional to provide peer review.
- E. Public Notice.
  - 1. All applications for compliance review by the Director or his/her/their designee shall be required to perform noticing and outreach as outlined by the Planning Division within the compliance review procedures.
  - 2. All applications for design review subject to review by the Planning and Transportation Commission shall require public notice and hearing before the Planning and Transportation Commission pursuant to Chapter 18.27, Common Procedures.
- F. Alterations to Drawings. If alterations to the approved drawings are desired by the applicant, the drawings shall be resubmitted and processed according to the procedures established for approval of the original drawings.

G. Private Architectural Review. Where deed restrictions or private property covenants, codes, and restrictions require review by a private architectural board, committee, or homeowners' association, the review shall be accomplished by the applicant and the findings of the board or committee shall be transmitted in writing to the City prior to City action. Application to the board and transmission of its findings shall be the responsibility of the applicant, not the City. Conditions or requirements imposed pursuant to private covenants, restrictions, and regulations are not binding upon or enforced by the City unless approved by the City pursuant to the requirements of this chapter. (Ord. 1603 § 3 (Exh. A), 2023; Ord. 1574 § 4 (Exh. A), 2021; Ord. 1537 (Exh. D (part)), 2018: Ord. 1443 § 4 (Exh. A (part)), 2012; Ord. 1438 § 4 (Exh. A (part)), 2011)

#### **18.29.050 Scope of design review. Revised 1/24**

Design review shall be based on consideration of the requirements of this chapter as they apply to the design of the site plan, structures, landscaping, and other physical features of a proposed project, including:

- A. Building proportions, massing, and architectural details;
- B. Site design, orientation, location, and architectural design of buildings relative to existing structures on or adjacent to the property, topography, and other physical features of the natural and built environment;
- C. Size, location, design, development, and arrangement of on-site parking and other paved areas;
- D. Exterior materials and, except in the case of design review of a single-family residence, color as they relate to each other, to the overall appearance of the project, and to surrounding development;
- E. Height, materials, design, and, except in the case of design review of a single-family residence, color of fences, walls, and screen plantings;
- F. Location and type of landscaping including selection and size of plant materials, design of hardscape, and irrigation; and

- G. Size, location, design, color, lighting, and materials of all signs. (Ord. 1603 § 3 (Exh. A), 2023; Ord. 1537 (Exh. D (part)), 2018: Ord. 1438 § 4 (Exh. A (part)), 2011)

#### **18.29.060 Design review criteria. Revised 1/24**

When conducting design review, the Director, Planning and Transportation Commission, or City Council shall evaluate applications to ensure that they satisfy the following criteria, conform to the policies of the General Plan and any applicable specific plan, the City's design guidelines, and are consistent with any other policies or guidelines the City Council may adopt for this purpose. To obtain design review approval, projects must satisfy these criteria to the extent they apply.

- A. The overall design of the project including its scale, massing, site plan, exterior design, and landscaping will enhance the appearance and features of the project site and surrounding natural and built environment.
- B. The project design is appropriate to the function of the project and will provide an attractive and comfortable environment for occupants, visitors, and the general community.
- C. Project details, materials, signage and landscaping are internally consistent, fully integrated with one another, and used in a manner that is visually consistent with the proposed architectural design.
- D. The project has been designed to be compatible with neighboring development by avoiding big differences in building scale and character between developments on adjoining lots in the same zoning district and providing a harmonious transition in scale and character between different districts.
- E. The project contributes to the creation of an attractive and visually interesting built environment that includes a variety of building styles and designs with well-articulated structures that present varied building facades, roof lines, and building heights within a unifying context that encourages increased pedestrian activity and promotes compatibility among neighboring land uses within the same or different districts.
- F. The design of streetscapes, including street trees, lighting, and pedestrian furniture, is consistent with the character of activity centers, commercial districts and nearby residential neighborhoods.
- G. The proposed design is compatible with the historical or visual character of any area recognized by the City as having such unified character.
- H. The project design preserves major public views and vistas from major public streets and open spaces and enhances them by providing areas to stroll, benches to rest and enjoy views, and similar amenities.
- I. Parking areas are designed and developed to buffer surrounding land uses; complement pedestrian-oriented development; enhance the environmental quality of the site, including minimizing stormwater run-off and the heat-island effect; and achieve a safe, efficient, and harmonious development.
- J. Lighting and lighting fixtures are designed to complement buildings, be of appropriate scale, provide adequate light over walkways and parking areas to create a sense of pedestrian safety, and avoid creating glare.
- K. The proposed building design and landscaping supports public safety and security by allowing for surveillance of the street by people inside buildings and elsewhere on the site.
- L. Landscaping is designed to be compatible with and enhance the architectural character and features of the buildings on site, and help relate the building to the surrounding landscape. Proposed planting materials avoid conflicts with views, lighting, infrastructure, utilities, and signage. (Ord. 1603 § 3 (Exh. A), 2023; Ord. 1537 (Exh. D (part)), 2018: Ord. 1438 § 4 (Exh. A (part)), 2011)

#### **18.29.070 Required findings. Revised 1/24**

The Director, Planning and Transportation Commission, or City Council may only approve a design review application if it finds that the application is consistent with the purposes of this chapter and with the following:

- A. The applicable standards and requirements of this title;
- B. The General Plan and any applicable specific plans the City Council has adopted;
- C. Any applicable design guidelines adopted by the City Council;
- D. Any approved tentative map, use permit, variance, or other planning or zoning approval that the project required; and

E. The applicable design review criteria in Section 18.29.060, Design review criteria. (Ord. 1603 § 3 (Exh. A), 2023; Ord. 1537 (Exh. D (part)), 2018: Ord. 1438 § 4 (Exh. A (part)), 2011)

#### **18.29.080 Conditions of approval. Revised 1/24**

In granting design review approval, the Director, Planning and Transportation Commission, or City Council may impose conditions that are reasonably related to the application and deemed necessary to achieve the purposes of this chapter and ensure compliance with the applicable criteria and standards established by this title. They may not impose requirements pertaining to use or that are more restrictive than the standards set forth in this title or a valid use permit or variance if such conditions would require a reduction in the residential density or the floor area ratio (FAR) of a proposed project. (Ord. 1603 § 3 (Exh. A), 2023; Ord. 1537 (Exh. D (part)), 2018: Ord. 1438 § 4 (Exh. A (part)), 2011)

#### **18.29.090 Appeals—Expiration, extensions, and modifications. Revised 1/24**

A. Appeals. Design review decisions are subject to the appeal provisions of Section 18.27.150, Appeals.

B. Expiration, Extensions and Modifications. Design review approval is effective and may only be extended or modified as provided for in Chapter 18.27, Common Procedures. (Ord. 1603 § 3 (Exh. A), 2023; Ord. 1537 (Exh. D (part)), 2018: Ord. 1438 § 4 (Exh. A (part)), 2011)

### **Chapter 18.30 USE PERMITS**

Sections:

**18.30.010 Purpose.**

**18.30.020 Applicability.**

**18.30.030 Review authority.**

**18.30.040 Application requirements.**

**18.30.050 Public notice and hearing.**

**18.30.060 Required findings.**

**18.30.070 Conditions of approval.**

**18.30.080 Appeals—Expiration, extensions, and modifications.**

**18.30.090 Failure to comply with conditions.**

**18.30.100 Revocation of use permits.**

**18.30.010 Purpose.**

The use permit review and approval process is intended to apply to uses that are generally consistent with the purposes of the zoning district where they are proposed but require special consideration to ensure that they can be designed, located, and operated in a manner that will not interfere with the use and enjoyment of surrounding properties. (Ord. 1464 § 3 (Exh. C (part)), 2013: Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.30.020 Applicability.**

Approval of a use permit is required for uses or developments specifically identified in Article II, Base and Overlay Districts, and/or any other section of this title which requires a use permit. (Ord. 1464 § 3 (Exh. C (part)), 2013: Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.30.030 Review authority.**

A. Conditional Use Permits. The Planning Commission shall approve, conditionally approve, or deny applications for conditional use permits based on consideration of the requirements of this chapter.

B. Minor Use Permits. The Zoning Administrator shall approve, conditionally approve, or deny applications for minor use permits based on consideration of the requirements of this chapter. The Zoning Administrator may, at his/her discretion, refer any application for a minor use permit for a project that may generate substantial public controversy or involve significant land use policy decisions to the Planning Commission for a decision rather than acting on it himself/herself. In that case, the application shall be processed as a conditional use permit. (Ord. 1464 § 3 (Exh. C (part)), 2013: Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.30.040 Application requirements.**

Applications for use permits shall be filed with the Planning Division on the prescribed application forms. In addition to any other application requirements, the application for a use permit shall include data or other evidence in support of the applicable findings required by Section 18.30.060, Required findings. (Ord. 1464 § 3 (Exh. C (part)), 2013: Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.30.050 Public notice and hearing.**

A. Conditional Use Permits. All applications for conditional use permits shall require public notice and hearing before the Planning Commission pursuant to Chapter 18.27, Common Procedures.

B. Minor Use Permits. All applications for minor use permits shall require public notice and hearing before the Zoning Administrator pursuant to Chapter 18.27, Common Procedures. (Ord. 1464 § 3 (Exh. C (part)), 2013: Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.30.060 Required findings.**

The decision-maker must make all of the following findings in order to approve or conditionally approve a use permit application. The inability to make one or more of the findings is grounds for denial of an application.

A. The proposed use is allowed within the applicable zoning district and complies with all other applicable provisions of this title and all other titles of the municipal code;

B. The proposed use is consistent with the General Plan and any applicable specific plan;

C. The proposed use will not be adverse to the public health, safety, or general welfare of the community, nor detrimental to surrounding properties or improvements;

D. The proposed use complies with any design or development standards applicable to the zoning district or the use in question unless waived or modified pursuant to the provisions of this title;

E. The design, location, size, and operating characteristics of the proposed activity are compatible with the existing and reasonably foreseeable future land uses in the vicinity; and

F. The site is physically suitable for the type, density, and intensity of use being proposed, including access, utilities, and the absence of physical constraints.

G. Proposed projects located within the Landmark Commercial (LC) zoning district are subject to one of the following additional findings, as applicable:

1. Regional retail and destination-oriented uses must have significant beneficial results in employment growth and contribute to the economic sustainability of the City and implementation of the Economic Development Plan, and meet the economic objectives for landmark sites.

2. Interim uses (uses other than regional retail and destination-oriented uses) shall be considered on an interim basis and shall entail use of existing buildings; erection of permanent buildings inconsistent with regional retail and destination-oriented uses shall not be permitted; additions or alterations to a building or site may be considered for health and safety purposes and limited to bring a structure into conformance with Building Code requirements. Interim uses shall be conditioned with time limitations and may be renewed on a periodic basis subject to Planning Commission use permit review and approval. (Ord. 1464 § 3 (Exh. C (part)), 2013: Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.30.070 Conditions of approval.**

In approving a use permit, the decision-maker may impose reasonable conditions or restrictions deemed necessary to:

A. Ensure that the proposal conforms in all significant respects with the General Plan and with any other applicable plans or policies adopted by the City Council;

B. Achieve the general purposes of this title or the specific purpose of the zoning district in which the project is located;

C. Achieve the findings for a use permit listed in Section 18.30.060, Required findings; or

D. Mitigate any potentially significant impacts identified as a result of environmental review conducted in compliance with the California Environmental Quality Act.

The decision-maker may require reasonable guarantees and evidence that such conditions are being, or will be, complied with. (Ord. 1464 § 3 (Exh. C (part)), 2013: Ord. 1438 § 4 (Exh. A (part)), 2011)

#### **18.30.080 Appeals—Expiration, extensions, and modifications.**

A. Appeals. A decision of the Zoning Administrator may be appealed to the Planning Commission and a decision of the Planning Commission may be appealed to the City Council, as provided in Section 18.27.150, Appeals.

B. Expiration, Extensions and Modifications. Use permits are effective and may only be extended or modified as provided for in Chapter 18.27, Common Procedures. (Ord. 1464 § 3 (Exh. C (part)), 2013: Ord. 1438 § 4 (Exh. A (part)), 2011)

#### **18.30.090 Failure to comply with conditions.**

Failure to comply with any condition of approval of a use permit is a violation of this title subject to provisions of Chapter 18.39, Enforcement and Abatement Procedures. (Ord. 1464 § 3 (Exh. C (part)), 2013: Ord. 1438 § 4 (Exh. A (part)), 2011)

#### **18.30.100 Revocation of use permits.**

A use permit may be revoked as provided by Section 18.27.140, Revocation of permits. (Ord. 1464 § 3 (Exh. C (part)), 2013: Ord. 1438 § 4 (Exh. A (part)), 2011)

### **Chapter 18.31 TEMPORARY USE PERMITS**

Sections:

#### **18.31.010 Purpose.**

#### **18.31.020 Application.**

#### **18.31.030 Required findings.**

#### **18.31.040 Conditions of approval.**

#### **18.31.050 Appeals—Expiration, extensions, and modifications.**

#### **18.31.010 Purpose.**

This chapter establishes a process for review and approval of certain uses that are intended to be of limited duration of time and will not permanently alter the character or physical facilities of the site where they occur. (Ord. 1438 § 4 (Exh. A (part)), 2011)

#### **18.31.020 Application.**

An application for a temporary use permit shall be submitted at least thirty days before the use is intended to begin. The application shall be on the required form and shall include the written consent of the owner of the property or the agent of the owner. (Ord. 1438 § 4 (Exh. A (part)), 2011)

#### **18.31.030 Required findings.**

The Zoning Administrator may approve an application for a temporary use only upon making both of the following findings:

A. The proposed use will not unreasonably affect adjacent properties, their owners and occupants, or the surrounding neighborhood, and will not in any other way constitute a nuisance or be detrimental to the health, safety, peace, comfort, or general welfare of persons residing or working in the area of such use or to the general welfare of the City; and

B. The proposed use will not unreasonably interfere with pedestrian or vehicular traffic or circulation in the area surrounding the proposed use, and will not create a demand for additional parking that cannot be safely and efficiently accommodated by existing parking areas. (Ord. 1438 § 4 (Exh. A (part)), 2011)

#### **18.31.040 Conditions of approval.**

The Zoning Administrator may impose reasonable conditions deemed necessary to ensure compliance with the findings for a temporary use permit listed in Section 18.31.030, Required findings, including, but not limited to: regulation of ingress and egress and traffic circulation; fire protection and access for fire vehicles; regulation of lighting; regulation of hours and/or other characteristics of operation; and removal of all trash, debris, signs, sign supports and temporary structures and electrical service. The Administrator may require reasonable guarantees and evidence that such conditions are being, or will be, complied with. (Ord. 1438 § 4 (Exh. A (part)), 2011)

#### **18.31.050 Appeals—Expiration, extensions, and modifications.**

A. Appeals. Any party aggrieved by the decision of the Zoning Administrator to approve, approve with conditions, or deny a permit for a temporary use or structure may appeal the decision to the Planning Commission, pursuant to Section 18.27.150, Appeals.

B. Expiration, Extensions and Modifications. Temporary use permits are effective and may only be extended or modified as provided for in Chapter 18.27, Common Procedures. (Ord. 1438 § 4 (Exh. A (part)), 2011)

## **Chapter 18.32 VARIANCES**

Sections:

**18.32.010 Purpose.**

**18.32.020 Applicability.**

**18.32.030 Procedures.**

**18.32.040 Required findings.**

**18.32.050 Conditions of approval.**

**18.32.060 Appeals—Expiration, extensions, and modifications.**

**18.32.070 Failure to comply with conditions.**

**18.32.080 Revocation of variance.**

**18.32.010 Purpose.**

This chapter is intended to provide a mechanism for relief from the strict application of this title where this will deprive the property owner of privileges enjoyed by similar properties because of the subject property's unique and special conditions. (Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.32.020 Applicability.**

Variances may be granted to vary or modify dimensional and performance standards, but variances may not be granted to allow uses or activities that this title does not authorize for a specific lot or site. (Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.32.030 Procedures.**

A. Review Authority. The Planning Commission shall approve, conditionally approve, or deny applications for variances based on consideration of the requirements of this chapter.

B. Application Requirements. Applications for a variance shall be filed with the Planning Division on the prescribed application forms in accordance with the procedures in Chapter 18.27, Common Procedures. In addition to any other application requirements, the application for a variance shall include data or other evidence showing that the requested variance conforms to the required findings set forth in Section 18.32.040, Required findings.

C. Public Notice and Hearing. An application for a variance shall require public notice and hearing before the Planning Commission pursuant to Chapter 18.27, Common Procedures. (Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.32.040 Required findings.**

After conducting a public hearing, the Planning Commission may approve or conditionally approve a variance application if it can make all of the following findings. The Commission shall deny an application for a variance if it is unable to make any of the required findings, in which case it shall state the reasons for that determination.

A. There are exceptional or extraordinary circumstances or conditions applicable to the property involved that do not apply generally to property in the vicinity and identical zoning classification, and that the granting of a variance will not constitute a granting of a special privilege inconsistent with the limitations on the property in the vicinity and identical zone classifications;

B. The granting of the application is necessary to prevent a physical hardship which is not of the applicant's own actions or the actions of a predecessor in interest;

C. The granting of the application will not be detrimental or injurious to property or improvements in the vicinity, and will not be detrimental to the public health, safety, general welfare or convenience; and

D. The granting of the variance will be consistent with the general purposes and objectives of this title, any applicable specific plans, and of the General Plan. (Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.32.050 Conditions of approval.**

In approving a variance, the Planning Commission may impose reasonable conditions deemed necessary to ensure compliance with the findings required in Section 18.32.040, Required findings, and may require reasonable guarantees and evidence that such conditions are being, or will be, complied with. (Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.32.060 Appeals—Expiration, extensions, and modifications.**

A. Appeals. The applicant or any other aggrieved party may appeal a decision on a variance pursuant to the provisions of Section 18.27.150, Appeals.

B. Expiration, Extensions and Modifications. Variances are effective and may only be extended or modified as provided for in Chapter 18.27, Common Procedures. (Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.32.070 Failure to comply with conditions.**

Failure to comply with any variance condition is a violation of this title subject to enforcement, penalties, and legal procedure as prescribed by Chapter 18.39, Enforcement and Abatement Procedures. (Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.32.080 Revocation of variance.**

A variance may be revoked as provided by Section 18.27.140, Revocation of permits. (Ord. 1438 § 4 (Exh. A (part)), 2011)

**Chapter 18.33  
WAIVERS**

Sections:

**18.33.010 Purpose.**

**18.33.020 Applicability.**

**18.33.030 Procedures.**

**18.33.040 Required findings.**

**18.33.050 Conditions of approval.**

**18.33.060 Appeals—Expiration, extensions, and modifications.**

**18.33.010 Purpose.**

The purpose of this chapter is to establish an alternate means of granting relief from the requirements of this title when so doing would be consistent with the purposes of the title and it is not possible or practical to approve a variance. Further to this end, it is the policy of the City to comply with the Federal Fair Housing Act, the Americans with Disabilities Act, and the California Fair Employment and Housing Act to provide reasonable accommodation to persons with disabilities seeking fair access to housing through waiver of the application of the City's zoning regulations. This chapter authorizes the Director to grant administrative relief from this title's dimensional requirements to achieve these and other objectives. (Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.33.020 Applicability.**

The Director may grant relief from the dimensional requirements specified in this title, not to exceed ten percent of the requirement. The Director also may grant a waiver that would exceed ten percent when such a waiver is necessary to comply with the reasonable accommodation provisions of Federal law based on a determination that the specific circumstances of the application warrant such an accommodation. Types of standards for which waivers may be approved by the Director include, but are not limited to:

A. Setbacks. Front, side, and rear yard setback standards.

B. Build-To Areas. Standards for building facade location.

C. Parking. The dimensional standards for parking aisles, driveways, landscaping, garages on sloping lots, and parking facility design.

D. Fences. Standards for the location, height, and design of fences.

- E. Lot Coverage. Standards for the maximum amount of lot coverage.
- F. Height. Maximum building height or other height limitations.
- G. Landscaping. Standards for required landscaping and plantings.
- H. Transparency. Required ground floor building transparency, up to ten percent of minimum.
- I. Other Standards. Up to ten percent of other development standards not listed in subsection J of this section.
- J. Exclusions. Waivers can not be granted for any of the following standards:
  - 1. Lot area, width, or depth;
  - 2. Maximum number of stories;
  - 3. Minimum number or dimensions of required parking spaces;
  - 4. Residential density; or
  - 5. Maximum floor area ratio (FAR). (Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.33.030 Procedures.**

- A. Authority and Duties. The Director shall approve, conditionally approve, or deny applications for waivers based on consideration of the requirements of this chapter.
- B. Application Requirements. An application for a waiver shall be filed to the Director in accordance with Section 18.27.020, Application forms and fees. The application shall state in writing the nature of the waiver requested and explain why the findings necessary to grant the waiver are satisfied. The applicant shall also submit plans delineating the requested waiver.
- C. Review of Requests for Reasonable Accommodation to Ensure Access to Housing. An application for reasonable accommodation to ensure access to housing will be referred to the Director for review and consideration. The Director shall issue a written decision within forty-five days of the date of the application and may grant the reasonable accommodation request, grant with waivers, or deny the request. All written decisions shall give notice of the right to appeal and to request reasonable accommodation in the appeals process.
- D. Concurrent Processing. If a request for waiver is being submitted in conjunction with an application for another approval, permit, or entitlement under this title, it shall be heard and acted upon at the same time and in the same manner as that application. (Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.33.040 Required findings.**

A decision to grant a waiver shall be based on the following findings:

- A. The waiver is necessary due to the physical characteristics of the property and the proposed use or structure or other circumstances, including, but not limited to, topography, noise exposure, irregular property boundaries, or other unusual circumstance.
- B. There are no alternatives to the requested waiver that could provide an equivalent level of benefit to the applicant with less potential detriment to surrounding owners and occupants or to the general public.
- C. The granting of the requested waiver will not be detrimental to the health or safety of the public or the occupants of the property or result in a change in land use or density that would be inconsistent with the requirements of this title.
- D. In the RS districts, the review authority must also make the following findings in addition to any other findings that this chapter requires:
  - 1. There are exceptional or extraordinary circumstances related to the design of the existing house or Uniform Building Code compliance or other code compliance that make it difficult or impossible to enlarge the house within the base requirements, and the addition is of superior design quality and compatible with the existing neighborhood character;
  - 2. The change is only intended to increase the habitability and function of the structure;
  - 3. Granting the waiver is desirable for the preservation of an existing architectural style or neighborhood character which would not otherwise be accomplished through the strict application of the provisions of the regulations; and

4. It can be demonstrated that the design of the proposed addition is of superior quality; compatible with the existing neighborhood character, effective in minimizing the perceived size of the dwelling, not overly intrusive to the privacy of neighboring dwellings and is in substantial compliance with the RS district regulations.
- E. If the waiver requested is to provide reasonable accommodation pursuant to State or Federal law, the review authority must also make the following findings in addition to any other findings that this chapter requires:
1. That the housing or other property which is the subject of the request for reasonable accommodation will be used by an individual or organization entitled to protection;
  2. If the request for accommodation is to provide fair access to housing, that the request for accommodation is necessary to make specific housing available to an individual protected under State or Federal law;
  3. That the conditions imposed, if any, are necessary to further a compelling public interest and represent the least restrictive means of furthering that interest; and
  4. That denial of the requested waiver would impose a substantial burden on religious exercise or would conflict with any State or Federal statute requiring reasonable accommodation to provide access to housing. (Ord. 1438 § 4 (Exh. A (part)), 2011)
- 18.33.050 Conditions of approval.**
- In approving a waiver, the decision-maker may impose reasonable conditions deemed necessary to:
- A. Ensure that the proposal conforms in all significant respects with the General Plan and with any other applicable plans or policies adopted by the City Council;
  - B. Achieve the general purposes of this title or the specific purposes of the zoning district in which the project is located;
  - C. Achieve the findings for a waiver granted; or
  - D. Mitigate any potentially significant impacts identified as a result of review conducted in compliance with the California Environmental Quality Act; and
  - E. Waivers approved based on State or Federal requirements for reasonable accommodation may be conditioned to provide for rescission or automatic expiration based on a change of occupancy or other relevant change in circumstance.
- The Director may require reasonable guarantees and evidence that such conditions are being, or will be, complied with. (Ord. 1438 § 4 (Exh. A (part)), 2011)
- 18.33.060 Appeals—Expiration, extensions, and modifications.**
- A. Appeals. The applicant or any other aggrieved party may appeal a decision on a waiver pursuant to Section 18.27.150, Appeals.
  - B. Expiration, Extensions, and Modifications. Waivers granted under this chapter are effective and may only be extended or modified as provided for in Chapter 18.27, Common Procedures. (Ord. 1438 § 4 (Exh. A (part)), 2011)
- Chapter 18.34  
AMENDMENTS TO GENERAL PLAN**
- Sections:
- 18.34.010 Purpose.**
- 18.34.020 Applicability.**
- 18.34.030 Initiation.**
- 18.34.040 Application requirements.**
- 18.34.050 Review procedures and public notice.**
- 18.34.060 Planning Commission hearing and recommendation.**
- 18.34.070 City Council hearing and action.**

**18.34.010 Purpose.**

This chapter establishes procedures for making changes to the General Plan as provided for in State law when there are compelling reasons to do so. These circumstances include, but are not limited to, changes in State or Federal law and problems and opportunities that were unanticipated at the time of plan adoption or the last amendment. (Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.34.020 Applicability.**

The procedures of this chapter apply to all proposals to change the text of the General Plan and the diagrams that illustrate the application of its provisions. (Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.34.030 Initiation.**

An amendment to the text of the General Plan may be initiated by any qualified applicant identified in Section 18.27.020, Application forms and fees, or a motion of the City Council or Planning Commission. (Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.34.040 Application requirements.**

A. Application. A qualified applicant shall submit an application for a General Plan amendment on a form prescribed by the Planning Division accompanied by the required fee. The Planning Division may require an applicant to submit such additional information and supporting data as considered necessary to review and approve the application.

B. Coordination with Other Applications. The Planning Division may allow any necessary applications for amendments to zoning regulations or for approval under the requirements of this title or Title 17, Subdivisions, to be reviewed and approved concurrently with the proposed General Plan amendment. (Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.34.050 Review procedures and public notice.**

A. Staff Report. The Director shall prepare a report and recommendation to the Planning Commission on the application for a General Plan amendment. The report shall include, but is not limited to, a discussion of how the proposed amendment complies with the purposes of this chapter, a determination as to whether the proposed amendment will require amendment to other plans that the City Council or the Redevelopment Agency have adopted, and an environmental document prepared in compliance with the California Environmental Quality Act.

B. Scheduling. The Planning Division shall schedule the application for hearing by the Planning Commission in accordance with the City's schedule for considering General Plan amendments.

C. Public Notice. At least ten days before the date of the public hearing, the Planning Division shall provide notice consistent with Chapter 18.27, Common Procedures. Notice of the hearing also shall be mailed or delivered at least ten days prior to the hearing to the San Carlos School District and any other local agency expected to provide essential facilities or services to the property that is the subject of the proposed amendment. (Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.34.060 Planning Commission hearing and recommendation.**

A. Planning Commission Hearing. The Planning Commission shall conduct a public hearing in conformance with Chapter 18.27, Common Procedures.

B. Recommendation to Council. Following the public hearing, the Planning Commission shall make a recommendation on the proposed General Plan amendment and the environmental determination to the City Council. Such recommendation shall include the reasons for the recommendation, findings supporting the recommendation, the relationship of the proposed ordinance or amendment to applicable general and specific plans, and a copy of the minutes from the Planning Commission meeting. (Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.34.070 City Council hearing and action.**

A. After receiving the report from the Planning Commission, the City Council shall conduct a duly-noticed public hearing. The notice shall include a summary of the Planning Commission recommendation. If the Planning Commission has recommended against the adoption of such amendment, the City Council is not required to take any further action unless an interested party files a written request for a hearing with the City Clerk within ten days after the Planning Commission action.

B. After the conclusion of the hearing, the City Council may approve, modify or deny the proposed General Plan amendment. If the Council proposes any substantial modification not previously considered by the Planning Commission during its hearings, the proposed modification shall first be referred back to the Planning Commission for its recommendation, but the Planning Commission shall not be required to hold a public hearing thereon. The failure of the Planning Commission to report within forty days after the referral shall be deemed a recommendation to approve and the amendment shall be returned to Council for adoption.

C. Following the Council action, the City Clerk shall make the documents amending the plan, including the diagrams and text, available for public inspection. (Ord. 1438 § 4 (Exh. A (part)), 2011)

## **Chapter 18.35 AMENDMENTS TO ZONING ORDINANCE AND MAP**

Sections:

**18.35.010 Purpose.**

**18.35.020 Applicability.**

**18.35.030 Initiation.**

**18.35.040 Application requirements.**

**18.35.050 Review procedures and public notice.**

**18.35.060 Planning Commission hearing and recommendation.**

**18.35.070 City Council hearing and action.**

**18.35.080 Criteria for zoning amendments.**

**18.35.010 Purpose.**

This chapter provides procedures by which changes may be made to the text of this Zoning Ordinance and to the Zoning Map whenever the public necessity and convenience and the general welfare require such amendment to maintain consistency with the General Plan. (Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.35.020 Applicability.**

The procedures in this chapter shall apply to all proposals to change the text of this Zoning Ordinance or to revise a zoning district classification or zoning district boundary line shown on the Zoning Map, including prezoning as provided for in Chapter 18.38, Prezoning and Annexation Procedure. (Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.35.030 Initiation.**

An amendment to the text of the Zoning Ordinance or to the Zoning Map may be initiated by any qualified applicant identified in Section 18.27.020, Application forms and fees, or a motion of the City Council or Planning Commission. (Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.35.040 Application requirements.**

A. Application. A qualified applicant shall submit an application for a zoning amendment on a form prescribed by the Planning Division accompanied by the required fee. The Planning Division may require an applicant to submit such additional information and supporting data as considered necessary to process the application.

B. Coordination with Other Applications. The Planning Division may allow any necessary applications for amendments to zoning regulations or for approval under the requirements of this Zoning Ordinance or Title 17, Subdivisions, to be processed simultaneously with the proposed zoning amendment. (Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.35.050 Review procedures and public notice.**

A. Staff Report. The Director shall prepare a report and recommendation to the Planning Commission on any application for a zoning amendment. The report shall include, but is not limited to, a discussion of how the proposed amendment meets the criteria in Section 18.35.080, Criteria for zoning amendments, for approving a zoning amendment and an environmental document prepared in compliance with the California Environmental Quality Act.

B. Public Hearing Required. All zoning amendments shall be referred to the Planning Commission, which shall hold at least one public hearing on any proposed amendment.

C. Public Notice. At least ten days before the date of the public hearing, the Planning Division shall provide notice consistent with Chapter 18.27, Common Procedures. Notice of the hearing also shall be mailed or delivered at least ten days prior to the hearing to the San Carlos School District and any other local agency expected to provide essential facilities or services to the property that is the subject of the proposed amendment. (Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.35.060 Planning Commission hearing and recommendation.**

A. Planning Commission Hearing. The Planning Commission shall conduct a public hearing in conformance with Chapter 18.27, Common Procedures.

B. Recommendation to Council. Following the public hearing, the Planning Commission shall make a recommendation on the proposed zoning amendment to the City Council. Such recommendation shall include the reasons for the recommendation, findings related to the criteria for zoning amendments in Section 18.35.080, and the relationship of the proposed ordinance or amendment to applicable general and specific plans, and shall be transmitted to the City Council in the form of a Council memo, prepared by Planning staff, with a copy of the approved minutes from the Planning Commission meeting. (Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.35.070 City Council hearing and action.**

A. After receiving the report from the Planning Commission, the City Council shall hold a duly noticed public hearing. The notice shall include a summary of the Planning Commission recommendation. If the matter under consideration is a proposal to reclassify a property from one zone to another and the Planning Commission has recommended against the adoption of such amendment, the City Council is not required to take any further action unless an interested party files a written request for a hearing with the City Clerk within ten days after the Planning Commission action.

B. After the conclusion of the hearing, the City Council may approve, modify or deny the proposed amendment. If the Council proposes any substantial modification not previously considered by the Planning Commission during its hearings, the proposed modification shall first be referred back to the Planning Commission for report and recommendation, but the Planning Commission shall not be required to hold a public hearing. The failure of the Planning Commission to report within forty days after the referral shall be deemed a recommendation to approve and the amendment shall be returned to Council for adoption. (Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.35.080 Criteria for zoning amendments.**

The Planning Commission shall not recommend and the City Council shall not approve a zoning amendment unless the proposed amendment meets the following criteria:

A. Zoning Ordinance Text Amendment Findings.

1. The ordinance amendment is consistent with the General Plan; and
2. The ordinance amendment is consistent with the purpose of this title to promote the growth of the City in an orderly manner and to promote and protect the public health, safety, peace, comfort and general welfare.

B. Zoning District Boundary Amendment Findings (Zoning Map Amendments).

1. The change in district boundaries is consistent with the General Plan;
2. The change in district boundaries is consistent with the purpose of this title to promote the growth of the City in an orderly manner and to promote and protect the public health, safety, peace, comfort and general welfare; and
3. The change in district boundaries is necessary to achieve the balance of land uses desired by the City, consistent with the General Plan, and to increase the inventory of land within a given zoning district. (Ord. 1438 § 4 (Exh. A (part)), 2011)

**Chapter 18.36  
PLANNED DEVELOPMENT**

Sections:

**18.36.010 Purpose.**

**18.36.020 Applicability.**

**18.36.030 Procedures.**

**18.36.040 Required findings.**

**18.36.050 Conditions.**

**18.36.060 Expiration and renewal.**

**18.36.070 Amendments of approved plans.**

**18.36.080 Status of specific plan.****18.36.090 Development plan review.****18.36.100 Failure to comply with conditions.****18.36.110 Revocation or modification of planned development permit.****18.36.010 Purpose.**

This chapter provides procedures for establishing a Planned Development (PD) District to facilitate orderly development of larger sites in the City consistent with the General Plan, especially where a particular mix of uses or character is desired that can best be achieved through an integrated development plan. (Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.36.020 Applicability.**

The procedures in this chapter shall apply to all proposals to establish a PD District. (Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.36.030 Procedures.**

A. Decision-Making Body. A PD District must be adopted by the City Council. A public hearing before the Planning Commission is required prior to City Council review, and the Planning Commission shall make a recommendation to the City Council.

B. Review Procedures.

1. Rezoning. An application for rezoning to a PD District shall be processed as an amendment to the Zoning Map, according to the procedures of Chapter 18.35, Amendments to Zoning Ordinance and Map, and shall include a specific plan or PD plan.

2. PD Plan. The PD plan shall be accepted and processed concurrently, in the same manner as a conditional use permit application, pursuant to Chapter 18.27, Common Procedures, and Chapter 18.30, Use Permits, although additional information is required to be submitted in order to determine that the intent of this title and the General Plan will be fulfilled.

3. Tentative Subdivision Map. When a PD requires the submission of a tentative subdivision map, this map and all supporting documents shall be prepared and submitted concurrently with the application of the PD.

C. Initiation. An amendment to reclassify property to PD shall be initiated by a property owner or authorized agent or a motion of the Planning Commission or the City Council. If the property is not under a single ownership, all owners must join the application, and a map showing the extent of ownership shall be submitted with the application.

D. Application Content. An application for a PD, made on the prescribed form, shall be filed with the Planning Division, accompanied by the required fee. Applications shall contain all of the following:

1. Legal Description. A legal description of the site and a statement of the number of acres, or square feet if less than one acre, contained therein.

2. Title Report. A title report verifying the description and the ownership of the property.

3. Ownership Declaration. A declaration as to whether the site is to remain under the same ownership and control or to be divided into small units during or after development and the manner and method of the division.

4. Project Narrative. A generalized narrative describing the location of the site, its total acreage, and the existing character and use of the site and adjoining properties; the concept of the proposed development, including proposed uses and activities, proposed residential densities if appropriate, and physical land alteration required by the development; and the relation of the proposed PD to the San Carlos General Plan.

5. Development Schedule. A development schedule, including anticipated timing for commencement and completion of each phase of development, tabulation of the total number of acres in each separate phase and percentage of such acreage to be devoted to particular uses, and an indication of the proposed number and type of dwelling units by phase of development, if applicable.

6. Maps and Diagrams. Maps, diagrams, and other graphics necessary to establish the physical scale and character of the development and demonstrate the relationship among its constituent land uses, buildings and structures, public

facilities, and open space. These graphics shall at a minimum indicate:

- a. A map showing the perimeter boundaries of the project site, the perimeter of the ownership, the location and dimensions of any existing property lines and easements within the site, and all uses and structures within a three-hundred-foot radius of the project area boundaries;
  - b. Existing and proposed changes in the topography of the site, including the degree of land disturbance, the location of drainage channels or water courses, and the direction of drainage flow in one-foot contour intervals on areas of cross-slopes of less than five percent, at two-foot intervals on areas of cross-slopes of five to ten percent, and at five-foot intervals on areas of cross-slopes exceeding ten percent;
  - c. A circulation diagram indicating proposed movement of vehicles, goods, and pedestrians within the district and to and from adjacent areas, including streets and driveways, sidewalks and pedestrian ways, and off-street parking and loading areas;
  - d. A site plan indicating existing and proposed uses, location and dimension of buildings and structures, gross floor area of existing and proposed structures, identification of structures to be demolished or removed;
  - e. Detailed engineering site plans, including proposed finished grades and all public improvements as well as estimates of grading volume (cut and fill), with accompanying grading sections or other technical drawings acceptable to the Director of Public Works;
  - f. Detailed engineering plans for the provision of public utilities for the site, including provisions for off-site connections and facilities necessary to serve the site;
  - g. A detailed tabulation of the proposed densities of dwelling units, bedroom count, building coverage, paving coverage, landscaped areas, parking dedication, and height of structures;
  - h. Lighting for the building and adjacent parking and pedestrian travel areas;
  - i. Utilization of buildings and structures, including activities and the number of living units;
  - j. Reservation of land for public uses, including schools, parks, playgrounds, and other open spaces;
  - k. Dimensioned building elevations showing proposed architectural concepts, color program and material samples; and
  - l. A comprehensive sign program, including the size and location of all proposed signs.
7. Open Space and Landscaping Plan. An existing and proposed open space and landscaping plan including landscape concept and type of plant materials, recreation area, parking, service and other public area used in common on the property and a description of intended improvements to and maintenance of the open area of the property.
8. Other Information. Any other information deemed necessary by the Director to ascertain if the project meets the required findings for a PD plan and rezoning. (Ord. 1438 § 4 (Exh. A (part)), 2011)

#### **18.36.040 Required findings.**

A PD plan and rezoning shall only be approved if all of the following findings are made:

- A. The proposed development is consistent with the General Plan and any applicable specific plan, including the density and intensity limitations that apply;
- B. The subject site is physically suitable for the type and intensity of the land use being proposed;
- C. Adequate transportation facilities and public services exist or will be provided in accord with the conditions of PD plan approval, to serve the proposed development; and the approval of the proposed development will not result in a reduction of traffic levels of service or public services so as to be a detriment to public health, safety, or welfare;
- D. The proposed development will not have a substantial adverse effect on surrounding land uses and will be compatible with the existing and planned land use character of the surrounding area;
- E. The development generally complies with applicable adopted design guidelines; and

F. The proposed development is demonstratively superior to the development that could occur under the standards applicable to the underlying base district, and will achieve superior community design, environmental preservation and/or substantial public benefit. In making this determination, the following factors shall be considered:

1. Appropriateness of the use(s) at the proposed location.
2. The mix of uses, housing types, and housing price levels.
3. Provision of units affordable to persons and families of low and moderate income or to lower income households.
4. Provision of infrastructure improvements.
5. Provision of open space.
6. Compatibility of uses within the development area.
7. Creativity in design and use of land.
8. Quality of design, and adequacy of light and air to the interior spaces of the buildings.
9. Overall contribution to the enhancement of neighborhood character and the environment of San Carlos in the long term. (Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.36.050 Conditions.**

In approving a PD plan and rezoning, the City Council may impose reasonable conditions deemed necessary to:

- A. Ensure that the proposal conforms in all significant respects with the General Plan and with any other applicable plans or policies that the City has adopted;
- B. Achieve the general purposes of this title or the specific purpose of the zoning district in which the project is located;
- C. Achieve the findings listed above; or
- D. Mitigate any potentially significant impacts identified as a result of review conducted in compliance with the requirements of the California Environmental Quality Act.

The City Council may require reasonable guarantees and evidence that such conditions are being, or will be, complied with. (Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.36.060 Expiration and renewal.**

A. Expiration.

1. PD Plan. A PD plan shall be effective on the same date as the ordinance creating the PD District for which it was approved and shall expire two years after the effective date unless actions specified in the conditions of approval have been taken, or a building permit has been issued and construction diligently pursued. An approved PD plan may specify a development staging program exceeding two years.
2. Tentative Map. Where a tentative map has been approved in conjunction with a PD plan, the PD plan shall expire upon the expiration of the tentative map.
3. Phased Development. In the event that the applicant intends to develop the project in phases, and the City Council approves phased development, the PD Plan shall remain in effect so long as not more than one year lapses between the end of one phase and the beginning of the next phase.

B. Renewal. An approved PD plan that has not been exercised may be renewed for a two-year period approved by the City Council after a duly-noticed public hearing. Application for renewal shall be made in writing between thirty and one hundred twenty days prior to expiration of the original approval. The City Council may renew a PD plan if it finds the renewal consistent with the purposes of this chapter. (Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.36.070 Amendments of approved plans.**

A. Changed Plans. Amendments to a PD District or PD plan or specific plan may be requested by the applicant or its successors. Amendments to the approved PD District or PD plan or specific plan shall be classified as major or minor

amendments. Upon receipt of an amendment application, the Director shall determine if the proposed amendment constitutes a major or minor amendment.

B. Major Amendments. Major amendments to an approved PD District or PD plan or specific plan shall be considered by the City Council at a duly noticed public hearing. An amendment will be deemed major if it involves one or more of the following changes:

1. A change in the boundary of the PD District;
2. An increase or decrease in the number of dwelling units for the PD District that is greater than the maximum or less than the minimum stated in the PD plan or specific plan;
3. An increase or decrease in the floor area for any nonresidential land use that results in the floor area exceeding the minimum or maximum stated in the PD plan or specific plan by ten percent or more;
4. Any change in land use or density that is likely to negatively impact or burden public facilities and utilities infrastructure as determined by the City Engineer;
5. Any change in land use or density that is likely to negatively impact or burden circulation adjacent to the PD District or to the overall major street system, as determined by the City Engineer; or
6. Any other proposed change to the PD plan or specific plan or the conditions of approval that substantively alters one or more of its components as determined by the Director.

C. Minor Amendments. Amendments not meeting one or more of the criteria listed in subsection B of this section shall be considered minor if they are consistent with the original findings and conditions of approval. Minor amendments may be approved by the Director. The Director may, at his/her discretion, refer any request for an amendment to a PD plan that may generate substantial public interest to the Planning Commission for a decision rather than acting on it himself/herself. (Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.36.080 Status of specific plan.**

A specific plan adopted by resolution of the City Council shall be administered as prescribed by the Council, consistent with Government Code Section 65450. (Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.36.090 Development plan review.**

Plans for a project in a PD District shall be accepted for planning and building permits or subdivisions only if they are consistent with an approved PD plan or specific plan and any conditions of approval. No project may be approved and no building permit issued unless the project, alteration or use is consistent with an approved PD plan or specific plan. (Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.36.100 Failure to comply with conditions.**

Failure to comply with any PD permit condition or development schedule is a violation of this chapter and subject to Chapter 18.39, Enforcement and Abatement Procedures. The Planning Commission or City Council may initiate revocation proceedings under this title, or suspend the applicant's permit until such time as the applicant conforms to the conditions thereof. (Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.36.110 Revocation or modification of planned development permit.**

A PD permit may be revoked or modified as provided by Section 18.27.140, Revocation of permits. (Ord. 1438 § 4 (Exh. A (part)), 2011)

**Chapter 18.37  
DEVELOPMENT AGREEMENTS**

Sections:

**18.37.010 Purpose.**

**18.37.020 Applicability.**

**18.37.030 Authority and duties.**

**18.37.040 Procedure.**

**18.37.050 Public notice and hearing.**

**18.37.060 Findings and decision.****18.37.070 Execution and recordation of development agreement.****18.37.080 Annual review.****18.37.090 Amendment or cancellation.****18.37.100 Effect of approved agreement.****18.37.110 Enforcement.****18.37.010 Purpose.**

This chapter establishes procedures and requirements for considering and entering into legally binding agreements with applicants for development projects, as provided for in State law. Such agreements provide a greater degree of certainty than the normal permit approval process by granting assurance that an applicant may proceed with development in accord with policies, rules, and regulations in effect at the time of approval subject to conditions to promote the orderly planning of public improvements and services, allocate costs to achieve maximum utilization of public and private resources in the development process, and ensure that appropriate measures to enhance and protect the environment are achieved. (Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.37.020 Applicability.**

A development agreement may be considered for a large, multi-phase development project that will require a developer to make a substantial investment at the early stages of the project for planning and engineering for the entire project and for public facilities and services. In order to be considered for a development agreement, a project shall be consistent with the General Plan and any applicable specific plan unless the applicant has submitted an application for any necessary amendments to the General Plan or specific plan.

A. **Property Subject to Annexation.** An applicant whose property is located within the City's sphere of influence, or whose property is the subject of a pending application for inclusion into the sphere of influence, may file an application to enter into a development agreement.

1. The agreement shall not become operative unless annexation proceedings annexing property to the City are completed within the period of time specified by the agreement.
2. If the annexation is not completed within the time specified in the agreement or any extension of the agreement, the agreement shall be null and void. (Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.37.030 Authority and duties.**

A. The Director shall negotiate the specific components and provisions of the development agreement on behalf of the City for recommendation to the City Council.

B. The City Council shall have the exclusive authority to approve a development agreement. (Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.37.040 Procedure.**

An applicant for a development project may request that the City review the application as a development agreement application in accordance with the following procedures. The City incorporates by reference the provisions of Government Code Sections 65864 through 65869.5. In the event of any conflict between these statutory provisions and this section, this section shall control.

A. **Application Requirements.** An applicant shall submit an application for a development agreement on a form prescribed by the Director, accompanied by the required fees. The Director shall identify submittal requirements for applications for development agreements and may require an applicant to submit such additional information and supporting data as considered necessary to process the application. In addition to any other information that the Director requires, each application for a development agreement shall be accompanied by the general terms and conditions of the agreement proposed by the applicant and shall include the contents required in subsection B of this section.

B. **Contents of Development Agreements.**

1. **Required Contents.** A development agreement shall specify its duration; the permitted uses of the subject property; the general location and density or intensity of uses; the general location, maximum height and size of proposed buildings;

and provisions for reservation or dedication of land for public purposes. It shall contain provisions concerning its transferability.

2. Improvements and Fees. A development agreement may include requirements for construction and maintenance of on-site and off-site improvements or payment of fees in lieu of such dedications or improvements.

3. Conditions. A development agreement may also include conditions, terms, restrictions, and requirements for subsequent discretionary actions but does not eliminate the applicant's responsibility to obtain all required land use approvals.

4. Environmental Mitigation. A development agreement may include, without limitation, conditions and restrictions imposed by the City with respect to the project, including those conditions, restrictions and mitigation measures proposed in any final environmental impact report applicable to the project that eliminate or mitigate adverse environmental impacts of the project.

5. Phasing. A development agreement may provide that the project be constructed in specified phases, that construction shall commence within a specified time, and that the project or any phase thereof be completed within a specified time.

6. Financing. If the development agreement requires applicant financing of necessary public facilities, it may include terms relating to subsequent reimbursement over time for such financing.

7. Indemnity. A development agreement may contain an indemnity clause requiring the applicant to indemnify and hold the City harmless against claims arising out of or in any way related to the actions of applicant in connection with the application or the development process, including all legal fees and costs.

8. Performance Obligation Fees. A development agreement may include provisions to guarantee performance of obligations stated in the agreement.

C. Negotiations. The Director shall negotiate the specific components and provisions of the development agreement on behalf of the City for recommendation to the City Council. (Ord. 1438 § 4 (Exh. A (part)), 2011)

#### **18.37.050 Public notice and hearing.**

A. Notice of Intent. The Director shall publish a notice of intent to consider adoption of a development agreement as provided in Sections 65090 and 65091 of the Government Code.

B. City Council. A proposed development agreement shall be executed by the applicant before it is placed before the City Council for consideration at a public hearing. The City Council shall hold a duly noticed public hearing prior to adoption of any development agreement. Notice of the public hearing to consider adoption of a development agreement shall be given in accordance with the requirements of Section 18.27.060, Public notice. The City Council public hearing may, but need not, be held concurrently with the public hearing(s) on the project. (Ord. 1438 § 4 (Exh. A (part)), 2011)

#### **18.37.060 Findings and decision.**

A. Findings. The City Council shall not approve a proposed development agreement unless it finds that its provisions are consistent with the General Plan and any applicable specific plan. This requirement may be satisfied by a finding that the provisions of a proposed development agreement are consistent with proposed General Plan or specific plan provisions to be adopted concurrently with the approval of the proposed development agreement.

B. Decision. After the City Council completes the public hearing, the City Council shall approve, modify, or disapprove the development agreement. Approval of a development agreement shall be by ordinance. (Ord. 1438 § 4 (Exh. A (part)), 2011)

#### **18.37.070 Execution and recordation of development agreement.**

Within ten days after the ordinance approving the development agreement takes effect, the Director shall execute the development agreement on behalf of the City, and the City Clerk shall record the development agreement with the County Recorder. (Ord. 1438 § 4 (Exh. A (part)), 2011)

#### **18.37.080 Annual review.**

The applicant shall be required to demonstrate compliance with the provisions of the development agreement at least once a year at which time the Director shall review each approved development agreement.

A. Finding of Compliance. If the Director, on the basis of substantial evidence, finds compliance by the applicant with the provisions of the development agreement, the Director shall issue a finding of compliance, which shall be in recordable form

and may be recorded with the County Recorder after conclusion of the review.

B. Finding of Noncompliance. If the Director finds the applicant has not complied with the provisions of the development agreement, the Director may issue a finding of noncompliance which may be recorded by the City with the County Recorder after it becomes final. The Director shall specify in writing to the applicant the respects in which applicant has failed to comply, and shall set forth terms of compliance and specify a reasonable time for the applicant to meet the terms of compliance. If applicant does not comply with any terms of compliance within the prescribed time limits, the development agreement shall be subject to termination or modification pursuant to this chapter.

C. Appeal of Determination. Within seven days after issuance of a finding of compliance or a finding of noncompliance, any interested person may file a written appeal of the finding with the City Council. The appellant shall pay fees and charges for the filing and processing of the appeal in amounts established by resolution of the City Council. The appellant shall specify the reasons for the appeal. The issuance of a finding of compliance or finding of noncompliance by the Director and the expiration of the appeal period without appeal, or the confirmation by the City Council of the issuance of the finding on such appeal, shall conclude the review for the applicable period and such determination shall be final. (Ord. 1438 § 4 (Exh. A (part)), 2011)

#### **18.37.090 Amendment or cancellation.**

A. After Finding of Noncompliance. If a finding of noncompliance does not include terms of compliance, or if applicant does not comply with the terms of compliance within the prescribed time limits, the Director may refer the development agreement to the City Council for termination or modification. The City Council shall conduct a public hearing. After the public hearing, the City Council may terminate the development agreement, modify the finding of noncompliance, or rescind the finding of noncompliance, and issue a finding of compliance.

B. Mutual Agreement. Any development may be canceled or amended by mutual consent of the parties following compliance with the procedures specified in this section. A development agreement may also specify procedures for administrative approval of minor amendments by mutual consent of the applicant and Director.

C. Recordation. If the parties to the agreement or their successors in interest amend or cancel the development agreement, or if the City terminates or modifies the development agreement for failure of the applicant to fully comply with the provisions of the development agreement, the City Clerk shall record notice of such action with the County Recorder.

D. Rights of the Parties after Cancellation or Termination. In the event that a development agreement is cancelled or terminated, all rights of the applicant, property owner or successors in interest under the development agreement shall be terminated. If a development agreement is terminated following a finding of noncompliance, the City may, in its sole discretion, determine to return any and all benefits, including reservations or dedications of land, and payments of fees, received by the City. (Ord. 1438 § 4 (Exh. A (part)), 2011)

#### **18.37.100 Effect of approved agreement.**

A. Existing Rules and Regulations. Unless otherwise specified in the development agreement, the City's rules, regulations and official policies governing permitted uses of the property, density and design, and improvement standards and specifications applicable to development of the property shall be those City rules, regulations and official policies in force on the effective date of the development agreement. The applicant shall not be exempt from otherwise applicable City ordinances or regulations pertaining to persons contracting with the City.

B. Future Rules and Regulations. A development agreement shall not prevent the City, in subsequent actions applicable to the property, from applying new rules, regulations and policies that do not conflict with those rules, regulations and policies applicable to the property as set forth in the development agreement. A development agreement shall not prevent the City from denying or conditionally approving any subsequent land use permit or authorization for the project on the basis of such existing or new rules, regulations, and policies. Unless otherwise specified in the development agreement, a development agreement shall not exempt the applicant from obtaining future discretionary land use approvals.

C. State and Federal Rules and Regulations. In the event that any regulation or law of the State of California or the United States, enacted or interpreted after a development agreement has been entered into prevents or precludes compliance with one or more provisions of the development agreement, then the development agreement may be modified or suspended in the manner and pursuant to the procedures specified in the development agreement, as may be necessary to comply with such regulation or law. (Ord. 1438 § 4 (Exh. A (part)), 2011)

#### **18.37.110 Enforcement.**

The procedures for enforcement, amendment, modification, cancellation or termination of a development agreement specified in this section and in Government Code Section 65865.4 or any successor statute are nonexclusive. A development agreement

may be enforced, amended, modified, cancelled or terminated by any manner otherwise provided by law or by the provisions of the development agreement. (Ord. 1438 § 4 (Exh. A (part)), 2011)

## **Chapter 18.38 PREZONING AND ANNEXATION PROCEDURE**

Sections:

**18.38.010 Purpose.**

**18.38.020 Applicability.**

**18.38.030 Prezoning procedure.**

**18.38.040 Annexation regulations.**

**18.38.050 Effective date of zoning and time limit.**

**18.38.010 Purpose.**

The purpose of this chapter is to establish a procedure for rezoning and criteria for annexation of adjoining unincorporated territory, specifically:

- A. Protect public health and safety by establishing standards for annexation of residential, commercial/industrial or lands of other uses into the City;
- B. Preserve, protect and enhance the character of residential neighborhoods;
- C. To remedy the public health and safety impacts of failed on-site solid waste disposal systems;
- D. To strengthen the City's economic resources; and
- E. To manage the fiscal impacts of annexation. (Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.38.020 Applicability.**

Unincorporated territory within the Local Agency Formation Commission (LAFCo) adopted sphere of influence of San Carlos or areas otherwise capable of annexing into the City of San Carlos which may be approved for annexation by LAFCo may be rezoned for the purpose of determining the zoning that will apply to such property in the event of subsequent annexation. (Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.38.030 Prezoning procedure.**

A. Parcels proposed for annexation to the City shall be rezoned consistent with the following unless an application for a different rezoning is initiated and processed according to the procedures established under Chapter 18.35, Amendments to Zoning Ordinance and Map.

1. Undeveloped Residential Parcels.
    - a. Development Potential of Five or More Lots. Parcels with development potential of five or more lots shall be rezoned Planned Development with minimum RS-3 development standards prior to approval of a tentative subdivision map.
    - b. Development Potential of Less than Five Lots. Parcels with development potential of less than five lots shall be rezoned RS-3.
  2. Developed Residential Parcels and Nonresidential Parcels. Developed residential parcels and parcels with development potential for nonresidential use shall be rezoned consistent with surrounding and/or like zoning district classifications which represent uses intended for the property.
- B. Rezoning shall remain the same for two years after annexation. (Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.38.040 Annexation regulations.**

Annexation shall not be approved unless the proposed annexation meets the following regulations:

- A. General Regulations.

1. General Plan Consistency. The proposed annexation and parcel configuration shall be consistent with the General Plan.
  2. Location. The parcels proposed for annexation shall be contiguous to parcels located in the City and contiguous to or provisions have been made to become contiguous to City streets or to improved private streets where the maintenance of the private street is provided by an owners' association or other acceptable method as determined satisfactory to the Director of Public Works.
  3. Impact Analysis. An environmental analysis under the provisions of the California Environmental Quality Act and a fiscal impact analysis which evaluates recurring revenues and service costs that may be incurred by the City as a result of annexation shall be conducted.
  4. Public Services and Facilities.
    - a. Public services and facilities meeting City standards shall be available to the lands proposed for annexation. Private streets and facilities satisfactory to the Public Works Director with adequate provision for their maintenance may be acceptable in lieu of public streets and facilities.
    - b. All streets, sewage and drainage systems and police and fire protection shall meet City standards. Public services and utilities shall be provided to the satisfaction of the City Engineer:
      - i. Improvements shall be constructed and accepted prior to issuance of building permits or sewer connections.
      - ii. Streets shall meet City street standards from the terminus of City streets currently meeting City standards to and throughout the property. Where possible and appropriate and subject to environmental, health and safety considerations, rural road standards and other applicable guidelines pursuant to Chapter 17.16 shall apply.
      - iii. Street lights shall not be required to be installed where street lights do not currently exist unless requested and paid for by petitioners.
    - c. The City taxpayer shall not be burdened with paying for additional services for newly annexed lands as demonstrated in the fiscal impact analysis.
    - d. Sewer service connection shall be made pursuant to Title 13, Public Services.
  5. Creek Protection. All lands proposed for annexation shall comply with Chapter 18.14, Stream Development and Maintenance Overlay.
- B. Undeveloped Lots. Annexation of lots which do not contain a primary structure shall comply with the following standards:
1. Lots shall meet the minimum lot size and density standards of this title and Title 17.
  2. Sites with development potential of five or more lots shall cluster single-family detached homes to the degree feasible. In such cases, the density may not exceed the density permitted by the lot size standards of this title and Title 17.
- C. Developed Lots. Annexation of lots which contain a primary structure shall comply with the following standards:
1. The lots shall meet the minimum lot size and density standards of this title and Title 17. Single developed properties that meet all annexation policies, with the exception of minimum lot size requirements, may be considered for annexation; provided, that further subdivision of the land is prohibited through a recorded deed restriction acceptable to the City Attorney.
  2. The lots shall be connected to the City's sanitary sewer system or can be connected to the City's sewer to the satisfaction of the City Engineer pursuant to Title 13, Public Services.
  3. The lots with existing properly functioning septic tank-drain field systems shall not be required to connect to a newly installed sewer line until one of the following events occurs and at that time shall be required to connect:
    - a. Upon sale of the property that triggers an assessment of the County Tax Assessor; or
    - b. Upon determination by the San Mateo County Environmental Health Services Division that the existing septic system cannot function properly or cannot be expanded to accommodate the use; and

- c. Failed septic systems shall not be replaced with another septic system. (Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.38.050 Effective date of zoning and time limit.**

The zoning accomplished by rezoning of the property shall become effective at the time that annexation to the City becomes effective. If the subject area has not been annexed to the City within five years of the date of City Council approval, the rezoning approval is subject to reconsideration by the Planning Commission and the Council. (Ord. 1438 § 4 (Exh. A (part)), 2011)

## **Chapter 18.39 ENFORCEMENT AND ABATEMENT PROCEDURES**

Sections:

**18.39.010 Purpose.**

**18.39.020 Enforcement.**

**18.39.030 Revocation.**

**18.39.040 Nuisance defined.**

**18.39.050 Penalty for violation.**

**18.39.060 Remedies.**

**18.39.070 Nuisance abatement.**

**18.39.010 Purpose.**

This chapter establishes the responsibilities of various departments, officials and public employees of the City to enforce the requirements of this title and establishes uniform procedures the City will use to identify, abate, remove, and enjoin uses, buildings, or structures that are deemed to be in violation of this title. (Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.39.020 Enforcement.**

All departments, officials, and public employees of the City vested with the duty or authority to issue permits or licenses shall conform to the provisions of this title, and shall issue no permit or license for uses, buildings or purposes in conflict with the provisions of this title, and any such permit or license issued in conflict with the provisions of this title shall be null and void. It shall be the duty of the Building Inspector of the City to enforce the provisions of this title pertaining to the erection, construction, reconstruction, moving, conversion, alteration, or addition to or of any building or structure. (Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.39.030 Revocation.**

Any permit granted under the Zoning Ordinance may be revoked in accordance with the provisions in Section 18.27.140, Revocation of permits, if any of the conditions or terms of such permit are violated or if any law or ordinance is violated in connection therewith. Notwithstanding this provision, no lawful residential use can lapse regardless of the length of time of the vacancy. (Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.39.040 Nuisance defined.**

A. Any building, structure, or planting set up, erected, constructed, altered, enlarged, converted, moved, or maintained contrary to the provisions of this title, any use of any land, building, or premises established, conducted, operated, or maintained contrary to the provisions of this title, and failure to comply with any of the conditions of a permit granted under this title is declared to be unlawful and a public nuisance.

B. Any use, event, structure or building, whether nonconforming or otherwise, which meets any of the following criteria shall be deemed a public nuisance subject to abatement as set forth herein: disturbances of the peace, illegal drug activity including sales or possession thereof; public drunkenness, drinking in public, harassment of passers-by, gambling, prostitution, public vandalism, excessive littering, excessive noise (particularly between the hours of eleven p.m. and seven a.m.), noxious smells or fumes, curfew violations, lewd conduct or police detention, citations or arrests or any other activity declared by the City to be a public nuisance; violation of any provision of this chapter or any other City, State or Federal regulation, ordinance or statute. (Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.39.050 Penalty for violation.**

Any person, firm, or corporation, whether as principal, agent, employee or otherwise, violating a provision of this title or failing to comply with a mandatory requirement of this title shall be guilty of a misdemeanor but may be cited or charged, at the

election of the enforcing officer or City Attorney, as an infraction. Upon conviction, such person shall be punished as set forth in Chapter 1.20, Penalties. A person, firm, or corporation shall be deemed guilty of a separate offense for each and every day during any portion of which any violation of this title is committed, continued or permitted by such person, firm or corporation, and shall be punished accordingly. (Ord. 1438 § 4 (Exh. A (part)), 2011)

#### **18.39.060 Remedies.**

The remedies provided for herein shall be cumulative and not exclusive. Upon a finding of nuisance pursuant to this chapter, and after giving the property owner an opportunity to cure the nuisance and determining that the nuisance still exists, the Planning Commission or City Council may impose any remedy available at law or in equity, which shall include, but is not limited to, any of the following or combination thereof:

- A. Ordering the cessation of the use in whole or in part;
- B. Imposing reasonable conditions upon any continued operation of the use, including those uses that constitute existing nonconforming uses;
- C. Requiring continued compliance with any conditions so imposed;
- D. Requiring the user to guarantee that such conditions shall in all respects be complied with; or
- E. Imposing additional conditions or ordering the cessation of the use in whole or in part upon a failure of the user to comply with any conditions so imposed. (Ord. 1438 § 4 (Exh. A (part)), 2011)

#### **18.39.070 Nuisance abatement.**

Notices of violation shall be provided and recorded and nuisances abated, according to the procedures of Chapter 1.20, Penalties. (Ord. 1438 § 4 (Exh. A (part)), 2011)

### **Chapter 18.40 USE CLASSIFICATIONS Revised 1/24**

Sections:

**18.40.010 Purpose and applicability.** Revised 1/24

**18.40.020 Residential use classifications.** Revised 1/24

**18.40.030 Public and semi-public use classifications.**

**18.40.040 Commercial use classifications.**

**18.40.050 Industrial use classifications.**

**18.40.060 Transportation, communication, and utilities use classifications.**

#### **18.40.010 Purpose and applicability. Revised 1/24**

Use classifications describe one (1) or more uses of land having similar characteristics but do not list every use or activity that may appropriately be within the classification. The Planning and Transportation Commission, upon request from the Director, shall determine whether a specific use shall be deemed to be within one (1) or more use classifications or not within any classification in this chapter. The Commission may determine that a specific use shall not be deemed to be within a classification, whether or not named within the classification, if its characteristics are substantially incompatible with those typical of uses named within the classification. (Ord. 1603 § 3 (Exh. A), 2023; Ord. 1438 § 4 (Exh. A (part)), 2011)

#### **18.40.020 Residential use classifications. Revised 1/24**

A. Residential Housing Types.

1. Single-Unit Dwelling. One (1) dwelling unit located on a single lot, within which all rooms are internally accessible and that is not attached to any other dwelling unit. This classification includes individual manufactured housing units installed on a foundation system pursuant to Section 18551 of the California Health and Safety Code.

2. Small Lot Single-Unit Subdivision Development. Detached single-unit dwellings located on lots less than six thousand (6,000) square feet in area.

3. Junior Accessory Dwelling Unit. A unit that is no more than five hundred (500) square feet in size and contained entirely within a single-family dwelling unit (must contain a separate, external entrance). A junior accessory dwelling unit

may include separate sanitation facilities (bathroom containing, at minimum, a sink, toilet, and shower) or may share sanitation facilities with the single-family dwelling. An efficiency kitchen is required, which must include a sink and a built-in cooking facility with appliances (e.g., microwave, toaster oven, hot plate), as well as a food preparation counter and storage cabinets.

4. Accessory Dwelling Unit. An attached or detached residential dwelling unit that provides complete independent living facilities for one (1) or more persons. It shall include a separate external entrance and permanent provisions for living, sleeping, eating, cooking, and sanitation (at minimum, a sink, toilet, and shower) on the same parcel as the single-family or multifamily dwelling. At a minimum, the kitchen shall contain a sink, standard refrigerator, and either a built-in cooktop or range, as well as a food preparation counter and storage cabinets.

5. Duplex. A single building on a lot that contains two (2) dwelling units or two (2) single-unit dwellings on a single lot. This use is distinguished from a second dwelling unit, which is an accessory residential unit as defined by State law and this title.

6. Townhouse Development. A group of two (2) or more attached units where each unit has its own front access and individual garage and no unit is located over another unit. This development type includes fee simple projects where each unit is separated by one (1) or more common and fire-resistant walls and owners have fee simple title to the property.

7. Multi-Unit Residential. Three (3) or more dwelling units on a site or lot. Types of multiple-unit dwellings include townhouses, garden apartments, senior housing developments, and multi-story apartment buildings. This use includes multi-unit development in which individual units are occupied exclusively by one (1) or more persons sixty-two (62) years of age or older.

8. Urban Infill Units. One (1) dwelling unit located on a single lot with another single-unit dwelling pursuant to California Senate Bill 9, wherein all rooms are internally accessible. This classification includes individual manufactured housing units installed on a foundation system pursuant to Section 18551 of the California Health and Safety Code.

B. Elderly and Long-Term Care. Establishments that provide twenty-four (24) hour medical, convalescent or chronic care to individuals who, by reason of advanced age, chronic illness or infirmity, are unable to care for themselves, and are licensed as a skilled nursing facility by the State of California, including but not limited to rest homes and convalescent hospitals, but not residential care, hospitals, or clinics.

C. Family Child Care. A child care facility licensed by the State of California that is located in a single-unit residence or other dwelling unit where resident of the dwelling provides care, protection and supervision of children in the resident's home for periods less than twenty-four (24) hours per day for children under the age of eighteen (18). Family child care, regardless of size, can only be subject to State regulations.

1. Small. A home that provides family child care for up to six (6) children, or for up to eight (8) children if the criteria in Section 102416.5(b) of the Family Child Care Home Licensing Requirements under Title 22 are met. This includes children under the age of ten (10) who live in the licensee's home.

2. Large. A home that provides family child care for up to twelve (12) children, or for up to fourteen (14) children, if the criteria in Section 102416.5(c) of the Family Child Care Home Licensing Requirements under Title 22 are met. This includes children under the age of ten (10) who live in the licensee's home and the assistance provider's children under the age of ten (10).

D. Group Residential. Shared living quarters without separate kitchen or bathroom facilities for each room or unit, offered for rent for permanent or semi-transient residents on a weekly or longer basis. This classification includes rooming and boarding houses, dormitories and other types of organizational housing, private residential clubs, and extended stay hotels intended for long-term occupancy (thirty days or more) but excludes hotels and motels, and residential care facilities.

E. Residential Care Facilities. Facilities that are licensed by the State of California to provide permanent living accommodations and twenty-four-hour primarily nonmedical care and supervision for persons in need of personal services, supervision, protection, or assistance for sustaining the activities of daily living. Living accommodations are shared living quarters with or without separate kitchen or bathroom facilities for each room or unit. This classification includes facilities that are operated for profit as well as those operated by public or not-for-profit institutions, including hospices, nursing homes, convalescent facilities, and group homes for minors, persons with disabilities, and people in recovery from alcohol or drug addictions. This use classification excludes transitional housing and social service facilities.

1. Residential Care, General. A facility providing care for more than six persons.
  2. Residential Care, Limited. A facility providing care for six or fewer persons.
  3. Residential Care, Senior. A housing arrangement chosen voluntarily by the resident, the resident's guardian, conservator or other responsible person; where residents are sixty years of age or older and where varying levels of care and supervision are provided as agreed to at time of admission or as determined necessary at subsequent times of reappraisal. This classification includes continuing care retirement communities and life care communities licensed for residential care by the State of California.
- F. Single Room Occupancy. A residential facility where living accommodations are individual secure rooms, with or without separate kitchen or bathroom facilities for each room, are rented to one- or two-person households for a weekly or monthly period of time. This use classification is distinct from a hotel or motel, which is a commercial use.
- G. Supportive Housing. Dwelling units with no limit on length of stay, that are occupied by the target population as defined in Section 53260(d) of the California Health and Safety Code, and that are 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, where possible, work in the community.
- H. Transitional Housing. Dwelling units 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. (Ord. 1604 § 4 (Exh. B), 2023; Ord. 1603 § 3 (Exh. A), 2023; Ord. 1568 § 1 (Exh. A), 2021; Ord. 1566 (Exh. B (part)), 2020; Ord. 1480 (Exh. D (part)), 2015; Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.40.030 Public and semi-public use classifications.**

- A. Cemetery. Establishments primarily engaged in operating sites or structures reserved for the interment of human or animal remains, including mausoleums, burial places, and memorial gardens.
- B. Colleges and Trade Schools, Public or Private. Public, nonprofit, or private institutions of higher education providing curricula of a general, religious or professional nature, typically granting recognized degrees, including conference centers and academic retreats associated with such institutions. This classification includes junior colleges, business and computer schools, management training, technical and trade schools, but excludes personal instructional services such as music lessons.
- C. Community Assembly. A facility for public or private meetings including community centers, banquet centers, religious assembly facilities, civic and private auditoriums, union halls, meeting halls for clubs and other membership organizations. This classification includes functionally related facilities for the use of members and attendees such as kitchens, multi-purpose rooms, and storage. It does not include gymnasiums or other sports facilities, convention centers, or facilities, such as day care centers and schools that are separately classified and regulated.
- D. Community Garden. Use of land for and limited to the cultivation of herbs, fruits, flowers, or vegetables, including the cultivation and tillage of soil and the production, cultivation, growing, and harvesting of any agricultural, floricultural, or horticultural commodity.
- E. Cultural Institutions. Public or nonprofit institutions engaged primarily in the display or preservation of objects of interest in the arts or sciences that are open to the public on a regular basis. This classification includes performing arts centers for theater, music, dance, and events; buildings of an educational, charitable or philanthropic nature; libraries; museums; historical sites; aquariums; art galleries; and zoos and botanical gardens.
- F. Day Care Centers. Establishments providing nonmedical care for persons on a less than twenty-four-hour basis other than family day care. This classification includes nursery schools, preschools, and day care facilities for children or adults, and any other day care facility licensed by the State of California.
- G. Emergency Shelter. A temporary, short-term residence providing housing with minimal supportive services for homeless families or individual persons where occupancy is limited to six months or less, as defined in Section 50801 of the California Health and Safety Code. Medical assistance, counseling, and meals may be provided.
- H. Government Offices. Administrative, clerical, or public contact offices of a government agency, including postal facilities and courts, together with incidental storage and maintenance of vehicles. This classification excludes corporation yards,

equipment service centers, and similar facilities that primarily provide maintenance and repair services and storage facilities for vehicles and equipment (see Utilities, Major).

I. Hospitals and Clinics. State-licensed facilities providing medical, surgical, psychiatric, or emergency medical services to sick or injured persons. This classification includes facilities for inpatient or outpatient treatment, including substance-abuse programs as well as training, research, and administrative services for patients and employees. This classification excludes veterinaries and animal hospitals (see Animal Care, Sales, and Services).

1. Hospital. A facility providing medical, psychiatric, or surgical services for sick or injured persons primarily on an in-patient basis, and including ancillary facilities for outpatient and emergency treatment, diagnostic services, training, research, administration, and services to patients, employees, or visitors.
2. Clinic. A facility providing medical, psychiatric, or surgical service for sick or injured persons exclusively on an out-patient basis including emergency treatment, diagnostic services, administration, and related services to patients who are not lodged overnight. Services may be available without a prior appointment. This classification includes licensed facilities offering substance abuse treatment, blood banks and plasma centers, and emergency medical services offered exclusively on an out-patient basis. This classification does not include private medical and dental offices that typically require appointments and are usually smaller scale.

J. Instructional Services. Establishments that offer specialized programs in personal growth and development such as music, martial arts, vocal, fitness and dancing instruction.

K. Park and Recreation Facilities, Public. Parks, playgrounds, recreation facilities, trails, wildlife preserves, and related open spaces, all of which are noncommercial. This classification also includes playing fields, courts, gymnasiums, swimming pools, picnic facilities, tennis courts, and golf courses, botanical gardens, as well as related food concessions or community centers within the facilities.

L. Public Safety Facilities. Facilities providing public safety and emergency services, including police and fire protection and emergency medical services, with incidental storage, training and maintenance facilities.

M. Schools, Public or Private. Facilities for primary or secondary education, including public schools, charter schools, and private and parochial schools having curricula comparable to that required in the public schools of the State of California.

N. Social Service Facilities. Any noncommercial facility, such as homeless shelters, domestic violence shelters and facilities providing social services such as job referral, housing placement and which may also provide meals, showers, clothing, groceries, and/or laundry facilities, typically for less than thirty days. Specialized programs and services related to the needs of the residents may also be provided. (Ord. 1438 § 4 (Exh. A (part)), 2011)

#### **18.40.040 Commercial use classifications.**

A. Adult-Oriented Business. An establishment of concern that, as a regular and substantial course of conduct, offers, sells or distributes adult-oriented merchandise, or that offers to its patrons materials, products, merchandise, services, entertainment or performances that have sexual arousal, sexual gratification, and/or sexual stimulation as their dominant theme, or are characterized by an emphasis on specified sexual activities or specified anatomical areas and are not customarily open to the general public because they exclude minors by virtue of their age. This classification does not include any establishment offering professional services conducted, operated, or supervised by medical practitioners, physical therapists, nurses, chiropractors, psychologists, social workers, marriage and family counselors, osteopaths, and persons holding licenses or certificates under applicable State law or accreditation from recognized programs when performing functions pursuant to the respective license or certificate.

B. Animal Care, Sales and Services. Retail sales and services related to the boarding, grooming, and care of household pets including:

1. Grooming and Pet Stores. Retail sales of animals and/or services, including grooming, for animals on a commercial basis. Grooming or selling of dogs, cats, and similar small animals. Typical uses include dog bathing and clipping salons, pet grooming shops, and pet stores and shops. This classification excludes dog walking and similar pet care services not carried out at a fixed location, and excludes pet supply stores that do not sell animals or provide on-site animal services.
2. Kennels. A commercial, nonprofit, or governmental facility for keeping, boarding, training, breeding or maintaining four or more dogs, cats, or other household pets not owned by the kennel owner or operator. Typical uses include pet clinics,

pet day care, animal hospitals for small animals, and animal shelters, but exclude pet shops and animal hospitals that provide twenty-four-hour accommodation of animals receiving medical or grooming services.

3. Veterinary Services. Veterinary services for small animals. This classification allows twenty-four-hour accommodation of animals receiving medical services but does not include kennels.

C. Artist's Studio. Work space for an artist or artisan including individuals practicing one of the fine arts or performing arts, or skilled in an applied art or craft. This use is distinguished by incidental retail sales of items produced on the premises and does not include joint living and working units.

D. Automobile/Vehicle Sales and Services. Retail or wholesale businesses that sell, rent, and/or repair automobiles, boats, recreational vehicles, trucks, vans, trailers, and motorcycles, including the following:

1. Automobile Rentals. Rental of automobiles. Typical uses include car rental agencies.

2. Automobile/Vehicle Sales and Leasing. Sale or lease, retail or wholesale, of automobiles, light trucks, motorcycles, motor homes, and trailers, together with associated repair services and parts sales, but excluding body repair and painting. Typical uses include automobile dealers and recreational vehicle sales agencies. This classification does not include automobile brokerage and other establishments which solely provide services of arranging, negotiating, assisting, or effectuating the purchase of an automobile for others.

3. Automobile/Vehicle Repair, Major. Repair of automobiles, trucks, motorcycles, motor homes, boats and recreational vehicles, including the incidental sale, installation, and servicing of related equipment and parts, generally on an overnight basis. This classification includes auto repair shops, body and fender shops, transmission shops, wheel and brake shops, auto glass services, vehicle painting and tire sales and installation, but excludes vehicle dismantling or salvaging and tire retreading or recapping.

4. Automobile/Vehicle Service and Repair, Minor. The service and repair of automobiles, light-duty trucks, boats, and motorcycles, including the incidental sale, installation, and servicing of related equipment and parts. This classification includes the replacement of small automotive parts and liquids as an accessory use to a gasoline sales station or automotive accessories and supply store, and quick-service oil, tune-up and brake and muffler shops where repairs are made or service provided in enclosed bays and no vehicles are stored overnight. This classification excludes disassembly, removal or replacement of major components such as engines, drive trains, transmissions or axles; automotive body and fender work, vehicle painting or other operations that generate excessive noise, objectionable odors or hazardous materials, and towing services. It also excludes repair of heavy trucks, limousines or construction vehicles.

5. Automobile/Vehicle Washing. Washing, waxing, or cleaning of automobiles or similar light vehicles, including self-serve washing facilities.

6. Large Vehicle and Equipment Sales, Service and Rental. Sales, servicing, rental, fueling, and washing of large trucks, trailers, tractors, and other equipment used for construction, moving, agricultural, or landscape gardening activities. Includes large vehicle operation training facilities. Sales of new or used automobiles or trucks are excluded from this classification.

7. Service Station. Establishments primarily engaged in retailing automotive fuels or retailing these fuels in combination with activities, such as providing minor automobile/vehicle repair services; selling automotive oils, replacement parts, and accessories; and/or providing incidental food and retail services.

8. Towing and Impound. Establishments primarily engaged in towing light or heavy motor vehicles, both local and long distance. These establishments may provide incidental services, such as vehicle storage and emergency road repair services (for automobile dismantling, see Salvage and Wrecking).

E. Banks and Financial Institutions. Financial institutions providing retail banking services. This classification includes only those institutions serving walk-in customers or clients, including banks, savings and loan institutions, check-cashing services, and credit unions.

F. Business Services. Establishments providing goods and services to other businesses on a fee or contract basis, including printing and copying, blueprint services, advertising and mailing, equipment rental and leasing, office security, custodial services, photo finishing, model building, taxi or delivery services with two or fewer fleet vehicles on site.

G. Commercial Entertainment and Recreation. Provision of participant or spectator entertainment to the general public.

1. Cinema/Theaters. Facilities for indoor display of films, motion pictures, or dramatic, musical, or live performances. This classification may include incidental food and beverage services to patrons.
2. Large-Scale. This classification includes large outdoor facilities such as amusement and theme parks, sports stadiums and arenas, racetracks, amphitheaters, drive-in theaters, driving ranges, golf courses, and facilities with more than five thousand square feet in building area, including fitness centers, gymnasiums, handball, racquetball, or large tennis club facilities; ice or roller skating rinks; swimming or wave pools; miniature golf courses; bowling alleys; archery or indoor shooting ranges (outdoor ranges are prohibited); riding stables; etc. This classification may include restaurants, snack bars, and other incidental food and beverage services to patrons.
3. Small-Scale. This classification includes small, generally indoor facilities that occupy less than five thousand square feet of building area, such as billiard parlors, card rooms, health clubs, dance halls, small tennis club facilities, poolrooms, and amusement arcades. This classification may include restaurants, snack bars, and other incidental food and beverage services to patrons.

H. Eating and Drinking Establishments. Businesses primarily engaged in serving prepared food and/or beverages for consumption on or off the premises.

1. Bars/Night Clubs/Lounges. Businesses serving beverages for consumption on the premises as a primary use and including on-sale service of alcohol including beer, wine, and mixed drinks.
2. Full Service. Restaurants providing food and beverage services to patrons who order and are served while seated and pay after eating. Takeout service may be provided.
3. Convenience. Establishments where food and beverages may be consumed on the premises, taken out, or delivered, but where no table service is provided. This classification includes cafes, cafeterias, coffee shops, fast-food restaurants, carryout sandwich shops, limited service pizza parlors and delivery shops, self-service restaurants, snack bars and takeout restaurants. This classification also includes catering businesses or bakeries that have a storefront retail component.

I. Food Preparation. Businesses preparing and/or packaging food for off-site consumption, excluding those of an industrial character in terms of processes employed, waste produced, water used, and traffic generation. Typical uses include catering kitchens, bakeries with on-site retail sales, and small-scale specialty food production.

J. Funeral Parlors and Interment Services. An establishment primarily engaged in the provision of services involving the care, preparation, or disposition of the human remains and conducting memorial services. Typical uses include a crematory, columbarium, mausoleum, or mortuary.

K. Lodging. An establishment providing overnight accommodations to transient patrons for payment for periods of less than thirty consecutive calendar days.

1. Bed and Breakfast. A residential structure that is in residential use with one or more bedrooms rented for overnight lodging and where meals may be provided.
2. Hotels and Motels. An establishment providing overnight lodging to transient patrons. These establishments may provide additional services, such as conference and meeting rooms, restaurants, bars, or recreation facilities available to guests or to the general public. This use classification includes motor lodges, motels, extended-stay hotels, and tourist courts, but does not include rooming houses, boarding houses, or private residential clubs, or bed and breakfast establishments within a single-unit residence, which are separately defined and regulated.

L. Maintenance and Repair Services. Establishments engaged in the maintenance or repair of office machines, household appliances, furniture, and similar items. This classification excludes maintenance and repair of vehicles or boats (see Automotive/Vehicle Sales and Services) and personal apparel (see Personal Services).

M. Nurseries and Garden Centers. Establishments primarily engaged in retailing nursery and garden products, such as trees, shrubs, plants, seeds, bulbs, and sod that are predominantly grown elsewhere. These establishments may sell a limited amount of a product they grow themselves. Fertilizer and soil products are stored and sold in package form only. Cannabis nurseries may only produce clones, immature plants, seeds, and other agricultural products used specifically for the planting, propagation, and cultivation of cannabis. This classification includes wholesale and retail nurseries offering plants for sale.

N. Offices. Offices of firms or organizations providing professional, executive, management, administrative or design services, such as accounting, architectural, computer software design, engineering, graphic design, interior design, investment, insurance, and legal offices, excluding banks and savings and loan associations (see Banks and Financial Institutions). This classification also includes offices where medical and dental services are provided by physicians, dentists, chiropractors, acupuncturists, optometrists, and similar medical professionals, including medical/dental laboratories within medical office buildings but excluding clinics or independent research laboratory facilities and hospitals (see Hospitals and Clinics).

1. Business and Professional. Offices of firms or organizations providing professional, executive, management, or administrative services, such as accounting, architectural, computer software design, engineering, graphic design, interior design, legal offices and tax preparation offices.
2. Medical and Dental. Office use providing consultation, diagnosis, therapeutic, preventive, or corrective personal treatment services by doctors, dentists, medical and dental laboratories, and similar practitioners of medical and healing arts for humans licensed for such practice by the State of California. Incidental medical and/or dental research within the office is considered part of the office use, where it supports the on-site patient services.
3. Walk-In Clientele. An office business providing direct services to patrons or clients that may or may not require appointments. This use classification includes employment agencies, insurance agent offices, real estate offices, travel agencies, utility company offices and offices for elected officials. It does not include banks or check-cashing facilities that are separately classified and regulated.

O. Parking, Public or Private. Surface lots and structures for use of occupants, employees, or patrons on the subject site or offering parking to the public for a fee when such use is not incidental to another on-site activity.

P. Personal Services.

1. General Personal Services. Provision of recurrently needed services of a personal nature. This classification includes barber shops and beauty salons, seamstresses, tailors, dry cleaning agents (excluding large-scale bulk cleaning plants), shoe repair shops, self-service laundries, video rental stores, photocopying and photo finishing services, and travel agencies mainly intended for the consumer. This classification also includes massage establishments that are in full compliance with the applicable provisions of Section 18.23.170, Personal services, and in which all persons engaged in the practice of massage are certified pursuant to the California Business and Professions Code Section 4612.

2. Massage Establishments. Any business, including a sole proprietorship, which offers massage therapy in exchange for compensation, whether at a fixed place of business or at a location designated by the patron. Massage therapy includes the application of various techniques to the muscular structure and soft tissues of the human body, including, but not limited to, any method of pressure or friction against, or stroking, kneading, rubbing, tapping, compression, pounding, vibrating, rocking or stimulating of, the external surfaces of the body with the hands or with any object or appliance. Exempted from this definition are massage therapists operating in conjunction with and on the same premises as a physician, surgeon, chiropractor, osteopath, nurse or any physical therapist (State-licensed professions or vocations) who are duly State-licensed to practice their respective professions in the State of California and out-service massage therapists certified pursuant to the California Business and Professions Code Section 4612.

3. *Repealed by Ord. 1525.*

4. Tattoo or Body Modification Parlor. An establishment whose principal business activity is one or more of the following:  
(a) using ink or other substances that result in the permanent coloration of the skin through the use of needles or other instruments designed to contact or puncture the skin; or (b) creation of an opening in the body of a person for the purpose of inserting jewelry or other decoration.

Q. Retail Sales.

1. Building Materials and Services. Retail sales or rental of building supplies or equipment. This classification includes lumber yards, tool and equipment sales or rental establishments, and includes establishments devoted principally to taxable retail sales to individuals for their own use. This definition does not include construction and material yards, hardware stores less than ten thousand square feet in floor area or plant nurseries.

2. Convenience Markets. Establishments primarily engaged in the provision of frequently or recurrently needed small personal items or services for residents within a reasonable walking distance. These include various general retail sales

and personal services of an appropriate size and scale to meet the above criteria. Typical uses include neighborhood grocery stores, convenience markets, and drugstores.

3. Food and Beverage Sales. Retail sales of food and beverages for off-site preparation and consumption. Typical uses include food markets, groceries, liquor stores, and retail bakeries.

4. General Retail. The retail sale or rental of merchandise not specifically listed under another use classification. This classification includes retail establishments with twenty-five thousand square feet or less of sales area; including department stores, clothing stores, furniture stores, pet supply stores, small hardware stores (with ten thousand square feet or less of floor area), and businesses retailing the following goods: toys, hobby materials, handcrafted items, jewelry, cameras, photographic supplies and services (including portraiture and retail photo processing), medical supplies and equipment, pharmacies, electronic equipment, sporting goods, kitchen utensils, hardware, appliances, antiques, art galleries, art supplies and services, paint and wallpaper, carpeting and floor covering, office supplies, bicycles, video rental, and new automotive parts and accessories (excluding vehicle service and installation). Retail sales may be combined with other services such as office machine, computer, electronics, and similar small-item repairs.

5. Large-Format Retail. Retail establishments (over twenty-five thousand square feet of sales area) that sell merchandise and bulk goods for individual consumption, including membership warehouse clubs.

6. Price Point Retail. Retail establishment that sells merchandise with a preponderance of single pricing for all items in the store. Merchandise may be but is not limited to generic or private label products specially manufactured for such stores, products manufactured cheaply for a foreign market and imported, products purchased from another retailer or distributor as overstock, closeout, or seasonal merchandise at the end of the season, and promotional goods manufactured to coincide with an event that has since passed.

7. Second-Hand Store. A retail establishment that buys and sells used products that may include clothing, furniture and household goods, jewelry, household appliances, musical instruments, business machines and office equipment, hand tools, and similar items. This classification does not include book stores, antique stores, junk dealers, scrap/dismantling yards, sale of used vehicles, or pawn shops.

8. Cannabis Dispensary. An establishment where cannabis or cannabis products are offered, either individually or in any combination for retail sale, including an establishment that delivers cannabis or cannabis products as part of a retail sale.

9. A retail establishment selling firearms or ammunition is one that conducts a business by the selling, leasing or transferring of any firearm or ammunition, or to hold one's self out as engaged in the business of selling, leasing or otherwise transferring any firearm or ammunition, or to sell, lease or transfer firearms or ammunition in quantity, in series, or in individual transactions, or in any other manner indicative of trade. (Ord. 1540 (Exh. F), 2019: Ord. 1525 § 2(1) (Exh. A (part)), 2017; Ord. 1438 § 4 (Exh. A (part)), 2011)

#### **18.40.050 Industrial use classifications.**

- A. Construction and Material Yards. Storage of construction materials or equipment on a site other than a construction site.
- B. Custom Manufacturing. Establishments primarily engaged in on-site production of goods by hand manufacturing or artistic endeavor, which involves only the use of hand tools or small mechanical equipment and the incidental direct sale to consumers of only those goods produced on site. Typical uses include ceramic studios, candle making shops, woodworking, and custom jewelry manufacturers.
- C. Industry, General. Manufacturing of products from extracted or raw materials or recycled or secondary materials, or bulk storage and handling of such products and materials. This classification includes operations such as agriculture processing; cannabis manufacturing; biomass energy conversion; food and beverage processing; production apparel manufacturing; photographic processing plants; leather and allied product manufacturing; wood product manufacturing; paper manufacturing; chemical manufacturing; plastics and rubber products manufacturing; nonmetallic mineral product manufacturing; primary metal manufacturing; fabricated metal product manufacturing; and automotive and heavy equipment manufacturing.
- D. Industry, Limited. Establishments engaged in light industrial activities taking place primarily within enclosed buildings and producing minimal impacts on nearby properties. This classification includes manufacturing finished parts or products primarily from previously prepared materials; commercial laundries and dry cleaning plants; mobile home manufacturing; monument works; printing, engraving and publishing; computer and electronic product manufacturing; furniture and related product manufacturing; and industrial services.

E. Recycling Facility. A facility for receiving, temporarily storing, transferring and/or processing materials for recycling, reuse, or final disposal. This use classification does not include waste transfer facilities that operate as materials recovery, recycling, and solid waste transfer operations and are classified as utilities.

1. Reverse Vending Machine. An automated mechanical device that accepts, sorts and processes recyclable materials and issues a cash refund or a redeemable credit slip.
2. Recycling Collection Facility. An incidental use that serves as a neighborhood drop-off point for the temporary storage of recyclable materials but where the processing and sorting of such items is not conducted on site.
3. Recycling Processing Facility. A facility that receives, sorts, stores and/or processes recyclable materials.

F. Research and Development. A facility for scientific research and the design, development, and testing of electrical, electronic, magnetic, optical, pharmaceutical, chemical, and biotechnology components and products in advance of product manufacturing. Includes assembly of related products from parts produced off site where the manufacturing activity is secondary to the research and development activities.

G. Salvage and Wrecking. Storage and dismantling of vehicles and equipment for sale of parts, as well as their collection, storage, exchange or sale of goods including, but not limited to, any used building materials, used containers or steel drums, used tires, and similar or related articles or property.

H. Warehousing and Storage. Storage and distribution facilities without sales to the public on site or direct public access except for public storage in small individual space exclusively and directly accessible to a specific tenant.

1. Chemical, Mineral, and Explosives Storage. Storage of hazardous materials including but not limited to pressurized gas, chemicals, minerals and ores, petroleum or petroleum-based fuels, fireworks, and explosives.
2. Indoor Warehousing and Storage. Storage within an enclosed building of commercial goods prior to their distribution to wholesale and retail outlets and the storage of industrial equipment, products and materials including but not limited to automobiles, feed, and lumber. Also includes cold storage, freight moving and storage, and warehouses. As an ancillary use, includes storage in small individual spaces exclusively and directly accessible to a specific tenant. This classification excludes the storage of hazardous chemical, mineral, and explosive materials.
3. Outdoor Storage. Storage of commercial goods in open lots.

I. Wholesaling and Distribution. Indoor storage and sale of goods to other firms for resale; storage of goods for transfer to retail outlets of the same firm; or storage and sale of materials and supplies used in production or operation, including janitorial and restaurant supplies. Wholesalers are primarily engaged in business-to-business sales, but may sell to individual consumers through mail or Internet orders. They normally operate from a warehouse or office having little or no display of merchandise, and are not designed to solicit walk-in traffic. This classification does not include wholesale sale of building materials (see Building Materials and Services).

J. Cannabis Microbusiness. A business that cultivates cannabis on an area less than ten thousand square feet and acts as a licensed distributor, Level 1 manufacturer as defined by the State, and retailer, provided such licensee can demonstrate compliance with all requirements imposed by the State on licensed cultivators, distributors, Level 1 manufacturers, and retailers to the extent the licensee engages in such activities. While the State microbusiness permit may allow retail cannabis sales, retail cannabis sales are prohibited in the City. (Ord. 1525 § 2(1) (Exh. A (part)), 2017; Ord. 1480 (Exh. D (part)), 2015; Ord. 1464 § 3 (Exh. D (part)), 2013; Ord. 1438 § 4 (Exh. A (part)), 2011)

#### **18.40.060 Transportation, communication, and utilities use classifications.**

A. Airports and Heliports. Facilities for the takeoff and landing of airplanes and helicopters, including runways, helipads, aircraft storage buildings, public terminal building and parking, air freight terminal, baggage handling facility, aircraft hangar and public transportation and related facilities, including bus operations, servicing and storage. Also includes support activities such as fueling and maintenance, storage, airport operations and air traffic control, incidental retail sales, coffee shops and snack shops and airport administrative facilities, including airport offices, terminals, operations buildings, communications equipment, buildings and structures, control towers, lights, and other equipment and structures required by the United States government and/or the State for the safety of aircraft operations.

B. Communication Facilities. Facilities for the provision of broadcasting and other information relay services through the use of electronic and telephonic mechanisms.

1. Antenna and Transmission Towers. Broadcasting and other communication services accomplished through electronic or telephonic mechanisms, as well as structures and equipment cabinets designed to support one or more reception/transmission systems. Typical uses include wireless telecommunications towers and facilities, radio towers, television towers, telephone exchange/microwave relay towers, cellular telephone transmission/personal communications systems towers, and associated equipment cabinets and enclosures.

C. Facilities within Buildings. Includes radio, television, or recording studios; telephone switching centers, but excludes antennas and transmission towers.

D. Freight/Truck Terminals and Warehouses. Facilities for freight, courier, and postal services by truck or rail. This classification does not include local messenger and local delivery services (see Light Fleet-Based Services).

E. Light Fleet-Based Services. Passenger transportation services, local delivery services, medical transport, and other businesses that rely on fleets of three or more vehicles with rated capacities less than ten thousand pounds. This classification includes parking, dispatching, and offices for taxicab and limousine operations, ambulance services, nonemergency medical transport, local messenger and document delivery services, home cleaning services, and similar businesses. This classification does not include towing operations (see Towing and Impound) or taxi or delivery services with two or fewer fleet vehicles on site (see Business Services).

F. Transportation Passenger Terminals. Facilities for passenger transportation operations. Includes rail stations and bus terminals but does not include terminals serving airports or heliports.

G. Utilities, Major. Generating plants, electric substations, solid waste collection, including transfer stations and materials recovery facilities, solid waste treatment and disposal, water or wastewater treatment plants, and similar facilities of public agencies or public utilities.

H. Utilities, Minor. Facilities necessary to support established uses involving only minor structures, such as electrical distribution lines, and underground water and sewer lines.

I. Waste Transfer Facility. A facility that operates as a materials recovery, recycling and solid waste transfer operation providing solid waste recycling and transfer services for other local jurisdictions and public agencies that are not located within the City of San Carlos. The facility sorts and removes recyclable materials (including paper, metal, wood, inert materials such as soils and concrete, green waste, glass, aluminum and cardboard) through separation and sorting technologies to divert these materials from the waste stream otherwise destined for landfill. (Ord. 1480 (Exh. D (part)), 2015; Ord. 1438 § 4 (Exh. A (part)), 2011)

## **Chapter 18.41 TERMS AND DEFINITIONS Revised 6/23 Revised 8/23 Revised 1/24**

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**18.41.010 List of terms. Revised 6/23 Revised 1/24**

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(Ord. 1603 § 3 (Exh. A), 2023; Ord. 1596 § 6 (Exh. A), 2023; Ord. 1580 § 3 (Exh. B), 2022; Ord. 1540 (Exh. G (part)), 2019; Ord. 1525 § 2(1) (Exh. A (part)), 2017; Ord. 1518 § 3 (Exh. C (part)), 2017; Ord. 1464 § 3 (Exh. D (part)), 2013; Ord. 1438 § 4 (Exh. A (part)), 2011)

**18.41.020 Definitions. Revised 6/23 Revised 8/23 Revised 1/24**

"Abutting" or "adjoining" means having a common boundary, except that parcels having no common boundary other than a common corner shall not be considered abutting.

"Access" means the place or way through which pedestrians and/or vehicles shall have safe, adequate and usable ingress and egress to a property or use as required by this title.

Accessory Building. See "Building, accessory."

Accessory Structure. See "Structure, accessory."

Accessory Use. See "Use, accessory."

"Adjacent" means directly abutting, having a boundary or property line(s) in common or bordering directly, or contiguous to.

"Administrative guidelines" means staff-prepared regulations for implementation and interpretation of this chapter.

"Alley" means a public way permanently reserved primarily for secondary vehicular service access to the rear or side of properties otherwise abutting on a street.

"Alteration" means any change, addition or modification that changes the exterior architectural appearance or materials of a structure or object. "Alteration" includes changes in exterior surfaces, changes in materials, additions, remodels, demolitions,

and relocation of buildings or structures, but excludes ordinary maintenance and repairs (see also "maintenance and repair"). See "structural alterations" for modifications to any of the supporting members of a structure.

"Awning" means an architectural projection that provides weather protection, identity or decoration and is wholly supported by the building to which it is attached. An awning is typically constructed of nonrigid materials on a supporting framework which projects from and is supported by the exterior wall of a building.

"Balcony" means a platform that projects from the wall of a building thirty (30) inches or more above grade that is accessible from the building's interior, is not accessible from the ground and is not enclosed by walls on more than two (2) sides (see also "Deck").

Base District. See "Zoning district."

"Basement" means a nonhabitable space beneath the first or ground floor of a building the ceiling of which does not extend more than four (4) feet above finished grade.

"Bedroom" means any room having the potential of being a bedroom and meeting the standards of the California Building Code as a sleeping room.

"Biological agent" means any microorganism (including, but not limited to, bacteria, viruses, fungi, rickettsia or protozoa), or infectious substance, or any naturally occurring, bioengineered or synthesized component of any such microorganism or infectious substance up to and including Risk Group 3 or Biosafety Level 3 classifications as defined by the National Institute of Health (NIH) or the Centers for Disease Control and Prevention (CDC).

"Biosafety level (BSL)" means the four (4) ascending levels of containment precautions, referred to as Biosafety Levels 1 through 4, required to isolate dangerous biological agents in an enclosed laboratory facility as set forth in the most current edition of Biosafety in Microbiological and Biomedical Laboratories (BMBL) published by the U.S. Department of Health and Human Services Centers for Disease Control and Prevention (CDC) and National Institutes of Health (NIH), based on the primary risk criteria of infectivity, severity of disease, transmissibility, and the nature of the work being conducted. Each level of containment describes the microbiological practices, safety equipment, and facility safeguards for the corresponding level of risk associated with handling an agent.

"Block" means property bounded on all sides by a public right-of-way.

"Blockface" means all property between two (2) intersections that fronts upon a street or abuts a public right-of-way.

"Building" means any structure having a roof supported by columns or walls and intended for the shelter, housing or enclosure of any individual, animal, process, equipment, goods, or materials.

1. "Accessory building" means a detached subordinate building used only as incidental to the main building on the same lot.
2. "Main building" means a building in which is conducted the principal use of the lot on which it is situated. In the event a garage is attached to the main building, it shall be made structurally a part of, and have a common wall with, the main building and shall comply in all respects with the requirements of this title applicable to the main building.

"Building Code" means any ordinance of the City governing the type and method of construction of buildings, signs, and sign structures and any amendments thereto and any substitute therefor including, but not limited to, the California Building Code, other State-adopted uniform codes and the minimum building security standards ordinance.

"Building face" means the general outer surface of the structure or walls of a building. Where bay windows or pillars project beyond the walls, the outer surface of the windows or pillars shall be considered to be the face of the building.

Building Footprint. See "Footprint."

"Building frontage" means the lineal dimension, parallel to the ground, of a building abutting on a public street, or a parking lot accessory to that business even though another business may also have entitlement to that parking lot.

Building Height. See "Height."

"Building site" means a lot or parcel of land occupied or to be occupied, by a main building and accessory buildings together with such open spaces as are required by the terms of this title and having its principal frontage on a street, road, highway, or

waterway.

"Build-to line" means a line parallel to the lot line where the facade of the building is required to be located.

"California Environmental Quality Act (CEQA)" means Public Resources Code Section 21000 et seq. or any successor statute and associated guidelines (California Code of Regulations Section 15000 et seq.) that require public agencies to document and consider the environmental effects of a proposed action before a decision.

"Cannabis" means all parts of the plant Cannabis sativa Linnaeus, Cannabis indica, or Cannabis ruderalis, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. "Cannabis" also means the separated resin, whether crude or purified, obtained from cannabis. "Cannabis" does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. For the purpose of this title, "cannabis" does not mean "industrial hemp" as defined by Section 11018.5 of the California Health and Safety Code.

"Canopy" means a roofed shelter projecting over a sidewalk, driveway, entry, window, or similar area that may be wholly supported by a building or may be wholly or partially supported by columns, poles, or braces extending from the ground.

"Carport" means an accessible and usable covered space enclosed on not more than two (2) sides, designed, constructed and maintained for the parking or storage of one (1) or more motor vehicles.

"City" means the City of San Carlos.

"City Arborist" means the City-retained arborist.

"City Council" means the City Council of the City of San Carlos.

"City Engineer" means the City Engineer of the City of San Carlos.

"Commercial cannabis activity" means the cultivation, possession, manufacture, processing, storing, laboratory testing, labeling, distribution, delivery, or sale of cannabis or a cannabis product, except as set forth in Section 19319 of the California Business and Professions Code, related to qualifying patients and primary caregivers.

"Community of trees" means a group or grove of trees that are dependent upon each other for their survival and/or structural stability.

"Compatible" means that which exists without compromising the safety and health of adjacent buildings and/or uses.

"Compliance review" means ministerial review of qualifying development applications based on the objective design standards of the underlying zoning district.

"Conditionally permitted" means permitted subject to approval of a use permit.

"Construction" means construction, erection, enlargement, alteration, conversion or movement of any building, structures, or land together with any scientific surveys associated therewith.

"Construction activity" means any construction work associated with or requiring a permit for any new building, building addition, building demolition, grading, excavation or paving. This includes all necessary related activities which may or may not be shown on site plans, including but not limited to: storing/staging of materials, site access, parking, placement of temporary structures, debris disposal, additional excavation and landscaping.

"Corner build-to area" means the area of a corner lot where the facade of the building is required to be located.

"County" means the County of San Mateo.

"Deck" means a platform, either freestanding or attached to a building, that is supported by pillars or posts. See also "Balcony."

"Demolition" means the intentional destruction and removal of fifty percent (50%) or more of the enclosing exterior walls and fifty percent (50%) of the roof of any structure.

"Density, net" means the number of dwelling units per acre of land excluding street rights-of-way, public open space, land under water, and certified wetlands and floodplains. Setbacks for wetlands and other

sensitive areas, private open space, and public easements shall not be excluded in calculating net density.

"Development" means any manmade change to improved or unimproved real estate, including but not limited to the division of a parcel of land into two (2) or more parcels; the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any structure; any mining, excavation, landfill or land disturbance; and any use or extension of the use of land.

"Development agreement" means an agreement between the City and any person having a legal or equitable interest in real property for the development of such property and which complies with the applicable provisions of the Government Code for such development agreements.

"Director" means the Community Development Director of the City of San Carlos or his/her designee.

District. See "Zoning district."

"Drive-through facilities" means facilities designed to enable persons to receive a service or purchase or consume goods while remaining within a motor vehicle, typically associated with banks, eating and drinking establishments, pharmacies and other commercial uses.

"Driveway" means an accessway that provides vehicular access between a street and the parking or loading facilities located on an adjacent property.

"Dwelling unit" means any building or portion thereof which contains living facilities, including provisions for sleeping, eating, cooking, and sanitation, for not more than one (1) family. See also "Family."

"Easement" means a portion of land created by grant or agreement for specific purpose; an easement is the right, privilege or interest which one party has in the land of another.

"Effective date" means the date on which a permit or other approval becomes enforceable or otherwise takes effect, rather than the date it was signed or circulated.

"Electrical code" means any ordinance of the City regulating the alteration, repair and the installation and use of electricity or electrical fixtures.

"Emergency" means a sudden unexpected occurrence demanding immediate action to prevent or mitigate loss or damage to life, health, property or essential public services.

"Environmental impact report (EIR)" means an environmental impact report as required under the California Environmental Quality Act.

"Environmental review" means an evaluation process pursuant to CEQA to determine whether a proposed project may have a significant impact on the environment.

"Erect" means to build, construct, attach, hang, place, suspend or affix to or upon any surface. Such term shall also include the painting of wall signs.

"Facade" means the exterior wall of a building exposed to public view or that wall viewed by persons not within the building. The portion of any exterior elevation of a building extending vertically from the grade to the top of a parapet wall or eave, and horizontally across the entire width of the building elevation.

"Family" means one (1) or more persons occupying a dwelling unit and living together as a single nonprofit housekeeping unit and sharing common living, sleeping, cooking and eating facilities. Members of a family need not be related by blood but are distinguished from a group occupying a hotel, club, fraternity or sorority house.

"Feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social and technological factors.

Fence-Related Definitions. The following terms are related to Section 18.15.040, Fences and walls:

1. "Fences" means horizontal and vertical structures that are intended to separate properties, retain soil materials and provide security; or as defined by the Building Official. Fences may also be walls, hedges and screen planting.

2. "Front-most wall" means the facade of the residence (exclusive of accessory and appurtenant structures such as decks, stairwells, etc.) which is located closest to the front property line.
3. "Irregular lot" means any lot which does not conform to the definition of a corner lot or an interior lot including, but not limited to, through lots, pie and reverse pie shaped lots, flag lots, triangular lots with double street frontages, multisided lots and other lots in the opinion of the Director which are irregular.
4. "Lattice" means a patterned, crossed material (excluding chain-link fencing) that is arranged to allow at least fifty percent (50%) of light and air through the crossed material. Arrangements allowing less than fifty percent (50%) will be considered solid.
5. Lot Lines. Rear and side lot lines shall be those defined in this chapter. A property owner of a corner lot may designate which property line abutting a public right-of-way is his/her front and street side property line, for purposes of this section only. No more than one property line abutting a public right-of-way may be designated as a front property line and no more than one property line abutting a public right-of-way may be designated a street side property line.
6. "Replacement" means the replacement of any post or rail. Posts or rails cannot be paired or reinforced to avoid replacement to current code. Board repair or substitution does not constitute replacement.
7. "Sight distance triangle" means the sight distance triangular area formed by the intersecting curb lines (or edge of pavement when no curbs exist) and a line joining points on these curb lines at a distance of forty (40) feet along both lines from their intersection that defines a minimum area of unobstructed view.
8. "Statuary structures" means decorative objects such as birdbaths, fountains, wells and figures.

"Flex space" means floor area constructed so that it can be adapted for retail/restaurant use in the future, but may be used for other uses in the interim.

"Floor area" means the total horizontal enclosed area of all the floors below the roof and within the outer surface of the walls of a building or other enclosed structure unless otherwise stipulated. See also Section 18.03.080, Determining floor area.

"Floor area ratio (FAR)" means the ratio of the total floor area of all buildings on a lot or other designated building site to the lot area or building site area. See also Section 18.03.090, Determining floor area ratio.

Foot-candle. See Lighting-Related Definitions.

"Footprint" means the horizontal area, as seen in plan view, of a building or structure, measured from the outside of exterior walls and supporting columns, and excluding eaves. See also Section 18.03.100, Determining lot coverage.

"Formula business" means a use that has fifteen (15) or more other business locations in the United States and is required by contract, business model, or practice to maintain any of the following standardized characteristics: merchandise, menu, services, decor, uniforms, architecture, facade, color scheme, or signs. See also Section 18.23.260, Formula business uses.

"Freeway" means a highway in respect to which the owners of abutting lands have no right or easement of access to or from their abutting lands or in respect to which such owners have only restricted right or easement of access.

"Frontage, street" means that portion of a lot or parcel of land that borders a public street. Street frontage shall be measured along the common lot line separating said lot or parcel of land from the public street, highway, or parkway.

"Garage" means a building or portion thereof, containing accessible and usable enclosed space designed, constructed and maintained for the parking or storage of one (1) or more motor vehicles.

"General Plan" means the City of San Carlos General Plan.

"Glare" means the effect produced by a light source within the visual field that is sufficiently brighter than the level to which the eyes are adapted, such as to cause annoyance, discomfort or loss of visual performance and ability.

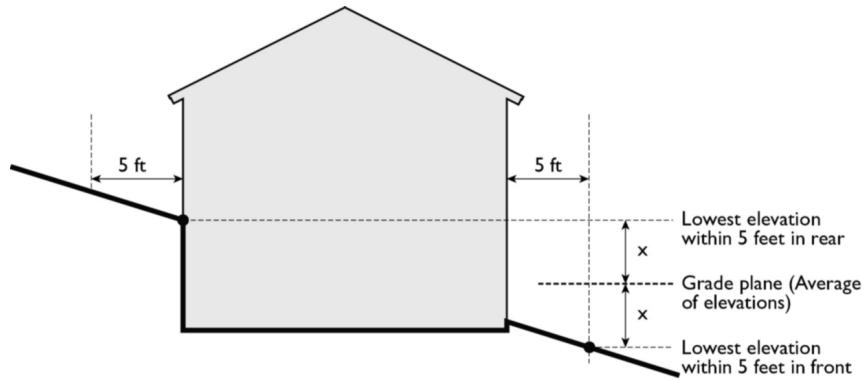
"Government Code" means the Government Code of the State of California.

"Grade" means the location of the ground surface.

1. "Adjacent grade" means the lowest elevation of ground surface within five (5) feet of the building exterior wall.

2. "Average grade" means a horizontal line approximating the ground elevation through each building on a site used for calculating the exterior volume of a building. Average grade is calculated separately for each building.
3. "Existing grade" means the elevation of the ground at any point on a lot as shown on the required survey submitted in conjunction with an application for a building permit or grading permit. Existing grade also may be referred to as "natural grade."
4. "Finished grade" means the lowest point of elevation of the finished surface of the ground, paving, or sidewalk within the area between the building and the lot line, or when the lot line is more than five (5) feet from the building, between the building and a line five (5) feet from the building.
5. "Grade plane" means a reference plane representing the average of finished ground level adjoining the building at exterior walls. Where the finished ground level slopes away from the exterior walls, the reference plane shall be established by the lowest points within the area between the building and the lot line or, where the lot line is more than five (5) feet from the building, between the building and a point five (5) feet from the building.

**FIGURE 18.41.020-A: GRADE PLANE**



"Ground floor" means the first floor of a building other than a cellar or basement that is closest to finished grade.

"Habitation" means regular and exclusive use of a space or structure for shelter and other residential purposes in a manner that is private and separate from another residence on the same lot.

"Hazardous materials" means any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

"Heat" means thermal energy of a radioactive, conductive, or convective nature.

"Height" means the vertical distance from a point on the ground below a structure to a point directly above. See also Section 18.03.050, Measuring height.

Heritage Tree. See "Tree."

"Home occupation" means a commercial use conducted on residential property by the inhabitants of the subject residence, which is incidental and secondary to the residential use of the dwelling. See Section 18.23.120, Home occupations. This definition also includes cottage food operations, as defined in Chapter 6.1 of Part 1 of Division 1 of Title 5 of the Government Code and Chapter 11.5 of Part 7 of Division 104 of the Health and Safety Code, which allows individuals to use their home kitchens to prepare, for sale, foods that are not potentially hazardous.

"Household" means one (1) or more persons living together in a single dwelling unit, with common access to, and common use of, all living and eating areas and all areas and facilities for the preparation and storage of food; who share living expenses, including rent or mortgage payments, food costs and utilities; and who maintain a single mortgage, lease, or rental agreement for all members of the household.

"Illegal use" means any use of land or building that does not have the currently required permits and was originally constructed and/or established without permits required for the use at the time it was brought into existence.

"Intensity of use" means the extent to which a particular use or the use in combination with other uses affects the natural and built environment in which it is located, the demand for services, and persons who live, work, and visit the area. Measures of intensity include but are not limited to requirements for water, gas, electricity, or public services; number of automobile trips generated by a use; parking demand; number of employees on a site; hours of operation; the amount of noise, light or glare generated; the number of persons attracted to the site, or, in eating establishments, the number of seats.

"Intersection, street" means the area common to two (2) or more intersecting streets.

"Juliet balcony" means a balcony that has no surface for standing or sitting on.

"Kitchen" means any room or space within a building intended to be used for the cooking or preparation of food.

"Landmark sites" means specific areas with a zoning designation of Landmark Commercial that have been identified as economic opportunity sites targeted for preferred uses that are regional and destination- oriented. Landmark sites were originally included in the East San Carlos Specific Plan, which has since been retired. Policies and objectives for landmark sites are included in the City's Economic Development Plan and General Plan. Preferred uses for landmark sites include large-scale office complexes and hotels, including compatible ancillary uses. Landmark sites are located in the City of San Carlos as follows:

1. Landmark Site A. Located at the southeast corner of Holly Street and Industrial Road. This site includes five (5) parcels: 501 Industrial Road (APN 046-090-410), 551 Industrial Road (APN 046-090-330), 595 Industrial Road (APN 046-090-290), 850 East San Carlos Avenue (APN 046-090-210), and 810 East San Carlos Avenue (APN 046-090-220).
2. Landmark Site B. Located at the northeast corner of Holly Street and Industrial Road. This site includes two (2) parcels: 445 Industrial Road (APN 046-051-060) and 405 Industrial Road (APN 046-051-080).

Landscaping-Related Definitions. The following terms are related to Chapter 18.18, Landscaping:

1. "Applicant" is the person seeking a permit to remove or perform pruning on a protected tree under Chapter 18.18.
2. "Automatic irrigation controller" means an automatic timing device used to remotely control valves that operate an irrigation system.
3. "Backflow prevention device" means a safety device used to prevent pollution or contamination of the water supply due to the reverse flow of water from the irrigation system.
4. "Check valve (antidrain valve)" means a valve located under a sprinkler head, or other location in the irrigation system, to hold water in the system to prevent drainage from sprinkler heads when the sprinkler is off.
5. "Drip irrigation" means any nonspray low-volume irrigation system specifically designed to apply small volumes of water slowly at or near the root zone of plants utilizing emission devices with a flow rate measured in gallons per hour.
6. "Emitter" means a drip irrigation emission device that delivers water slowly from the system to the soil.
7. "Flow rate" means the rate at which water flows through pipes, valves and emission devices, measured in gallons per minute, gallons per hour, or cubic feet per second.
8. "Hedge" means any group of shrubs planted in line or in groups so that the branches of any one plant are intermingled or form contact with the branches of any other plant in the line. Hedges are not considered trees for the purposes of this title.
9. "Homeowner-provided landscaping" means any landscaping either installed by a private individual for a single-family residence or installed by a licensed contractor hired by a homeowner. A homeowner, for purposes of this title, is a person who occupies the dwelling he or she owns. This definition excludes speculative homes, which are not owner-occupied dwellings.
10. "Hydrozone" means a portion of the landscaped area having plants with similar water needs.
11. "Landscaping" means the planting, configuration and maintenance of trees, ground cover, shrubbery and other plant material, decorative natural and structural features (walls, fences, hedges, trellises, fountains, sculptures), earth patterning and bedding materials, and other similar site improvements that serve an aesthetic or functional purpose.

- a. "Private landscaping" means any landscaping located within the boundaries of privately owned property, and includes any landscaping located within any unimproved right-of-way abutting a private property and in any park strip other than the City-maintained park strip on Laurel Street, and San Carlos Avenue (1100 and 1200 blocks only) or sidewalk abutting a private property.
  - b. "Public landscaping" means any landscaping located within any street median, City park or other parcel of publicly owned property, including any landscaping located in a City-maintained park strip on Laurel Street, and San Carlos Avenue (1100 and 1200 blocks only).
12. "Mulch" means any organic material such as leaves, bark, straw, compost, or inorganic mineral materials such as rocks, gravel, and decomposed granite left loose and applied to the soil surface for the beneficial purposes of reducing evaporation, suppressing weeds, moderating soil temperature, and preventing soil erosion.
13. "Overhead sprinkler irrigation systems" means systems that deliver water through the air (e.g., spray heads and rotors).
14. "Overspray" means the irrigation water which is delivered beyond the target area.
15. "Park strip" means that area of the public street located between the face of the curb and closest edge of the sidewalk.
16. "Pervious" means any surface or material that allows the passage of water through the material and into the underlying soil.
17. "Pruning" means the removal of more than one-third (1/3) of the crown or existing foliage of the tree or more than one-third (1/3) of the root system.
18. "Rain sensor" means a component which automatically suspends an irrigation event when it rains.
19. "Remove" means cutting to the ground; extracting; killing by spraying, girdling, or any other means; or pruning done without a permit or which does not conform to the provisions of a permit.
20. "Runoff" means water that is not absorbed by the soil or landscape to which it is applied and flows from the landscape area.
21. "Shrub" means a bush, hedge or any plant that is not a tree more than twelve (12) inches tall.
22. "Sidewalk" means any concrete sidewalk lying within that area of the street between the face of the curb and the right-of-way line.
23. "Soil moisture sensor" means a device that measures the amount of water in the soil. The device may also suspend or initiate an irrigation event.
24. "Tree" means any live woody or fibrous plant, the branches of which spring from and are supported upon a trunk.
- a. "Community of trees" means a group of trees of any size which are ecologically related to each other.
  - b. "Exotic tree" means any tree known not to be an indigenous tree, hence any tree which has been planted for or has excepted from cultivation.
  - c. "Heritage tree" means any:
    - i. Indigenous tree whose size, as measured at forty-eight (48) inches above natural grade (unless otherwise indicated), is defined below:
      - *Aesculus californica* (buckeye) with a single stem or multiple stems touching each other at forty-eight (48) inches above natural grade and measuring thirty (30) inches in circumference.
      - *Arbutus meniesii* (madrone) with a single stem or multiple stems touching each other at forty-eight (48) inches

above natural grade and measuring thirty (30) inches in circumference.

- *Quercus agrifolia* (coast live oak) of more than thirty (30) inches in circumference.
- *Quercus lobata* (valley oak) of more than thirty (30) inches in circumference.
- *Quercus douglasii* (blue oak) of more than twenty-four (24) inches in circumference.
- *Quercus wislizneii* (interior live oak) of more than twenty-four (24) inches in circumference.
- *Sequoia sempervirens* (redwood) of more than seventy-two (72) inches in circumference.
- *Umbellularia californica* (California bay laurel) with a single stem or multiple stems touching each other at forty-eight (48) inches above natural grade and measuring thirty (30) inches in circumference.

ii. Community of trees;

iii. Tree so designated by the City Council, based upon findings that the particular tree is unique and of importance to the public due to its unusual age, appearance, location or other factors.

d. "Private tree" means any tree located within the boundaries of privately owned property, and includes any tree located within any unimproved right-of-way abutting a private property and in any park strip or sidewalk abutting a private property.

e. "Protected tree" means any significant or heritage tree. The following trees shall not be classified as protected trees regardless of size:

- i. Bailey, Green or Black Acacia: *A. baileyana*, *A. dedurrens* or *A. melanoxyylon*;
- ii. Tree of Heaven: *Ailanthus altissima*;
- iii. Fruit trees of any kind;
- iv. Monterey Pine: *Pinus radiata*;
- v. Eucalyptus.

f. "Public tree" means any tree located within any street median, City park or other parcel of publicly owned property, including any tree located in a City-maintained park strip on Laurel Street, and San Carlos Avenue (1100 and 1200 blocks only).

g. "Significant tree" means any tree that is thirty-six (36) inches in circumference (or more) (which is approximately eleven and one-half (11 1/2) inches in diameter), outside of bark, measured at forty-eight (48) inches above natural grade. The following trees shall not be classified as significant or heritage trees regardless of size:

- i. Bailey, Green or Black Acacia: *A. baileyana*, *A. dedurrens* or *A. melanoxyylon*;
- ii. Tree of Heaven: *Ailanthus altissima*;
- iii. Fruit trees of any kind;
- iv. Monterey Pine: *Pinus radiata*;
- v. Eucalyptus.

- h. "Street-oriented tree" means a private tree that is within the first five (5) feet of the front property line, in a park strip of a sidewalk, or in a portion of a public street or within the public right-of-way that is not improved or maintained by the City.
  - i. "Trim" means the cutting or removal of a portion of a tree which removes less than one-third (1/3) of the crown or existing foliage of a tree, removes less than one-third (1/3) of the root system, and does not kill the tree.
25. "Unimproved right-of-way" means that portion of a public street, within the public right-of-way, that is not improved or maintained by the City.

**Lighting-Related Definitions.** The following terms are related to Section 18.15.070, Lighting and illumination:

1. "Foot-candle" means a quantitative unit of measure for luminance. One (1) foot-candle is equal to the amount of light generated by one (1) candle shining on one (1) square foot surface located one (1) foot away. Equal to one (1) lumen uniformly distributed over an area of one (1) square foot.
2. "Light fixture" means the assembly that holds a lamp and may include an assembly housing, a mounting bracket or pole socket, a lamp holder, a ballast, a reflector or mirrors, and a refractor or lens.
3. **Light Fixture Cutoff.** Light fixtures are classified as full cutoff, cutoff, semicutoff, or noncutoff according to the most recent adopted criteria of the Illuminating Engineering Society of North America (IESNA). The four IESNA classifications are defined as follows (IESNA 2000):
  - a. **Full Cutoff.** The luminous intensity (in candelas) at or above an angle of ninety (90) degrees above nadir is zero (0), and the luminous intensity (in candelas) at or above a vertical angle of eighty (80) degrees above nadir does not numerically exceed ten percent (10%) of the luminous flux (in lumens) of the lamp or lamps in the luminaire.
  - b. **Cutoff.** The luminous intensity (in candelas) at or above an angle of ninety (90) degrees above nadir does not numerically exceed two and one-half (2 1/2) percent of the luminous flux (in lumens) of the lamp or lamps in the luminaire, and the luminous intensity (in candelas) at or above a vertical angle of eighty (80) degrees above nadir does not numerically exceed ten percent (10%) of the luminous flux (in lumens) of the lamp or lamps in the luminaire.
  - c. **Semicutoff.** The luminous intensity (in candelas) at or above an angle of ninety (90) degrees above nadir does not numerically exceed five percent (5%) of the luminous flux (in lumens) of the lamp or lamps in the luminaire, and the luminous intensity (in candelas) at or above a vertical angle of eighty (80) degrees above nadir does not numerically exceed twenty percent (20%) of the luminous flux (in lumens) of the lamp or lamps in the luminaire.
  - d. **Noncutoff.** There is no candela limitation in the zone above maximum candela.
4. "Shielded fixture" means outdoor light fixtures shielded or constructed so that light rays emitted by the lamp are projected below the horizontal plane passing through the lowest point on the fixture from which light is emitted.

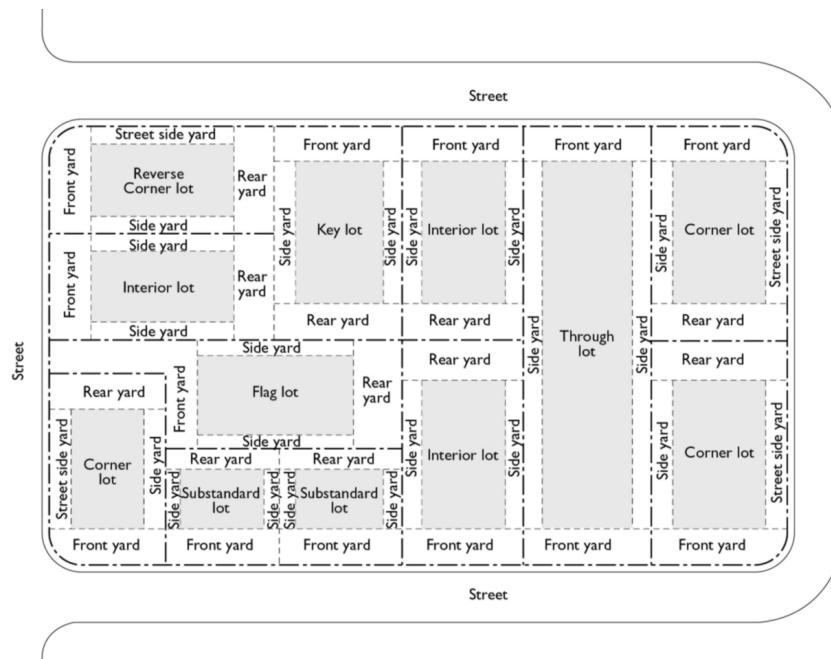
"Living room" means the principal room in a dwelling unit designed for general living purposes rather than for sleeping.

"Lot" means a parcel, tract, or area of land whose boundaries have been established by a legal instrument such as a deed or map recorded with the County of San Mateo, and which is recognized as a separate legal entity for purposes of transfer of title, except public easements or rights-of-way.

1. "Abutting lot" means a lot having a common property line or separated by a public path or lane, private street, or easement to the subject lot.
2. "Corner lot" means a lot or parcel bounded on two (2) or more sides by street lines that have an angle intersection that is not more than one hundred thirty-five (135) degrees.
3. "Flag lot" means a lot so shaped that the main portion of the lot area does not have access to a street other than by means of a corridor having less than twenty (20) feet of width. Also called a "panhandle" lot.
4. "Interior lot" means a lot bounded on one (1) side by a street line and on all other sides by lot lines between adjacent lots or that is bounded by more than one (1) street with an intersection greater than one hundred thirty-five (135) degrees.
5. "Key lot" means an interior lot adjoining the rear lot line of a reversed corner lot.

6. "Reversed corner lot" means a corner lot, the rear of which abuts the side of another lot, whether across a lane or not.
7. "Through lot" means a lot having frontage on two (2) parallel or approximately parallel streets.

**FIGURE 18.41.020-B: LOT AND YARD TYPES**



"Lot area" means the area of a lot measured horizontally between bounding lot lines.

"Lot coverage" means the portion of a lot that is covered by structures, including principal and accessory buildings, garages, carports, and roofed porches, but not including unenclosed and unroofed decks, landings, or balconies. See also Section 18.03.100, Determining lot coverage.

"Lot depth" means the average distance from the front lot line to the rear lot line measured in the general direction of the side lines. See also Section 18.03.060, Measuring lot width and depth.

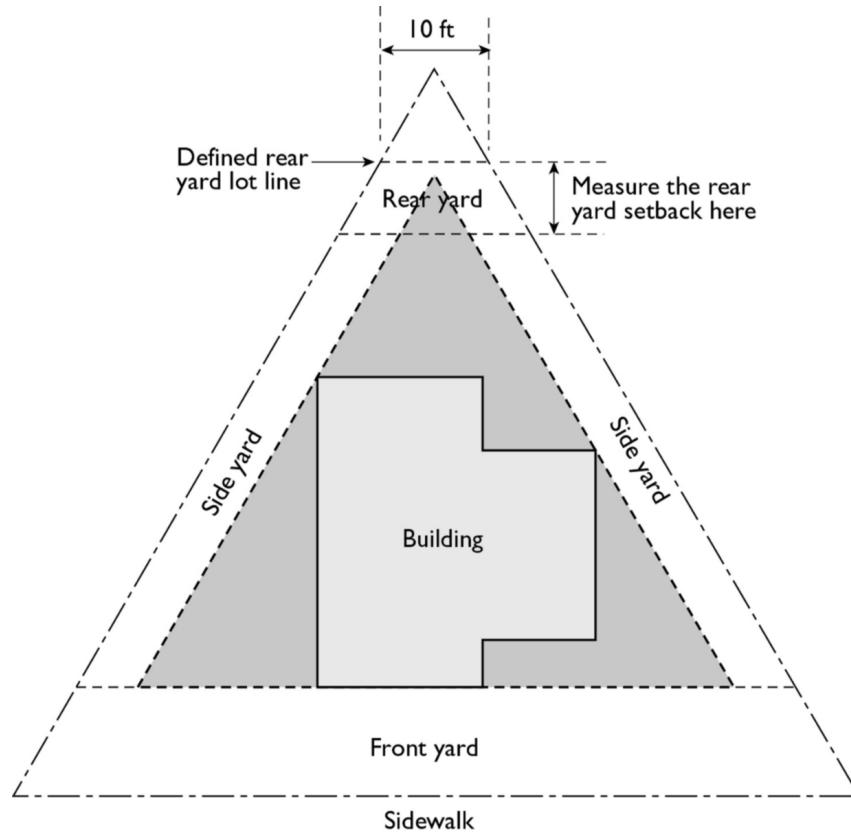
Lot Frontage. See "Frontage, street."

"Lot line" means the boundary between a lot and other property or the public right-of-way.

Lot Line Types.

1. **Front Lot Line.** On an interior lot, the line separating the lot from the street or lane. On a corner lot, the shorter lot line abutting a street or lane. On a through lot, the lot line abutting the street or lane providing the primary access to the lot. On a flag or panhandle lot, the interior lot line most parallel to and nearest the street or lane from which access is obtained. Where no lot line is within forty-five (45) degrees of being parallel to the rear lot line, a line ten (10) feet in length within the lot, parallel to and at the maximum possible distance from the rear lot line, will be deemed the front lot line for the purpose of establishing the minimum front yard (see Figure 18.41.020-C).
2. **Interior Lot Line.** Any lot line that is not adjacent to a street.
3. **Rear Lot Line.** The lot line that is opposite and most distant from the front lot line. Where no lot line is within forty-five (45) degrees of being parallel to the front lot line, a line ten (10) feet in length within the lot, parallel to and at the maximum possible distance from the front lot line, will be deemed the rear lot line for the purpose of establishing the minimum rear yard (see Figure 18.41.020-C).
4. **Side Lot Line.** Any lot line that is not a front or rear lot line.
5. **Street Side Lot Line.** A side lot line of a corner lot that is adjacent to a street.

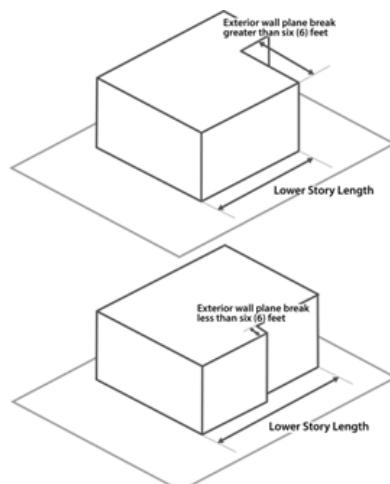
**FIGURE 18.41.020-C: REAR OR FRONT LOT LINE FOR PURPOSES OF DETERMINING SETBACKS**



"Lot width" means the average distance between the side lot lines measured at right angles to the lot depth. See also Section 18.03.060, Measuring lot width and depth.

"Lower story length" means the continuous distance between the rear- and front-facing outer wall surfaces, or right-side- and left-side-facing outer wall surfaces, of the ground floor story of the building, exclusive of cantilevered areas, covered porch areas, or any other unenclosed areas. Posts, columns, chimneys, bay windows, other projections, or walls not part of a fully enclosed portion of the building, are not considered outer wall surfaces for determining lower story length. Where the wall plane of the ground floor jogs or breaks between the front/rear-facing or right/left-side-facing outer wall surfaces, a plane break less than six (6) feet shall be considered continuous for the purposes of determining the lower story length. If the ground floor wall plane break is six (6) feet or greater, the lower story outer wall surface located closest to the required setback shall be treated as the lower story length to be measured for the purposes of determining an allowable projection of the upper story (see Figure 18.41.020-D).

**FIGURE 18.41.020-D: LOWER STORY LENGTH FOR THE PURPOSES OF DETERMINING ALLOWABLE UPPER STORY PROJECTION**



"Maintenance and repair" means the repair or replacement of nonbearing walls, fixtures, wiring, roof or plumbing that restores the character, scope, size or design of a structure to its previously existing, authorized, and undamaged condition.

"Mansard" means a wall which has a slope equal to or greater than two (2) vertical feet for each horizontal foot and has been designed to look like a roof.

"Mezzanine" means an intermediate floor within a building interior without complete enclosing interior walls or partitions that is not separated from the floor or level below by a wall and has a floor area that is no greater than one-third (1/3) of the total floor area of the floor below. See "Story."

"Municipal code" means the City of San Carlos Municipal Code.

Noise-Related Definitions. The following terms are related to Section 18.21.050, Noise:

1. "Ambient noise level" means the composite of noise from all sources excluding an alleged offensive noise. In this context, the ambient noise level represents the normal or existing level of environmental noise at a given location for a specified time of day or night.
2. "Noise" means any sound that annoys or disturbs humans or which causes or tends to cause an adverse psychological or physiological effect on humans.
3. "Noise level reduction (NLR)" means the difference in decibels of noise level from the outside of a building to the interior of a building, generally resulting from various construction methods and the materials used in walls, windows, ceilings, doors, and vents of a building.

Nonconforming Building. See "Nonconforming structure."

"Nonconforming lot" means a legal parcel of land having less area, frontage, or dimensions than required in the zoning district in which it is located.

"Nonconforming structure" means a building or structure, or portion thereof, which was lawfully erected or altered or maintained, but which, because of the application of this title to it, no longer conforms to the specific regulations applicable to the zoning district in which it is located. See Chapter 18.19, Nonconforming Uses, Structures, and Lots.

"Nonconforming use" means the use of a building, structure, or site, or portion thereof, which was lawfully established and maintained, but which, because of the application of this title to it, no longer conforms to the specific regulations applicable to the zoning district in which it is located. See Chapter 18.19, Nonconforming Uses, Structures, and Lots.

"On-site" means located on the lot that is the subject of discussion.

"On-site loading facilities" means a site or portion of a site devoted to the loading or unloading of motor vehicles or trailers, including loading berths, aisles, access drives, and landscaped areas.

Open Space Types.

1. "Private open space" means open areas for outdoor living and recreation that are adjacent and directly accessible to a single dwelling unit, reserved for the exclusive use of residents of the dwelling unit and their guests.
2. "Common open space" means areas for outdoor living and recreation that are intended for the use of residents and guests of more than one (1) dwelling unit.
3. "Usable open space" means outdoor areas that provide for outdoor living and/or recreation for the use of residents.

"Opposite" means across from or across the street from.

"Outdoor storage" means the keeping, in an unroofed area, of any goods, junk, material, merchandise, or vehicles in the same place for more than twenty-four (24) hours, except for the keeping of building materials reasonably required for construction work on the premises pursuant to a valid and current building permit issued by the City.

"Owner" means a person or persons holding single or unified beneficial title to the property, including but not limited to the settler of a grantor trust, a general partner, firm or corporation.

Parcel. See "Lot."

"Parking area" means an area of a lot, structure, or any other area, including driveways, which is designed for and the primary purpose of which is to provide for the temporary storage of operable motor vehicles.

1. "Accessory parking" means an area of a lot, structure, or any other area, which is designed, reserved for and the primary purpose of which is to provide off-street parking to serve a building or use that is the primary or main use of the lot.

2. "Long-term parking" means an area designed for employee parking when a vehicle is not normally moved during the period of an employee's work shift, as opposed to customer or visitor parking.

"Parking, bicycle" means a covered or uncovered area equipped with a rack or racks designed and usable for the secure, temporary storage of bicycles.

1. Long-term. Bicycle parking that is designed to serve employees, students, residents, commuters, and others who generally stay at a site for four (4) hours or longer.

2. Short-term. Bicycle parking that is designed to serve shoppers, customers, messengers, guests, and other visitors to a site who generally stay for a period of less than four (4) hours.

"Parking space, off-street" means an area, covered or uncovered, designed and usable for the temporary storage of a vehicle, which is paved and accessible by an automobile without permanent obstruction.

"Peak time" means the period of time with the greatest amount of activity and vehicles on the site.

"Permit" means any zoning clearance, conditional use permit, minor use permit, temporary use permit, building permit, license, certificate, approval, or other entitlement for development and/or use of property as required by any public agency.

"Permitted use" means any use or structure that is allowed in a zoning district without a requirement for approval of a use permit, but subject to any restrictions applicable to that zoning district.

"Person" means any individual, firm, association, organization, partnership, business trust, company, or corporation.

"Personal cannabis cultivation" means any activity involving the propagation, planting, growing, harvesting, drying, curing, grading, or trimming of cannabis strictly for personal use. Such activity must be performed by a person who is at least twenty-one (21) years old. No more than six (6) plants may be cultivated in a dwelling unit, as defined in this section.

"Persons with disabilities" means persons who have a medical, physical, or mental condition, disorder or disability, as defined in Government Code Section 12926 or the Americans with Disabilities Act, that limits one (1) or more major life activities.

"Planning Commission" means the Planning Commission of the City of San Carlos.

"Preexisting" means in existence prior to the effective date of the ordinance codified in this title.

"Principal use" means a use that fulfills a primary or predominant function of an establishment, institution, household, or other entity and occupies at least seventy percent (70%) of the gross floor area.

"Project" means any proposal for a new or changed use or for new construction, alteration, or enlargement of any structure, that is subject to the provisions of this title. This term includes, but is not limited to, any action that qualifies as a project as defined by the California Environmental Quality Act.

"Protected tree" means any significant or heritage tree, any tree as part of a replacement requirement, an approved development permit or an approved landscaping plan. The following trees shall not be classified as protected trees regardless of size:

1. Bailey, Green or Black Acacia: A. baileyana, A. decurrens or A. melanoxyton;
2. Tree of Heaven: Ailanthus altissima;
3. Fruit trees of any kind;
4. Monterey Pine: Pinus radiata;

5. Eucalyptus genera;
6. Monocot trees including palms and palm relatives.

"Pruning" means the removal of one-fourth (1/4) or more than one-fourth (1/4) of the crown or existing foliage of the tree or one-fourth (1/4) or more than one-fourth (1/4) of the root system.

"Public Resources Code" means the Public Resources Code of the State of California.

"Qualified applicant" means the property owner, the owner's agent, or any person, corporation, partnership or other legal entity that has a legal or equitable title to land that is the subject of a development proposal or is the holder of an option or contract to purchase such land or otherwise has an enforceable proprietary interest in such land.

Regional Retail and Destination-Oriented Uses. Examples include regional shopping, large-scale office complexes and hotels as individual or combined uses intended to serve regional users. Commercial entertainment and recreation and eating and drinking use classifications may be considered as ancillary uses.

"Removal" means cutting to the ground, complete extraction, or killing by spraying, girdling, or any other means; or pruning not done in conformance with a permit.

Retail Establishments That Sell Ammunition or Firearms. A retail establishment selling firearms or ammunition is one that conducts a business by the selling, leasing or transferring of any firearm or ammunition, or to hold oneself out as engaged in the business of selling, leasing or otherwise transferring any firearm or ammunition, or to sell, lease or transfer firearms or ammunition in quantity, in series, or in individual transactions, or in any other manner indicative of trade.

"Review authority" means the body responsible for making decisions on zoning and related applications.

"Right-of-way" means a strip of land acquired by reservation, dedication, forced dedication, prescription or condemnation and intended to be occupied or occupied by a road, railroad, electric transmission lines, oil or gas pipeline, water line, sanitary storm sewer or other similar use.

"Safe routes to school" means programs to create safe, convenient, and fun opportunities for children to bicycle and walk to and from schools by removing barriers such as lack of infrastructure, unsafe infrastructure, and lack of programs that promote walking and bicycling.

"Screening" refers to a wall, fence, hedge, informal planting, or berm, provided for the purpose of buffering a building or activity from neighboring areas or from the street.

"Setback" means the area between a property line and a building or structure which must be kept clear or open. See also Section 18.03.040, Measuring distances, and Section 18.03.120, Determining setbacks (yards).

"Sidewalk" means a paved, surfaced, or leveled area, paralleling and usually separated from the street, used as a pedestrian walkway.

"Sight distance triangle" means a minimum area of unobstructed view that occurs at street intersections.

"Significant tree" means any tree that is eleven (11) inches in diameter (or more), outside of bark, measured at fifty-four (54) inches above natural grade. The following trees shall not be classified as significant or heritage trees regardless of size:

1. Bailey, Green or Black Acacia: *A. baileyana*, *A. decurrens* or *A. melanoxylon*;
2. Tree of Heaven: *Ailanthus altissima*;
3. Fruit trees of any kind;
4. Monterey Pine: *Pinus radiata*;
5. Eucalyptus genera;
6. Monocot trees including palms and palm relatives.

"Site" means a lot, or group of contiguous lots, that is proposed for development in accordance with the provisions of this title and is in a single ownership or under unified control.

"Solar reflective index" means a measure of a surface's ability to reflect solar heat, combining reflectance and emittance into one number. It is defined so that a standard black (reflectance 0.05, emittance 0.90) is zero (0) and a standard white (reflectance 0.80, emittance 0.90) is one hundred (100).

"Specific plan" means a plan for all or part of the area covered by the General Plan that is prepared to be consistent with and to implement the General Plan pursuant to the provisions of Government Code Section 65450 et seq.

"Sphere of influence" means a plan for the probable physical boundaries and service areas of the City as determined by the Local Agency Formation Commission pursuant to Government Code Section 56076.

"State" means the State of California.

"Story" means that portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the upper surface of the roof above. A mezzanine with a floor area that exceeds one-third (1/3) of the total floor area of the floor or level below constitutes a story.

"Street" means a public or private thoroughfare which affords the principal means of access to a block and to abutting property. "Street" includes avenue, court, circle, crescent, place, way, drive, boulevard, highway, road, and any other thoroughfare, except an alley or lane as defined herein.

"Street line" means the boundary between a street and a lot or parcel of land.

"Structural alterations" means any physical change to or the removal of the supporting members of a structure or building, such as bearing walls, columns, beams, or girders, including the creation, enlargement, or removal of doors or windows and changes to a roof line or roof shape.

"Structure" means anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground.

1. "Structure, accessory" means a detached subordinate structure, used only as incidental to the main structure on the same lot.
2. "Structure, primary (structure, main)" means a structure housing the principal use of a site or functioning as the principal use.
3. "Structure, temporary" means a structure without any foundation or footings and which is intended to be removed when the designated time period, activity, or use for which the temporary structure was erected has ceased.

"Swimming pool" means a pool, pond, lake, or open tank capable of containing water to a depth greater than one and one-half (1 1/2) feet at any point.

"Tandem parking" means an arrangement of parking spaces such that one (1) or more spaces must be driven across in order to access another space or spaces.

Temporary Use-Related Definitions. The following terms are related to Section 18.23.240, Temporary uses:

1. "Garage sales" means the sale or offering for sale to the general public of over five (5) items of personal property on a portion of a lot in a residentially zoned district, whether inside or outside any building.
2. "Outdoor sales, temporary and seasonal" means the sale or offering for sale to the general public of merchandise outside of a permanent structure on property owned or leased by the person, firm, or corporation. These sales are of a limited duration and conducted on an occasional basis, and are secondary or incidental to the principal permitted use or structure existing on the property.

"Tree protection zone (TPZ)" means the area surrounding a tree to be protected based upon tree species, age, health, soil, and proposed construction. The TPZ shall have a radius measured from the trunk equal to ten (10) times the diameter of the trunk measured at fifty-four (54) inches above grade or as otherwise specified by a project arborist and approved by the City Arborist.

"Trimming" means the cutting or removal of a portion of a tree which removes less than one-fourth (1/4) of the crown or existing foliage of a tree, removes less than one-fourth (1/4) of the root system, and does not kill the tree.

Unit. See "Dwelling unit."

"Use" means the purpose for which land or the premises of a building, structure, or facility thereon is designed, arranged, or intended, or for which it is or may be occupied or maintained.

1. "Accessory use" means a use that is customarily associated with, and is incidental and subordinate to, the primary use and located on the same lot as the primary use and occupies not more than thirty percent (30%) of the gross floor area.
2. "Incidental use" means a secondary use of a lot and/or building that is located on the same lot but is not customarily associated with the primary use.
3. "Primary use" means a primary, principal or dominant use established, or proposed to be established, on a lot and occupies at least seventy percent (70%) of the gross floor area of the tenant space or building.

"Use classification" means a system of classifying uses into a limited number of use types on the basis of common functional, product, or compatibility characteristics. All use types are grouped into the following categories: residential, public and semi-public, commercial, employment, and transportation, communication, and utilities. See Chapter 18.40, Use Classifications.

"Use permit" means a discretionary permit, such as a minor use or conditional use permit, which may be granted by the appropriate City of San Carlos authority to provide for the accommodation of land uses with special site or design requirements, operating characteristics, or potential adverse effects on surroundings, which are not permitted as of right but which may be approved upon completion of a review process and, where necessary, the imposition of special conditions of approval by the permit granting authority. See Chapter 18.30, Use Permits.

"Use type" means a category which classifies similar uses based on common functional, product, or compatibility characteristics.

"Variance" means a discretionary grant of permission to depart from the specific requirements of this title that is warranted when, due to special circumstances regarding the physical characteristics of the property, the strict application of standards would deprive the property of privileges available to other property in the same zoning classification. See Chapter 18.32, Variances.

"Vehicle" means any vehicle, as vehicle is defined by the California Vehicle Code, including any automobile, camper, camp trailer, trailer coach, motorcycle, house car, boat, or similar conveyance.

"Vibration" means a periodic motion of the particles of an elastic body or medium in alternately opposite directions from the position of equilibrium.

"Visible" means capable of being seen (whether or not legible) by a person of normal height and visual acuity walking or driving on a public road.

"Wall" means any vertical exterior surface of building or any part thereof, including windows.

"Yard" means an open space other than a court on a lot that is unoccupied and unobstructed from the ground upward, except as otherwise permitted by this title.

1. "Front yard" means a yard extending across the front of a lot for the full width of the lot between the side lot lines. The depth of a front yard shall be a distance specified by this title for the district in which it is located and measured inward from the front lot line.
2. "Interior side yard" means a yard extending along an interior side of a lot from the front lot line to the rear lot line, and to a depth specified by this title for the district in which it is located and measured inward from the interior side lot line.
3. "Street side yard" means a yard extending along the street side of a corner lot from the front lot line to the rear lot line, and to a depth specified by this title for the district in which it is located and measured inward from the street side lot line.
4. "Rear yard" means a yard extending across the rear of a lot for its full width between side lot lines, and to a depth specified by this title for the district in which it is located. If a lot has no rear lot line, a line ten (10) feet in length within the lot, parallel to and at the maximum possible distance from the front lot line, will be deemed the rear lot line for the purpose of establishing the minimum rear yard.

"Zoning Administrator" means the Zoning Administrator of the City of San Carlos, or his or her designee.

"Zoning district" means a specifically delineated area or district in the City within which regulations and requirements uniformly govern the use, placement, spacing, and size of land and buildings. See Section 18.01.070, Districts established. (Ord. 1603 § 3 (Exh. A), 2023; Ord. 1597 § 3 (Exh. A), 2023; Ord. 1596 § 6 (Exh. A), 2023; Ord. 1580 § 3 (Exh. B), 2022; Ord. 1540 (Exh. G (part)), 2019; Ord. 1525 § 2(1) (Exh. A (part)), 2017; Ord. 1524 § 2 (Exh. A), 2017; Ord. 1518 § 3 (Exh. C (part)), 2017; Ord. 1480 (Exh. D (part)), 2015; Ord. 1464 § 3 (Exh. D (part)), 2013; Ord. 1438 § 4 (Exh. A (part)), 2011)