# Title 15  BUILDINGS AND CONSTRUCTION

**Chapters:**

## Chapter 15.08 BUILDING CODE[[1]](#footnote-1)

### ARTICLE I. INCORPORATION BY REFERENCE

15.08.010 Code adoption and title.

*The County of Alameda adopts the 2022 California Building Code (CA Title 24, Part 2, Volumes 1 and 2), the 2022 California Residential Code (CA Title 24, Part 2.5), the 2022 California Energy Code (CA Title 24, Part 6), the 2022 California Green Building Standards Code CALGreen (CA Title 24, Part 11), the 2022 California Existing Building Code (CA Title 24, Part 10) and the 2022 California Historical Building Code (CA Title 24, Part 8) (collectively the "Codes") as compiled and published by the International Code Council, modified by the California Building Standards Commission, and modified by the additions, deletions, and amendments set forth in this Chapter. The Codes are incorporated by reference into this Chapter, which shall be known as the Building Code of the County of Alameda.*

(Ord. No. 2022-58, § 6, 12-6-22)

### ARTICLE II. CALIFORNIA BUILDING CODE, AMENDED AND ADDED SECTIONS TO 2022 CALIFORNIA BUILDING CODE (CA TITLE 24, PART 2):

15.08.011 CBC Preface.

p. i—iv. *{See CBC}*

p. v. ***[BID]***

**How to Distinguish Between Model Code Language and California Amendments*as well as Alameda County Amendments (as amended)***

To distinguish between model code language and the incorporated California amendments, including exclusive California standards, California amendments will appear in italics *in the CBC. County of Alameda "County" amendments to the CBC, including local County standards, will appear in italics in this chapter of the General Ordinance Code.*

***[BSC]****{See CBC}*

***[BID][Road]****A similar symbol within a section of this chapter identifies which County agency, department, or section is responsible for amendments to the CBC.*

**Legend of Acronyms of Adopting State Agencies***{See CBC}*

***Alameda County Legend of County Agencies, Departments, and Sections***

|  |  |
| --- | --- |
| *AC* | *Alameda County Ordinance Code* |
| *BID* | *Building Inspection Department of the Alameda County Public Works Agency* |
| *CDA* | *Community Development Agency of Alameda County* |
| *Cln Water* | *Land Development Department (Clean Water) of the County Public Works Agency* |
| *FIRE* | *Alameda County or City Fire districts or departments* |
| *Flood* | *Land Development Department (Flood) of the Alameda County Public Works Agency* |
| *Grd* | *Land Development Department Grading Section of the Alameda County Public Works Agency* |
| *HLTH* | *Health Care Services Agency of Alameda County or the Public Health Department of Alameda County* |
| *Road* | *Land Development Department (Roadway) of the Alameda County Public Works Agency* |

p. vi — xxxix. *{See CBC}*

p. 1 to 4. *{See CBC}*

(Ord. No. 2022-58, § 6, 12-6-22)

15.08.020 CBC Ch. 1 Scope and Administration, Division I, California Administration.

**1.1.1*through1.1.7.****{See CBC}*

**1.1.8*County amendments, additions or deletions [BID].****The County has exercised its authority* to establish more restrictive and reasonably necessary differences to the provisions contained in this code pursuant to complying with Section 1.1.8.1. *{Delete remaining sentences in this paragraph}.*

*The County* modifications *comply* with Health and Safety Code Section 18941.5 for Building Standards Law, Health *and* Safety Code Section 17958 for State Housing Law. *{Delete remaining sentence}.*

**1.1.8.1 Findings and filings.***{See CBC}*

**1.1.9 Effective date of this code*[BID].****This code shall be effective thirty (30) days from and after the date of the passage of the enabling Ordinance or January 1, 2023, whichever comes later. {See CBC for the remainder of the paragraph}.*

**1.1.10*through*1.1.12.***{See CBC}*

**1.2*through*1.14.***{See CBC}*

(Ord. No. 2022-58, § 6, 12-6-22)

15.08.030 CBC Ch. 1, Division II, Scope and Administration, Section 101, Scope and General Requirements.

**101.1 Title*[BID].*** These regulations shall be known as the Building Code of *the County of Alameda,* hereinafter referred to as "this code."

**101.2 Scope.***{See CBC}*

**101.2.1 Appendices*[BID].****Provisions in the appendices shall not apply unless specifically adopted. The following CBC appendices are adopted and amended, as noted, by the County:*

*1. Appendix C, Group U — Agricultural Buildings — Adopted*

*2. Appendix G, Flood-Resistant Construction — Adopted and amended in Section 15.08.300.*

*3. Appendix I, Patio Covers — Adopted.*

*4. Appendix P, Emergency Housing — Adopted.*

**101.3 Purpose.***{See CBC}*

**101.4 Referenced codes.***{See CBC}*

(Ord. No. 2022-58, § 6, 12-6-22)

15.08.040 CBC Ch. 1, Division II, Scope and Administration, Section 103, Department of Building Safety.

**103.1 Creation of enforcement agency*[BID].*** The *Building Inspection Department* is hereby created and the official in charge thereof shall be known as the building official.

**103.2 Appointment*[BID].*** The building official shall be appointed by the *director of the public works agency of the County.*

**103.3 Deputies*[BID].*** In accordance with the prescribed procedures of *the County* and with the concurrence of the appointing authority, the building official shall have the authority to appoint a deputy building official, the related technical officers, inspectors, plan examiners and other employees. Such employees shall have powers as delegated by the building official.

(Ord. No. 2022-58, § 6, 12-6-22)

15.08.050 CBC Ch. 1, Division II, Scope and adminstration, Section 104, Duties and Powers of Building Official.

**104.1 General*[Road].*** The building official is hereby authorized and directed to enforce the provisions of this code. The building official shall have the authority to render interpretations of this code and to adopt policies and procedures in order to clarify the application of its provisions, *including policies and procedures that would allow other employees of the County, acting under direction of the director of public works, to issue permits in support of this code.* Such interpretations, policies and procedures shall be in compliance with the intent and purpose of this code. Such policies and procedures shall not have the effect of waiving requirements specifically provided for in this code.

**104.2***{See CBC}*

**104.2.1 Determination of substantially improved or substantially damaged existing buildings and structures in flood hazard areas*[FLOOD].*** For applications for reconstruction, rehabilitation, repair, alteration, addition or other improvement of existing buildings or structures located in flood hazard areas, the building official shall determine if the proposed work constitutes substantial improvement or repair of substantial damage. Where the building official determines that the proposed work constitutes substantial improvement or repair of substantial damage, and where required by this code, the building official shall require the building to meet the requirements of Section 1612 or Section R322 of the California Residential Code, *AC Section 15.08.300, and AC Chapter 15.40, as applicable.*

**104.3***{See CBC}*

**104.4 Inspections*[Road].*** The building official shall make the required inspections, or the building official shall have the authority to accept reports of inspection *by other employees or agents of the County, acting under direction of the director of public works, in the inspection of civil engineering measures and other related improvements or by other* approved agencies or individuals. Reports of such inspections shall be in writing and be certified by a responsible officer of such approved agency or by the responsible individual. The building official is authorized to engage such expert opinion as deemed necessary to report on unusual technical issues that arise, subject to the approval of the appointing authority.

**104.5 through 104.7***{See CBC}*

**104.8 Liability*[BID].*** The building official, member of the board of appeals or employee charged with the enforcement of this code, while acting for the *County* in good faith and without malice in the discharge of the duties required by this code or other pertinent law or ordinance, shall not thereby be civilly or criminally rendered liable personally and is hereby relieved from personal liability for any damage accruing to persons or property as a result of any act or by reason of an act or omission in the discharge of official duties.

**104.8.1 Legal defense*[BID][Road].*** Any suit or criminal complaint instituted against an officer or employee because of an act performed by that officer or employee in the lawful discharge of duties and under the provisions of this code shall be defended by legal representatives of the *County* until the final termination of the proceedings. The building official or any subordinate *or other County employee* shall not be liable for cost in any action, suit or proceeding that is instituted in pursuance of the provisions of this code.

***104.8.2 Indemnity [BID][Road].****{Added} To the fullest extent permitted by law, any person taking a permit under the provisions of this code (hereinafter "permittee") shall indemnify, defend, and hold harmless the County, the Board of Supervisors, the building official, the director of public works, and all other officers, employees, and agents of the County (hereinafter collectively "indemnitees") from any and all claims, losses, damages, liabilities, or expenses, including reasonable attorney fees incurred in the defense thereof, that arises out of or is in any way connected to the issuance of a permit under this code or to work performed by permittee or permittee's contractors, consultants, or agents under such a permit, for the death of or injury to any person or persons (including the permittee's or the County's employees), or due to damage to any property (collectively "liabilities"). The only exceptions to this duty to indemnify, defend, and hold harmless are for those liabilities caused solely by the negligence or willful misconduct of any indemnitee.*

**104.9*through*104.10.***{See CBC}*

**104.10.1 Flood hazard areas.*[Flood]*** The building official shall not grant modifications to any provision required in flood hazard areas as established by Section 1612.3 *and by AC Section 15.08.300* unless a determination has been made that: 1. A showing of good and sufficient cause that the unique characteristics of the size, configuration or topography of the site render the elevation standards of Section 1612 inappropriate. 2. A determination that failure to grant the variance would result in exceptional hardship by rendering the lot undevelopable. 3. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, cause fraud on or victimization of the public, or conflict with existing laws or ordinances. 4. A determination that the variance is the minimum necessary to afford relief, considering the flood hazard. 5. Submission to the applicant of written notice specifying the difference between the design flood elevation and the elevation to which the building is to be built, stating that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced floor elevation, and stating that construction below the design flood elevation increases risks to life and property.

**104.11 Alternative materials, design and methods of construction and equipment.***{See CBC}*

**104.11.1 Research reports.***{See CBC}*

**104.11.2 Tests.***{See CBC}*

**104.11.3 Peer review*[BID].****{Added} The building official shall have the authority to require peer review by qualified professionals in conjunction with the approval of alternative materials, designs, and methods of construction.*

**104.11.4 Earthquake monitoring instruments.***{See CBC}*

(Ord. No. 2022-58, § 6, 12-6-22)

15.08.060 CBC Ch. 1, Division II, Scope and Administration, Section 105, Permits.

**105.1*through*105.1.2***{See CBC}*

**105.2 Work exempt from permit*[BID][Flood].*** Exemptions from permit requirements of this code shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this code or any other laws or ordinances of *the County.* Permits shall not be required for the following: *(Note: Exemptions below must comply with AC Section 15.08.300 and with AC Chapter 15.40 of this title for properties located within a flood hazard area.)*

**Building:**

 1. One-story detached accessory structures *accessory to Group R-3 occupancy, that are* used as tool and storage sheds, playhouses and similar uses, provided the floor area is not greater than 120 square feet (11m2 ). It is permissible that these structures still be regulated by Section 710A, despite exemption from permit.

 2. Fences *using concrete, masonry, or similar heavy materials not over 5 feet 9 inches (1753 mm) high or fences using light materials* not over 7 feet (2134 mm) high.

 3. Oil derricks.

 4. Retaining walls that are not over 4 feet (1219 mm) in height measured from the bottom of the footing to the top of the wall, unless: *1)* supporting a surcharge or impounding Class I, II or IIIA liquids, *or 2) retaining walls at a property line or within a distance from the property line equal to the exposed height of the front of the wall.*

 5. Water tanks supported directly on grade if the capacity is not greater than 5,000 gallons (18 925 L) and the ratio of height to diameter or width does not exceed 2:1 *used for irrigation or agricultural purposes.*

 6. *Raised decks, platforms, ramps,* sidewalks and driveways *accessory to Group R-3 and U occupancies* not more than 30 inches (762 mm) above adjacent grade, and not over any basement or story below and are not part of an accessible route.

 7. Painting, papering, tiling, carpeting, cabinets, counter tops and similar finish work.

 8. Temporary motion picture, television and theater stages sets and scenery.

 9. Prefabricated swimming pools accessory to a Group R-3 occupancy that are less than 24 inches (610 mm) deep, are not greater than 5,000 gallons (18 925 L) and are installed entirely above ground.

 10. Shade cloth structures constructed for nursery or agricultural purposes, not including service systems.

 11. Swings and other playground equipment accessory to detached one- and two-family dwellings.

 12. Window awnings in Group R-3 and U occupancies, supported by an exterior wall that do not project more than 54 inches (1372 mm) from the exterior wall and do not require additional support.

 13. Nonfixed and movable fixtures, cases, racks, counters and partitions not over 5 feet 9 inches (1753 mm) in height.

*14. Flagpoles and pole-type radio and television antennas, 35 feet (10.7 M) or less in height when not attached to a building or structure and 20 feet (6.1 M) or less in height, as measured from the ground, when attached to a building or structure.*

**Electrical:***{See CBC and AC 15.12}*

**Gas:***{See CBC and AC 15.20}*

**Mechanical:***{See CBC and AC 15.16}*

**Plumbing:***{See CBC and AC 15.20}*

**105.2.1 Emergency repairs.***{See CBC}*

**105.2.2 Public service agencies.***{See CBC}*

**105.3 Application for permit.***{See CBC}*

**105.3.1 Action on application.***{See CBC}*

**105.3.2 Time limitation of application*[BID].*** An application for a permit for any proposed work shall be deemed to have been abandoned *one year* after the date of filing, unless a permit has been issued; except that the building official is authorized to grant one or more extensions of time for additional periods. The extension shall be requested in writing and justifiable cause demonstrated *prior to each said expiration date. Plans and other data submitted for review of the abandoned application may be returned to the applicant or discarded by the building official.*

***105.3.2.1 First extension [BID].****{Added} The building official is authorized to grant the first extension of time for periods not exceeding one year following the said expiration date on the initial application.*

***105.3.2.2 Additional extensions [BID].****{Added} The building official is authorized to grant additional extensions for periods not exceeding 180 days, provided all of the following are met:*

*1. Payment of any extension fee is received based on the remaining plan check and administrative costs determined by the building official.*

*2. No significant changes have been made or will be made from the original plans and specifications.*

*3. All proposed work conforms to the laws, regulations, rules, and ordinances in effect at the time of granting the extension.*

**105.4 Validity of permit.***{See CBC}*

**105.5 Expiration*[BID].*** Every permit issued shall become invalid unless the work on the site authorized by such permit is *completed within one year from the date of issuance, with the following exceptions:*

*1. The building official is authorized to grant longer time periods for specific projects.*

*2. The building official is authorized to establish a reasonable time period to complete a permit issued specifically to correct a violation of this code or of any pertinent law, rule, regulation, or ordinance, or to rehabilitate, repair, modify, remove, or demolish a dangerous or illegal building or structure or equipment, or to otherwise abate a nuisance.*

*3. The building official is authorized to establish a shorter time period of less than one year for a permit issued for certain short-term projects. These projects may include, but are not limited to, termite repairs, free-standing fireplace stoves, solar system installations, spas and hot tubs, demolition, and electrical service alterations.*

***105.5.1 Renewal [BID].****{Added} The permit holder may renew a permit for a period of no longer than one year beyond the original expiration date, provided that the request for renewal is submitted to the building official prior to the said expiration date, and provided all of the following apply:*

*1. No changes have been made or will be made in the original plans and specifications.*

*2. No laws, regulations, rules, or ordinances have been changed in such a manner as to prohibit the completion of the proposed work. The renewed permit shall require that all incomplete work conform to the laws, regulations, rules, and ordinances in effect at the time of renewal.*

*3. Payment of any applicable renewal fee is received.*

***105.5.2 Completion permit [BID].****{Added} In the event that an initial or a renewed permit expires before the work is complete, the permit holder may request the building official to issue a "completion " permit prior to the said expiration date, provided that:*

*1. The building official is authorized to require additional plans and documents, plan review, and/or the update or reassessment of the valuation for the incomplete work.*

*2. No changes have been made or will be made in the original plans and specifications.*

*3. No laws, regulations, rules, or ordinances have been changed in such a manner as to prohibit the completion of the proposed work. The completion permit shall require that all incomplete work conform to the laws, regulations, rules, and ordinances in effect at the time of issuance.*

*4. All work shall be completed within 180 days.*

*5. Payment of an established completion permit fee is received. The building official shall determine the fee based on the number of inspections remaining to be performed. The following schedule may be used to assess the completion permit fee for residential wood frame buildings based on the completed and inspected work:*

|  |  |
| --- | --- |
| ***Completed Inspections*** | ***% of Updated Valuation*** |
| *None* | *60* |
| *Foundation* | *55* |
| *Under-floor* | *50* |
| *Shear Wall* | *40* |
| *Rough Framing* | *30* |
| *Lath or Gypsum Board* | *20* |
| *Gas Test* | *15* |
| *All, Except Final* | *10* |

**105.6 Suspension or revocation.***{See CBC}*

**105.7 Placement of permit.***{See CBC}*

(Ord. No. 2022-58, § 6, 12-6-22)

15.08.070 CBC Ch.1, Division II, Scope and Administration, Section 107, Submittal Documents.

**107.1*through*107.2.5***{See CBC}*

**107.2.6 Site plan.** The construction documents submitted with the application for permit shall be accompanied by a site plan showing to scale the size and location of new construction and existing structures on the site, distances from lot lines, the established street grades and the proposed finished grades and, as applicable, flood hazard areas, floodways, design flood elevations, *seismic hazard areas, and earthquake fault zones;* and it shall be drawn in accordance with an accurate boundary line survey. In the case of demolition, the site plan shall show construction to be demolished and the location and size of existing structures and construction that are to remain on the site or plot. The building official is authorized to waive or modify the requirement for a site plan where the application for permit is for alteration or repair or where otherwise warranted.

**107.2.6.1 Design flood elevations.** Where *100-year* flood elevations are not specified, they shall be established in accordance with *AC Section 15.08.170.*

**107.2.7*through*107.5***{See CBC}*

(Ord. No. 2022-58, § 6, 12-6-22)

15.08.080 CBC Ch.1, Division II, Scope and Administration, Section 108, Temporary Structures and Uses.

**108.1***{See CBC}*

**108.2 Conformance*[Flood].*** Temporary structures and uses shall comply with the requirements in Section 3103 *and AC Section 15.08.300.*

**108.3*through*108.4***{See CBC}*

(Ord. No. 2022-58, § 6, 12-6-22)

15.08.090 CBC Ch.1, Division II, Scope and Administration, Section 109, Fees.

**109.1 Payment of fees.***{See CBC}*

**109.2 Schedule of permit fees*[BID].****Fees shall be as set forth in a fee schedule adopted for this purpose by resolution of the Board. The said schedule shall establish, but not be limited to, fees for permit issuance and inspections, filing of certain permit exemptions, regular plan reviews, Title 24 energy conservation reviews, termite report reviews, special or additional plan checking, off-hour inspections, reinspections, movement of buildings or structures, demolition of buildings or structures, permit renewals, completion permits, site permits, and administrative costs.*

**109.3*through*109.5***{See CBC}*

**109.6 Refunds*[BID].****The building official shall not authorize refunding of any fee paid to the building official except on written application filed by the original permittee.*

*The building official may authorize refunding of any fee paid under this code that was erroneously paid or collected.*

*The building official may authorize the refunding of a maximum of 60% of the initial permit fee paid to the building official when no work has been done under an unexpired permit issued in accordance with this code. If no work has been done and an issued permit has expired, the building official may authorize refunding of not more than 30% of the said permit fee, provided that the request for refund is submitted within one year following the permit expiration; after one year beyond the permit expiration date, no refund of the permit fee shall be authorized.*

*The building official may authorize the refunding of a maximum of 60% of the plan review fee paid to the building official if no plan review comments have been issued by the building official prior to the receipt of the request for refund. No refund of this fee shall be authorized following the issuance of the initial plan review comments by the building official.*

(Ord. No. 2022-58, § 6, 12-6-22)

15.08.100 CBC Ch. 1, Division II, Scope and Administration, Section 110, Inspections.

**110.1*through*110.3.1***{See CBC}*

**110.4 Inspection agencies*[Road][Cln water].*** The building official is authorized to accept reports of approved inspection agencies, provided that such agencies satisfy the requirements as to qualifications and reliability. *In particular, the building official may accept reports from the director of public works pertaining to the inspection of site permits.*

**110.5*through*110.6***{See CBC}*

**110.6 Approval required.***{See CBC}*

***110.7 Inspection record card [BID].****{Added} Work requiring a permit shall not be commenced until the permit holder or an agent of the permit holder shall have posted or otherwise made available the inspection record card provided by the building official. The building official shall make the required entries on the said card so as to indicate the inspection status of the work. This card shall be maintained available by the permit holder until final approval has been granted by the building official.*

***110.8 Reinspections [BID].****{Added} A reinspection fee may be assessed, based on the established fee schedule, when inspection is called for but is not complete or when corrections called for are not made.*

*This Section 110.8 is not to be interpreted as requiring reinspection fees the first time a job is rejected for failure to comply with the requirements of this code, but as controlling the practice of calling for inspections before the job is ready for such inspection or reinspection.*

*Reinspection fees may be assessed when the inspection record card is not posted or otherwise available on the work site, the approved plans are not readily available to the inspector, there is failure to provide access on the date for which inspection is requested, or there is deviation from plans requiring the approval of the building official.*

*To obtain a reinspection, the applicant shall file an application therefor in writing on a form furnished for that purpose and pay the reinspection fee.*

*In instances where reinspection fees have been assessed, no additional inspection of the work will be performed until the required fees have been paid.*

(Ord. No. 2022-58, § 6, 12-6-22)

15.08.110 CBC Ch.1, Division II, Scope and Administration, Section 111, Certificate of Occupancy.

**111.1*Change of Occupancy. [BID][Road][Cln water].*** A building or structure shall not be used or occupied, and a change *in the existing use or occupancy classification* of a building or structure or portion thereof shall not be made, until the building official has issued a certificate of occupancy therefor as provided herein. Issuance of a certificate of occupancy shall not be construed as an approval of a violation of the provisions of this code or of other ordinances of the *County.*

*Final inspection and approval of work, as noted on the inspection record for a building or structure, will be deemed to be the building official's authorization to occupy or use that building or structure, provided that the said occupancy or use is in accordance with the occupancy or use stated on the issued permit and that all other permits issued by the director of public works related to the use and occupancy of the said building or structure have been satisfactorily closed.*

**111.2 Certificate issued*[BID][Road][Cln water].*** After the building official inspects the building or structure and does not find violations of the provisions of this code or other laws *or ordinances of the County* that are enforced by the department of building safety, *upon a request from the property owner,* the building official shall issue a certificate of occupancy *within 10 working days* that contains the following:

 1. The building permit number.

 2. The address of the structure.

 3. The name and address of the owner or the owner's authorized agent.

 4. A description of that portion of the structure for which the certificate is issued.

 5. A statement that the described portion of the structure has been inspected for compliance with the requirements of this code for the occupancy and division of occupancy and the use for which the proposed occupancy is classified.

 6. The name of the building official.

 7. The edition of the code under which the permit was issued.

 8. The use and occupancy, in accordance with the provisions of Chapter 3.

 9. The type of construction as defined in Chapter 6.

 10. The design occupant load.

 11. Where an automatic sprinkler system is provided, whether the sprinkler system is required.

 12. Any special stipulations and conditions of the building permit.

**111.3 through 111.4***{See CBC}*

***111.5 Abandonment of legal occupancy [BID].****{Added} Whenever the legal occupancy or use of a building or structure, other than a one or two family dwelling, is abandoned continuously for a period of one year or more, the said building or structure may be considered to have no legal occupancy and may be so declared by the building official. When this building or structure is next to be occupied or used after such declaration, the building official may require the building to be upgraded to comply with requirements of the new occupancy or use as specified in this code.*

(Ord. No. 2022-58, § 6, 12-6-22)

15.08.120 CBC Ch. 1, Division II, Scope and Administration, Section 113, Board of Appeals.

**113.1 General*[BID].*** In order to hear and decide appeals of orders, decisions or determinations made by the building official relative to the application and interpretation of this code, there shall be and is hereby created a board of appeals. The board of appeals shall be *nominated by the building official and shall hold office at the pleasure of the Board of Supervisors.* The board shall adopt rules of procedure for conducting its business. *The building official shall be an ex-officio member of and shall act as secretary to said board, but shall have no vote on any matter before the board. Administrative fees shall be paid by the applicant to the building department to process the appeal. Administrative appeals pertaining to violations shall be heard pursuant to Section 15.08.130 and shall be heard by the bodies and officers set forth for such appeals as specified in the AC General Ordinance Code, including this chapter.*

**113.2 Limitations on authority.***{See CBC}*

**113.3 Qualifications*[BID].*** The board of appeals shall consist of *three* members who are qualified by experience and training to pass on matters pertaining to building construction and are not employees of the *County.*

**113.4 Administration.***{See CBC}*

(Ord. No. 2022-58, § 6, 12-6-22)

15.08.130 CBC Ch. 1, Division II, Scope and Administration, Section 114, Violations.

**114.1 Unlawful acts.** It shall be unlawful for any person, firm or corporation to erect, construct, alter, extend, repair, move, remove, demolish or occupy any building, structure or equipment regulated by this code, or cause same to be done, in conflict with or in violation of any of the provisions of this code.

***114.1.1 Illegal buildings [BID].****{Added} Any building, structure, equipment, or portion thereof, erected, constructed, enlarged, altered, repaired, moved, improved, removed, converted, demolished, or equipped without a permit when such permit is required by this code shall be declared to be illegal and shall be abated by being made to conform to this code and to all pertinent laws, rules, regulations, or ordinances, by demolition and removal as specified in the AC General Ordinance Code, or by any other remedy available at law.*

**114.2 Notice of violation*[BID].*** The building official is authorized to serve a notice of violation or order on the person responsible for the erection, construction, alteration, extension, repair, moving, removal, demolition or occupancy of building or structure in violation of the provisions of this code, or in violation of a permit or certificate issued under the provisions of this code. Such order shall direct the discontinuance of the illegal action or condition and the abatement of the violation. *The written orders and notices shall include but are not limited to the following:*

*1. Stop work orders in accordance with AC Section 15.08.140.*

*2. Illegal building declarations, in accordance with this section.*

*3. Orders to discontinue uses and to vacate building, in accordance with this section.*

*4. Orders to discontinue utility service or services, in accordance with this section.*

*5. Orders to remove or restore unsafe conditions in accordance with AC Section 15.08.150 or to abate substandard buildings in accordance with AC Chapter 15.24.*

**114.3 Prosecution of violation*[BID].*** If the notice of violation is not complied with promptly, the building official is authorized to request the *County* counsel to institute the appropriate proceeding at law or in equity to restrain, correct or abate such violation, or to require the removal or termination of the unlawful occupancy of the building or structure in violation of the provisions of this code or of the order or direction made pursuant thereto. *Any person failing to comply with a notice of violation or order served in accordance with this Section 114 shall be deemed guilty of a misdemeanor or civil infraction as determined by the County, and the violation shall be deemed an offense in which the prosecution in a legal proceeding is not required to prove criminal intent as a part of its case, but is only required to prove that the defendant either did an act which was prohibited, or failed to do an act which the defendant was legally required to do.*

**114.4 Violation penalties*[BID].*** Any person who violates a provision of this code or fails to comply with any of the requirements thereof or who erects, constructs, alters, or repairs a building or structure in violation of the approved construction documents or directive of the building official, or of a permit or certificate issued under the provisions of this code, shall be subject to *a fine or fines, in accordance with the following schedule:*

*1stviolation: one hundred thirty dollars ($130).*

*2ndviolation at the same location within one year: four hundred dollars ($400.00).*

*3rdviolation at the same location within one year: one thousand dollars ($1000.00).*

*Any such violation beyond the 3rdviolation at the same location may be charged as a misdemeanor or civil infraction, punishable in accordance with the provisions of Section 114.3.*

*Such fines shall be levied by means of invoices mailed by the building official to the violator. Any person receiving notice of an administrative enforcement fee or fine from the building official may appeal such action to the director of public works by submitting a letter and administrative fee, contesting that fee or fine within 10 days from the date of the notice. Upon receipt of such request, the director of public works or designated staff shall set a hearing at the earliest practical date. The decision at the hearing shall be final.*

*In the event an invoiced fine that has not been relieved through appeal remains unpaid for 6 months, the building official shall have the authority to request that the amount of the fine be collected by the tax assessor as a tax lien against the property noted in the violation.*

*A violation shall be considered as a separate offense for each day during which a property remains in violation of this section.*

***114.5 Discontinue uses and vacate building [BID].****{Added} Whenever any building or structure or equipment therein, or portion thereof, as is regulated by this code or by any other pertinent law, rule, regulation, or ordinance, is being used or occupied contrary to this code or to such law, rule, regulation, or ordinance, or when the use or occupancy of the same is changed without the approval of the building official, the building official shall have the authority to order such use or occupancy discontinued, and the building or structure, or portion thereof, vacated, by serving written notice to any persons causing such use or occupancy to be continued. All notices of buildings or structures to be vacated shall state the specific nature of the violation(s), including a reference to the code provision, law, ordinance, rule, or regulation being violated, the time limit when the said use or occupancy must be discontinued, and if necessary, the time when the building or structure, or portion thereof, must be vacated. If there are no persons present on the premises, the building official shall post the notice in a conspicuous place.*

*No person shall continue to use or occupy the said building or structure or equipment, or portion thereof, contrary to the terms of such notice, pending the correction of the stated violation(s) and the approval of the use or occupancy by the building official.*

*Any person violating a notice issued pursuant to this section shall be guilty of a misdemeanor or civil infraction, punishable in accordance with the provisions of Section 114.3.*

***114.6 Authority to order discontinuance of utilities [BID].****{Added} The building official shall have the authority to order the discontinuance of electrical energy, fuel gas, or water supply to any building or structure in one of more of the following categories:*

*1. A building or structure that is being used or occupied in violation of this code or any pertinent law, rule, regulation, or ordinance, as described in this section.*

*2. A building or structure that is deemed to be unsafe, as described in AC Sections 15.08.150.*

*3. A building or structure that is determined to be illegal, as described in this section.*

*4. A building or structure that is determined to be substandard, as described in AC Chapter 15.24 of this title.*

*Any such order of discontinuance shall be in writing and shall state the nature of the condition(s) requiring the discontinuance of utility service or services, and the time when such service or services shall be discontinued. The order shall be sent to the person supplying the said electrical energy, fuel gas, or water, with copies to the person using the said utilities and the owner of the property. The discontinued utility service(s) shall not be restored pending the completion of any required corrections and the approval of the same by the building official.*

***114.7 Investigation fees for work without a permit [BID].****{Added} Whenever any work for which a permit is required by this code has been commenced without first obtaining said permit, the building official shall perform an investigation prior to the issuance of the permit authorizing the work. An investigation fee shall be charged to offset the cost of said investigation. This fee shall be in addition to any other regular plan review or permit fees, and shall be collected whether or not a permit is then or subsequently issued. The amount of the investigation fee shall be assessed by the building official in accordance with the established fee schedule of this Chapter and based upon circumstances and extent of the violation. The payment of such investigation fee shall not exempt any person from compliance with all other provisions of this code nor from any penalty prescribed by law.*

(Ord. No. 2022-58, § 6, 12-6-22)

15.08.140 CBC Ch. 1, Division II, Scope and Administration, Section 115, Stop Work Order.

**115.1*through*115.3***{See CBC}*

**115.4 Failure to comply*[BID].*** Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be *liable for a fine and penalties in accordance with AC Section 15.08.130.*

(Ord. No. 2022-58, § 6, 12-6-22)

15.08.150 CBC Ch. 1, Division II, Scope and Administration, Section 116, Unsafe Structures and Equipment.

**116.1 Unsafe conditions*[BID][CDA]*** Structures or existing equipment that are or hereafter become unsafe, insanitary or deficient because of inadequate means of egress facilities, inadequate light and ventilation, or that constitute a fire hazard, or are otherwise dangerous to human life or the public welfare, or that involve illegal or improper occupancy or inadequate maintenance, *or that are deemed to be in violation of Section 15.24.070 of this title* shall be deemed an unsafe condition. Unsafe structures shall be taken down and removed or made safe, as the building official deems necessary and as provided for in this section. A vacant structure that is not secured against unauthorized entry shall be deemed unsafe.

**116.2*through*116.4***{See CBC}*

**116.5 Restoration or abatement.*[BID].*** Where the structure or equipment determined to be unsafe by the building official is restored to a safe condition, the owner, the owner's authorized agent, operator or occupant of the a structure, premises or equipment deemed unsafe by the building official shall abate or cause to be abated or corrected such unsafe conditions either by repair, rehabilitation, demolition or other approved corrective action. To the extent that repairs, alterations or additions are made or a change of occupancy occurs during the restoration of the structure, such repairs, alterations, additions and change of occupancy shall comply with the requirements of the California Existing Building Code and *AC Chapter 15.24 of this title.*

(Ord. No. 2022-58, § 6, 12-6-22)

15.08.160 CBC CH. 2, Definitions, Section 201, General.

**201.1*through*201.2***{See CBC}*

**201.3 Terms defined in other codes,*ordinances, regulations, or sections [BID].*** Where terms are not defined in this code, and are defined in the *California Energy Code, California Existing Building Code, California Fire Code, California Green Building Standards Code, California Electrical Code, California Mechanical Code, California Plumbing Code, or in other ordinances or regulations of the County or state, or in other sections of this ordinance,* such terms shall have the meanings ascribed to them as in those codes, *ordinances, regulations or sections.*

**201.4 Terms not defined.***{See CBC}*

(Ord. No. 2022-58, § 6, 12-6-22)

15.08.170 CBC Ch. 2, Definitions, Section 202, Definitions.

*{See CBC, and the following words and terms and their meanings are added and modified:}*

***DESIGN FLOOD [Flood].****The flood hazard, as determined by the floodplain administrator, against which a building, structure, or facility that is not a historical building or structure must be protected.*

**DESIGN FLOOD ELEVATION*(DFE) [Flood].****The elevation of the design flood as related to a particular building, structure, or facility in a flood hazard area. The DFE shall be equal to or higher than the base flood elevation, and shall be determined by the floodplain administrator in accordance with a design guideline published by him/her for that purpose.*

***DISTRICT [Flood].****The Alameda County Flood Control and Water Conservation District.*

***FLOODPLAIN ADMINISTRATOR [Flood].****The director of public works, or his/her authorized representative.*

**FLOODWAY*[Flood].*** The *central* channel of the river, creek or other *riverine waterway* and the adjacent land areas that must be reserved *from unauthorized development* in order to discharge the base flood without cumulatively increasing the water surface elevation *at any point within the unincorporated County. Floodways are shown on the Flood Insurance Rate Map, or may be designated by the floodplain administrator. See "FLOODWAY SETBACK."*

***FLOODWAY SETBACK [Flood].****A setback zone adjacent to a floodway, in accordance with AC Chapter 13.12 of Title 13 of the general ordinance code.*

***GENERAL ORDINANCE CODE [Flood].****The general ordinance code of the County.*

**JURISDICTION*[BID].****The County.*

**LOWEST FLOOR*[Flood].****For buildings and structures located within a special flood hazard area shown on the Flood Insurance Rate Map as Zone A, AE, A1-30, A99, AR, AO, or AH, the* floor of the lowest enclosed area, including basement, but excluding any unfinished or flood-resistant enclosure, usable solely for vehicle parking, building access or limited storage, *or a combination of such usages,* provided that such enclosure is not built so as to render the structure in violation of Section 1612. *For buildings and structures located within a special flood hazard area shown on the Flood Insurance Rate Map as Zone V, VO, VE, or V1-30, the lowest structural member of the floor system. See "LOWEST FLOOR ELEVATION."*

***LOWEST FLOOR ELEVATION [Flood].****For buildings and structures located within a special flood hazard area shown on the Flood Insurance Rate Map as Zone A, AE, A1-30, A99, AR, AO, or AH, the top finished surface of the lowest floor, provided that this floor is not fitted with underfloor insulation. If the lowest floor is fitted with underfloor insulation, the bottom of that insulation unless the insulation is one of the following:*

*a. Sprayed polyurethane foam; or*

*b. Closed-cell plastic foam; or*

*c. Composed of other materials deemed to be flood-resistant by the building official.*

*For buildings and structures located within a special flood hazard area shown on the Flood Insurance Rate Map as Zone V, VO, VE, or V1-30, the bottom of the lowest structural member of the floor system.*

***OBSTRUCTION [Flood].****Any object below the design flood elevation that could cause an increase in flood elevation, deflect floodwaters, or transfer load to any structure.*

***WATERWAY [Flood].****See AC Chapter 15.40 of Title 15 of the general ordinance code.*

***ZONE 7 WATER AGENCY [Flood].****The Zone 7 Water Agency of the District.*

(Ord. No. 2022-58, § 6, 12-6-22)

15.08.180 CBC Ch. 4, Special Detailed Requirements Based on Use and Occupancy {See CBC} Section 458 Special Provisions for Stormwater Protection.

***[Cln Water]****{Added}*

***458.1 Scope.****This Section applies to the special uses and occupancies described herein, including those stormwater protection provisions specified in accordance with Provision C.3.c.i.(1) of Order R2-2022-0018 of the California Regional Water Quality Control Board, San Francisco Bay Region or the latest adopted orders or provisions.*

***458.2 General.****The provisions of this Section shall apply to all regulated projects. These provisions shall apply to other new construction and reconstruction projects on a maximum extent practicable basis, as determined by the building official.*

***458.3 Definitions.****The following terms shall, for the purposes of this Section, have the meanings shown herein:*

***PERMEABLE SURFACES.****Relatively pervious load-bearing materials used in place of impervious surfaces to reduce the runoff coefficient, thereby reducing the flow rate of stormwater runoff from a building site. Permeable surfaces include pervious concrete, porous asphalt, unit pavers, and granular materials such as crushed aggregate.*

***REGULATED PROJECT.****Any project defined as such in Provision C.3.b.ii of Order R2-2022-0018 of the California Regional Water Quality Control Board, San Francisco Bay Region or the latest adopted orders or provisions.*

***SITE DESIGN.****The process of planning, designing, and constructing a project so that the causes or drivers of stormwater pollution are minimized through a combination of elements, including but not limited to, the following:*

*1. The preservation of natural infiltration.*

*2. The preservation of natural drainage.*

*3. The preservation of existing vegetation and other environmentally sensitive areas.*

*4. The minimization of impervious area.*

*5. The disconnection of impervious areas.*

*6. The minimization of the construction footprint.*

***458.4 Discharges.****Discharges from the following sources shall be plumbed to the sanitary sewer, subject to the processes and standards of the applicable sanitary district:*

*1. Fueling pads in a motor vehicle fueling station shall be sloped at least 1% to a centrally located floor drain or drains. The pad area shall encompass the length at which each fuel dispensing hose and nozzle assembly can be operated plus one foot (305 mm), but in no case shall the pad be less than 6 feet 6 inches (1981 mm) from the corner of each dispensing pump. Stormwater runoff from all contiguous paved areas shall be intercepted and directed away from the fueling pad through the use of grade breaks, valley gutters, and/or curbs.*

*2. Drains for food preparation at restaurants or food processing facilities that are required for the cleaning of floor mats, equipment, hood filters, or other food preparation utensils, including covered outdoor wash racks. Signs shall be posted within the food preparation areas indicating that cleaning of such mats, equipment, filters, and utensils shall be conducted using the protected wash racks.*

*3. Dumpster drips from covered trash, food waste, and compactor enclosures.*

***Exception:****Enclosures that will be used to house dumpsters or other containers that will be used only for handling dry, stable materials such as paper and cardboard waste that, in the judgment of the building official, would not constitute a pollution hazard to the stormwater collection system may not be required to plumb the floor of the enclosure to the sanitary sewer, provided that the owner of the property furnishes the building official with a signed statement indicating that such limited usages shall be maintained and that a program of regular dry sweeping and cleanup of the area will be implemented.*

*4. Discharges from covered commercial car washers, covered outdoor wash areas for vehicles, equipment, and accessories.*

*5. Water from swimming pools, hot tubs, spas, and fountains.*

***Exception:****Water from existing swimming pools, hot tubs, spas, and fountains may be discharged to on-site vegetated or landscaped areas, provided that such areas can accept the discharge without allowing it to overflow to the stormwater collection system, a watercourse, or property owned by others.*

*6. Fire Sprinkler test water*

***Exception:****May be discharged to on-site vegetated or landscaped area, provided that such areas can accept the discharge without allowing it to overflow to the stormwater collection system, a watercourse, or property owned by others.*

***458.5 Motor vehicle repair garages.****Repair garages shall be covered and shall provide secondary containment for any areas where motor oil, brake fluid, gasoline, diesel fuel, radiator fluid, battery acid or other hazardous materials or wastes are used or stored. The floors of repair garages and any tanks, containers, and sinks used for parts cleaning or rinsing shall not drain to the stormwater system and may only be connected to the sanitary system when so approved by the applicable sanitary district and allowed by an industrial waste discharge permit issued by the State Water Resources Control Board.*

***458.6 Motor vehicle fueling station canopies.****Station canopies shall be sized to cover the entire fueling pad area, as defined in Section 458.4(1), plus the width of the adjacent grade breaks, valley gutters, and/or curbs, and shall not drain into the fueling pad area.*

***458.7 Outdoor facilities and loading docks.****Outdoor facilities used for material storage, trash storage, cleaning, repair, processing, fueling or other activities and loading docks, the stormwater runoff from which, in the judgment of the building official, would constitute a pollution hazard to the stormwater collection system, shall be covered, drained, and protected from stormwater run-on in accordance with standards developed for this purpose by the director of public works. Said cover or canopy shall be sized to cover the entire area, including the curbs, grade breaks, or valley gutters, and to overhang any wall openings by at least 12 inches.*

***458.8 Air Conditioning or equipment condensate.****Condensate from air conditioning units or other equipment shall be directed to landscaped areas or the ground. Discharge to a storm drain system may be allowed if discharge to landscaped areas or the ground is not feasible.*

***458.9 Marking of stormdrain inlets.****On-site stormdrain covers and inlets shall be permanently marked with the legend, "Do Not Dump — Drains to Bay," or equivalent, for projects located in watersheds that discharge to San Francisco Bay.*

***458.10 Site Design.****At least one of the following site design measures shall be incorporated in regulated projects and in all other development projects that create or replace 2,500 sq. ft. or more of impervious surface, including detached single-family home projects:*

*1. Direct roof runoff into cisterns or rain barrels for reuse.*

*2. Direct roof runoff onto vegetated areas.*

*3. Direct runoff from sidewalks, walkways, and/or patios onto vegetated areas.*

*4. Direct runoff from driveways and/or uncovered parking lots onto vegetated areas.*

*5. Construct sidewalks, walkways, and/or patios with permeable surfaces.*

*6. Construct bike lanes, driveways, and/or uncovered parking lots with permeable surfaces.*

***458.11 Inspections of construction sites.****The following construction sites shall be subject to periodic inspection by the County in order to verify the prevention of the discharge of construction materials and debris into a stormwater collection system or a watercourse:*

*1. All construction sites disturbing one acre or more of land.*

*2. All construction sites on property with slopes equal to or greater than 15% where the area of disturbance is equal to or greater than 5,000 square feet.*

*3. Any construction site designated by the County as "High Priority" in accordance with Provision C.6.e.ii.(2)(c) of Order R2-2022-0018 of the California Regional Water Quality Control Board, San Francisco Bay Region, or the latest adopted orders or provisions.*

*4. Other construction sites, as designated by the building official.*

(Ord. No. 2022-58, § 6, 12-6-22)

15.08.190 CBC Ch. 4, Special Detailed Requirements Based on Use and Occupancy {See CBC} Section 470 Construction And Demolition Debris Management [BID]. {Added}

***470.1 Definitions.***

***APPROVED FACILITIES FOR DIVERSION.****A published list by the Alameda County Waste Management Authority or equivalent.*

***DESIGNATED PROJECT RELATED CONSTRUCTION AND DEMOLITION WASTE.****Includes:*

*a. Inert solids;*

*b. Wood materials, including any and all dimensional lumber, fencing or construction wood that is not chemically treated, creosoted, CCA pressure treated, contaminated or painted;*

*c. 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;*

*d. Metals, including all metal scrap such as, but not limited to, pipes, siding, window frames, door frames and fences;*

*e. Roofing materials including wood shingles and shakes as well as asphalt, stone and slate based roofing material;*

*f. Salvageable materials and structures, including, but not limited to doors, windows, fixtures, hardwood flooring, sinks, bathtubs and appliances; and*

*g. Any other materials that the Building Official determines can be diverted due to the identification of a recycling facility, reuse facility, or market accessible from the County.*

***INERT SOLIDS.****Includes asphalt, concrete, rock, stone, brick, sand, soil and fines.*

***SALVAGE.****The controlled removal of materials from a project covered by this Section 470 for the purpose of reuse or storage for later reuse.*

***STRUCTURE.****Any structure that is built or constructed, an edifice or building of any kind or piece of work artificially built or composed of parts joined together in some definite manner and permanently attached to the ground.*

***WORK AREA.****Work area is a construction area that is measured in square feet either on a horizontal or vertical plane.*

***470.2 Applicability.****Applications for building permits, and the construction performed under those permits, are required to conform to the provisions of this Section and with the applicable mandatory standards of the 2022 California Green Building Standards Code. In the event of conflict, the most stringent requirement shall pertain.*

***470.3 Construction and Demolition Projects covered by this Section 470.****The following project categories are covered by and must comply with the chapter:*

*a. Any project requiring a demolition permit;*

*b. All residential construction including new construction, additions, alterations or repairs where the area of work exceeds 1,000 square feet.*

*c. All non-residential construction including, new construction, additions, alterations or repairs where the area of work exceeds 3,000 square feet.*

***470.4 Construction and Demolition Debris Management Requirements.****The minimum requirements for diversion or salvage of waste generated by a covered construction and demolition project are:*

*a. Seventy-five (75%) percent of inert solids and,*

*b. Sixty-five (65%) percent of all remaining designated project related construction and demolition waste and,*

*c. Non-residential projects shall comply with Section 5.408.3, Excavated soil and land clearing debris, of chapter 5, Nonresidential Mandatory Measures, of the California Green Building Standards Code, part 11 of Title 24 of the California Code of Regulations.*

*d. Submission of a Debris Management Plan as specified in Section 470.6 prior to issuance of a demolition or building permit.*

*e. Any project subject to other construction and demolition requirements of the AC General Ordinance Code shall obtain the requisite permit, approval, or release from the enforcing agency prior to the start of the project.*

*f. The building official may waive any or all requirements of this Section 470 where an immediate or emergency demolition is required to protect the public health, safety, or welfare.*

***470.5 Deconstruction and Salvage Recovery.****It is encouraged to make every structure planned for demolition available for deconstruction, salvage and recovery prior to demolition. Recovered and salvaged materials from the deconstruction phase of a project can be counted towards the diversion requirements of this chapter.*

***470.6 Debris Management Plan.****Prior to issuance of a demolition or building permit for any project covered by this Section 470, the applicant shall submit a debris management plan to the building official for review and approval. The Debris Management Plan must include the following:*

*a. The estimated total volume or weight of construction and demolition waste generated by the project. In estimating the weight of materials identified in the debris management plan, the applicant shall use the conversion rates approved by the building official for this purpose.*

*b. The means that the applicant proposes to use to divert construction and demolition waste. In describing the means of diversion of construction and demolition waste other than salvage, the applicant shall state the approved facility that will be used, by material type. The building official shall approve a facility for diversion that meets the requirements of this chapter. In describing the means of diversion of construction and demolition waste proposed for salvage, the applicant shall state the quantity and means of reuse.*

***470.7 Waivers / Amendments.***

***a. Waivers. In the event that diversion or salvage of all or some materials is impossible or impracticable, the applicant shall submit written justification with the debris management plan stating the reasons diversion or salvage should not be required. The building official shall have the authority to waive any provision of this Section, unless it is otherwise required in the Green Buildings Standards Code.***

***b. Amendments. If the applicant wishes to change the approved debris management plan due to inaccuracy of the original estimate, the applicant shall submit amendments to the debris management plan for written approval by the building official.***

*In the event that a project has reached to a point that full compliance with this section is unachievable prior to final building inspection, the applicant shall submit evidence to the building official showing that a good faith effort is being made. The building official shall determine the maximum feasible diversion rate for the project with an amended management plan. An additional building permit fee will be assessed based on the difference between the actual diversion rate and full compliance to recover the cost of enforcement.*

***470.8 Debris Management Plan Reviews.***

*a. The building official shall determine, in writing, whether a requested waiver of a diversion or salvage requirement in this section shall be granted in whole or in part on grounds of impracticability or impossibility.*

*b. The building official shall approve a debris management plan or an amendment to a debris management plan if it meets the requirements of this chapter.*

*c. Notwithstanding any other provision of this code, no permit shall be issued for any covered construction and demolition waste project unless the building official has approved the debris management plan.*

*d. If the building official declines to approve the debris management plan, he or she shall inform the applicant in writing the basis of the denial.*

***470.9 Administration Fee.****As a condition precedent to the issuance of any building or demolition permit for a project covered by this Section 470, the applicant shall pay to the County a fee of one-half hour staff time on each project to compensate the County for all expenses incurred in administering this Section 470.*

***470.10 Reporting.****The building official may inspect and monitor all projects covered by this Section 470 to determine compliance with the diversion and salvage provisions of this chapter. The following documentation must be provided at the completion of a demolition project or construction project, or prior to the permit final:*

*a. The documentation shall consist of photocopies of receipts and weight tags or other records of measurement or equivalent documentation from recycling companies, deconstruction contractors, and landfill and disposal companies. The contractor's approved "Debris Management Plan" shall be completed by recording and confirming the type of debris diverted and the facilities to which it was taken. The contractor shall sign the completed "Debris Management Plan" form to certify its accuracy as part of the documentation of compliance.*

*b. Progress reports during construction shall be submitted as required by the building official.*

*c. All documentation submitted pursuant to this section is subject to verification by the County.*

*d. It is unlawful for any person to submit documentation to the County under this section which that person knows to contain any false statements, including but not limited to false statements regarding tonnage of materials recycled or diverted, or to submit any false or fraudulent receipt or weight tag or other record of measurement.*

***470.11 Construction and Demolition Debris Management Implementation and Enforcement.****The Alameda County Construction and Demolition Debris Management requirements in this section will be implemented and enforced by the Building Inspection Department of the Alameda County Public Works Agency. Violation of any provision of this Section 470 may be enforced in accordance with the provisions of Section 15.08.130 of this chapter.*

(Ord. No. 2022-58, § 6, 12-6-22)

15.08.195 CBC Ch. 4, Special Detailed Requirements Based on Use and Occupancy {See CBC} Section 480, Small Residential Rooftop Solar Energy Systems [BID]. {Added}>

***480.1 Purpose.****The purpose of the County's small residential rooftop solar energy system permitting process is to achieve timely and cost-effective installations of small residential rooftop solar energy systems, in compliance with the Solar Rights Act, as amended by Assembly Bill 2188 (Chapter 521, Statutes 2014), while protecting public health and safety. This ordinance shall apply to the permitting of all small residential rooftop solar energy systems in the unincorporated area of the County.*

***480.2 Definitions.****Unless the particular provision or the context otherwise requires, the following definitions shall govern the interpretation and application of this section:*

***ELECTRONIC SUBMITTAL.****Electronic submittal means the utilization of one or more of the following:*

*1. Email.*

*2. The Internet.*

*3. Facsimile.*

***SMALL RESIDENTIAL ROOFTOP SOLAR ENERGY SYSTEM.****Small residential rooftop solar energy system means all of the following:*

*1. A solar energy system that is no larger than 10 kilowatts alternating current nameplate rating or 30 kilowatts thermal;*

*2. A solar energy system that conforms to (1) all applicable state fire, structural, electrical, and other building codes as adopted or amended by the County; (2) subdivision (c) of Section 714 of the Civil Code; and (3) all state, County, and federal health and safety standards;*

*3. A solar energy system that is installed on a single or duplex family dwelling; and*

*4. A solar panel or module array that does not exceed the maximum legal building height of the zoning district in which it is located.*

***SOLAR ENERGY SYSTEM.****Solar energy system has the meaning set forth in paragraphs (1) and (2) of subdivision (a) of Section 801.5 of the Civil Code.*

***SPECIFIC, ADVERSE IMPACT.****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.*

***480.3 Administrative Review.****An application for a permit to install a small residential rooftop solar energy system shall be processed in accordance with Government Code Section 65850.5. The building official shall implement the expedited, streamlined permitting process adopted herein for the administrative, nondiscretionary review of small residential rooftop solar energy systems.*

***480.3.1 Checklist.****The building official shall adopt a checklist that sets forth all requirements with which the small residential rooftop solar energy system must comply in order to be eligible for expedited review.*

***480.3.2 Substantial Conformity with Guidebook.****The expedited, streamlined permitting process shall substantially conform to the recommendations for expedited permitting — including any checklists 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.*

***480.3.3 Electronic Access.****The checklist and any required permitting documentation shall be published on the County's website. An applicant may submit a permit application and associated documentation over-the-counter, by mail, or through electronic submittal, using the electronic submittal method(s) specified on the County website. A wet signature shall not be required for small residential rooftop solar energy system permit documentation that is provided through electronic submittal.*

***480.3.4 Complete Application.****An application that satisfies the information requirements in the checklist shall be deemed complete.*

***480.3.5 Incomplete Application.****Upon receipt of an incomplete application, the building official shall issue a written correction notice detailing all deficiencies in the application and identifying any additional information required for the application to be eligible for expedited permit issuance.*

***480.3.6 Approval.****Upon confirmation that the application is complete, the building official shall review the application to ensure the small residential rooftop solar energy system meets local, state, and federal health and safety requirements. Absent any specific, adverse impact findings, the building official shall administratively approve the application and issue all required permits or authorizations. The building official's approval of the application does not authorize an applicant to connect a small residential rooftop solar energy system to the local utility provider's electricity grid. The applicant may need to contact the local utility provider for approval prior to activating the system.*

***480.3.7 No Requirement for Association Approval.****Approval of an application shall not be based on or conditioned on the approval of an association, as defined in Section 4080 of the Civil Code.*

***480.4 Inspection.****For a small residential rooftop solar energy system eligible for expedited review, only one consolidated inspection shall be required, which shall be done in a timely manner. If a small residential rooftop solar energy system fails inspection, a subsequent inspection is authorized, and the subsequent inspection need not conform to the requirements of this section.*

(Ord. No. 2022-58, § 6, 12-6-22)

15.08.200 CBC Ch. 4, Special Detailed Requirements Based on Use and Occupancy {See CBC} Section 490, Electric Vehicle Charging Stations and Hydrogen Fueling Stations [BID]. {Added}

***490.1 Purpose.****The purpose of the County's electric vehicle charging station and hydrogen fueling station permitting process is to achieve timely and cost-effective installations of electric vehicle charging stations and hydrogen fueling stations, in compliance with state law, while protecting public health and safety. This Section shall apply to the permitting of all electric vehicle charging stations and hydrogen fueling stations in the unincorporated area of the County.*

***490.2 Definitions.****Unless the particular provision or the context otherwise requires, the following definitions shall govern the interpretation and application of this section:*

***ELECTRONIC SUBMITTAL.****Electronic submittal means the utilization of one or more of the following:*

*1. Email.*

*2. The Internet.*

*3. Facsimile.*

***ELECTRIC VEHICLE CHARGING STATION.****Electric vehicle 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, and delivers electricity from a source outside an electric vehicle into a plug-in electric vehicle.*

***HYDROGEN-FUELING STATION.****Hydrogen-fueling station means the equipment used to store and dispense hydrogen fuel to vehicles according to industry codes and standards that is open to the public and that meets the criteria of Government Code Section 65850.7, subd. (b)(2).*

***SPECIFIC, ADVERSE IMPACT.****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.*

***490.3 Administrative Review.****An application for a permit to install an electric vehicle charging station or hydrogen fueling station shall be processed in accordance with Government Code Section 65850.7.*

***490.4 Streamlined Permitting.****For electric vehicle charging stations, the building official shall implement the expedited, streamlined permitting process adopted herein for the administrative, nondiscretionary review of electric vehicle charging station permit applications.*

***490.4.1 Checklist.****The building official, upon review and consideration of the recommendations in the most current version of the Office of Planning and Research's "Zero-Emission Vehicles in California: Community Readiness Guidebook" and in conformity with all applicable safety and performance standards, shall adopt and update a checklist that sets forth all requirements with which an electric vehicle charging station must comply in order to be eligible for expedited review.*

***490.4.2 Electronic Access.****The checklist and any required permitting documentation for electric vehicle charging stations shall be published on the County's website. An electric vehicle charging station applicant may submit a permit application and associated documentation over-the-counter, by mail, or through electronic submittal, using the electronic submittal method(s) specified on the County website. A wet signature shall not be required for electric vehicle charging station permit documentation that is provided through electronic submittal.*

***490.4.3 Complete Application.****An electric vehicle charging station application that satisfies the information requirements in the checklist shall be deemed complete.*

***490.4.4 Incomplete Application.****Upon receipt of an incomplete application for an electric vehicle charging station, the building official shall issue a written correction notice detailing all deficiencies in the application and identifying any additional information required for the application to be eligible for expedited permit issuance.*

***490.5 Specific Adverse Impacts.****If the building official or the planning director makes a finding, based on substantial evidence, that an electric vehicle charging station or hydrogen fueling station could have a specific, adverse impact upon the public health or safety, the building official or planning director may require the applicant to apply for a use permit and impose conditions designed to mitigate the specific, adverse impact. If the building official or planning director makes written findings based upon substantial evidence that the proposed installation would have a specific, adverse impact for which there is no feasible method for satisfactory mitigation or avoidance, the permit application may be denied.*

***490.6 Approval.****Upon confirmation that the application is complete, the building official shall review the application to ensure the electric vehicle charging station or hydrogen fueling station meets local, state, and federal health and safety requirements. Absent any specific, adverse impact findings, the building official shall administratively approve the application and issue the permit.*

***490.7 No Requirement for Association Approval.****Approval of an electric vehicle charging station permit application shall not be based on or conditioned on the approval of an association, as defined in Section 4080 of the Civil Code.*

(Ord. No. 2022-58, § 6, 12-6-22)

15.08.210 CBC Ch. 9, Fire Protection and Life Safety Systems, Section 901, General.

**901.1 Scope*[FIRE].****{See CBC, and the following sentence is added} Fire protection systems shall also comply with Special Fire District Code.*

(Ord. No. 2022-58, § 6, 12-6-22)

15.08.220 CBC Ch. 15, Roof Assemblies And Rooftop Structures, Section 1505, Fire Classification.

**1505.1 General*[FIRE].****{See CBC, and the following sentence is added} Comply with Special Fire District Code for the roof covering classification requirements for the area designated by the fire chief as fire hazard zones.*

(Ord. No. 2022-58, § 6, 12-6-22)

15.08.230 CBC Ch. 16, Structural Design, Section 1612, Flood Loads.

**1612.1 General*[Flood].****{See CBC, and the following sentence is added} Flood-resistant design shall also comply with AC Section 15.08.300 and AC Chapter 15.40.*

**1612.2***{See CBC}*

**1612.3 Establishment of flood hazard areas*[Flood].****To establish flood hazard areas, the County shall adopt by AC Chapter 15.40, a flood hazard map and supporting data. The adopted flood hazard map and supporting data are hereby adopted by reference and declared to be part of this section.*

**1612.3.1*through*1612.4***{See CBC}*

(Ord. No. 2022-58, § 6, 12-6-22)

15.08.240 CBC Ch. 18, Soils and foundations, Section 1803, Geotechnical Investigations.

**1803.6 Reporting.*[BID]****{See CBC, and the following subsections are added}*

***1803.6.1 Prior reports.****The building official shall have the authority to require that all prior soil and/or geologic reports prepared for a building site, whether prepared for the currently proposed project or not, be submitted to him/her for review, as a record of the conditions observed on the property at various times.*

***1803.6.2 Final reports.****Upon completion of rough grading work at the building site and prior to the approval of the foundation for any proposed building or structure, the following shall be provided to the building official:*

*1. When required by the building official, an as-built grading plan, prepared by a registered civil engineer, including but not limited to original ground surface elevations, as-graded ground surface elevations, surface drainage conditions, and the location and the description of all surface and subsurface drainage facilities.*

*2. A complete record of all in-progress geotechnical tests performed by the responsible geotechnical or soils engineer, geologist, or engineering geologist, including but not limited to the location and elevation of all field density tests and a summary of all field and laboratory tests.*

*3. A letter of finding by the responsible geotechnical or soils engineer, geologist, or engineering geologist as to the adequacy of site preparation for the designed foundation system.*

*4. A letter of declaration by the responsible geotechnical or soils engineer, geologist, or engineering geologist in the form required by the building official, that all geotechnical and rough grading work was done in accordance with the recommendations contained in the soil and/or geologic investigation report, as approved by the building official, and in conformance to the approved plans and specifications.*

*Where the actual soil or geologic conditions encountered in the grading operations are different from those anticipated in the soil and/or geologic investigation report or where such actual conditions warrant changes to the recommendations contained in the said report, a revised soil and/or geologic report shall be submitted to the building official for approval. Any such revised report must be accompanied by an updated engineering and geologic opinion as to the safety of the site from the hazards of land slippage, erosions, settlement, earthquake fault, or seismic activity.*

(Ord. No. 2022-58, § 6, 12-6-22)

15.08.250 CBC Ch. 18, Soils and Foundations, Section 1807, Foundation Walls, Retaining Walls and Embedded Posts and Poles.

**1807.2 Retaining walls*[BID].****{See CBC, and the following subsections are added}*

***1807.2.6 Tire Retaining Walls.****Retaining walls constructed of tires shall not be allowed.*

***1807.2.7 Wood Retaining Walls****Wood shall not be used for the construction of retaining walls at a property line or within a distance from the property line equal to the exposed height of the front of the wall.*

(Ord. No. 2022-58, § 6, 12-6-22)

15.08.260 CBC Ch. 21, Masonry, Section 2111, Masonry Fireplaces.

**2111.1 General*[BID].*** The construction of masonry fireplaces, consisting of concrete or masonry, shall be accordance with this section. *When used as a wood-burning appliance, a masonry fireplace shall comply with AC Section 15.16.040 of this title.*

(Ord. No. 2022-58, § 6, 12-6-22)

15.08.270 CBC Ch. 32, Encroachments Into the Public Right-of-Way, Section 3201, General.

**3201.3 Other laws*[BID].****{See CBC, and the following sentence is added} Approval from other state, county, or city agencies having jurisdiction shall be required when structures encroach into the public right-of-way, whether above or below grade or at-grade.*

(Ord. No. 2022-58, § 6, 12-6-22)

15.08.280 CBC Ch. 33, Safeguards During Construction, Section 3301, General.

**3301.1 Scope*[BID].****{See CBC, and the following sentence is added} Compliance with laws and ordinances regulated by County agencies having jurisdiction shall be required. Any installations of pedestrian protection measures or protective devices and any storage of materials or equipment within a County roadway must be authorized by the director of public works.*

(Ord. No. 2022-58, § 6, 12-6-22)

15.08.300 CBC Appendix G, Flood-Resistant Construction.

**G101.1 through G101.4***{See CBC, Appendix G}*

**G101.5*[Flood].*** The *County's Director of Public Works, or designee,* is designated as the floodplain administrator and is authorized and directed to enforce the provisions of this appendix. The floodplain administrator is authorized to delegate performance of certain duties to other employees of the *County.* Such designation shall not alter any duties and powers of the building official.

**G102.1 through G103.1***{See CBC, Appendix G}*

**G103.2 Establishment of flood hazard areas*[Flood].****Flood hazard areas are established in AC Chapter 15.40 in accordance with Section 1612.3.*

**G104.1 Permit applications*[Flood].*** All applications for permits shall comply with the following:

 1. The floodplain administrator, *in consultation with the building official,* shall review all *building* permit applications to determine whether proposed development is located in flood hazard areas established in Section G103.2.

 2. Where a proposed development site is in a flood hazard area, all development to which this appendix is applicable as specified in Section G103.1 shall be designed and constructed with methods, practices, and materials that minimize flood damage and that are in accordance with this code, ASCE 24 *and with a design guideline published by the floodplain administrator pursuant to AC Chapter 15.40.*

**G104.2 Other permits.***{See CBC, Appendix G}*

**G104.3 Determination of base and design flood elevations*[Flood].****If base flood elevations are not specified on the Flood Insurance Rate Map, the floodplain administrator is authorized to require the applicant to:*

*1. Obtain, review and reasonably utilize data available from a federal, state or other source; or*

*2. Determine the base flood elevation in accordance with accepted hydrologic and hydraulic engineering techniques. Such analyses shall be performed and sealed by a registered design professional. Studies, analyses and computations shall be submitted in sufficient detail to allow review and approval by the floodplain administrator. The accuracy of data submitted for such determination shall be the responsibility of the applicant.*

*The determination of the design flood elevation shall be made by the floodplain administrator in accordance with a design guideline published by him/her for that purpose.*

**G104.4 Activities in riverine flood hazard areas*[Flood].****In riverine flood hazard areas where base flood elevations are specified but floodways have not been designated, the floodplain adminstrator shall not permit any new construction, substantial improvement or other development, including fill, unless the applicant submits an engineering analysis prepared by a registered design professional, demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated flood hazard area encroachment, will not increase the base flood elevation more than 1 foot (305 mm) at any point within the unincorporated County.*

**G104.5 Floodway encroachment*[Flood].*** Prior to issuing a permit for *any encroachment into a floodway or a floodway setback,* including fill, new construction, substantial improvements and other development or land-disturbing activity, the floodplain administrator shall require submission of a certification, prepared by a registered design professional, along with supporting technical data, demonstrating that such development will not cause any increase of the base flood level *at any point in the unincorporated County.*

**G104.5.1 Floodway revisions.***{see CBC, Appendix G}*

**G104.6 Watercourse alteration*[Flood].****Any proposed alteration of a waterway shall be subject to separate approval, as follows:*

*1. An alteration of a waterway that is not part of the right-of-way of the District or of the Zone 7 Water Agency shall be subject to approval by the director, in accordance with the provisions of AC Chapter 13.12 of Title 13 of the general ordinance code.*

*2. An alteration of a waterway that is part of the right-of-way of the District shall be subject to approval by the District, in accordance with the provisions of AC Chapter 6.36 of Title 6 of the general ordinance code.*

*3. An alteration of a waterway that is part of the right-of-way of the flood control system of the Zone 7 Water Agency shall be subject to approval by that agency.*

*Prior to issuing a permit authorizing development associated with alteration of a waterway, the flood plain administrator shall require the applicant to submit documented evidence of approval as described above, and shall require the applicant to provide notification of the proposal to all other agencies and jurisdictions having authority over the affected waterway. A copy of the notification shall be maintained in the permit records and submitted to FEMA.*

**G104.6.1 Engineering analysis*[Flood].****This subsection is deleted in its entirety.*

**G104.7 Alterations in coastal areas*[Flood].****This section is deleted in its entirety.*

**G104.8 through G105.1.***{See CBC, Appendix G}*

**G105.2 Application for permit*[Flood].*** The applicant shall file an application in writing on a form furnished by the floodplain administrator. Such application shall:

 1. Identify and describe the development to be covered by the permit.

 2. Describe the land on which the proposed development is to be conducted by legal description, street address or similar description that will readily identify and definitely locate the site.

*3.* Include a site plan showing the delineation of flood hazard areas, floodway boundaries, flood zones, base flood elevations, ground elevations *as determined by survey,* proposed fill and excavation, drainage patterns and facilities, *and any existing or proposed obstructions.*

*4.* Include *base flood elevation data in accordance with Section 1612.3.1 as directed by the floodplain administrator, if such data are not identified for the flood hazard areas established in Section G102.2.*

*5.* Indicate the use and occupancy for which the proposed development is intended.

 6. Be accompanied by construction documents, grading and filling plans and other information deemed appropriate by the floodplain administrator.

 7. State the valuation of the proposed work.

 8. Be signed by the applicant or the applicant's authorized agent.

**G105.3 through G107.2.***{See CBC, Appendix G}*

**G108.1 Development in floodways and floodway setbacks*[Flood].****Development or land disturbing activity shall not be authorized in a designated floodway or a floodway setback unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice, and prepared by a registered design professional and approved by the floodplain administrator, that the proposed encroachment will not result in any increase in the base flood level.*

**G108.2 through G109.5.***{See CBC, Appendix G}*

**G110.1 Placement prohibited*[Flood].****The placement of recreational vehicles shall not be authorized in floodways or floodway setbacks.*

**G110.2 through SECTION G115.***{See CBC, Appendix G}*

(Ord. No. 2022-58, § 6, 12-6-22)

### ARTICLE III. CALIFORNIA RESIDENTIAL CODE,AMENDED SECTIONS TO 2022 CALIFORNIA RESIDENTIAL CODE (CA TITLE 24, PART 2.5)>

15.08.310 CRC Preface.

*{See CRC and AC Section 15.08.011 of this title}*

(Ord. No. 2022-58, § 6, 12-6-22)

15.08.320 CRC Ch. 1, Scope and Application, Division I, California Administration.

*{See CRC and AC Section 15.08.020 when applicable}*

15.08.330 CRC Ch. 1, Division II, Administration, Section R101, General.

**R101.1 Title*[BID].*** These provisions shall be known as the Residential Code for One- and Two-family Dwellings of *the County of Alameda* and shall be cited as such and will be referred to herein as "this code."

**R101.2*through*R102.4***{See CRC}*

**R102.5 Appendices*[BID].*** Provisions in the appendices shall not apply unless specifically adopted. *The following CRC appendix chapters are adopted and amended, as noted, by the County:*

*1. Appendix AH, Patio Covers — Adopted.*

*2. Appendix AX, Swimming Pool Safety Act — Adopted.*

*3. Appendix AQ, Tiny Houses — Adopted and amended in Section 15.08.385.*

*3. Appendix AZ, Emergency Housing — Adopted.*

**R102.6 Partial invalidity.***{See CRC}*

**R102.7 Existing structures*[BID][CDA].*** The legal occupancy of any structure existing on the date of adoption of this code shall be permitted to continue without change, except as is specifically covered in this code, *AC chapter 15.24 of this title,* or the *California Fire Code,* or as is deemed necessary by the building official for the general safety and welfare of the occupants and the public.

**R102.7.1 Additions, alterations or repairs.** Additions, alterations or repairs to any structure shall conform to the requirements for a new structure without requiring the existing structure to comply with the requirements of this code, unless otherwise stated. Additions, alterations, repairs and relocations shall not cause an existing structure to become unsafe, *as defined in AC Section 15.08.150,* or adversely affect the performance of the building. Where the alteration causes the use or occupancy to be changed to one not within the scope of this code, the provisions of the California Existing Building Code shall apply.

**R103 through R114.***{See CRC and AC Sections 15.08.040 through 15.08.150 when applicable}.*

(Ord. No. 2022-58, § 6, 12-6-22)

15.08.340 CRC Ch. 2, Definitions.

*{See CBC, CRC and AC Sections 15.08.160 and 15.08.170 when applicable}*

15.08.350 CRC Ch. 3, Building Planning.

**R300.1*through*R301.1.3.3***{See CRC}*

**R301.2 Climatic and geographic design criteria*[Flood].****{See CRC and amend footnote g. of Table R301.2(1), Climatic and Geographic Design Criteria, to read as follows. The County shall, by AC Chapter 15.40, specify (a) the date of the County's entry into the National Flood Insurance Program, (b) the date of the Flood Insurance Study, and (c) the date of the currently effective FIRM.}*

**R301.2.1*through*R321.3***{See CRC}*

**R322.1 General.** Buildings and structures constructed in whole or in part in flood hazard areas, including A or V Zones and Coastal A Zones, as established in *this AC Section 15.08.350,* and substantial improvement and repair of substantial damage of buildings and structures in flood hazard areas, shall be designed and constructed in accordance with the provisions contained in this section *and in AC Section 15.08.300.* Buildings and structures that are located in more than one flood hazard area shall comply with the provisions associated with the most restrictive flood hazard area. Buildings and structures located in whole or in part in identified floodways *andfloodway setbacks* shall be designed and constructed in accordance with *AC Section 15.08.300.*

**R322.1.1*through*R322.1.3***{See CRC}*

**R322.1.4 Establishing the design flood elevation*[Flood].*** The design flood elevation shall be *defined and established in accordance with AC Sections 15.08.170 and 15.08.300.*

**R322.1.5*through*R322.3.10***{See CRC}*

**R323*through*R340***{See CRC}*

(Ord. No. 2022-58, § 6, 12-6-22)

15.08.360 CRC Ch. 4, Foundations.

*{See CRC and AC Sections 15.08.240 and 15.08.250 when applicable}*

(Ord. No. 2022-58, § 6, 12-6-22)

15.08.370 CRC Ch. 9, Roof Assemblies.

*{See CRC and AC Section 15.08.220 when applicable}*

(Ord. No. 2022-58, § 6, 12-6-22)

15.08.380 CRC Ch. 10, Chimneys and Fireplaces.

*{See CRC and AC Section 15.08.260 when applicable}*

(Ord. No. 2022-58, § 6, 12-6-22)

15.08.385 CRC Appendix AQ, Tiny Houses, Section AQ102, Definitions.

*{See CRC Appendix AQ and the following definition is modified}*

**TINY HOUSE*[BID].*** A dwelling that is *no more than* 400 square feet (37 m2 ) in floor area excluding lofts, *but with a minimum floor area established by the planning director on a case-by-case basis.*

(Ord. No. 2022-58, § 6, 12-6-22)

### ARTICLE IV. CALIFORNIA GREEN BUILDING STANDARDS CODE CALGreen, AMENDED SECTION TO 2022 CALIFORNIA GREEN BUILDING STANDARDS CODE CALGreen (CA TITLE 24, PART 11)

15.08.390 CALGreen Ch. 2, Definitions, Section 202, Definitions.

***[ClnWater]***

*{See CBC, and the meaning of the following words and terms are modified}*

**BIORETENTION.** A shallow *basin or planter box, designed and constructed in accordance with the provisions of Chapter 13.08 of Title 13 of this code,* that utilizes conditioned soil, *vegetation, and subgrade rock* for the storage *and treatment of stormwater runoff.*

**ENFORCING AGENCY.***The Building Inspection Department of the Public Works Agency of the County, except for Sections 4.106.2 and 4.106.3 of Chapter 4 and Sections 5.106.1, 5.106.2, and 5.106.10 of Chapter 5, which shall be enforced by the Land Development Section of the Construction & Development Services Department of the County Public Works Agency.*

**INFILTRATION.***Depending upon usage,*

*1.* An uncontrolled inward air leakage from outside a building or unconditioned space, including leakage through cracks and interstices, around windows and doors and through any other exterior or demising partition or pipe or duct penetration; *or*

*2. Storage and treatment of stormwater runoff in a subsurface area of the site by means of a French drain or similar device designed and constructed in accordance with the provisions of Chapter 13.08 of Title 13 of the General Ordinance Code of the County.*

**LOW IMPACT DEVELOPMENT (LID).** Control *and protection* of stormwater at its source to mimic *the drainage of an undeveloped site, in accordance with the provisions of Section 15.08.180 of this chapter and of Chapter 13.08 of Title 13 of this code.*

(Ord. No. 2022-58, § 6, 12-6-22)

### ARTICLE V. CALIFORNIA EXISTING BUILDING CODE, AMENDED SECTIONS TO 2022 CALIFORNIA EXISTING BUILDING CODE (CA TITLE 24, PART 10)

15.08.400 CEBC Preface.

*{See CEBC and AC Section 15.08.011 of this title}*

(Ord. No. 2022-58, § 6, 12-6-22)

15.08.410 CEBC Ch. 1, Scope and Administration, Division I, California Administration, Section 1.1, General.

**1.1.1 Title*[BID].*** These regulations, *consisting of the California Existing Building Code as adopted and amended by the County,* shall be known as the *Existing Building Code* of the *County of Alameda,* and shall be cited as such and will be referred to herein as "this code."

**1.1.2*through*1.1.14***{See CEBC and AC Section 15.08.020 when applicable}*

(Ord. No. 2022-58, § 6, 12-6-22)

15.08.420 CEBC Ch. 1, Division II, Scope and Administration.

**101.1 Title*[BID].*** These regulations, *consisting of the* California Existing Building Code *as adopted and amended by the County,* shall be known as the *Existing Building Code* of the *County of Alameda,* and shall be cited as such and will be referred to herein as "this code."

**101.2 through 101.5***{See CEBC}*

**101.6 Appendices.***{See CEBC, and add the following paragraph:}*

*The following CEBC appendix chapters are adopted by the County as noted:*

*1. Appendix A Chapter A1, Seismic Strengthening Provisions for Unreinforced Masonry Bearing Wall Buildings — Adopted.*

*2. Appendix A Chapter A3, Prescriptive Provisions for Seismic Strengthening of Cripple Walls and Sill Plate Anchorage of Light, Wood-Frame Residential Buildings* — *Adopted as Design Reference.*

*3. Appendix A Chapter A4, Earthquake Risk Reduction In Wood-Frame Residential Buildings With Soft, Weak or Open Front Walls — Adopted as Design Reference.*

**101.7***{See CEBC}*

**101.8 Maintenance*[BID][CDA].*** Buildings and structures, and parts thereof, shall be maintained in a safe and sanitary condition, *and shall not be substandard as described in Section 101.8.1.* Devices or safeguards which are required by this code shall be maintained in conformance with the code edition under which installed. The owner or the owner's designated agent shall be responsible for the maintenance of buildings and structures. To determine compliance with this subsection, the building official shall have the authority to require a building or structure to be re-inspected *in accordance with Section 101.8.2.* The requirements of this chapter shall not provide the basis for removal or abrogation of fire protection and safety systems and devices in existing structures.

***101.8.1 Substandard buildings [BID].****Any building or structure, or portion thereof, that is determined to be an unsafe structure or equipment in accordance with AC Section 15.08.150 or AC Ch. 15.24 of this title, or any building or structure, or portion thereof, including any dwelling unit, guest room, or suite of rooms, or the premises on which the same is located, in which there exists a condition that endangers the life, limb, health, property, safety, or welfare of the public or the occupants thereof, shall be deemed and hereby are declared to be substandard buildings.*

***101.8.2 Inspection [BID].****Inspections of existing buildings, structures, and premises for the purpose of verifying compliance with this section shall be performed in accordance with this code and the AC General Ordinance Code.*

***101.8.3 Abatement of substandard buildings, structures, and premises [BID].****Buildings or structures, or portions thereof, or premises that are determined to be substandard as described in this section are hereby declared to public nuisances, and shall be abated by repair, rehabilitation, demolition, or removal in accordance with this code, AC chapters 15.24 of this title, and the AC General Ordinance Code.*

**102.1*through*104.2***{See CEBC}*

**104.2.1 Determination of substantially improved or substantially damaged existing buildings and structures in flood hazard areas*[Flood].*** For applications for reconstruction, rehabilitation, repair, alteration, addition or other improvement of existing buildings or structures located in flood hazard areas, the building official shall determine where the proposed work constitutes substantial improvement or repair of substantial damage. Where the building official determines that the proposed work constitutes substantial improvement or repair of substantial damage, and where required by this code, the building official shall require the building to meet the requirements of Section 1612 of the *California Building Code, AC Section 15.08.300, and AC Chapter 15.40 of this title.*

**104.2.2.1 through 105.1.2.***{See CEBC and AC Sections 15.08.040 through 15.08.150 when applicable}*

**105.2 Work exempt from permit*[Flood].****{See CEBC, and revise the first paragraph to read as follows} For existing buildings and structures that are located in a flood hazard area, this provision shall not apply; see AC Section 15.08.300.* Exemptions from permit requirements of this code shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this code or any other laws or ordinances of *the County. For existing buildings and structures that are not located in a flood hazard area as established in Section 1612.3, permits* shall not be required for the following:

**105.3*through*106.2.5.***{See CEBC and AC Sections 15.08.040 through 15.08.150 when applicable}*

**106.2.6 Site plan*[Flood][Cln Water].*** The construction documents submitted with the application for permit shall be accompanied by a site plan showing to scale the size and location of new construction and existing structures *and features* on the site, distances from lot lines, the established street grades, *any flood hazard areas and associated base flood elevations,* and the proposed finish grades; and it shall be drawn in accordance with an accurate boundary line survey. In the case of demolition, the site plan shall show construction to be demolished and the location and size of existing structures and construction that are to remain on the site or plot. The code official is authorized to waive or modify the requirement for a site plan where the application for permit is for alteration, repair or change of occupancy, *provided that the site is not located within a flood hazard area as established in Section 1612.3 of the California Building Code and the proposed alteration adds to or alters less than 2500 sq. ft. of existing impervious surface.*

**106.3*through*117.4.***{See CEBC and AC Sections 15.08.040 through 15.08.150 when applicable}*

15.08.430 CEBC Ch. 2, Definitions, Section 202, General Definitions.

*{See CEBC, and the following terms and their meanings are added and modified}*

ALTERATION ***[BID][Cln Water].*** Any construction or renovation to an existing structure or to the existing impervious surface of the premises other than a repair or addition. *Any construction or renovation that removes or replaces 50 percent or more of the linear length of the walls of the structure (exterior plus interior) and 50 percent or greater of the roof of the structure within a one-year period shall be considered as new construction and shall not be considered an alteration. For the purpose of determining compliance with the stormwater discharge regulations of AC Ch.13.08 of title 13 of the general ordinance code, any construction or renovation that affects 50 percent or more of the existing impervious surface of the premises shall require that all of the existing impervious surfaces (remaining and replaced) be subject to the regulations of that chapter.*

ADDITION. An extension or increase in floor area, number of stories, or height of a building or structure. *Any addition that adds more than 100 percent of the floor area of the existing building shall be considered as new construction, subject to the regulations of AC Ch. 15.08.*

*ALTERATION WITH ADDITION. When construction or renovation and/or additions result in the removal, alteration, modification, replacement or addition of fifty percent or more of the external walls of and/or fifty percent or more of the existing internal structural and/or non-structural framework, independently or in combination thereof, within a three (3) year period after date of permit final, the entire building shall be considered new construction. Construction or renovation of the walls includes but is not limited to removal of the sheetrock and/or cladding of that wall, remove or replacement of framing, sistering up of the framing, etc.*

CODE OFFICIAL ***[BID][CDA].****The building official, or other authority designated by him/her, including but not limited to, the planning director, the director of public works, the director of environmental health, the County health officer, or the chief of a fire district,* charged with the administration and enforcement of this code.

***IMPERVIOUS SURFACE [Cln Water]. A covering of the ground surface where that covering precludes the natural ability of the affected surface and subsurface to absorb and infiltrate rainfall and stormwater run-on and runoff.***

SUBSTANDARD BUILDING ***[BID][CDA] [HLTH].*** See Health and Safety Code Section 17920.3 *and Section 101.8.1 and Section 15.24 of this code.*

(Ord. No. 2022-58, § 6, 12-6-22)

15.08.440 CEBC Ch. 14, Relocated or Moved Buildings, Section 1402.2, Foundation.

**1402.2 Foundation*[CDA].*** The foundation system of relocated buildings shall comply with *AC chapter 15.08. Unless otherwise approved by the building official, all buildings or structures moved into or within the County shall be placed upon an approved foundation within 120 days after delivery to the new site. If, after 120 days, the building or structure has not been so placed, it may be regarded as a public nuisance and abated as such in accordance with the provisions of this code and any other applicable law.*

(Ord. No. 2022-58, § 6, 12-6-22)

## Chapter 15.12 ELECTRICAL CODE[[2]](#footnote-2)

### ARTICLE I. INCORPORATION BY REFERENCE

15.12.010 Code adoption and title.

*The County of Alameda adopts the 2022 California Electrical Code (CA Title 24, Part 3) as compiled and published by the International Code Council, modified by the California Building Standards Commission, and modified by the additions, deletions, and amendments set forth in this Chapter. The 2022 California Electrical Code (CA Title 24, Part 3) is incorporated by reference into this Chapter, which shall be known as the Electrical Code of the County of Alameda.*

(Ord. No. 2022-58, § 6, 12-6-22)

### ARTICLE II. CALIFORNIA ELECTRICAL CODE, AMENDED SECTIONS TO 2022 CALIFORNIA ELECTRICAL CODE (CA TITLE 24, PART 3)

15.12.011 CEC Preface.

*{See CEC and AC Section 15.08.011 of this title}*

(Ord. No. 2022-58, § 6, 12-6-22)

15.12.020 CEC California Article 89, General Code Provisions, Section 89.101, General.

**89.101.1*through*89.101.6***{See CEC}*

**89.101.7 Order of precedence and use.**

**89.101.7.1 Differences.***{See CEC}*

**89.101.7.2 Specific Provisions.***{See CEC}*

**89.101.7.3 Conflicts*[BID].****{See CEC, and the following sentence is added. When the requirements within the jurisdiction of this code conflict with the requirements of AC Chapters 15.08, 15.16, 15.20, and/or 15.24, a decision of the building official shall be required for resolution.}*

**89.101.8 County Amendments, Additions or Deletions*[BID].****The County has exercised its authority* to establish more restrictive and reasonably necessary differences to the provisions contained in this code pursuant to complying with Section 89.101.8.1. *{Delete remaining sentences in this paragraph.}*

*The modifications* comply with Health and Safety Code Section 18941.5 for Building Standards Law *and* Health and Safety Code Section 17958 for State Housing Law *{Delete remainder of this sentence}*

**89.101.8.1 Findings and Filings.***{See CEC}*

**89.101.8.2 Locally Adopted Energy Standards — California Energy Code, Part 6.***{See CEC}*

**89.101.9 Effective date of this code.***{See AC Section 15.08.020}*

**89.101.10 through 89.101.12***{See CEC}*

**89.102 through 89.111***{See CEC}.*

(Ord. No. 2022-58, § 6, 12-6-22)

15.12.030 CEC Article 90, NFPA, National Electrical Code, 2020 Edition, Introduction.

*{See CEC and AC Sections 15.08.020 through 15.08.150 for administrative provisions when applicable.*

(Ord. No. 2022-58, § 6, 12-6-22)

15.12.040 CEC Article 230, Services, Section 230.72, Grouping of Disconnects [BID].

*{See CEC, and the following subsection is added}*

***230.72 (D)*Secondary Units***In secondary units established pursuant to section 65852.2 of the State Government Code, each occupancy shall be provided with independent disconnecting means.*

(Ord. No. 2022-58, § 6, 12-6-22)

## Chapter 15.16 MECHANICAL CODE[[3]](#footnote-3)

### ARTICLE I. INCORPORATION BY REFERENCE

15.16.010 Code adoption and title.

*The County of Alameda adopts the 2022 California Mechanical Code (CA Title 24, Part 4) as compiled and published by the International Code Council, modified by the California Building Standards Commission, and modified by the additions, deletions, and amendments set forth in this Chapter. The 2022 California Mechanical Code (CA Title 24, Part 4) is incorporated by reference into this Chapter, which shall be known as the Mechanical Code of the County of Alameda.*

(Ord. No. 2022-58, § 6, 12-6-22)

### ARTICLE II. CALIFORNIA MECHANICAL CODE, AMENDED SECTIONS TO 2022 CALIFORNIA MECHANICAL CODE (CA TITLE 24, PART 4)

15.16.011 CMC Preface.

*{See CMC and AC Section 15.08.011 of this title}*

(Ord. No. 2022-58, § 6, 12-6-22)

15.16.020 CMC Ch. 1, Administration, Division I, California Administration.

**1.1.0*through*1.1.6.***{See CMC}*

**1.1.7 Order of Precedence and Use.**

**1.1.7.1*through*1.1.7.2***{See CMC}*

**1.1.7.3 Conflicts*[BID].****{See CMC, and add the following} When the requirements within the jurisdiction of this code conflict with the requirements of AC Chapters 15.08, 15.12, 15.20, and 15.24, a decision of the building official shall be required for resolution.*

**1.1.8*County amendments, additions or deletions [BID].****The County has exercised its authority* to establish more restrictive and reasonably necessary differences to the provisions contained in this code pursuant to complying with Section 1.1.8.1. *{Delete remaining sentences in this paragraph}*

*The County* modifications *comply* with Health and Safety Code Section 18941.5 for Building Standards Law, Health and Safety Code Section 17958 for State Housing Law *{Delete remaining sentence}.*

**1.1.8.1 Findings and filings.***{See CMC}*

**1.1.9 Effective date of this code.***{See AC Section 15.08.020}*

**1.1.10*through*1.1.12***{See CMC}*

**1.2.0*through*1.14.0***{See CMC}*

(Ord. No. 2022-58, § 6, 12-6-22)

15.16.030 CMC Ch. 1, Division II, Administration.

**101.1 Title*[BID].****These regulations shall be known as the Mechanical Code of the County of Alameda, and will be referred to herein as "this code".*

**101.2*through*102.7.***{See CMC}*

**102.8 Appendices *[BID].****{See CMC and no appendix chapter is adopted}***103.0*through*103.4.***{See CMC and AC Sections 15.08.020 through 15.08.150 for administrative provisions when applicable}***104.1 Permits Required.***{See CMC and AC Section 15.08.060}***104.2 Exempt Work*[BID].****{See CMC and AC Section 15.08.060 when applicable and add the following}*

*(6) {Added} The replacement in dwelling units, when not part of a building remodel, of dishwashers, garbage disposals, ranges, ovens, cook tops, trash compactors, clothes washers, clothes dryers, and other similar equipment, provided that all of the following conditions are satisfied:*

*a) The replacement equipment is to be installed in the same location as the equipment being replaced.*

*b) The BTU input rating or the wattage of the replacement equipment is the same as or less than that of the equipment being replaced.*

*c) The electrical connection of the replacement equipment is to be to an existing circuit, installed under a previous electrical permit.*

*d) Any gas connection to the replacement equipment will not require the alteration of the gas line on the supply side of the shut-off valve.*

*e) Any water, waste, and/or vent connections to the replacement equipment will not require significant alterations to the building. All existing lines, pipes, and vents that are to be used in such connections were installed under previous plumbing or mechanical permits.*

**104.3*through*107.0.***{See CMC and AC Sections 15.08.020 through 15.08.150 when applicable}*

15.16.040 CMC Ch. 8, Chimneys and Vents, Section 801.1, Applicability.

**801.1 Applicability*[BID].****{See CMC, and the following subsection is added}*

***801.1.1 Wood-burning Appliances.****A wood-burning appliance installed in a building or structure shall be an approved wood-burning appliance as defined in this subsection.*

*An approved wood-burning appliance is one of the following:*

*1. Any wood heater that operates on wood pellets.*

*2. Any wood heater that meets the standards in Title 40, Part 60, Subpart AAA, Code of Federal Regulations as in effect at the time of heater installation and that is certified and labeled pursuant to those regulations.*

*3. A wood heater insert meeting the same standards as in 2. above.*

*4. A permanently-installed masonry or factory-built fireplace, as described in Section 2111 of the CBC, that is designed to be used with an air-to-fuel ratio greater than or equal to 35 to 1 and that has been certified by a testing laboratory, approved (certified) by the Environment Protection Agency (EPA), as emitting no more than 7.5 grams particulate per hour when tested using an EPA-approved protocol.*

***Exceptions:***

*1. Existing buildings undergoing remodel or renovation when the total cumulative costs of the planned work and of all improvements over the 5 years prior to the application date is estimated by the building official to be less than $50,000.00.*

*2. Existing wood-burning appliances being reconstructed, repaired, or modified when the cost of the said work is estimated by the building official to be less than $4,000.00.*

*3. Historical buildings or structures, as defined in CBC.*

*4. Gas-only fireplaces that do not burn wood are exempt from the provisions of this section. Gas fireplaces that are converted to burn wood are not exempt from the provisions of this section.*

(Ord. No. 2022-58, § 6, 12-6-22)

## Chapter 15.18 ONSITE WASTEWATER TREATMENT SYSTEMS[[4]](#footnote-4)

**Sections:**

15.18.010 Title.

This chapter (Chapter 15.18) shall be known as the Onsite Wastewater Treatment Systems Ordinance.

(Ord. No. 2018-32, § B, 6-5-18)

15.18.020 Purpose.

The purpose of this chapter is to provide for the safe and sanitary treatment and disposal of wastewater from structures and buildings not served by public sewer systems as allowed by the California State Water Quality Control Policy for Siting, Design, Operation, and Maintenance of Onsite Wastewater Treatment Systems (State Policy). The purpose is also to establish standards for the approval, installation, and operation of onsite wastewater treatment systems (OWTS) and onsite wastewater containment units (OWCU) within Alameda County, consistent with the State Policy and consistent with the appropriate California Regional Water Quality Control Board standards and basin plans. The standards are adopted to prevent the creation of health hazards and nuisance conditions and to protect surface and groundwater quality. The OWTS and OWCU that this chapter authorizes shall safely treat and dispose of wastewater in order to prevent environmental degradation including pollution of surface water and groundwater and to protect public health, safety and welfare to the greatest extent possible.

(Ord. No. 2018-32, § B, 6-5-18)

15.18.030 Applicability.

A. This chapter shall apply to all territory within the County of Alameda, State of California to the extent permitted by applicable law.

B. If the amount of wastewater received by an OWTS is more than ten thousand (10,000) gallons per day, or where a community system serving multiple discharges under separate ownership is proposed, or where the wastewater includes industrial process waste, the method of treatment and dispersal must be submitted for review and approval by the San Francisco Bay Regional Water Quality Control Board (regional water board) or other appropriate Regional Water Quality Control Board.

(Ord. No. 2018-32, § B, 6-5-18)

15.18.040 Administration.

A. Standards. Standards and guidelines, including policies, procedure and technical details, to implement this chapter, are contained in the Alameda County Onsite Wastewater Treatment Systems Manual (the manual). The local agency management program (the LAMP), describing the geographical terrain and environmental conditions of the county and the administration and management program for OWTS and OWCU oversight, this chapter and the manual (collectively the LAMP Documents) have been reviewed and approved by the regional water board in accordance with the State Policy.

B. Authority. The authority to administer and enforce this chapter shall be held by the Alameda County Department of Environmental Health (the department).

C. Application and Fees. Fees for permits and other services performed by the department pursuant to this chapter shall be established by resolution of the Board of Supervisors. The applicable fees shall be paid at the time of filing a permit application, renewal of a permit, and/or a request for service. All applications shall be submitted in writing to the department on a form supplied by the department.

D. Standards, Guidelines and Onsite Wastewater Treatment Systems Manual. The type and manner of design and construction of OWTS and OWCU shall conform to the standards as required by this chapter and the manual. Every OWTS and OWCU must also adhere to all other relevant federal, state and local jurisdiction requirements including, without limitation: Building code, mechanical code, electrical code, plumbing code, floodplain management, stormwater management and discharge control, watercourse protection and grading, erosion and sediment control.

E. Extraordinary Hazards. If a proposed or existing OWTS or OWCU presents unusual or significant hazards to surface waters, groundwater or human health, the department independently or with the regional water board may impose requirements that are necessary to address those hazards to protect public health, safety or welfare.

F. Conflicts. When the requirements of this chapter or the manual conflict with the requirements of any part of the California Building Standards Code, Title 24, state or federal requirements or any local ordinance the most restrictive requirements shall prevail.

(Ord. No. 2018-32, § B, 6-5-18)

15.18.050 Definitions.

Terms used in this chapter shall have the same definition as in the State Policy. For purposes of this chapter, and other LAMP Documents, the following additional terms have the meanings given:

"Abandonment permit" is the administrative document issued by the department allowing abandonment of an existing OWTS or OWCU.

"Board" is the Alameda County Board of Supervisors.

"Department" is the Alameda County Department of Environmental Health.

"Director" is the director of the department of environmental health or his or her designated representative.

"Installation permit" is the administrative document issued by the Department that conveys approval of and conditions for the installation of an OWTS or OWCU or component thereof.

"LAMP Documents" are the local agency management program ("LAMP"), describing the geographical terrain, environmental conditions of the county and the administration and management program for OWTS oversight, this chapter and the Alameda County Onsite Wastewater Treatment Systems Manual ("the manual") which have been reviewed and approved by the regional water board in accordance with the State Policy.

"Onsite wastewater containment unit" ("OWCU") is a self-contained, non-discharging unit used to collect and store wastewater for removal, hauling and disposal at an approved septage receiving facility, and includes holding tanks, vault toilets, portable toilets and waterless toilets. The short form of the term may be singular or plural.

"Onsite wastewater treatment system" ("OWTS") is an individual or community collection and disposal system consisting of pipes, tanks dispersal systems and other components used for the collection, treatment and subsurface disposal of wastewater. The short form of the term may be singular or plural. For the purposes of this chapter, OWTS do not include "graywater" systems pursuant to Health and Safety Code Section 17922.12.

"Onsite Wastewater Treatment Systems Manual" ("manual") is the document developed, maintained, and amended by the Alameda County Department of Environmental Health containing policy, procedural and technical details for implementation of this chapter as approved by the San Francisco Regional Water Board.

"Operating permit" is the administrative document issued by the department authorizing the initial and/or continued use of an OWTS or OWCU in conformance with the provisions of this chapter and the manual and may contain both general and specific conditions of use.

"Premises" means a building and the area of land that it is on.

"Repair/modification permit" is the administrative document issued by the department allowing repairs or modifications to an existing OWTS or OWCU.

"Qualifying public agency" means a public agency with local, full-time sanitation and water quality staff who are trained and have the capability to operate and maintain OWTS and OWCU.

"Special permit" is the administrative document issued by the department for approval and conditions for use of portable toilets and waterless toilets.

"State Policy" means the Water Quality Control Plan for Siting, Design, Operation and Maintenance of Onsite Wastewater Treatment Systems adopted by the State Water Resources Control Board on June 19, 2012, which became effective May 13, 2013.

"Wastewater" is water-carried waste that is intended to be removed and generally produced by fixtures such as toilets, sinks, showers or bathtubs, clothes washing machines, dish washing machines, floor drains or other fixtures or fittings intended to drain organic or inorganic waste material from residential and non-residential (including commercial and industrial) processes.

(Ord. No. 2018-32, § B, 6-5-18)

15.18.060 Connection to public sewer.

A. Connection to Public Sewer Required. Every building or other structure having plumbing for wastewater drainage, or which creates, collects or stores wastewater must have a connection to a public sewer, except as provided in subsection B of this section.

B. Exceptions to Requirement to Connect to Public Sewer.

1. OWTS. Where there is not a public sewer available, wastewater drainage piping may be connected to a permitted OWTS. A public sewer is not available when the public sewer, or any building or exterior drainage facility connected to the public sewer, is located more than two hundred (200) feet from any proposed building or exterior drainage facility on any lot or premises that abuts and is served by such public sewer. The requirement to connect to a public sewer does not apply to replacement OWTS where the connection fees and construction cost are greater than twice the total cost of the replacement OWTS and the owner submits documentation from a qualified professional that the discharge will not adversely affect groundwater or surface water. All OWTS must be designed, installed operated, used and maintained in compliance with this chapter and the manual.

2. OWCU.

a. Non-Discharging Toilet Units. Non-discharging toilet units including portable, vault and waterless toilets may be allowed in limited circumstances and must meet all applicable requirements in this chapter and the manual, including permitting requirements through an operating permit or special permit.

b. Holding Tanks. Holding tanks are prohibited except in very limited circumstances. The use of holding tanks must be approved by the department, comply with all requirements in the manual and is only allowed in the following instances:

i. To abate a nuisance or health hazard caused by a failing OWTS or installation of an OWTS, or connection to a public sewer is not feasible and a holding tank is appropriate for the location.

ii. For industrial, commercial, or recreational facilities where installation of an OWTS for wastewater is not feasible or allowed.

c. All OWCU must be designed, installed, operated, used and maintained in compliance with this chapter and the manual. The use of OWCU requires applying for and obtaining installation, operating, abandonment and special permits, or a qualifying public agency permit, from the department in accordance with the requirements in this chapter and the manual. Permits for holding tanks may also require evidence of financial responsibility and a posting of a bond.

C. Dangerous Conditions. Notwithstanding provisions above, the department may require that a building or premises be connected to an existing public sewer if the department determines that the existing plumbing, OWTS or OWCU is dangerous, unsanitary or a nuisance.

(Ord. No. 2018-32, § B, 6-5-18)

15.18.070 Permits and reporting.

A. Installation Permit. In order to construct a new or replacement OWTS or OWCU the property owner or designee shall obtain an installation permit from the department. Unless otherwise expressly stated in writing on the permit, an installation permit shall automatically expire three years after the date of issuance. An installation permit may be extended, provided the permittee complies with all the requirements in effect at the time of the request for an extension, including payment of fees required to process the extension based on an actual hourly basis.

B. Repair/Modification Permit. In order to perform repairs or modifications to any existing OWTS or OWCU the property owner or designee shall obtain a repair/modification permit from the department. No permit is required by this chapter to perform minor repair work provided the work complies with the provisions of the manual. This provision shall not preclude the property owner from performing any temporary or other emergency repair work necessary to protect against an imminent threat to the owner's or the public's health or safety or environment, provided that the property owner immediately thereafter applies for any required permit. Unless otherwise expressly stated in writing on the repair/modification permit, it shall automatically expire one year after the date of issuance. A repair/modification permit may be extended, provided the permittee complies with all the requirements in effect at the time of the request for an extension, including payment of fees required to process the extension based on an actual hourly basis.

C. Abandonment Permit. In order to decommission an abandoned OWTS or OWCU the property owner or designee shall obtain an abandonment permit from the department.

D. Operating Permit. Depending on the size and complexity of the OWTS or OWCU, an annual operating permit may be required. The property owner is responsible for obtaining the operating permit from the department and complying with permit conditions and renewal requirements. The property owner of any lot or parcel with an operating permit must notify the department in writing of any change in property ownership. When the property changes ownership, the new owner must apply to the department for a new operating permit on or before the anniversary of the operating permit issuance date.

E. Special Permits. A special permit may be required for the use of portable toilets or waterless toilets. A special permit is not required for portable toilets on construction sites with a valid building permit.

F. Qualifying Public Agency Permits. In place of the permits listed above, a public agency with local full-time sanitation and water quality staff may obtain a qualifying public agency permit from the department. The qualifying public agency permit will cover the OWTS and OWCU identified in the permit and identify the installation, operating, repair, modification and abandonment requirements as applicable.

G. Application. All permit applications must include the information and document(s) set forth in the manual for the type of permit being requested and the appropriate fee.

H. Special Conditions. Any permit may be issued subject to such conditions as the department or the regional water board deems necessary to insure compliance with this chapter. Any changes after the issuance of a permit must first be approved by the department. Failure to obtain prior approval from the department may invalidate the permit.

I. Reporting.

1. OWTS and OWCU with Operating Permits. Any property owner with an OWTS or OWCU that requires an operating permit must report to the department in accordance with the permit conditions and as set forth in the manual.

2. OWTS without Operating Permits. To assist the county in complying with state reporting requirements, any property owner with an OWTS that does not require an operating permit may be required to provide information on its OWTS to the department and update that information at least once every five years as set forth in the manual.

3. OWCU with Special Permits. Any property owner with a portable toilet that requires a special permit must report to the department in accordance with the permit conditions.

(Ord. No. 2018-32, § B, 6-5-18)

15.18.080 City and county land use and site development requirements.

A. Site Development/Building Permit. No city or county department shall issue a site development/building permit for any site that is not connected to a public sewer unless the Department has issued an approval and/or a permit for the OWTS as it will exist on completion of work under the development/building permit. Minor repairs or upgrades to a structure that do not increase the volume of wastewater and do not have the potential to impact the OWTS will be exempt from this section as set forth in the manual.

B. Certificate of Occupancy. No city or county department shall issue a certificate of occupancy for a structure where the means of wastewater disposal is an OWTS unless the department has issued a final OWTS installation approval letter and, if applicable, an operating permit.

C. Subdivision. For any subdivision of land proposed to be served by an OWTS: (1) the subdivider must demonstrate that the OWTS design and siting is consistent with this chapter and the manual, and (2) any parcel that will be served by an OWTS must be at least forty thousand (40,000) square feet if served by a public water supply or at least sixty thousand (60,000) square feet if served by an on-site private water supply, unless the property is located in an area where more restrictive requirements must be met. For any subdivision creating five or more parcels, the subdivision proposal must be provided to the respective regional water board for review.

(Ord. No. 2018-32, § B, 6-5-18)

15.18.090 Safety.

A. Safe Operation. All OWTS, both existing and new, shall be maintained in safe and sanitary conditions at all times. Every owner, lessee, occupant and user of any property on which an OWTS exists shall be each jointly and severally responsible for the safe and sanitary construction, operation, use, repair or maintenance of such systems, and ensuring that the system complies with the requirements of this chapter and the manual.

B. Abandonment. Any OWTS or holding tank that is abandoned or has been discontinued from further use or to which no waste or waste discharge pipe from a plumbing fixture is connected, must be properly decommissioned. An abandonment permit must be obtained prior to decommissioning the OWTS or holding tank.

C. Cesspools and Seepage Pits Prohibited. Cesspools and seepage pits are declared to be a public nuisance and are not authorized for use in Alameda County. Upon discovery, cesspools and seepage pits shall be abated in accordance with the provisions of the Alameda County General Ordinances.

D. Prohibited Acts. It is unlawful for any person to do any of the following:

1. OWTS. Construct, alter, repair or replace an OWTS without first obtaining a permit from the department in accordance with the provisions of this chapter and the manual;

2. Use. Construct, use, or maintain any OWTS in a manner where wastewater, impure water or any other matter or substance will discharge upon the surface of the ground, become injurious or dangerous to health or will empty, flow, seep, or drain into or affect any river, stream, creek, spring, lake, pond, reservoir, marsh, water supply, water system, groundwater, culvert, or drainage.

E. Nuisance. Any OWTS constructed, operated or maintained in violation of this chapter is hereby declared to be a public nuisance and may be abated according to provisions of the law.

(Ord. No. 2018-32, § B, 6-5-18)

15.18.100 Compliance.

A. Conformity. All work on OWTS shall be performed in accordance with the plans approved by the department, all permits and inspected in accordance with the manual. Any changes must be reviewed and approved by the department prior to performing the work.

B. Stop Work Order. In the event that the department determines there has been an improper installation, a stop-work order may be posted. Before any further work is done a stop-work order clearance from the department must be obtained.

C. Operations and Maintenance. Every OWTS shall at all times be maintained and operated in a sanitary condition and state of good repair and in accordance with any permit conditions.

(Ord. No. 2018-32, § B, 6-5-18)

15.18.110 Notice of operating permit conditions.

In order to provide notice to any future owners of a property, a notice of operating permit requirements for onsite wastewater treatment system may be recorded by the department in the office of the county recorder of Alameda County after approval of an OWCU and the issuance of an operating permit. Properties which had a deed restriction for an OWTS recorded under the previous ordinance requirements may apply to the department to have the deed restriction replaced with a notice of operating permit requirements.

(Ord. No. 2018-32, § B, 6-5-18)

15.18.120 Right of entry.

For the purpose of inspecting or monitoring any OWTS or OWCU, the department may enter any area of any property at reasonable times subject to the department providing advanced notice to the owner, lessee, occupant, user or designated agent as is reasonable and practicable under the circumstances. This section shall not preclude the department from entering property without notice, based on reasonable cause to believe that there exists a condition related to an OWTS or OWCU that poses an imminent threat to public safety, health or welfare.

(Ord. No. 2018-32, § B, 6-5-18)

15.18.130 Variance.

A. A variance to any requirement may only be granted if the applicant demonstrates all of the following criteria:

1. Special circumstances and conditions exist on the property which deprive the property owner of privileges enjoyed by other property subject to this chapter;

2. The granting of the variance will not constitute a grant of special privileges inconsistent with any limitation on other property subject to this chapter;

3. The granting of the variance will not be detrimental to other persons or property (including but not limited to watercourses or wetlands or the water quality of subsurface water) or to the public health, safety or welfare.

B. The department will review any request for a variance and may deny it. If the department does not deny a variance request, a recommendation to grant the variance will be sent to the Board of Supervisors for final review and approval.

(Ord. No. 2018-32, § B, 6-5-18)

15.18.140 Appeals.

A. Appeal. Any property owner or other person aggrieved by any decision made pursuant to this chapter or any LAMP Documents (the appellant) may request a hearing on the decision by appealing to the director of the department of environmental health (director). The appeal must be in writing and must specify the grounds for appeal. The written appeal must be actually received by the department no later than fifteen (15) days after actual receipt by the property owner or other person of the decision or fifteen (15) days after the date notice of the decision is mailed by the department, whichever is sooner. The director shall schedule an appeal hearing before the Alameda County Onsite Wastewater Treatment System (OWTS) Commission and a notice of the hearing on that appeal shall be mailed within fifteen (15) days after receipt by the department of a timely appeal. The director may resolve the issues with the appellant, who can then withdraw the appeal.

B. Appeal to the Onsight Wastewater Treatment System Commission.

1. The appeal hearing shall be conducted in accordance with the procedures set forth in the OWTS Commission Bylaws.

2. After the appeal hearing, the director shall consider the OWTS Commission determination and may revise the decision of the department, in full or part, consistent with the OWTS Commission determination. The director shall issue the final appeal decision within twenty (20) days of the OWTS Commission determination, and it shall be the final departmental decision.

C. Appeal to the Board of Supervisors. If the appellant is not satisfied with the final departmental decision, the appellant may file an appeal with the Alameda County Board of Supervisors. That appeal to the Board must be made in writing and must specify the grounds for appeal. That written appeal must be actually received by the clerk of the board no later than fifteen (15) days after the date of mailing by the director of the final departmental decision. Thereafter, following receipt by the clerk of the board of a timely appeal, the board shall promptly schedule a hearing on the appeal. The decision by the board after the hearing shall be final.

(Ord. No. 2018-32, § B, 6-5-18; Res. No. R-2022-27, 7-12-22)

15.18.150 Abatement.

A. Any OWTS or OWCU that fails to meet the requirements of this chapter or the manual is subject to the abatement procedures of Chapter 15.28 of the Alameda County General Ordinance. If the department determines that any OWTS or OWCU endangers the health, property, safety, or welfare of the public or property occupants, it may issue a notice to abate. The property owner must take prompt, appropriate remedial action. In the event the property owner fails to abate or initiate and complete timely remedial action, the department may issue a notice to the property owner to immediately cease wastewater flow into the OWTS or OWCU or to take appropriate interim measures pending completion of remedial action.

B. In the event the department receives information indicating that an OWTS or OWCU poses an imminent risk to the public health, safety or welfare, the department may issue a notice to the property owner to immediately cease wastewater flow into the OWTS or OWCU and take immediate abatement action to eliminate that risk. In that case, in addition to any other rights provided by this chapter or the county ordinance, the department may enter the subject property to implement reasonable mitigation measures or take other reasonable actions necessary to eliminate or mitigate that risk.

C. If the department issues a notice to the property owner to cease flow into the OWTS or OWCU, the department shall also provide a prompt hearing to the property owner to address issues related to necessary and appropriate remedial action to insure that the OWTS or OWCU is functioning properly and that the OWTS or OWCU does not pose a risk to the public health, safety, welfare or the environment.

(Ord. No. 2018-32, § B, 6-5-18)

15.18.160 Enforcement.

A. Failure to pay the required fee or submit the specified monitoring and inspection information, or failure to undertake any required corrective work specified by the department may be cause for issuance of a citation, penalty fees, non-renewal and/or revocation of a permit by the department.

B. Penalties. In addition to any other fine or penalty that may be imposed by law, any person who fails to obtain a permit required by this chapter or the manual is subject to a civil penalty in the amount of double the applicable permit fee which has been established by the board of supervisors.

(Ord. No. 2018-32, § B, 6-5-18)

15.18.170 County not responsible for damages.

The county is not liable or responsible for damage resulting from the defective construction of any OWTS or OWCU as herein provided, nor will the county or any official or employee thereof be liable or responsible by reason of any inspection authorized hereunder.

(Ord. No. 2018-32, § B, 6-5-18)

15.18.180 Indemnity.

Any property owner or other person, including but not limited to any tenant, placing, installing or maintaining an OWTS or OWCU under this chapter shall be required to execute a written agreement with the county that it, he or she agrees to indemnify, defend and hold harmless the county and its agents and representatives from all claims, demands, lawsuits, liability, damage or judgments (herein collectively referred to as "claims") arising out of or in any way connected with the placement, installation or maintenance, modification or removal of such OWTS or OWCU. The only exception to this duty to indemnify, defend and hold harmless is for those claims caused solely by the negligence or willful misconduct of the county or its agents or representatives.

(Ord. No. 2018-32, § B, 6-5-18)

15.18.190 Compliance with areas of special concern, specific plans, regulatory and local requirements.

In locations where there are special environmental or geographical concerns, additional evaluation, standards and requirements must be followed as set forth in the manual. The property owner is also responsible for compliance with all other requirements established by other agencies with jurisdiction over the property including but not limited to any requirements contained in general and specific plans established by Alameda County.

(Ord. No. 2018-32, § B, 6-5-18)

15.18.200 Severability.

If any part or provision of this chapter, the manual or the application thereof to any person or circumstances, is held invalid, the remainder of this chapter and the manual, including the application of such part or provision to other persons or circumstances, shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this chapter and the manual promulgated hereunder are severable.

(Ord. No. 2018-32, § B, 6-5-18)

## Chapter 15.20 PLUMBING CODE[[5]](#footnote-5)

### ARTICLE I. INCORPORATION BY REFERENCE

15.20.010 Code adoption and title.

*The County of Alameda adopts 2022 California Plumbing Code (CA Title 24, Part 5) as compiled and published by the International Code Council, modified by the California Building Standards Commission, and modified by the additions, deletions, and amendments set forth in this Chapter. The 2022 California Plumbing Code (CA Title 24, Part 5) is incorporated by reference into this Chapter, which shall be known as the Plumbing Code of the County of Alameda.*

(Ord. No. 2022-58, § 6, 12-6-22)

### ARTICLE II. CALIFORNIA PLUMBING CODE, AMENDED SECTIONS TO 2022 CALIFORNIA PLUMBING CODE (CA TITLE 24, PART 5)

15.20.011 CPC Preface.

*{See CPC and AC Section 15.08.011 of this title}*

(Ord. No. 2022-58, § 6, 12-6-22)

15.20.020 CPC Ch. 1, Administration, Division I, California Administration.

**1.1.0*through*1.1.6***{See CPC}*

**1.1.7 Order of precedence and use.**

**1.1.7.1 Differences.***{See CPC}*

**1.1.7.2 Specific Provisions.***{See CPC}*

***1.1.7.3 Conflicts [BID].****{See CPC, and the following sentence is added} When the requirements within the jurisdiction of this code conflict with the requirements of AC Chapters 15.08, 15.12, 15.16, and 15.24, a decision of the building official shall be required for resolution.*

**1.1.8*County*Amendments, Additions or Deletions*[BID].****The County has exercised its authority* to establish more restrictive and reasonably necessary differences to the provisions contained in this code pursuant to complying with Section 1.1.8.1. *{Delete remaining sentences in this paragraph}*

*The modifications* comply with Health and Safety Code Section 18941.5 for Building Standards Law *and* Health and Safety Code Section 17958 for State Housing Law *{Delete remainder of this sentence}.*

**1.1.8.1 Findings and Filings.***{See CPC}*

**1.1.8.2 California Energy Code Requirements for Locally Adopted Energy Standards.***{See CPC}*

**1.1.9 Effective Date of this Code*[BID].****{See AC Section 15.08.020}*

**1.1.10 through 1.1.12***{See CPC}*

**1.2 through 1.14***{See CPC}*

(Ord. No. 2022-58, § 6, 12-6-22)

15.20.030 CPC Ch. 1, Division II, Administration.

**101.1*through*102.7***{See CPC and AC Sections 15.08.020 through 15.08.150 for administrative provisions when applicable.*

***102.8 Appendices [BID].****{Provisions in the appendices shall not apply unless specifically adopted. The following CPC appendices are adopted, without amendment, by the County:*

*1. Appendix A, Recommended Rules for Sizing the Water Supply System.*

*2. Appendix B, Explanatory Notes on Combination Waste and Vent Systems.*

*3. Appendix D, Sizing Storm Water Drainage Systems.*

*4. Appendix H, Private Sewage Disposal Systems*

*5. Appendix I, Installation Standard*

*6. Appendix K, Potable Rainwater Catchment Systems.}*

**103.0*through*107.0***{See CPC and AC Sections 15.08.020 through 15.08.150 for administrative provisions when applicable}*

(Ord. No. 2022-58, § 6, 12-6-22)

15.20.040 CPC Ch. 2, Definitions, Section 203.0.

*{See CPC, and the following definitions are modified}*

**Flood Hazard Area*[FLOOD]****{See CPC and AC Chapter 15.40 of this title.}*

**Private Sewage Disposal System*[HLTH]*** A septic tank with the effluent discharging into a subsurface disposal field, into one or more seepage pits, or into a combination of subsurface disposal field and seepage pit or of such other facilities as may be permitted under the procedures set forth elsewhere in this code *and in AC Chapter 15.18 of this title.*

(Ord. No. 2022-58, § 6, 12-6-22)

15.20.050 CPC Ch.3, General Regulations, Section 304.0, Connections to Plumbing System Required.

**304.1 General*[CLN WATER].****Plumbing fixtures, drains, appurtenances, and appliances, used to receive or discharge liquid wastes or sewage, shall be connected properly to the drainage system of the building or premises, in accordance with the requirements of this code and AC Section 15.08.180.*

***304.2 Private Sewage Disposal System [HLTH]****{Added}. When a public sewer is not available for use, drainage piping from buildings and premises shall be connected to an approved private sewage disposal system in accordance with AC Chapter 15.18 of this title.*

(Ord. No. 2022-58, § 6, 12-6-22)

15.20.060 CPC Ch. 4, Plumbing Fixtures And Fixture Fittings, Section 418.3, Location of Floor Drains.

**418.3 Location of Floor Drains*[CLN WATER].*** Floor drains shall be installed in the following areas:

 (1) Toilet rooms containing two or more water closets or a combination of one water closet and one urinal, except in a dwelling unit.

 (2) Commercial kitchens in accordance with Section 704.3.

 (3) Laundry rooms in commercial buildings and common laundry facilities in multi-family dwelling buildings.

 (4) Boiler rooms.

*(5) Locations described in AC Section 15.08.180.*

*(6) Covered areas in vehicular parking structures, as determined on a case-by-case basis by the building official.*

(Ord. No. 2022-58, § 6, 12-6-22)

15.20.070 CPC Ch. 7, Sanitary Drainage, Section 713.0, Sewer Required.

**713.1 Where Required.***{See CPC}*

**713.2 Private Sewage Disposal System*[HLTH].*** Where no public sewer intended to serve a lot or premises is available in a thoroughfare or right of way abutting such lot or premises, drainage piping from a building or works shall be connected to an approved private sewage disposal system *in accordance with AC Chapter 15.18.*

**713.3 Public Sewer*[HLTH].****{See CPC, and add the following} The determination of whether an existing public sewer is deemed to be available shall be in accordance with AC Chapter 15.18.*

**713.4 Public Sewer Availability*[HLTH].****{See CPC, and add the following} In the event that a public sewer previously determined to be unavailable in accordance with the provisions of CPC Section 713.2 is later extended so as to become available to the said lot or premises, the on-site wastewater treatment system shall be abandoned as directed by the director of environmental health, and all plumbing and drainage systems or parts thereof on such lot or premises shall be connected to the said public sewer.*

**713.5*through*713.7***{See CPC}*

(Ord. No. 2022-58, § 6, 12-6-22)

15.20.080 CPC Ch. 7, Sanitary Drainage, Section 717.0, Size of Building Sewers.

*{See CPC, and delete the footnotes from Table 717.1}*

15.20.090 CPC Ch. 7, Sanitary Drainage, Section 718.0, Grade, Support, and Protection of Building Sewers.

**718.1 Slope*[BID].*** Building sewers shall be run in practical alignment and at a uniform slope of not less than ¼ inch per foot (20.8 mm/m) toward the point of disposal. *The building sewer shall be brought to the building at an elevation below the lowest floor being drained by the building drain to which it will be connected. The invert elevation of the building sewer at the point of disposal shall be at least 3 feet (914 mm) below the top of curb of the adjacent roadway.*

***Exceptions:***

*1. When approved by the Building Official where it is impractical, due to the depth of the street sewer or to the structural features or to the arrangement of any building or structure, to obtain a slope of ¼ inch per foot (20.8 mm/m), such pipe or piping 4 inches (100 mm) through 6 inches (150 mm) shall be permitted to have a slope of not less than 1/8 inch per foot (10.4 mm/m) and any such piping 8 inches (200 mm) and larger shall be permitted to have a slope of not less than 1/16 inch per foot (5.2 mm/m).*

*2. Slopes in excess of 20 % (2.4 inches per foot) shall be allowed only with the approval of the building official. Where such slopes are necessitated by the topography of the building site, such approval requests shall require the submittal of a soil and/or geologic investigation report.*

*3. Where straight alignment of the building sewer is not practical, one change in alignment not to exceed 22-½ degrees may be made within the premises. The said alignment change may be made with curved pipe sections and/or pipe joint deflections, as approved by the building official.*

*4. The building official shall have the authority to require that the design of building sewers that are part of a pumped system be subject to the approval of the sanitary district serving the property in question.*

*5. Where it is impractical to install the building sewer so that the invert at the property line is at least 3 feet (914 mm) below the top of curb, the cover over the building sewer at the property line may be reduced provided that a reinforced concrete cap, or equivalent, is installed over the pipe and under the adjacent roadway sidewalk, curb, and gutter in accordance with the requirements of the sanitary district serving the property in question, but in no case shall the said cover be less than 18 inches (457 mm).*

**718.2. Support.***{See CPC}*

**718.3 Protection from Damage*[BID].*** No building sewer or other *sanitary* drainage piping or part thereof, which is constructed of materials other than those approved for use under or within a building, shall be installed under or within 2 feet (610 mm) of a building or structure, or part thereof, nor less than 1 foot (305 mm) below the surface of the ground. The provisions of this subsection include structures such as porches and steps, whether covered or uncovered; breezeways; roofed porte-cochere; roofed patios; carports; covered walks; covered driveways; and similar structures or appurtenances.

*No building sewer shall be located within 50 feet (15.2 m) of the flow line of waterways or in areas of known or projected seismic landslide hazard without the submittal, to the building official, of a soil and/or geological investigation report. The said report shall include recommendations for material, relocation, redesign, or other means of protection for the building sewer as necessary. The building official shall have the authority to require that any such recommendations and/or other means of reasonable protection be provided as a condition of authorizing the construction of the building sewer.*

*The building official shall have the authority to require that any building sewer be protected through the installation of interceptors in accordance with the provisions of CPC Section 1014.*

***Exception:****The building official shall have the authority to require that any report required by this section be submitted for review and concurrence by the sanitary district serving the property in question, and to include any or all recommendations of the said district as part of the conditions of approval of the building sewer.*

(Ord. No. 2022-58, § 6, 12-6-22)

15.20.100 CPC Ch. 11, Storm Drainage, Section 1101.2, Where Required.

**1101.2 Where Required*[BID][Cln Water].*** Roofs, paved areas, yards, courts, courtyards, vent shafts, light wells, or similar areas having rainwater, shall be drained into a separate storm sewer system *or to some other place of disposal satisfactory to the County. All such drainage shall be in compliance with AC Section 15.08.180 of this title and with AC Chapter 13.08 of title 13 of the General Ordinance Code of the County. In the event of conflict, the most restrictive provisions shall govern.*

(Ord. No. 2022-58, § 6, 12-6-22)

15.20.110 CPC Ch. 12, Fuel Gas Piping, Section 1211.7, Earthquake-Actuated Gas Shutoff Valves.

**1211.8 Earthquake-Actuated Gas Shutoff Valves*[BID].*** Earthquake-actuated gas shutoff valves designed to automatically shut off the gas at the location of the valve in the event of a seismic disturbance and certified by the State Architect as conforming to California Code of Regulations, Title 24, Part 12, Chapter 12-16-1, shall be provided for buildings *as required by this section.* Earthquake-actuated gas shutoff valves which have not been certified by the State Architect *shall be prohibited.*

***1211.8.1 Definitions [BID].****{Added} For the purposes of this section, the following terms, phrases, and words shall be interpreted as set forth in this subsection:*

***Downstream of the Gas Utility.****Piping and appurtenances downstream of the service piping; i.e. piping and appurtenances under the control of and maintained by the building owner. See CPC Section 209 Gas Piping System.*

***Earthquake-actuated Gas Shutoff Valve (Device), or Seismic-actuated Gas Shutoff Valve (Device).****See Section 1211.8.*

***Excess flow Gas Shutoff Valve (device).****See CPC Section 207.*

***Existing Building.****Any building for which the initial construction permit was issued prior to July 5, 2001.*

***Gas Shutoff Valve (Device).****See Earthquake-actuated gas shutoff valve.*

***Major Remodeling.****The alteration of an existing building, when that alteration includes work involving the existing gas piping system and the valuation of the alteration exceeds $5,000.00, or when that alteration does not include work involving the existing gas piping system but the valuation of the alteration exceeds $50,000.00. The installation of a new gas piping system in an existing building that does not include an existing gas piping system shall be considered major remodeling, regardless of valuation.*

***Multi-functional Gas Shutoff Valve (Device).****A seismic-actuated gas shutoff valve combined with additional safety components intended to be actuated in the event of gas leakage, carbon monoxide buildup, or other events.*

***New Building.****Any building for which the initial construction permit was issued on or after July 5, 2001.*

***Residential Building.****Any building with a R-2 or R-3 occupancy classification per the California Building Code.*

***Service Piping.****See CPC 221.0.*

***1211.8.2 Where Required [BID].****{Added} Gas shutoff devices, designed and certified in accordance with this section, shall be installed in the gas piping systems of all new residential, commercial, and industrial buildings and the gas piping systems of existing residential, commercial, and industrial buildings undergoing major remodeling.*

***Exceptions:***

*1. Gas shutoff devices are not required to be installed in a fuel gas line downstream of the gas utility meter when such a device, conforming to the requirements of this section, is installed in the same line upstream of the meter and downstream of the meter service regulator, provided that the installation of the device was completed by employees or agents of the gas utility in accordance with the requirements of the device manufacturer.*

*2. Gas shutoff devices are not required to be installed in a fuel gas line downstream of the gas utility meter when a functional but non-conforming shutoff device was installed downstream of the gas utility meter in the same line prior to July 5, 2001, provided that the installation was completed in accordance with the requirements of the device manufacturer and that the device is maintained for the life of the building.*

*3. Gas shutoff devices installed by a gas utility in a gas distribution system owned and maintained by that utility are not subject to the requirements of this section.*

*4. Gas shutoff devices are not required to be installed when the gas piping system is designed to withstand seismic forces.*

*5. Gas shutoff devices are not required to be installed in process piping or other equipment used in manufacturing.*

***1211.8.3 Design and Certification of Gas Shutoff Devices [BID].****{Added} Gas shutoff devices shall be excess flow-actuated, seismic-actuated, multi-functional, or other designs as listed by a listing agency. All such devices shall be guaranteed by the manufacturer to be free of defects and to properly operate for at least 30 years beyond the date of installation.*

***Exception:***

*The building official shall have the authority to approve or reject other devices or types of devices proposed for use on specific projects.*

***1211.8.4 Installation and Maintenance of Gas Shutoff Devices[BID].****{Added} Gas shutoff devices shall be installed in gas piping systems, including those systems intended for use with liquefied petroleum gas, by a contractor licensed in the appropriate classification by the state and in accordance with the manufacturer's instructions.*

*Seismic-actuated shutoff devices shall be installed downstream of the gas utility meter or the liquid petroleum tank on each fuel line that serves the building.*

*Excess flow-actuated shutoff devices shall be installed downstream of the gas utility meter or the liquid petroleum tank on each fuel line that serves the building and at each gas appliance within the building.*

*The seismic-actuated shutoff components of multi-functional shutoff devices shall be installed downstream of the gas utility meter or the liquid petroleum tank on each fuel line that serves the building and the additional components (gas leak detectors, carbon monoxide detectors, etc.) shall be installed in accordance with the manufacturer's instructions.*

*With respect to residential buildings, the major remodeling of an individual condominium or apartment unit shall require that a gas shutoff device be installed in the fuel gas line or lines serving that unit, but shall not require that gas shutoff devices be installed in other fuel gas lines serving that building.*

*With respect to commercial and industrial buildings, the major remodeling of an individual unit or tenant space within such buildings shall require that gas shutoff devices be installed in each fuel gas line serving that building.*

*Whenever gas shutoff devices are installed as required by this section, the said devices shall either be maintained for the life of the building or structure or they shall be replaced with devices complying with the requirements of this section.*

(Ord. No. 2022-58, § 6, 12-6-22)

## Chapter 15.24 HOUSING CODE[[6]](#footnote-6)

15.24.010 General.

*The County of Alameda adopts the 1997 Edition of the Uniform Housing Code (UHC) as compiled and published by the International Conference of Building Officials and modified by the additions, deletions, and amendments set forth in this Chapter. The 1997 Edition of the Uniform Housing Code (UHC) is incorporated by reference into this Chapter, which shall be known as the Housing Code of the County of Alameda and enforced with California State Housing Law, California Health and Safety Code Division 13, Part 1.5 Regulation of Buildings Used for Human Habitation, Section 17910, et seq.*

(Ord. No. 2022-58, § 6, 12-6-22)

15.24.020 UHC Ch. 1, Title and Scope.

*{Not adopted}*

(Ord. No. 2022-58, § 6, 12-6-22)

15.24.030 UHC Ch. 2, Enforcement.

*{Not adopted, except Sections 201.1 and 202 are adopted and amended to read as follows}*

**SECTION 201.1 Authority.** The building official, *or other enforcement officer designated by him/her,* is hereby authorized and directed to enforce all of the provisions of this code. For such purposes, the building official shall have the powers of a law enforcement officer.

**SECTION 202 — SUBSTANDARD BUILDINGS*[BID]***

Buildings or portions thereof that are determined to be substandard as defined in this code are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition, or removal *as determined by the building official, or other enforcement officer designated by him/her,* in accordance with the *procedures specified in equity or law, including any relevant provisions in the AC General Ordinance Code.*

(Ord. No. 2022-58, § 6, 12-6-22)

15.24.040 UHC Ch. 3, Permits and Inspections.

*{Not adopted}*

15.24.050 UHC Ch.4, Definitions, Section 401, Definitions [BID].

*{Not adopted, except that the following definitions are adopted and amended to read as follows}*

**HEALTH OFFICER.** The *health officer of the County.*

**NUISANCE.** The following shall be defined as nuisances:

 1. *Any nuisance as defined in Section 17920 of the Health and Safety Code, or any* public nuisance known at common law or in equity jurisprudence.

 2. Any attractive nuisance that may prove detrimental to children whether in a building, on the premises of a building or on an unoccupied lot. This includes any abandoned wells, shafts, basements or excavations; abandoned refrigerators and motor vehicles; any structurally unsound fences or structures; or any lumber, trash, fences, debris or vegetation that may prove a hazard for inquisitive minors.

 3. Whatever is dangerous to human life or is detrimental to health, as determined by the health officer.

 4. Overcrowding a room with occupants.

 5. Insufficient ventilation or illumination.

 6. Inadequate or unsanitary sewage or plumbing facilities.

 7. Uncleanliness, as determined by the health officer.

 8. Whatever renders air, food or drink unwholesome or detrimental to the health of human beings, as determined by the health officer.

(Ord. No. 2022-58, § 6, 12-6-22)

15.24.060 UHC Ch. 5, through UHC Ch. 9.

*{Not adopted}*

(Ord. No. 2022-58, § 6, 12-6-22)

15.24.070 UHC Ch. 10, Substandard Buildings, Section 1001 — Definition [BID].

**1001.1 General.** Any building or portion thereof that is determined to be an unsafe building in accordance with *AC Section 15.08.150 of this title,* or any building or portion thereof, including any dwelling unit, guest room or suite of rooms, or the premises on which the same is located, in which there exists any of the conditions referenced in this section to an extent that endangers the life, limb, health, property, safety or welfare of the public or the occupants thereof, shall be deemed and hereby are declared to be substandard buildings.

**1001.2*through*1001.10***{See UHC}*

**1001.11 Hazardous or insanitary premises.** The accumulation of weeds, vegetation, junk, dead organic matter, debris, garbage, offal, rat harborages, stagnant water, combustible materials, and similar materials or conditions on a premises constitutes fire, health or safety hazards that shall be abated in accordance with the *procedures specified in equity or law, including any relevant provisions in the General Ordinance Code.*

**1001.12*through*1001.14***{See UHC}*

(Ord. No. 2022-58, § 6, 12-6-22)

15.24.080 UHC Ch. 11 through UHC Ch. 15.

*{Not adopted}*

(Ord. No. 2022-58, § 6, 12-6-22)

## Chapter 15.28 ABATEMENT PROCEDURE

**Sections:**

**Sections:**

**Sections:**

### Article I  General

15.28.010 Purpose.

It is the purpose of the provisions of this chapter to develop an equitable and practicable alternative method, to be cumulative with and in addition to, any other remedy available at law, whereby substandard property which endangers the health, property, safety, or welfare of the public or its occupants, may be required to be abated.

(Prior gen. code § 7-100)

15.28.020 Definitions.

"Abatement" includes but is not limited to demolition, removal, repair, vacation, maintenance, construction, replacement, reconditioning of structures, buildings, appliances or equipment; and to the correction or elimination of any substandard condition upon substandard property.

"Clerk," unless otherwise specified, refers to the clerk of the board of supervisors.

"Demolish" or "demolition" as used in this chapter includes the removal of the resulting debris from such demolition and the protection by filling of excavations exposed by such demolition and abandonment of sewer or other waste disposal facilities as may be required by this code or other ordinance or laws.

"Enforcement official" or his designee means that person authorized to administer the provisions of this chapter as follows:

1. The county health officer or director of the environmental health division for enforcing statutes, quarantine and other regulations, rules, orders, and ordinances pertaining to the public health;

2. The building official for matters regulated by Title 15;

3. The chief of the Alameda County fire patrol for matters regulated by Chapter 6.04, Title 6 and by Chapter 6.44 of Title 6 with respect to the unincorporated territory situated outside any fire protection district;

4. The chief of a fire protection district for matters regulated by Chapter 6.04 and by Chapter 6.44 within a county fire protection district;

5. The planning director or designee for matters regulated by Title 17, including but not limited to wind energy conversion systems.

Hearing Officer. The hearing officer authorized to conduct hearings under this chapter or his or her designee shall be as follows:

1. The county health officer in proceedings initiated by the director of the environmental health division;

2. The director of public works in proceedings initiated by the building official;

3. The county fire warden in proceedings initiated by the chief of the county fire patrol;

4. The chief of a fire protection district for matters regulated by Chapter 2, Title 3 and by Article 12, Chapter 6 of Title 3 within a county fire protection district;

5. The planning director or designee for matters regulated by Title 17, including but not limited to wind energy conversion systems.

"Party-concerned" as used in this chapter means the person, if any in real or apparent charge and control of the substandard property, the record owner, the holder of any mortgage, trust deed or other lien or encumbrance of record, the owner or holder of any lease of record, the record holder of any other estate or interest in or to such property. As used in this paragraph all reference to "record" means matters of record in the office of the county recorder of this county which definitely and specifically describes the premises involved.

However, in the case of the abatement of nuisances specified in Section 6.44.010 et seq. (hazardous weeds and litter), the "party concerned" may be limited to the record owner and the person in actual or apparent control of the substandard property.

Right of Entry. Whenever necessary to make an inspection to enforce any of the provisions of this code or whenever the enforcement official or hearing officer has reasonable cause to believe that a violation of this code exists in any building or any premises, or there exists in any building or upon any premises any condition which makes the building or premises dangerous, substandard, unsanitary, or a menace to life, health or property, he may enter such building or premises at all reasonable times to inspect the same or to perform any duty imposed upon him by law, ordinance, rule, or regulation; provided that if such building or premises is occupied, he shall first present proper credentials and demand entry. If such entry is refused, the enforcement official shall have recourse to every remedy provided by law to secure entry, specifically as provided in code of Civil Procedures Sections 1822.50 et seq.

Substandard conditions shall include but are not limited to the following:

1. An existing building, structure, electrical, plumbing or mechanical installation or portion thereof which is dangerous as defined in Section 15.04.060, which is substandard as defined in Section 15.04.070, or which is illegal as defined in Section 15.04.080;

2. The existence of a fly nuisance or waste which has been allowed to become a harborage, attractment or food source for rodents or has caused unreasonable production of odors resulting in the depreciation of adjacent property or comfortable enjoyment of life thereon, as defined in Chapter 6.32 of Title 6; or the existence of other unsanitary conditions as defined in Chapter 6.40 of Title 6;

3. The existence of a fire hazard as defined in Chapter 6.04 of Title 6, or of hazardous weeds as defined in Chapter 6.44 of Title 6;

4. The existence of any other condition to an extent that endangers the life, limb, health, property, safety, or welfare of any person.

The term "substandard property" shall include any building, structure or land upon which substandard conditions exist.

(Ord. 2000-14 § 1, 1999; prior gen. code §§ 7-100.1—7-100.9)

### Article II Requirements

15.28.030 Determination by enforcement official.

Whenever the enforcement official determines by inspection that any existing building or portion thereof, or any lot or other premises, is substandard property, as defined in this chapter, such building or premises, or both, are hereby declared a public nuisance, and the enforcement official may order the abatement of the nuisance by demolition, repair or rehabilitation of the substandard building or portion thereof or at the option of the party concerned by demolition thereof. The order also may require that the building be vacated. If the premises are substandard the enforcement official also may order that the substandard conditions be removed.

(Prior gen. code § 7-100.10)

15.28.040 Informal notice.

When the enforcement official has so found, in addition to any notices hereafter required by this chapter, he may give to the occupants of the substandard property, and to any other person whom he deems should be so notified, information concerning the provisions of this chapter, any violation thereof, how the person notified may comply and any other information as he deems expedient. He may post such information on the substandard property.

(Prior gen. code § 7-100.11)

15.28.050 Order of enforcement official.

A. If, in the opinion of the enforcement official, the property is found to be substandard, the enforcement official may give to the party concerned written notice thereof.

B. The notice shall set forth the street address and a legal description or the county assessor's designation of the premises, contain a concise but complete description of the facts constituting the public nuisance with reference to applicable code sections; and the proposed method of abatement.

C. The notice may require the owner or person in charge of the substandard property to complete the required abatement of the substandard conditions within thirty (30) days, or such other time limit as the enforcement official may stipulate; and shall direct them to appear before the hearing officer at a stated time and place and show cause why such substandard property should not be condemned as a nuisance and said nuisance be abated as herein provided.

D. The notice shall advise the owner or person in charge or control of the building, structure or premises, and all interested persons, that failure to appear at the hearing may be deemed an admission by him of the acts or omissions charged in the notice, and that the hearing officer may order abatement solely based upon the notice and the admission of the content thereof; or

E. Exception. Whenever substandard property or portion thereof constitutes an immediate hazard to health or property, and in the opinion of the enforcement official the conditions are such that repairs or demolition or other work necessary to abate the hazard must be undertaken sooner than provided by the procedures set forth in this chapter, he may make such alterations or repairs, or cause such other work to be done to the extent necessary to abate the substandard condition and protect health or property, after giving such notice to the parties concerned as the circumstances will permit or without any notice whatever, when, in his opinion, immediate action is necessary.

(Prior gen. code § 7-100.12)

15.28.060 Service of notice.

A. A copy of the notice shall be posted in a conspicuous place upon the building or structure or otherwise on the substandard property which is the subject of the proceeding.

B. Service of the notice upon the party concerned shall be by personal service, by registered or certified mail. However, in the case of the abatement of a nuisance specified in Sections 6.44.010 et seq., (hazardous weeds and litter), notice may be served by regular mail. Service by mail shall be effective on the date of mailing, postage prepaid, to each person at his or her address as it appears on the last equalized assessment roll, or as known to the enforcement official. If no such address so appears, or is not known, then the notice shall be mailed to such person at the address of the building, structure, or premises involved in the proceedings. The failure of any owner or other person to receive mailed notice shall not affect in any manner the validity of any proceedings taken hereunder. An affidavit of service shall be filed, together with a copy of said notice, in the proceedings, certifying the time and manner in which such notice was served.

C. The notice of hearing shall be posted and served at least five days prior to the date set for hearing.

(Prior gen. code § 7-100.13)

15.28.070 Declaration of substandard property.

The enforcement official may file with the county recorder a declaration that substandard property has been inspected and found to be such, as defined in this chapter, and that all parties concerned have been or will be so notified. After the enforcement official finds that the public nuisance has been abated and either that such abatement has been accomplished at no cost to the county, or that such costs have been placed upon the tax rolls as a special assessment pursuant to Section 25845 of the Government Code, or when the enforcement official's jurisdiction has been preempted by government acquisition of the property, he shall record in the office of the county recorder a document terminating the above declaration.

(Prior gen. code § 7-100.14)

15.28.080 Hearing.

The hearing officer shall conduct the abatement hearing subject to the following:

A. The enforcement official shall present competent evidence that the subject property falls within the definition of public nuisance; as to the method reasonably to correct the nuisance; and as to such other matters deemed pertinent by the hearing officer.

B. The parties to the abatement hearing shall be entitled to be represented by counsel.

C. The hearing shall be conducted in an impartial and informal manner in order to encourage free and open discussion by participants.

D. All testimony shall be submitted under oath or affirmation and shall be subject to cross-examination.

E. The hearing officer shall not be bound by the rules of evidence applicable in judicial proceedings.

F. The proceedings at the hearing shall be reported by a phonographic reporter or otherwise perpetuated by electronic means; or in lieu thereof stenographic notes may be taken and the substance thereof subsequently transcribed.

G. The decision of the hearing officer shall be in writing and shall be final. However, the aggrieved party may appeal such decisions, excepting those relating to hazardous weeds and litter, by filing a written notice of appeal with the hearing officer within five days after service of the order of abatement pursuant to Section 15.28.100E. The appeal shall be heard by the board of supervisors which may affirm, amend or reverse the decision or take other action deemed appropriate.

H. Any judicial action to modify or set aside the final decision shall be commenced no later than thirty (30) days after the completion and exhaustion of the foregoing administrative procedures.

(Prior gen. code § 7-100.15)

15.28.090 Standards for abatement.

The following standards shall be followed in substance by the hearing officer in determining what, if any, form of abatement shall be ordered.

A. Any order to demolish may initiate an alternative permission to repair and an order to repair may be satisfied by demolition.

B. If the condition can be reasonably repaired so that it will no longer exist in violation of this code, it shall be ordered repaired.

C. If the condition renders the building or structure dangerous to the health, safety, or general welfare of its occupants, it shall be ordered vacated.

D. In any case where a dangerous building or structure is more than fifty (50) percent damaged, or decayed or deteriorated, it may be demolished.

E. In all cases where a substandard condition cannot reasonably be repaired so that it will no longer exist in violation of this code, it may be demolished or removed.

(Prior gen. code § 7-100.16)

15.28.100 Order of hearing officer.

A. Within thirty (30) days after the conclusion of the hearing the hearing officer shall render his or her decision, either terminating the proceedings, or if he or she finds that the substandard property is a public nuisance ordering that it be abated.

B. The order of abatement shall set forth the street address of the substandard property and a legal description or the county assessor's designation of the premises sufficient for identification. It shall contain a statement of the particulars of the condition or conditions which render the building, structure or premises a public nuisance, and a statement of the work required to abate the nuisance. Reference may be made to the notice of hearing for such statement of particulars with any appropriate modification thereof.

C. The order shall specify the dates to commence and complete the work of abatement.

D. The time to commence or complete the work may be extended for good cause upon written application.

E. A copy of the order of abatement shall be posted in a conspicuous place upon the building or structure or otherwise upon the substandard property and shall be served in the manner prescribed for the service of notice of hearing.

F. In the case of the abatement of a nuisance specified in Sections 6.44.010 et seq. (hazardous weeds and litter), the hearing officer may elect to serve the order of abatement upon the party concerned either by (1) oral pronouncement to those present at the close of the hearing, (2) writing delivered personally or by mail, (3) posting the property, or (4) any combination of the foregoing. The hearing officer is not required to give notice of the abatement order to a party concerned who was given notice of hearing but did not attend the hearing.

(Prior gen. code § 7-100.17)

15.28.110 Work by private party or agency.

A. Any person having the legal right to do so may repair or demolish a substandard building or do any other work required to remove the substandard conditions at any time prior to the time when the enforcement official does so, but if such person does such work after the time specified in the last order of the hearing officer, all costs incurred by the county or district in preparation for the doing of such work are chargeable to the property and shall be collected as hereinafter provided.

B. If the order of the hearing officer is not complied with within the period designated, the enforcement official may then demolish the substandard building or portions thereof, or may cause such other work to be done to the extent necessary to eliminate the hazard upon the substandard property and other substandard conditions, determined to exist by the hearing officer.

C. Where the proceedings pertain to hazardous weeds and litter (Sections 3-150.0 et seq.) and the notice to abate within a specified time or to appear for a show cause hearing on a certain date is given by the enforcement official, the hearing officer may determine to proceed with abatement on the day following the date fixed for the hearing or, if the matter has been continued by the hearing officer, the day following the conclusion thereof, and the enforcement official shall acquire jurisdiction to abate said condition at said person's expense as herein provided. Any property owner or responsible person shall have the right to abate said condition himself, or have the same abated at his own expense, provided such condition has been abated prior to the arrival of the enforcement official or his authorized representatives.

D. When in the opinion of the enforcement official substandard property or portion thereof is an immediate hazard to health or property, and the abatement of such hazard requires prompt action, the enforcement official may then abate the substandard condition or may cause such other work to be done to the extent necessary to eliminate the hazard as provided in Section 15.28.050E and without amendment to the order of abatement.

E. The enforcement official may cause the material of any building or structure ordered to be demolished to be sold. The sale shall include stipulations that the building or structure be forthwith demolished, the wreckage, and debris removed and the lot cleaned. The enforcement official may sell any such building single or otherwise, as he may deem appropriate in order to insure that the consideration obtained from one or more buildings shall be adequate to pay the cost of demolition and cleaning the site. Any surplus from the sale of any such building or structure, or group of buildings or structures, over and above the cost of demolition and cleaning the site shall be distributed to persons lawfully entitled thereto. Any work of abatement performed by the enforcement official shall be accomplished in accordance with appropriate procedures applicable to the county or fire district.

(Prior gen. code § 7-100.18)

15.28.120 Penalties.

A. A person shall not obstruct, impede, or interfere with the enforcement official or his representative or with any person who owns or holds any interest or estate in a substandard building or substandard property which has been ordered by the hearing officer to be abated or which is abated under Section 15.28.050E, whenever the enforcement official or such owner is engaged in barricading, repairing, vacating and repairing, or demolishing any such substandard building or removing any substandard conditions from substandard property pursuant to this chapter, or in the performance of any necessary act preliminary to or incidental to such work, or authorized or directed pursuant hereto. Any violation hereof is a misdemeanor.

B. If the owner or person in control of the substandard property shall fail, neglect, or refuse to comply with any order of the hearing officer, he shall be guilty of a misdemeanor.

C. The occupant or lessee in possession or other person in control of a substandard building, who fails to vacate said building in accordance with any order of abatement issued by the enforcement official or hearing officer, shall be guilty of a misdemeanor.

D. Any person who removes any notice or order posted as required or permitted by chapter shall be guilty of a misdemeanor.

(Prior gen. code § 7-100.19)

15.28.130 Abatement fund.

A. The board of supervisors may set up a special revolving fund to be designated as the abatement fund. Payments shall be made out of said fund to defray the costs and expenses of abatement.

B. The board of supervisors may at any time transfer to such special fund, out of any money in the general fund of said county, such sums as it say deem necessary in order to expedite the performance of the work of abatement, and the sum so transferred shall be deemed a loan to said special fund and shall be repaid out of the proceeds of the assessments. All funds so collected under the assessment proceedings shall be paid when collected to the county treasurer who shall place the same in the abatement fund.

C. Funds collected for the purpose of abating inoperable and/or abandoned wind energy turbines shall be placed in an interest-bearing escrow account with the community development agency, and shall be managed as follows:

1. Deposits required pursuant to Section 15.04.370 shall be paid at the time a building permit is issued. The deposit is a one-time deposit for each wind turbine;

2. The cash performance deposit shall be deposited in an interest bearing escrow account;

3. Each deposit shall be recorded as being paid by a specific permittee for a specific turbine or group of turbines on a specific property;

4. Funds accumulated in the escrow account may be withdrawn by the planning director by written request to the escrow account agent stating that abatement is necessary due to abandonment, for the sole purpose of turbine removal and site restoration, plus reasonable overhead charges. Aggregated funds in the escrow account may be used for the removal of any wind turbine in the Altamont Pass, regardless of the source of the funds, turbine or land ownership, permit status, or other factors;

5. No liability shall be incurred by the county or escrow agent for withdrawal of funds so long as the appropriate abatement/abandonment statement is filed;

6. Upon filing the order of abatement, funds in the amount specified by the planning director shall be immediately delivered to the planning director for turbine removal and site restoration;

7. Any funds recovered from salvage of dismantled turbines shall first be applied to cover the cost of abatement of the specific turbines in question; any remaining amount of salvage value shall be applied to the escrow account for future use; reasonable efforts shall be made by Alameda County to maximize the amount of salvage value;

8. Deposited funds shall be refunded to the permittee upon written request to the planning director, with adequate supporting documentation showing that specific permitted turbine(s) either were never installed or have been fully removed and the site restored. Upon the granting of such a request, the applicable conditional use permit or portion thereof shall be rescinded and the permittee shall forfeit any rights to install turbines pursuant to it;

9. The escrow agent, trust company, or county offices shall be entitled to reasonable management fees to administer the terms of the escrow agreement.

(Ord. 2000-14 § 3, 1999; prior gen. code § 7-100.20)

15.28.140 Report of costs of abatement—Administrative fee.

The appropriate enforcement official shall keep an itemized account of the costs involved in the abatement of any substandard condition. Upon completion of the abatement, the enforcement official shall prepare and file with the clerk a report specifying the work done, the cost of the work, a description of the real property upon which the substandard condition was or is located, the names and addresses of the parties concerned, and the assessment against each lot or parcel proposed to be levied to pay the cost of abatement thereof. Fees to cover the administrative costs of abatement shall be added to the assessment. Such fees shall be as provided by resolution of the board of supervisors.

(Prior gen. code § 7-100.21)

### Article III Procedure for Assessment of Cost of Abatement in Event of Default of Owner

15.28.150 Report transmitted to board of supervisors.

Upon receipt of the report, the clerk shall place the report on the agenda for consideration by the board. The clerk shall cause notice of the cost of abatement to be mailed to the parties concerned listed in the enforcement official's report at least seven days prior to the hearing. Such notice shall specify the day, hour and place the board will hear any objections or protests which may be raised by any interested persons and that the board will pass upon the report of the enforcement official. Notice of hearing shall be published at least seven days prior to the date of hearing in the newspaper of general circulation within the county. In the case of a report concerning a nuisance specified in Sections 6.44.010 et seq. (hazardous weeds and litter), notice of hearing shall be published, but is not required to be mailed to each party concerned.

(Prior gen. code § 7-100.22)

15.28.160 Protest and objection—How made.

Any person to whom notice of hearing was sent and any person interested and affected by the proposed assessment may file written protests or objections with the clerk at any time prior to the date set for the hearing on the report of the board. Each such protest or objection must contain the address of the protestor or objector and a description of the property in which the signor thereof is interested and the grounds of such protest and objections. The clerk shall endorse upon every such protest or objection the date it was received by him and shall present it to the board at the time set for hearing.

(Prior gen. code § 7-100.23)

15.28.170 Hearing on report.

Upon the day and hour set for the hearing the board shall hear and pass the report of the enforcement official together with any protests or objections. The board may make such revision, correction or modification of the report as it may deem just and when it is satisfied with the correctness of the assessment, the report as submitted, or as revised, corrected, or modified, together with the assessment shall be confirmed.

(Prior gen. code § 7-100.24)

15.28.180 Contest.

The validity of any assessment levied under the provisions of this section shall not be contested in any action or proceeding unless the same is commenced within thirty (30) days after the assessment is confirmed. Any appeal from a final judgment in such action or proceeding must be commenced within thirty (30) days after the entry of judgment.

(Prior gen. code § 7-100.25)

15.28.190 Special assessment and lien.

The amounts of the assessment upon the various parcels of land and properties mentioned in the report, as confirmed, shall constitute special assessments against the respective parcels of land, and are a lien on the property for the amount of the respective assessment.

(Prior gen. code § 7-100.26)

15.28.200 Collection of assessment.

The assessment shall be collected in the following manner:

A. A copy of the report and assessment, as confirmed, shall be turned over to the auditor of the county on or before the tenth day of August following such confirmation, and the auditor shall enter the amounts of the respective assessments against the respective parcels of land as they appear on the current assessment roll.

B. The tax collector shall include the amount of the assessment on bills for taxes levied against the respective lots and parcels of land.

C. Thereafter the amounts of assessments shall be collected at the same time and in the same manner as county taxes are collected, and are subject to the same procedure and sale in case of delinquency as provided for ordinary county taxes.

D. All laws applicable to the levy, collection and enforcement of county taxes are applicable to such special assessment taxes.

(Prior gen. code § 7-100.27)

15.28.210 Alternative collection procedure.

Notwithstanding the provisions of Section 15.28.200 and in lieu thereof, in the event of nonpayment of assessment, the board may, at any time within sixty (60) days after its decision on the report and assessment, cause to be filed in the office of the county recorder a notice of lien against said properties of the confirmed assessment upon the following conditions:

A. From and after the recording of said notice of lien, all persons shall be deemed to have had notice of the contents thereof. The statutes of limitations shall not run against the right of the enforcement agency to enforce the payment of said lien.

B. All such assessments remaining unpaid after thirty (30) days from the date of recording of said lien shall become delinquent and bear interest at the rate of one-half of one percent per month computed upon the date of delinquency and on the first day of each month subsequent to said date of delinquency. The lien shall continue until the amount thereof is paid or until it is discharged of record.

C. If the sum assessed is not paid within thirty (30) days after the date of recording of said notice of lien, the board may direct the county counsel to bring an action, in the name of the county, to foreclose the lien of assessment.

(Prior gen. code § 7-100.28)

15.28.220 Violation of provisions a misdemeanor.

Any person who violates any of the provisions of the title is guilty of a misdemeanor, which may be prosecuted as an alternative to other remedies contained herein, and which is punishable by a fine not exceeding five hundred dollars ($500.00) or by imprisonment not exceeding six months, or by both such fine and imprisonment.

(Prior gen. code § 7-100.29)

15.28.230 Severability of provisions.

The board of supervisors hereby declares that it would have adopted each separate provision of this title, regardless of the adoption of any other provision, and if any remedy provided for in the title held unavailable, invalid or limited in effect, such limitation shall not affect the application of other provisions of the code.

(Prior gen. code § 7-100.30)

15.28.240 Alternate procedure.

No provision in this chapter shall be construed as disallowing the use of any abatement procedure now or hereafter available in the Alameda County General Ordinance Code or by state law.

(Prior gen. code § 7-100.31)

## Chapter 15.32 PROPERTY NUMBERING SYSTEM

**Sections:**

15.32.010 Purpose.

The board of supervisors finds that the public interest, safety, welfare and convenience require the establishment of a numbering system of street and road addresses in a uniform plan for the county. For the accomplishment of this objective, the board hereby establishes a uniform numbering system of street and road addresses for the county which shall be known of the Alameda County Property Numbering System.

(Prior gen. code § 5-28.0)

15.32.020 The system.

The county property numbering system shall become effective in the unincorporated area of the county and may be established within any city of the county upon its adoption by said city.

(Prior gen. code § 5-28.1)

15.32.030 Base lines.

The county property numbering system shall consist of base lines from which property numbers shall be established, the property numbers to progress in an increasing magnitude in easterly and westerly, and northerly and southerly directions generally in accordance with the distance from the base lines.

(Prior gen. code § 5-28.2)

15.32.040 System to be shown on maps.

The county property numbering system shall consist of a map or maps of the county or portions thereof adopted under Section 15.32.100 of this chapter, upon which map or maps the base lines shall be shown or designated and by index lines indicate the principal locations at which major units of the numbering system shall commence, and such other maps shall be prepared and maintained as shall be necessary to designate the numbers and locations of numbers assigned to particular buildings and lands under the system. All maps constituting any portion of the county property numbering system shall have a legend endorsed thereon stating that the maps constitute a portion of the system.

(Prior gen. code § 5-28.3)

15.32.050 Designation of enforcing official.

The system or portions thereof shall be continued, enforced, operated and maintained within the unincorporated area of the county by the office, person or department designated by the board of supervisors, and property numbers assigned within such area shall be done in accordance with the system.

(Prior gen. code § 5-28.4)

15.32.060 Proper numbers to be assigned.

For purposes of determining the proper number for a particular location the number shall be proportional to the distances between the numbers next adjacent to the location on either side or the major unit line or lines if no numbers have been previously established on adjoining properties. For purposes of determining whether a number shall be odd or even, it is determined that odd numbers shall be on the right hand side of the street or road and even numbers on the left hand side of the street or road in the direction of increasing magnitude of numbers. Where existing numbers have been established prior to this chapter and the odd and even numbers exist in a reverse order on the sides of the street or road, the reversed order of odd and even number location shall remain as it presently exists and shall continue for any extension of the street or road.

(Prior gen. code § 5-28.5)

15.32.070 Names of streets.

No street or road crossing any of the base lines of the system shall be known by the same name on both sides of the base line unless the street or road shall be adequately designated by a prefix or suffix indicating a principal compass direction to denote the position of the street or road in relation to the base line (i.e., West Ave. 100, East Ave. 100, Northwest 200th Street, Southeast 200th Street). From and after the effective date of this chapter any public street, road or way established, or any of the same offered in dedication for public use or any private street or roadway established, shall be named in accordance with the following:

A. All streets, roads and ways running generally northerly and southerly to be known as "streets" or "roads";

B. All streets, roads and ways running generally easterly and westerly shall be known as "avenues" or "ways";

C. All streets, roads and ways running in a variable curving or winding direction shall be known as "drives" or "lanes";

D. All cul-de-sac or dead ends, not a continuation of any of the above shall be known as "courts" or "places";

E. Major arterial routes through the county and/or cities thereof may be known as "boulevards," "parkways," "freeways," or "throughways."

All streets, roads and ways shall be known by the same name for its entire length and where a street, road or way shall change direction by ninety (90) degrees or by a lesser angle, each direction shall be known by a different name, provided that where such exists on the effective date of this chapter such name may continue to exist provided there shall be no further extension of the street, road or way.

(Prior gen. code § 5-28.6)

15.32.080 Display of numbers.

The office, person or department designated to enforce, establish, continue, operate and maintain the numbering system shall give notice to the occupants or owners of land or building which are assigned or reassigned numbers under the system, which notice shall contain the old number, the new number or the number reassigned to a particular building or parcel of land, and the date on which the new number shall become effective.

Within ten days of the effective date of the notice of number assigned or reassigned, the occupants or owners of the property or buildings shall cause the number to be displayed upon the building or land in such manner as to be visible from the street or road upon which the land or building fronts, provided that in rural areas where buildings are removed considerable distance from any public street or road or where rural free delivery of mail is provided, the number may be displayed upon receptacles designed for the delivery of mail. Nothing contained herein shall be construed to prohibit the display of a proper number in accordance with the system upon any road or driveway leading to buildings removed a substantial distance from the public road or street upon which the subject site abuts.

Within not less than ninety (90) days nor more than one hundred twenty (120) days from the effective date of the notice of numbers assigned or reassigned, the occupants or owners of the property or buildings shall remove or obscure from public view any old or previous number not in accordance with the system.

(Prior gen. code § 5-28.7)

15.32.090 Legal description of property not affected.

The adoption of the county property numbering system shall in no way affect the legal description of property by lot and block numbers or by metes and bounds.

(Prior gen. code § 5-28.8)

15.32.100 Map or maps.

The map or maps referred to in this chapter are made a part of this code. Those maps, and all notations, references, and other information shown thereon, shall be as much a part of this chapter as if fully set forth herein.

(Prior gen. code § 5-28.9)

15.32.110 Penalty.

Any person, firm, partnership, co-partnership, or corporation, whether as principal, agent or employee failing or refusing to display a proper number after notice of such has been given in accordance with Section 15.32.080 of this chapter, or willfully displaying or permitting to be displayed any improper number after aforesaid notice shall be guilty of a misdemeanor, and upon conviction thereof shall be punishable by a fine of not more than one hundred dollars ($100.00), or by imprisonment in the county jail of said county for a term not exceeding thirty (30) days, or by both such fine and imprisonment.

(Prior gen. code § 5-28.10)

## Chapter 15.36 GRADING EROSION AND SEDIMENT CONTROL

**Sections:**

### Article I Purpose and Definitions

15.36.010 Title.

This chapter shall be known as the grading ordinance of Alameda County.

(Prior gen. code § 7-110.0)

15.36.020 Purpose.

This chapter is enacted for the purpose of regulating grading work on private property within the unincorporated area of the county in order to safeguard life, limb, health, property, and public welfare; to protect creeks, watercourses, and other drainage facilities from illicit discharges of surface runoff generated in or draining through the permit work area; and to ensure that the construction and eventual use of a graded site is in accordance with the county general plan, any applicable specific plan, and all applicable county ordinances, including the stormwater management and discharge ordinance (Chapter 13.08 of the general ordinance code) and the zoning ordinance (Title 17 of the general ordinance code).

(Prior gen. code § 7-110.1)

(Ord. No. 2010-19, § 1, 5-4-10)

15.36.030 Definitions.

Unless the particular provision or the context otherwise requires, wherever the following terms are used in this chapter, they shall have the meaning ascribed to them in this section:

"Agricultural operation" means any land related activity for the purpose of cultivating or raising plants, fish, or animals; or conserving or protecting lands for such purposes when conducted on agriculturally zoned lands; and is not surface mining or borrow pit operations, nor preparation for construction or construction of any structure for human occupancy.

"Authorized enforcement officer" means the director of public works, or his/her designated representative. See Section 15.36.710 of this chapter.

"Bedrock" means the relatively solid undisturbed rock in place either at the ground surface or beneath superficial deposits of alluvium, colluvium, or soil.

"Bench" means a relatively level step excavated into sloping natural ground on which engineered fill or embankment fill is to be placed.

"Certified engineering geologist (CEG); see "Engineering geologist."

"Civil engineer" means a professional engineer registered as a civil engineer by the state.

"Compaction" means the increase of density of a soil or rock fill by mechanical means.

"Construction general permit" means the current version of the general permit for discharges of storm water associated with construction activity, as issued by the state of California Water Resources Control Board.

"County stormdrain system" means any facilities owned and maintained by the county or the "district," or under the jurisdiction of the county, by which stormwater is conveyed to the waters of the United States.

"Creek" means any conduit, channel, swale, or other facility or topographic feature through which stormwater runoff and/or riverine or estuarine water flows continuously or intermittently in a definite direction and course, or that is used for the holding, delay, or storage of such runoff or water. See "flood control facilities" and "watercourse."

"Cut;" see "excavation."

"Depth of fill" means the vertical dimension from the exposed fill surface to the original ground surface.

"Depth of excavation" (cut) means the vertical dimension from the exposed cut surface to the original ground surface.

"Director of public works" is the Director of Public Works of Alameda County, acting either directly or through his/her authorized deputies.

"District" means the Alameda County Flood Control and Water Conservation District. See "Zone 7."

"District permit ordinance" means Ordinance 0-2000-37 of the district, and any amendments or revisions thereto.

"Embankment;" see "fill."

"Encroachment permit" means a written permit authorizing certain work within a publicly maintained roadway or flood control right-of-way.

"Engineering geologist" means a registered geologist certified as an engineering geologist by the state.

"Engineering geology" means the application of geologic knowledge in the investigation and evaluation of naturally occurring rock and soil for use in the design of civil works.

"Erosion" means the wearing away and transporting of earth material as a result of the movement of wind, water or ice.

"Excavation" (cut) means the removal of naturally occurring earth materials by mechanical means, and includes the conditions resulting therefrom.

"Existing grade" means the elevation of the ground surface at a given point prior to excavating or filling.

"Expansive soil" means any soil that exhibits significant expansive properties as determined by a geotechnical engineer, an engineering geologist, or the director of public works. For the purpose of determining whether a geotechnical/geologic investigation is required in order to determine if the existing natural soil on the premises is expansive, "expansive soil" means any soil with a shrink-swell rating of .5 or greater in the NRCS web soil survey; see Section 15.36.320B of this chapter.

"Fill" (embankment) is the deposit of soil, rock or other materials placed by man and includes the conditions resulting therefrom.

"Finish grade" means the final grade of the site after excavating or filling that conforms to the approved final grading plan. The finish grade is also the grade at the top of a paved surface.

"Flood control facility" means any access feature, access roadway, bank, conduit, dam, fence, inlet, measurement gauge, outfall, pump, structure, waterway, well or any other appurtenance that is located on property that is under the jurisdiction of the district or that is considered part of the district right-of-way.

"General ordinance code" means the General Ordinance Code of the County of Alameda.

"Geologic hazard" means any condition in naturally occurring earth materials that may endanger life, health or property. Geologic hazards include, but are not limited to: faults; existing or potential landslides, mudslides, or rock falls; weak, expansive, or creeping soil; subsidence; earthquake induced shaking, ground movement, ground failure, or liquefaction; and seiche or tsunami inundation.

"Geologist" means a professional geologist registered as a professional geologist by the state.

"Geotechnical engineer" means a civil engineer registered by the state who is recognized by the state as being qualified in the field of soil mechanics and soil engineering.

"Geotechnical engineering" means the application of the principles of soil mechanics in the investigation, evaluation and design of civil works involving the use of earth materials and may include the inspection, testing and construction thereof.

"Grading" means any land excavation, or filling or combination thereof, or the removal, plowing under or burial of vegetative groundcover.

"Grading plan" means a plan prepared in accordance with this chapter showing grading and related work.

"Grading work" means grading and related work, such as, but not limited to, drainage improvements and erosion and sediment control.

"Illicit discharge" means any discharge to the county stormdrain system that is not entirely stormwater or is not exempted by the provisions of Section 13.08.070B of Chapter 13.08 of the general ordinance code.

"Keyway" means a special backfilled excavation that is constructed beneath the toe area of a planned fill slope on sloping ground to improve the stability of the slope.

"Landscape architect" means a landscape architect registered by the state.

"Lot;" see "parcel."

"Owner" means the person shown as the legal owner of the property on the latest equalized assessment roll in the office of the county assessor.

"Parcel" (lot) means land described as a lot or parcel in a recorded deed or shown as a lot or parcel on a final map or parcel map on file in the county recorder's office.

"Permit" means either a written grading permit issued pursuant to this chapter authorizing certain grading work, or another permit issued pursuant to other applicable permit ordinances of the county, as the context requires.

"Permittee" means any person to whom a permit is issued pursuant to this chapter.

"Person" means any natural person, firm, corporation or public agency whether principal, agent, employee, or otherwise.

"Preliminary grading plan" means a plan that shows the proposed grading work in relation to the existing site prepared and submitted with the application for a grading permit.

"Rainy season" means the period of the year during which there is a substantial risk of rainfall. For the purpose of this chapter, the rainy season is defined as from October 1st to April 30th, inclusive.

"Rough grade" means the stage at which the grade approximately conforms to the approved plan. It is also the subgrade required for construction of a roadway or other paved surface.

"Sediment" is any material transported or deposited by water, including soil and debris or other foreign matter.

"Site" means any lot or parcel of land or combination of contiguous lots or parcels of land, whether held separately or joined together in common ownership or occupancy, where grading is to be performed or has been performed.

"Slope" means an inclined ground surface the inclination of which may be expressed as the ratio of horizontal distance to vertical distance.

"Soil" means all earth material of any origin that overlies bedrock and may include the decomposed zone of bedrock that can be excavated readily by mechanical equipment.

"Soil engineer," or "soils engineer;" see "geotechnical engineer."

"Stormwater" means stormwater runoff and surface drainage.

"Stormwater management and discharge control ordinance" means Chapter 13.08 of the general ordinance code.

"Stormwater pollution and prevention plan (SWPPP)" means a formal plan prepared and implemented in accordance with the provisions of the State Water Resources Control Board General Construction Permit, in order to control the pollution of stormwater discharge during construction.

"Terrace" means a relatively level step constructed in the face of a graded slope surface for drainage, maintenance or other purposes.

"Vehicular way" means a private roadway or driveway.

"Watercourse;" see Section 13.12.030 of Chapter 13.12 of the general ordinance code.

"Watercourse protection ordinance" means Chapter 13.12 of the general ordinance code.

"Work;" see "grading work."

"Zone 7" means the Zone 7 Water Agency.

(Prior gen. code § 7-100.2)

(Ord. No. 2010-19, § 1, 5-4-10)

### Article II General Requirements

15.36.040 Grading permit required.

Except for the specific exceptions listed hereinafter, no person shall do or permit to be done any grading on any site in the unincorporated area of this county without a valid permit obtained from the director of public works.

(Prior gen. code § 7-111.0)

15.36.050 Exemptions.

The following grading may be done without obtaining a permit:

A. An excavation that removes less than one hundred fifty (150) cubic yards of material and that complies with one of the following conditions:

1. Is less than two feet in depth below natural grade; or

2. Will not create a cut slope that is unstable, potentially erodible to the extent of causing an illicit discharge, more than five feet in height (as measured vertically), and steeper than two units horizontal to one unit vertical (fifty (50) percent slope).

B. A fill that is not intended to support a structure, will not obstruct a drainage course, is not located within a floodplain (as defined in Chapter 15.40 of this title), will not create a surface that is unstable or that would be potentially erodible to the extent of causing an illicit discharge, and that complies with one of the following conditions:

1. Less than two feet in depth and is placed on natural terrain that is sloped less than five units horizontal to one unit vertical (twenty (20) percent slope); or

2. Less than three feet in depth at its deepest point (as measured vertically), creates a stable fill slope no steeper than two units horizontal to one unit vertical (fifty (50) percent slope), and is less than one hundred fifty (150) cubic yards of material; or

3. Less than five feet in depth at its deepest point (as measured vertically), creates a fill slope no steeper than two units horizontal to one unit vertical (fifty (50) percent slope), and is less than fifty (50) cubic yards of material;

C. Grading done by or under the supervision or construction control of a public agency, including the county, that assumes full responsibility for the work in conformance with the design and documentation provisions of this chapter;

D. Excavations and fills in connection with the construction of building foundations, building crawl spaces, building basements, swimming pools, retaining walls, or other structures subject to regulation by the county building ordinance (Chapter 15.08 of this title);

E. Excavations and fills in connection with the construction of vegetated swales, bioretention basins, detention basins, or other stormwater protection facilities subject to regulation by the county stormwater management and discharge control ordinance (Chapter 13.08 of the general ordinance code);

F. Any of the following activities conducted on property that is zoned as agricultural in accordance with the provisions of Title 17 of the general ordinance code, provided that any such activity will not result in a cut or fill the failure of which could endanger any structure intended for human or animal occupancy or any public or shared access roadway, or that could obstruct, damage, or cause an illicit discharge to any watercourse or other drainage facility, and provided that such activity is being performed in accordance with all applicable laws, regulations, and ordinances of the county:

1. Grading associated with agricultural operations;

2. The temporary stockpiling of soil or other material; or

3. Grading associated with private recreational use, such as the construction or maintenance of dirt bike or equestrian trails.

G. Trenching and grading incidental to the construction or installation of approved underground pipe lines, on-site wastewater treatment systems, conduits, electrical or communication facilities, and drilling or excavation for approved wells or post holes, except that the installation of stormdrain facilities such as field inlets, conductors, and temporary outfall structures associated with the required protection of rough grading cuts and fills or subgrades may be considered grading work, subject to the permit requirements of this chapter. Any exempted trenching shall be backfilled and the surface restored to its original condition, including reseeding or otherwise restoring vegetation on all disturbed earth surfaces if slopes exceed two percent, as soon as possible after such utility installation work is completed;

H. Excavations for soil or geological investigations by a geotechnical engineer, geologist, or engineering geologist. Such work shall be backfilled and shaped to the original contour of the land under the direction of the geotechnical engineer, geologist, or engineering geologist as soon as possible after the investigation;

I. Grading in accordance with plans incorporated in an approved surface mining permit, reclamation plan or sanitary landfill;

J. Maintenance of existing firebreaks and private roadways to keep the firebreak or roadway substantially in its original condition;

K. Routine cemetery excavations and fills;

L. Performance of emergency work necessary to protect life or property when an urgent necessity therefore arises. The person performing such emergency work shall notify the director of public works promptly of the problem and work required and shall apply for a permit therefor within ten (10) calendar days after commencing said work.

Exemption from the requirement of a permit shall not be deemed to be permission to violate any provision of this chapter or any other laws, regulations, or ordinances of the county, including the requirement to obtain a building, electrical, plumbing, mechanical, stormwater, or well permit whenever so required under the provisions of the applicable permit ordinance.

(Prior gen. code § 7-111.1)

(Ord. No. 2010-19, § 1, 5-4-10)

15.36.060 Discharge and erosion.

Notwithstanding the exemptions listed in Section 15.36.050 of this chapter, no person shall do or allow to be done any grading in such a manner that quantities of dirt, soil, rock, debris, or other material substantially in excess of natural levels are washed, eroded, or otherwise discharged into a watercourse, a flood control facility, or other drainage system by the forces of nature, or could be so washed, eroded, or discharged onto, within, or from the site.

(Prior gen. code § 7-111.2)

(Ord. No. 2010-19, § 1, 5-4-10)

15.36.070 Obstruction of stormwater.

No person shall do or allow to be done any grading that obstructs, impedes, or interferes with the natural flow of stormwater, or could so obstruct, impede, or interfere, whether such waters are unconfined upon the surface of the land or confined within land depressions or natural drainage ways, unimproved channels or watercourses, or improved ditches, channels or conduits, in such manner as to cause flooding where it would not otherwise occur, aggravate any existing flooding condition, cause accelerated erosion, or result in an illicit discharge, except where said grading is in accordance with all applicable laws, ordinances, and regulations of the county, including but not limited to the requirement to obtain a permit or permits where so specified.

(Prior gen. code § 7-111.3)

(Ord. No. 2010-19, § 1, 5-4-10)

15.36.080 Safeguarding of watercourses and flood control facilities.

Any proposed grading work that could impinge upon, restrict access to, or result in the discharging of stormwater or the depositing of soil or other material into or the modification of the flow of a watercourse or a flood control facility may, at the discretion of the director of public works, require a separate permit issued by the director under the provisions of the county watercourse protection ordinance or the district permit ordinance. Any grading associated with the construction of landscaped-based stormwater control facilities intended to control the discharge of stormwater into the watercourses or flood control facilities must be authorized by a separate permit issued under the provisions of the county stormwater management and discharge control ordinance.

(Prior gen. code § 7-111.4)

(Ord. No. 2010-19, § 1, 5-4-10)

15.36.090 Levee work.

No person shall excavate or remove any material from or otherwise alter any levee maintained by the county or the district without the prior approval of the director of public works.

(Prior gen. code § 7-111.5)

(Ord. No. 2010-19, § 1, 5-4-10)

15.36.100 Construction in public rights-of-way and on district property.

Any grading within the right-of-way of a public roadway must be authorized by an encroachment permit issued by the director of public works or by the State Department of Transportation (CalTrans), as applicable. Any grading on district property must be authorized by an encroachment permit issued by the director of public works or by Zone 7, as applicable.

(Prior gen. code § 7-111.6)

(Ord. No. 2010-19, § 1, 5-4-10)

15.36.110 Hazards.

Notwithstanding the provisions of Section 15.36.050 of this chapter, whenever the director of public works determines that any grading on private property constitutes a condition that is a hazard to public safety, endangers that property, adversely affects the safety, use or stability of adjacent property, or an overhead or underground utility, or a public roadway, watercourse, or flood control facility, or could cause an illicit discharge, the owner of the property upon which the condition is located, or other person or agent in control of said property, upon receipt of notice in writing from the director of public works shall, within the period specified therein, abate such condition and render the grading in conformance with the requirements of this chapter. The director of public works may require the submission of plans or soil or geological reports, detailed construction recommendations, or other engineering data prior to and in connection with any corrective or proposed work or activity, and shall have the authority to require that the said person or agent obtain a remedial permit or permits in accordance with the provisions of this chapter.

(Prior gen. code § 7-111.7)

(Ord. No. 2010-19, § 1, 5-4-10)

15.36.120 Not retroactive.

This chapter shall be prospective in operation only. The provisions of this chapter shall not apply to existing construction for which all previously necessary permits were obtained. Said provisions shall also not apply to a project or development not yet constructed provided that an appropriate permit has been obtained and said permit bears a date prior to the effective date of this chapter.

(Prior gen. code § 7-111.8)

15.36.130 Administration.

This chapter shall be administered for this county by the county flood control and water conservation district.

(Prior gen. code § 7-111.9)

### Article III Procedures

15.36.140 Filing.

Applications for permits shall be filed with the director of public works on forms furnished by his/her office. Each application shall include a plan checking fee and other fees as required, preliminary or final grading plans, a preliminary pollution plan, and a statement of the intended use of the site. Only one application and permit is allowed for grading work to be done on a site at one time. The director of public works shall determine whether the application is complete in accordance with provisions of Article IV herein and may require additional information from the applicant before accepting the application as complete.

(Prior gen. code § 7-112.0)

(Ord. No. 2010-19, § 1, 5-4-10)

15.36.150 Compliance with CEQA and other environmental reviews.

The California Environmental Quality Act (CEQA) and other environmental review requirements may require the preparation and review of environmental documents concerning a proposed grading project. In such event, this county, acting through the Community Development Agency (CDA), will be a responsible agency or may function as the lead agency.

(Prior gen. code § 7-112.1)

(Ord. No. 2010-19, § 1, 5-4-10)

15.36.160 Referral to other public agencies.

A. The director of public works shall refer those permit applications falling within the following categories to the listed county or other public agencies for approval prior to issuance of the permit:

1. Any proposal for grading work associated with a development that is subject to the provisions of Title 16 or Title 17 of the general ordinance code shall be referred to the community development agency (CDA).

2. Any proposal for grading work associated with the construction or reconstruction of a fire access roadway or a fire break shall be referred to the responsible fire protection agency.

3. Any proposal for grading work associated with a development that involves the construction or reconstruction of an on-site wastewater disposal system shall be referred to the department of environmental health of the health care services agency.

4. Any proposal for grading work that will disturb more than one acre of soil or that is associated with a larger common plan of development that will disturb more than one acre shall be referred to the regional water quality control board for review of a storm water pollution prevention plan (SWPPP).

B. The director may refer an application to other interested public agencies for their recommendations.

(Prior gen. code § 7-112.2)

(Ord. No. 2010-19, § 1, 5-4-10)

15.36.170 Permit conditions.

A. No permit shall be granted until the director of public works verifies compliance with the provisions of Section 15.36.160 of this chapter.

B. The permit shall be limited to the grading work shown on the grading plans as approved by the director of public works. In granting a permit, the director of public works may impose any condition deemed necessary to protect the health, safety and welfare of the public, to prevent the creation of a nuisance or hazard to public or private property, and to assure proper completion of the grading, including but not limited to:

1. Mitigation of adverse environmental impacts;

2. Improvement of any existing grading to comply with the standards of this chapter;

3. Requirements for fencing or other protection of grading that would otherwise be hazardous;

4. Requirements for dust, pollution prevention, and noise control, hours of operation and season of work, weather conditions, sequence of work, access roadways, and haul routes;

5. Requirements for safeguarding watercourses and flood control facilities from excessive deposition of sediment or debris in quantities exceeding natural levels, and from illicit discharges, including those protective measures specified by the pollution prevention plan;

6. Assurance that the land area in which grading is proposed and for which habitable structures are proposed is not subject to hazards of land slippage or significant settlement or erosion and that the hazards of seismic activity or flooding can be eliminated or adequately reduced.

7. Assurance that the proposed grading work will not damage adjacent properties, including any adjacent public rights-of-way or district property, or obstruct access thereto.

8. Assurance that the proposed grading will be compatible with all other approved developments on the property, including the construction of landscaped-based stormwater treatment and detention facilities, on-site stormdrain systems, on-site wastewater disposal fields, etc.

(Prior gen. code § 7-112.3)

(Ord. No. 2010-19, § 1, 5-4-10)

15.36.180 Permission of other agencies or owners.

A. No permit shall relieve the permittee of responsibility for securing other permits or approvals required for work which is regulated by any other department or agency of the county, or other public agency, or for obtaining any easements or authorization for grading on property not owned by the permittee.

B. The director of public works shall be responsible for verifying that any applicant requesting a grading permit that would result in the disturbance of one or more acres of land has filed a notice of intent with the state under the provisions of the state construction general permit.

(Prior gen. code § 7-112.4)

(Ord. No. 2010-19, § 1, 5-4-10)

15.36.190 Location of property lines.

Whenever the location of a property line or easement or the title thereto is disputed during the application process or during a grading operation, a survey by a licensed land surveyor or resolution of title all at the expense of the applicant may be required by the director of public works.

(Prior gen. code § 7-112.5)

(Ord. No. 2010-19, § 1, 5-4-10)

15.36.200 Time limits.

A. The permittee shall perform and complete all the work required by the permit within the time limit specified in the permit. If the work cannot be completed within the specified time, a request for an extension of time, setting forth the reasons for the requested extension, shall be presented in writing to the director of public works no later than thirty (30) days prior to the expiration of the permit. The director of public works may grant additional time for the work by amending the permit to extend the expiration date.

B. If all the permit work required is not completed within the time limit specified in subsection A of this section, no further grading shall be done without renewing the permit. A written request for renewal shall be submitted to the director of public works who may require a new application and fees depending on the time between the expiration date and the renewal request, revisions in county regulations, or changed circumstances in the immediate area. Any revised plan shall be submitted to the director of public works for review, and any costs thereof shall be at the applicant's expense.

C. In the event that a request for extension as described in subsection A of this section or a request for renewal as described in subsection B of this section may result in the performance of grading work in the rainy season where such rainy season work was not previously authorized, the director of public works shall have the authority to require the submittal of detailed erosion and sedimentation control plans as a prerequisite to any such extension or renewal.

(Prior gen. code § 7-112.6)

(Ord. No. 2010-19, § 1, 5-4-10)

15.36.210 Validity.

The issuance of a permit or approval of plans and specifications shall not be construed as an approval of any violation of the provisions of this chapter or of any other applicable laws, ordinances, rules or regulations; and shall not prevent the director of public works from thereafter requiring the correction of errors in said plans and specifications or from preventing work being carried on thereunder in violation of this chapter, or any other applicable law, ordinance, rule or regulation.

(Prior gen. code § 7-112.7)

15.36.220 Appeals.

Any person aggrieved by the decisions described in Section 15.36.300 or Section 15.36.760 of this chapter, or other decision made pursuant to this chapter except for the levying of administrative fines, may appeal that decision within ten (10) working days following the effective date of that decision, by requesting a review in a written letter addressed to the Director of Public Works at 399 Elmhurst St., Hayward, CA 94544. Upon the receipt of such a request, the director shall request a staff report and recommendations and shall schedule a hearing on the matter at the earliest practical date. At that hearing, the director may hear additional evidence, and may reject, affirm, or modify the earlier decision. The decision of the director at the hearing may be appealed to the board of supervisors by submitting a written statement, setting forth the grounds for the appeal of the director's decision, addressed to Clerk of the Board of Supervisors at 1221 Oak St., Ste. 536, Oakland, CA 94612. Such appeal to the board must be received by the clerk of the board within ten (10) working days of the date of the final agency decision by the director. The director of public works may designate a public works employee to conduct the hearing. Upon receipt of the appeal, the board shall take one of the following actions:

A. Affirm the action of the director without further hearing or review;

B. Refer the matter back to the director for further review, with or without instructions; or

C. Set the matter for a public hearing before the board, in which case the board shall set a time and place for the said hearing and shall provide notice to the person filing the appeal at least five days prior to the date set for the hearing.

In the event of an appeal to the board, the board shall render its decision without consideration of any argument or evidence of any kind other than the record provided by the director, unless the board is itself conducting a public hearing on the matter. The decision of the board shall be final.

(Prior gen. code § 7-112.8)

(Ord. No. 2010-19, § 1, 5-4-10)

### Article IV Plans and Specifications

15.36.230 Application—Plans.

Two or more complete sets of plans, as determined by the director of public works, including but not limited to profiles, cross sections, topographic maps and specifications shall be submitted to the director of public works with each application for a grading permit, or when otherwise required by the director of public works for enforcement of any provisions of this chapter. At the time of application, the applicant may provide preliminary grading plans. Prior to the issuance of a grading permit the applicant must furnish final grading plans. Preliminary grading plans with appropriate changes and additions thereto may be accepted as final grading plans. When the final grading plans and other required documents, including a final pollution prevention plan, have been approved, a grading permit will be issued by the director of public works. The work shall be done in strict compliance with the approved plans and specifications which shall not be changed or altered except in accordance with the provisions of this article.

(Prior gen. code § 7-113.0)

(Ord. No. 2010-19, § 1, 5-4-10)

15.36.240 Preliminary grading plans.

Preliminary grading plans provide for review and determination of grading permit requirements prior to approval of final plans and issuance of a grading permit. Precise design at this stage is not required. The plans shall be clearly and legibly drawn and entitled "preliminary grading plans," shall contain a statement of the purpose of the proposed grading, and shall include the following, unless waived by the director of public works:

A. On a map of appropriate scale, but not smaller than one inch equals one hundred (100) feet:

1. A plan entitled "preliminary grading plan" and the name and signature of preparer and date of preparation,

2. A vicinity sketch (not at map scale) indicating the location of the site relative to the principal roadways, lakes, watercourses, and flood control facilities in the area,

3. A site plan indicating the site of the work and any proposed divisions of land,

4. The complete site boundaries and locations of any easements and rights-of-way traversing and adjacent to the property, appropriately labeled and dimensioned,

5. The location of all existing and proposed roadwayss, buildings, wells, pipelines, watercourses, flood control facilities, bridges, on-site wastewater treatment systems, stormwater treatment and detention facilities, and other structures, facilities, and features of the site, and the location of all improvements on adjacent land within fifty (50) feet of the proposed work,

6. Location and nature of known or suspected soil or geologic hazard areas, including earthquake fault zone and seismic hazard boundaries as depicted on the maps published by the California Geologic Survey,

7. Contour lines of the existing terrain and proposed approximate finished grade at intervals not greater than five feet, showing all topographic features and drainage patterns throughout the area where proposed grading is to occur. The contour lines shall be extended to a minimum of fifty (50) feet beyond the affected area, and further if needed to define intercepted drainage, and shall be extended a minimum of one hundred (100) feet outside of any future roadway rights-of-way,

8. Approximate location of cut and fill lines and the limits of grading for all the proposed grading work including borrow and stockpile areas. A written description of offsite locations of said areas will suffice,

9. Location, width, direction of flow and approximate location of tops and toes of banks of any watercourses and open-channel flood control facilities, along with any associated riparian habitat zones,

10. The boundaries of any floodplains, as designated in accordance with the provisions of Chapter 15.40 of this title,

11. Proposed provisions for stormwater drainage control in the vicinity of the grading,

12. A conceptual plan for erosion and sediment control including both temporary facilities and long-term site stabilization features such as planting or seeding for the area affected by the proposed grading. This requirement may be waived by the director of public works for sites having no slopes greater than five percent unless the large size of the site, its proximity to sensitive areas or other conditions make an erosion or sediment discharge hazard possible,

13. North arrow and scale,

14. General location and character of vegetation covering the site and the locations of trees with a trunk diameter of twelve (12) inches or more, measured at a point three feet above average ground level, within the area to be disturbed by the proposed grading. The plans shall indicate which trees are proposed to remain and how they are to be protected;

B. Typical cross sections (not less than two) of all existing and proposed graded areas taken at intervals not exceeding two hundred (200) feet and at locations of maximum cuts and fills;

C. An estimate of the quantities of excavation and fill, including quantities to be moved both on- and off-site;

D. The estimated starting and completion dates of grading;

E. Such supplemental information as required for processing and approval of the design concept and the application as required by the director of public works.

(Prior gen. code § 7-113.1)

(Ord. No. 2010-19, § 1, 5-4-10)

15.36.250 Final grading plans—Engineer required.

Final grading plans and specifications shall be prepared and signed by a civil engineer, except as otherwise provided herein, on sheets at least twenty-four (24) inches by thirty-six (36) inches. The plans shall include the following, in addition to all requirements for preliminary grading plans, unless waived by the director of public works:

A. A Title Block. Plans shall be entitled "grading plan" and state the purpose of the proposed grading and the name of the engineer or firm by whom this plan is prepared;

B. Accurate contour lines at intervals not greater than five feet, showing topographic features and drainage patterns and the configuration of the ground before and after grading, relative to a bench mark established on-site;

C. Location, extent and finished surface slopes of all proposed grading and final cut and fill lines;

D. Cross sections, profiles, elevations, dimensions and construction details based on accurate field data;

E. Construction details for roadways, driveways, watercourses, culverts, and drainage devices, retaining walls, cribbing, dams, and other improvements to be constructed as part of the permit, together with supporting calculations and maps as required;

F. Complete construction specifications;

G. A detailed erosion and sediment control plan including specific locations, construction details, and supporting calculations for temporary and permanent sediment control structures and facilities, when required by the director of public works;

H. A landscaping plan, when required by the director of public works, including temporary erosion control plantings, permanent slope plantings, replacement of temporary groundcover, and irrigation facilities;

I. An estimate of the quantities of excavation and fill, adjusted for anticipated swell or shrinkage;

J. The locations of any borrow site and any site intended for disposal of surplus material;

K. A projected schedule of operations, including, as a minimum, the dates of:

1. Commencement of work,

2. Start and finish of rough grading,

3. Completion of drainage facilities,

4. Completion of work in any watercourse or flood control facility,

5. Completion of erosion and sediment control facilities,

6. Completion of hydromulching and other landscaping.

If rough grading is proposed between October 1st and April 15th, a more detailed schedule of grading activities and use of erosion and sediment control facilities may be required;

L. Itemized cost estimate of the proposed grading and related work;

M. Reference callouts, as necessary, for other proposed improvements, including buildings, structures, walls, bridges, on-site wastewater treatment facilities, stormwater treatment and detention facilities, fire hydrants, landscaping, pavement, etc.

N. Other information as may be required by the director of public works.

(Prior gen. code § 7-113.2)

(Ord. No. 2010-19, § 1, 5-4-10)

15.36.260 Final grading plans—Engineer not required.

All plans and specifications shall be prepared and signed by a civil engineer except that the director of public works may waive this requirement if the grading is minor in nature; would not endanger the public health, safety or welfare as determined by the director of public works; and would not involve or require any of the following:

A. Cuts and fills with a combined total of one thousand five hundred (1,500) cubic yards or more;

B. An access road serving three or more existing or potential residences;

C. A cut or fill that is intended to support structures;

D. A cut or fill that is located so as to cause unduly increased pressure upon or reduced support of any adjacent structure or property;

E. The construction of any extensive drainage or sediment control structures, culverts, or facilities or alteration of any existing drainage course;

F. The creation or aggravation of an unstable slope condition.

G. The construction of significant improvements, such as large retaining walls or major landscaped-based stormwater treatment facilities, that are authorized by other permits but that could affect the final grading design.

(Prior gen. code § 7-113.3)

(Ord. No. 2010-19, § 1, 5-4-10)

15.36.270 Modification of approved plans.

A. Proposed modifications of an approved final plan shall be submitted to the director of public works for his written approval.

B. All necessary soils and geological information and design details shall accompany any proposed modification.

C. The modification shall be compatible with any subdivision map or land use requirements.

(Prior gen. code § 7-113.4)

15.36.280 Seasonal requirements.

Implementation of erosion and sediment control plans shall be based on the season of the year and the stage of construction at forecasted periods of rainfall and heavy storms. Erosion and sediment control plans shall allow for possible changes in construction scheduling, unanticipated field conditions, and relatively minor changes in grading. Modifications to plans may be required after initial plan approval.

(Prior gen. code § 7-113.5)

15.36.290 Distribution and use of approved plans.

Two sets of approved plans and specifications shall be retained by the director of public works and one or more sets of approved and dated plans and specifications shall be provided to the applicant or his engineer. One set of approved plans and permit shall be retained on the site at all times during the work.

(Prior gen. code § 7-113.6)

### Article V Permit Requirements

15.36.300 General.

The director of public works may deny the issuance of a grading permit if final grading plans fail to satisfy the provisions of this chapter or any of the conditions imposed. The director of public works shall identify the provisions, requirement or condition which has not been met or performed by the applicant.

(Prior gen. code § 7-114.0)

15.36.310 Permit fees.

A. The schedule of permit fees and costs shall be those established and adopted by the board from time to time by resolution. Before a permit is issued, the applicant shall deposit with the director of public works cash or equivalent, in a sufficient sum to cover the fee for issuance of the permit, charges for review of plans, specifications and reports, other engineering services, field investigations, necessary inspection or other work and routine laboratory tests of materials and compaction, all in accordance with the said schedule.

B. No application fee shall be required of public agencies or public utilities.

C. Public or private utilities may, at the option of the director of public works, make payment for the above charges as billed by the director of public works instead of by advance deposit as required above.

D. If, upon completion of any work under a permit there remains any excess of deposit or of fees or charges, the director of public works shall certify the same to the auditor for refund to the permittee or refund the same from any trust fund established under his jurisdiction for such purposes.

E. If, upon completion of any work under a permit there is an insufficient deposit to cover the cost of the work, the director of public works may require the permittee to reimburse the amount equal to the cost deficit.

F. If grading work is done in violation of this chapter or such work is not done in accordance with an approved permit, the director of public works shall have the authority to charge remedial fees in accordance with the provisions of Section 15.36.674 of this chapter.

(Prior gen. code § 7-114.1)

(Ord. No. 2010-19, § 1, 5-4-10)

15.36.320 Geotechnical/geologic investigation required.

A geotechnical (soil) or geologic investigation report shall accompany the permit application in any of the following circumstances:

A. When the proposed grading includes a cut or fill exceeding five feet in depth at any point and the slope of the natural ground within thirty (30) feet of the cut or fill exceeds ten (10) percent; however, for vehicular ways, a geotechnical/geologic investigation shall not be required unless the grading includes a proposed cut or fill that exceeds ten (10) feet in depth;

B. When the shrink-swell rating of the soil in the area of the proposed grading work is greater than .5, as shown in the "building site development" ratings in the "web soil survey soil data explorer" interactive maps published by the United States Department of Agriculture Natural Resources Conservation Service as of April 2010 at http://websoilsurvey.nrcs.usda.gov/app/WebSoilSurvey.aspx, or when there are other reasons to suspect that highly expansive soils are present;

C. When the property is located within an earthquake fault zone or a seismic hazard zone, as delineated on the official maps published for that purpose by the California Geologic Survey, or when such hazards are otherwise known or suspected on the site.

The director may require additional or supplemental geotechnical/geologic investigations and reports in conjunction with the design and construction of other structures and facilities subject to separate permits, such as foundations, on-site wastewater treatment systems, stormwater infiltration devices, etc.

(Prior gen. code § 7-114.2)

(Ord. No. 2010-19, § 1, 5-4-10)

15.36.330 Geotechnical/geologic investigations.

Those portions of the geotechnical/geologic investigation, as described in Section 15.36.320 of this chapter, that constitute "civil engineering" as defined by Section 6731 of the Business and Professions Code of the state shall be conducted by a geotechnical engineer. Those portions of the investigation that involve the practice of "geology" as defined by Section 7802 of the Business and Professions Code of the state shall be conducted by an engineering geologist or geologist.

The investigations shall be based on observation and tests of the material exposed by exploratory borings or excavations, and other inspections made at appropriate locations. Additional studies may be necessary to evaluate soil and rock strength, the effect of moisture variation on soil, bearing capacity, compressibility, expansiveness, stability, percolation rates, groundwater levels, and other factors.

(Prior gen. code § 7-114.3)

(Ord. No. 2010-19, § 1, 5-4-10)

15.36.340 Geotechnical/geologic reports—General.

Any geotechnical/geologic investigation report shall be subject to the approval of, and supplemental reports and data may be required by, the director of public works. Recommendations included in the reports and approved by the director of public works shall be incorporated in the final plans and specifications.

(Prior gen. code § 7-114.4)

(Ord. No. 2010-19, § 1, 5-4-10)

15.36.350 Geotechnical/geologic investigation report.

The geotechnical/geologic investigation report shall contain all of the following as they may be applicable to the subject site:

A. An index map showing the regional setting of the site;

B. A site map showing the topographic features of the site and locations of all soil borings and test excavations;

C. A classification of the soil types (unified soil classification); pertinent laboratory test data; and consequent evaluation regarding the nature, distribution and strength of existing soils;

D. A description of the geology of the site and the geology of the adjacent areas when pertinent to the site;

E. A suitably scaled map and cross sections showing all identified areas of land slippage;

F. A description of any encountered groundwater or excessive moisture conditions;

G. A description of the soil and geological investigative techniques employed;

H. A log for each soil boring and test excavation showing elevation at ground level and depth of each soil or rock strata;

I. An evaluation of the stability of pertinent natural slopes and any proposed cut and fill slopes;

J. An evaluation of settlement associated with the placement of any fill;

K. Recommendations for grading procedures and specifications, including methods for excavation and subsequent placement of fill;

L. Recommendations regarding drainage and erosion control;

M. Recommendations for mitigation of geologic hazards;

N. Recommendations for the design of any associated stormwater treatment/detention systems, particularly those systems that are intended to provide treatment by means of infiltration.

(Prior gen. code § 7-114.5)

(Ord. No. 2010-19, § 1, 5-4-10)

15.36.360 Final report.

Upon completion of rough grading work, the director of public works may require a final geotechnical/geologic report that includes, but is not necessarily limited to the following:

A. A complete record of all field and laboratory tests including location and elevation of all field tests;

B. A professional opinion regarding slope stability, soil bearing capacity, and any other pertinent information;

C. Recommendations regarding foundation design, including soil bearing potential, and building restrictions or setbacks from the top or toe of slopes;

D. A declaration by the geotechnical engineer, engineering geologist, or geologist in the format required by the director of public works that all work was done in substantial accordance with the recommendations contained in the geotechnical geologic investigation reports as approved and in accordance with the approved plans and specifications.

(Prior gen. code § 7-114.6)

(Ord. No. 2010-19, § 1, 5-4-10)

15.36.370 Changed conditions.

Where geotechnical or geologic conditions encountered in the grading operation deviate from that anticipated in the geotechnical/geologic investigation reports or where such conditions warrant changes to the recommendations contained in the original investigation, a revised geotechnical/geologic report shall be submitted for the approval of the director of public works.

(Prior gen. code § 7-114.7)

(Ord. No. 2010-19, § 1, 5-4-10)

15.36.380 Special inspection.

A. The director of public works may require the permittee to provide a private geotechnical engineer, geologist, or engineering geologist, as appropriate, to perform continuous inspection work, and upon completion of the work to provide a written statement acknowledging that he/she has inspected the work and that in his professional judgment the work was performed in accordance with the approved plans and specifications. The permittee shall make his/her own contractual arrangements for such services and be responsible for payment of all costs. Continuous inspection by a geotechnical engineer, geologist, or engineering geologist shall include but not be limited to the following situations:

1. During the preparation of a site for the placement of fills which exceed five feet in depth on slopes which exceed ten (10) percent and during the placing of such fills; however, for vehicular accessways, fill placement shall be continuously inspected when fills exceed ten (10) feet in height;

2. During the preparation of a site for the placement of any fill and during the placement of such fill which is intended to support any building or structure;

3. During the installation of subsurface drainage facilities;

4. Such other inspections as may be required by the director of public works.

B. Reports filed by the private geotechnical engineer, geologist, or engineering geologist regarding special inspection shall state in writing that from his/her personal knowledge the work performed during the period covered by the report has been performed in substantial accordance with the approved plans and specifications.

C. The use of a private geotechnical engineer, geologist, or engineering geologist for inspections shall not preclude the director of public works from conducting inspections using his or other authorized inspectors as may be necessary.

(Prior gen. code § 7-114.8)

(Ord. No. 2010-19, § 1, 5-4-10)

15.36.390 Noncompliance notification by private geotechnical engineer, geologist, or engineering geologist.

The permittee shall cause the work to be done in accordance with the approved plans. If during the course of construction the private geotechnical engineer, geologist, or engineering geologist finds that the work is not being done substantially in accordance with the approved plans and specifications, he/she shall immediately notify the person in charge of the work and the director of public works of the nonconformity and the corrective measures to be taken. When changes in the plans are required, he/she shall prepare such proposed changes and submit them to the director of public works for approval.

(Prior gen. code § 7-114.9)

(Ord. No. 2010-19, § 1, 5-4-10)

15.36.400 Period progress reports by private geotechnical engineer, geologist, or engineering geologist.

Periodic progress reports shall be rendered by the private geotechnical engineer, geologist, or engineering geologist as required by the director of public works including, but not limited to laboratory tests, slope stability, placement of materials, retaining walls, drainage, utilities and any special permit or plan requirements.

(Prior gen. code § 7-114.10)

(Ord. No. 2010-19, § 1, 5-4-10)

15.36.410 Progress report by permittee.

Periodic progress reports shall be rendered by permittee on specified calendar dates and at commencement and completion of major key grading and erosion and sediment control operations. The dates of operations upon which such reports are required and their content shall be as required by the director of public works in the permit.

(Prior gen. code § 7-114.11)

15.36.420 Submit "as-built" plan.

Permittee shall submit to the director of public works an "as-built" grading plan following completion of grading operations.

(Prior gen. code § 7-114.12)

15.36.430 Performance of work—Inspection.

The director of public works may inspect any work done pursuant to a permit under this chapter. In addition, inspections by a private geotechnical engineer, geologist, or engineering geologist may be required in accordance with the provisions of Section 15.36.380 of this chapter.

The director of public works will determine the scope of the necessary inspections on a case-by-case basis, but the following inspection points are typical:

A. Preconstruction meeting with permittee and all project consultants, including the special inspector if applicable.

B. Pre-fill. The site has been cleared and grubbed, undocumented fill has been removed, and any required benches or keyways are cut and ready for fill.

C. Rough grading. Roadway subgrades, drainage swales, and slope terraces are constructed; approximate final elevations are established; and drainage systems sufficient to protect the building sites are installed.

D. Final. Grading is complete. Drainage systems, including any required stormwater protection facilities, are installed.

The director of public works may require reinspections at any point if he/she determines that the grading work is either not ready for inspection or is being performed in violation of this chapter; see Section 15.36.674 of this chapter for possible penalties associated with failed inspections. The director of public works shall also have the authority to inspect grading work that has been or is being performed without a permit in order to determine the extent of possible remediation, including the imposition of penalties per Section 15.36.674.

The director of public works shall have the authority to oversee, inspect, and require compliance with the pollution prevention plan throughout the period of any permit.

No permittee shall be deemed to have complied with this chapter until the final inspection of the work has been made by the director of public works and he/she has certified in writing that the work has been completed in accordance with all requirements and conditions of the permit, and when required, a final geotechnical/geologic report and as-built plans have been filed with the director of public works.

The permittee shall provide adequate access to the site for inspection by the director of public works during the performance of all work and for a minimum period of one year after acceptance by the director of public works of all improvements pursuant to Section 15.36.660B and C of this chapter.

(Prior gen. code § 7-114.13)

(Ord. No. 2010-19, § 1, 5-4-10)

15.36.440 Other responsibilities of permittee.

The permittee shall also be responsible for the following:

A. Protection of Utilities. The permittee shall be responsible for the prevention of damage to any public or private utilities or services.

B. Protection of Adjacent Property. The person doing or causing the grading is responsible for the prevention of damage to adjacent property. No person shall excavate on land sufficiently close to the property line to endanger any adjoining public roadway right-of-way, district property, or other public or private property, without supporting and protecting such property from damage that might result.

C. Advance Notice. The permittee shall notify the director of public works at least twenty-four (24) hours prior to the start of work.

D. Construction Site Control. It shall be the responsibility of the permittee to implement seasonally appropriate best management practices for the control of erosion, the control of stormwater run-on and runoff, the control of sediment, good site management, the control of non-stormwater discharges from the site, and where necessary, active treatment of discharges, all in accordance with a pollution prevention plan and with an erosion and sediment control plan approved by the director of public works.

(Prior gen. code § 7-114.14)

(Ord. No. 2010-19, § 1, 5-4-10)

15.36.450 Transfer of permit.

No permit issued under this chapter may be transferred or assigned in any manner whatsoever, voluntarily or by operation of law, without the express consent of the director of public works.

(Prior gen. code § 7-114.15)

### Article VI Design Standards

15.36.460 Excavation.

Excavations shall be constructed or protected so that they do not endanger life or property.

(Prior gen. code § 7-115.0)

15.36.470 Excavation slope.

The slope of cut surfaces of permanent excavations shall not be steeper than two horizontal to one vertical exclusive of terraces and exclusive of roundings described herein. Steeper slopes may be permitted in competent bedrock provided such slope inclinations are in accordance with recommendations contained in the geotechnical or geological report. The bedding planes or principal joint sets in any formation when dipping towards the cut face shall not be daylighted by the cut slope unless the soils and geologic investigations contain recommendations for steeper cut slopes. The director of public works may require the excavation to be made with a cut face flatter in slope than two horizontal to one vertical if necessary for stability and safety. Cut slopes shall be rounded into the existing terrain to produce a contoured transition from cut face to natural ground.

(Prior gen. code § 7-115.1)

15.36.480 Fill placement.

Fills shall be constructed in layers. The loose thickness of each layer of fill material before compaction shall not exceed eight inches. Completed fills shall be stable masses of well integrated material bonded to adjacent materials and to the materials on which they rest. Fills shall be competent to support anticipated loads and be stable at the design slopes shown on the plans.

Proper drainage and other appropriate measures shall be taken to ensure the continuing integrity of fills. Earth materials shall be used which have no more than minor amounts of organic substances and have no rock or similar irreducible material with a maximum dimension greater than six inches.

(Prior gen. code § 7-115.2)

15.36.490 Fill compaction.

All fills shall be compacted throughout their full extent to a minimum of ninety (90) percent of maximum density as determined by appropriate ASTM standard method or other alternate methods approved by the director of public works. Tests to determine the density of compacted fills shall be made on the basis of not less than one test for each two foot vertical lift of the fill but not less than one test for each one thousand (1,000) cubic yards of material placed. Additional density tests at a point approximately one foot below the fill slope surface shall be made on the basis of not less than one test for each one thousand (1,000) square feet in slope surface but not less than one test for each ten (10) foot vertical increase of slope height. Additional tests may be required throughout the fill as determined by the inspector for the director of public works. All tests shall be reasonably uniformly distributed within the fill or fill slope surface. Results of such testing and location of tests shall be presented in the periodic and final reports. Compaction may be less than ninety (90) percent of maximum density, as determined by the above test, within six inches of the slope surface when such surface material is placed and compacted by a method acceptable to the director of public works for the planting of the slopes. Compaction of temporary storage fills, to be used for a period of not greater than six months, shall not be required, except where the director of public works determines that compaction is necessary as a safety measure to aid in preventing saturation, sliding, or erosion of the fill. Where compaction is required, it shall be done as specified by the director of public works.

(Prior gen. code § 7-115.3)

(Ord. No. 2010-19, § 1, 5-4-10)

15.36.500 Ground preparation for fill placement.

The natural ground surface shall be prepared to receive fill by removing vegetation, noncomplying or undocumented fill, top soil, and other unsuitable material, and where slopes are five horizontal units to one vertical unit or steeper, by benching into competent material in a manner recommended by a geotechnical engineer or an engineering geologist and approved by the director of public works. If a bench or keyway is required under the toe of a fill slope, the said bench or keyway shall be at least ten (10) feet wide, unless otherwise recommended by the geotechnical engineer or engineering geologist.

(Prior gen. code § 7-115.4)

(Ord. No. 2010-19, § 1, 5-4-10)

15.36.510 Fill slopes.

The slope of permanent fills shall not be steeper than two horizontal to one vertical exclusive of terraces and exclusive of roundings described herein. The director of public works may require that the fill be constructed with an exposed surface flatter than two horizontal to one vertical or may require such other measures as he deems necessary for stability and safety. Fill slopes shall be rounded into existing terrain to produce a contoured transition from fill face to natural ground or to abutting cut or fill surfaces where conditions permit.

(Prior gen. code § 7-115.5)

15.36.520 Adjacent structures protection.

Footings which may be affected by any excavation shall be underpinned or otherwise protected against settlement and shall be protected against lateral movement. Fills or other surcharge loads shall not be placed adjacent to any building or structure unless such building or structure is capable of withstanding the additional loads caused by such fill or surcharge. The rights of coterminous owners shall be as set forth in Section 832 of the Civil Code of the state.

(Prior gen. code § 7-115.6)

15.36.522 Protection of utilities.

Existing utility service lines and other facilities on the premises shall be protected against settlement and lateral movement as necessary.

(Ord. No. 2010-19, § 1, 5-4-10)

15.36.530 Setbacks—General.

Unless otherwise recommended in a geotechnical/geological investigation report, or as otherwise specified by the director of public works, the required setbacks of constructed slopes shall be as follows:

A. The setback of an ascending slope from the face of any building or structure, and the setback of a descending slope from the face of any footing or foundation, shall be in accordance with the requirements of Section 1805.3 of the California Building Code.

B. The setback of an ascending slope from a property line shall be equal to at least one-half the vertical height of the slope, but need not be more than fifteen (15) feet.

C. The setback of a descending slope from a property line shall be equal to at least one-fifth the vertical height of the slope, but need not be more than forty (40) feet.

(Prior gen. code § 7-115.7)

(Ord. No. 2010-19, § 1, 5-4-10)

15.36.540 Drainage—General.

The drainage structures and devices required by this chapter shall be designed and constructed in accordance with standards and criteria authorized by the director of public works.

(Prior gen. code § 7-115.8)

15.36.550 Drainage—Disposal requirements.

All drainage facilities shall be designed to carry surface and subsurface waters to the county stormdrain system or other juncture, subject to the approval of the director of public works and in accordance with the approved pollution prevention plan. Drainage areas shall conform to patterns established by the director of public works.

(Prior gen. code § 7-115.9)

(Ord. No. 2010-19, § 1, 5-4-10)

15.36.560 Drainage—Water accumulation.

Unless otherwise specified by the director of public works, all areas shall be graded and drained so that water will not pond or accumulate. Drainage shall be effected in such a manner that it will not cause erosion or endanger the stability of any cut or fill slope or any building or structure.

(Prior gen. code § 7-115.10)

(Ord. No. 2010-19, § 1, 5-4-10)

15.36.570 Drainage protection of adjoining property.

When surface drainage is discharged onto any adjoining property, it shall be discharged in such a manner that it will not cause erosion or endanger any cut or fill slope or any building or structure.

(Prior gen. code § 7-115.11)

15.36.580 Slope protection.

Terraces at least eight feet in width shall be established at not more than twenty-five (25) feet in height intervals for all cut and fill slopes exceeding thirty (30) feet in height. Where only one terrace is required, it shall be at approximately mid-height. Suitable access shall be provided to permit proper cleaning and maintenance of terraces and terrace drains. Swales or ditches on terraces must be connected by means of down-drains to drainage outlets or other discharge points.

Berms, interceptor drains, swales, or other protective devices shall be installed at the top of cut and fill slopes to protect the face of the slope from erosion caused by surface runoff.

The design of all such terrace drains, swales, ditches, down-drains, outlets, discharge points, berms, and other protective devices shall be subject to approval by the director of public works.

(Prior gen. code § 7-115.12)

(Ord. No. 2010-19, § 1, 5-4-10)

15.36.590 Subsurface drainage.

Cut and fill slopes shall be provided with subsurface drainage as necessary for stability.

(Prior gen. code § 7-115.13)

15.36.600 Erosion and sediment control.

The following shall apply to the control of erosion and sediment from grading operations:

A. Grading plans shall be designed with long-term erosion and sediment control as a primary consideration.

B. No grading operations shall be conducted during the rainy season except upon a clear demonstration, to the satisfaction of the director of public works, that at no stage of the work will there be any substantial risk of increased sediment discharge from the site. In the event that rainy season grading is planned, the director shall have the authority to require the submittal of detailed erosion and sediment control plans covering each stage of the work.

C. Should grading be permitted during the rainy season, the smallest practicable area of erodible land shall be exposed at any one time during grading operations and the time of exposure shall be minimized.

D. Natural features, including vegetation, terrain, watercourses and similar resources shall be preserved wherever possible. Limits of grading shall be clearly defined and marked to prevent damage by construction equipment.

E. Permanent vegetation and structures for erosion and sediment control shall be installed as soon as possible after the completion of grading or construction activities.

F. Adequate provision shall be made for long-term maintenance of permanent erosion and sediment control structures and vegetation.

G. No topsoil shall be removed from the site unless otherwise directed or approved by the director of public works. Topsoil overburden shall be stockpiled and redistributed within the graded area after rough grading to provide a suitable base for seeding and planting. Runoff from the stockpiled area shall be controlled to prevent erosion and resultant sedimentation of receiving water.

H. Long-term post-grading stormwater runoff from the site may be subject to formal erosion and sedimentation control or other discharge controls in accordance with the provisions of Chapter 13.08 of the general ordinance code. In any case, post construction runoff shall not be discharged from the site in quantities or at velocities greater than the pre-grading volume or flow rate except into drainage facilities that are designed and constructed to receive such increased runoff, as approved by the director of public works.

I. Permittee shall take reasonable precautions to ensure that vehicles do not track or spill earth materials into public roadways and shall immediately remove such materials if this occurs.

J. The permittee shall ensure that erosion and sediment control best management practices (BMPs) as specified in the pollution prevention plan are applied throughout the project in order to control contamination of stormwater runoff and to capture any soil that is eroded.

(Prior gen. code § 7-115.14)

(Ord. No. 2010-19, § 1, 5-4-10)

15.36.610 Emergency conditions.

Should increased sediment discharge occur or become imminent, permittee shall take all necessary steps to control such illicit discharge. Such steps may include construction of additional facilities or removal or alteration of facilities required by approved erosion and sediment control plans. Facilities removed or altered shall be restored as soon as possible afterward or appropriate changes in the plan shall be immediately requested pursuant to this chapter. Permittee shall take prompt action to resolve emergency problems; in the event that the permittee fails to respond, or the response is deemed inadequate, the director of public works shall have the authority to institute abatement proceedings or to take other enforcement actions in accordance with the provisions of Section 15.36.680 of this chapter.

(Prior gen. code § 7-115.15)

(Ord. No. 2010-19, § 1, 5-4-10)

15.36.620 Erosion and sediment control plans.

Erosion and sediment control plans prepared pursuant to this chapter shall comply with all of the following:

A. The erosion and sediment control plan need not be a separate sheet if all facilities and measures can be shown on the grading sheets or included in the pollution prevention plan without obscuring the clarity of any of the plans.

B. An erosion and sediment control plan shall be required whenever:

1. The graded portion of the site includes more than ten thousand (10,000) square feet of area having a slope greater than five percent; or

2. There is a significant risk that more than two thousand five hundred (2,500) square feet will be unprotected or inadequately protected from erosion during any portion of the rainy season; or

3. Grading will occur within the watercourse setback, as defined in Section 13.12.320 of Chapter 13.12 of the general ordinance code; or

4. Grading will occur in proximity to the property line(s) in a location where there is a potential erosion or sediment discharge hazard to the adjacent property; or

5. The applicant is required to prepare and implement a Storm Water Pollution Prevention Plan (SWPPP) in accordance with the provisions of the State Construction General Permit.

6. The director of public works determines that the grading will or may pose a significant erosion or sediment discharge hazard because of the erosion potential of the particular soil type, the sensitivity of the receiving waterbody, the proximity of the receiving waterbody, the slope of the site, or for any other relevant reason.

C. The applicant shall submit, with his erosion and sediment control plans, a detailed cost estimate covering this work.

D. Erosion and sediment control plans shall include an effective revegetation program to stabilize all disturbed areas that will not be otherwise protected. All such areas where grading has been completed between May 1st and September 15th shall be planted by October 1st. Graded areas completed at other times of the year shall be planted within fifteen (15) days. If revegetation is infeasible or cannot be expected to stabilize an erodible area with assurance during any part of the rainy season and the unstable area exceeds two thousand five hundred (2,500) square feet, additional erosion and sediment control measures or irrigation of planted slopes may be required as appropriate to prevent increased sediment discharge.

E. Erosion and sediment control plans shall be designed to prevent increased discharge of sediment at all stages of grading and development from initial disturbance of the ground to project completion. Permanent post-grading control of erosion and sedimentation may also be required in accordance with the provisions of Chapter 13.08 of the general ordinance code. If grading occurs in distinct phases, or if the site will remain unstable through more than one rainy season, the plan must specifically cover each stage of the development. Plans shall indicate the implementation period and the corresponding state of construction where applicable.

F. Erosion and sediment control plans shall comply with the recommendations of any civil engineer, geotechnical engineer, geologist, engineering geologist, or landscape architect involved in preparation of the grading plans.

G. The structural and hydraulic adequacy of all stormwater containment or conveyance facilities shown on the erosion and sediment control plans shall be verified by a civil engineer, and he shall so attest on the plans. Sufficient calculations and supporting material to demonstrate such adequacy shall accompany the plans when submitted.

H. Erosion and sediment control plans shall be designed with sufficient flexibility to meet unanticipated field conditions.

I. Erosion and sediment control plans shall provide for inspection and repair of all erosion and sediment control facilities at the close of each working day during the rainy season and for specific sediment cleanout and vegetation maintenance criteria.

J. Erosion and sediment control plans shall comply with any and all standards and specifications adopted by the director of public works for the control of erosion and sedimentation on grading sites.

K. Erosion and sediment control plans prepared in conjunction with a formal stormwater pollution prevention plan (SWPPP) shall include detailed cross-reference to each element of the SWPPP, including the planned best management practices (BMP's) and descriptions of the required monitoring programs.

The director of public works may waive the requirement for a formal erosion and sediment control plan if, in his/her opinion, no significant erosion or sediment discharge hazard exists; however, all grading projects shall be required as a minimum to provide site and seasonally relevant erosion and sediment control best management practices (BMPs) as part of the pollution prevention plan required by the provisions of Section 15.36.230 of this Chapter 15.36.

(Prior gen. code § 7-115.16)

(Ord. No. 2010-19, § 1, 5-4-10)

15.36.630 Vehicular ways—General.

A. Except as otherwise allowed under the provisions of Section 15.36.640 of this chapter, the grading of vehicular ways shall conform to the general grading requirements of this chapter.

B. All vehicular ways shall be graded in conformance with the slope, width, and turn radii limitations imposed by the county fire department or by the applicable fire district.

(Prior gen. code § 7-115.17)

(Ord. No. 2010-19, § 1, 5-4-10)

15.36.640 Vehicular ways—Cut slopes.

The director of public works may approve grading for a vehicular way where an adjacent cut slope is steeper than two horizontal units to one vertical units (fifty (50) percent slope) if all of the following are met:

A. The daylight line of a plane sloping at two horizontal units to one vertical unit from the toe of the said slope is more than twenty (20) feet from any property line and from the face of any building or structure; and

B. The steeper slope is necessary to avoid excessive grading; and

C. The proposed vehicular way and adjacent cut slopes are located outside of any designated landslide hazard zone, or they are deemed safe following a geotechnical/geologic investigation by a geotechnical engineer or an engineering geologist; and

D. If required by the director of public works, the property owner executes and records a hold harmless agreement, in a form approved by the director, relieving the county from any liability for this exception.

(Prior gen. code § 7-115.18)

(Ord. No. 2010-19, § 1, 5-4-10)

15.36.650 Vehicular ways—Drainage.

Vehicular ways shall be graded and drained in such a manner that the stormwater runoff from the finished construction will not cause erosion, endanger the stability of any adjacent slope, or damage any buildings, structures, or adjacent property. Moreover, the discharge of runoff from a vehicular way may be subject to the stormwater quality and flow/volume limitations imposed by Chapter 13.08 of the general ordinance code.

(Prior gen. code § 7-115.19)

(Ord. No. 2010-19, § 1, 5-4-10)

15.36.652 Floodplains.

Grading work shall not be permitted within any area designated as a floodplain in accordance with the provisions of Chapter 15.40 of this title, except as approved by the director of public works in accordance with the provisions of that chapter.

(Ord. No. 2010-19, § 1, 5-4-10)

### Article VII Improvement Security

15.36.660 Security required.

A. As a condition for the issuance of a permit, the director of public works shall have the authority to require the deposit of an improvement security in an amount deemed necessary by him/her to assure faithful performance of the work or the cost of removing the work or otherwise reconstructing or restoring a site to conditions existing prior to such work, in the event of default by the permittee or, in the case of a subdivision, where the permittee does not proceed with preparation and obtaining the approval of a final map. The said security shall be in the form of cash, a certified or cashier's check, a letter of credit, or a faithful performance bond executed by the permittee and a corporate surety authorized to do business in this state.

B. In the case of subdivisions authorized by a final map, unless otherwise authorized by the director of public works, the improvement security shall remain in effect until final inspections have been made, all grading work and subdivision improvements have been accepted by the director of public works, and all other requirements of the subdivision contract have been satisfied. For subdivisions authorized by a parcel map, the required effectivity period of the improvement security shall be determined on a case-by-case basis by the director of public works.

C. For projects other than subdivisions, the improvement security shall remain in effect until final inspections have been made and all grading work has been accepted by the director of public works.

D. In addition to the improvement security, the director of public works may also require the deposit of a maintenance security in an amount deemed necessary by him/her to guarantee and maintain the grading work, to assure the proper functioning of the drainage systems, and to support the implementation of adequate erosion and sedimentation control. The said maintenance security shall be in the form of cash or a certified or cashier's check, If the director elects to require the said security, he/she shall have the further authority to require that this security remain in effect through the end of the rainy season following the completion of the grading work.

E. Upon satisfaction of the applicable provisions of this chapter, any improvement and maintenance security deposits or bonds submitted in support of the permit will be released or refunded to the permittee by the director of public works. However, upon failure to complete the work, failure to comply with all of the terms of the permit, or failure of the completed site to function properly to provide proper drainage or erosion and sedimentation control, the director shall determine the scope of work necessary to mitigate any hazardous or unsafe conditions, including illicit discharges from the site, and shall have the authority to cause that work to be done and to collect from the permittee or the surety all costs incurred thereto, including administrative and inspection costs. In the event of such collection, any unused portion of a deposit or bond shall be refunded to the permittee or surety after deduction by the county of the cost of the work.

(Prior gen. code § 7-116.0)

(Ord. No. 2010-19, § 1, 5-4-10)

### Article VIII Enforcement

15.36.670 Suspension and revocation of permit.

The director of public works may suspend or revoke a permit for good cause, subject to appeal in accordance with the provisions of Section 15.36.220 of this chapter. In the event of such appeal, no work shall be performed pending the resolution of the said appeal except as authorized or directed by the director of public works.

(Prior gen. code § 7-117.0)

(Ord. No. 2010-19, § 1, 5-4-10)

15.36.672 Violations constituting misdemeanors or administrative penalties.

Unless otherwise specified, the violation of any provision of this chapter, or the 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 authorized enforcement officer, be charged and prosecuted as an administrative violation in accordance with the provisions of Section 15.36.684 of this chapter or, if appropriate, may be declared a public nuisance and abated in accordance with the provisions of Section 15.36.680 of this chapter. Administrative violations may be subject to an enforcement fee in accordance with the provisions of Section 15.36.684C and/or an administrative penalty or penalties in accordance with the provisions of Section 15.36.674 of this chapter.

(Ord. No. 2010-19, § 1, 5-4-10)

15.36.674 Penalty for violation.

A. Misdemeanor. Upon conviction of a misdemeanor, a person shall be subject to payment of a fine or imprisonment.

B. Administrative Violation. A person in administrative violation of this chapter may be subject to the payment of fines and/or fees in accordance with the following schedule, at the discretion of the authorized enforcement officer, except that the authorized enforcement officer shall also have the authority to declare a violation as a hazard, subject to summary abatement in accordance with the provisions of Section 15.36.680 of this chapter; in the event of such a hazard declaration, the fines and/or fees may be levied in addition to the penalties described in Section 15.36.680, at the discretion of the authorized enforcement officer:

|  |  |
| --- | --- |
| Fines and Fees for Administrative Violations | |
| **Unpermitted grading work** | |
| • Investigation fee, per Section 15.36.770: | • $250.00.  The director of public works shall have the authority to waive this fee. |
| • Fine for failure to comply with the directions of the director of public works following his/her investigation. | • $1,000.00.  • Additional $1,000.00 for each failure to comply with subsequent direction of the director of public works, except that following the third overall failure to comply, the director shall have the authority to levy a $1,000.00 per day fine in accordance with the provisions of Section 15.36.676 of this chapter. |
| • Fee for review of construction plans: | • Actual cost. |
| • Permit fee | • See Section 15.36.310 of this chapter. |
| **Permitted grading work** | |
| • Fine for violating the conditions of a permit: | • $250.00 for initial violation.  • Additional $1,000.00 for each subsequent failed reinspection, except that following the third failed reinspection, the director shall have the authority to levy a $1,000.00 per day fine in accordance with the provisions of Section 15.36.676 of this chapter. |
| **All grading work (permitted and unpermitted)** | |
| • Fee for administrative hearing per Sections 15.36.220 and 15.36.686 of this chapter: | • $50.00  • The hearing officer shall have the authority to waive this fee. |
| • Fee for processing appeals to the board of supervisors: | • $25.00 |
| • Fee for processing abatement per Section 15.36.680 of this chapter: | See Section 15.36.680. |
| • Fee for other enforcement actions, per Section 15.36.684 of this chapter: | See Section 15.36.684. |
| • Fee for civil proceedings, per Section 15.36.690 of this chapter: | See Section 15.36.690. |

 The director of public works shall notify, in writing, any person subject to the imposition of a fine in accordance with this Section 15.36.674, and, if appropriate, shall provide that person with a reasonable opportunity to correct the violation prior to the levy; any person receiving such a notice may appeal the fine in accordance with the provisions of Section 15.36.686 of this chapter.

Unless otherwise specified by law, the invoice for any fine levied in accordance with this Section 15.36.674 not paid to the county within sixty (60) days of such levy may be sent to county collections for action. In the event that such an invoice is not paid promptly to county collections, the director of public works shall have the authority to place a lien upon and against the property involved in the violation.

(Ord. No. 2010-19, § 1, 5-4-10)

15.36.676 Continuing violation.

Any 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 chapter is committed, continued, or allowed by such person and verified by the authorized enforcement officer, and may, at the discretion of the officer, be subject to the specified penalties accordingly, except that the officer shall provide any person responsible for a continuing violation with a reasonable period of time to correct, eliminate, or otherwise remedy that violation prior to the imposition of an administrative penalty or penalties, provided that the said violation does not constitute an immediate danger to health or safety.

(Ord. No. 2010-19, § 1, 5-4-10)

15.36.678 Concealment.

Causing, allowing, aiding, abetting, or concealing a violation of any provision of this chapter shall constitute a violation of such provision.

(Ord. No. 2010-19, § 1, 5-4-10)

15.36.680 Violations deemed a public nuisance.

A. In addition to the penalties described in Section 15.36.674 of this chapter, any condition caused or allowed to exist in violation of any of the provisions of this chapter, including any violation of the orders or notices issued pursuant to Section 15.36.684 of this chapter, may be determined by the director of public works to be a threat to the public health, safety, and welfare, and as such, may be declared and deemed by him/her to be a public nuisance, and may be summarily abated and/or restored by any authorized enforcement officer pursuant to the provisions of Chapter 15.28 of this title, including the exception provided by Section 15.28.050E of that chapter wherein the normal notice and hearing requirements for abatements may be waived when the said conditions are determined, by the director, to constitute an immediate hazard to health or property.

B. If any violation of this chapter is determined by the director of public works to constitute a recurrent public nuisance, the director shall so declare. Following any appropriate required notice and hearing pursuant to Chapter 15.28 of this title, thereafter such declared recurrent public nuisance shall be abated in accordance with Chapter 15.28 without the necessity of any further hearing.

C. The county may recover any and all costs and expenses associated with any actions taken pursuant to the provisions of subsections 15.36.680A and 15.36.680B of this chapter, in accordance with the provisions of Chapter 15.28 of this title.

D. In addition to any action taken by the authorized enforcement officer pursuant to subsection 15.36.680A of this chapter, county counsel may initiate an action to abate, enjoin, or otherwise compel the cessation of any condition declared to be a public nuisance by the director of public works. In any civil proceeding under this Section 15.36.680 in which the county prevails, the county shall be awarded all costs of investigation, inspection, monitoring, and/or survey that led to the establishment of the violation, administrative overhead, out-of-pocket expenses, costs of administrative hearings, costs of suit, and reasonable attorney fees.

(Prior gen. code § 7-117.1)

(Ord. No. 2010-19, § 1, 5-4-10)

15.36.682 California Code of Civil Procedure Section 1094.6.

The provisions of Section 1094.6 of the California Code of Civil Procedure are applicable to judicial review of the county decisions pursuant to this chapter.

(Ord. No. 2010-19, § 1, 5-4-10)

15.36.684 Administrative enforcement powers.

In addition to the other enforcement powers and remedies established by this chapter, an authorized enforcement officer shall have the authority to undertake the following administrative actions:

A. Notice to Appear. When the authorized enforcement officer finds that a violation of this chapter has taken place or is likely to take place, he/she may post a warning notice on the property requiring that the resident or owner appear at the offices of the public works agency to review and resolve that violation.

B. Stop Work Notices. See Section 15.36.730 of this chapter.

C. Enforcement Fees. The cost of enforcement, including the current pay rate of the authorized enforcement officer (including benefits and overhead) to achieve final resolution of any non-compliance of this Section 15.36.684 shall be borne by the owner of the property involved and the cost thereof shall be invoiced to the owner of that property. The payment of these fees shall be in addition to any fines levied in accordance with the provisions of Section 15.36.674 of this chapter, and upon collection shall be deposited into a special fund to be used to offset the costs of possible future abatement of violations of this chapter in accordance with the provisions of Section 15.36.680 of this chapter.

All notices or orders issued by the authorized enforcement officer must state the specific nature of the violation, including a reference to the particular provision of this chapter that is being violated.

(Ord. No. 2010-19, § 1, 5-4-10)

15.36.686 Appeals from administrative enforcement fees and fines.

Any person receiving notice of an administrative enforcement fee or fine from an authorized enforcement officer in accordance with the provisions of Section 15.36.674 of this chapter may appeal such action to the director of public works by submitting a letter contesting that fee or fine to the director at the address listed on the notice; however, the letter contesting the fee or fine must be postmarked no later than ten (10) days after the date of the notice of violation. Upon receipt of such a request, the director of public works shall request a report and recommendation from the authorized enforcement officer, and shall set the matter for hearing at the earliest practical date. At such hearing, the director of public works may hear additional evidence, and may reject, affirm, or modify the administrative fee or fine imposed. The director may designate a public works employee to conduct the hearing. The decision of the director of public works, or of his/her designee conducting the hearing shall be final.

(Ord. No. 2010-19, § 1, 5-4-10)

15.36.690 Civil actions.

In addition to any other remedies provided in this chapter, any violation of this chapter may be enforced by civil action brought by the county. In any such action, the county may seek, and the court may grant, as appropriate, any or all of the following remedies:

A. A temporary and/or permanent injunction requiring any person not complying with this chapter to comply forthwith;

B. Assessment of the violator for the costs of any investigation, inspection, monitoring and/or survey that led to the establishment of the violation, including administrative overhead and out-of-pocket expenses, and for the reasonable costs of preparing and bringing legal action under this section, including attorney fees;

C. Costs incurred in removing, correcting, or terminating the adverse effects resulting from the violation; and/or

D. Compensatory damages for loss to or destruction of wildlife habitat, including watercourse riparian corridors.

(Prior gen. code § 7-117.2)

(Ord. No. 2010-19, § 1, 5-4-10)

15.36.700 Nonexclusive remedies.

The remedies provided herein are not exclusive, and are in addition to any other remedy or penalty provided by law for violation of this chapter.

(Prior gen. code § 7-117.3)

### Article IX Additional Provisions

15.36.710 Enforcement officer.

The director of public works shall enforce the provisions of this chapter. In accordance with prescribed procedures, the director of public works may appoint such number of technical officers, inspectors, and other employees as required to perform the tasks described in this chapter. The director shall have the authority to designate such officers, inspectors, or employees as may be necessary to enforce the regulations, requirements, and other provisions of this chapter; officers, inspectors, or employees so designated shall have the authority to impose administrative fines and/or fees in accordance with the provisions of Section 15.36.674B of this chapter.

(Prior gen. code § 7-118.0)

(Ord. No. 2010-19, § 1, 5-4-10)

15.36.720 Right of entry.

A. Whenever necessary to make an inspection in conjunction with the enforcement of the provisions of this chapter, or when an authorized enforcement officer has reasonable cause to believe that there exists on the premises any condition that could constitute a violation of this chapter, the officer may enter the premises at all reasonable times to perform the said inspection or any other duty imposed by this chapter, provided that the following conditions are met:

1. If such premises be occupied, the authorized enforcement officer shall first present proper credentials and request entry; and

2. If such premises be unoccupied, the authorized enforcement officer shall first make a reasonable effort to locate the owner or other persons having charge or control of the 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 only be made upon issuance of an inspection warrant pursuant to Code of Civil Procedure, Section 1822.50, by a duly authorized magistrate. In the event that the owner or occupant refuses entry after such request has been made, the authorized enforcement officer is hereby empowered to seek assistance from any court of competent jurisdiction in obtaining such entry.

(Prior gen. code § 7-118.1)

(Ord. No. 2010-19, § 1, 5-4-10)

15.36.730 Stop work orders.

A. Whenever any grading work is being done contrary to the provisions of this chapter, an authorized enforcement officer shall have the authority to order the work stopped by serving written notice to that effect on any persons engaged in, doing, or causing such work to be done. If there are no such persons on the premises, the enforcement officer shall post the stop work notice in a conspicuous place thereupon.

B. Any person responsible for the performance of grading work having received a stop work notice from an authorized enforcement officer shall forthwith stop that work and immediately proceed to secure the work site, pending further direction from the enforcement officer. Under no circumstance shall the work be resumed except under the express direction of the enforcement officer.

(Prior gen. code § 7-118.2)

(Ord. No. 2010-19, § 1, 5-4-10)

15.36.740 Liability and indemnification.

Neither issuance of a permit under the provisions of this chapter nor compliance with the provisions hereof or with any conditions imposed or administrative decisions made by the director of public works in conjunction with a permit issued hereunder shall relieve any person from responsibility for damage to any person or property or impose any liability upon the county for damage to any person or property.

To the fullest extent permitted by law, any permittee shall indemnify, defend, and hold harmless the county, the district, and their boards, officers, employees, and agents (collectively "indemnitees") from and against all claims, losses, damages, liabilities, or expenses, including reasonable attorney fees incurred in the defense thereof, for the death of or injury to any person or persons (including the permittee's or the county's or district's employees) or damage to any property and/or business loss or economic harm that arises out of or is in any way connected with the issuance of the permit or with grading work performed by permittee or permittee's contractors, consultants, or agents under this permit (collectively "liabilities"). The only exceptions to this duty to indemnify, defend, and hold harmless is for those liabilities caused solely by the negligence or willful misconduct of any indemnitees.

(Prior gen. code § 7-118.3)

(Ord. No. 2010-19, § 1, 5-4-10)

15.36.750 Denial of other permits.

No building, electrical, mechanical, plumbing, stormwater, on-site wastewater treatment permit, or any other permit shall be issued by the county to any person for any premises or portion thereof where there is a current violation of this chapter and which violation is not corrected or approved for correction by the director of public works.

(Prior gen. code § 7-118.4)

(Ord. No. 2010-19, § 1, 5-4-10)

15.36.760 Notification of pending grading.

A. Upon the filing of an application for a permit where the proposed scope of grading work involves the movement of fifteen hundred (1,500) cubic yards or more of material and the associated project has not been previously subject to notification in accordance with the provisions of Chapter 17.54 of the general ordinance code, the director of public works shall notify by mail the owners of property abutting the site, as shown on the latest equalized assessment roll, that an application for a grading permit has been submitted pursuant to this chapter. A similar notice shall be posted by the director of public works on every public roadway within three hundred (300) feet of the affected property.

B. The notice of pending grading work shall indicate that any person may comment to the director of public works at any stage of the permitting procedure, and that any decision made by the director of public works in conjunction with the review and approval of the application may be appealed by any person in accordance with the provisions of Section 15.36.220 of this chapter.

(Prior gen. code § 7-118.5)

(Ord. No. 2010-19, § 1, 5-4-10)

15.36.770 Investigations of unpermitted work.

The director of public works shall have the authority to issue stop work notices or notices to appear, in accordance with the provisions of Section 15.36.684 of this chapter, following the investigation of reports of grading work being performed or having been performed without a permit. Moreover, the director may collect fees, in accordance with the provisions of Section 15.36.684C, to offset the costs of any such investigation. In the event that the director determines that a permit is required to safely complete the works or to secure the site, the said enforcement fee shall be in addition to the costs of obtaining a permit.

In the event that the director determines that the work at a particular site could require the approval of any other agency having jurisdiction, he/she shall have the authority to issue or post a notice directing the property owner to obtain such approval or release from that agency, and that pending such approval or release, authority to direct that the work be suspended and the site secured.

(Ord. No. 2010-19, § 1, 5-4-10)

## Chapter 15.40 FLOODPLAIN MANAGEMENT[[7]](#footnote-7)

**Sections:**

### Article I. Administration

15.40.010 Title.

The regulations provided in this chapter, in combination with the flood provisions of the Building Standards Code, as adopted and amended in Title 15 of the General Ordinance Code of the County of Alameda (hereinafter "building codes," consisting of the Building Code, Residential Code, Existing Building Code, and related codes) and including Appendix G of the Building Code (hereinafter "Appendix G"), shall be known as the Floodplain Management Regulations of the County of Alameda (hereinafter, "these regulations").

(Ord. No. 2018-53, § 2, 10-2-18)

15.40.020 Purpose.

The purposes of these regulations and the flood load and flood resistant construction requirements of the building codes are to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific flood hazard areas through the establishment of comprehensive regulations for management of flood hazard areas, designed to:

A. Prevent unnecessary disruption of commerce, access, and public service during times of flooding;

B. Manage the alteration of natural floodplains, stream channels, and shorelines;

C. Manage other development that may increase flood damage or erosion potential;

D. Prevent or regulate the construction of flood barriers that will divert floodwaters or that can increase flood hazards; and

E. Contribute to improved construction techniques in the floodplain.

(Ord. No. 2018-53, § 2, 10-2-18)

15.40.030 Objectives.

The objectives of these regulations are to protect human life, minimize the expenditure of public money for flood control projects, minimize the need for rescue and relief efforts associated with flooding, minimize prolonged business interruption, minimize damage to public facilities and utilities, help maintain a stable tax base by providing for the sound use and development of flood-prone areas, contribute to improved construction techniques in the floodplain and ensure that potential owners and occupants are notified that property is within flood hazard areas.

(Ord. No. 2018-53, § 2, 10-2-18)

15.40.040 Scope.

The provisions of these regulations, in combination with the flood provisions of the building codes shall apply to all proposed development in flood hazard areas established in Article II of these regulations.

(Ord. No. 2018-53, § 2, 10-2-18)

15.40.050 Coordination with building codes.

The County of Alameda does hereby acknowledge that the building codes contain certain provisions that apply to the design and construction of buildings and structures in flood hazard areas. Therefore, these regulations are intended to be administered and enforced in conjunction with the building codes.

(Ord. No. 2018-53, § 2, 10-2-18)

15.40.060 Warning.

The degree of flood protection required by these regulations and the building codes is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur. Flood heights may be increased by man-made or natural causes. Enforcement of these regulations and the building codes does not imply that land outside the special flood hazard areas, or that uses permitted within such flood hazard areas, will be free from flooding or flood damage.

(Ord. No. 2018-53, § 2, 10-2-18)

15.40.070 Other laws.

The provisions of these regulations shall not be deemed to nullify any provisions of local, state, or federal law.

(Ord. No. 2018-53, § 2, 10-2-18)

15.40.080 Violations.

Any violation of a provision of these regulations, or failure to comply with a permit or variance issued pursuant to these regulations or any requirement of these regulations, shall be handled in accordance with the requirements of Appendix G, as adopted in Chapter 15.08 of the General Ordinance Code of the County of Alameda.

(Ord. No. 2018-53, § 2, 10-2-18)

15.40.090 Abrogation and greater restrictions.

These regulations supersede any other provisions of this code in flood hazard areas. However, these regulations are not intended to repeal or abrogate any other existing ordinances, including land development regulations, subdivision regulations, zoning ordinances, stormwater management regulations, or building codes. In the event of a conflict between these regulations and any other ordinance, code, or regulation, the more restrictive shall govern.

(Ord. No. 2018-53, § 2, 10-2-18)

### Article II. Applicability

15.40.100 General.

These regulations provide minimum requirements for development located in flood hazard areas, including the subdivision of land; site improvements and installation of utilities; placement and replacement of manufactured homes; placement of recreational vehicles; new construction and repair, reconstruction, rehabilitation or additions to new construction; substantial improvement of existing buildings and structures, including restoration after damage; installation of tanks; temporary structures and temporary or permanent storage; utility and miscellaneous Group U buildings and structures; and certain building work exempt from permit under the building codes; and other buildings and development activities.

(Ord. No. 2018-53, § 2, 10-2-18)

15.40.110 Establishment of flood hazard areas.

The County of Alameda was accepted for participation in the National Flood Insurance Program on April 15, 1981. The Flood Insurance Study for Alameda County, California and Incorporated Areas dated August 3, 2009, and all subsequent amendments and revisions, and the accompanying Flood Insurance Rate Maps (FIRM), and all subsequent amendments and revisions to such maps, are hereby adopted by reference and serve as the basis for establishing flood hazard areas in the unincorporated area of Alameda County. Maps and studies that establish such flood hazard areas are on file at the Alameda County Public Works Agency, 399 Elmhurst St., Hayward, CA.

(Ord. No. 2018-53, § 2, 10-2-18)

### Article III. Authority and Powers of the Floodplain Administrator

15.40.120 Designation.

The director of public works is designated the floodplain administrator. The floodplain administrator may delegate performance of certain tasks to other employees.

(Ord. No. 2018-53, § 2, 10-2-18)

15.40.130 General.

The floodplain administrator is authorized and directed to administer the provisions of these regulations. The floodplain administrator shall have the authority to render interpretations of these regulations and to establish policies and procedures in order to clarify the application of its provisions. Such interpretations, policies and procedures shall be consistent with the intent and purpose of these regulations and the flood provisions of the building code.

(Ord. No. 2018-53, § 2, 10-2-18)

15.40.140 Coordination.

The floodplain administrator shall coordinate with the building official to administer and enforce the flood provisions of the building code, including Appendix G.

(Ord. No. 2018-53, § 2, 10-2-18)

15.40.150 Tasks.

The floodplain administrator shall be authorized to implement these regulations, including, but not limited to, the performance of the following tasks:

A. Causing building permit applications to be reviewed for a determination of whether proposed development is located in flood hazard areas established in Article II of these regulations.

B. Requiring development in flood hazard areas to be reasonably safe from flooding and to be designed and constructed with methods, practices and materials that minimize flood damage.

C. Interpreting flood hazard area boundaries and providing available flood elevation and flood hazard information.

D. Determining whether additional flood hazard data shall be obtained or developed.

E. Establishing, in coordination with the building official, written procedures for administering and documenting determinations of substantial improvement and substantial damage made pursuant to Section 15.40.170 of these regulations.

F. Reviewing requests submitted to the building official that seek approval to modify the strict application of the flood load and flood resistant construction requirements of the building code, to determine whether such requests require consideration as a variance pursuant to Appendix G.

G. Requiring applicants who submit hydrologic and hydraulic engineering analyses in support of applications for development to submit to FEMA the data and information necessary to maintain the flood insurance rate maps if those analyses propose to change base flood elevations, flood hazard area boundaries, or floodway designations; such submissions shall be made within six months of such data becoming available. The floodplain administrator shall have the authority to require that such submissions, and FEMA's tentative approval of any proposed change to base flood elevations, flood hazard area boundaries, or floodway designations, be a condition of approval of any application for development in a flood hazard area.

H. Requiring applicants who propose alteration of a waterway to notify all agencies and jurisdictions having authority, including the NFIP State Coordinating Agency, and to submit copies of such notifications to FEMA.

I. Notifying the Federal Emergency Management Agency when the boundaries of [the] county have been modified.

(Ord. No. 2018-53, § 2, 10-2-18)

15.40.160 Other permits.

It shall be the responsibility of the floodplain administrator to assure that approval of a proposed development shall not be given until proof that necessary permits have been granted by federal or state agencies having jurisdiction over such development.

(Ord. No. 2018-53, § 2, 10-2-18)

15.40.170 Substantial improvement and substantial damage determinations.

For applications for building permits to improve buildings and structures, including alterations, movement, enlargement, replacement, repair, change of occupancy, additions, rehabilitations, renovations, substantial improvements, repairs of substantial damage, and any other improvement of or work on such buildings and structures, the floodplain administrator, in coordination with the building official, shall:

A. Estimate the market value, or require the applicant to obtain a professional appraisal prepared by a qualified independent appraiser, of the market value of the building or structure before the start of construction of the proposed work; in the case of repair, the market value of the building or structure shall be the market value before the damage occurred and before any repairs are made;

B. Compare the cost to perform the improvement, the cost to repair the damaged building to its pre-damaged condition, or the combined costs of improvements and repairs, if applicable, and the cost of any other improvements and repairs for which permits were issued by the building official during the period twelve (12) years prior to the receipt of application, to the market value of the building or structure;

C. Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage in accordance with the current FEMA guidelines; and

D. Notify the applicant if it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the flood resistant construction requirements of the building code is required.

(Ord. No. 2018-53, § 2, 10-2-18)

15.40.180 Department records.

In addition to the requirements of the building code and Appendix G, the floodplain administrator shall maintain and keep and make available for public inspection all records that are necessary for the administration of these regulations and the flood provisions of the building codes, including flood insurance rate maps; documents from FEMA that amend or revise FIRMs; records of issuance of permits and denial of permits; determinations of whether proposed work constitutes substantial improvement or repair of substantial damage; required certifications and documentation specified by the building codes and these regulations; notifications to adjacent communities, FEMA, and the state related to alterations of waterways; assurance that the flood carrying capacity of altered waterways will be maintained; documentation related to variances, including justification for their issuance; and records of enforcement actions taken pursuant to these regulations and the flood resistant provisions of the building codes.

(Ord. No. 2018-53, § 2, 10-2-18)

15.40.190 Liability.

The floodplain administrator and any employee charged with the enforcement of these regulations, while acting for the jurisdiction in good faith and without malice in the discharge of the duties required by these regulations or other pertinent law or ordinance, shall not thereby be rendered liable personally and is hereby relieved from personal liability for any damage accruing to persons or property as a result of any act or by reason of an act or omission in the discharge of official duties.

(Ord. No. 2018-53, § 2, 10-2-18)

### Article IV. Definitions

15.40.200 General.

The following words and terms shall, for the purposes of these regulations, have the meanings shown herein. Other terms are defined in the building codes.

(Ord. No. 2018-53, § 2, 10-2-18)

15.40.210 Definitions.

"Alteration of a waterway means a dam, impoundment, channel relocation, change in channel alignment, channelization, or change in cross-sectional area of the channel or the channel capacity, or any other form of modification which may alter, impede, retard or change the direction and/or velocity of the riverine flow of water during conditions of the base flood.

"Development" means any manmade change to improved or unimproved real estate, including but not limited to, buildings or other structures, temporary structures, temporary or permanent storage of materials, mining, dredging, filling, grading, paving, excavations, operations and other land-disturbing activities.

"Encroachment" means the placement of fill, excavation, buildings, permanent structures or other development into a flood hazard area which may impede or alter the flow capacity of riverine flood hazard areas.

"Market value" means the price at which a property will change hands between a willing buyer and a willing seller, neither party being under compulsion to buy or sell and both having reasonable knowledge of relevant facts. As used in this chapter, the term refers to the market value of buildings and structures, excluding the land and other improvements on the parcel. Market value may be established by a qualified independent appraiser, actual cash value (replacement cost depreciated for age and quality of construction), or tax assessment value adjusted to approximate market value by a factor provided by the property appraiser.

"Waterway" means a river, creek, stream, arroyo, channel or other topographic feature in, on, through, or over which water flows at least periodically.

(Ord. No. 2018-53, § 2, 10-2-18)

15.40.220 Severability.

If any section, subsection, sentence, clause, or phrase of these regulations is, for any reason, declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the regulations as a whole, or any part thereof, other than the part so declared.

(Ord. No. 2018-53, § 2, 10-2-18)

## Chapter 15.44 CUMULATIVE TRAFFIC IMPACT MITIGATION FEES

**Sections:**

15.44.010 Findings and purpose.

New development contributes to cumulative traffic impacts, which are significant, widespread, off-site impacts to the existing system of county maintained roadways that are difficult to measure and mitigate on a project-by-project basis, yet are cumulatively measurable and mitigable. The county has completed a background study (on file with the board of supervisors and the public works agency) that identifies the total cumulative traffic impact of projected new development and the method for determining each individual new development's share of that traffic impact. The purpose of collecting the cumulative traffic impact mitigation (CTIM) fee is to implement the findings of the study, thereby assuring that each new development bears the burden of its individual, incremental share of those roadway improvements needed to offset the cumulative traffic impacts caused by all new development. The revenue generated from this fee shall be allocated to roadway capital improvement projects that are designed to mitigate such cumulative traffic impacts.

(Ord. 2002-59 § 1 (part))

15.44.020 Definitions.

For the purpose of this chapter, "approval authority" means the county department or official identified in Chapters 16.04 and/or 17.54 as having approval authority for a discretionary permit. See "discretionary permit."

"Building official" means the building official of the county.

"Building inspection department (BID)" means the building inspection department of the county.

"Community development agency (CDA)" means the community development agency of the county.

"Cumulative or in-lieu roadway improvement;" see "roadway improvement."

"Director" means the director of the public works agency of the county.

For the purpose of this chapter, "discretionary permit" means any of the various documents described in Chapter 17.54 of the zoning ordinance or Chapter 16.04 of the subdivision ordinance required as a prerequisite to the particular new development.

For the purposes of this chapter, "dwelling unit" means a residential building, or a portion thereof, that is adjudged by the director to be a separate adult living facility with the potential to generate additional motor vehicle trips in the county. It may include complete living facilities, as in the case of an in-law unit, or individual sleeping rooms, as in the case of a congregate residence, but it shall not include individual nursing rooms, as in the case of a care home.

For the purposes of this chapter, "existing development" means a building, or a portion thereof, that is a lawful use under the terms of Title 17 and is adjudged by the director as being a generator of motor vehicle trips, and as such is eligible for a fee credit under the terms of Section 15.44.110. Buildings or portions of buildings that were constructed without a building permit, or constructed with a building permit issued prior to November 1988, or adjudged by CDA to be legal non-conforming, shall be considered as existing development—provided that they comply with the requirements of the first sentence.

"Generator" means a particular occupant of a building, or portion thereof, other than the original occupant or builder, and relates to the projected trip generation rate associated with his usage of that building or portion thereof when that usage is different from that associated with the original construction or occupancy, such as a tenant infill in an unoccupied shell building or a change from an office usage to a retail usage. A "high generator" is such a change in usage that would result in a trip generation rate that is one hundred fifty (150) percent or more than the rate actually charged under the terms of this chapter for the initial building construction permit. A "low generator" is such a change in usage that would result in a trip generation rate that is fifty (50) percent or less than the rate actually charged under the terms of this chapter for the said initial permit.

"Gross square footage (g.s.f.)" means all of the floor area confined by the outside surface of the exterior walls of a building, except for that floor area devoted solely to vehicle parking or circulation.

"New development" means any construction, addition, enlargement, installation, conversion, or renovation of a building that requires the issuance of a building permit, and that has the potential to add to the vehicle load on the county's roadway system.

For the purpose of this chapter, "peak trip" means a projected trip of a motor vehicle to or from the site of the new development, during the peak hour of traffic on the closest public roadway in the period between four and six p.m. on a weekday.

Project-specific roadway improvement;" see "roadway improvement."

For the purpose of this chapter, "roadway improvement" means the planned relocation, extension, repair, replacement, or other modification of any portion of the county-maintained public roadway system that is required to be completed in conjunction with the new development. A "project-specific roadway improvement" is an improvement, or a portion of an improvement, that is designed to allow the traffic load generated by the new development to safely access the county roadway system. A "cumulative or in-lieu roadway improvement" is an improvement, or a portion of an improvement, that is designed to mitigate the cumulative traffic loads in the county, where the cumulative load could include not only the additional cumulative impact of the new development but also the overall cumulative traffic loads.

"Shell building" means a basic building structure, typically of a B, F-2, M, or S-3 occupancy as defined in the California Building Code and falling within the usage categories listed in Section 15.44.080A under this definition, designed and constructed by a developer who intends to lease out parts or all of the building to tenants that are undefined at the time of permit issuance. See "tenant infill."

"Tenant infill" means the process of permitting either the necessary initial modifications to a shell building in order to allow the use of the building or a portion thereof by a tenant, or any subsequent modifications to that building or portion thereof to allow a different usage by the same tenant or a different tenant.

(Ord. 2005-19 § 1; Ord. 2002-59 § 1 (part))

15.44.030 Development subject to the fee.

Except for the exempt categories of new development listed in Section 15.44.040, all new development for which a building permit application has been submitted to BID is subject to the payment of a CTIM fee at the time specified in Section 15.44.060.

(Ord. 2005-19 § 2: Ord. 2002-59 § 1 (part))

15.44.040 Exemptions.

The following categories of new development are exempt from the fee:

A. New development authorized by a building permit issued prior to November 9, 1988, or which had a complete building permit application package on file with BID prior to November 9, 1988;

B. The addition, extension, enlargement, or renovation of a residential building that does not add any dwelling units or any enclosed vehicle parking spaces in excess of two per dwelling unit;

C. The construction, addition, extension, conversion, enlargement, or renovation of a nonresidential building that would result in the assessment of a fee of less than the cost of one peak trip, as listed in Section 15.44.080;

D. New development that has been required by the approval authority to pay a special fee or assessment as a condition of approval of a discretionary permit, if the purpose of the fee as stated in the said approval was to mitigate the cumulative traffic load. CDA shall provide the director with a current list of projects that shall receive this exemption.

(Ord. 2002-59 § 1 (part))

15.44.050 Reduction of fees for developments serving special public needs.

In order to remove impediments to the construction of buildings that could serve special public needs, the board of supervisors may adopt, by resolution, policies, guidelines, and procedures for the reduction or waiver of CTIM fees for new development that provides such facilities.

(Ord. 2002-59 § 1 (part))

15.44.060 Time of fee payment.

A. Except as indicated below and to the extent permitted by law, fees required pursuant to this chapter for all building occupancies other than Group R, Division 3 or Group U, Division 1, as defined in the California Building Code, shall be paid to the director prior to the issuance of building permits for the developments subject to the fees.

B. Fees required pursuant to this chapter for Group R, Division 3 or Group U, Division 1 building occupancies shall be paid to the director prior to the releases, by the building official, of any utility services for the developments subject to the fees. In the event that any such development does not involve new utility services, the CTIM fee shall be due and payable as a condition of the final permit inspection by BID. The building official shall have the authority to release utility services prior to the final permit inspection and payment of the CTIM fee for a Group R, Division 3 occupancy, but only upon the request of the permittee and only if the permittee deposits with the director a security instrument in an amount equivalent to the said fee and in a form acceptable to the director.

(Ord. 2005-19 § 3: Ord. 2002-59 § 1 (part))

15.44.070 Fee liability determination and calculation.

A. Each applicant for a building permit involving new development shall provide the following information to the director as part of the said application:

1. The proposed number and type of all new or converted residential units or the gross square footage and the intended uses of all new or modified non-residential buildings; and

2. The number and type of residential units or the gross square footage and current usage of all non-residential buildings for which a credit is sought under Section 15.44.110; and

3. Any specific trip generation information related to the proposed development.

B. The director shall calculate the CTIM fee charges based upon his evaluation of the information provided in A.1 above. All charges shall be based upon the appropriate fee amount or rate shown in the table in Section 15.44.080. In the event that, in the opinion of the director, the planned usage of the building is not reasonably related to any of the uses described in the table, he shall have the authority to require that the applicant provide additional specific trip generation study data or analyses. Similarly, the director shall calculate any credits against the CTIM fee, based upon the information provided by the applicant and/or other information in the BID and CDA files, and using the calculation methods described above.

C. The director shall notify BID in writing of the amount of the CTIM fee due on each permit application. BID shall transmit this requirement in writing to the permit applicant.

D. All issued building permits for which a CTIM fee is due but not collected at the time of issuance shall have the fee amount clearly indicated on the permit along with a notice stating when the fee must be paid.

(Ord. 2002-59 § 1 (part))

15.44.080 Fee rates and calculation formula.

A. The CTIM fee amounts and rates shall be as follows:

**FEE AMOUNTS AND RATES**

|  |  |  |  |
| --- | --- | --- | --- |
| Land Use | Fee Amount/Rate\* | | |
| **Residential** |  | | |
| Single-family dwelling, 0—2 car garage | $1674 | | |
| Single-family dwelling, 3 or more car garage | $1674 + $465/vehicle space over 2 | | |
| Multifamily dwelling\*\* | $1029/dwelling unit | | |
| Mobile home | $929 | | |
| **Non-residential** |  | | |
| Agricultural | No charge, except buildings intended to be accessible to the public, such as winery sales and tasting facilities or horse riding arenas, shall be charged as follows: | | |
| Publicly accessible horse barns and arenas | $165/stall | | |
| Winery retail sales and tasting facilities | $3.66/g.s.f. | | |
| Unmanned antenna sites | No charge | | |
| Shell buildings, as defined in 15.44.020 | Per the most relevant usage in the following table: | | |
| **Usage** | **$/g.s.f.** |
| General  Office | $4.36 |
| Business  Park | $1.86 |
| Shopping  Center | $6.39 |
| General  Retail | $9.02 |
| Tenant infill, as defined in 15.44.020 | No charge, except when the usage of the said infill is either a "low generator" or a "high generator," as defined in 15.44.020. In such an event, the charge (or refund) shall be the difference between the fee calculated for the infill per the method described under "Other" below and the applicable portion of the "shell building" fee calculated above, except that any such refunds shall only be available to the developer at the time of occupancy by the initial tenant and not for subsequent changes in occupancy. | | |
| Other | Per the most relevant trip generation study from the latest version of the ITE Trip Generation Manual, or per a trip generation study of the specific project, at the "cost per trip"\* shown below. | | |

**COST PER TRIP\***

$1,659.00 per peak trip

**FEE CALCULATION FORMULA:**

1. For those land use categories where the specific fee amount or rate is listed in the "fee amounts and rates" table above, the fee or credit shall be calculated by multiplying the stated amount or rate by the number of units (dwelling units, vehicle spaces, stalls, or g.s.f., as applicable) in the building.

2. For those uses where the amount or rate is not listed, the fee or credit shall be calculated by multiplying the "average vehicle trip ends" determined from the "weekday, peak hour of adjacent street traffic, one hour between four and six p.m." study (or the equivalent) for the most relevant building usage in the ITE manual by the "cost per trip" shown above. The fee amounts, fee rates, and cost per trip shall be that which is in effect on the date the building permit application is deemed complete by the building official.

\*\*Dwelling units must be attached in order to qualify as a multifamily dwelling. Separate, unattached dwelling units on the same property are each considered as a single-family dwelling.

B. On July 1st of each year, the director shall automatically adjust the CTIM fee. This adjustment shall be the increase or decrease in the "Construction Cost, % Chg. Year" of the Engineering News-Record Cost Index for San Francisco, as published in such magazine in the second week of January of the same calendar year, or in an equivalent annual construction cost percentage change index for the Oakland-San Francisco Bay Area for the same time period. Such percentage adjustment shall be applied to each of the fee amounts and rates listed in subsection A of this section.

C. In addition to the adjustment described above, the board of supervisors may adjust the CTIM fee to reflect increased costs or other factors.

(Ord. 2005-19 § 4: Ord. 2003-25 § 1; Ord. 2002-59 § 1 (part))

15.44.090 Benefit area accounts.

Collected cumulative traffic mitigation fees shall be deposited into accounts as follows:

A. The unincorporated area shall be divided into four benefit areas. The boundaries of the benefit areas are shown on Exhibit C, Map of Benefit Areas, on file with the board of supervisors. These benefit areas may be divided into sub-areas with the approval of the board.

B. There shall be a separate account for each benefit area and each sub-area. Seventy (70) percent of the fees collected for each building permit shall be deposited in the account for the benefit area or sub-area within which the project is located.

C. There shall be one countywide account. Thirty (30) percent of the fees collected for each building permit shall be deposited in the countywide account.

D. The benefit area and countywide accounts shall be interest-bearing trust funds administered by the county auditor.

(Ord. 2002-59 § 1 (part))

15.44.100 Use and expenditure of fees.

A. The fees collected under this chapter and all earnings from investment of the fees shall be expended according to a capital improvement program and operating budget adopted by the board of supervisors and shall be used to fund roadway system capital costs directly related to mitigation of the cumulative traffic impact that new development has placed and will continue to place upon the roadway system in the unincorporated areas of the county.

B. The CTIM fee expenditures may include:

1. Design and construction of roadway and intersection improvements;

2. Right-of-way acquisitions associated with the above; and

3. Mitigation of environmental impacts of these projects.

C. The collected fees shall not be expended on the following:

1. Administrative and/or overhead costs related to any of the activities listed in B above or to any other roadway improvement project.

2. Administrative and/or overhead costs associated with collection of the fee.

3. Inspections of the activities listed in B above or any other roadway project.

D. Funds deposited in a benefit area or sub-area account shall be allocated only to projects located within that same benefit area or sub-area.

E. Funds deposited in the countywide account may be allocated to projects at any location in the unincorporated area of the county.

(Ord. 2002-59 § 1 (part))

15.44.110 Fee credits for elimination of existing development.

A. A building permit applicant proposing to demolish or convert an existing development, as defined herein, shall be entitled to a credit against the CTIM fee for a new development on the same site.

B. The amount of credit attributed to a demolished or converted building shall be calculated by the director using the rates and amounts described in Section 15.44.080.

(Ord. 2002-59 § 1 (part))

15.44.120 In-lieu fee credits for construction of improvements.

A. A building permit applicant who has been required by the approval authority to improve existing public roadways as a condition of approval of a new development may be eligible for a credit against the CTIM fee, if the proposed improvements are designed to accommodate cumulative (in-lieu) traffic impacts as well as project-specific improvements.

B. The in-lieu portion of an improvement may consist of changes intended to mitigate the overall cumulative traffic load as well as changes intended to mitigate the direct cumulative impact of the new development. Only the value of this in-lieu portion shall be considered in the determination of the fee credit.

C. The applicant shall be responsible for requesting the in-lieu fee credit at the time of the submittal of his permit application. The director shall have the authority to require that the applicant submit a traffic study and/or a cost estimate in support of the credit request.

D. The final determination of the amount of an in-lieu fee credit shall be made by the approval authority, based on a recommendation from the director. The maximum credit amount shall not exceed the estimated value of the associated in-lieu improvements, nor, except as indicated in F. below, shall it exceed the unadjusted CTIM fee.

E. In the event that the actual cost of construction of the in-lieu improvements is less that the estimated cost, the director shall have the authority to reduce the final fee credits accordingly. In the event that the actual cost of the in-lieu improvements is more than the estimate, any request to increase the final credit must be approved by the board of supervisors.

F. In the event that the calculated amount of the in-lieu credit exceeds the unadjusted CTIM fee, the applicant may request, of the approval authority, that the excess be credited toward the CTIM fee for any subsequent phases of the same development. However, if such a request is granted, the approval authority shall have the authority to limit the time period during which the reserved credit may be applied. Retained credits shall not accrue interest.

(Ord. 2002-59 § 1 (part))

15.44.130 Refunds.

Refunds of unexpended or uncommitted fees required pursuant to law shall be made to the current owner or owners of the property, as shown on the latest equalized assessment roll.

(Ord. 2002-59 § 1 (part))

15.44.140 Enforcement.

A. In case of noncompliance with this chapter, the required CTIM fee shall be recalculated to reflect the fee rates and amounts in effect upon the date of discovery, except that in no case shall the said fee be less than that originally determined by the director.

B. The collection of unpaid CTIM fees shall be enforced as a lien on the property.

(Ord. 2002-59 § 1 (part))

15.44.150 Performance.

Failure of any county official or agency to fulfill the requirements of this chapter shall not excuse any permittee from the payment of any CTIM fees required hereunder.

(Ord. 2002-59 § 1 (part))

## Chapter 15.48 TRI-VALLEY TRANSPORTATION DEVELOPMENT FEE FOR TRAFFIC MITIGATION

**Sections:**

15.48.010 Findings and purpose.

A. There exists in Alameda County a portion of the area within Alameda and Contra Costa Counties referred to as the Tri-Valley Area. The Tri-Valley Area is composed of the Cities of Dublin, Livermore, Pleasanton, and San Ramon, the Town of Danville, and portions of unincorporated Alameda and Contra Costa Counties. This area is forecasted to receive one hundred twenty-three thousand (123,000) new residents and fifty-six thousand (56,000) new jobs by the year 2040.

B. The traffic impact from these new residential units, commercial uses and other uses, as well as additional development beyond the year 2040, will adversely affect the quality of life for the existing residents of the cities and counties within the Tri-Valley Area unless those regional traffic impacts are mitigated by off-site transportation improvements.

C. To accomplish this goal, in 1991, the seven Tri-Valley jurisdictions listed above adopted the joint exercise of powers agreement pertaining to Tri-Valley transportation development fees for traffic mitigation providing for the collection of fees on certain development to be used to mitigate traffic congestion in the Tri-Valley Area. The agreement created the Tri-Valley Transportation Council ("TVTC"). The agreement was revised in 1998, 2003 and 2009.

D. Recognizing the need for operational flexibility, the signatories agreed to revise the joint exercise of powers agreement to create a separate public agency. A final version of the new joint exercise of powers agreement ("Tri-Valley JEPA") was unanimously approved by representatives from each member agency on July 31, 2013, and by the Board of Supervisors on October 15, 2013. A copy of the Tri-Valley JEPA is on file with the clerk of the Board of Supervisors and the director of public works.

E. The TVTC commissioned a study entitled, Tri-Valley Transportation Council Nexus Study, adopted on February 26, 2008 ("study") to determine current projected traffic impacts from development in the Tri-Valley Area, a new list of recommended projects to mitigate those projected impacts, and the fee rates necessary for each type of land use to generate sufficient revenue to fund the unfunded cost of the selected transportation mitigation projects.

F. The Tri-Valley jurisdictions have identified, through the Tri-Valley Transportation Plan/Action Plan for routes of regional significance ("plan") and the strategic expenditure plan ("SEP") (both on file with the clerk of the Board of Supervisors and the director of public works), the traffic impact of the projected Tri-Valley Area new development and certain regional transportation improvement projects that will mitigate these traffic impacts. These projects are listed in the plan and SEP.

G. The purpose of this chapter is to authorize collection of the Tri-Valley transportation development fee ("TVTD fee") within the unincorporated portion of Alameda County shown and described in Exhibit 1 to the ordinance codified in this chapter and on file with the clerk of the Board of Supervisors (the "Tri-Valley development area"), in order to mitigate the traffic impacts of new development in the Tri-Valley Area.

H. The fees collected pursuant to this chapter shall be used to finance the transportation improvement projects listed in the SEP.

I. The Board of Supervisors approves and adopts the plan, the study and the SEP and incorporates them herein, and further finds that future development in the Tri-Valley development area will generate the need for the transportation improvement projects and that the transportation improvement projects are consistent with the county's general plan.

J. There is a reasonable relationship between the need for the transportation improvement projects and the impacts of the types of development for which the corresponding fee is charged in that new development in the Tri-Valley development area, both residential and nonresidential, will generate traffic which generates or contributes to the need for the transportation improvement projects.

K. There is a reasonable relationship between the TVTD fee's use (to pay for the construction of the transportation improvement projects) and the type of development for which the TVTD fee is charged in that all development in the Tri-Valley development area, both residential and nonresidential, generates or contributes to the need for the transportation improvement projects.

L. The cost estimates set forth in the plans and studies are reasonable cost estimates for constructing the transportation improvement projects and the TVTD fees expected to be generated by future development will not exceed the projected costs of constructing the transportation improvement projects.

M. The method of allocation of the TVTD fee to a particular development bears a fair and reasonable relationship to each development's burden on, and benefit from, the transportation improvement projects to be funded by the TVTD fee, in that the TVTD fee is calculated based on the number of vehicle trips each particular development will generate.

N. Because the plan identifies new impacts that existing programs are not mitigating, the fees provided for in this chapter are in addition to the cumulative traffic impact mitigation fees provided for in Chapter 15.44 of the Alameda County Ordinance Code. This TVTD fee shall be for traffic improvements over and above any improvements required to mitigate project-specific impacts.

(Ord. 98-90 § 1 (part))

(Ord. No. O-2015-34, § 1, 6-23-15)

15.48.020 Definitions.

As used in this chapter:

"Gross floor area" means the sum of the area of all floor levels of a structure, including, but not limited to, cellars, basements, mezzanines, penthouses, corridors, lobbies, stores, and offices, that are included within the principal outside faces of exterior walls, not including architectural setbacks or projections. Included are all stories or areas that have floor surfaces with clear standing head room (six feet, six inches minimum) regardless of their use. Where a ground level area, or part thereof, within the principal outside faces of the exterior walls is left unenclosed, the gross area of the unenclosed portion is to be considered as a part of the overall square footage of the building. All unroofed areas and unenclosed roofed-over spaces, except as defined above, are to be excluded from area calculations. The gross area of any parking garages within the building shall not be included within the gross area of the entire building.

"Industrial" means developments for the purpose of manufacture or fabrication of products, the processing of materials, the warehousing of merchandise for sale or distribution, research and development of industrial products and processes, and the wholesaling of merchandise.

"Land use entitlement" means a permit or approval granted for a development project as that term is defined in Government Code Section 66000.

"Multifamily residential" means buildings or parts thereof designed and used exclusively as a dwelling unit among other dwelling units, either on the same parcel (e.g., apartments and mobile home parks) or under separate ownership (e.g., condominiums, townhomes, duplexes, or duets).

"Office" means developments or parts thereof designed for the purpose of housing non-retail, nonmanufacturing businesses.

"Other uses" means land use categories not implicitly included within the land use categories of "single-family residential," "multifamily residential," "retail," "office," or "industrial," and for which alternative rates can be found in the Institute of Transportation Engineers Trip Generation Manual or in a rate schedule that the Tri-Valley transportation council has explicitly approved.

"Retail" means developments or parts thereof designed for the purpose of the retail sale of merchandise and services.

"Single-family residential" means buildings or parts thereof designed and used for occupation as the residence of one family.

"Strategic expenditure plan" or "SEP" means the TVTC's May 16, 2011 funding and project prioritization plan, adopted by the TVTC by execution of the Tri-Valley JEPA, and as may be amended from time to time.

"Subsidized housing development" means housing facilities developed by public agencies, limited dividend housing corporations, or nonprofit corporations, and maintained exclusively for persons or families of very low, low or moderate income, as defined in Section 50093 of the Health and Safety Code.

"Transportation improvement projects" or "projects" means those public improvements required to mitigate the regional traffic impacts of development within the Tri-Valley development area as specified in the SEP.

"Tri-Valley development area" means that portion of the area marked on Exhibit 1 of the ordinance codified in this chapter and on file with the clerk of the Board of Supervisors that is within Alameda County and is unincorporated. The legal description of the area boundary is on file with the Alameda County Surveyor. Generally, the Tri-Valley development area is bordered on the north, east, and south by the county lines and on the west by the western boundary of the Pleasanton Township and the City of Fremont boundary, plus the portion of the Dublin sphere of influence which crosses into the Eden Township.

"Tri-Valley transportation development fee" or "TVTD fee" means the fees to be imposed by the county on development within the Tri-Valley development area pursuant to this chapter.

"TVTC" means the Tri-Valley transportation council, an interagency council formed by a joint powers agreement by and among the County of Alameda, County of Contra Costa, Town of Danville and Cities of Dublin, Livermore, Pleasanton and San Ramon, dated October 17, 2013.

(Ord. 98-90 § 1 (part))

(Ord. No. O-2015-34, § 1, 6-23-15)

15.48.030 Development subject to the TVTD fee.

Except for the exempt categories of new development listed in Section 15.48.040, all development within the Tri-Valley development area that receives a land use entitlement from Alameda County shall be required to pay the TVTD fee.

(Ord. 98-90 § 1 (part))

15.48.040 Exemptions.

The following categories of development are exempt from the fee:

A. Any alteration or addition to a residential structure, except to the extent that a residential unit is added to a single-family residential unit or another unit is added to an existing multifamily residential unit;

B. Any replacement or reconstruction of an existing residential structure that has been destroyed or demolished; provided, that the building permit for reconstruction is obtained within one year after the building was destroyed or demolished unless the replacement or reconstruction increases the square footage of the structure fifty (50) percent or more;

C. Any replacement or reconstruction of an existing nonresidential structure that has been destroyed or demolished; provided, that the building permit for new reconstruction is obtained within one year after the building was destroyed or demolished and the reconstructed building would not increase the destroyed or demolished building's average peak hour trips;

D. Public schools;

E. Subsidized housing developments;

F. Governmental buildings owned by any public entity;

G. Development projects which are subject to a development agreement, except that the fee shall be applicable to any "significant" changes to any development agreement adopted after January 1, 1998. As used herein, "significant" means any of the following:

1. Change in land use type (e.g., office to retail);

2. Intensification of land use types (e.g., increases in square footage of approved office);

3. Extension of term of development agreements; and

4. Reduction or removal of project mitigation requirements or conditions of approval.

(Ord. 98-90 § 1 (part))

(Ord. No. O-2015-34, § 1, 6-23-15)

15.48.050 Time of fee payment.

A. Fees required pursuant to this chapter shall be paid to the county prior to the issuance of building permits for the project to the extent permitted by law.

B. No county official or agency shall authorize issuance of a building permit for any development that is subject to the fee under Section 15.48.030 until notification is received from the director of public works that all TVTD fee monies required by this chapter have been paid or no fees are required of the project due to fee credits or reductions received.

(Ord. 98-90 § 1 (part))

15.48.060 Fee liability determination and calculation.

A. Each applicant for a land use entitlement shall submit the following information to the director of public works or other appropriate county officials:

1. The proposed number and type of residential units and/or gross square footage of building area for each use category listed in Section 15.48.070 of this chapter;

2. The proposed and existing uses in the development shall be assigned to use categories according to the list in Section 15.48.070.

B. The director of public works shall notify the applicant in writing of the amount of the required TVTD fee.

(Ord. 98-90 § 1 (part))

15.48.070 Fee rates.

A. The TVTD fees shall be set by the Board of Supervisors by resolution.

B. An applicant for a land use entitlement who is dissatisfied with the number of peak-hour trips or fee determination under the "other uses" land-use type, as calculated by county, may appeal the determination to the Alameda County Director of Public Works. The director of public works' determination can be appealed to the Board of Supervisors.

C. On March 1st of each year, the TVTD fee shall be automatically adjusted. This adjustment shall be based on the increase or decrease in the Engineering News-Record Construction Cost Index for the San Francisco Bay Area for the period ending December 31st of the preceding calendar year.

D. In addition to the automatic adjustment provided in the TVTD fee, the county may by resolution adjust the TVTD fee to reflect revisions in the project list in the plan, increased costs or other factors.

E. The effective date of this Tri-Valley transportation development fee shall be September 1, 1998.

(Ord. 2004-9 § 1 (part); Ord. 2000-38; Ord. 98-90 § 1 (part))

(Ord. No. O-2015-34, § 1, 6-23-15)

15.48.080 Credits and reimbursements for developer-constructed projects.

A developer may be entitled to credit against the TVTD fee or to reimbursement from TVTD fees if the developer constructs all or a portion of one of the transportation improvement projects. Credit or reimbursement shall be provided in the manner set forth in the joint exercise of powers agreement; provided, that the Board of Supervisors has approved the construction by the developer of all or a portion of the transportation improvement project.

(Ord. 98-90 § 1 (part))

(Ord. No. O-2015-34, § 1, 6-23-15)

15.48.090 Use and expenditure of fees.

A. Revenue collected from fees imposed under this chapter shall be deposited by the treasurer into a separate interest-bearing account.

B. Within thirty (30) days of the end of each quarter, the treasurer shall remit to the TVTC eighty (80) percent of all TVTD fee revenue collected during that quarter, and any interest or income generated on such eighty (80) percent amount. Included along with this remittance the treasurer shall include the most recently approved list of projects described in subpart C.

C. At least as frequently as the time at which the director of public works submits the report described in subpart E to the Board of Supervisors, the director of public works shall also submit a recommendation for the projects to which the remaining twenty (20) percent of TVTD fee revenue should be directed. Upon approval with or without amendment of the director of public works' recommendation for expenditure by the Board of Supervisors, the clerk of the board shall transmit the approved list of projects to the treasurer for inclusion as part of the remittance described in subpart B.

D. The treasurer shall maintain a current record of all TVTD fee revenue collected and retained, including interest or income on such funds, and shall make said record available to the TVTC for auditing purposes.

E. The director of public works shall prepare and submit to the Board of Supervisors the report called for in Government Code Section 66006 not later than one hundred eighty (180) days following the last day of the fiscal year, except that the director of public works shall be relieved of this obligation when the TVTC timely creates a similar report that complies with Government Code Section 66006. Upon the Board of Supervisors' receipt of the report, the clerk of the board shall place the report on the next regular agenda of the Board of Supervisors occurring no sooner than fifteen (15) days from the date of submission of the report.

F. Every fifth fiscal year following the first deposit into the account, the director of public works shall prepare a report regarding that portion of the account remaining unexpended, whether committed or uncommitted, identifying the purpose to which the unexpended fee revenue is to be put and the continuing reasonable relationship between the fee and the purpose for which it is charged. The director of public works shall be relieved of the obligation to prepare such a report where the TVTC has prepared a substantially similar report.

(Ord. 98-90 § 1 (part))

(Ord. No. O-2015-34, § 1, 6-23-15)

15.48.100 Enforcement of fee collection.

A. In case of noncompliance with this chapter, the TVTD fees and interest that would have accumulated shall be calculated from the date that a building permit was issued and not from the date of discovery, complaint, or enforcement.

B. Payment of fees shall be enforced as a lien on the property.

(Ord. 98-90 § 1 (part))

15.48.110 Performance.

Failure of any county official or agency to fulfill the requirements of this chapter shall not excuse any applicant for a land use entitlement from payment of the TVTD fee required by this chapter.

(Ord. 98-90 § 1 (part))

# Title 16  SUBDIVISIONS

**Chapters:**

## Chapter 16.04 GENERAL PROVISIONS

**Sections:**

16.04.010 Title.

This chapter shall be called the "subdivision ordinance of Alameda County."

(Prior gen. code § 8-1.0)

16.04.020 Purpose and authority.

This chapter shall regulate subdivisions within the unincorporated area of the county pursuant to the Subdivision Map Act of the state of California.

(Prior gen. code § 8-1.1)

16.04.030 Intent.

It is the intent of this chapter to promote the public health, safety, and general welfare; to assure in the division of land consistently with the policies of the county general plan and with the intent and provisions of the county zoning ordinance; to coordinate lot design, street patterns, rights-of-way, utilities and public facilities with community and neighborhood plans; to assure that areas dedicated for public purposes will be properly improved initially so as not to be a future burden upon the community; to preserve natural resources and prevent environmental damage; to maintain suitable standards to insure adequate, safe building sites; and, to prevent hazard to life and property.

(Prior gen. code § 8-1.2)

16.04.040 General responsibilities.

In addition to the specific responsibilities set forth herein, the following agencies and officers, or their duly authorized representatives, shall have the general responsibilities hereby designated:

A. The planning commission is the advisory agency for all tentative and vesting tract maps and for all agricultural subdivisions.

B. The planning director is the advisory agency for all tentative and vesting tentative parcel maps that are not agricultural subdivisions. The planning director may designate a representative to act as the advisory agency for tentative and vesting tentative parcel maps, and specifically may, in his or her sole discretion and at any point in the review process, designate the planning commission as the advisory agency for any tentative and vesting tentative parcel map.

C. The board of supervisors is the appeal board for all subdivisions.

D. The planning department is responsible for analyzing the design and coordinating the processing of all proposed subdivisions with county departments and public agencies, for making reports to the planning commission for those subdivisions for which the commission is the advisory agency, and, upon appeal, reporting thereon to the board of supervisors.

E. The county engineer is responsible for reporting whether the proposed improvements are consistent with the design and improvement standards specified or referred to in this chapter, for the inspection and ultimate approval of all such improvements, and for making recommendations on the granting of variances under Section 16.16.120 of this title.

F. The county health officer is responsible for establishing requirements for water supply, sewage disposal, and advising upon other matters affecting public health.

G. The building official is responsible for enforcing the provisions of this chapter, except for such matters that are in the jurisdiction of the county surveyor. For such purpose, the building official shall have the powers of a police officer.

H. The county surveyor is responsible for performing the duties specified in the Subdivision Map Act.

(Ord. 2004-62 § 1; Ord. 95-17 § 1 (part): prior gen. code § 8-1.3)

16.04.050 Compliance.

A. No real property, or portion thereof, shown on the latest equalized county assessment roll as a unit or contiguous units and lying wholly or partially within the unincorporated portion of the county shall be divided into two or more parcels for the purpose of sale, lease or financing, whether immediate or future, unless prior thereto a tentative map is acted upon and a final map or parcel map has been filed in accordance with the provisions of this chapter, except for the cases of subdivision for which the advisory agency waives the requirement for filing a parcel map based on the findings: (1) that the proposed subdivision complies with requirements as to area, improvement and design, flood and water drainage control, appropriate improved public roads, sanitary disposal facilities, water supply availability, environmental protection, and other requirements of this chapter: (2) that waiving the parcel map will not be materially detrimental to the public welfare: and (3) that filing of a parcel map will not be materially detrimental to the public welfare: and (4) that filing of a parcel map would impose an unusual hardship to the subdivider.

B. A tentative map is required but no parcel map or final map is required for the following cases of subdivision:

1. The subdivision results in parcels that each are of an area of forty (40) acres or more or are quarter-quarter sections.

2. The subdivision is for the purpose of leasing commercially or industrially zoned land for a period not exceeding five years.

3. The subdivision is for the purpose of conveying one or more contiguous recorded parcels which were separate, legal building sites when acquired by the property owner.

4. The subdivision is for the purpose of leasing for a short term (terminable by either party on not more than thirty (30) days' notice in writing) of a portion of the operating right-of-way of a railroad corporation defined as such by Section 230 of the Public Utilities Code.

5. The subdivision is for conveyance of land to a public agency or public utility, or to a subsidiary of a public utility for conveyance to such public utility for rights-of-way, unless a showing is made in individual cases, upon substantial evidence, that public policy necessitates such a parcel map.

C. No person shall sell or lease or contract to sell or lease any subdivision, or any part thereof, until a final map or parcel map thereof in full compliance with the provisions of this chapter has been filed in the office of the recorder of this county, except for the cases listed in subsection A of this section for which only a tentative map need be acted upon.

D. Any deed of conveyance, sale or contract to sell made contrary to the provisions of this chapter is voidable to the extent allowable and in the same manner provided for violation of the Subdivision Map Act.

E. Any sale, contract to sell, or deed of conveyance made contrary to the provisions of this chapter is a misdemeanor and is punishable by a fine of not less than twenty-five dollars ($25.00) and not more than five hundred dollars ($500.00), or imprisonment in the county jail for a period of not more than six months, or both.

F. At such time as the building official becomes aware of a land division in violation of the provisions of this chapter, he shall record a notice of intention to record a notice of such violation in the office of the county recorder of this county, describing the land so divided, naming the owners thereof, and describing the violation, and stating that an opportunity will be given to the owner to present evidence. A copy of such notice will be mailed to the owner. The notice shall specify a time, date, and place at which the owner may present evidence to the advisory agency why such notice should not be recorded. If, after the owner has presented evidence, it is determined that there has been no violation, the building official shall record a release of the notice of intention to record a notice of violation. If, however, after the owner has presented evidence, the advisory agency determines that the property has in fact been illegally divided, or if within sixty (60) days of receipt of such copy the owner fails to inform the local agency of his objection to recording the notice of violation, a notice of violation shall be recorded with the county recorder. The notice of intention to record a notice of violation and the notice of violation, when recorded, shall be deemed to be constructive notice of the violation to all successors in interest in such property. The county recorder shall index the names of the fee owners in the general index. Nothing in this section shall be deemed to require such recording as a condition precedent to the enforceability of any other provision of this chapter.

G. Pursuant to the request of any person owning real property, or purchasers of the property under a contract of sale, the planning director, upon determination that the property complies with provisions of the Subdivision Map Act and this chapter, shall record a certificate of compliance. If the property does not comply, conditions may be applied as would have been applicable to the subdivision creating the property. Upon applying such conditions, the planning director shall record a conditional certificate of compliance. Such certificate shall serve as notice to the property owner or vendee who has applied for the certificate pursuant to this section, a grantee of the property owner, or any subsequent transferee or assignee of the property that the fulfillment and implementation of such conditions shall be required prior to subsequent issuance of a permit or other grant of approval for development of the property. Compliance with such conditions are not required until such time as a permit or other grant of approval for development of such property is issued by the local agency.

H. Neither the approval nor conditional approval of any tentative map shall constitute or waive compliance with any other applicable provision of the Alameda County General Ordinance Code, nor shall any such approval authorize or be deemed to authorize a violation or failure to comply with other applicable provisions of said code.

(Prior gen. code § 8-1.4)

16.04.060 Definitions.

All words and terms used in the chapter shall have the same meaning as defined and used in the Subdivision Map Act.

"Advisory agency" means a designated official or an official body charged with the duty of making investigations and reports on the design and improvement of proposed subdivisions of real property, the imposing of requirements or conditions thereon, or having the authority by this chapter to approve, conditionally approve, or disapprove maps.

"Agricultural subdivision" means any subdivision proposed in the A (agricultural) district, or in any PD (planned development) district based on the A district, except that any subdivision so zoned and proposed pursuant to and in accordance with the policies of the South Livermore Valley Area Plan dated February 23, 1993, as amended, is not defined as an "agricultural subdivision."

"Map" means either parcel map or final map.

"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."

"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. Property shall be considered as contiguous units, even if it is separated by roads, streets, utility easement or railroad rights-of-way. "Subdivision" includes a condominium project, as defined in subdivision (d) of Section 1351 of the Civil Code, or the conversion of five or more existing dwelling units to a stock cooperative, as defined in subdivision (m) of Section 1351 of the Civil Code.

(Ord. 96-69 § 6 (part); Ord. 95-17 § 1 (part); prior gen. code § 8-1.5)

## Chapter 16.08 TENTATIVE MAPS

**Sections:**

16.08.010 Persons authorized to prepare.

All tentative maps shall be prepared by or under the direction of a registered civil engineer or licensed land surveyor.

(Ord. 95-17 § 1 (part): prior gen. code § 8-2.0)

16.08.020 Final map or parcel map number.

The final map or parcel map number shall be assigned by and obtained from the county recorder.

(Prior gen. code § 8-2.1)

16.08.030 Filing.

The time of filing shall be the time a complete application is received by the planning director and all required environmental work under the California Environmental Quality Act is completed. A complete application shall include the prescribed number of copies of the tentative map, all supplemental materials required under Section 16.08.050 of this chapter, and all required filing fees of deposits as may be set by county ordinance.

(Ord. 95-17 § 1 (part): prior gen. code § 8-2.2)

16.08.040 Form.

The form of the tentative map and the number of copies required for filing shall be as prescribed by the planning director. The planning director may authorize deletion of reduction of map requirements on the determination that the map contains sufficient information to be evaluated adequately and preparing it in the prescribed form would impose an unusual hardship upon the subdivider. The planning director may require additional information or materials as indicated in Section 16.08.050 of this chapter.

(Ord. 95-17 § 1 (part): prior gen. code § 8-2.3)

16.08.050 Data and materials to accompany filing.

For any subdivision into five or more lots and, when required by the advisory agency, for any other subdivision, the tentative map shall include:

A. A preliminary grading plan prepared by a civil engineer registered by the state;

B. A conceptual plan for soil erosion and sediment control for both construction and postconstruction periods prepared by the civil engineer, or, with respect to the soil erosion control provisions, by a landscape architect registered by the state;

C. A soils-geologic investigation report prepared by a licensed geologist, certified engineering geologist, or a registered civil engineer or soil engineer as provided by Section 6736.1 of the Profession Engineers' Act.

Said data and material shall be consistent with requirements and specification of the county grading ordinance. Additional reports and data may be required by the planning director when deemed necessary due to the scale of the proposed subdivision or presence of potentially hazardous or environmentally sensitive conditions. These may include, but are not limited to:

D. A traffic study, prepared by a licensed traffic engineer;

E. A visual analysis, prepared by a qualified consultant as determined by the planning director;

F. For conversion of multiple units from rentals to ownership that are being done in conjunction with a site development review: building elevations, a parking plan, and a landscape plan. These materials shall be prepared as required for site development review;

G. A plan showing building pad location and driveway access to the individual lots;

H. A noise study, prepared by a qualified consultant as determined by the planning director.

In addition to the above material, all tentative maps shall include information as required by the planning director in its "Subdivision: Submittal Requirements" publication or equivalent.

(Ord. 95-17 § 1 (part): prior gen. code § 8-2.4)

16.08.060 Hearing.

The advisory agency shall conduct a noticed public hearing on all subdivisions. Hearing procedures shall be established by the advisory agency.

(Prior gen. code § 8-2.41)

16.08.070 Public notice.

The advisory agency shall give notice for all hearings before the advisory agency on a hearing for a subdivision. In addition to such notice as the Government Code may require, notice shall be given as follows:

A. Once an application is accepted as complete:

1. The applicant shall post a notice on the property. Except as otherwise provided in this subsection, the notice shall be on a sign two feet by three feet in dimension, constructed of wood or metal, and secured to the ground to the satisfaction of the planning director. The planning director, at his or her discretion, may allow smaller signs, but not smaller than eleven (11) inches by seventeen (17) inches, of heavy card stock laminated with plastic for minor projects; or may require larger signs, up to a maximum of four feet by six feet, for projects of significant public interest or where visibility may be an issue. The notice shall contain the project file number; the name of the applicant; the project address or location if there is no address; the assessor's parcel number(s); a map showing the parcel(s) involved in the project; a brief description of the project; site plans and elevations if appropriate; applicant contact information; tentative hearing date(s) (if available); a statement that additional information, including the hearing date(s) is available by contacting the planning department either by telephone or in person; and other relevant information as the planning director may require. The sign shall also include space for public notices. Such on-site notices shall be placed parallel to and as close as possible to each street lot line of the site; if a street frontage is more than six hundred (600) feet in length, there shall be a second, identical, notice posted along that street frontage. Signs must be visible to pedestrians and motorists and may not be posted in the public right-of-way. On-site notices may not be affixed to the outside of a window, but, where the planning director, or his or her designee, determines that there is no reasonable way to mount the sign in the ground, may be placed inside a window so long as it is clearly visible to passersby. This notice shall remain in place until final action on the project, including appeals. The applicant shall remove the notice within ten working days of the final action.

2. The planning department shall mail a preliminary notice to all property owners and residents located within five hundred (500) feet of the exterior limits of the property or properties that are the subject of the application as listed on the most recent assessor's rolls coupled with the Geographic Information System or Emergency 911 address lists. The planning director, at his or her discretion, may mail this notice to all property owners and residents located within one thousand (1,000) feet of the exterior limits of the property. This notice shall contain the project file number; the name of the applicant; the project address or location if there is no address; the assessor's parcel number(s); a map showing the parcel(s) involved in the project; a brief description of the project; site plans and elevations if appropriate; a tentative hearing date (if available); a statement that additional information, including the actual hearing date(s), is available by contacting the planning department either by telephone or in person; and other relevant information as the planning director may determine.

B. No less than ten days prior to the hearing the planning department shall:

1. Mail a notice to all property owners and residents located within five hundred (500) feet of the exterior limits of the property or properties that are the subject of the application as listed on the most recent assessor's rolls coupled with the Geographic Information System or Emergency 911 address lists. The planning director, at his or her discretion, may mail this notice to all property owners and residents located within one thousand (1,000) feet of the exterior limits of the property. If the number of owners located within three hundred (300) feet of the real property that is the subject of the hearing to whom notice would be mailed or delivered pursuant to this section is greater than one thousand (1,000) feet, the planning department may, in lieu of mailed or delivered notice, provide notice by placing a display advertisement of at least one-eighth page in at least one newspaper of general circulation in the community or area where the subdivision is proposed at least ten days prior to the hearing. Such notice shall contain the information required in subsection (A)(2) of this section.

2. Post a Notice on the Property. The above notices shall contain all that information required by pertinent Government Code sections and in subsection (A)(1) of this section, including, but not limited to, the date, time, and place of a public hearing, the identity of the hearing body or officer, a general explanation of the matter to be considered, and a general description, in text or by diagram, of the location of the real property, if any, that is the subject of the hearing.

(Ord. 95-17 § 1 (part): prior gen. code § 8-2.42.

(Ord. No. 2009-17, § 1, 4-14-09)

16.08.080 Action—Subdivision.

The advisory agency shall approve, conditionally approve, or disapprove tentative maps of subdivisions normally within fifty (50) days after filing of a complete application, including completion of environmental review as required under the California Environmental Quality Act. Conditions of approval may include, but are not limited to dedication and improvement of streets; alleys, including access rights and abutters' rights; and drainage, public utility, and other public easements. The advisory agency may require establishment of a maintenance agreement or homeowners' or property owners' association(s) to maintain private streets and other common areas, and may require a minimum deposit to establish an initial or long term reserve fund or both for use by the future property owners.

(Ord. 95-17 § 1 (part): prior gen. code § 8-2.5)

16.08.090 Conformance to Alameda County ordinance.

No tentative map shall be approved which is not in conformance with the provisions of this chapter, the county zoning ordinance and any other ordinance of this county.

(Prior gen. code § 8-2.6)

16.08.100 Appeals.

A. The board of supervisors shall be the appeal board.

B. Within ten days after action, the subdivider or any interested person may appeal from any action of the planning director or the planning commission to the board of supervisors. In determining whether the ten-day appeal period has been met, the time taken to appeal is measured from the date of the action taken by the planning director or planning commission to the time the appeal is received by the clerk of the board of supervisors. If the tenth day falls on a Saturday or Sunday, or on an official county holiday, the next county business day shall be the last day for filing the appeal. Appeals to the board of supervisors shall be submitted in writing to the clerk of the board or the planning department, which is designated as an agent of the clerk of the board for purposes of receiving a notice of appeal. Appeals shall reference the tentative map number and shall state fully the nature and extent of the appeal and the reasons why it is taken. Such appeal and the hearing thereon shall be conducted in the manner provided by Government Code Sections 66452.5(a) and (b) and subsection C of this section. If in considering an appeal, the board of supervisors determines that in the time since the decision being appealed was made, new information has arisen that may have affected the advisory agency's evaluation of the matter before it, the board of supervisors may remand the appeal to the advisory agency for an advisory ruling on the new information prior to the board of supervisors sustaining, modifying, or overruling an order brought before it on appeal.

C. Whenever a public hearing is held pursuant to this section, it shall be conducted as required by Government Code Section 66451.3. Notice of the time and place thereof and a general description of the location of the proposed subdivision shall be given at least ten days before the hearing by publication once in a newspaper of general circulation and published and circulated in the county of Alameda and as stated in Section 16.08.070 of this chapter. Any interested person may appear at such hearing and shall be heard.

D. Any interested person adversely affected by a decision of the advisory agency may file an appeal on a form to be provided by the county planning department with the clerk of the board of supervisors or the planning department concerning such decision. The planning department is designated as an agent of the clerk of the board for purposes of receiving a notice of appeal. Any such appeal shall be filed within ten days after the action which is the subject of the appeal. The board of supervisors may, in its discretion, reject the appeal within fifteen (15) days or set the matter for public hearing. If the board rejects the appeal, the appellant shall be notified of such action by the clerk of the board of supervisors.

(Ord. 96-69 § 6 (part); Ord. 95-17 § 1 (part): prior gen. code § 8-2.7)

(Ord. No. 2009-17, § 2, 4-14-09; Ord. No. 2010-22, § 3, 6-29-10)

16.08.110 Time for action or report.

Any of the time limits for action or report may be extended by mutual consent of the subdivider and the advisory agency. To the extent permitted by law, the time limits specified herein and by statute shall be deemed directory, and any failure of the advisory agency or board of supervisors to comply with them shall not affect the validity of the action taken. Time limits for action shall be suspended during the time necessary for preparation of an initial study, negative declaration, environmental impact report, or any other environmental work that may be required under the California Environmental Quality Act.

(Ord. 95-17 § 1 (part): prior gen. code § 8-2.8)

16.08.120 Effective period.

The approval of a tentative map shall be effective for three years. Upon application of the subdivider during the effective period, an extension of the effective period not exceeding three years may be granted by the planning director, who is designated the advisory agency for this purpose, upon the determination that circumstances under which the map was approved have not changed to the extent which would warrant a change in the design or improvement of the tentative map. The planning director shall take action on applications for time extension within ten working days after receipt.

(Prior gen. code § 8-2.9)

## Chapter 16.12 FINAL MAPS AND PARCEL MAPS

**Sections:**

16.12.010 Title block.

Each sheet of the map shall contain a title, consisting of the tract number or parcel map number, but no commercial name or title shall appear on the map as a designation. Below the number shall appear "Township, Alameda County, California." Next the name of the surveyor or firm, county and state, the scale and date. If partly within an incorporated city, the name of the city shall also appear. If the subdivision is a condominium project, the statement "A Condominium Project" or "For Condominium Purposes" shall appear beneath the tract number.

(Prior gen. code § 8-6.0)

16.12.020 Title sheet.

The title sheet shall show the title block, owner's certificate, acknowledgements, surveyor's certificate, county surveyor's certificate, county recorder's certificate, a subdivision of, being the name, and legal designation of the tract in which the survey is located and any other statements or notes that are required.

(Prior gen. code § 8-6.1)

16.12.030 Map sheet.

The scale of the map shall be one inch equals forty (40) feet or less, unless otherwise approved by the county surveyor. Every sheet comprising the map shall show the title block, north arrow, legend, basis of bearings, sheet number and number of sheets comprising the map.

(Prior gen. code § 8-6.2)

16.12.040 Index sheet.

If there are more than three map sheets, there shall be an index sheet preceding the map sheets.

(Prior gen. code § 8-6.3)

16.12.050 Exterior boundary.

The exterior boundary of the land included within the subdivision shall be indicated by the following symbol: a long line (minimum one-half inch in length) followed by three short lines (maximum one-eighth inch each in length), the width of said line segments shall be such that they are distinctive.

(Prior gen. code § 8-6.4)

16.12.060 Lot and parcel numbering.

Lots or parcels shall be numbered in numerical order starting from numeral "1." Circles, squares, or other geometrical figures shall not be drawn around the letter or numbers. If possible, each block shall be shown entirely on one sheet; each lot or parcel must be shown entirely on one sheet.

(Prior gen. code § 8-6.5)

16.12.070 Lands for private use—For public use—Designations.

The map shall particularly define, delineate and designate all lots or parcels intended for sale or reserved for private purposes, all parcels offered for dedication for any purpose, public or private, and any private streets, with all dimensions, boundaries and courses clearly shown and defined in every case. Dimensions of lots or parcels shall be given as the net dimensions only to the boundaries of adjoining streets that will be accepted for dedication or where the street is held in fee by the county. No ditto marks shall be used. Parcels offered for dedication but not accepted shall be designated by letter, and private streets offered but not accepted for dedication shall have inserted the words, "Private Street."

(Prior gen. code § 8-6.6)

16.12.080 Lands for public use—Dedication—Offer of.

All parcels of land shown on any map and intended for any public use shall be offered for dedication for 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.

(Prior gen. code § 8-6.7)

16.12.090 Line of higher high water—Designation.

The map shall show the line of higher high water in case the subdivision is adjacent to tidewater.

(Prior gen. code § 8-6.8)

16.12.100 Streets—Side lines—Widths.

The map shall show the monument lines and side lines of all streets, the total width of all streets, the width of the portion being dedicated and the width of existing dedication, and the widths each side of the monument line, also the width of railroad rights-of-way appearing on the map.

(Prior gen. code § 8-6.9)

16.12.110 Easements—Descriptions.

The map shall show the side lines of all easements to which the lots are subject. Easements must be clearly labeled and identified, and if already of record, the recorded reference given. If any easement of record is not definitely located, a statement of the easement must appear on the title sheet. 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 set out in the owner's certificate of dedication.

(Prior gen. code § 8-6.10)

16.12.120 Dedication.

If dedication or offers of dedication are required, they may be made either by certification on the map or by separate instrument. If dedications or offers of dedication are made by separate instrument, such dedication or offers of dedication shall be recorded concurrently with, or prior to, the map being filed for record.

(Prior gen. code § 8-6.11)

16.12.130 Street names—Approval by advisory agency—Designations.

In order to avoid duplication, names to be used on new streets shall be subject to the approval of the advisory agency. If any designation be numbers, they shall be spelled out completely, using hyphens in such forms as "Twenty-Third Street." The words: "Avenue," "Boulevard," "Place," etc., shall be spelled out in full.

(Prior gen. code § 8-6.12)

16.12.140 Procedure.

Upon approval of the tentative map, prints of the final map or parcel map shall be submitted to the county surveyor for his examination far conformance to the approved tentative map, local ordinance, the Subdivision Map Act, and the Land Surveyor's Act.

(Prior gen. code § 8-6.13)

16.12.150 Data and material to accompany the submittal.

The following data and material shall be provided by the subdivider or his agent:

A. A traverse sheet or sheets in a form approved by the county surveyor giving latitudes and departures and coordinates of the boundary of the subdivision, blocks, lots, or parcel and monument lines therein;

B. A minimum of three sets of prints of the map;

C. Submit a copy of the record owner deed and/or those deeds used in the survey, i.e., senior, adjoiners and easements;

D. Submit a current title report, and deeds of trust;

E. Plans, cross sections, profiles and specifications of the street improvements, grading, drainage facilities, and erosion and siltation control measures or structures and such drawings and specifications as the county surveyor may require. The plans and drawings shall be drawn to a scale not to exceed one inch equals forty (40) feet horizontal and one inch equals four feet vertical, unless prior approval is granted by the county surveyor. Plans and drawings shall be in the form specified by the county surveyor and shall be certified by a registered civil engineer;

F. A statement of the water supply installed or available for the subdivision, including information as to the source and adequacy of the supply;

G. A statement of the sewerage works and sewage disposal installed, proposed or available for the subdivision, together with a statement from the county health officer that the proposed system will comply with all health department rules and regulations and state laws and operate without creating a public or private nuisance, or a statement shall be required where the subdivision is to be sewered by connection to an existing public sanitary sewer system;

H. The tracing of the map shall contain original signatures and shall be submitted for certification when notified by the county surveyor; in addition to the tracing of the map there shall be submitted three sets of prints of the map and one set of blue line cloth prints of the map.

(Prior gen. code § 8-6.14)

16.12.160 Fees payable for processing a final map—Evidence of payment to county surveyor.

The subdivider shall pay to the county for the purpose of checking, investigating, surveying, and other matters required by law and these regulations, the sum of one hundred dollars ($100.00) as a fee for filing a final map and in addition shall pay to the county the actual cost of the checking of the map, plans and specifications, and investigations incidental thereto. When prints of the map and accompanying data and material are presented to the county surveyor for examination, the subdivider shall give evidence to the county surveyor that he has deposited with the county treasurer the sum of one hundred dollars ($100.00) and an additional amount computed on the basis of three dollars ($3.00) for each lot or parcel shown on the map or two hundred dollars ($200.00), whichever is greater. The amount of three dollars ($3.00) per lot or parcel or two hundred dollars ($200.00), whichever is greater, is intended as an estimate of the cost of checking. At such time as the number of street monuments have been approved by the county surveyor, the subdivider shall deposit with the county treasurer a minimum amount of fifty-five dollars ($55.00) per street monument, the total amount to pay the county for the purpose of field checking the street monuments.

If the amount so deposited exceeds the actual cost to the county, the subdivider shall be reimbursed for the balance remaining. If the actual cost exceeds the deposited amount, the county surveyor shall withhold certification of the map until the subdivider presents a receipt for the deposit of the excess amount.

(Prior gen. code § 8-6.15)

16.12.170 Fee payable for processing a parcel map.

The subdivider shall pay to the county for the purpose of checking, investigating, surveying and other matters required by law and these regulations for processing a parcel map the fee fixed by the schedule adopted for that purpose by the board of supervisors and in effect at the time the parcel map is submitted for checking. Said payment shall be submitted to the county surveyor at the time the parcel map is submitted for checking.

(Prior gen. code § 8-6.16)

16.12.180 Transmittal of final map.

After the county surveyor's approval and certification of the final map, it shall be transmitted to the clerk of the board of supervisors for final action and ultimate transmittal to the county recorder.

(Prior gen. code § 8-6.17)

16.12.190 Action on parcel map.

The county surveyor is authorized to take final approval action on a parcel map as well as to reject offers of dedication. The county surveyor shall disapprove a parcel map for failure to meet or perform any of the requirements or conditions imposed by the Subdivision Map Act, this chapter, or the approved tentative map for the subdivision; provided that a parcel map shall be disapproved only for failure to meet or perform requirements or conditions which were applicable to the subdivision at the time or approval of the tentative map; and provided further that such disapproval shall be accompanied by a finding identifying the requirements or conditions which have not been met or performed. A parcel map shall not be disapproved when the failure to meet requirements or conditions is the result of a technical or inadvertent error which does not materially affect the validity of the map as may be determined by the county surveyor. If the county surveyor approves a parcel map, it shall be certified and ultimately transmitted to the county recorder.

(Prior gen. code § 8-6.18)

16.12.200 Action on final map.

The board of supervisors shall take final approval action on final maps. It shall disapprove a final map for failure to meet or perform any of the requirements or conditions imposed by the Subdivision Map Act, this chapter, or the approved tentative map for the subdivision; provided that a final map shall be disapproved only for failure to meet or perform requirements or conditions which were applicable to the subdivision at the time of approval of the tentative map; and provided further that such disapproval shall be accompanied by a finding identifying the requirements or conditions which have not been met or performed. A final map shall not be disapproved when the failure to meet requirements or conditions is the result of a technical or inadvertent error which does not materially affect the validity of the map as may be determined by the board of supervisors. If the board of supervisors approves a final map, it shall be certified and ultimately transmitted to the county recorder.

(Prior gen. code § 8-6.19)

16.12.210 Amended map.

A map may be amended in conformance with the provisions of the Subdivision Map Act and local ordinance and shall be entitled "Amended Map of \_\_\_\_\_\_\_."

(Prior gen. code § 8-6.20)

16.12.220 Amendment shown.

All corrections or omissions shall be boxed and the errors removed from the map with a certified statement by the surveyor stating, in general, the correction or omission being made in addition to the recording information of the original map.

(Prior gen. code § 8-6.21)

16.12.230 Certificate of correction.

May be used to:

A. Correct an error in the description of real property;

B. A course error that is outside of the exterior boundary of the map. The certificate of corrections shall be upon a form approved by the county surveyor.

(Prior gen. code § 8-6.22)

16.12.240 Reversion to acreage.

A map may be reverted to acreage in pursuant to all the provisions of the Subdivision Map Act and shall be entitled "Reversion to Acreage of \_\_\_\_\_\_\_."

(Prior gen. code § 8-6.23)

16.12.250 Resubdivision.

Subdivided lands may be merged and resubdivided without reverting to acreage by complying with all applicable provisions of the Subdivision Map Act.

(Prior gen. code § 8-6.24)

## Chapter 16.16 DESIGN REQUIREMENTS

**Sections:**

16.16.010 General requirements.

In addition to meeting the specific requirements of this chapter, the design of the subdivision shall, to the satisfaction of the advisory agency, conform to the land use and circulation policies of the county general plan and its component elements and any other officially adopted specific plan or land development policy, and shall conform to the county zoning ordinance, officially adopted standards for streets and roads, grading, erosion and siltation control, seismic safety, and design standards adopted by the utility, fire protection, sanitary and flood control districts in which the subdivision is located and the subdivision guidelines prepared by the county public works agency. The size and alignment of streets and walks and the location and configuration of sites for lots, schools, parks, and similar facilities shall be coordinated with the anticipated requirements of the future population, the physical characteristics of the land, and the environmental requirements of the surrounding community to produce an optimum human habitat.

(Ord. 95-17 § 1 (part): prior gen. code § 8-3.0)

16.16.020 Street alignment.

The center lines of all streets and highways which are to be extended shall be the continuation of the center lines of existing streets and highways in adjacent and contiguous territory. In cases in which the straight continuations are not desirable, the center lines may be continued by curves tangent at the intersection with the boundaries of the proposed subdivision to the center lines of existing streets or highways.

(Prior gen. code § 8-3.1)

16.16.030 Street and alley grades and widths.

A. Grades of all streets and alleys shall be established so that the subdivision is properly drained and shall conform as nearly as possible to the natural topography of the property.

B. Where a subdivision adjoins acreage, provision may be made for reasonable future access to the acreage.

C. The widths of streets shall be based on the width of streets of which they are a continuation.

D. Minimum right-of-way widths of streets which are to be accepted into the county road system shall be forty (40) feet. Easements for construction and maintenance of slopes in excavation or embankments outside the limits of street dedication may be required where topographical conditions make easements desirable.

(Prior gen. code § 8-3.2)

16.16.040 Blocks.

A. Blocks shall not exceed one thousand three hundred fifty (1,350) feet in length unless the previous adjacent layout or topographical conditions or the special design of the particular subdivision justifies a variation from the requirement. Long blocks shall be provided adjacent to main thoroughfares, in order to reduce the number of intersections.

B. At street intersections the block corners shall be rounded at the property line by a curve to provide at least one hundred (100) feet sight distance diagonally between two vehicles approaching the corner on intersecting street center lines; the radius of the curve shall be not less than twenty (20) feet.

(Prior gen. code § 8-3.3)

16.16.050 Lots.

A. Lots shall be designed to meet the minimum standard for area, median lot width, and effective lot frontage specified by the county zoning ordinance for the zoning district in which the subdivision is located. Where necessary to maintain consistency with existing development in the area, the advisory agency may require lot areas to be larger than the minimum standard for the zoning district in which the subdivision is located.

B. Lots, and the grading thereof, shall be of a size and shape to accommodate the uses that reasonably could be expected to occur under existing zoning with consideration given to the limitations of topography and soil conditions, and the need for providing access, privacy, and preserving natural features of significance.

C. Each lot in a subdivision shall have a net lot area that is as large or larger than the minimum lot area for the zoning district in which the subdivision is located. For residential subdivision, net lot area excludes private streets, access easements, stems, driveways that serve more than one lot, designated parking spaces as required under subsection D of this section, and any other unservable or unbuildable portion of the lot. For agricultural subdivisions, net lot area excludes stems (defined as the narrow portion of land connecting a street or other accessway to the main buildable portion of a lot).

D. Each lot in a residential subdivision designed for single-family detached homes shall have at least one off-site parking space or the equivalent thereof. These parking spaces are in addition to the zoning ordinance requirement for on-site parking spaces and shall meet the zoning ordinance size requirement for required parking spaces. Where a lot has adequate frontage on a public street or on a private street that is wide enough to provide on-street parking, these spaces shall be assumed to be on the street. Where a lot does not have such frontage, these spaces shall be designated on the map. These spaces, along with adequate backup area, shall not be counted in the net area of the lots.

(Ord. 95-17 § 1 (part): prior gen. code § 8-3.4)

16.16.060 Grading.

Cuts and fills shall be designed to conform with the intent, general requirements, and lot design requirements of this chapter and be consistent with the recommendations contained in the preliminary solid investigation report and the report evaluating the geological conditions present. In addition, if any portion of the proposed lots is within a designate special flood hazard area, cuts and fills shall be designed to conform with the intent and performance standards of Chapter 15.28 and Title 17 of this code. Slopes of cut and full surfaces shall not exceed two horizontal to one vertical, however, slopes shall not be steeper than is safe for the intended use.

(Prior gen. code § 8-3.5)

16.16.070 Final grading plan and related documents.

Upon completion of rough grading work and prior to the approval of the foundation for any proposed building or structure, all applicable items referred to in Section 2905(d), Chapter 29, Alameda County Building Code shall be provided to the building official for approval as set forth in said section of the building code.

(Prior gen. code § 8-3.6)

16.16.080 Erosion and siltation control.

A. Slopes. The faces of cut and fill slopes shall be prepared and maintained to control against erosion.

B. Debris Basins. Debris basins shall be installed whenever and wherever necessary to protect the subdivision and the properties below the subdivision from erosion and siltation.

C. Temporary Debris Basins. Temporary debris basins shall be installed prior to commencing grading operation and shall be maintained until the erosion and siltation control measures have been installed and are fully effective.

D. Erosion and siltation control measures shall be consistent with the recommendations contained in the preliminary soils investigation report and the report evaluating the geological conditions present.

(Prior gen. code § 8-3.7)

16.16.090 Flood hazards.

A. Where a subdivision is proposed which lies partially or totally within an area designated on a map prepared by a government agency as having a special flood hazard, the subdivider shall make provisions to minimize damage to structures and improvements, including those of public utilities. The subdivider shall provide adequate drainage to reduce exposure to such hazards and shall design water supply and sanitary sewage systems to minimize infiltration of flood waters into the systems and discharges of sewage and other contaminants into flood waters.

B. The enforcement officer shall review subdivision proposals and report to the advisory agent that:

1. The proposed subdivision minimized flood damage;

2. Public utilities and facilities are designed to minimize flood damage; and

3. Adequate drainage is provided.

(Prior gen. code § 8-3.8)

16.16.100 Dedications.

The advisory agency may require dedications or offers of dedication for any purpose specified in Article 3 of Chapter 4 of the Subdivision Map Act subject to the procedures and qualifications specified therein.

(Prior gen. code § 8-3.9)

16.16.110 Reservations.

The advisory agency may require that areas within the subdivision be reserved for parks, recreational facilities, fire stations, libraries, or other public uses based on an adopted general plan or specific plan subject to the procedures and qualifications of Chapter 4 of Article 4 of the Subdivision Map Act.

(Prior gen. code § 8-3.10)

16.16.120 Advisory agency may authorize exceptions.

The advisory agency may, in the exercise of reasonable judgment, grant variances to the requirements of this chapter for water and sewage disposal system improvements, for street alignment, grades, widths, lengths, block design, median lot width, effective lot frontage, net lot area as defined in Section 16.16.050C of this chapter, and off-site parking as defined in Section 16.16.050D of this section.

(Ord. 95-17 § 1 (part): prior gen. code § 8-3.11)

## Chapter 16.20 IMPROVEMENTS

**Sections:**

16.20.010 Duty of subdivider to improve streets, etc.

The subdivider may be required to improve all streets, highways, public ways and easements which are a part of the subdivision.

(Prior gen. code § 8-4.0)

16.20.020 Required improvements.

The required improvements shall include:

A. Grading and surfacing of streets, highways and public ways, and the drainage thereof;

B. The grading of the lots and the drainage thereof as may be required by the design of the approved tentative map;

C. The construction and installation of debris basins and the installation of erosion and siltation control measures as may be necessary to control erosion and siltation;

D. For any subdivision requiring a final map, domestic water supplied by a public utility subject to regulation by the Public Utilities Commission of the state or by a public agency authorized to levy taxes for such purposes which has consented in writing to provide such water. For all other subdivisions, a water supply of the extent required above for a subdivision, or to any lesser extent as may be determined by the health officer as sufficient to protect the public health, considering the uses and intensity of development permitted in the area of the land division;

E. For all subdivisions having lots less than forty thousand (40,000) square feet, a sanitary sewer system and sewage disposal works serving each lot administered by a public agency authorized to levy taxes for such purposes, which agency has consented in writing to provide such service. For any other subdivision a sewage disposal system of such extent as may be determined by the health officer as sufficient to protect the public health, considering the uses and intensity of development permitted in the area of the land division;

F. Construction of such structures as may be necessary for public safety, including but not limited to local neighborhood drainage, traffic safety signs and devices, and street lighting;

G. In case of a subdivision included in a fire district the subdivider shall install water mains, fire hydrants, gated connections and appurtenances to provide water supply for fire protection in conformance with standards, if any, established by the fire district, and where no such standards have been established by the fire district, or where a land division is not included in a fire district, the subdivider shall make such installations in conformity with the latest standards established by the insurance services office.

(Prior gen. code § 8-4.1)

16.20.030 Limitations for subdivision into four or less lots.

Improvements that may be required by the advisory agency for subdivision into four or less lots are limited to the dedication of rights-of-way, easements, and the construction of reasonable off-site and on-site improvements for the lots being created. Requirements for the construction of such off-site and on-site improvements shall be evidenced by an agreement or a deferred improvement agreement entered into between the subdivider and the county or a local agency, and shall be recorded on, concurrently with, or prior to the parcel map or instrument of waiver of parcel map being filed for record. Such agreement may be executed by the county engineer.

Fulfillment of such construction requirements shall not be required until such time as the construction of such improvements is required pursuant to the agreement between the subdivider and the county or local agency, except that in the absence of such an agreement, the county or local agency may require fulfillment of such construction requirements within a reasonable time following approval of the parcel map and prior to the issuance of a permit or other grant for the development of a parcel upon a finding by the county or local agency that the fulfillment of the construction requirements is necessary for reasons of:

A. The public health and safety; or

B. The required construction is a necessary prerequisite to the orderly development of the surrounding area.

(Ord. 95-17 § 1 (part): prior gen. code § 8-4.2)

16.20.040 Standards for improvements.

Except as provided in subsection 16.20.020G of this chapter, all improvements shall be constructed in accordance with standard engineering practices and in accordance with plans and specifications approved by the board supervisors.

(Prior gen. code § 8-4.3)

16.20.050 Inspection by county engineer.

The county engineer shall have the right to enter upon the site of the work for the purpose of inspecting the same and shall be furnished with samples of materials as may be required for the making of tests to determine the acceptability of the materials. This includes both tract and parcel map subdivisions.

(Ord. 95-17 § 1 (part): prior gen. code § 8-4.4)

16.20.060 Cost of inspection.

The subdivider shall pay to the county the actual cost for the inspection of the work and checking materials.

(Prior gen. code § 8-4.5)

16.20.070 Deposit to cover cost of inspection.

Under Deposit—Over Deposit. When the final map or parcel is presented to board of supervisors, the subdivider shall give evidence that he has deposited with the county treasurer a sum in the amount estimated by the county surveyor as being sufficient to cover the costs of inspection and tests. If the amount so deposited exceeds the actual cost to the county, the subdivider shall be reimbursed for the balance remaining. If the actual costs exceeds the deposited amount, the county shall stop all construction until the land divider presents a receipt for a deposit with the county treasurer of an additional sum as estimated by the county surveyor.

(Prior gen. code § 8-4.6)

16.20.080 Improvement security.

In the event an agreement for the improvement of streets or easements, or for the performance of any other act, is entered into between the county and the subdivider, the contract may be secured by any one of the methods provided in Chapter 5 of the Subdivision Map Act.

(Prior gen. code § 8-4.7)

16.20.090 Improvement security—Terms of.

The contract must also specify the time within which the work must be completed and must also specify that should the work not be satisfactorily completed within the time limit, the county shall complete all specified improvements and be completely reimbursed therefor by the owners or owner of the land division. The contract may provide for the improvements to be installed in units, for extension of time under specified conditions or for the termination of the contract upon a reversion of the division of land or a part thereof to acreage.

(Prior gen. code § 8-4.8)

16.20.100 Compliance of improvements—Record drawings and declaration.

Upon completion of improvements, the subdivider shall provide record drawings in the form required by the county surveyor prepared by a civil engineer registered by the state showing the subdivision as it has been completed. For all areas of the subdivision, except those areas within county road rights-of-way and other public lands or easements to be accepted by the county, the civil engineer shall provide in the form required by the county surveyor a declaration that all construction and improvement works have been completed in accordance with the approved plans and specifications and this chapter.

(Prior gen. code § 8-4.9)

## Chapter 16.24 SURVEYS AND MONUMENTS

**Sections:**

16.24.010 Field survey.

A final map or a parcel map based upon a field survey shall be made in conformity with the Land Surveyor's Act.

(Prior gen. code § 8-5.0)

16.24.020 Discrepancy.

Whenever the field survey indicates a discrepancy from previously recorded data, the record dimensions shall be shown in parentheses and in the same basis of bearings along with the field dimension. When the discrepancy is major and causes a conflict to titles, the subdivider shall take appropriate action to clear said title prior to the filing of the map.

(Prior gen. code § 8-5.1)

16.24.030 Compiled map.

A parcel map may be compiled from a recorded or filed map if all of the following conditions are existing:

A. The compiled map is based on a final map or parcel map filed in the office of the county recorder after January 1, 1964, or on a record of survey filed in the office of the county recorder after January 1, 1964 and prior to January 1, 1982, or on another final map, parcel map, or record of survey subject to prior approval of the county surveyor.

B. All of the exterior boundary lines are indicated by field bearings and distance on said map.

C. Sufficient survey information exists on said map to locate and retrace the exterior boundary lines.

D. At least one of these boundary lines can be established from an existing monumented line which is shown on said map.

(Prior gen. code § 8-5.2)

16.24.040 Accuracy required.

An accurate and complete boundary closure shall be made of the land to be divided. A traverse of the exterior boundaries of the tract or parcel and of each block and lot or parcel when computed, must close within a limit of error of 0.015 of a foot in latitude and/or departure. Street monumentation will be field checked to an accuracy of 0.01 of a foot per one hundred (100) feet and angle measurement to twenty (20) inches of angle and not to exceed 0.05 of a foot point position.

(Prior gen. code § 8-5.3)

16.24.050 Remainder.

If the remainder of the original parcel shown on the parcel map has a gross area of five acres or more, said remainder say be a field survey or may be indicated by deed bearings and distance shown in brackets; the bearings shall be on the same basis of bearings as the survey and the distances shall be in feet and designated as being a "Nonsurveyed Remainder."

(Prior gen. code § 8-5.4)

16.24.060 Ties to center lines.

Whenever the county surveyor or a city engineer has established the center line of a street or alley, ties shall be made to that center line and any monument or reference point thereon.

(Prior gen. code § 8-5.5)

16.24.070 Boundary monuments—Field survey.

Monuments shall be set, or witness thereto, at all major angle points, and shall be sufficient in number together with existing monuments of record for the perpetuation or facile reestablishment of any point or line of the exterior boundary.

(Prior gen. code § 8-5.6)

16.24.080 Boundary monuments—Compiled.

When the exterior boundary of a parcel map is compiled from a filed map, the point of intersection of a new division line with the exterior boundary line shall be monumented or witness thereto.

(Prior gen. code § 8-5.7)

16.24.090 Boundary monuments—Type.

Monuments set shall be durable in nature, such as an iron pipe, and efficiently placed so as not to be readily disturbed.

(Prior gen. code § 8-5.8)

16.24.100 Street monuments.

The engineer or surveyor shall set permanent interior monuments in the street areas, located so as to define the street lines bounding each block. Due consideration shall be given to visibility of monuments, one from another, for the purposes intended.

(Prior gen. code § 8-5.9)

16.24.110 Street monuments—Type.

Permanent monuments shall conform to the approved standards of the county for concrete monument for use on subdivision projects.

(Prior gen. code § 8-5.10)

16.24.120 Monuments—Time for setting.

A. Exterior boundary monuments shall be set before approval of the final map or parcel map.

B. Interior monuments may be set after approval of the final map or parcel map provided that they be set no later than the time of completion of improvements and adequate improvement security is filed with the county prior to county surveyor approval and certification of the map.

(Prior gen. code § 8-5.11)

16.24.130 Monuments—Inspection and approval.

All monuments shall be subject to inspection and approval by the county surveyor.

(Prior gen. code § 8-5.12)

16.24.140 California coordinate system.

Whenever the county surveyor has an approved system of California coordinate monuments the survey shall be tied into the approved monuments.

(Prior gen. code § 8-5.13)

## Chapter 16.28 UNDERGROUND UTILITIES

**Sections:**

16.28.010 Intent.

The regulations of this chapter are intended to promote and to provide in subdivisions improved under the provisions of this title an increase in safety and welfare for both the residents of such land division and the public in general, and to prolong the economic life of land divisions, enhance views, scenic attributes and the general living environment.

(Prior gen. code § 8-8.0)

16.28.020 Utility distribution facilities to be placed underground.

All utility distribution or communication facilities supplying electric, communication, or similar or associated services, installed in and for the purpose of supplying such service to any residentially zoned subdivision requiring the filing of a final map shall be placed underground. Underground utility distribution facilities as herein described may be required by the advisory agency for any other subdivision. Distribution facilities do not include metal poles used for street lighting, traffic signals, pedestals for police and fire system communications and alarms, pad-mounted transformers pedestals, pedestal-mounted terminal boxes and meter cabinets, substations, and facilities used to carry voltages higher than thirty-five thousand (35,000) volts.

(Ord. 95-17 § 1 (part): prior gen. code § 8-8.1)

16.28.030 Duty of subdivider.

The subdivider is responsible for complying with all requirements of this chapter, and shall make the necessary arrangements with the utility or communication companies involved for the installation of the facilities required by Section 16.28.020 of this chapter.

(Prior gen. code § 8-8.2)

16.28.040 Request for variance.

The subdivider or a public utility or communication company may request that the requirements of this chapter be varied by submitting to the advisory agency prior to action on the tentative map a statement describing fully the nature and extent of such variance, and the reasons for which it is requested.

(Prior gen. code § 8-8.4)

16.28.050 Action by the advisory agency.

The advisory agency upon consideration of a request to vary the requirements of this chapter, and upon finding from the evidence presented that a balancing of the requirements of the public health, safety and general welfare with the feasibility of meeting such requirements does not warrant the strict application of the requirements of this chapter, by reasons of economic feasibility, soil, topography, compatibility of surrounding area, future potential number of building sites affected, or that the area to be undergrounded does not include both sides of the street for at least one block or six hundred (600) feet, may grant a variance in its approval of the tentative map for installing overhead distribution facilities. The advisory agency in making the above finding to grant variances to the requirements of this chapter shall designate such conditions in connection therewith as will in its opinion best serve the intent of the chapter.

(Prior gen. code § 8-8.5)

## Chapter 16.32 SCHOOL FACILITIES DEDICATION

**Sections:**

16.32.010 Title and purpose.

This chapter shall be known as the "school facilities dedication ordinance of Alameda County." The purpose is to provide a method for financing interim school facilities necessitated by new residential developments causing conditions of overcrowding.

(Prior gen. code § 8-9.0)

16.32.020 Authority and conflict.

This chapter is enacted pursuant to Chapter 4.7, Title 7, Division 1, (Government Code Sections 65970 et seq.) and constitutes the ordinance referred to in Sections 65972 and 65974 of Chapter 4.7. In the case of any conflict between the provisions of this chapter and those of Chapter 4.7, the latter shall prevail.

(Prior gen. code § 8-9.1)

16.32.030 General plan.

The county's general plan provides for the location of public schools. Interim school facilities to be constructed from fees or land required to be dedicated, or both, shall be consistent with the general plan.

(Prior gen. code § 8-9.2)

16.32.040 Regulations.

The board may, from time to time, by resolution, issue regulations to establish administration, procedures, interpretation and policy direction for this chapter.

(Prior gen. code § 8-9.3)

16.32.050 Definitions.

"Chapter 4.7" means Chapter 4.7 (commencing with Section 65970) of Division 1 of Title 7 of the Government Code as added by Chapter 955 of the Statutes of 1977 and any subsequent amendments thereto.

"Conditions of overcrowding" means that the total enrollment of a school, including enrollment from proposed development, exceeds the capacity of such school as determined by the governing body of the district.

"Dwelling unit" means a building or a portion thereof, or a mobilehome, designed for residential occupancy by one person or a group of two or more persons living together as a domestic unit.

"Reasonable methods for mitigating conditions of overcrowding" means and includes, but is not limited to, agreements between a subdivider and the affected school district whereby temporary-use buildings will be leased to the school district or temporary-use buildings owned by the school district will be used. The board of supervisors may establish by resolution additional methods for mitigating conditions of overcrowding which should be considered by school districts.

"Residential development" means a project containing residential dwellings, including mobilehomes, of one or more units or a subdivision of land for the purpose of constructing one or more residential dwelling units. Residential development includes, but is not limited to: rezonings, conditional use permits, site development review, and any other discretionary permit for new residential use, and building permits for new residential use.

(Prior gen. code §§ 8-9.4—8-9.8)

16.32.060 Findings and notice.

Pursuant to Chapter 4.7 of the Government Code, the governing body of a school district may make findings supported by clear and convincing evidence that:

A. Conditions of overcrowding exist in one or more attendance areas within the district which will impair the normal functioning of educational programs including the reason for such conditions existing;

B. All reasonable methods of mitigating conditions of overcrowding have been evaluated; and

C. No feasible method for reducing such conditions exist.

Upon making these findings, the school district must provide the county with notice of its findings.

(Prior gen. code § 8-9.9)

16.32.070 Notice requirements.

Any notice of findings set by a school district to the county shall specify:

A. Findings specified in Section 16.32.060;

B. Mitigation measures considered by the district and any determination made concerning them by the district;

C. A map delineating the overcrowded attendance area or areas, and other attendance areas in the district;

D. Recommendations for standards for land dedication and fees based on Section 16.32.150, General Standard;

E. Such other information as may be required by board of supervisors' resolution.

(Prior gen. code § 8-9.10)

16.32.080 County concurrence.

After the receipt of any notice of findings complying with the requirement of Section 16.32.070, the board of supervisors shall determine whether it concurs in such school district findings. The board shall schedule and hold a public hearing on the matter of its proposed concurrence prior to making its determination.

(Prior gen. code § 8-9.11)

16.32.090 Findings for development approval.

Within an attendance area where the board of supervisors has concurred in a school district's findings that conditions of overcrowding exist, no discretionary permit for residential use and no building permit for new residential construction shall be approved in the attendance area, unless the board of supervisors makes one of the following findings:

A. That this chapter is derived from an ordinance adopted pursuant to Section 65974 of Chapter 4.7;

B. That there are specific overriding fiscal, economic, social, or environmental factors which in the judgment of the planning agency would benefit the county, thereby justifying the approval of a residential development otherwise subject to the interim school facilities dedication provisions of this chapter.

(Prior gen. code § 8-9.12)

16.32.100 School district schedule.

Following the concurrence and decision by the county to require the dedication of land or the payment of fees, or both, for an attendance area, the governing body of the involved school district shall submit a schedule specifying how it will use the land or fees, or both, to solve the conditions of overcrowding. The schedule shall include the school and the times when such facilities will be available. In the event the governing body of the school district cannot meet the schedule, it shall submit modification to the board of supervisors and the reasons for the modification.

(Prior gen. code § 8-9.13)

16.32.110 Developer's responsibility.

In an attendance area where the board of supervisors has concurred as provided in Section 16.32.080 of this chapter, the developer of applicable residence projects shall dedicate land, pay fees in lieu thereof, or do a combination of both, for classroom and related facilities for mandated educational programs for elementary, middle/junior high, and/or high schools.

(Prior gen. code § 8-9.14)

16.32.120 Land dedication limits.

Only payment of fees may be required for approval of projects containing fifty (50) parcels or less.

(Prior gen. code § 8-9.15)

16.32.130 Exemptions.

Residential developments shall be exempt from the requirements of this chapter when they consist only of the following:

A. Any modification or remodel of an existing legally established dwelling unit that does not create an additional dwelling unit;

B. A condominium project converting an existing apartment building into a condominium where no new dwelling units are added;

C. Any rebuilding of a legally established dwelling unit destroyed or damaged by fire, explosion, act of God or other accident or catastrophe;

D. Any rebuilding of a historical building recognized, acknowledged and designated as such by the board of supervisors, state of California, or federal government.

(Prior gen. code § 8-9.16)

16.32.140 Prior agreements.

Any agreement existing prior to the effective date of the ordinance codified in this chapter between a school district and a developer pertaining to the dedication of land and/or payment of fees for school facilities shall be considered as satisfying this chapter's requirements.

(Prior gen. code § 8-9.17)

16.32.150 General standard.

The location and amount of land to be dedicated or the amount of fees to be paid, or both shall bear a reasonable relationship and will be limited to the needs of the community for interim elementary, middle/junior high, and/or high school facilities including all mandated educational programs and shall be reasonably related and limited to the need for schools caused by the development.

(Prior gen. code § 8-9.18)

16.32.160 Fees.

A schedule for fees required to be paid in lieu of land dedication or in combination with land dedication shall be established by the board of supervisors for each attendance area where the board has concurred with the school district that conditions of overcrowding exist.

(Prior gen. code § 8-9.19)

16.32.170 Land.

When land is required to be dedicated, land shall equal in monetary value fees which would otherwise be market value of all the land in the residential project as determined by the most recent appraisal made at the direction of the board of supervisors at the time of discretionary action on the application. If the developer, or the school district, objects to this determination, either may present evidence for a different dedication requirement based on a recent appraisal of the property by a qualified real estate appraiser.

(Prior gen. code § 8-9.20)

16.32.180 Land dedication.

When land is to be dedicated, it should be offered for dedication in the same manner as prescribed in the county subdivision ordinance for park dedication.

(Prior gen. code § 8-9.21)

16.32.190 Time of performance.

Land required to be dedicated on tentative maps shall be conveyed at the time of filing final maps. All other dedication of land or payment of fees shall be made at the time the building permit is issued.

(Prior gen. code § 8-9.22)

16.32.200 Trust of land or fees.

Land and fees shall be held in trust by this county until such time as request for release of land or fees is made by the subject school district. Release of land or fees shall occur upon determination by the board of supervisors that the land or fees shall be used for appropriate interim school facilities and that said facilities would be consistent with the general plan.

(Prior gen. code § 8-9.23)

16.32.210 Fee distribution.

Where two or more separate school districts operate schools in an attendance area where the board of supervisors concurs that overcrowding conditions exist for the school districts, the board will enter into an agreement with the governing body of each school district for the purpose of determining the distribution of revenues from the fees levied pursuant to this chapter.

(Prior gen. code § 8-9.24)

16.32.220 Refunds.

If any residential development permit covered by this chapter is voided or vacated, and if the applicant so requests, any land or fees collected for the development in trust by this county shall be returned to the applicant.

(Prior gen. code § 8-9.25)

16.32.230 School district accounting.

Any school district receiving funds or land pursuant to this chapter shall maintain a separate account for any fees paid and disposition of land received and shall file a report with the board of supervisors on the balance in the account at the end of the previous fiscal year.

In addition, the report shall specify which attendance areas will continue to be overcrowded when the fall term begins and where conditions of overcrowding will no longer exist. Such report shall be filed by August 1st, of each year and shall be filed more frequently at the request of the board of supervisors.

(Prior gen. code § 8-9.26)

16.32.240 Termination of dedication requirements.

When it is determined by the board of supervisors that overcrowding conditions no longer exist in an attendance area, the county shall cease levying any fee or requiring the dedication of any land pursuant to this chapter for the area. The board shall schedule and hold a public hearing on the proposed termination prior to making its determination.

(Prior gen. code § 8-9.27)

# Title 17  ZONING

**Chapters:**

## Chapter 17.02 INTRODUCTORY PROVISIONS

**Sections:**

17.02.010 Short title.

This title may be cited as the zoning ordinance of the County of Alameda, California.

(Prior gen. code § 8-19.0)

(Ord. No. 2010-71, § 1, 12-21-10)

17.02.020 Purposes.

This title provides for the division of the unincorporated territory of the county into parts, hereinafter designated as districts, within each of which the uses of land and buildings and the height and bulk of buildings and the open spaces about buildings are regulated as specified. It is adopted to promote and protect the public health, safety, peace, comfort, convenience and general welfare, and for the following more particularly specified purposes:

A. Implement the general plan of the county by guiding and regulating development;

B. To protect the character and stability of existing development, and to encourage orderly and beneficial new development;

C. To provide adequate light, air, privacy, and convenience of access to property, and to secure safety from fire and other dangers;

D. To prevent overcrowding the land and undue congestion of the population;

E. To regulate the location of buildings and the use of buildings and land so as to prevent undue interference with existing or prospective traffic movements on public thoroughfares.

(Prior gen. code § 8-19.1)

(Ord. No. 2010-71, § 2, 12-21-10)

17.02.030 Provision for continuity.

The provisions of this title, to the extent that they are substantially the same as those in effect relative to the same subject matter prior to the effective date of its adoption, shall be construed as restatements and continuations thereof and not as new enactments.

(Prior gen. code § 8-19.2)

(Ord. No. 2010-71, § 3, 12-21-10)

17.02.040 Interpretation.

In their interpretation and application, the provisions of this title shall be held to be minimum requirements. Nothing in this title shall repeal or amend any ordinance of the county requiring a permit or a license, or both, to cover any business. The provisions of this title are not intended to impair or interfere with any existing easement, covenant or other agreement between parties; provided, however, that where this title imposes a greater restriction upon the use of buildings or premises, or upon the height or bulk of buildings and structures, or requires larger building sites, yards or other open spaces, than are imposed by any other law, ordinance, easement or agreement, then the provisions of this title shall control.

(Prior gen. code § 8-19.3)

(Ord. No. 2010-71, § 4, 12-21-10)

17.02.050 Districts.

The unincorporated territory of the county is hereby divided into districts, within each of which certain uses of land and buildings are permitted and certain other uses of land and buildings are restricted or prohibited and within which certain combinations or regulations are applied with reference to building site dimensions, yard dimensions, and other matters; all as set forth in this title.

(Prior gen. code § 8-19.4)

(Ord. No. 2010-71, § 5, 12-21-10)

17.02.060 Districts enumerated.

There are the following districts established respectively for the purposes set forth in the chapter or section of this title indicated opposite the name and symbol designating each of the following:

|  |  |  |
| --- | --- | --- |
| Name of District | Designated As: | Chapter or Section Number |
| Agricultural | A districts | Chapter 17.06 |
| Single-family residence | R-1 districts | Chapter 17.08 |
| Two-family residence | R-2 districts | Chapter 17.10 |
| Suburban residence | R-S districts | Chapter 17.12 |
| Mixed Use Residential/Commercial | M-U districts | Chapter 17.13 |
| Four-family residence | R-3 districts | Chapter 17.14 |
| Multiple residence | R-4 districts | Chapter 17.16 |
| Sunol downtown | SD districts | Chapter 17.17 |
| Planned development | PD districts | Chapter 17.18 |
| Historical preservation | HP districts | Chapter 17.20 |
| Combining site area | B districts | Chapter 17.22 |
| Combining density | D districts | Chapter 17.24 |
| Combining density variable | DV districts | Chapter 17.25 |
| Combining agricultural use | L districts | Chapter 17.26 |
| Combining air pollution control | X districts | Chapter 17.28 |
| Combining sign control | S districts | Chapter 17.30 |
| Combining floodway | F districts | Sections 17.30.040—17.30.090 |
| Highway frontage | H-I districts | Chapter 17.32 |
| Administrative office | C-O districts | Chapter 17.34 |
| Neighborhood business | C-N districts | Chapter 17.36 |
| Retail business | C-1 districts | Chapter 17.38 |
| General commercial | C-2 districts | Chapter 17.40 |
| Industrial park | M-P districts | Chapter 17.42 |
| Light industrial | M-1 districts | Chapter 17.44 |
| Heavy industrial | M-2 districts | Chapter 17.46 |
| Parking | P districts | Chapter 17.48 |
| Unclassified | U districts | Chapter 17.50 |
| Castro Valley | CV | Chapter 17.51 |

(Prior gen. code § 8-19.5)

(Ord. No. 2010-71, § 6, 12-21-10; Ord. No. 2020-66, § 12, 12-15-20)

17.02.070 Districts—Joint reference.

Wherever a regulation is applied herein to any R district, it shall be understood to apply to any district designated in Section 17.02.060 by the primary symbol "R" and shall be understood to apply to any PD district if that district contains any residential uses. The regulation of secondary housing units in certain residential districts shall be understood to apply to any PD district if that district contains any residential uses. Wherever a regulation is applied herein to any C district it shall be understood to apply to any district designated in Section 17.02.060 by the primary symbol H or C. Whenever a regulation is applied herein to any M district it shall be understood to apply to any district designated in Section 17.02.060 by the primary symbol "M."

(Prior gen. code § 8-19.6)

17.02.080 Districts—Established.

The districts and combining districts hereinabove referred to are hereby established as they are bounded and described upon the zoning map.

(Prior gen. code § 8-19.7)

17.02.090 Zoning map.

The zoning map shall show by boundaries and designation the district classification of all lands in the unincorporated area of Alameda County as such boundaries and classifications have been established by Ordinance No. 420 and any amendment thereto.

(Prior gen. code § 8-19.8)

17.02.100 Zoning map—Official copy.

The planning commission shall maintain an official copy of the zoning map.

(Prior gen. code § 8-19.9)

17.02.110 Zoning map—District boundaries.

Where uncertainty exists as to the boundaries of any of the districts as shown on the zoning map, the planning commission upon written application, or upon its own motion, shall determine the location of such boundaries.

(Prior gen. code § 8-19.10)

17.02.120 Zoning map—Amendment.

Whenever the district boundaries are changed, or when the district classification of any property is changed, by an action of the board of supervisors, pursuant to Section 17.54.720, said change shall be entered upon the zoning map and certified by the planning director.

(Prior gen. code § 8-19.11)

17.02.130 Conformity required.

Except as otherwise provided herein, land, buildings, structures and premises shall hereafter be used only in accordance with the regulations herein established.

(Prior gen. code § 8-19.12)

17.02.140 Division of lots.

Except as otherwise provided in this title, no lot or portion thereof shall be sold, transferred, divided, or set off in such a manner that any portion sold, transferred, divided, set off or portion remaining shall contain an area, area per dwelling unit, effective lot frontage, median lot width, or required yards or parking spaces less than the minimum prescribed by the regulations relating to the district in which it is situated nor shall a lot or portion thereof be sold, transferred, divided or set off in such a manner that shall create a use on any portion sold, transferred, divided, set off, or portion remaining inconsistent with the regulations relating to the district in which it is situated.

(Prior gen. code § 8-19.13)

(Ord. No. 2010-71, § 7, 12-21-10)

17.02.150 Division of lots—Rescission.

Any deed of conveyance, sale, or contract to sell made contrary to the provisions of this title is voidable at the sole option of the grantee, buyer, or person contracting to purchase, his heirs, personal representative, or trustee in insolvency or bankruptcy within one year after the date of execution of the deed of conveyance, sale, or contract to sell, but the deed of conveyance, sale, or contract to sell is binding upon any assignee or transferee of the grantee, buyer, or person contracting to purchase, other than those above enumerated, and upon the grantor, vendor, or person contracting to sell, his assignee, heir or devisee.

(Prior gen. code § 8-19.15)

(Ord. No. 2010-71, § 18, 12-21-10)

## Chapter 17.04 DEFINITIONS

**Section:**

17.04.010 Definitions.

For the purpose of this title, certain words and phrases are defined and shall be construed as set out in this and the following sections unless it is apparent from the context that they have a different meaning. All public officials, bodies, and agencies to which reference is made shall be understood to mean those of the County of Alameda, hereinafter referred to as the county, unless the text indicates otherwise.

"Access driveway" means land providing vehicular access to a building or off-street parking area, open from the ground to the sky except as may be otherwise indicated on an approved site development review plan, land use and development plan, or cluster permit plan.

"Accessory structure" means a detached subordinate structure or building on a lot, the use of which is appropriate, incidental and customarily or necessarily related to the district and to the principal use of the lot or to that of a main building on the lot.

"Accessory use" means a use which is appropriate, subordinate, incidental and customarily or necessarily related to a lawfully existing principal use on the same lot or building site and does not alter the essential characteristics of such principal use as a whole and as related to other uses permitted in the same district.

"Adult entertainment activity" means any commercial activity, whether conducted intermittently or full time, which primarily involves the sale, display, exhibition or viewing of books, magazines, films, photographs or other materials, distinguished or characterized by an emphasis on matter depicting, describing, or relating to human sex acts, or by an emphasis on male or female genitals, buttocks, or female breasts. Adult entertainment activities also include, by way of illustration only, such activities as nude encounter, dance studios, bath houses, escort studios and any establishment that offers no readily discernable product or service.

"Agricultural building" means a structure designed and constructed or used to house farm implements or farm equipment; poultry, livestock, or similar farm or ranch animals; or hay, grain, olives, nuts, hops, wine, or other horticultural products in bins, tanks, barrels, case goods, or other storage vessels. This structure shall allow for the processing, treatment, packaging, and storage of agricultural and/or horticultural products. This structure shall not be a place of human habitation, nor shall it be a place used by the public or for social events.

"Agricultural caretaker" is a person who performs at least one of the following: on-site security; maintenance or care for livestock or other ruminants, horses, bees, rabbits, fowl, poultry; operational tasks related to farming or ranching, or in a viable agricultural business or public/commercial recreational interest on the property.

"Agricultural caretaker dwelling" means any approved temporary dwelling, manufactured home, or mobile home constructed after September 15, 1971, and issued an insignia of approval by the California department of housing and community development which is placed on a temporary foundation. Such a dwelling shall be occupied by an agricultural caretaker and his/her family.

"Agricultural employee" means a person engaged in agriculture, including: Farming in all its branches, and, among other things, includes the cultivation and tillage of the soil, dairying, the production, cultivation, growing, and harvesting of any agricultural or horticultural commodities (including commodities defined as agricultural commodities in Section 1141j(g) of Title 12 of the United States Code), the raising of livestock, bees, furbearing animals, or poultry, and any practices (including any forestry or lumbering operations) performed by a farmer or on a farm as an incident to or in conjunction with such farming operations, including preparation for market and delivery to storage or to market or to carriers for transportation to market.

"Agricultural employee housing" means any living quarters or accommodations of any type, including mobilehomes, which comply with the building standards in the State Building Standards Code or an adopted local ordinance with equivalent minimum standards for building(s) used for human habitation, and buildings accessory thereto, where accommodations are provided by any person for individuals employed in farming or other agricultural activities, including such individuals' families. The agricultural employee housing is not required to be located on the same property where the agricultural employee is employed.

"Alcohol outlet" means any retail establishment engaged in the business of selling alcoholic beverages for off-premises consumption; a winery, pursuant to the definition of winery in this section is exempted.

"Artisan/maker space" means a work, studio, and/or retail space for artisans, craftsmen, and small-scale manufacturers to work in an individual or communal setting, where the activities produce little to no vibration, noise, fumes, or other nuisances more typical in industrial or manufacturing uses.

"Billboard" means a permanent structure or sign used for the display of offsite commercial messages and shall include and be synonymous with "advertising sign."

"Block" means that property abutting one side of a street or lane which lies between the two nearest intersecting or intercepting streets, or between the nearest such cross street and an intersecting railroad right-of-way, watercourse, body of water, or the end of the street or lane.

"Boarding house" means a building or portion thereof, other than a hotel or restaurant, where four or more persons are provided with lodging or meals or both meals and lodging for a consideration and pursuant to previous arrangement. The term includes a lodging house or rooming house, but does not include institutional uses such as a hospital or an orphanage or home for the aged.

"Board of zoning adjustments" means any board of zoning adjustments established under Administrative Code Sections 2.40.120 et seq. having jurisdiction over the specific application.

"Building" means any structure erected for the support, shelter, or enclosure of persons, animals, or property. For the purposes of this title, a swimming pool shall be considered a building. A vehicle regulated by the State Vehicle Act shall not be deemed to be a building. (See also Accessory building, Main building).

"Building site" means the land area, consisting of one or more recorded lots which constitute a unit, either under one ownership or for use as a condominium, which is to be considered as a site either occupied or to be occupied by a main building or buildings and accessory buildings or by a principal use and accessory uses together with the effective lot frontage on a street, and the yards, open spaces and parking and loading spaces required by these regulations.

"Cannabis" shall have the same definition as in Business and Professions Code Section 26001(f), which defines "cannabis" as 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 purposes of this chapter, "cannabis" does not mean "industrial hemp" as defined by Section 11018.5 of the California Health and Safety Code.

"Cannabis cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming, including any associated storage, of Cannabis, including cannabis for medicinal use and/or adult-use in accordance with the Medicinal and Adult-Use Cannabis Regulation and Safety Act.

"Cannabis distribution" means the procurement, sale, and transport of cannabis and cannabis products between entities licensed pursuant to the Medicinal and Adult-Use Cannabis Regulation and Safety Act.

"Cannabis retailer" means a premises where cannabis, cannabis products, or devices for the use of cannabis or cannabis products are offered, either individually or in any combination, for retail sale, including an establishment that delivers cannabis and cannabis products as part of a retail sale under the authority of the California Compassionate Use Act, the Medical Marijuana Program Act, or the Medicinal and Adult-Use Cannabis Regulation and Safety Act and as regulated by Chapter 6.108 of this code.

"Cannabis testing laboratory" means a laboratory, facility, or entity that offers or performs tests of cannabis or cannabis products in accordance with the Medicinal and Adult-Use Cannabis Regulation and Safety Act.

"Canopy" means an accessory structure, enclosure. or shelter constructed of fabric or pliable material supported in any manner, except by air or the contents it protects, without side walls or drops on seventy-five (75) percent or more of the perimeter.

"Channel" means a natural or artificial watercourse of perceptible extent, with a definite bed and banks to confine and conduct continuously or periodically flowing water. Channel flow thus is that water which is flowing within the limits of the defined channel.

"Clubhouse" means a building used for social or civic activities by a group of persons who are members of an organized and incorporated association, excluding any building where the chief activity is one customarily carried on as a business, or where a room or suite of rooms is frequently rented or regularly offered for a rent to nonmember groups or to the general public.

"Code enforcement manager" means the planning director or designee.

"Combined cannabis operation" means a cannabis operation that engages in at least three of the following commercial cannabis operations on one premises: cultivation, distribution, manufacturing and retail in accordance with the Medicinal and Adult-Use Cannabis Regulation and Safety Act.

"Community clubhouse" means a clubhouse containing facilities for neighborhood civic and social activities, operated by and for residents in the vicinity, where residence in the area served is a requisite for membership.

"Community facility" means any of the following buildings or uses:

1. Church or rectory or convent, when constructed of frame or more lasting materials;

2. School, attendance at which satisfies the requirements of the compulsory education law of state;

3. Nursery school (except in Castro Valley (Castro Valley Urbanized Areas), where nursery school is not allowed. See instead "Day care center".);

4. Library, college, university;

5. Outdoor recreation facility;

6. Public utility building or uses, excluding such uses as a business office, storage garage, repair shop or corporation yard;

7. Newspaper carrier distribution center, having an area not in excess of one hundred (100) square feet.

"Day care center" means a commercial or non-profit child day-care facility designed and approved to typically accommodate twelve (12) or more children. Includes infant centers, preschools, sick-child centers, and school-age day-care facilities. These may be operated in conjunction with other approved land uses, or as an independent land use.

"Directional tract sign" means a temporary sign not exceeding thirty-two (32) square feet in area and fifteen (15) feet in height and containing only the name and location of a subdivision and directions for reaching same. For the purposes of Section 17.54.080, "directional tract sign" as defined herein is a principal use.

"Drive-in business" means a business activity consisting of sales or service activity predominately rendered to patrons who normally receive the product or utilize the service, at least in part, while in automobiles upon the premises. This definition includes drive-in restaurants and automobile car washes.

"Drive-in restaurant" means any eating establishment which contains any of the following characteristics:

1. The floor area available for public use is less than one-half of the total floor area;

2. Has an outside service window; or

3. Is designed for or uses service to patrons while in automobiles on the premises.

"Drive-in theater" means a place where automobiles are admitted for a fee and parked so the occupants can view a motion picture display while seated therein.

"Dwelling" means any building or portion of a building which contains one or more dwelling units. The term includes one-family dwelling, two-family dwelling and multiple dwelling.

"Dwelling group" means two or more separate one-family, two-family or multiple dwellings occupying a single building site.

"Dwelling unit" means a room, or a suite of connecting rooms, designed for use as separate living quarters or used as separate living quarters and constituted as a separate and independent housekeeping unit and having its own kitchen facilities consisting of one or more of the following: sink, cooking facility or refrigerator. Any detached structure containing a full bath including a water closet, basin and shower or tub or containing a half bath including a water closet and basin, the area of which half bath exceeds twenty (20) square feet, shall also be considered a dwelling unit.

The term "dwelling unit" shall also include for the purposes of this title a one-family mobilehome constructed after July 15, 1976, and issued an insignia of approval by the U.S. Department of Housing and Urban Development and permanently located on a foundation system.

"Effective lot frontage" means whichever is smaller of the following two specified dimensions of a lot or a building site:

1. The length of the front lot line, excluding any frontage on the stub end of a street where there is no approved turning circle; or

2. The least lot width at any point between the front line of the lot and the point at which the median lot width is measured.

"Elevation or level of one hundred (100) year flood" means the water surface elevation of the one hundred (100) year flood as shown on officially adopted flood plain maps (as amended) of Alameda County.

"Emergency shelter" means housing with minimal supportive services for homeless persons that is limited to occupancy of six months or less by a homeless person.

"Flood" means a temporary condition of partial or complete inundation of normally dry land areas.

"Flood plain" means the land adjacent to a watercourse or body of water which has been or may hereafter be covered by floodwater from flood flows associated with watercourses conveying the regulatory one hundred (100) year flood.

"Floodway" means the channel of a stream and those portions of the flood plain adjoining the channel that are required to carry and discharge the flood flows associated with the regulatory one hundred (100) year flood without raising the water surface elevation of that flood more than one foot at any point, as shown on officially adopted flood plain maps (as amended) of Alameda County.

Floor Area. See Section 17.52.900.

"Grade" is the lowest point of elevation of the finished surface of the ground between the exterior wall of the building and a point five feet distant from the said wall or the lowest point of elevation of the finished surface of the ground between the exterior wall of the building and the property line if it is less than five feet distant from said wall. In the case of walls parallel to and within five feet of a public sidewalk, alley, or other public way, the "grade" shall be the elevation of the sidewalk, alley, or public way.

"Height of building" means the vertical distance between the average level of the highest and lowest points of that portion of the lot covered by the building and the topmost point of the structure.

"Hog ranch" means any premises where more than three hogs, with any unweaned litters, are maintained.

"Home occupation" means an activity customarily carried on by a resident of a dwelling unit, when activity is incidental and subordinate to the use and maintenance of the dwelling unit as living quarters, as regulated in Section 17.52.210.

"Hospital" means a general hospital as licensed by the State Department of Public Health or psychiatric or alcoholism hospital as licensed by the State Department of Mental Health.

"Hotel" means a building other than a motel containing six or more bedrooms where overnight lodging, without individual cooking facilities, is offered to the public for compensation, primarily for the accommodation of transient guests. A motel shall not be deemed to be a hotel.

"Innovative or unconventional housing to alleviate homelessness" means housing consisting of one or more housing units with no mandated limit on length of stay, linked to onsite or offsite services that assist the resident in retaining the housing, improving their health status, maximizing their ability to live and, where possible, work in the community, and operated under program requirements that call for the recirculation of the unit to another eligible program recipient at regular intervals (for example, every one to two years). Innovative or unconventional housing can include but is not limited to facilities such as tiny homes or micro-housing, co-housing, small sheds, sleeping cabins, and commercial modular buildings or shipping containers reconfigured for sleeping and living.

"Interior lot" means a lot other than a corner lot.

"Kennel" means any premises where more than six dogs or more than twelve (12) cats, over the age of weaning, are boarded, kept, or otherwise maintained.

"Key lot" means the first lot to the rear of a corner lot, the front lot line of which is a continuation of the side lot line of the corner lot.

"Lane" means either (1) a public thoroughfare which is not improved or maintained by the state, the county or a city; or (2) any private road over which the different owners of three or more separate lots have a common easement for vehicular passage extending to a street. The term does not include any thoroughfare defined in this section as a street, or any driveway lying entirely within a single building site.

"Lot" means a separate parcel of land shown and identified as such on the records of the county recorder or on the final map of an approved and recorded subdivision, excluding therefrom for the purposes of this title any portion thereof which lies within a street, within a lane, or within a fenced-off flood control easement.

Lot, corner. "Corner lot" means a lot or a building site in one ownership which is bounded on two or more adjacent sides by street lines, or by a street line and a lot line abutting a lane, where the angle of intersection does not exceed one hundred thirty-five (135) degrees.

"Lot depth" means the average horizontal distance between the front lot line and the rear lot line (or between two opposite front lot lines) measured on a line running in the general direction of the side lot lines; provided, however, that if either side lot line has any angular change of direction, it shall be measured along a straight line starting from the midpoint of the front lot line so as to bisect the front half of the lot, and extended to the rear lot line.

"Lot line" means one of the boundary lines of a lot or a building site. A street lot line is any lot line abutting a street and for the purposes of this title, does constitute a boundary line of a lot unless otherwise specified in the document creating the lot. The front lot line is a street lot line upon which the effective lot frontage is required to be provided. On a corner lot, the shorter street lot line is the front lot line; in the case of a square corner lot, either of the equal street lot lines may be designated to be the front lot line. An interior through lot abutting two approximately parallel streets has two front lot lines. The lot line generally opposite the front lot line is the rear lot line, and need not be a straight line. All other lot lines are side lot lines.

"Lot width" means the horizontal distance between the side lot lines measured at a right angle to the line along which lot depth is measured.

"Main building" means one in which the principal use of the lot upon which it is situated is being conducted. A dwelling in any R district is a main building.

"Manufactured home" means a factory-assembled structure or structures transportable in one or more sections, that is built on a permanent chassis and designed to be used as a dwelling unit with or without a permanent foundation acceptable to the authority having jurisdiction and where connected to the required utilities, including but not limited to plumbing, electrical, heating and air-conditioning contained therein and installed in accordance with Title 25.

"Median lot width" means the lot width at the midpoint of the line along which the lot depth is measured.

"Medical cannabis," "medical cannabis product," or "cannabis product" means a product containing cannabis, including, but not limited to, concentrates and extractions, intended to be sold for use by medical cannabis patients in California pursuant to the Compassionate Use Act of 1996 (Proposition 215), found at Section 11362.5 of the Health and Safety Code. For the purposes of this chapter, "medical cannabis" does not include "industrial hemp" as defined by Section 11018.5 of the Health and Safety Code.

"Medical or residential care facility" means a residential care home as licensed by State Department of Social Services, Community Care Licensing Division. This term also includes group living quarters housing persons placed by an authorized agency for rehabilitation purposes and is funded by or licensed by or is operated under the auspices of an appropriate federal, state or county governmental agency.

"Microbrewery" means a commercial facility for manufacture, blending, fermentation, processing, and packaging of malt liquor that produces less than ten thousand (10,000) barrels (three hundred ten thousand (310,000) U.S. gallons) of beer annually. At all times, microbreweries must have a current and applicable California Alcohol Beverage Control License.

"Microbrewery related uses" means various uses accessory to a microbrewery which must be clearly incidental and subordinate to the primary microbrewery use. The term includes various temporary, cultural and social events (catered banquets, receptions, concerts, food and beer festivals, etc.) that would not compromise the primary agricultural operation or appearance of the property.

"Mobilehome" means a factory-assembled structure or structures transportable in one or more sections, that is built on a permanent chassis and designed to be used as a dwelling unit with or without a permanent foundation where connected to the required utilities, including but not limited to plumbing, electrical, heating and air-conditioning contained therein and installed in accordance with Title 15.

"Mobilehome park" is any building site where one or more mobilehome sites are rented or leased or held out for rent or lease or for sale as a unit of a condominium to accommodate mobilehomes used for human habitation.

"Mobilehome site" is that portion of a mobilehome park designed or used for the occupancy of one mobilehome.

"Motel" means a building, or group of one-story or two-story buildings on the same lot or building site, whether detached or in connected rows, containing bedrooms or dwelling units independently accessible from the outside, which are occupied, or offered to the public to be occupied, by automobile travelers. The term includes any building or group of buildings designated as an auto court, motor lodge, tourist court or by any other title or sign intended to identify it as providing for rental or over-night accommodation primarily to motorists.

"Multiple dwelling" means a building or portion of a building containing three or more dwelling units. (Nonconforming use, see Section 17.52.610)

"Name plate" means a sign which serves exclusively to designate the name, or the name and occupation of a person residing in the dwelling.

"Non-taxable merchandise" means products, commodities, or items not subject to California state sales tax.

"Obstruction" means any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel rectification, bridge, conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, structure or matter in, along, across, or projecting into any channel, watercourse, or regulatory flood-hazard area such as a combining FW or FF district, which may impede, retard, or otherwise adversely affect the flow of water or characteristics thereof, whether in itself or by catching or collecting debris carried by such water, or that is placed where the flow or water might carry the same downstream to the possible damage of life or property.

"Officially adopted flood plain maps" means the boundaries of the flood fringe and floodway and flood elevations, delineated on the county zoning map, based on maps prepared by the county flood control and water conservation district and based on flood insurance rate maps of the Federal Insurance Administration, U.S. Department of Housing and Urban Development.

"Olive oil mill" means a commercial, bonded facility for the processing of olives into olive oil.

"One-family dwelling" means a building containing one and only one dwelling unit.

"One hundred (100) year flood" means the highest level of flooding that, on the average, is likely to occur once every one hundred (100) years in a given area (i.e., that has a one per cent chance of occurring in any given year), as shown on officially adopted flood plain maps (as amended) of Alameda County.

"Original decision-maker" is the individual, board or commission that makes a decision as provided for in this title that is appealed to the board of supervisors pursuant to Section 17.54.670.

"Outdoor recreation facility" means a park, or a playing field for active games, a golf course, a swimming pool, a camp or picnic grounds, a vacation resort or guest lodge, or a neighborhood recreation area, together with such buildings or uses as are accessory to the recreational use. The term does not include drive-in theater, a drive-in business, carnival, circus or trampoline courts.

"Ownership" means possession of property in fee by a person or persons, firm, corporation or partnership, individually, jointly or in any other manner whereby the property is under single or unified control. The person, firm, corporation or partnership exercising such ownership of a parcel of land shall be referred to herein as the owner thereof.

"Parking lot" means any premises the principal use of which is to provide a hard-surfaced open space for the parking of passenger automobiles. (For parking spaces, See Sections 17.52.750—17.52.810)

"Place of public assembly" means any place designated for or used in whole or in part for the congregation or gathering of fifty (50) or more persons in one building whether such gathering be of a public, restricted or private nature. Assembly hall, church, school auditorium, recreation hall, or pavilion, place of amusement, dance hall, opera hall, motion picture house, established for the consumption of food or drink, or other similar establishments are included in this term.

"Planning director" means the planning director of this county or his designated representative.

"Primary building frontage" means the width of the projection of a business building, or establishment within a building, onto a single straight line chosen by the establishment to be the primary building frontage and normally parallel to a lot line or street. A primary building frontage line must lie in a roadway or public open space area such as a private street, an open plaza or square or an auto parking area. A business may have only one primary building frontage. Any sign area accrued and authorized by one building frontage may not be attached to any other frontage.

"Principal use" means a use permitted, excluded, conditioned, or allowed to continue as a nonconforming use by this title, as distinguished from an auxiliary or subordinate use permitted only when accessory to another use lawfully occupying the same lot or building site. Every dwelling in an R district is a principal use.

"Private garage" means a building or portion of a building used for the parking of one or more automobiles where the use is accessory to the principal use of the building or the premises structure or an enclosed space that is accessory to a residential use, and that is intended for and principally used to park and/or keep motor vehicle(s), and that accommodates legal and/or legal, non-conforming parking space(s), and which is attached or detached from the primary residential structure(s); other, incidental use(s) for a garage as defined herein are for the keeping and/or storage of tools, equipment, personal belongings, and/or such appliances as washer/dryer, water heaters, and heaters, which are directly under the care of and for personal use of a resident on the property; provided that such incidental uses do not restrict or eliminate the principal use of the garage.

"Production facility, wine, beer, or olive oil" means a commercial area for wine, beer or olive oil making, bottling, and storage. Production facilities may include crushing, pressing, blending or similar treatments of grapes, olives, hops or similar agricultural products required for making wine, beer or olive oil; cooperage; fermentation tanks; onsite aboveground disposal of wastewater; aging, processing and storage of wine, beer or olive oil in bulk; bottling and storage of bottled wine, beer or olive oil; office, marketing and laboratory uses.

"Race track" means a facility for the competitive or recreational use of motor vehicles which are principally designed or commonly used for off-highway or recreational purposes.

"Recreational vehicle" means a camp car, motorhome, travel trailer or tent trailer, with or without motive power, designed for human habitation for recreational or emergency occupancy, with a living area less than two hundred twenty (220) square feet, excluding built-in equipment such as wardrobes, closets, cabinets, kitchen units, or fixtures, bath and toilet rooms, and is identified as a recreational vehicle by the manufacturer.

"Recreational vehicle park" is any building site where one or more sites are rented or leased or held out for rent or lease for one or more days to owners or users of recreational vehicles.

"Recreational vehicle site" is that portion of a recreational vehicle park designed or used for the occupancy of one recreational vehicle.

"Recycling center" means a facility that collects, sorts, and temporarily stores glass, metals and other reusable materials. The term does not include any processing activity.

"Remote testing facility" means an outdoor facility for testing electronic equipment where an environment that is relatively free from radio frequency interference is a prerequisite for successful testing. The term includes research and testing facilities of a low-intensity nature, where there is a minimum of permanent construction and minimum impact on existing and potential agricultural uses. Accessory buildings may be included.

"Sales floor area" means interior building space devoted to the sale of merchandise, but excluding restrooms, office space, storage space, automobile service areas, or open-air garden sales spaces. For the purpose of determining whether total sales floor area of a single business establishment exceeds one hundred thousand (100,000) square feet, the aggregate square footage of all adjacent stores which share common check stands, management, a controlling ownership interest, warehouses, or distribution facilities shall be considered a single establishment.

"Salvage yard" means the use of more than two hundred (200) square feet outside of a building on any lot for the handling or storage of scrap metal, paper, rags or discarded, salvaged or waste materials of any kind. The term includes automobile wrecking yards, used lumber yards, junk yards and storage of salvaged house wrecking and structural steel materials and equipment, but does not include yards for the storage or sale of operable used cars or machinery or the incidental processing of used or salvaged materials where permitted, as part of a lawful manufacturing or industrial use on the same premises.

"Sanitary land fill" means an engineering method of disposing solid waste on land by spreading the waste in thin layers, compacting it to the smallest practical volume and covering the waste with earth each day in a manner which prevents environmental pollution.

"Secondary building frontage" means the width of the projection of a business building, or establishment within a building, onto a single straight line which is either perpendicular to or parallel to the primary building frontage line. A secondary building frontage line must lie in a roadway or public open space area such as a private street, an open plaza or square or an auto parking area. A business may have a maximum or three secondary building frontages. Any sign area accrued and authorized by one building frontage may not be attached to any other frontage.

"Secondary (or accessory dwelling) unit" means an accessory, second or secondary unit that is an attached or detached residential dwelling unit which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as one single-family dwelling is situated. An accessory dwelling unit also includes the following:

1. An efficiency unit, as defined in Section 17958.1 of Health and Safety Code.

2. A manufactured home, as defined in Section 18007 of the Health and Safety Code.

"Self-service laundry" means an establishment where the clothing of individual patrons is laundered separately in coin-operated or automatic washing machines and dryers. The term includes establishments containing dry cleaning units with a capacity not in excess of forty (40) pounds and using non-inflammable fluids whose flash point is not less than 138.5 degrees Fahrenheit. The term does not include any establishment which involves the use of a vehicular pick-up or delivery service.

"Shelter" means a building or structure, the use of which is for the protection of persons against blasts, fire, heat and radio-active fallout as described in Appendix 2, Annex 10, National Shelter Plan of the United States Office of Civil and Defense Mobilization; but not as a place of human habitation except during periods of natural disaster, enemy attack and authorized local, state and federal civilian defense alerts, tests or other authorized activities. The term includes both disaster and fallout shelters.

Sign, Advertising. "Advertising sign" means any lettered or pictorial matter or device which advertises or informs about a business organization or event, goods, products, services or uses, not available on the property upon which the sign is located and does not include directional tract sign or community identification sign.

Sign, Apartment Rental. "Apartment rental sign" means a temporary sign located on a site to advertise for initial occupancy of new apartment complexes.

"Sign area" means and is computed as, the entire area within a single continuous rectilinear perimeter of not more than eight straight lines enclosing the extreme limits of the sign; provided that in the case of a sign with more than one exterior surface containing sign copy, the sign area shall be computed as the sum of all exterior faces. Any structure or part of a structure which departs from standard architectural procedures in an attempt to attract attention to the premises by reason of color scheme, building shape or unusual architectural features shall be considered sign area and subject to all pertinent regulations. Where two advertising signs are located on the same supporting members and the two faces of the signs are at no point more than two feet from one another, each face shall be considered a single sign.

Sign, Business. "Business sign" means any lettered, figured or pictorial matter or device which serves to identify and indicate pertinent facts concerning a business, professional service, manufacturing or industrial enterprise lawfully conducted on the same premises. The term excludes the advertisement of products not handled or services not available on the premises.

Sign, Community Identification. "Community identification sign" means a sign serving to identify or otherwise describe a city or an unincorporated community. Community identification signs are regulated by Section 17.52.530.

Sign, Directional Tract. "Directional tract sign" means a temporary sign containing only the name and location of a subdivision and directions for reaching the same. For the purposes of Section 17.54.080 directional tract sign as defined herein is a principal use.

Sign, Freestanding. "Freestanding sign" means a sign supported from the ground by a structure installed primarily for the purpose of supporting the sign. A sign attached to or painted on a fence shall be considered a freestanding sign.

Sign, Identification. "Identification sign" means a sign or device on the premises which serves exclusively to designate the name or the name and use of a public or semi-public building, or of a community facility, medical or residential care facility, multiple dwelling or dwelling group, or mobilehome park, or to inform the public as to the use of a lawful parking area, recreation area, or other open use permitted in the district. The term may include bulletin boards for churches or auditoriums.

Sign, Pedestrian. "Pedestrian sign" means any lettered, figured, or pictorial matter or device which is oriented towards pedestrian traffic and serves to identify and indicate pertinent facts concerning a business or professional service lawfully conducted on the same premises.

Sign, Political. "Political sign" means a sign placed on the premises for the sole purpose of advocating the election of a declared candidate for public office, or relating to an election proposition on the ballot.

Sign, Projecting. "Projecting sign" means a sign which projects twelve (12) inches or more beyond the wall or other vertical surface of the building or structure to which it is attached.

Sign, Sale or Lease. "Sale or lease sign" means a sign which serves exclusively to indicate, with pertinent information the offer for sale or lease of the real property or premises upon which it is located, or the original sale or lease of the real property in a tract or subdivision upon which the sign is located. A directional tract sign when not located in the tract or subdivision shall not be deemed to be a sale or lease sign.

Sign, Service Station Price. "Service station price sign" means a sign indicating gasoline prices and available services when accessory to an existing service station.

Sign, Shopping Center Master Identification. "Shopping center master identification sign" means an on-site identification sign for a shopping center.

Sign, Subdivision Sale, Rent or Lease. "Subdivision sale, rent or lease sign" means a temporary sign located within the boundaries of a subdivision to advertise the original sale, rental, or lease of building lots or dwellings.

Sign, Wall. "Wall sign" means a sign attached to, erected against or painted on a building or similar structure, and not extending above or outward from the building face or parapet or structural canopy more than twelve (12) inches. Additionally, signs not extending more than thirty (30) inches from a wall parapet or roof, located below the height of the roof of the building to which they are affixed, may be considered a wall sign if approved by site development review pursuant to Section 17.54.210 of this title.

Sign, Wind. "Wind sign" means flags, banners, pennants or other similar devices which consist of any material made in any shape, which are fastened together or placed in such manner as to move by wind pressure.

"SRO (single room occupancy) facility" means a building containing six or more SRO units or guestrooms, designed for occupancy of no more than two persons, and which is intended, designed, or is used as a primary residence by guests.

"SRO (single room occupancy) unit" means a room that is used, intended or designed to be used by no more than two persons as a primary residence, but which lacks either or both a self-contained kitchen or bathroom.

"Storage garage" means a building or portion of a building available to the general public for the storage of personal property as distinguished from any property stored prior to sale or distribution in conjunction with a business enterprise.

"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 be tween the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a basement, cellar, or unused underfloor space is more than six feet above grade as defined herein, or more than fifty (50) percent of the total perimeter, or is more than twelve (12) feet above grade as defined herein at any point, such basement, cellar, or unused underfloor space shall be considered a story.

"Street" means a public thoroughfare improved and maintained by the state, the county or city, or thoroughfare the design and improvement of which has been approved by the planning director, which affords the principal means of access to abutting property. (See also Lane)

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

"Structure" means anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground.

"Superstore" means a single business establishment engaged in retail sales to the general public whose total sales floor area exceeds one hundred thousand (100,000) square feet and that devotes more than ten percent of sales floor area to the sale of non-taxable merchandise. This definition excludes wholesale clubs or other business establishments selling primarily bulk merchandise and charging membership dues or otherwise restricting merchandise sales to customers paying a periodic access fee.

"Supportive housing" means housing with no limit on length of stay, that is occupied by the "target population", and that is linked to onsite or offsite services that assist the supportive housing resident in retaining the housing, improving his or her health status, and maximizing his or her ability to live and, when possible, work in the community.

"Target population" means persons with Low Income having one or more disabilities, including mental illness, HIV or AIDS, substance abuse, or other chronic health conditions, or individuals eligible for services provided under the Lanterman Developmental Disabilities Services Act (California Welfare and Institutions Code, section 4500 et seq.) and may include, among other populations, adults, emancipated youth, families, families with children, elderly persons, young adults aging out of the foster care system, individuals exiting from institutional settings, veterans, and homeless people.

"Tasting room, on-site" means an establishment where wine, beer, or olive oil produced on the premises are served to the public for on-site consumption; also may include offsales of beer, wine or olive oil produced on the premises.

"Tavern" means any premises where alcoholic beverages are offered for sale for consumption on the premises as its principal function, including: restaurants having a separate bar or lounge area; a restaurant with a bar located within the restaurant seating area; a restaurant which offers "happy hour" for alcoholic beverages or where alcohol sales are in any way promoted; or, a restaurant which advertises the sale of alcohol in any way other than on the menu; a winery, pursuant to its definition in this section, is exempted.

"Tent" means an accessory structure, enclosure, or shelter constructed of fabric or pliable material supported in any manner except by air or the contents it protects.

"Transitional housing" and "transitional housing development" mean buildings configured as rental housing developments, but operated under program requirements that call for the termination of assistance and recirculation of the assisted unit to another eligible program recipient at some predetermined future point in time, which shall be no less than six months.

"Travel trailer" means a vehicle other than a motor vehicle, which is designed or used for human habitation and which may be moved upon a public highway without a special permit without violating any provision of the Vehicle Code.

"Two-family dwelling" means a building containing two and only two dwelling units.

"Unattended collection box" means any unattended container, receptacle, or similar device that is located on any property within unincorporated Alameda County, used for soliciting and collecting items of clothing or other salvageable personal property. This term does not include recycle bins for the collection of recyclable materials governed or regulated pursuant to the Alameda County General Ordinance Code.

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

"Useable open space" means the area on a building site designed and reserved for outdoor living, recreation, pedestrian access and planting, calculated pursuant to Section 17.52.390.

"Winery" means a commercial, bonded facility for the fermentation and processing of grapes or other produce into wine, or the refermentation of still wine into sparkling wine.

"Winery (or olive oil mill) related uses" means various uses accessory to a winery (olive oil mill) which must be clearly incidental and subordinate to the primary winery (olive oil mill) use. The term includes various temporary, cultural and social events (catered banquets, receptions, concerts, food and wine festivals, races, etc.) that would not compromise the primary agricultural or appearance of the property. The term includes wine (olive oil) marketing activities that are otherwise disallowed by the definition of winery or olive oil mill. The term includes up to two overnight room accommodations for use by winery (olive oil mill) business associates.

"Yard" means any space on the same lot with a building which space is open and unobstructed from the ground upward except as otherwise provided in Section 17.52.330 for required yards.

Yard, Front. The measurement of the required depth of a front yard, or the required width of the street side yard of a corner lot, shall be horizontal and inward from the street lot line at a right angle; provided, however, that where any street's official right-of-way line, or any future width line pursuant to Chapter 17.100, traverses the building site, the measurement here specified shall be taken from such right-of-way line, such future width line, or from the street lot line, whichever line is located a greater distance from the center line of the street. Through lots have two front lot lines, from each of which a front yard shall be measured.

Yard, Rear. The required rear yard is the horizontal measurement inward from the rear lot line at a right angle. Where the side lot lines converge, or nearly converge, a line ten feet long within the lot, parallel to the front lot line and at a maximum distance therefrom shall be deemed to be the rear lot line for the purposes of this section. The rear yard shall extend across the full width of the rear of the building site.

Yard, Required. "Required yard" means that portion of any yard which fulfills the yard requirements of this title; or in the case of an existing deficiency, all of such existing deficient yard.

Yard, Side. The required side yard is the horizontal measurement inward from the side lot line at a right angle. The required width of a street side yard shall be the horizontal measurement inward and at a right angle from the street lot line. The side yard shall extend along the side lot line from the front lot line to the rear lot line.

(Ord. 2008-33 § 1; Ord. 2006-18 § 2 (part); Ord. 2004-97 § 1; Ord. O-2003-47 § 1; Ord. 2002-60 § 1 (part); Ord. 96-15 § 1 (part): Ord. 93-86 § 3; Ord. 93-33 § 1; prior gen. code §§ 8-20.0—8-23.8)

(Ord. No. 2010-7, § 2, 2-9-10; Ord. No. 2010-22, § 1, 6-29-10; Ord. No. 2010-49, § 3, 9-14-10; Ord. No. 2010-71, § 9, 12-21-10; Ord. No. 2012-58, §§ 1—3, 4-10-12; Ord. No. 2013-26, § 2, 7-16-13; Ord. No. 2017-13, § 2(Pt. 1), 4-25-17; Ord. No. 2017-35, § 2, 9-12-17; Ord. No. 2017-37, § 2, 9-12-17; Ord. No. 2018-23, § 2, 5-8-18; Ord. No. 2018-24, § 2, 5-8-18; Ord. No. 2019-10, § 2, 4-23-19; Ord. No. 2019-23, § 2, 6-18-19; Ord. No. 2019-44, § 2, 10-15-19; Ord. No. 2020-66, § 2, 12-15-20; Ord. No. 2023-15, § 2, 4-13-23)

## Chapter 17.06 A DISTRICTS

**Sections:**

17.06.010 Agricultural districts—Intent.

Agricultural districts, hereinafter designated as A districts, are established to promote implementation of general plan land use proposals for agricultural and other nonurban uses, to conserve and protect existing agricultural uses, and to provide space for and encourage such uses in places where more intensive development is not desirable or necessary for the general welfare.

(Prior gen. code § 8-25.0)

17.06.020 Reserved.

Ord. No. 2010-71, § 10, adopted December 21, 2010, repealed § 17.06.020, which pertained to map designation and derived from prior gen. code § 8-25.1.

17.06.030 Permitted uses.

The following principal uses are permitted in an A district:

A. On a building site, one one-family dwelling or one-family mobilehome either constructed after September 15, 1971, and issued an insignia of approval by the California Department of Housing and Community Development and permanently located on a permanent foundation system, or constructed after July 15, 1976, and issued an insignia of approval by the U.S. Department of Housing and Urban Development and permanently located on a foundation system;

B. Crop, vine or tree farm, truck garden, plant nursery, greenhouse, apiary, aviary, hatchery, horticulture;

C. Raising or keeping of poultry, fowl, rabbits, sheep or goats or similar animals;

D. Grazing, breeding or training of horses or cattle;

E. Winery, microbrewery or olive oil mill:

1. Includes accessory uses such as administrative offices, visitor centers, on-site tasting rooms, production and maintenance facilities, cooperage, and marketing activities, provided such uses are consistent with general plan policies and any other use permit limitations.

2. The uses may include a visitor center: A day use facility which may include winery, microbrewery, or olive oil mill tours and on-site tasting, retail sales of wine, beer, or olive oil and related items, display of historical or educational items related to the wine region, or art, etc. not to exceed thirty (30) percent of the floor area of the production facility of the winery, microbrewery, or olive oil mill.

3. Permanent kitchen facilities are not allowed.

4. The sale of food, complementary food service, or provision of picnic facilities is limited to cold foods prepared off-site, such as but not limited to bread, cheese, crackers, sandwiches or salads, in conjunction with wine, beer, or olive oil tasting and sales, provided such food service remains incidental and subordinate to the tasting and sales.

5. An administrative conditional use permit (ACUP) may be requested for one temporary mobile outdoor business as an accessory or incidental use to the winery, microbrewery or olive oil mill. The mobile outdoor business must adhere to county environmental health requirements.

6. The design for the facilities for the accessory uses permitted by this section, including all signage, must balance, maintain and enhance the visual quality of the agricultural land.

7. In addition to the provisions in subsections 1 through 7 above, microbrewery uses must comply with the following requirements:

a. Microbreweries are not allowed in the resource management (RM) land use designation as defined in the East County Area Plan.

b. Microbrewery visitor center hours are limited to a maximum of twenty-four (24) hours per week from Sunday through Saturday and shall close by 10:00 p.m.

Additional and extended hours may be obtained through a conditional use permit (CUP).

c. A minimum of fifteen (15) percent of the non-water ingredients used in the beer making process must be grown in Alameda County.

F. Fish hatcheries and rearing ponds;

G. Public or private riding or hiking trails;

H. One secondary dwelling unit per building site on parcels twenty-five (25) acres in size or larger that are zoned for not more than one dwelling and have one but no more than one dwelling unit on the parcel subject to the following requirements:

1. The secondary dwelling unit shall be on the same building envelope as the primary unit;

2. On parcels less than one hundred (100) acres, the secondary dwelling unit shall be no larger than two thousand (2,000) square feet in area; on parcels one hundred (100) acres or larger the secondary dwelling unit shall be no larger than two thousand five hundred (2,500) square feet in area;

3. The secondary dwelling unit shall be subject to site development review pursuant to Section 17.54.210 et seq.; and

4. The secondary dwelling unit shall be subject to and consistent with the provisions of the county policy on secondary dwelling units in agricultural and rural residential areas. Notwithstanding the requirements of Section 17.54.220(A), for secondary units on parcels that are less than one hundred (100) acres in size, the planning commission shall decide applications for site development review under this section, and a public hearing is required;

I. Occupancy of agricultural caretaker dwelling(s) subject to a site development review as provided in Section 17.06.090, when found by the planning director to be necessary to provide housing for the agricultural caretaker and his/her family;

J. Boarding stables and riding academies subject to the following requirements:

1. The boarding stable shall be subject to site development review pursuant to Sections 17.6.90 and 17.54.210 et seq., except as follows:

a. The appropriate board of zoning adjustments shall decide applications for site development review under this section, and a public hearing is required;

b. Where the holder of an existing conditional use permit is found to be in compliance with all conditions of the existing conditional use permit, the planning director shall recommend approval of a site development review for the facility Alameda County Ordinance Code, Title 17, Zoning Ordinance with no new conditions except as allowed by the county policy for equine facilities in the A (agricultural) district, to the appropriate board of zoning adjustments;

c. The planning director may modify the requirements of Section 17.54.230 consistent with the provisions of the county policy of equine facilities in the A (agricultural) district; and specifically may waive the requirement that the site plan be prepared by licensed civil engineer, land surveyor, architect, landscape architect, or a registered building designer;

2. The boarding stable shall be subject to and consistent with the provisions of the county policy for equine facilities in the A (agricultural) district;

3. Site development reviews under this section shall not have an expiration date. However, they shall be subject to a periodic review for compliance with conditions of approval of the site development review and with relevant county ordinances, including all water quality rules and regulations. Such reviews shall occur every five years at minimum, or as needed to ensure compliance;

4. Any changes in the scope of the boarding stable operation shall require a modification to the site development review;

5. Site development review approval under this section shall not be construed to confer upon a boarding stable any exemption from any health, nuisance, or public safety ordinances or their subsequent enforcement or confer any other unique privileges upon a stable;

K. Agricultural employee housing consisting of not more than thirty-six (36) beds in a group quarters or twelve (12) units or spaces designed for use by a single family or household subject to a site development review as described provided in Sections 17.06.090 (Agricultural districts—Site development review—When required), 17.60.100 (Agricultural districts—Agricultural employee housing), and 17.54.210 (Site development review).

(Ord. 2004-55 § 1; Ord. 2003-47 § 1; Ord. 99-2 § 1; Ord. 93-33 § 2 (part); prior gen. code § 8-25.2)

(Ord. No. 2010-71, § 11, 12-21-10; Ord. No. 2012-58, § 4, 4-10-12; Ord. No. 2019-10, § 2, 4-23-19)

17.06.035 Conditional uses—Planning commission.

The following are conditional uses and shall be permitted in an A district only if approved by the planning commission, sitting as a board of zoning adjustments, as provided in Sections 17.54.135 and 17.06.010.

A. Sanitary landfill not to include processing salvaged material;

B. Flight strip;

C. Cemetery;

D. Composting facility.

(Ord. 2000-53 § 1 (part); Ord. 99-26 § 1 (part))

17.06.040 Conditional uses—Board of zoning adjustments.

In addition to the uses listed in Sections 17.52.480 and 17.52.580, the following are conditional uses and shall be permitted in an A district only if approved by the board of zoning adjustments, as provided in Sections 17.54.130 and 17.06.010:

A. Outdoor recreation facility;

B. Animal hospital, kennel;

C. Killing and dressing of livestock, except when accessory as specified in Section 17.06.050;

D. Public or private hunting of wildlife or fishing, and public or private hunting clubs and accessory structures;

E. Packing house for fruit or vegetables, but not including a cannery, or a plant for food processing or freezing;

F. Flight strip when accessory or incidental to a permitted or conditional use;

G. Hog ranch;

H. Drilling for and removal of oil, gas or other hydrocarbon substances;

I. Radio and television transmission facilities;

J. Public utility building or uses, excluding such uses as a business office, storage garage, repair shop or corporation yard;

K. Administrative offices accessory to the principal use on the premises including activities by the same occupancy which are not related to the principal use providing such activities not so related are accessory to the administrative office activity;

L. Administrative support and service facilities of a public regional recreation district;

M. Privately owned wind-electric generators;

N. Remote testing facility;

O. Winery, microbrewery, or olive oil mill related uses, except in the resource management (RM) land use designation as defined in the east county area plan.

P. Agricultural employee housing for thirty-seven (37) or more beds in group quarters or thirteen (13) units or spaces designed for use by a single-family or household;

Q. Cannabis retailer, subject to and in compliance with Chapter 6.108 of this code;

R. Cannabis cultivation and associated cannabis distribution, subject to and in compliance with Chapter 6.106 of this code and Section 17.52.585 of this title;

S. Combined cannabis operation, subject to and in compliance with Chapter 6.109 of this code and Section 17.52.585 of this title;

T. Cannabis testing laboratory, subject to and in compliance with Section 17.52.586 of this title; and

U. Soil importing in accordance with Chapter 17.66.

(Ord. 2004-55 § 2; Ord. 2002-60 § 1 (part); Ord. 2000-53 § 1 (part); Ord. 99-26 § 1 (part); Ord. 94-40 § 1; Ord. 3-33 § 2 (part); prior gen. code § 8-25.3)

(Ord. No. 2010-71, § 12, 12-21-10; Ord. No. 2012-58, § 5, 4-10-12; Ord. No. 2017-35, § 2, 9-12-17; Ord. No. 2018-23, § 2, 5-8-18; Ord. No. 2018-24, § 2, 5-8-18; Ord. No. 2019-10, § 2, 4-23-19; Ord. No. 2019-23, § 2, 6-18-19; Ord. No. 2019-43, § 2, 10-15-19)

17.06.050 Accessory uses.

When located in an A district, and subordinate to a lawful use, the following accessory uses, in addition to those normally accessory to a dwelling are permitted:

A. Farm buildings, including stable, barn, pen, corral, or coop;

B. Building or room for packing or handling products raised on the premises;

C. Killing and dressing of poultry, rabbits and other small livestock raised on the premises, but not including an abattoir for sheep, cattle or hogs;

D. Stand for the sale at retail of items produced or raised on the premises having a ground coverage not in excess of four hundred (400) square feet;

E. Accessory business signs not exceeding an aggregate area of twenty (20) square feet; having no moving parts or illumination;

F. Administrative office, maintenance building, when accessory to a principal use permitted by Section 17.06.040(O).

(Prior gen. code § 8-25.4)

17.06.060 Building site.

Every use in an A district shall be on a building site having an area not less than one hundred (100) acres.

(Prior gen. code § 8-25.5)

17.06.070 Yards.

The yard requirements in an A district are as follows, subject to the general provisions of Section 17.52.330:

A. Depth of front yard: not less than thirty (30) feet;

B. Depth of rear yards: not less than ten feet;

C. Width of side yards: not less than ten feet.

(Prior gen. code § 8-25.6)

17.06.080 Signs.

No sign in an A district shall be illuminated. No more than two sale or lease signs shall be placed on any lot, and no such sign shall have an area in excess of twenty-four (24) square feet, except in conformance with Sections 17.52.460 and 17.52.470 (Subdivision). In other respects, Section 17.52.020 shall control.

(Prior gen. code § 8-25.7)

17.06.090 Site development review—When required.

Site development review pursuant to Section 17.54.210 shall be required for:

A. Every new dwelling or addition to existing dwelling exceeding five hundred (500) square feet or thirty (30) feet in height hereafter placed on a parcel in the A district;

B. Agricultural caretakers dwelling(s), when found by the planning director to be necessary to provide housing for the agricultural caretaker and his/her/their family(ies); subject to the following provisions:

1. Initial site development review shall include submittal of required applications and materials and completion of an agricultural caretaker dwelling report, signed by the property owner.

2. The agricultural caretaker dwelling report submitted under subsection (B)(1) above shall include a description of the agricultural use on the site, a description of the commercial/economic viability of the agricultural use, a discussion of the personnel necessary to implement or oversee the agricultural use, and a description of the proposed agricultural dwelling and/or housing. If the agricultural use is intended primarily for private interest rather than commercial viability, or if the dwelling unit is intended for a use not otherwise related directly to commercially viable agriculture on the site, such as onsite security, the report shall provide this information.

3. Site development review approval shall normally be issued for a period of five years, except in instances where it is found by the planning director that a demonstrable need for more stringent controls (e.g., history of non-compliance with county codes, public health/safety issues, community concerns) is necessary.

4. The planning director may extend initial site development review for additional five-year periods of time at the end of each preceding five-year period, subject to review and approval, of an updated agricultural caretaker dwelling report, signed by the property owner.

5. During the effective period of the site development review, any changes relating to the information contained in the agricultural caretaker dwelling report (including changes to the dwelling unit itself, changes in maximum occupancy requirements, and/or changes in the size/nature/scope of the agricultural use being served by the presence of the caretaker onsite) shall be reported to the planning department, and shall be subject to the same procedures and regulations as those applicable to the initial application.

6. The planning director shall have the discretion to disapprove the initial and/or subsequent site development review and agricultural caretaker dwelling report if found that compliance with the requirements and intent set forth in this title is exercised unlawfully or contrary to any condition or limitation of its issuance.

7. The planning director may, at his/her discretion, hold a public hearing regarding an initial or subsequent site development review application.

8. The approval of a site development review for an agricultural caretaker dwelling of any kind on any parcel, regardless of the existing legal building site status of the parcel, shall not be construed to establish upon that same, or any adjacent or commonly-owned parcel, building site status.

9. The agricultural caretaker dwelling is intended to remain only as long as necessary to support either onsite security or the primary agriculture use on the site, and when the need for this support terminates the dwelling must be completely removed or converted to another legal use.

10. Violations of this section shall be subject to enforcement, penalties and abatement under Chapters 17.58 and 17.59 of this title.

C. Boarding stables and riding academies subject to the provisions of Section 17.06.030(J) of this chapter; and

D. Agricultural employee housing subject to the provisions of Section 17.06.095 of this chapter.

(Ord. 2004-55 § 3; Ord. O-2003-47 § 1)

(Ord. No. 2012-58, § 6, 4-10-12)

17.06.095 Agricultural districts—Agricultural employee housing.

Agricultural employee housing is subject to site development review pursuant to Sections 17.06.060 (Agricultural Districts—Site Development Review—When Required) and 17.54.210 (Site Development Review) et seq. and to the following provisions:

A. The site development review shall include submittal of required applications and materials including an agricultural employee housing report, signed by the property owner.

B. The agricultural employee housing report submitted under subsection A above shall include the following information:

1. Entity responsible for housing maintenance and up-keep;

2. Description of whether the housing will be used on a permanent, temporary, and/or seasonal basis;

3. Total number of people to be housed on-site at any one time;

4. Description of the housing, including whether the structures will be permanent and/or temporary, intended as units for families, one person, or several persons, and cost of the units and utilities to the agricultural employees;

5. Location(s) where the agricultural employees will work;

6. There must be adequate water and sewer available to service the development, as determined by the department of environmental health;

7. The housing must be located off prime and productive agricultural land, or on the parcel where no other alternatives exist on site, on the least viable portion of the parcel;

8. The development shall incorporate proper erosion and drainage controls; and

9. Parking shall be provided in accordance with Section 17.52.910 (Parking spaces required—Residential buildings).

C. Site development review approval shall normally be issued for a period of five years, except in instances where it is found by the planning director that a demonstrable need for more stringent controls (e.g., history of non-compliance with county codes, public health/safety issues, community concerns) is necessary.

D. The planning director may extend the initial site development review for additional five-year periods of time at the end of each preceding five-year period, subject to review and approval, of an updated agricultural employee housing report, signed by the property owner.

E. During the effective period of the site development review, any changes relating to the information contained in the agricultural employee housing report (including changes to the dwelling unit itself, and changes in maximum occupancy requirements) shall be reported to the planning department, and shall be subject to the same procedures and regulations as those applicable to the initial application.

F. The planning director shall have the discretion to disapprove the initial and/or subsequent site development review and agricultural employee housing report if found that compliance with the requirements and intent set forth in this title is exercised unlawfully or contrary to any condition or limitation of its issuance.

G. The planning director may, at his/her discretion, hold a public hearing regarding an initial or subsequent site development review application.

H. The approval of a site development review for an agricultural employee housing of any kind on any parcel, regardless of the existing legal building site status of the parcel, shall not be construed to establish upon that same, or any adjacent or commonly-owned parcel, building site status.

I. Violations of this section shall be subject to enforcement, penalties and abatement under Chapters 17.58 and 17.59 of this title.

(Ord. No. 2012-58, § 7, 4-10-12)

Ord. No. 2012-58, § 7, adopted April 10, 2012, set out provisions intended for use as § 17.06.100. For purposes of classification, and at the editor's discretion, these provisions have been included as § 17.06.095.

17.06.100 High-intensity oil and gas operations—Definition.

A. For the purposes of this chapter, high-intensity oil and gas operations means any of the following uses:

1. Well stimulation treatment — any treatment of a well designed to enhance oil or gas production or recovery by increasing the permeability of the formation. Well stimulation treatments include, but are not limited to, hydraulic fracturing treatments and acid well stimulation treatments, as defined in Title 14 California Code of Regulations Section 1761.

2. Enhanced recovery wells — wells that are injected with brine, water, steam, polymers, carbon dioxide, or other gasses into oil-bearing formations to recover residual oil and in some limited applications natural gas. The injected fluid thins (decreases the viscosity) or displaces small amounts of extractable oil and gas, which is then available for recovery. Examples include waterflood injection that uses imported water, shallow well water or surface water and/or injects chemicals designed for well production increase (other than those found naturally in produced water or which are necessary for routine well maintenance or clarifier use), steamflood injection, and cyclic steam injection.

3. Hydraulic fracturing or "fracking" — a well stimulation treatment that, in whole or in part, includes the pressurized injection of hydraulic fracturing fluid into an underground geologic formation in order to fracture the formation, thereby causing or enhancing the production of oil or gas from a well.

4. Acid fracturing — a well stimulation treatment that, in whole or in part, includes pressurized injection of acid into an underground geologic formation in order to fracture the formation, thereby causing or enhancing the production of oil or gas from a well.

5. Acid matrix stimulation treatment — an acid treatment conducted at pressures lower than the applied pressure necessary to fracture the underground geologic formation.

6. Acid well stimulation treatment — a well stimulation treatment that uses, in whole or in part, the application of one or more acids to the well or underground geologic formation. The acid well stimulation treatment may be at any applied pressure and may be used in combination with hydraulic fracturing treatments or other well stimulation treatments. Acid well stimulation treatments include acid matrix stimulation treatments and acid fracturing treatments.

7. Disposal or storage of the substances used in or the waste or byproducts of the uses listed above, including but not limited to hydraulic fracturing fluid, acid well stimulation fluid, well stimulation treatment fluid, flowback fluid, wastewater or produced water, other than storage associated with transportation through the county for disposal or storage outside of the county.

8. Disposal or storage in pits or sumps of any wastewater or produced water that is a byproduct of the uses listed in Section 17.06.040(I).

B. High-Intensity oil and gas operations do not include produced water injection, storage tanks for produced water, and routine well cleaning and maintenance activities. Waterflood injection that does not use imported water, shallow well water or surface water and/or does not inject chemicals designed for well production increase (other than those found naturally in produced water or which are necessary for routine well maintenance or clarifier use) is excluded and does not constitute high-intensity oil and gas operations, as long the injection complies with all applicable state law and regulations.

(Ord. No. 2016-38, § 1, 8-2-16)

17.06.110 High-intensity oil and gas operations—Prohibited use.

High-intensity oil and gas operations are prohibited in the unincorporated areas of the county. The development, construction, installation, or use of any facility, appurtenance, or above-ground equipment, whether temporary or permanent, mobile or fixed, accessory or principal, in support of high-intensity oil and gas operations is prohibited in the unincorporated areas of the county.

(Ord. No. 2016-38, § 1, 8-2-16)

17.06.120 High-intensity oil and gas operations—Amortization period.

A. Within one year of the effective date of this section, the owners and operators of any existing high-intensity oil and gas operations shall bring land uses into conformity with this chapter.

B. The one-year amortization period permitted by subsection A may be extended on a case-by-case basis if the planning commission determines that a high-intensity oil and gas operations owner or operator has shown that one year is not a reasonable amortization period pursuant to state law and Section 17.06.140. Any extension may be only for the minimum length of time necessary to provide a reasonable amortization period.

(Ord. No. 2016-38, § 1, 8-2-16)

17.06.130 High-intensity oil and gas operations—Consistent with state and federal law.

The provisions of Sections 17.06.100 through 17.06.120 shall not be applicable to the extent, but only to the extent, they would violate the constitution or laws of the United States or of the State of California.

In the event a property owner contends that application of these provisions effects an unconstitutional taking of property, the property owner may request, and the planning commission may grant, an exception to application of these provisions in accordance with Section 17.06.140.

(Ord. No. 2016-38, § 1, 8-2-16)

17.06.140 High-intensity oil and gas operations—Nonconforming uses.

A. A person claiming a vested right to uses prohibited by Sections 17.06.100 through 17.06.120 must apply to the county for a determination that the vested right exists. Notice of the hearing shall be made in accordance with the procedures provided by Section 17.54.830. The determination shall be made by the planning commission, following a public hearing. Upon a determination that the vested right exits, the use may continue subject to the sections of this title concerning nonconforming uses (Sections 17.52.610 through 17.52.730). The determination shall be appealable to the Board of Supervisors pursuant to Sections 17.54.670—17.54.710.

B. The applicant for any exemption shall submit as part of the application any and all evidentiary support reasonably available sufficient to establish the basis for the claim of exemption.

C. A determination of exemption application shall be approved or conditionally approved only if the review authority first makes the following findings:

1. The applicant obtained prior to the effective date of this section, a vested right to conduct high-intensity oil and gas operations;

2. Approving or conditionally approving the application is required because the applicant has shown that a one year amortization period is not a reasonable amortization period pursuant to state law; and

3. The extension is no longer than the minimum length of time necessary to provide a reasonable amortization period.

D. No enforcement action shall be taken against any owner or operator of an existing facility if an application for a determination of exemption has been filed in compliance with this section and the application has not expired, or final action to deny the application has not occurred.

(Ord. No. 2016-38, § 1, 8-2-16)

## Chapter 17.08 R-1 DISTRICTS

**Sections:**

17.08.010 Single-family residence districts—Intent.

Single-family residence districts, hereinafter designated as R-1 districts, are established to provide for and protect established neighborhoods of one-family dwellings, and to provide space in suitable locations for additional development of this kind, together with appropriate community facilities and allowance for restricted interim cultivation of the soil compatible with such low-density residential development.

(Prior gen. code § 8-26.0)

17.08.015 Single-family residence districts—Reference to Residential Design Standards and Guidelines.

Residential development within the R-1 districts located within the planning areas of San Lorenzo, Ashland, Cherryland, Fairview, or Castro Valley (areas within the Castro Valley Urbanized Area) shall be subject to the "Residential Design Standards and Guidelines for the Unincorporated Communities of West Alameda County," as amended. On matters not provided for in the Residential Design Standards and Guidelines for the Unincorporated Communities of West Alameda County, the respective regulations in this zoning ordinance shall apply.

(Ord. No. 2014-39, § 1, 10-7-14, eff. 1-1-15)

17.08.020 Map designations.

Every parcel designated on the zoning map as being in the R-E district, as well as every parcel designated as being in a R-1 district, shall be subject to these regulations for a single-family residence district, and shall be designated R-1 upon any revised zoning map.

(Prior gen. code § 8-26.1)

17.08.030 Permitted uses.

The following principal uses are permitted in an R-1 district:

A. One one-family dwelling;

B. Field crop, orchard, garden.

C. In Castro Valley (areas within the Castro Valley Urbanized Area), Small family day cares and large family day cares.

(Prior gen. code § 8-26.2)

(Ord. No. 2012-58, § 8, 4-10-12; Ord. No. 2020-66, § 3, 12-15-20)

17.08.040 Conditional uses.

In addition to the uses listed in Sections 17.52.480 and 17.52.580, the following are conditional uses in an R-1 district, and shall be permitted only if approved by the board of zoning adjustments as provided in Section 17.54.130:

A. Community facility;

B. Community clubhouse;

C. Parking lot, only when established to fulfill the residential parking requirements of this title for a use on an abutting lot or lots;

D. Plant nursery or greenhouse used only for the cultivation and wholesale of plant materials;

E. Medical or residential care facility for seven or more persons per unit as regulated in Section 17.54.133 (Conditional uses—Residential, medical care, transitional and supportive housing facilities);

F. Licensed transitional or supportive housing for seven or more persons per unit as regulated in Section 17.54.133 (Conditional uses—Residential, medical care, transitional and supportive housing facilities);

G. Mobilehome parks subject to the provisions provided in sections 17.52.1000 to 17.52.1065;

H. Unattended collection box(es) placed in conjunction with an approved community facility as defined in Section 17.04.010; and

I. Soil importing in accordance with Chapter 17.66.

(Ord. 2002-60 § 1 (part); prior gen. code § 8-26.3)

(Ord. No. 2012-58, § 9, 4-10-12; Ord. No. 2013-26, § 3, 7-16-13; Ord. No. 2019-43, § 2, 10-15-19)

17.08.050 Accessory buildings and accessory uses.

(See Sections 17.52.180—17.52.320, 17.52.470 and 17.52.730.)

(Prior gen. code § 8-26.4)

17.08.060 Building site.

Except as otherwise specified in the case of a combining district, every use in an R-1 district shall be on a building site having a median lot width not less than fifty (50) feet and an area not less than five thousand (5,000) square feet. A corner building site shall have a median lot width of not less than sixty (60) feet.

(Prior gen. code § 8-26.5)

17.08.070 Yards.

Except as otherwise specified in the case of a combining district, the minimum requirements for yards in R-1 districts shall be as follows, subject to the provisions of Section 17.52.330:

A. Depth of front yard: Twenty (20) feet;

B. Depth of rear yard: Twenty (20) feet;

C. Width of side yards: not less than five feet plus one foot for each full ten feet by which the median lot width exceeds fifty (50) feet up to a maximum requirement of ten feet, except that in every case the side yard on the street side of a corner lot shall have a width not less than ten feet.

(Prior gen. code § 8-26.6)

17.08.080 Yards—Alternate provision of rear yard.

Section 17.08.070 notwithstanding, a rear yard may have a depth of not less than ten feet if that portion of the rear yard less than twenty (20) feet in depth is compensated by open area within the same or adjacent yards on the same building site that exceed side and rear yard requirements by an area at least equal to extent of building coverage of the twenty (20) foot, rear yard. Said compensating area shall be considered a required yard in accordance with Section 17.52.330.

(Prior gen. code § 8-26.6.1)

17.08.090 Yards—Dwelling facing side yard.

No dwelling shall be so oriented upon a lot in an R-1 district as to have its front or living room entrance opening into a side yard less than ten feet wide, extending from said entrance to the front yard.

(Prior gen. code § 8-26.7)

17.08.100 Height of buildings.

No dwelling shall have a height of more than two stories, except as provided by Section 17.52.090 nor shall any building or structure have a height in excess of twenty-five (25) feet, except as provided for in this section and by Section 17.52.090. Provided the parcel has a median lot depth of at least one hundred (100) feet, a median lot width of at least seventy (70) feet, and effective lot frontage of at least fifty (50) feet, the height of a dwelling may be increased by two feet for each full ten feet than the median lot width exceeds seventy (70) feet up to a maximum height of thirty (30) feet.

(Ord. 97-70 § 1: prior gen. code § 8-26.8)

17.08.110 Floor area ratio.

A. In Castro Valley only (areas within the Castro Valley Urbanized Area) the maximum floor area ratio for a one-family dwelling shall be as follows:

|  |  |  |  |
| --- | --- | --- | --- |
| Lot Size1 | Maximum FAR  Formula2 | Maximum FAR (SF2 ) | Notes |
| At 5,000 s.f. | 0.5 FAR | 2,500 s.f. | SDR required to  exceed Max s.f.2 |
| 5,001—9,999 s.f. | 0.3 FAR for every s.f. of lot area above 5,000, plus 2,500 s.f. | 3,500 s.f. | SDR required to  exceed Max s.f.2 |
| 10,000—20,000 s.f. | 0.40 or 4,500 s.f., whichever is less | 4,500 s.f. | SDR required to  exceed Max s.f.2 |
| 20,000+ s.f. | 0.10 FAR, plus 2,500 s.f., or 10,000 s.f. whichever is less | 10,000 s.f. | SDR required to  exceed Max s.f.2 |
| 1.  Portions of a lot included in private street easements shall be excluded from lot size calculation when determining floor area ratio. | | | |
| 2.  Floor area ratio (FAR) is the total square feet of floor area divided by the total square feet of lot area. Floor area excludes areas devoted to parking, garages and covered porches/patios, and areas located below finished grade, if the ceiling does not extend more than five feet above finished grade. | | | |

B. Site Development Review Required. New construction or additions which would exceed the maximum floor area ratio or maximum square footage as provided above, may be considered and are subject to site development review.

(Ord. No. 2020-66, § 4, 12-15-20)

## Chapter 17.10 R-2 DISTRICTS

**Sections:**

17.10.010 Two-family residence districts—Intent.

Two-family residence districts, hereinafter designated as R-2 districts, are established to provide for the protection of established neighborhoods in which duplex dwellings are located, and generally to provide a transitional area between single- and multiple-residence districts or between single-residence districts and areas of light commercial use, for additional development of this kind.

(Prior gen. code § 8-27.0)

17.10.015 Two-family residence districts—Reference to Residential Design Standards and Guidelines.

Residential development within the R-2 districts located within the planning areas of San Lorenzo, Ashland, Cherryland, Fairview, or Castro Valley (areas within the Castro Valley Urbanized Area) shall be subject to the "Residential Design Standards and Guidelines for the Unincorporated Communities of West Alameda County," as amended. On matters not provided for in the Residential Design Standards and Guidelines for the Unincorporated Communities of West Alameda County, the respective regulations in this zoning ordinance shall apply.

(Ord. No. 2014-39, § 2, 10-7-14, eff. 1-1-15)

17.10.020 Permitted uses.

The following principal uses are permitted in an R-2 district:

A. One or two one-family dwellings, or one two-family dwelling;

B. Field crop, orchard, or garden;

C. Medical or residential care facility for up to six persons per unit; and

D. Licensed transitional or supportive housing for up to six persons per unit.

(Prior gen. code § 8-27.1)

(Ord. No. 2012-58, § 10, 4-10-12)

17.10.030 Conditional uses.

In addition to the uses listed in Sections 17.52.480 and 17.52.580, the following are conditional uses in R-2 districts, and shall be permitted only if approved by the board of zoning adjustments as provided in Section 17.54.130:

A. Community facility;

B. Community clubhouse;

C. Parking lot, only when established to fulfill the residential parking requirements of this title for a use on an abutting lot or lots;

D. Plant nursery or greenhouse used only for the cultivation and wholesale of plant materials;

E. Medical or residential care facility for seven or more persons per unit as regulated in Section 17.54.133 (Conditional uses—Residential, medical care, transitional and supportive housing facilities);

F. One dwelling or a dwelling group containing altogether not more than three dwelling units, where the lot has an area not less than seven thousand five hundred (7,500) square feet;

G. Licensed transitional or supportive housing for seven or more persons per unit as regulated in Section 17.54.133 (Conditional uses—Residential, medical care, transitional and supportive housing facilities);

H. Mobilehome parks subject to the provisions provided in Sections 17.52.1000 to 17.52.1065; and

I. Unattended collection box(es) placed in conjunction with an approved community facility as defined in Section 17.04.010.

(Ord. 2002-60 § 1 (part); Prior gen. code § 8-27.2)

(Ord. No. 2010-71, § 13, 12-21-10; Ord. No. 2012-58, § 11, 4-10-12; Ord. No. 2013-26, § 4, 7-16-13)

17.10.040 Building site.

Except as otherwise specified in the case of a combining district, every use in an R-2 district shall be on a building site having a median lot width not less than fifty (50) feet and an area not less than five thousand (5,000) square feet. A corner building site shall have a median lot width of not less than sixty (60) feet.

(Prior gen. code § 8-27.3)

17.10.050 Yard requirements.

Except as otherwise specified in the case of a combining district, the yard requirements for R-2 districts shall be the same as those set forth for R-1 districts in Section 17.08.070.

(Prior gen. code § 8-27.4)

17.10.060 Yard requirements—Dwelling facing side yard.

No dwelling shall be so oriented upon a lot in a R-2 district as to have its front or living room entrance opening into a side yard less than ten feet wide, extending from said entrance to the front yard.

(Prior gen. code § 8-27.5)

17.10.070 Height of buildings.

No dwelling shall have a height of more than two stories, except as provided by Section 17.52.090; nor shall any building or structure have a height in excess of twenty-five (25) feet, except as provided by Section 17.52.090.

(Prior gen. code § 8-27.6)

17.10.080 Space between buildings.

Whenever more than one dwelling occupies the same lot in an R-2 district, all separate dwellings shall have between them an open space of at least twenty (20) feet in width, exclusive of any parking space.

(Prior gen. code § 8-27.8)

## Chapter 17.12 R-S DISTRICTS

**Sections:**

17.12.010 Suburban residence districts—Intent.

Suburban residence districts, hereinafter designated as R-S districts, are established to regulate and control the development in appropriate areas of relatively large building sites at various densities in harmony with the character of existing or proposed development in the neighborhood, and to assure the provision of light, air and privacy, and the maintenance of usable open space in amounts appropriate to the specific types and numbers of dwellings permitted. Adherence to a specified site development review plan is required for the disposition of buildings, the relationship between living areas and those needed for vehicular access, circulation and parking in order to assure the optimum utilization of the building site.

(Prior gen. code § 8-28.0)

17.12.015 Suburban residence districts—Reference to Residential Design Standards and Guidelines.

Residential development within the R-S districts located within the planning areas of San Lorenzo, Ashland, Cherryland, Fairview, or Castro Valley (areas within the Castro Valley Urbanized Area) shall be subject to the "Residential Design Standards and Guidelines for the Unincorporated Communities of West Alameda County," as amended. On matters not provided for in the Residential Design Standards and Guidelines for the Unincorporated Communities of West Alameda County, the respective regulations in this zoning ordinance shall apply.

(Ord. No. 2014-39, § 3, 10-7-14, eff. 1-1-15)

17.12.020 Site development review—When required.

Whenever the area of a building site in an R-S district equals or exceeds five times the area required for one dwelling unit, every dwelling or accessory structure hereafter placed upon such building site or any mobilehome to be permanently located on a foundation system shall be subject to site development review, pursuant to Section 17.54.210.

(Prior gen. code § 8-28.1)

(Ord. No. 2010-71, § 14, 12-21-10)

17.12.030 Permitted uses.

The following principal uses are permitted in any R-S district:

A. One-family dwelling, two-family dwelling, multiple dwelling or dwelling group;

B. Field crop, orchard, garden;

C. Medical or residential care facility for up to six persons per unit; and

D. Licensed transitional or supportive housing for up to six persons per unit.

(Prior gen. code § 8-28.2)

(Ord. No. 2010-71, § 15, 12-21-10; Ord. No. 2012-58, § 12, 4-10-12)

17.12.035 Conditional uses—Planning commission.

The following are conditional uses and shall be permitted in an R-S district only if approved by the planning commission, sitting as a board of zoning adjustments, as provided in Sections 17.54.135 and 17.12.010:

A. Hospitals in districts requiring not more than fifteen hundred (1,500) square feet of building area per dwelling unit.

(Ord. 2000-53 § 1 (part))

(Ord. No. 2010-71, § 16, 12-21-10)

17.12.040 Conditional uses—Board of zoning adjustments.

In addition to the uses listed in Sections 17.52.480 and 17.52.580, the following are conditional uses in R-S districts, and shall be permitted only if approved by the board of zoning adjustments as provided in Section 17.54.130:

A. Community facility;

B. Community clubhouse;

C. Parking lot, as regulated in Section 17.08.040C;

D. Plant nursery or greenhouse used only for the cultivation of plant materials;

E. Medical or residential care facility for seven or more persons per unit as regulated in Section 17.54.133 (Conditional uses—Residential, medical care, transitional and supportive housing facilities);

F. Mobilehome parks, as regulated by Sections 17.52.1000 to 17.52.1065, of this title;

G. Licensed transitional and supportive housing for seven or more persons per unit as regulated in Section 17.54.133 (Conditional uses—Residential, medical care, transitional and supportive housing facilities); and

H. Unattended collection box(es) placed in conjunction with an approved community facility as defined in Section 17.04.010.

(Ord. 2002-60 § 1 (part); Ord. 2000-53 § 1 (part); prior gen. code § 8-28.3)

(Ord. No. 2010-71, § 17, 12-21-10; Ord. No. 2012-58, § 13, 4-10-12; Ord. No. 2013-26, § 5, 7-16-13)

17.12.050 Number of dwelling units.

Except as otherwise provided in the case of a combining district, the number of dwelling units permitted on a building site in an R-S district shall not exceed the number obtained by dividing the area in square feet of the building site by five thousand (5,000), disregarding any fraction.

(Prior gen. code § 8-28.4)

17.12.060 Building site.

Except as otherwise specified in the case of a combining district, and except for mobilehome parks as regulated by Chapter 17.52, Sections 1000—1060, of this title, every use in an R-S district shall be on a building site having a median lot width not less than fifty (50) feet, and an area not less than five thousand (5,000) square feet. A corner building site shall have a median lot width of not less than sixty (60) feet.

(Prior gen. code § 8-28.5)

(Ord. No. 2010-71, § 18, 12-21-10)

17.12.070 Yards.

Except as otherwise provided in Sections 17.12.080 and 17.12.090, the yard requirements in R-S districts shall be as follows, subject to the general provisions of Section 17.52.330:

A. Depth of front yard: Not less than twenty (20) feet;

B. Depth of rear yard: Not less than twenty (20) feet;

C. Width of side yard: Not less than ten feet.

(Prior gen. code § 8-28.6)

17.12.080 Distance between buildings.

A distance of not less than twenty (20) feet shall be provided between all main buildings, which space shall be open from its ground to the sky except for the architectural features authorized by Section 17.52.370.

(Prior gen. code § 8-28.7)

17.12.090 Width of side yards—Exception.

When the number of dwelling units permitted on a building site does not exceed two, the side yard requirements shall be the same as those set forth for R-1 districts.

(Prior gen. code § 8-28.8)

17.12.100 Height of buildings.

No dwelling shall have a height of more than two stories, except as provided by Section 17.52.090; nor shall any building or structure have a height in excess of twenty-five (25) feet, except as provided by Section 17.52.090.

(Prior gen. code § 8-28.9)

17.12.110 Other limitations.

No main building shall be less than twenty (20) feet from any other main building.

Where an accessory building or a space designed or used for the parking of a motor vehicle occupies any part of the area between the two dwellings on the same building site, such occupied space shall not be included in the calculation of the required minimum distance between them. No parking space shall in any event be situated less than four feet from the wall of any dwelling, except when within the dwelling or within an attached carport or garage.

(Prior gen. code § 8-28.10)

(Ord. No. 2010-71, § 19, 12-21-10)

17.12.120 Other regulations.

The following regulations shall also apply in R-S districts:

A. The width of access driveways shall be not less than that required by Section 17.52.790; provided however, that the planning commission may require a driveway of greater width or provision for a street where found necessary to assure adequate circulation in the vicinity;

B. The minimum setback from the access driveway shall be as required by Section 17.52.800;

C. There shall be effective structural or landscape screening of private and utility areas, and a system of walkways, independent of the driveways to give safe pedestrian access from the street to every dwelling unit and to all commonly utilized open spaces;

D. The area of useable open space provided on the site, calculated pursuant to Section 17.52.390, shall be not less than six hundred (600) square feet for each dwelling unit thereon.

(Prior gen. code § 8-28.11)

(Ord. No. 2010-71, § 20, 12-21-10)

## Chapter 17.13 M-U DISTRICTS

Sections:

17.13.010 Mixed-use residential commercial district—Intent.

The intent of the mixed-use residence/commercial districts, hereinafter designated as M-U, is to regulate and control development of combined residential and commercial uses within a building site so as maintain the economic viability of such uses and to harmonize with surrounding non-commercial uses to the greatest extent possible. The district is established to recognize the existence of established mixed residential and commercial uses which have coexisted on the same property over several decades and which form a cohesive neighborhood of contiguous or nearly contiguous parcels sharing two or more of the following characteristics: a distinct lot pattern that is generally larger and distinct from that of the surrounding neighborhood; on-site buildings that have had a history of mixed residential and commercial retail or small manufacturing uses; location on an arterial street or corner; the existence of buildings that may be historically significant; and either the area of one or more lots comprise at least an acre or the lots have at least two hundred (200) feet of street frontage. Adherence to a specified site development review plan is required for the disposition of buildings, the relationship between residential and commercial uses, and the provision of parking and circulation in order to assure optimum utilization of the building site.

17.13.015 Mixed-use residential/commercial districts—Reference to Residential Design Standards and Guidelines.

Residential development and mixed-use residential development within the M-U districts located within the planning areas of San Lorenzo, Ashland, Cherryland, Fairview, or Castro Valley (areas within the Castro Valley Urbanized Area) shall be subject to the "Residential Design Standards and Guidelines for the Unincorporated Communities of West Alameda County," as amended. On matters not provided for in the Residential Design Standards and Guidelines for the Unincorporated Communities of West Alameda County, the respective regulations in this zoning ordinance shall apply.

(Ord. No. 2014-39, § 4, 10-7-14, eff. 1-1-15)

17.13.020 Site development review—When required.

Expansion of an existing building or construction of a new building in the M-U district exceeding one thousand (1,000) square feet shall be subject to site development review pursuant to Section 17.54.220. Where a conditional use permit or variance is also required, the decision making body for said site development review shall be the board of zoning adjustments.

17.13.030 Permitted uses.

The following principal uses are permitted in any M-U district:

A. Any residential uses created legally prior to August 6, 2005.

B. Any uses listed as permitted in the C-N district, Section 17.36.020.

C. Any uses listed as permitted in the C-O district, Section 17.34.020.

17.13.040 Conditional uses—Board of zoning adjustments.

Except as otherwise noted in the case of a combining district, in addition to the uses listed in Sections 17.52.480 and 17.52.580, the following are conditional uses in an M-U district and may be permitted or expanded if approved by the board of zoning adjustments as provided in Section 17.54.130:

A. After August 6, 2005, all residential uses conforming to the standards of the RS-D-35 zoning district.

B. Any other uses conditional in the RS district, Sections 17.12.035 and 17.12.040.

C. Any uses conditional in the C-O district, Sections 17.34.025 and 17.34.30.

D. Any uses conditional in the C-N district, Section 17.36.030.

17.13.050 Number of dwelling units.

The number of dwelling units permitted on a building site in an M-U district shall not exceed the number obtained by dividing the area in square feet of the residential portion of the building site by three thousand five hundred (3,500), disregarding any fraction, except that where such calculation results in an allowance of more than seven units, a fraction greater than three-fourths shall be adjusted to the next higher number.

17.13.060 Building site.

Except as otherwise specified in the case of a combining district, and except for mobile home parks as regulated by Chapter 17.52 of this title, every use in an M-U district shall be on a building site having a median lot width not less than fifty (50) feet, and an area not less than five thousand (5,000) square feet. A corner building site shall have a median lot width of not less than sixty (60) feet.

17.13.070 Yards.

The yard requirements in M-U districts shall be as follows, subject to the general provisions of Section 17.52.330:

A. Depth of front yard: none except when the abutting lot is in an R district, there shall be a front yard having a depth not less than twenty (20) feet.

B. Depth of rear yard: none except when the abutting lot is in an R district, there shall be a rear yard having a depth not less than twenty (20) feet, and the building profile shall fit within a 45-degree angle measured at grade from the common property line.

C. Width of side yard: none, except that where the abutting lot at the side is in any R district, there shall be side yard having a width not less than the minimum required in such R district and the side yard on the street side of a corner lot shall be not less than ten feet.

17.13.080 Height of buildings.

No structure shall have a height in excess of thirty-five (35) feet except as provided by Section 17.52.090.

17.13.090 Other regulations.

The following regulations shall also apply in M-U districts:

A. The width of access driveways shall be not less than that required by Section 17.52.790; provided however, that the board of zoning adjustments or planning director may require a driveway of greater width or provision for a street where found necessary to assure adequate circulation in the vicinity;

B. The minimum setback from the access driveway shall be four feet along walls having openings or two feet for solid walls;

C. There shall be effective structural or landscape screening of private open space and utility areas, and a system of walkways, independent of the driveways to give safe pedestrian access from the street to every dwelling unit and to all commonly utilized open spaces; and

D. The area of useable open space provided on the site shall be not less than two hundred (200) square feet for each dwelling unit thereon.

(Ord. No. 2005-33, 7-7-05)

## Chapter 17.14 R-3 DISTRICTS

**Sections:**

17.14.010 Four-family dwelling districts.

Four-family districts, hereinafter designated as R-3 districts, are established to provide for and protect the development of a limited type of multiple dwelling in areas found to be suitable for such use.

(Prior gen. code § 8-29.0)

17.14.015 Four-family dwelling districts—Reference to Residential Design Standards and Guidelines.

Residential development within the R-3 districts located within the planning areas of San Lorenzo, Ashland, Cherryland, Fairview, or Castro Valley (areas within the Castro Valley Urbanized Area) shall be subject to the "Residential Design Standards and Guidelines for the Unincorporated Communities of West Alameda County," as amended. On matters not provided for in the Residential Design Standards and Guidelines for the Unincorporated Communities of West Alameda County, the respective regulations in this zoning ordinance shall apply.

(Ord. No. 2014-39, § 5, 10-7-14, eff. 1-1-15)

17.14.020 Permitted uses.

The following principal uses are permitted in an R-3 district:

A. One-family dwelling, two-family dwelling, multiple dwelling, or dwelling group, up to a total not to exceed four dwelling units;

B. Field crop, orchard, garden;

C. Medical or residential care facility for up to six persons per unit; and

D. Licensed transitional or supportive housing for up to six persons per unit; and

E. In Castro Valley (areas within the Castro Valley Urbanized Area), Small family day cares and large family day cares.

(Prior gen. code § 8-29.1)

(Ord. No. 2012-58, § 14, 4-10-12; Ord. No. 2020-66, § 5, 12-15-20)

17.14.025 Conditional uses—Planning commission.

The following are conditional uses and shall be permitted in an R-3 district only if approved by the planning commission, sitting as a board of zoning adjustments, as provided in Sections 17.54.135 and 17.14.010:

A. Hospital.

(Ord. 2000-53 § 1 (part))

(Ord. No. 2010-71, § 21, 12-21-10)

17.14.030 Conditional uses—Board of zoning adjustments.

In addition to the uses listed for Sections 17.52.480 and 17.52.580, the following are conditional uses in R-3 districts, and shall be permitted only if approved by the board of zoning adjustments as provided in Section 17.54.130:

A. Community facility;

B. Community clubhouse;

C. Medical or residential care facility for seven or more persons as regulated in Section 17.54.133 (Conditional uses—Residential, medical care, transitional and supportive housing facilities);

D. Plant nursery, or greenhouse used only for the cultivation of plant materials;

E. Parking lot, as regulated in Section 17.08.040(C);

F. Licensed transitional and supportive housing for seven or more persons per unit as regulated in Section 17.54.133 (Conditional uses—Residential, medical care, transitional and supportive housing facilities);

G. Mobilehome parks subject to the provisions provided in Sections 17.52.1000 to 17.52.1065;

H. Unattended collection box(es) placed in conjunction with an approved community facility as defined in Section 17.04.010; and

I. In Castro Valley (areas within the Castro Valley Urbanized Area), Day care centers.

(Ord. 2002-60 § 1 (part); Ord. 2000-53 § 1 (part); prior gen. code § 8-29.2)

(Ord. No. 2012-58, § 15, 4-10-12; Ord. No. 2013-26, § 6, 7-16-13; Ord. No. 2020-66, § 6, 12-15-20)

17.14.040 Density limitations.

The number of dwelling units on a lot or building site in an R-3 district shall not exceed one for each full two thousand (2,000) square feet of the area thereof, or be in any case more than four.

Exception—In Castro Valley (areas within the Castro Valley Urbanized Area), the four unit per lot maximum does not apply. The maximum units on a lot in Castro Valley is limited to one for each full two thousand (2,000) square feet.

(Prior gen. code § 8-29.3)

(Ord. No. 2020-66, § 7, 12-15-20)

17.14.050 Building site.

Except as otherwise specified in the case of a combining district, every use in an R-3 district shall be on a building site having a median lot width not less than fifty (50) feet and an area not less than five thousand (5,000) square feet. A corner building site shall have a median lot width of not less than sixty (60) feet.

(Prior gen. code § 8-29.4)

17.14.060 Yards.

Except as otherwise required in the case of a combining district, the minimum requirements for yards in an R-3 district shall be as follows, subject to the general provisions of Section 17.52.330:

A. Depth of front yard: Not less than twenty (20) feet;

B. Depth of rear yard: Not less than twenty (20) feet;

C. Width of side yard: Not less than five feet plus one foot for each full ten feet by which the median lot width exceeds fifty (50) feet up to a maximum requirement of ten feet, but in no case less than six feet for an interior side yard or less than ten feet on the street side of a corner lot, or less than required by Section 17.14.080.

(Prior gen. code § 8-29.5)

(Ord. No. 2010-71, § 22, 12-21-10)

17.14.070 Height of buildings.

No dwelling shall have a height of more than two stories, except as provided by Section 17.52.090; nor shall any building or structure have a height in excess of twenty-five (25) feet, except as provided by Section 17.52.090.

(Prior gen. code § 8-29.6)

17.14.080 Other regulations.

The following regulations shall also apply in R-3 districts:

A. At least one side yard shall have a width not less than fifteen (15) feet in the case of a four-family dwelling and no multiple dwelling shall be so oriented upon a lot as to have its main or living room entrance opening into a side yard less than twenty (20) feet wide;

B. No dwelling shall be located to the rear of another dwelling on the same building site unless one side yard is at least fifteen (15) feet wide, except in the case of a dwelling group arranged around three sides, or on two opposite sides of an open unoccupied space other than a side yard, having a width not less than twenty-five (25) feet and extending to the front lot line;

C. No dwelling shall be located less than twenty (20) feet from any other dwelling on the lot, and none of such minimum required space shall be used as parking space;

D. The minimum width of access driveway shall be as required by Section 17.52.790;

E. The minimum setback from access driveway shall be as required by Section 17.52.800. (See also Section 17.52.470)

(Prior gen. code § 8-29.8)

(Ord. No. 2010-71, § 23, 12-21-10)

## Chapter 17.16 R-4 DISTRICTS

**Sections:**

17.16.010 Multiple residence districts—Intent.

Multiple residence districts, hereinafter designated as R-4 districts, are established to provide for larger types of multiple dwellings in relatively small areas generally near business uses or in the vicinity of major thoroughfares, together with appropriate community facilities and compatible types of group living quarters.

(Prior gen. code § 8-30.0)

(Ord. No. 2010-71, § 25, 12-21-10)

17.16.015 Multiple residence districts—Reference to Residential Design Standards and Guidelines.

Residential development within the R-4 districts located within the planning areas of San Lorenzo, Ashland, Cherryland, Fairview, or Castro Valley (areas within the Castro Valley Urbanized Area) shall be subject to the "Residential Design Standards and Guidelines for the Unincorporated Communities of West Alameda County," as amended. On matters not provided for in the Residential Design Standards and Guidelines for the Unincorporated Communities of West Alameda County, the respective regulations in this zoning ordinance shall apply.

(Ord. No. 2014-39, § 6, 10-7-14, eff. 1-1-15)

17.16.020 Permitted uses.

The following principal uses are permitted in an R-4 district:

A. All uses permitted in R-3 districts, pursuant to Section 17.14.020;

B. Multiple dwelling or dwelling group, provided that on any building site with an area which equals or exceeds five times the area for one dwelling unit, every dwelling unit placed on such building site shall be subject to site development review pursuant to Section 17.54.210; and

C. Emergency shelter provided in accordance with Section 17.52.1165 (Emergency shelter—Regulations).

(Ord. 2006-33 § 2 (part): Prior gen. code § 8-30.1)

(Ord. No. 2012-58, § 16, 4-10-12)

17.16.025 Conditional uses—Planning commission.

The following are conditional uses and shall be permitted in an R-4 district only if approved by the planning commission, sitting as a board of zoning adjustments, as provided in Sections 17.54.135 and 17.16.010:

A. Hospital.

(Ord. 2000-53 § 1 (part))

(Ord. No. 2010-71, § 26, 12-21-10)

17.16.030 Conditional uses—Board of zoning adjustments.

In addition to the uses listed for Sections 17.52.480 and 17.52.580, the following are conditional uses in an R-4 district, and shall be permitted only if approved by the board of zoning adjustments as provided in Section 17.54.130:

A. Community facility;

B. Parking lot, as regulated in Section 17.08.040C;

C. Clubhouse;

D. Medical or residential care facility for seven or more persons as regulated in Section 17.54.133 (Conditional uses—Residential, medical care, transitional and supportive housing facilities);

E. Boarding house;

F. Fraternity or sorority house, accredited by an institution of higher learning;

G. Single room occupancy facility subject to the provisions of Section 17.54.134 (Conditional uses—Single room occupancy (SRO) facilities);

H. Licensed transitional and supportive housing for seven or more persons per unit as regulated in Section 17.54.133 (Conditional uses—Residential, medical care, transitional and supportive housing facilities);

I. Mobilehome parks subject to the provisions provided in Sections 17.52.1000 to 17.52.1065; and

J. Unattended collection box(es) placed in conjunction with an approved community facility as defined in Section 17.04.010.

(Ord. 2006-33 § 2 (part): Ord. 2002-60 § 1 (part); Ord. 2000-53 § 1 (part); prior gen. code § 8-30.2)

(Ord. No. 2012-58, § 17, 4-10-12; Ord. No. 2013-26, § 7, 7-16-13)

17.16.040 Density limitations.

Except as otherwise provided in Section 17.16.090, the maximum of dwelling units permitted on any lot in an R-4 district shall be calculated by dividing the area of the building site by one thousand two hundred fifty (1,250), the density limitations of this section, and the exceptions thereto provided in Section 17.16.090, are intended to indicate maximum residential occupancy, when all the regulations of this title are observed. If any other requirement operates to further restrict the number of dwelling units on a building site, such other requirement shall have prior force.

(Prior gen. code § 8-30.3)

17.16.050 Building site.

Except as otherwise specified in the case of a combining district, every use in an R-4 district shall be on a building site having a median lot width not less than sixty (60) feet and an area not less than six thousand (6,000) square feet. A corner building site shall have a median lot width of not less than seventy (70) feet.

(Prior gen. code § 8-30.4)

17.16.060 Yards.

Except as otherwise specified in the case of a combining district, the minimum requirements for yards in an R-4 district shall be as follows, subject to the general provisions of Section 17.52.330:

A. Depth of front yard: not less than twenty (20) feet;

B. Depth of rear yard: not less than twenty (20) feet, plus three feet for every full ten feet by which the building height exceeds thirty-five (35) feet;

C. Width of side yard: not less than ten feet plus one foot for each full ten feet by which the median lot width exceeds fifty (50) feet, but in no case shall it be required to be more than thirty (30) feet, or be less than required by Section 17.16.100.

(Prior gen. code § 8-30.5)

17.16.070 Height of building.

No dwelling in an R-4 district shall have a building height in excess of forty-five (45) feet; provided that where the lot coverage does not exceed thirty (30) percent, the building height may exceed forty-five (45) feet but shall not exceed seventy-five (75) feet. For other main buildings, Section 17.52.090 shall control. (Prior gen. code § 8-20.6)

17.16.080 Lot coverage.

The lot coverage in R-4 districts, calculated as provided in Section 17.52.380, shall not exceed forty (40) percent of the area of the lot. It is also required that there be provided on the lot no less than six hundred (600) square feet of useable open space for each dwelling unit thereon, except as otherwise provided in Section 17.16.090.

(Prior gen. code § 8-30.7)

17.16.090 Density and coverage exception.

When the lot coverage is less than required by Section 17.16.080, the required lot area per dwelling unit is reduced as shown in the following table, but only if the amount of useable open space of each dwelling unit on the lot, calculated pursuant to Section 17.52.390, is equal to or greater than that shown in the column of Table 17.16.090 entitled "lot area usable open space."

**Table 17.16.090**  
**Density and Coverage Exception**

|  |  |  |
| --- | --- | --- |
| Maximum Lot  Coverage | Lot Area  Usable Open  Space | Lot Area Per  Dwelling Unit |
| 40 percent | 600 square feet | 1,250 |
| 35 percent | 600 square feet | 1,200 |
| 30 percent | 500 square feet | 1,100 |
| 20 percent | 400 square feet | 1,000 |

(Prior gen. code § 8-30.8)

(Ord. No. 2010-71, § 27, 12-21-10)

17.16.100 Other regulations.

A. In an R-4 district, no main building shall be distant less than twenty (20) feet from any other main building plus three feet for every ten feet by which either building exceeds thirty-five (35) feet in height.

B. Where an accessory building or space designed or used for the parking of a motor vehicle occupies any part of the area between two dwellings on the same building site, such occupied space shall not be included in the calculation of the required minimum distance between them.

C. No parking space shall in any event be situated less than four feet from the wall of any dwelling, except when within the dwelling or within an attached carport or garage.

D. All the regulations set forth for R-S districts in Section 17.12.120A, B and C shall also apply and control in R-4 districts.

E. One identification sign is permitted a multiple dwelling or a dwelling group in an R-4 district, but shall not be illuminated, nor have an area in excess of twelve (12) square feet. (See also Section 17.52.470)

(Prior gen. code §§ 8-30.9—8-30.10)

## Chapter 17.17 SD DISTRICT

**Sections:**

17.17.010 Sunol downtown district—Intent.

The intent of the Sunol downtown district, hereinafter designated as SD district, is to implement the provisions of the east county area plan to regulate and control development of combined residential and commercial uses on a building site within the downtown area of the community of Sunol so as maintain the economic viability of such uses to the greatest extent possible consistent with provisions of the east county area plan. The district is established to recognize the existence of established residential and commercial uses that have coexisted in the same neighborhood for many years and form a cohesive neighborhood of buildings that have had a history of mixed residential and commercial retail or small manufacturing uses, and the existence of buildings that may be historically significant.

(Ord. 2008-32 § 1 part))

(Ord. No. 2010-71, § 29, 12-21-10)

17.17.020 Site development review—When required.

Any structure one thousand (1,000) square feet or more or any construction aggregating one thousand (1,000) square feet or more, including reconstruction of damaged or destroyed structures, shall be subject to site development review pursuant to Section 17.54.220. Where a conditional use permit or variance is also required, the decision making body for said site development review shall be the planning commission, and the planning commission shall be the decision making body for the variance. All site development reviews shall go before the Sunol citizens advisory committee or its successor body, as an advisory body to either the planning director or the planning commission, and approval shall be subject to making the findings outlined in Section 17.17.040 of this chapter.

(Ord. 2008-32 § 1 part))

(Ord. No. 2010-71, § 30, 12-21-10)

17.17.030 Permitted uses.

The following principal uses are permitted in any SD district:

A. Any principal use permitted in the R-1-B-40 district, Section 17.08.030 and Chapter 17.22, subject to the provisions of that district, except as may be modified by the provisions of this chapter.

(Ord. 2008-32 § 1 part))

17.17.040 Conditional uses—Planning commission.

A. In addition to the uses listed in Sections 17.52.480 and 17.52.580, the following are conditional uses in an SD district and may be permitted or expanded if approved by the planning commission as provided in Section 17.54.135 and 17.19.010:

1. Any other uses listed as conditional in the R-1 district, Section 17.08.040, subject to the provisions of that district;

2. Alcohol outlet;

3. Animal hospital;

4. Bank or lending institution;

5. Barber shop/beauty parlor;

6. Bed and breakfast establishment as defined in Section 17.30.170(F)(2)(a);

7. Blue print/copying;

8. Church;

9. Dental laboratory;

10. Events center;

11. Hotel, motel;

12. Indoor recreation facility;

13. Library;

14. Medical clinic;

15. Nursery;

16. Office;

17. Parking lot;

18. Pharmacy;

19. Private clubhouse;

20. Public utility substation;

21. Repair shop;

22. Restaurant;

23. Retail store;

24. Service station Type A;

25. Tailor;

26. Tavern;

27. Theater;

28. On any parcel that meets the minimum building site requirement for this district and has frontage on a county road, residential units, up to a maximum density of one unit per each eight thousand (8,000) square feet of lot area of the residential portion of the building site, disregarding any fraction, subject to design review by the planning commission as part of its review of the conditional use permit to ensure consistency with the historic, architectural, and visual context of the downtown Sunol plan area. For purposes of this section, the residential portion of the building site shall be that part of the building site not occupied by commercial uses, including accessory uses such as storage or parking.

B. In addition to the findings required under Section 17.54.135, the planning commission shall not approve a conditional use in the SD district unless it finds that the use:

1. Will have no growth inducing impacts on the community;

2. Is consistent with the septic tank standards and policies of the Alameda County environmental health department and Alameda County flood control and water conservation district zone 7;

3. Will have no impacts on the existing road system;

4. Is consistent with the policies of the east county area plan as amended;

5. The design of the project is consistent with the historic, architectural, and visual context of the downtown Sunol plan area; and

6. Has been reviewed by the Sunol citizens advisory committee or its successor body.

C. For commercial uses the planning commission shall make the additional finding that the number of parcels with commercial uses on them is no greater than fifty (50) percent of the total parcels in the downtown Sunol district.

D. For additional residential units under subsection 17.17.040(A)(28) of this section, the planning commission shall make the additional finding that the Alameda County environmental health department has provided a letter stating that the proposed total number of bedrooms in the project can be supported by an on-site septic system.

(Ord. 2008-32 § 1 part))

(Ord. No. 2010-71, § 31, 12-21-10)

17.17.050 Number of dwelling units.

Except for units allowed under Section 17.17.040B of this chapter, the number of dwelling units permitted on a building site in an SD district shall not exceed the number obtained by dividing the area in square feet of the residential portion of the building site by forty thousand (40,000) square feet, disregarding any fraction. For purposes of this section, the residential portion of the building site shall be that part of the building site not occupied by commercial uses, including accessory uses such as storage or parking.

(Ord. 2008-32 § 1 part))

17.17.060 Building site.

Except for uses on lots legally created prior to August 21, 2008, every use in an SD district shall be on a building site having a median lot width not less than fifty (50) feet, an area not less than forty thousand (40,000) square feet, and frontage on a county road. A corner building site shall have a median lot width of not less than sixty (60) feet.

(Ord. 2008-32 § 1 part))

17.17.070 Yards—Commercial development.

The yard requirements for commercial development in SD districts shall be as follows, subject to the general provisions of Section 17.52.330:

A. Depth of front yard: None except when the frontage of the abutting lot is in residential use, there shall be a front yard having a depth not less than ten feet.

B. Depth of rear yard: None except when the rear of the abutting lot is in residential use, there shall be a rear yard having a depth not less than ten feet.

C. Width of side yard: None, except that where the abutting lot at the side is in residential use, there shall be side yard having a width not less than five feet.

(Ord. 2008-32 § 1 part))

17.17.080 Height of buildings.

A. No dwelling shall have a height of more than two stories, except as provided by Sections 17.52.090 and 17.08.100, nor shall any building or dwelling have a height in excess of twenty-five (25) feet except as provided by Section 17.52.090.

B. No commercial structure shall have a height in excess of thirty-five (35) feet except as provided by Section 17.52.090.

(Ord. 2008-32 § 1 part))

17.17.090 Other regulations.

Both residential and commercial uses are permitted on the same building site. Where this occurs, the residential uses must meet the standards set out in this title for residential uses and the commercial uses must meet the standards set out in this title for commercial uses. Unless otherwise specified in this chapter, commercial uses shall conform to the development standards of chapter 17.38 C-1 districts or as the planning commission may modify them to be more restrictive.

(Ord. 2008-32 § 1 part))

(Ord. No. 2010-71, § 32, 12-21-10)

## Chapter 17.18 PD DISTRICTS

**Sections:**

17.18.010 Planned development districts—Intent.

Planned development districts, hereinafter designated as PD districts, are established to encourage the arrangement of a compatible variety of uses on suitable lands in such a manner that the resulting development will:

A. Be in accord with the policies of the General Plan of the county;

B. Provide efficient use of the land that includes preservation of significant open areas and natural and topographic landscape features with minimum alteration of natural land forms;

C. Provide an environment that will encourage the use of common open areas for neighborhood or community activities and other amenities;

D. Be compatible with and enhance the development of the general area;

E. Create an attractive, efficient and safe environment.

(Ord. 2006-36 § 1 (part): Prior gen. code § 8-31.0)

17.18.015 Planned development districts—Reference to Residential Design Standards and Guidelines.

Residential development and mixed-use residential development within the PD districts located within the planning areas of San Lorenzo, Ashland, Cherryland, Fairview, or Castro Valley (areas within the Castro Valley Urbanized Area) shall be subject to the "Residential Design Standards and Guidelines for the Unincorporated Communities of West Alameda County," as amended. On matters not provided for in the Residential Design Standards and Guidelines for the Unincorporated Communities of West Alameda County, the respective regulations in this zoning ordinance shall apply.

(Ord. No. 2014-39, § 7, 10-7-14, eff. 1-1-15)

17.18.020 Change in zoning district required.

The provisions of this chapter shall become applicable to any given development only upon change in zoning district to a planned development district in accordance with the provisions of Chapter 17.54 of this title, with the following exceptions to the provisions of said Chapter 17.54:

A. The determination that the proposal will benefit the public necessity, convenience and general welfare shall be based in part on the conformance of the proposal with the provisions of this chapter.

B. Any change in zoning district accomplished in accordance with this chapter is subject to review by the planning commission at the expiration of two years from the effective date of said change, if during the two year period construction in accordance with the approved plan is not commenced or if the approved staging plan has not been followed. At the conclusion of the review by the planning commission, the planning commission may recommend to the Board of Supervisors that the lands affected by the planned development district be rezoned from the planned development district. Said hearings by the planning commission and the Board of Supervisors shall be in accordance with the provisions of this title.

C. A planned development district shall be established by the adoption of an ordinance by the Board of Supervisors reclassifying the described property to a planned development district and adopting by reference, a land use and development plan, the provisions of which shall constitute the regulations for the use, improvement and maintenance of the property within the boundaries of the plan.

(Ord. 2006-36 § 1 (part): Ord. 2004-61 § 1 (part): prior gen. code § 8-31.2)

(Ord. No. 2010-71, § 34, 12-21-10)

17.18.030 Preliminary plan—Application.

Where the parcel or parcels for which an applicant is requesting a change in zoning district to a planned development district totals one acre or smaller in area, the applicant shall submit a preliminary land use and development plan to the planning commission, which will allow formal consideration of the concept of development prior to detailed design. For all other requests for a change in zoning to a planned development district, the applicant may, prior to submitting an application for change, submit a preliminary land use and development plan for commission review.

(Ord. 2006-36 § 1 (part): Prior gen. code § 8-31.3)

17.18.040 Preliminary plan—Professional services required.

The preliminary plan shall contain certifications that a civil engineer, a landscape architect and an architect or a registered building designer have participated in the preparation of the preliminary plan.

(Ord. 2006-36 § 1 (part): Prior gen. code § 8-31.4)

17.18.050 Preliminary plan—Information required.

The preliminary plan shall be in the form specified by the planning commission.

(Ord. 2006-36 § 1 (part): Prior gen. code § 8-31.5)

17.18.060 Preliminary plan—Notice to the public.

Upon receipt of a preliminary plan in the form specified by the planning commission notice of hearing shall be given pursuant to Section 17.54.830.

(Ord. 2006-36 § 1 (part): Prior gen. code § 8-31.7)

(Ord. No. 2009-17, § 3, 4-14-09)

17.18.070 Preliminary plan—Action by the planning commission.

After consideration of the preliminary plan, the testimony at the public hearing, and the reports of any interested referral agency, the planning commission shall advise the applicant of its evaluation of the plan. This evaluation shall include statements regarding:

A. Whether, in the opinion of the planning commission, the public interest would be best served by any planned development district within the subject area; and may include statements regarding:

1. Whether, in the opinion of the planning commission, the intent and provisions of this district could be met by the development as indicated on the preliminary plan and if so, of the specific development objectives that would tend to render the proposal in compliance with these provisions, such as: maximum dwelling units permitted based on a refinement of the ranges found in the General Plan;

2. Specified developmental objectives relative to particular characteristics of the site and its environs that should be obtained in the ultimate development.

(Ord. 2006-36 § 1 (part): Prior gen. code § 8-31.8)

17.18.080 Land use and development plan—Persons authorized to prepare.

Same as provided in Section 17.18.040, except when rezoning is initiated by the Board of Supervisors or planning commission, in which case the plan will be prepared by the planning department.

(Ord. 2006-36 § 1 (part): Prior gen. code § 8-31.11)

17.18.090 Land use and development plan—Information required.

The land use and development plan shall be in the form specified by the planning commission.

(Ord. 2006-36 § 1 (part): Prior gen. code § 8-31.12)

17.18.100 Common areas—Provisions, ownership and maintenance.

Maintenance of all lands included within the plan not utilized for building sites, state and county roads and public uses shall be assured by recorded land agreements, covenants, proprietary control or other stated devices which attain this objective. The proposed method of assuring the maintenance of such lands shall be included as part of the land use and development plan.

(Ord. 2006-36 § 1 (part): Prior gen. code § 8-31.15)

17.18.110 Land use and development plan—Action by the planning commission and the Board of Supervisors.

A land use and development plan shall be part of any reclassification action to the planned development district.

(Ord. 2006-36 § 1 (part): Prior gen. code § 8-31.16)

17.18.115 Land use and development plan—Required findings.

The planning commission and the Board of Supervisors shall not approve any reclassification of property to a planned development district unless they can make all the following findings in the affirmative:

A. The resulting development implements the applicable policies, objectives, principles, and goals of the county general plan, area plans, and applicable specific plans;

B. The parcel size, shape, property lines, and terrain are suitable for the proposed development;

C. The resulting development is integrated and harmonious with and/or beneficial to the character and infrastructure of the surrounding area in terms of physical development and use;

D. The development results in a higher quality design or site plan than would otherwise result from development of the property if subject to the existing zoning development and use standards; and

E. In Castro Valley, there is no increase in density over that permitted by existing zoning standards. In other areas, any increase in density over that permitted by existing zoning standards shall either:

1. Provide a positive relationship to adjacent land uses and densities;

2. Provide affordable housing; or

3. Provide a tangible public benefit, such as:

a. Substantial improvement to public infrastructure in the immediate area;

b. Public uses such as community centers, public parks, or open spaces; or

c. Additional impact fees (which may be achieved through development agreements) for which there might not otherwise be nexus on project impacts.

F. In Castro Valley, there shall be no change to the Castro Valley General Plan land use designation as part of the planned development rezoning request.

In addition to the above findings, the planning commission and Board of Supervisors shall not approve any reclassification of property to a planned development district for residential developments greater than fifty (50) units unless they can make all the following additional findings in the affirmative:

G. The streets and thoroughfares proposed are suitable and adequate to carry anticipated traffic, and the density will not generate traffic in such amounts as to overload the street network outside the PD district;

H. There will be no adverse fiscal impact to the county, specifically, but not limited to provision of services; and

I. Each phase, if applicable, of the development, as well as the development as a whole, can exist as an independent unit capable of creating an environment of sustained desirability and stability.

(Ord. 2006-36 § 1 (part))

(Ord. No. 2010-71, § 35, 12-21-10; Ord. No. 2020-66, § 8, 12-15-20)

17.18.120 Land use and development plan shall control.

Any use of land within the boundaries of a planned development district adopted in accordance with the provisions of this chapter shall conform to the approved land use and development plan.

(Ord. 2006-36 § 1 (part): Ord. 2004-61 § 1 (part): prior gen. code § 8-31.17)

(Ord. No. 2010-71, § 36, 12-21-10)

17.18.130 Modification of the land use and development plan.

If an applicant proposes a change to a land use and development plan approved by the Board of Supervisors in accordance with Section 17.18.020 of this chapter, the change may be permitted subject to securing a conditional use permit as provided by Section 17.54.135 of this title. For purposes of considering such a conditional use permit, in addition to the findings required by Section 17.54.135, the planning commission shall only authorize a conditional use permit if it finds that:

A. The proposed change does not increase:

1. The number of housing units beyond that permitted in the existing land use and development plan;

2. The number of, or size of, structures;

3. The number of, or size of, accessory structures;

4. Signage (number and/or aggregate sign area); or

5. The floor area ratio of the structures permitted in the existing land use and development plan.

B. The original land use and development plan was approved less than five years ago;

C. The proposed change does not reduce public infrastructure provided in the land use and development plan;

D. The proposed change does not reduce public uses such as community centers, public parks or open spaces;

E. The proposed change does not have an adverse financial impact on the county, including the provision of services;

F. The proposed change does not involve uses not previously approved for the project.

The planning commission shall adopt a statement or resolution of findings for each criteria required for issuance of a conditional use permit. A planning commission decision pursuant to this section is subject to appeal pursuant to Section 17.54.670.

(Ord. 2006-36 § 1 (part): Ord. 2004-61 § 1 (part): prior gen. code § 8-31.18)

(Ord. No. O-2015-47, § 1, 9-29-15)

17.18.140 Deposit to cover cost of inspections—Under deposit—Over deposit.

Prior to the installation of any improvements or prior to the issuance of any building permit for any structure within the boundaries of a land use and development plan approved by the Board of Supervisors in accordance with Section 17.18.020 of this chapter, there shall be deposited with the county treasurer, a sum in the amount estimated by the county building official as being sufficient to cover the cost of inspection for all improvements not requiring the issuance of any other permit by the provisions of the county building, electrical and plumbing codes. If the amount so deposited exceeds the actual cost to the county, the depositor shall be reimbursed for the balance remaining; if the actual cost of inspection exceeds the deposited amount, the building official shall withhold final inspection and approval of occupancy until there is deposited with the county treasurer an additional sum as estimated by the building official.

(Ord. 2006-36 § 1 (part): Prior gen. code § 8-31.19)

## Chapter 17.20 HP DISTRICTS

**Sections:**

17.20.010 Historical preservation districts—Intent.

Historical preservation districts, hereinafter designated as HP districts, are established to further preservation of historical resources in the county by encouraging development within the district which makes their preservation economically and physically viable and by restricting development inconsistent with or inimical to their historical nature. Regulation of uses within the district is intended to be compatible with the historical nature of the resource and with the district. Regulation may extend to structural or other alteration, including painting, of structures within the district to maintain compatibility with historical values, and any other regulations which may be necessary to properly preserve the historical resource.

(Prior gen. code § 8-35.0)

17.20.020 Permitted uses.

All such uses permitted by the regulations of any of the districts of this title and authorized by the land use and development plan adopted for each HP district established are permitted in the HP district.

(Prior gen. code § 8-35.1)

17.20.030 Establishment.

An HP district shall be established by the adoption of an ordinance by the Board of Supervisors reclassifying the described property to an HP district and adopting a land use and development plan constituting the regulations for the use, improvement, and maintenance of the property within the boundaries of the district.

(Prior gen. code § 8-35.2)

17.20.040 Requirements.

In order to be classified in the HP district, at least part of the property or one of the structures on the property must be:

A. Listed on the Alameda County Register, or otherwise specifically recognized by the Alameda County General Plan; or

B. Designated a Point of Historic Interest or State Historical Landmark, or be eligible for or listed on the National Register of Historic Places, California Register of Historical Resources, or some state or federal inventory of historical resources; or

C. Of special importance due to its historical association, basic architectural merit, its embodiment of a style or special type of construction, or other special character, interest, or value.

In addition, establishment of any HP district, and regulations adopted therein, shall be consistent with Section 17.20.010, Intent.

(Ord. 93-15 § 1: prior gen. code § 8-35.3)

(Ord. No. 2012-5, § 4, 1-10-12)

17.20.050 Initiation.

Any amendment to establish this district may be initiated in conformance with Section 17.54.730 of this title. The boundaries of the district may include any or all areas which relate to the specific historical resource. The proposed amendment shall be in the form of a land use and development plan which specifies the uses of land and other regulations that are to apply in the district.

(Prior gen. code § 8-35.4)

17.20.060 Procedure—Referral to parks, recreation, and historical commission.

The petition for reclassification or the land use and development plan shall be referred to the county parks, recreation, and historical commission for recommendation. The recommendation shall include a determination as to whether or not the property meets the requirements of Section 17.20.040, whether or not reclassification to an HP district is an appropriate means of preserving the property, and whether or not the proposed uses and any proposed alterations to the property are detrimental to its historical value. The parks, recreation, and historical commission may also make recommendations to the planning commission as to appropriate modifications in the proposal, including the boundaries of the district. The parks, recreation, and historical commission review shall be completed and transmitted to the planning commission within sixty (60) days of receipt, or such longer time as may be agreed to by the planning commission, or the above determination shall be made by the planning commission.

(Prior gen. code § 8-35.5)

(Ord. No. 2012-5, § 5, 1-10-12)

17.20.070 Procedure—Action by planning commission.

Upon receipt of the parks, recreation, and historical commission report, or the expiration of the time limit specified in Section 17.20.060, the amendment shall be set for public hearing.

(Prior gen. code § 8-35.6)

## Chapter 17.22 B DISTRICTS

**Sections:**

17.22.010 Intent.

The districts hereinafter designated combining B districts are established to be combined with other districts in order to modify the site area and yard requirements, and thereby to vary the intensity of land use so as to give recognition to special conditions of topography, accessibility, water supply or sewage disposal, and to provide for development pursuant to adopted plans.

(Prior gen. code § 8-40.0)

17.22.020 Regulations.

In a combining B district, all regulations shall remain the same as in the district with which it is combined, except as to the matters hereinafter specified.

(Prior gen. code § 8-40.1)

(Ord. No. 2010-71, § 37, 12-21-10)

17.22.030 Building site.

The B districts shown in Table 17.22.030 are established, and the minimum building site area, median lot width, and yard dimensions shall be as specified.

**Table 17.22.030**  
**B-Districts Minimum Building Site/Yard Requirements**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Symbol | Site Area Square feet | Median Lot Width | Depth of Front Yard | Width of Side Yard |
| B-8 | 8,000 | 80 feet | 25 feet | 10 feet |
| B-10 | 10,000 | 100 feet | 30 feet | 15 feet |
| B-20 | 20,000 | 150 feet | 30 feet | 15 feet |
| B-40 | 40,000 | 150 feet | 30 feet | 20 feet |
| B-E | (As specified in the amendment creating the district) | | | |

Provided, however, that where a B district is combined with any M district, the yard requirements shall not apply unless specified in the case of a B-E district.

(Prior gen. code § 8-40.2)

(Ord. No. 2010-71, § 38, 12-21-10)

## Chapter 17.24 D DISTRICTS

**Sections:**

17.24.010 Combining D districts.

The districts hereinafter designated as combining D districts are established to be combined with R-S districts in order to provide for variations in the intensity of development and thus to create, maintain and protect patterns of residential use in conformance with adopted plans concerning the ratio of dwelling units to land area.

(Prior gen. code § 8-41.0)

17.24.020 Reserved.

Ord. No. 2010-71, § 39, adopted December 21, 2012, repealed § 17.24.020, which pertained to map designations and derived from prior gen. code § 8-41.1.

17.24.030 Regulations.

In a combining D district, all regulations shall be the same as in an R-S district except as to the matters specified in Section 17.24.040.

(Prior gen. code § 8-41.2)

17.24.040 Number of dwelling units.

The symbols which designate each of the several combining D districts are shown in the column of Table 17.24.040 entitled "Symbol." In each such designated district provided the other district requirements are met, the maximum number of dwelling units permitted shall be calculated by dividing the area in square feet of the building site by the figure on the same line in the column of said table entitled "required number of square feet of building site per dwelling unit" showing the required number of square feet per dwelling unit, or, in the case of a D-3 district, by the number specified in the amendment creating the district. In making the calculation, fractions shall be disregarded except that where such calculation results in an allowance of more than seven units a fraction greater than three-fourths shall be adjusted to the next higher whole number.

**Table 17.24.040**  
D Districts Building Sites per   
**Dwelling Unit Requirements**

|  |  |
| --- | --- |
| Symbol | Required Number of Square Feet of Building Site per Dwelling Unit |
| D-35 | 3,500 |
| D-25 | 2,500 |
| D-20 | 2,000 |
| D-15 | 1,500 |
| D-3 | As specified in the amendment creating the district, but in no case less than 1,500. |

(Prior gen. code § 8-41.3)

(Ord. No. 2010-71, § 40, 12-21-10)

## Chapter 17.25 DV DISTRICTS

**Sections:**

17.25.010 Combining DV districts.

The districts hereinafter designated as combining DV districts are established to be combined with the R-S districts in order to provide for variations in the intensity of development to act as incentive to combine narrow parcels into larger, more regular parcels associated with better site development. The intent is to create patterns of residential development in conformance with adopted plans concerning the ratio of dwelling units to land area while promoting superior development standards.

17.25.020 Map designations.

Every parcel designated on the zoning map as being in a combining district identified by the symbol DV (density variable) shall become and thereafter be subject to these regulations for the combining DV district and shall be so shown on any revised zoning map or part thereof.

17.25.030 Regulations.

In a combining DV district, all regulations shall be the same as in an R-S district except as to matters specified in Section 17.25.040.

17.25.040 Number of dwelling units.

For lots having an area not less than twenty thousand (20,000) square feet and an average lot width not less than one hundred (100) feet, the density shall be one dwelling unit per two thousand (2,000) square feet. For all other lots, the density shall be one dwelling per three thousand five hundred (3,500) square feet. In making this calculation, fractions shall be disregarded, except that where such calculation results in an allowance of more than seven units, a fraction greater than three-fourths shall be adjusted to the next higher number. Dwelling units created by valid building permits prior to August 6, 2005, shall be considered conforming in regards to density.

(Ord. No. 2005-33, 7-7-05.)

## Chapter 17.26 L DISTRICTS

**Sections:**

17.26.010 Combining L districts—Intent.

The districts hereinafter designated as combining L districts are established to allow additional uses of a rural nature, in suburban or rural areas where the lot pattern, size and other conditions are such that the specified uses will not be incompatible with the residential environment.

(Prior gen. code § 8-42.0)

17.26.020 Regulations.

In a combining L district, all regulations shall remain the same as in the R district with which it is combined, except as to the matters hereinafter specified.

(Prior gen. code § 8-42.1)

(Ord. No. 2010-71, § 41, 12-21-10)

17.26.030 Uses permitted.

The following uses in addition to those permitted in the district with which it is combined are accessory uses permitted in an L district on a site of forty thousand (40,000) square feet minimum size:

A. Fifty (50) fowl (chicken, duck, goose, turkey) or rabbits, guinea pigs, or other similar small animals);

B. Two sheep, or two goats or other similar domestic animals or one cow, or one horse, or other similar domestic animal or any combination thereof, for each twenty thousand (20,000) square feet of lot area;

C. Grazing or pasturing of horses for remuneration, on minimum area required by subsection B of this section.

(Prior gen. code § 8-42.2)

17.26.040 Conditional uses.

The following are conditional uses in an L district and shall be permitted only if approved by the board of zoning adjustments as provided in Section 17.54.130:

A. The keeping of a number of animals in excess of that permitted by Section 17.26.030;

B. Kennel;

C. Boarding stables and riding academies;

D. Sale of any products of any permitted use, including a stand for the sale at retail of such items as regulated in Section 17.06.050(D);

E. Soil importing in accordance with Chapter 17.66.

(Ord. 2002-60 § 1 (part); Prior gen. code § 8-42.3)

(Ord. No. 2019-43, § 2, 10-15-19)

17.26.050 Performance standards.

No kind of number of animals or fowl may be kept so as to cause dust, insects, odor, noise, or other nuisance so as to create health or safety hazard to animals, persons or adjacent properties.

(Prior gen. code § 8-42.4)

17.26.060 Site development review—When required.

Site development review pursuant to Section 17.54.210 shall be required for every new dwelling hereafter placed on a lot in the L district.

(Ord. 98-32 § 1)

## Chapter 17.28 X DISTRICTS

**Sections:**

17.28.010 Combining X districts—Intent.

The districts hereinafter designated as combining X districts are established to be combined with other districts in certain areas which are uniquely susceptible to air contamination because of terrain, contour, elevation, winds or other meteorological and physical conditions. The regulations are intended to prevent concentration of air contaminants which may cause injury, detriment, nuisance or annoyance to the health or welfare of persons or damage to property. The regulations of any district with which an X district is combined shall remain the same, except as to matters specified in Section 17.28.020, which shall apply in lieu of the corresponding regulations otherwise effective.

(Prior gen. code § 8-43.0)

17.28.020 Performance standards.

No use shall be permitted in a combining X district which causes, or is found by the board of zoning adjustments to involve:

A. The emission of odorous gases or odorous matter in quantities such as to be perceptible at any lot line of the lot or building site upon which the source is situated; or

B. The emission of visible gray smoke of a shade or quality darker than No. 1 on the Ringelmann Chart as specified in Circular 7718 of the United States Bureau of Mines, or its equivalent opacity as determined by the Bay Area Pollution Control District, for more than three minutes in any one hour.

(Ord. 2002-60 § 1 (part); Prior gen. code § 8-43.1)

(Ord. No. 2010-71, § 42, 12-21-10)

## Chapter 17.30 S DISTRICTS

**Sections:**

### Article I S Districts

17.30.010 S districts—Intent.

The districts hereinafter designated as S combining districts are established to be used in conjunction with commercial districts located in areas where characteristics of the business uses require more stringent signing practices.

(Prior gen. code § 8-44.0)

17.30.020 Regulation—S districts.

In a combining S district, all regulations shall remain the same as in the C district with which it is combined, except as to the matters hereinafter specified.

(Prior gen. code § 8-44.1)

17.30.030 Uses prohibited—S districts.

A. Advertising signs, except pursuant to Section 17.52.515(A)(3) and in conformance with Section 17.54.226.

(Prior gen. code § 8-44.2)

(Ord. No. 2010-49, § 4, 9-14-10)

### Article II Combining FW Districts

17.30.040 Combining FW district—Intent.

The district, hereinafter designated as combining FW (floodway) district, is established to be combined with other districts in certain areas which are uniquely susceptible to fast-moving waters associated with periodic inundation and which are necessary to carry and discharge such waters, as determined by engineering analysis of hydrological, meteorological, topographical, and other data. The regulations are intended to restrict or prohibit uses which are dangerous to health, safety, or property in times of flood or which cause increase in flood heights or velocities. The regulations are also intended to help preserve natural riparian areas and to prevent uses encroaching within the floodway, which usually require costly public improvements for their protection. The regulations of any district with which a FW district is combined shall remain the same, except as to matters specified in Sections 17.30.050 through 17.30.070, which shall apply in addition to those contained in the basic underlying zoning district.

(Prior gen. code § 8-44.3)

(Ord. No. 2010-71, § 43, 12-21-10)

17.30.050 FW district—Prohibited uses.

A. The following uses shall not be permitted in a combining FW district:

1. Any structure designed for human habitation; and

2. Any storage or processing of materials that are in time of flooding buoyant, flammable, explosive, or polluting (such as chemicals, oil, and other hazardous materials that could spread with the flood flow).

B. No waste treatment, sanitary transportation, water supply, or other facility utilized to service structures or their inhabitants in a combining FW district shall be constructed without flood-proofing techniques consistent with the flood hazard of the vicinity.

(Prior gen. code § 8-44.4)

17.30.060 FW district—Conditional uses.

The following uses shall be permitted in a combining FW district only upon issuance of a conditional use permit and a determination that the provisions of Section 17.30.040 can be met:

A. Any structure (temporary or permanent) except those specified in Section 17.30.030A;

B. Storage of materials or equipment;

C. Obstruction; or

D. Any other use which adversely affects the capacity of the channels or floodways of the main stream or tributary thereof; drainage ditch; or any other drainage facility or system.

(Prior gen. code § 8-44.5)

17.30.070 FW district—Performance standards.

No use shall be permitted in a combining FW district which will adversely increase the water surface elevation or otherwise adversely change the flow characteristics of the one hundred (100) year flood at any cross section of the floodway. The effect of any use on said flow characteristics and water surface elevation shall be determined by the county flood control and water conservation district. Consideration of the effects of a proposed use shall be based upon a reasonable assumption that there will be an equal degree of encroachment extending for the entire reach of the stream on both sides thereof in which the proposed use is permitted by the underlying district.

(Prior gen. code § 8-44.6)

### Article III Combining FF Districts

17.30.080 FF district—Intent.

The district, hereinafter designated as combining FF (flood fringe) district is established to be combined with other districts in certain areas which are uniquely susceptible to periodic inundation as determined by an engineering analysis of hydrological, meteorological, topographical, and other data. The regulations are intended to require that uses vulnerable to floods be protected against future flood damage at the time of initial construction. The regulations of any district with which an FF district is combined shall remain the same, except as to matters specified in Section 17.30.060, which shall apply in addition to those contained in the zoning district with which it is combined.

(Prior gen. code § 8-44.7)

17.30.090 FF district—Prohibited uses.

A. No structure shall be permitted in a combining FF district which does not have its lowest floor, including basement floor, at least one foot above the level of the one hundred (100) year flood adopted for the particular area.

B. No waste treatment, sanitary transportation, water supply or other facility utilized to service structures or their inhabitants in a combining FF district shall be constructed without flood-proofing techniques consistent with the flood hazard of the vicinity.

(Prior gen. code § 8-44.8)

### Article IV Combining SU Districts

17.30.100 Combining SU district—Intent.

The district, hereinafter designated as combining SU (secondary unit) district, is established to be combined with residential districts which are characterized by lot sizes, parking areas, street improvements, public utilities, and other residential support systems which can best accommodate them.

(Prior gen. code § 8-44.9)

(Ord. No. 2010-71, § 44, 12-21-10; Ord. No. 2017-13, § 2(Pt. 2), 4-25-17)

17.30.110 SU combining district—Permitted uses.

In addition to those uses permitted in this district with which it is combined, one secondary dwelling unit per building site is permitted subject to the following requirements:

A. Parking.

1. One parking space per unit or per bedroom, available for tenant and visitor parking and having a nine-foot minimum width, an eighteen (18) foot minimum depth, and an area not less than one hundred eighty (180) square feet, or be designed as specified in the Alameda County Residential Design Guidelines, must be present on the property. Such parking may be provided on an existing driveway or within a required setback and may be tandem.

2. No additional parking for the secondary unit is required when:

a. The property is located within one-half mile of public transit;

b. The property is located within an architecturally and historically significant historic district;

c. The property is entirely within the existing space of the existing primary residence or an existing accessory structure;

d. On street parking permits are required but not offered to the occupant of the accessory dwelling unit; or,

e. There is a car share vehicle located within one block of the accessory dwelling unit.

3. Except for secondary units described in subsection 17.30.110(A)(2), when a garage, carport, or covered parking space is eliminated in conjunction with the construction of a secondary unit, the eliminated off street parking spaces shall be replaced on-site. The replacement space(s) may be located in any configuration on the same lot as the secondary unit and may be covered, uncovered spaces, tandem spaces, or accessible by the use of mechanical automobile parking lifts.

B. The attached secondary unit shall have a direct external entry and shall be limited to a maximum size of fifty (50) percent of the existing living area or six hundred forty (640) square feet, whichever is less. In all other respects the regulations of the district within which the SU district is combined shall remain the same, except as follows:

1. No setback shall be required for an existing garage that is converted to an accessory dwelling unit, except as required by fire or building codes.

2. Units contained within the existing space of a single-family residence or accessory structure need only have side and rear setbacks sufficient to ensure fire safety.

C. The detached secondary dwelling shall be clearly subordinate to the existing single-family dwelling by size and appearance. A detached secondary unit shall be limited to one story, fifteen (15) feet in height, a maximum size of fifty (50) percent of the existing living area or six hundred forty (640) square feet, whichever is less, a minimum of ten feet from the existing dwelling, and located to the rear of the existing dwelling. In all other respects the regulations of the district with which the SU district is combined shall remain the same.

D. The secondary unit shall not be sold separately from the primary residence.

E. The secondary unit shall not be rented for a period of less than thirty (30) days.

F. The property must be owner occupied.

(Prior gen. code § 8-44.10)

(Ord. No. 2010-71, § 45, 12-21-10; Ord. No. 2017-13, § 2(Pt. 2), 4-25-17)

### Article V Reserved[[8]](#footnote-8)

17.30.120, 17.30.130 Reserved.

### Article VI Combining RV Districts

17.30.140 Combining RV district—Intent.

The district, hereinafter designated as the combining RV (recreational vehicle) district, is established to be combined with residential districts which are characterized by lot sizes, yards, and parking such that properties in these districts can accommodate the parking and storage of personally owned recreational vehicles.

(Prior gen. code § 8-44.11)

17.30.150 RV combining district—Regulations.

In a combining RV district, all regulations shall remain the same as in the residential district with which the RV district is combined, except as to the matters hereinafter specified.

The provisions of Section 17.52.330, Yard regulations, notwithstanding, the parking, storage, and use of a motorhome, recreational vehicle, utility or other trailer, unmounted camper top, or boat shall be permitted as an accessory use in the yard areas of a lot, subject to the following restrictions:

A. Motorhome, recreational vehicle, utility or other trailer, unmounted camper top, or boat shall be parked, stored, or used on a paved surface;

B. The paved area(s) for parking, storage, and use of a motorhome, recreational vehicle, utility or other trailer, unmounted camper top, or boat shall not exceed thirty (30) feet in width, or one-half the lot width, whichever is less;

C. Motorhome, recreational vehicle, utility or other trailer, unmounted camper top, or boat shall have a maximum length of twenty (20) feet, provided that for each one foot in excess of twenty (20) feet by which the proposed parking, storage, or use area extends inward from and generally perpendicular to the frontage, the allowable length of the motorhome, recreational vehicle, utility or other trailer, unmounted camper top, or boat may be an additional one foot in length, however in no case shall the maximum length exceed twenty-five (25) feet;

D. Motorhome, recreational vehicle, utility or other trailer, unmounted camper top, or boat shall not extend over any portion of a public or private right-of-way;

E. Motorhome, recreational vehicle, utility or other trailer, unmounted camper top, or boat shall not block access to required off-street parking;

F. Motorhome, recreational vehicle, utility or other trailer, unmounted camper top, or boat shall have a maximum height including all appurtenances of eleven (11) feet;

G. Motorhome, recreational vehicle, utility or other trailer shall be operable;

H. Motorhome, recreational vehicle, utility or other trailer, unmounted camper top, or boat shall be owned by the occupant of the property upon which it is parked, stored, or used;

I. To the extent reasonably possible, using landscaping and fencing within the allowable height limits contained in this title, motorhome, recreational vehicle, utility or other trailer, unmounted camper top, or boat shall be effectively screened from the view of other properties and the public or private right-of-way.

(Prior gen. code § 8-44.12)

### Article VII Combining CA Districts

17.30.160 CA combining district—Intent.

The district, hereinafter designated the CA (cultivated agriculture) combining district, is established to be combined with the A (agricultural) district to implement the land use policies and standards for the vineyard area of the South Livermore Valley Area Plan.

(Ord. 2000-25 (part): Ord. 99-1 § 1 (part))

(Ord. No. 2010-71, § 46, 12-21-10)

17.30.170 CA combining district—Regulations.

In a CA combining district, the regulations shall remain the same as the regulations in the A (agricultural) district with which it is combined, except as follows:

A. The maximum dwelling unit density shall be one per twenty (20) acres and the minimum building site area shall be seventeen (17) acres provided the following criteria are met to the satisfaction of the planning director and by the time specified in the tentative map approving the subdivision:

1. The applicant shall demonstrate that the proposed lots will contribute substantially to the goal of promoting viticulture or other cultivated agriculture; and

2. The applicant shall demonstrate that adequate water supplies are available to the proposed parcels for domestic, fire fighting, and agricultural and landscaping irrigation needs; and

3. The applicant shall demonstrate that all proposed homesite(s) can be served by individual septic tank systems; and

4. The applicant shall demonstrate that proposed lots have been surveyed by a qualified biologist to locate any potential plant or wildlife species of concern, and that a mitigation plan has been developed to protect any sensitive or unique environmental characteristics, including but not limited to oak groves, riparian area, or species of concern; and

5. The applicant shall demonstrate and guarantee that a minimum of ninety (90) percent of the area of the parcel being subdivided shall be permanently set aside for viticulture or other cultivated agriculture, planted, and maintained for a minimum of eight years in wine grapes or other cultivated agriculture, excepting therefrom only those minor portions needed to preserve environmentally sensitive areas; and

6. The applicant shall demonstrate that all applicable fees have been paid; and

7. The applicant shall demonstrate that adequate notice to buyers of proposed parcels has been given of potential residential/agricultural land use conflicts such as noise, dust, odors, night operations or other impacts resulting from the agricultural operations.

Of the ninety (90) percent of the area of the parcel being subdivided to be permanently set aside for viticulture or other cultivated agriculture as required under Section 17.30.170(A)(5), up to but no more than fifteen (15) percent may consist of environmentally sensitive areas, including but not limited to wetlands, arroyos, slopes in excess of twenty-five (25) percent, oak groves, or areas with unique environmental characteristics. This area shall be included in the area permanently set aside, but shall not be planted. This area may be divided in any proportion between the parcels being created. In order to meet the minimum acreage required to be planted (76.5% of the total parcel), building site envelopes may be reduced below the two acre total allowed in Section 17.30.170(C)(2). The planning director may require a reduction of the two acre building site envelope in order to maximize the amount of acreage planted. If more than fifteen (15) percent of the area to be set aside permanently for agriculture consists of environmentally sensitive areas, the amount over fifteen (15) percent shall be subtracted from the total area of the parcel for purposes of calculating the number of parcels that can be created. All fractions shall be rounded down.

B. There shall be a minimum one hundred (100) foot uncultivated and undeveloped buffer area adjacent to the top of bank of any major arroyo, and a minimum twenty (20) foot uncultivated and undeveloped buffer area adjacent to the top of bank of any minor watercourse unless buffers of different widths are approved in light of potential hazards, crop management practices, and other factors.

C. All buildings shall be located within a building site envelope shown on the tentative map approving the subdivision and which meets the following criteria:

1. There shall be not more than two separate building site envelopes on a parcel; and

2. The aggregate area of the building site envelope(s) for a residence including the driveway(s) shall not exceed two acres; if nonresidential use is authorized on the parcel, the aggregate area of the building site envelope(s) for all buildings and driveway(s) shall not exceed ten percent of the area of the parcel; and

3. Except for underground agricultural storage silos, the building site envelope shall not exceed twenty-five (25) percent slope; and

4. The building site envelope shall not be located within a FEMA-designated, 100-year flood plain area; and

5. The building site envelope shall be a minimum of two hundred (200) feet from a major street and one hundred (100) feet from any other street unless site-specific studies of noise, traffic, visual impacts or other land use compatibility factors warrant a lesser setback through the site development review process; and

6. The building site envelope shall not be located in any area that is known to be subject to landslide or other seismic or geotechnical hazards.

D. Where subdivision of land results in a net loss of vineyard acreage, the maximum area of such land that may be approved for subdivision on a tentative map between January 1st and December 31st of any calendar year shall be one hundred (100) acres.

E. To the satisfaction of the planning director and by the time specified in the tentative map approving the subdivision, subdivision of existing vineyards shall be subject to provision of improvements necessary to bring the existing vineyard stock up to current industry standards for production, quality and resource use, including water and soil.

F. CA District—Conditional Uses prohibited.

1. The following uses, otherwise conditionally allowed by the A (agricultural) district, are neither permitted nor conditional uses where the CA district is combined with the A district:

a. Killing and dressing of livestock, except when accessory as specified in Section 17.06.050;

b. Flight strip when accessory or incidental to a permitted or conditional use, unless such a conditional use permit has been previously approved on subject property for such use;

c. Cemetery, crematory, or other facility for the disposal of human or animal dead, pet cemetery;

d. Hog ranch;

e. Radio and television transmission facilities, unless such a conditional use permit has been previously approved on subject property for such use;

f. Sanitary landfill or composting facility;

g. Privately owned wind-electric generators, except as an accessory use.

2. In addition to the conditional uses in the A (agricultural) district with which it is combined, the following are conditional uses in the CA combining district and shall be permitted only if approved by the board of zoning adjustments as provided in Section 17.54.130:

a. Bed and breakfast establishment, if conducted within an existing or permitted dwelling: maximum of fourteen (14) rooms available for guests;

b. Restaurant, with seated service only, and a maximum of forty-nine (49) permanent indoor seats, that features agricultural products of the South Livermore Valley Area;

c. Bicycle rental;

d. Other small scale recreational uses found by the board of zoning adjustments to be consistent with the intent of the South Livermore Valley Area Plan.

G. CA District—Site Development Review. Site development review pursuant to Section 17.54.210 shall be required for every new building greater than five hundred (500) square feet or thirty (30) feet in height, placed on a lot in the CA district. Notwithstanding the requirements of Section 17.54.230, the planning director may establish the application filing requirements appropriate to the structure under consideration.

In the exercise of reasonable judgment and based on affirmative findings of fact, minor variances to the provisions of this section may be granted through the site development review process, provided that the variance does not allow a use not otherwise allowed. Specifically, this shall not allow a variance of the provisions of Section 17.30.170 that set the maximum dwelling unit density; the minimum building site area, and the maximum amount of land that may consist of environmentally sensitive areas.

(Ord. 2002-60 § 1 (part); Ord. 2001-35; Ord. 2000-25 (part): Ord. 99-1 § 1 (part))

(Ord. No. 2010-71, § 47, 12-21-10)

17.30.180 CA combining district—Easement monitoring fee.

A. Purpose and Intent. The intent of this section is to provide the land trust or other entity holding an agricultural easement or other similar restriction on land as required under this article with capital to create an endowment fund that would generate revenue for the long-term monitoring costs of the easements on property that is subdivided and restricted under this article.

B. Findings. In establishing the requirements set out in this chapter, the board of supervisors finds and determines as follows:

1. County plans, policies, and regulations encourage bringing agricultural lands under cultivation and permanently committing them to agricultural uses. To encourage this, the CA combining district allows subdivision of agricultural land into parcels smaller than the underlying A (agricultural) district minimum parcel size, subject to permanently setting aside a minimum of ninety (90) percent of the area of the parcel being subdivided for viticulture or other cultivated agriculture. This is generally accomplished by dedicating an agricultural easement or other similar restriction to a land trust or other entity;

2. In order to ensure that the property owners meet the terms of the easements and do not do anything inconsistent with the terms of the easement, the land trust or other entity must establish the base information for the property and monitor the property on an annual basis in perpetuity;

3. It is in the public interest that the land trust or other entity have a dependable source of funding to monitor the easements, and, where necessary, enforce the terms of the easements;

4. The South Livermore Valley Agricultural Land Trust has prepared a study that demonstrates that the sum of seventy-five dollars ($75.00) per acre, or one thousand five hundred dollars ($1,500.00) for the minimum twenty (20) acre parcel, invested conservatively, will provide an annual income of seventy-five dollars ($75.00), which will cover a major portion of the cost to monitor the easement;

5. This requirement is consistent with the county general plan;

6. Pursuant to Government Code Section 65913.2, the board of supervisors has considered the effects of the requirement with respect to the county's housing needs as established in the housing element of the county general plan, and finds that it does not render unfeasible the development of housing for any and all economic segments of the community.

C. Requirement. Concurrent with finalizing the guarantees required under Section 17.30.170(A)(5) of this article, applicant shall pay a fee equal to seventy-five dollars ($75.00) per each acre covered by the tentative map to the land trust or other entity holding the restriction. This fee shall be paid for the total acreage, including the building envelope as well as the acreage to be planted and environmentally sensitive areas.

D. Waiver. The planning director may waive all or part of this requirement if either of the following occurs:

1. The land trust or other entity holding the restriction requests that the fee be waived; or

2. The planning director determines that the waiver is in the public interest and that the waiver would further the intent of this article and underlying county programs, policies, plans, and regulations.

(Ord. 2000-25 (part), 1999)

(Ord. No. 2010-71, § 48, 12-21-10)

### Article VIII SC Districts

17.30.190 Purpose.

The district, hereinafter designated as combining SC (scenic corridor) district, is established to be combined with other districts containing lands located within scenic corridors as designated by the board of supervisors. The purpose of this article is to provide guidelines and approval procedures for the development and improvement of land within combining SC districts in unincorporated Alameda County.

(Ord. No. 2013-27, § 2, 7-16-13)

17.30.200 Regulations.

In a combining SC district all regulations shall remain the same as in the district with which it is combined except as to the matters hereinafter described.

(Ord. No. 2013-27, § 2, 7-16-13)

17.30.210 General provisions.

A. All new development within the district shall comply with the provisions of this article; provided, however, that the following shall be exempt from compliance:

1. Agricultural-related structures outside of the forty (40) foot roadway buffer.

2. Single-family dwellings and manufactured homes on an existing lot of record where no increase in habitable floor space or building height is proposed.

3. Developments existing on the effective date of this article, provided that expansions or additions to existing development on or after the effective date of this article shall be subject to compliance with these regulations.

B. In the event of a conflict among the regulations in this article and those elsewhere in this code, the regulations in this article shall prevail. The provisions of this article shall also apply to projects undertaken by public agencies and special districts except for the maintenance of existing county public roads within existing rights-of-way.

C. No permit or administrative or discretionary approval shall be issued to authorize any grading or earthmoving activity, including grading or earthmoving necessary to create or improve an existing driveway, road, or other access, or benches or shelves, if such earthmoving or grading would occur on slopes of fifteen (15) percent or more unless a variance has been granted in accordance with Sections 17.54.090 through 17.54.120. Agricultural roads subject to erosion control plans under Chapter 15.36 of this code shall not be subject to this requirement.

D. All future building sites identified on a tentative parcel map, final map, or subdivision map shall be reviewed and conditions of approval established to ensure conformity with the purpose and intent of this article.

E. Applications requiring the issuance of a conditional use permit, as required by this title, will be reviewed for their adherence to the requirements of this article during the application process for the issuance of the conditional use permit.

(Ord. No. 2013-27, § 2, 7-16-13)

17.30.220 SC districts—Site development review—Procedures.

A. Site development review pursuant to Section 17.54.210 is required for any project for which a building or grading permit is required.

B. A site development review application shall be in the form specified by the county.

C. Upon receipt of a site development review application, the planning department shall give notice of hearing shall be given pursuant to Section 17.54.830.

D. The county planning commission shall hold public hearing and make a recommendation to the county board of supervisors regarding the site development Review application. The county board of supervisors shall hold a public hearing and render a decision on the application.

E. In determining whether to grant or deny a site development review application, the planning commission and board of supervisors shall consider whether the proposed development complies with the development guidelines contained in Section 17.30.240.

F. Prior to the issuance of a building permit for any project authorized under this section, the property owner shall execute and record in the county recorder's office a use restriction, in a form approved by the county, requiring structures, existing and proposed covering vegetation, as well as any equivalent level of replacement vegetation, to be maintained by the owner or the owner's successor so as to maintain conformance with the written decision of the board of supervisors.

G. The written decision of the board of supervisors is final and not administratively appealable. Following a final decision by the board of supervisors any concerned person may seek judicial review of the final decision to grant or deny a site development review application pursuant to California Code of Civil Procedure Section 1094.5, in conjunction with sections 1094.6 or 1094.8, as applicable.

(Ord. No. 2013-27, § 2, 7-16-13)

17.30.230 SC districts—Site development review—Planning director review.

A. If the planning director determines that the project cannot be viewed from any designated public road, because of its relationship to surrounding topography or existing vegetation, then the project shall be reviewed by the planning director in accordance with Section 17.54.210.

B. The planning director shall hold a public hearing regarding a site development review application.

C. The planning director shall not approve a project unless it complies with the development guidelines provided in Section 17.30.240.

D. If the determination was made based on existing vegetation coverage, then the property owner, prior to the issuance of a building permit, shall be required to execute and record in the county recorder's office a use restriction, in a form approved by county counsel, requiring that existing covering vegetation be maintained, or replaced with equivalent vegetation, by the owner or the owner's successors, so as to prevent the project from being viewed from any designated public road.

E. Projects that do not satisfy the criteria and standards contained in Section 17.30.230A shall be subject to review and approval under Section 17.30.220.

(Ord. No. 2013-27, § 2, 7-16-13)

17.30.240 SC districts—Development guidelines.

A. Unless exempted as provided above in Section 17.30.210A, development or improvements within a combining SC district shall comply with the following guidelines:

1. The design and location of each structure and any landscaping shall create a compatible visual relationship with surrounding development and with the natural terrain and vegetation. Road widths and road configurations should be considered as part of the development's design.

2. Structures and landscaping shall be so located that each does not create a walled effect along the scenic corridor. The positioning of structures shall be varied in order to create a complimentary relationship between mass and void.

3. All developments shall maintain a one hundred (100) foot setback for all structures and property improvements such as parking lots, except for approved road, driveway and utility crossings. Structures twenty (20) feet in height or less that otherwise have been found consistent with this article may be located within the one hundred (100) foot setback.

4. A roadway buffer of at least forty (40) feet shall be provided within the required development setback, abutting the right-of-way of the scenic corridor. Where existing trees and significant vegetation exist within the roadway buffer, they shall be retained as determined appropriate and directed by the county. Vegetation within a roadway buffer that is required to remain within a roadway buffer may be pruned or removed only if necessary to ensure proper sight visibility, remove safety hazards or dying or diseased vegetation, or for other good cause as approved by the county.

5. Existing topography, vegetation, and scenic features of the site shall be retained and incorporated into the proposed development wherever possible. Manmade structures, as a visual element in the scenic corridor, should be secondary in importance to natural growth.

6. Each structure or feature reviewable under this article shall be limited in scale and siting to reduce visual dominance or obstruction of existing landforms, vegetation, water bodies, and adjoining structures.

7. Each structure shall be constructed, painted, and maintained, and all planted material shall be planted and maintained to complement and enhance scenic views and the natural landscape.

8. Unnatural and conflicting aesthetic elements shall be eliminated to the extent feasible consistent with safety requirements. Where it is not possible to locate such a feature out of view, it must be located in an area so as to minimize visibility from a scenic corridor or screened from view by planting, fence wall, or berm. Where the screen consists of a fence, wall, or berm, it may not be higher than six feet. Screening shall consist of primarily natural materials rather than solid fencing. Preference shall be given to vegetation in conjunction with a low earth berm.

9. Lighting shall be directed on site and compatible in type, style, and intensity to the surrounding elements and not cause undue or aggravating disruption, glare, or brightness.

10. Grading or earth-moving shall be planned and executed in such manner that final contours appear consistent with a natural appearing terrain. Finished contours shall be planted with plant materials native to the area so that minimum care is required and the material is visually compatible with the existing ground cover.

11. A road pattern or characteristics of any road pattern proposed as part of a development shall be designed and constructed to contribute to the scenic character of the landscape in view. New roads and driveways constructed within the scenic corridor shall not be dominant visually and there should be only a minimal amount of road in view within the roadway buffer.

12. The number of access points to and from the scenic corridor shall be minimized consistent with safety and circulation needs.

13. Parking on the scenic corridor roadways should be minimized.

14. No Advertising signs shall be permitted.

15. All utility lines improved or installed in order to directly serve uses proposed or developed within the scenic corridor, including electric, telephone, data, and cable television, shall be installed underground within the roadway buffer and development setback area. Underground utility trenches must be revegetated. Utility boxes and cabinets that are now or must, by necessity, be located above ground must be shielded from view from the scenic corridor with existing vegetation or revegetation. Any above-ground boxes that cannot be buried shall, in addition to being screened by vegetation, be painted a neutral or earth tone color or otherwise made to blend in with their surroundings.

16. All development shall be consistent with the Alameda County general plan.

B. Violations of this section shall be subject to enforcement, penalties, and abatement under Chapters 17.58 and 17.59 of this title.

(Ord. No. 2013-27, § 2, 7-16-13)

## Chapter 17.32 H-1 DISTRICTS

**Sections:**

17.32.010 Highway frontage districts—Intent.

Highway frontage districts, hereinafter designated as H-1 districts, are established to protect selected areas adjacent to major routes for travel for highway oriented types of business use, so regulated as to prevent the impairment of safe and efficient movement of traffic, and to encourage development attractive to the traveling public, and compatible with adjacent agricultural and residential land uses, by provision of space for landscaping and for adequate off-street parking facilities.

(Prior gen. code § 8-45.0)

17.32.020 Permitted uses.

The following principal uses are permitted in an H-1 district, subject to site development review:

A. Restaurant, except a drive-in restaurant.

(Ord. 96-15 § 1 (part); prior gen. code § 8-45.1)

17.32.025 Conditional uses—Planning commission.

The following are conditional uses and shall be permitted in an H-1 district only if approved by the planning commission, sitting as a board of zoning adjustments, as provided in Sections 17.54.135 and 17.32.010:

A. Adult entertainment activity provided, however, that no adult entertainment activity shall be located closer than one thousand (1,000) feet to the boundary of any residential zone or closer than one thousand (1,000) feet to any other adult entertainment activity.

(Ord. 2000-53 § 1 (part))

(Ord. No. 2010-71, § 49, 12-21-10)

17.32.030 Conditional uses—Board of zoning adjustments.

The following are conditional uses in H-1 districts, and shall be permitted only if approved by the board of zoning adjustments as provided in Section 17.54.130:

A. Retail store for the sale of gifts and supplies oriented to the needs of the patrons of hotels, motels and restaurants and of highway travelers;

B. Commercial recreation facilities, if within an enclosed building;

C. Plant nursery, greenhouse;

D. Parking lot;

E. Drive-in theater, drive-in business;

F. Service station, Type A and Type B;

G. Motel, hotel;

H. Recreational vehicle park, as regulated by Chapter 17.52 of this title;

I. Boat and recreational vehicle storage yard;

J. Alcohol outlet;

K. Mobile outdoor businesses that directly serves the needs of the occupants, workers, patrons, or clients of existing businesses in the immediate vicinity;

L. Tavern.

(Ord. 2008-33 § 2: Ord. 2002-60 (part); Ord. 2000-53 § 1 (part); Ord. 96-15 § 1 (part); prior gen. code § 8-45.2)

(Ord. No. 2010-71, § 50, 12-21-10)

17.32.040 Accessory uses.

In an H-1 district, personal service shops or stores are permitted when accessory to a motel or a hotel.

(Prior gen. code § 8-45.3)

17.32.050 Building site.

Except as otherwise specified in the case of a combining district and except for recreational vehicle parks as regulated by Chapter 17.52 of this title, every use in an H-1 district shall be on a building site having an area not less than ten thousand (10,000) square feet and an effective lot frontage not less than seventy (70) feet.

(Prior gen. code § 8-45.4)

17.32.060 Yards.

Except where a greater depth or width is required in the case of a combining district, the yard requirements in H-1 districts shall be as follows, subject to the general provisions of Section 17.52.330:

A. Depth of front yard: Not less than twenty-five (25) feet;

B. Depth of rear yard: Not less than twenty (20) feet;

C. Width of side yard: Not less than five feet.

Provided however that the side yard on the street side of a corner lot shall have a width not less than fifteen (15) feet and that any side yard which abuts a lot in an R district shall have a width not less than that required in such R district.

(Prior gen. code § 8-45.5)

(Ord. No. 2010-71, § 51, 12-21-10)

17.32.070 Height of building.

No building or structure in an H-1 district shall have a height in excess of thirty-five (35) feet, except as provided by Section 17.52.090.

(Prior gen. code § 8-45.6)

17.32.080 Coverage limitations.

In H-1 districts, the aggregate ground coverage, calculated as provided in Section 17.52.380, shall not exceed forty (40) percent of the area of the lot. All open portions of the lot shall be graded and drained to standards approved by the planning commission and maintained in a dust-free condition. All parking areas and driveways shall be paved to standards approved by the planning commission.

(Prior gen. code § 8-45.7)

17.32.090 Other regulations.

All uses in H-1 districts shall conform to the performance standards of this title for M-P districts as set forth in Section 17.42.020.

(Prior gen. code § 8-45.9)

## Chapter 17.34 C-O DISTRICTS

**Sections:**

17.34.010 Administrative office districts—Intent.

Administrative office districts, hereinafter designated as C-O districts, are established to provide for the location of offices for professional services and for business activities which are characterized by a low volume of direct consumer contact; and to encourage such development in a manner compatible with the uses in adjacent districts, with suitable open spaces, landscaping, and parking area. In Castro Valley (areas within the Castro Valley Urbanized Area), this also includes retail, service, and small scale production uses. C-O districts are typically situated in areas having convenient access from, but not directly on, main thoroughfares, and generally adjacent to a multiple residential development.

(Prior gen. code § 8-46.0)

(Ord. No. 2010-71, § 52, 12-21-10; Ord. No. 2020-66, § 9, 12-15-20)

17.34.020 Permitted uses.

The following principal uses are permitted in a C-O district when located within a building:

A. Office or office building for the conduct of business, administrative or professional services, where these activities do not include the manufacture, storage, display except samples, or sale at retail of any merchandise on the premises; including but not limited to the following types of office occupancy: Accountant, advertising, architect, attorney, broker (stock and bond), business consultant, business management, chiropodist, chiropractor, collecting agency, dentist, employment agency, engineer, finance, industrial management, insurance, landscape architect, loan agency, mortgage, optometrist, osteopath, philanthropic or charitable organization, physician, public utilities, real estate, sales representative, secretarial, social services, telephone answering, travel agent;

B. Bank;

C. Blue printing or other copying service;

D. Medical laboratory, dental laboratory; and

E. In Castro Valley (areas within the Castro Valley Urbanized Area), in addition to uses listed above, the following are also permitted:

1. Personal service and retail uses permitted in the C-N Zone (see subsections 17.36.020(A) and (B)).

2. Day care center subject to Section 17.52.1330 (Day Care Center in Castro Valley).

3. Artisan/maker space.

(Ord. 2006-33 § 3 (part): Prior gen. code § 8-46.1)

(Ord. No. 2010-71, § 53, 12-21-10; Ord. No. 2020-66, § 9, 12-15-20)

17.34.025 Conditional uses—Planning commission.

The following are conditional uses and shall be permitted in a C-O district only if approved by the planning commission, sitting as a board of zoning adjustments, as provided in Sections 17.54.135 and 17.34.010:

A. Church, library, school, hospital, clinic;

B. Clubhouse, or rooms used by members or an organized club, lodge, union or society; and

C. Unattended collection box(es) placed in conjunction with an approved community facility as defined in Section 17.04.010.

(Ord. 2006-33 § 3 (part): Ord. 2000-53 § 1 (part))

(Ord. No. 2013-26, § 8, 7-16-13)

17.34.030 Conditional uses—Board of zoning adjustments.

In addition to the uses listed for Sections 17.52.480 and 17.52.580, the following are conditional uses in a C-O district and shall be permitted only if approved by the board of zoning adjustments as provided in Section 17.54.130:

A. Pharmacy, limited to the sale of drugs and medical supplies, except in Castro Valley (areas within the Castro Valley Urbanized Area) where pharmacies are permitted (see Section 17.34.020(E), above);

B. Restaurant or retail store which serves primarily the occupants of existing buildings in the same district, or their clients or patrons, except in Castro Valley (areas within the Castro Valley Urbanized Area) where restaurants and retail stores are permitted (see Section 17.34.020(E), above);

C. Mobile outdoor business that directly serves the needs of the occupants of existing office commercial buildings or workers, patrons, or clients of businesses in the immediate vicinity;

D. Research or development laboratory, except those engaged in manufacture of products for commercial sale or distribution and excluding any which produces or is found likely to produce any smoke, dust, odors, glare or vibrations observable outside the building or portion thereof in such use;

E. Parking lot;

F. Public utility substation, not including service yard, storage of materials or vehicles, or repair facilities.

(Ord. 2008-33 § 3: Ord. 2002-60 (part); Ord. 2000-53 § 1 (part); prior gen. code § 8-46.2)

(Ord. No. 2010-71, § 54, 12-21-10; Ord. No. 2020-66, § 9, 12-15-20)

17.34.040 Site development review.

Any structure one thousand (1,000) square feet or more or any construction aggregating one thousand (1,000) square feet or more placed since July 9, 1977, shall be subject to site development review pursuant to Section 17.54.210; unless zoning approval is granted upon the determination that the construction constitutes a minor project and that the building permit plans are in accord with the intent and objectives of the site development review procedure.

(Prior gen. code § 8-46.2.1)

17.34.050 Building site.

Every use in a C-O district shall be on a building site having a median lot width not less than seventy (70) feet, and an area not less than ten thousand (10,000) square feet.

(Prior gen. code § 8-46.3)

17.34.060 Yards.

The yard requirements in C-O districts shall be as follows, subject to the general provisions of Section 17.52.330:

A. Depth of front yard: not less than twenty (20) feet;

B. Depth of rear yard: not less than ten feet;

C. Width of side yards: not less than ten feet.

(Prior gen. code § 8-46.4)

17.34.070 Height of buildings.

Except as otherwise provided in Section 17.52.090, no building or structure in a C-O district shall have a height in excess of thirty-five (35) feet.

(Prior gen. code § 8-46.5)

17.34.080 Coverage limitations.

In C-O districts the aggregate ground coverage, calculated as provided in Section 17.52.380, shall not exceed fifty (50) percent of the area of the lot. All open portions shall be graded, drained and maintained continuously in a dust free condition, either by landscaping or by paving, to standards approved by the board of zoning adjustments.

(Ord. 2002-60 (part): Prior gen. code § 8-46.6)

17.34.090 Signs.

Signs permitted subject to Section 17.52.520.

A. Type. Business signs.

B. Size. Area of all signs not to exceed one square foot for each two lineal feet of either primary building frontage or secondary building frontage, up to a maximum of fifty (50) square feet for each business, provided, however, that each business is guaranteed twenty-five (25) square feet of sign area.

C. Location. Wall signs only.

D. Character. No sign shall be flashing or intermittent, contain moving parts, or be located so as to be directed towards lands in any adjacent R district, except pursuant to Section 17.52.515(A)(3) and in conformance with Section 17.54.226.

(Prior gen. code § 8-46.7)

(Ord. No. 2010-49, § 5, 9-14-10)

17.34.100 Office building master identification sign.

In addition to signs permitted by Section 17.34.090 but subject to Section 17.52.520 and as qualified below an office building may be permitted an office building master identification sign, subject to site development review pursuant to Section 17.54.210. The office building master identification sign shall be in architectural harmony with the design of the buildings intended to be identified, if wall-mounted by its design as an integral part of the wall of the building to which it is attached and if freestanding then limited to a low-profile sign not exceeding eight feet in height with its means of support concealed and located within a planter of appropriate dimension.

The office building master identification sign shall not exceed fifty (50) square feet in area, shall be permitted for office building which contains no less than four tenants or any institutional use, and the copy shall include only the name of the office complex or institutional use.

(Prior gen. code § 8-46.7.1)

(Ord. No. 2010-71, § 55, 12-21-10)

17.34.110 Other regulations.

All uses in C-O districts shall conform to the performance standards of this title for M-P districts as set forth in Section 17.42.020.

(Prior gen. code § 8-46.8)

## Chapter 17.36 C-N DISTRICTS

**Sections:**

17.36.010 Neighborhood business districts—Intent.

Neighborhood business districts, hereinafter designated C-N districts, are established to provide for the development of small convenience shopping and related facilities in areas which are predominantly residential, at locations where such facilities can be grouped without detriment and appropriately conditioned to promote and protect the intent of the district, and to protect them by excluding uses which would tend to reduce their effectiveness as a neighborhood service.

(Ord. 94-42 § 1 (part): prior gen. code § 8-47.0)

17.36.020 Permitted uses.

The following principal uses are permitted in a C-N district:

A. Bank, barber shop, beauty parlor, cleaning or laundry agency, restaurant, self-service laundry;

B. Store for sale or retail of books, clothing, drugs, flowers, food, hardware, musical goods, photographic supplies, variety goods or household supplies, retail sales of auto parts, but not to include parts machining or any nonretail service;

C. Office or office building;

D. In Castro Valley (areas within the Castro Valley Urbanized Area), in addition to uses listed above, the following are also permitted:

1. Community facilities subject to Section 17.52.1340 (Community facilities in Castro Valley).

2. Day Care Center subject to Section 17.52.1330 (Day care centers in Castro Valley).

3. Artisan/maker space.

(Ord. 96-15 § 1 (part): prior gen. code § 8-47.1)

(Ord. No. 2020-66, § 10, 12-15-20)

17.36.030 Conditional uses.

In addition to the uses listed in Sections 17.52.480 and 17.52.580, the following are conditional uses in a C-N district and shall be permitted only if approved by the board of zoning adjustments as provided in Section 17.54.130:

A. Public utility substation, not including service yard, storage of materials, or vehicles, or repair facilities;

B. Parking lot; in Castro Valley (areas within the Castro Valley Urbanized Areas) parking lots are subject to the requirements of Section 17.52.1360;

C. Service station, Type A;

D. Drive-in business; in Castro Valley (areas within the Castro Valley Urbanized Areas) drive-in business are subject to the requirements of Section 17.52.1350;

E. A facility retailing a variety of automotive parts and supplies which are installed and serviced on the site but does not include engine, transmission or differential rebuilding or body repair;

F. Alcohol outlet;

G. Indoor recreation facility.

(Ord. 2002-60 (part); Ord. 2002-18 § 1, 2001; Ord. 96-15 § 1 (part): Ord. 94-42 § 1 (part): prior gen. code § 8-47.2)

(Ord. No. 2020-66, § 10, 12-15-20)

17.36.040 Site development review.

Any structure one thousand (1,000) square feet or more or any construction aggregating one thousand (1,000) square feet or more placed since July 9, 1977, shall be subject to site development review pursuant to Section 17.54.210; unless zoning approval is granted upon the determination that the construction constitutes a minor project and that the building permit plans are in accord with the intent and objectives of the site development review procedure.

(Prior gen. code § 8-47.2.1)

17.36.050 Yards.

The yard requirements in C-N districts shall be as follows, subject to the general provisions of Section 17.52.330:

A. Depth of front yard: not less than twenty (20) feet;

B. Depth of rear yard: none, except that where the abutting lot at the rear is in an R district there shall be rear yard having a depth not less than fifteen (15) feet;

C. Width of side yard: none, except that where the abutting lot at the side is in any R district, there shall be side yard having a width not less than the minimum required in such R district and the side yard on the street side of a corner lot shall be not less than ten feet.

(Prior gen. code § 8-47.3)

17.36.060 Height of building.

No building or structure in a C-N district shall have a height in excess of thirty-five (35) feet except as provided by Section 17.52.090.

(Prior gen. code § 8-47.4)

17.36.070 Signs.

Signs permitted subject to Section 17.52.520.

A. Type. Business signs.

B. Size. Area of all signs not to exceed one square foot for each one lineal foot of either primary building frontage or secondary building frontage, up to a maximum of one hundred (100) square feet for each business; provided, however, that twenty-five (25) square feet is guaranteed to each business.

C. Location. Wall signs only.

D. Character. No sign shall be flashing or intermittent, contain moving parts, or be located so as to be directed towards lands in any adjacent R district, except pursuant to Section 17.52.515(A)(3) and in conformance with Section 17.54.226.

(Prior gen. code § 8-47.5)

(Ord. No. 2010-49, § 6, 9-14-10)

17.36.080 Service station sign display structure.

Subject to Section 17.52.520, one service station sign display structure, thirty-two (32) square feet total area or when combined with the service station price sign permitted by Section 17.52.520P, sixty-four (64) square feet total for the entire structure.

Such sign shall not exceed six feet in height. The business sign portion shall be included as part of the aggregate sign area permitted on the property; however, the supporting members and design elements shall not be so included and the sign may be freestanding and may be located within a required yard. Every such sign shall be subject to site development review pursuant to Section 17.54.210.

(Prior gen. code § 8-47.5.1)

17.36.090 Open uses excluded.

All principal uses permitted in C-N districts shall be conducted entirely within a building except a parking lot, an electrical substation, and the servicing of automobiles with gasoline, oil, air and water.

(Prior gen. code § 8-47.6)

17.36.100 Other regulations.

All uses in C-N districts shall conform to the performance standards of this title for M-P districts as set forth in Section 17.42.020.

(Prior gen. code § 8-47.7)

(Ord. No. 2010-71, § 56, 12-21-10)

## Chapter 17.38 C-1 DISTRICTS

**Sections:**

17.38.010 Retail business districts—Intent.

Retail business districts, hereinafter designated as C-1 districts, are established to provide areas for comparison retail shopping and office uses, and to enhance their usefulness by protecting them from incompatible types of commercial uses which can be provided for more effectively in the general commercial districts.

(Prior gen. code § 8-48.0)

17.38.020 Permitted uses.

The following principal uses are permitted in a C-1 district, subject to the limitations of Section 17.38.150:

A. Retail store, except bookstore;

B. Office, bank;

C. Barber shop, beauty parlor, dressmaking or knitting shop, tailor shop, cleaning or laundry agency, handicraft shop;

D. Repair shop for cameras, shoes, watches, and household appliances;

E. Self-service laundry;

F. Restaurant;

G. Parking lot as regulated by Section 17.38.050.

(Ord. 2006-33 § 3 (part): Prior gen. code § 8-48.1)

17.38.025 Conditional uses—Planning commission.

The following are conditional uses and shall be permitted in a C-1 district only if approved by the planning commission, sitting as a board of zoning adjustments, as provided in Sections 17.54.135 and 17.38.010:

A. Hospital;

B. Adult entertainment activity provided, however, that no adult entertainment activity shall be located closer than one thousand (1,000) feet to the boundary of any residential zone or closer than one thousand (1,000) feet to any other adult entertainment activity.

C. Superstore.

(Ord. 2006-18 § 2 (part); Ord. 2000-53 § 1 (part))

(Ord. No. 2010-71, § 57, 12-21-10)

17.38.030 Conditional uses—Board of zoning adjustments.

The following are conditional uses in C-1 districts and shall be permitted only if approved by the board of zoning adjustments as provided in Section 17.54.130:

A. Community facility;

B. Animal hospital, kennel;

C. Clubhouse, or rooms used by members of an organized club, lodge, union or society;

D. Mortuary;

E. Commercial recreation facility other than a theater, if within a building;

F. Storage garage, and storage lots for recreational vehicles and boats;

G. Theater, drive-in theater;

H. Drive-in business;

I. Hotel, motel, boarding house;

J. Automobile sales lot;

K. Service station, Type A; or a facility retailing automotive parts and supplies which are installed and serviced on the site but does not include, engine, transmission or differential rebuilding or body repair;

L. Plant nursery including the sale of landscaping materials, excluding wet-mix concrete sales providing all equipment, supplies, and merchandise other than plant materials are kept within a completely enclosed building;

M. Tavern;

N. Massage establishment in possession of a valid permit issued pursuant to Chapter 3.24 of this code;

O. Recycling centers, when operated in conjunction with a permitted use on the same premises;

P. Advertising signs, provided that no single sign shall be flashing or intermittent, contain moving parts or be located so as to be directed towards lands in any adjacent R district, except pursuant to Section 17.52.515(A)(3) and in conformance with Section 17.54.226;

Q. In-patient and out-patient health facilities as licensed by the State Department of Health Services;

R. Tattoo studio;

S. Alcohol outlet;

T. Firearms sales;

U. Beauty school or business school;

V. Unattended collection box(es) placed in conjunction with an approved community facility as defined in Section 17.04.010;

W. Cannabis retailer, subject to and in compliance with Chapter 6.108 of this code;

X. Combined cannabis operation, subject to and in compliance with Chapter 6.109 of this code.

(Ord. 2006-33 § 4 (part): Ord. 2002-60 (part); Ord. 2000-53 § 1 (part); Ord. 98-53 § 1 (part); Ord. 96-15 § 1 (part): Ord. 94-41 § 1 (part): prior gen. code § 8-48.2)

(Ord. No. 2010-49, § 7, 9-14-10; Ord. No. 2010-71, § 58, 12-21-10; Ord. No. 2013-26, § 9, 7-16-13; Ord. No. 2017-35, § 2, 9-12-17; Ord. No. 2018-18, § 2, 5-8-18; Ord. No. 2018-23, § 2, 5-8-18; Ord. No. 2019-23, § 2, 6-18-19)

17.38.040 Accessory uses.

No use shall be permitted as an accessory use which involves the production of goods not intended for retail sale on the premises, or the cleaning or repair of articles of clothing not directly received from and delivered to the customer on the premises where such cleaning or repairing is done.

(Prior gen. code § 8-48.3)

17.38.050 Site development review.

Any structure one thousand (1,000) square feet or more or any construction aggregating one thousand (1,000) square feet or more placed since July 9, 1977, shall be subject to site development review pursuant to Section 17.54.210; unless zoning approval is granted upon the determination that the construction constitutes a minor project and that the building permit plans are in accord with the intent and objectives of the site development review procedure.

(Prior gen. code § 8-48.4)

(Ord. No. 2010-71, § 59, 12-21-10)

17.38.060 Yards.

No yards are required in a C-1 district except as specified in Sections 17.38.070 and 17.38.080, or in connection with the approval of a conditional use, or a variance.

(Prior gen. code § 8-48.5)

17.38.070 Front yards.

Wherever a C-1 district terminates at the boundary of an R district or of any other C district except a C-2 district in the same block, the depth of front yard in that block shall be not less than is required in such abutting district. Wherever the use of a building site is for a motel, hotel or boarding house, the depth of front yard shall be not less than twenty (20) feet.

(Prior gen. code § 8-48.6)

17.38.080 Side and rear yards.

On the street side of a corner lot in a C-1 district which abuts a key lot in any R district or in any other C district, except a C-2 district, the width of the side yard shall be not less than one-half the depth of the front yard required on such key lot. Where the side lot line of a lot in a C-1 district abuts a lot in any R district there shall be provided a side yard along that line having a width not less than that required on such abutting lot.

Where the rear lot line of a lot in a C-1 district abuts a lot in any R district, there shall be provided a rear yard having a depth not less than six feet. Wherever the use of a building site is for a motel, hotel or boarding house, there shall be side yards not less than ten feet in width, and a rear yard not less than ten feet in depth.

(Prior gen. code § 8-48.7)

17.38.090 Height of building.

Except as otherwise provided in Section 17.52.090, no building or structure in a C-1 district shall have a height in excess of forty-five (45) feet, or in excess of thirty-five (35) feet if the building or structure is situated within fifty (50) feet of the boundary line of an R-1, R-2 or R-3 or R-S district.

(Prior gen. code § 8-48.8)

17.38.100 Business signs.

Business signs are permitted according to either of the following two options provided that if one option is used, the right to the use of the other is waived:

A. Option I—Wall Signs and Projecting Signs.

1. Size. Area of all signs shall not exceed two square feet for each one lineal foot of primary building frontage for the first one hundred (100) feet of primary building frontage and one square foot for each one lineal foot of primary building frontage thereafter; plus one square foot for each one lineal foot of secondary building frontage; provided, however, that twenty-five (25) square feet is guaranteed each frontage by this provision.

2. Type and Location. Wall signs are permitted. Only one projecting sign shall be permitted for each business subject to the conditions (a) that said projecting sign shall not extend from the front wall to which it is attached a distance greater than seven percent of the business building frontage or five feet, or whichever is less; and (b) that said projecting sign shall be located within the middle one-third of the front wall of the business building to which it is attached.

B. Option II—Wall Signs and Freestanding Signs.

1. Size. Area of all signs shall not exceed one and one-half square feet for each one lineal foot of lot frontage on an approved street at the front lot line. The total sign area of any one sign shall not exceed three hundred (300) square feet and no wall sign(s) shall be utilized so as to exceed frontage ratios contained in this section. No business sign shall be limited by this section to less than twenty-five (25) square feet.

2. Type and Location. Wall signs are permitted. Only one freestanding sign shall be permitted for each lot subject to the conditions that: (a) said freestanding sign shall be located in a planter of appropriate dimension; (b) said freestanding sign shall be located within the middle one-third of the street frontage when said freestanding sign is within twenty (20) feet of said street frontage; (c) said freestanding sign shall be a maximum of ten feet high and have a maximum area of thirty (30) square feet, provided that for each one foot that said freestanding sign is set back from the nearest street frontage the maximum height may be increased by one-half foot and the area may be increased five square feet; (d) said freestanding sign shall not in any case exceed thirty-five (35) feet in height. A sign for a service station may be combined with a service station price sign as permitted by Section 17.52.520(P), and the area of the combined sign may exceed these height-area-setback regulations by thirty-two (32) square feet.

3. Character. No sign shall be flashing or intermittent, contain moving parts, or be located so as to be directed towards lands in any adjacent R district.

(Prior gen. code § 8-48.8.1)

(Ord. No. 2010-49, § 8, 9-14-10; Ord. No. 2010-71, § 60, 12-21-10)

17.38.110 Low profile sign.

Subject to Section 17.52.520, one low profile sign, twenty-four (24) square feet maximum area, six feet maximum height, may be constructed on a lot with no less than one hundred (100) lineal feet of lot frontage on an approved street at the front lot line. The sign area shall be included as part of the aggregate sign area permitted on the property. The supporting members and design elements shall not be included in the computation of the sign area and the sign may be located within a required yard. Every such sign shall be subject to site development review pursuant to Section 17.54.210.

(Prior gen. code § 8-48.8.2)

17.38.120 Shopping center master identification sign(s).

In addition to those signs permitted by Section 17.38.120, each shopping center, subject to Section 17.52.520; and as qualified below, may be permitted shopping center master identification sign(s) subject to site development review, pursuant to Section 17.54.210 to assure conformance to established or proposed design theme of the shopping center signing program. The shopping center master identification sign shall be located at one or more main entrances to the shopping center, shall not exceed one hundred (100) square feet in area, shall not exceed twenty-five (25) feet in height, and shall be permitted for shopping centers which contain no less than twenty (20) separate tenants. The shopping center master identification sign shall not advertise or identify any tenant of the shopping center and shall be located in a planter of appropriate dimension.

(Prior gen. code § 8-48.8.3)

17.38.130 Office building master identification sign.

In addition to those signs permitted by Section 17.38.100, each office building, subject to Section 17.52.520 and as qualified below, may be permitted an office building master identification sign, subject to site development review pursuant to Section 17.54.210. The office building master identification sign shall be in architectural harmony with the design of the buildings intended to be identified, if wall-mounted by its design as an integral part of the wall of the building to which it is attached, and if freestanding then limited to a low-profile sign not exceeding eight feet with its means of support concealed and located within a planter of appropriate dimension. The office building master identification sign shall not exceed fifty (50) square feet in area, shall be permitted for office building which contains no less than four tenants or any institutional use, and the copy shall include only the name of the office building or institutional use.

(Prior gen. code § 8-48.8.4)

17.38.140 Service station sign display structure.

A service station display structure is permitted in accordance with Section 17.36.080 of this title on a service station site in lieu of the low profile sign otherwise permitted.

(Prior gen. code § 8-48.8.5)

17.38.150 Other regulations.

A. All principal uses in C-1 districts and all fabricating, processing or repair uses accessory thereto shall be conducted within a building, except an advertising sign, an automobile sales lot, a parking lot, recreational vehicle and boat storage, drive-in theater, drive-in business, kennel, service station, plant material storage as authorized by Section 17.38.030(M), or a community facility or recreation facility.

B. All uses in C-1 districts shall conform to the performance standards of this title for M-P districts as set forth in Section 17.42.020.

C. The term "shop" as used in Section 17.38.020 shall be deemed to include only the establishment of artisans dealing at retail directly with the consumer, and concerned primarily with custom trade, as distinguished from quantity production. Except as a temporary use regulated by Section 17.52.480, use of a mobilehome is not permitted.

(Prior gen. code § 8-48.9)

(Ord. No. 2010-71, § 61, 12-21-10)

## Chapter 17.40 C-2 DISTRICTS

**Sections:**

17.40.010 General commercial districts—Intent.

General commercial districts, hereinafter designated as C-2 districts, are established to provide locations for relatively large areas containing facilities for a wide variety of business and commercial activities needed to serve the community, and to provide a place for the business uses excluded from the C-1 districts and to protect these areas from unsuitable activities of an industrial character.

(Prior gen. code § 8-49.0)

17.40.020 Permitted uses.

The following principal uses are permitted in a C-2 district:

A. Any principal use permitted in a C-O district, pursuant to Section 17.34.020, or a C-1 district pursuant to Section 17.38.020;

B. Wholesale business, storage of household goods, storage garage;

C. Contractor's office for businesses that are characterized by the installation of materials or equipment on the property of the purchaser; including interior storage of equipment and materials;

D. Retail service shops, including cabinet shop, furniture repair and refinishing; upholstering of furniture and automobiles; residential appliance repair; business machine repair; small mechanical equipment and component parts repair and service; bicycle, motorcycle, lawnmower and locksmith shops; auto repair garage and tire recapping;

E. Ambulance service; automobile rental; clinic, catering, job printing; interior decorating, tailoring, laboratory;

F. In Castro Valley (areas within the Castro Valley Urbanized Area), in addition to uses listed above, the following are also permitted:

1. Artisan/maker space.

(Ord. 2006-33 § 4 (part): Prior gen. code § 8-49.1)

(Ord. No. 2020-66, § 11, 12-15-20)

17.40.030 Conditional uses—Board of zoning adjustments.

In addition to the uses listed in Sections 17.52.480 and 17.52.580, the following are conditional uses in C-2 districts and shall be permitted only if approved by the board of zoning adjustments as provided in Section 17.54.130:

A. Animal hospital, kennel;

B. Mortuary;

C. Community facility;

D. Drive-in theater, drive-in business; recreation facility;

E. Service station, Type A and Type B;

F. Automobile, camper, boat and trailer sales, storage or rental lot;

G. Plant nursery including the sale of landscaping materials, excluding wet-mix concrete sales, providing all equipment supplies and merchandise other than plant materials are kept within a completely enclosed building;

H. Auto sales and service agency;

I. Advertising sign, provided that no single sign shall exceed three hundred (300) feet in area and no sign shall be flashing or intermittent, contain moving parts or be located so as to be directed towards lands in any adjacent R district, except pursuant to Section 17.52.515(A)(3) and in conformance with Section 17.54.226;

J. Tavern;

K. In-patient and out-patient health facilities as licensed by the State Department of Health Services;

L. Tattoo studio;

M. Alcohol outlets;

N. Firearms sales;

O. Trade school;

P. Unattended collection box(es) placed in conjunction with an approved community facility as defined in Section 17.04.010;

Q. Cannabis retailer, subject to and in compliance with Chapter 6.108 of this code;

R. Combined cannabis operation, subject to and in compliance with Chapter 6.109 of this code.

(Ord. 2006-33 § 4 (part): Ord. 2002-60 (part); Ord. 2000-53 § 1 (part); Ord. 98-53 § 1 (part); Ord. 96-15 § 1 (part): Ord. 94-41 § 1 (part): prior gen. code § 8-48.2)

(Ord. No. 2010-49, § 7, 9-14-10; Ord. No. 2010-71, § 58, 12-21-10; Ord. No. 2013-26, § 9, 7-16-13; Ord. No. 2017-35, § 2, 9-12-17; Ord. No. 2018-23, § 2, 5-8-18; Ord. No. 2019-23, § 2, 6-18-19)

17.40.035 Conditional uses—Planning commission.

The following are conditional uses and shall be permitted in a C-2 district only if approved by the planning commission, sitting as a board of zoning adjustments, as provided in Sections 17.54.135 and 17.40.010:

A. Hospital;

B. Adult entertainment activity provided, however, that no adult entertainment activity shall be located closer than one thousand (1,000) feet to the boundary of any residential zone or closer than one thousand (1,000) feet to any other adult entertainment activity.

C. Superstore.

(Ord. 2006-18 § 2 (part); Ord. 2000-53 § 1 (part))

17.40.040 Site development review.

Any structure one thousand (1,000) square feet or more or any construction aggregating one thousand (1,000) square feet or more placed since July 9, 1977, shall be subject to site development review pursuant to Section 17.54.210; unless zoning approval is granted upon the determination that the construction constitutes a minor project and that the building permit plans are in accord with the intent and objectives of the site development review procedure.

(Prior gen. code § 8-49.3)

17.40.050 Front yards.

Wherever a C-2 district terminates at the boundary of an R district or of any other C district except a C-2 district in the same block, the depth of front yard in that block shall be not less than is required in such abutting district.

(Prior gen. code § 8-49.4)

17.40.060 Side and rear yards.

On the street side of a corner lot in a C-2 district which abuts a key lot in any R district or in any other C district except a C-1 district, the width of the side yard shall be not less than one-half the depth of the front yard required on such key lot. Where the side lot line of a lot in a C-2 district abuts a lot in any R district, there shall be provided a side yard along that line having a width not less than that required on such abutting lot. Where the rear lot line of a lot in a C-2 district abuts a lot in any R district, then there shall be provided a rear yard having a depth not less than six feet.

(Prior gen. code § 8-49.5)

17.40.070 Height of building.

In a C-2 district, no building or structure shall have a height in excess of forty-five (45) feet, except as otherwise provided in Section 17.52.090.

(Prior gen. code § 8-49.6)

17.40.080 Business signs.

Business signs are permitted subject to Sections 17.52.520 and 17.38.100.

(Prior gen. code § 8-49.6.1)

17.40.090 Low profile sign.

A low profile sign is permitted in accordance with Section 17.38.110.

(Prior gen. code § 8-49.6.2)

17.40.100 Shopping center master identification sign(s).

Shopping center master identification sign(s) are permitted subject to Section 17.52.520 and Section 17.38.110.

(Prior gen. code § 8-49.6.3)

17.40.110 Office building master identification sign.

Office building master identification signs are permitted subject to Section 17.38.120.

(Prior gen. code § 8-49.6.4)

17.40.120 Service sign display structure.

A service station sign display structure in accordance with Section 17.36.080 is permitted on a service station site in lieu of the low profile sign otherwise permitted.

(Prior gen. code § 8-49.6.5)

(Ord. No. 2010-71, § 63, 12-21-10)

17.40.130 Other regulations.

A. All uses in C-2 districts shall conform to the performance standards of this title for M-P districts as set forth in Section 17.42.020.

B. All principal uses in C-2 districts and all fabricating, processing or repair uses accessory thereto shall be conducted within a building, except an advertising sign, an automobile sales lot, the outdoor storage necessary and incidental to the uses described in Section 17.40.030(G), a parking lot, drive-in facility or a recreation facility. Except as a temporary use regulated by Section 17.52.480, use of a mobilehome is not permitted.

(Prior gen. code § 8-49.7)

## Chapter 17.42 M-P DISTRICTS

**Sections:**

17.42.010 Industrial park districts—Intent.

Industrial park districts hereinafter designated as M-P districts, are established to accommodate a limited specialized group of administrative, laboratory and light manufacturing uses which are capable of being operated under high performance standards in attractive structures with landscaping and parking spaces such as to insure an attractive and visually harmonious working environment; and to protect and increase the stability of such areas by establishing high performance standards and stringent requirements as to space, light and air about the buildings.

(Prior gen. code § 8-50.0)

17.42.020 Performance standards.

The uses listed hereinafter as permitted in M-P districts shall in each instance be subject to site development review pursuant to Section 17.54.210. No use in any of the categories listed shall be approved which is characterized by, or which is found by the board of zoning adjustments to involve any of the following:

A. Any noise or vibration, other than that related to transportation activities and temporary construction work, which is discernible without instruments at any lot line of the building site;

B. Any activity, including storage or dumping which could result in the emission of radioactivity in dangerous amounts;

C. Any activity which causes electrical disturbance adversely affecting the operation of any equipment other than that of the creator of such disturbance;

D. The production, use, storage, or handling of any inflammable or explosive materials, unless provided at all points with adequate safety devices against hazards of explosion and all equipment and devices standard in the industry for fire prevention and fire fighting;

E. The emission of visible gray smoke of a shade or quality darker than No. 1 on the Ringelmann Chart, as specified in Information Circular 7718 of the United States Bureau of Mines, or its equivalent capacity as determined by the Bay Area Air Pollution Control District, for more than three minutes in any one hour;

F. Any direct or sky-reflected glare or heat which is perceptible at any point outside of the building site;

G. The emission of odorous gases or odorous matter in quantities such as to be perceptible at any lot line of the building site;

H. The discharge into the air of any dust, dirt or particulate matter from any activity or from any products stored on the building site;

I. The discharge into any public sewer, private sewage disposal system or stream or into the ground except in accordance with the standards approved by the State Department of Health, of any materials of such nature or temperature as to contaminate any water supply, interfere with bacterial processes and sewage treatment, or in any way cause the emission of dangerous or offensive elements;

J. The emission from any incineration operation of individually visible incandescent particles.

(Prior gen. code § 8-50.1)

(Ord. No. 2010-71, § 64, 12-21-10)

17.42.030 Permitted uses.

Subject to the limitations of Section 17.42.020, the following principal uses are permitted in an M-P district:

A. Professional and administrative offices;

B. Laboratory, including research, commercial, testing, developmental, experimental or other types; but excluding the manufacture, assembly, or packaging of products for distribution, except as otherwise provided in subsection C of this section;

C. The manufacturing, compounding, packaging, treating, fabrication, or assembly of electronic or nucleonic equipment, precision instruments, optical, or photographic goods, jewelry or pharmaceuticals;

D. Publishing, printing, lithographing, engraving.

(Prior gen. code § 8-50.2)

17.42.040 Conditional uses.

In addition to the conditions listed for Sections 17.52.480 and 17.52.580, the following are conditional uses in an M-P district, and shall be permitted only if approved by the board of zoning adjustments as provided in Section 17.54.130:

A. Public utility building or structure, but not including service yard, storage of materials or vehicles, or repair facilities;

B. Parking lot;

C. Mobile outdoor business that directly serves the needs of the occupants of existing industrial uses or workers, patrons, or clients of businesses in the immediate vicinity;

D. Other uses which are found by the board of zoning adjustments to meet the requirements of Section 17.42.020 of this chapter.

(Ord. 2008-33 § 4: Ord. 2002-60 (part): Prior gen. code § 8-50.3)

17.42.050 Building site.

Every use in an M-P district shall be on a building site having an area not less than two acres and an effective lot frontage not less than one hundred fifty (150) feet.

(Prior gen. code § 8-50.4)

17.42.060 Yards.

The yard requirements in M-P districts shall be as follows, subject to the general provisions of Section 17.52.330.

A. Depth of front yard: not less than fifty (50) feet;

B. Depth of rear yard: not less than forty (40) feet;

C. Width of side yards: not less than forty (40) feet along a side lot line common to any property in an R district; otherwise, not less than twenty (20) feet.

(Prior gen. code § 8-50.5)

17.42.070 Height of building.

No building or structure in an M-P district shall have a height in excess of thirty-five (35) feet, except as provided by Section 17.52.090.

(Prior gen. code § 8-50.6)

17.42.080 Coverage—Limitation.

In M-P districts, the aggregate ground coverage, calculated as provided in Section 17.52.380, shall not exceed forty (40) percent of the area of the lot or building site.

(Prior gen. code § 8-50.7)

17.42.090 Signs.

Business signs are permitted provided they are wall signs which are made structurally and architecturally a part of a building, up to an aggregate area not in excess of eighty (80) square feet per building site. No sign shall be flashing or intermittent, contain moving parts, or be located so as to be directed towards lands in any adjacent R district.

(Prior gen. code § 8-50.8)

17.42.100 Other regulations.

All uses permitted in M-P districts shall be conducted within completely enclosed buildings, except (A) the parking and loading or unloading of vehicles, and (B) electric substation. All open areas used for parking or vehicle loading or unloading of vehicles having a manufacturer's gross weight rating, as defined by the State Vehicle Code, greater than sixteen thousand (16,000) pounds shall be enclosed by a wall or fence not less than six feet in height, with gates at all points of ingress and egress. All open spaces shall be graded and adequately drained, and shall be continuously maintained in a dust free condition by landscaping or planted ground cover or by paving. Except as a temporary use, regulated by Section 17.52.480, use of a mobilehome is not permitted.

(Prior gen. code § 8-50.9)

## Chapter 17.44 M-1 DISTRICTS

**Sections:**

17.44.010 Light industrial districts—Intent.

Light industrial districts, hereinafter designated as M-1 districts, are established to provide for and encourage the development of light industrial manufacturing and processing uses in areas suitable for such use, and to promote a desirable and attractive working environment with a minimum of detriment to surrounding properties.

(Prior gen. code § 8-51.0)

17.44.020 Map designations.

Every parcel designated on the zoning map as being in an M-S district shall hereafter be subject to these regulations as established for an M-1-B-40 district, and shall be so designated on any revised zoning map or part thereof.

(Prior gen. code § 8-51.1)

17.44.030 Permitted uses.

Subject to conformance with the performance standards specified in Section 17.44.100, the following principal uses are permitted in an M-1 district:

A. Any manufacturing, processing, assembling, research, wholesale, storage or utility use, when conducted within an enclosed building, except those uses which are specifically listed and otherwise regulated in Section 17.44.040 and in Section 17.46.030;

B. Parking lot.

(Prior gen. code § 8-51.2)

17.44.035 Conditional uses—Planning commission.

The following are conditional uses and shall be permitted in an M-1 district only if approved by the planning commission, sitting as a board of zoning adjustments, as provided in Sections 17.54.135 and 17.44.010:

A. Adult entertainment activity provided, however, that no adult entertainment activity shall be located closer than one thousand (1,000) feet to the boundary of any residential zone or closer than one thousand (1,000) feet to any other adult entertainment activity.

(Ord. 2000-53 § 1 (part)

(Ord. No. 2010-71, § 65, 12-21-10)

17.44.040 Conditional uses—Board of zoning adjustments.

In addition to the uses listed in Sections 17.52.480 and 17.52.580, the following are conditional uses in an M-1 district, and shall be permitted only if approved by the board of zoning adjustments, pursuant to Section 17.54.130:

A. Restaurant, retail store, or shop needed to serve the occupants of existing industrial buildings in the immediate vicinity;

B. Contractor's or other outdoor storage yard for equipment and supplies, if conducted within an area enclosed by a solid wall or fence;

C. Animal hospital, kennel;

D. Storage of liquefied petroleum gas;

E. Recreation facility, within an enclosed building;

F. Drive-in theater;

G. Sale at retail of building materials, or of industrial equipment or machinery;

H. Concrete or asphalt batching plant;

I. Advertising sign, provided that no single sign shall exceed three hundred (300) feet in area, and except as regulated by Section 17.52.550, and no sign shall be flashing or intermittent, contain moving parts, or be located so as to be directed towards lands in any adjacent R district;

J. Service station, Type A and Type B;

K. Mobile outdoor business that directly serves the needs of the occupants of existing industrial uses or workers, patrons, or clients of businesses in the immediate vicinity;

L. Other uses which are found by the board of zoning adjustments as may meet the intent of the district and the requirements of Section 17.44.100 of this chapter.

(Ord. 2008-33 § 5: Ord. 2002-60 (part); Ord. 2000-53 § 1 (part); prior gen. code § 8-51.3)

(Ord. No. 2010-49, § 10, 9-14-10; Ord. No. 2010-71, § 66, 12-21-10)

17.44.050 Accessory uses.

Certain uses, not otherwise permitted, may be qualified as accessory to a permitted use on the same lot in an M-1 district including:

A. Retail store or personal service shop or restaurant for employees; when conducted, and entered, from within the main building;

B. Retail sales of products produced by a permitted use on the premises.

(Prior gen. code § 8-51.4)

17.44.060 Site development review.

Any structure of one thousand (1,000) square feet or more or any construction aggregating one thousand (1,000) square feet or more placed since July 9, 1977, shall be subject to site development review pursuant to Section 17.54.210; unless zoning approval is granted upon the determination that the construction constitutes a minor project and that the building permit plans are in accord with the intent and objectives of the site development review procedure.

(Prior gen. code § 8-51.4.1)

17.44.070 Building site.

Except as otherwise provided in the case of a combining B district, every use in an M-1 district shall be on a building site having a median lot width not less than one hundred (100) feet and an area not less than twenty thousand (20,000) square feet.

(Prior gen. code § 8-51.5)

17.44.080 Yards.

Except as otherwise provided in the case of a combining district, the yard requirements in M-1 districts shall be as follows, subject to the general provisions of Section 17.52.330:

A. Depth of front yard: not less than twenty (20) feet;

B. Depth of rear yard: not less than twenty (20) feet;

C. Width of each side yard: not less than ten feet provided that where the abutting lot is any R district, the width of the side yard shall be not less than thirty (30) feet.

(Prior gen. code § 8-51.6)

17.44.090 Height of buildings.

No building or structure in an M-1 district shall have a height in excess of forty-five (45) feet, except as provided by Section 17.52.090.

(Prior gen. code § 8-51.7)

17.44.100 Performance standards.

No use shall be permitted in an M-1 district, which is characterized by any of the detrimental effects specified in the performance standards of this title for M-P districts as set forth in Section 17.42.020, except that in an M-1 district Section 17.42.020(A) shall apply to noise or vibration discernible at a lot line separating the premises from an abutting R district.

(Prior gen. code § 8-51.8)

(Ord. No. 2010-71, § 67, 12-21-10)

17.44.110 Business signs, low profile signs, and service station sign display structures.

Business signs, low profile signs and service station sign display structures are permitted subject to Section 17.52.520 and Section 17.36.080, Section 17.38.100, Section 17.38.110 and Section 17.38.140.

(Prior gen. code § 8-51.9)

17.44.120 Other regulations.

Open areas used for storage or for parking or loading of vehicles having a rated capacity greater than sixteen thousand (16,000) pounds manufacturer's gross weight rating as defined in the State Vehicle Code, shall be enclosed by a solid wall or fence not less than six feet in height, with solid exit and entrance gates. In no case shall any material be stacked or stored so as to exceed the height of the fence. All other open portions of the lot or building site shall have adequate grading and drainage, and shall be continuously maintained in an all-weather dust-free condition by suitable landscaping with trees, shrubs, or planted ground cover, or by paving. Except as a temporary use regulated by Section 17.52.480, use of a mobilehome is not permitted.

(Prior gen. code § 8-51.10)

## Chapter 17.46 M-2 DISTRICTS

**Sections:**

17.46.010 Heavy industrial districts—Intent.

Heavy industrial districts hereinafter designated as M-2 districts, are established to encourage sound development of general industrial uses by providing and protecting an environment exclusively for them, subject only to the minimum regulation necessary to insure the protection of adjacent areas from detrimental effects.

(Prior gen. code § 8-52.0)

17.46.020 Permitted uses.

Subject to conformance with the performance standards specified in Section 17.46.080, the following principal uses are permitted in an M-2 district:

A. Railroad or trucking terminal facility;

B. Public utility;

C. Wholesale establishment;

D. Research laboratory;

E. Parking lot;

F. Any manufacturing, processing or assembly plant, or industrial operation, except those listed in Section 17.46.030.

(Prior gen. code § 8-52.1)

17.46.030 Conditional uses—Board of zoning adjustments.

In addition to the uses listed in Sections 17.52.480 and 17.52.580, the following are conditional uses in an M-2 district and shall be permitted only if approved by the board of zoning adjustments, as provided in Section 17.54.130:

A. Restaurant, retail store, or personal service establishment, when necessary to serve the needs of the occupants of existing industrial buildings or employees in the immediate vicinity;

B. Advertising signs, provided that no single sign shall be flashing or intermittent, contain moving parts or be located so as to be directed towards lands in any adjacent R district, except pursuant to Section 17.52.515(A)(3) and in conformance with Section 17.54.226;

C. Salvage yards;

D. Abattoir, stockyard;

E. Kennel, animal hospital, menagerie (collection of wild or strange animals);

F. Drive-in theater, amusement park, race track;

G. Service station, Type A or Type B;

H. Housemovers storage yard;

I. Mobile outdoor business that directly serves the needs of the occupants of existing industrial uses or workers, patrons, or clients of businesses in the immediate vicinity.

Any use excluded from an M-2 district solely by reason of conflict with the performance standards set forth in Section 17.46.080 may, upon application, be considered by the board of zoning adjustments and approved as a conditional use if it finds that, under all the circumstances, including the conditions imposed, the use will be properly located in all respects as specified in Section 17.54.130.

(Ord. 2008-33 § 6: Ord. 2002-60 (part); Ord. 2000-53 § 1 (part); prior gen. code §§ 8-52.2—8-52.3)

(Ord. No. 2010-49, § 11, 9-14-10; Ord. No. 2010-71, § 68, 12-21-10)

17.46.035 Conditional uses—Planning commission.

The following are conditional uses and shall be permitted in an M-2 district only if approved by the planning commission, sitting as a board of zoning adjustments, as provided in Sections 17.54.135 and 17.46.010:

A. Dumping, disposal, incineration or reduction of garbage, sewage, offal, dead animals or refuse;

B. Manufacture or bulk storage of acid, cement, explosive materials, fireworks, fertilizer, gas, glue, gypsum, lime or plaster of Paris.

(Ord. 2000-53 § 1 (part))

(Ord. No. 2010-71, § 69, 12-21-10)

17.46.040 Accessory use.

Retail sale of products produced by a permitted use on the premise.

(Prior gen. code § 8-52.4)

17.46.050 Building site.

Except as otherwise provided in the case of a combining B district, every use in an M-2 district shall be on a Building Site having an area of not less than ten thousand (10,000) square feet.

(Prior gen. code § 8-52.5)

17.46.060 Yards.

No yards are required in M-2 districts except such as may be specified and required in connection with approval of a conditional use, and except that along any lot line which is also the lot line of any premises in an A district or an R district, there shall be provided a yard having a width (or depth, in the case of a rear yard) of not less than fifty (50) feet.

(Prior gen. code § 8-52.6)

17.46.070 Height of building.

No building or structure in an M-2 district which is distant less than two hundred (200) feet from any R district shall have a height in excess of forty-five (45) feet except as provided by Section 17.52.090.

(Prior gen. code § 8-52.7)

17.46.080 Performance standards.

No use shall be permitted in an M-2 district unless approved as a conditional use pursuant to the last paragraph of Section 17.46.030 which is characterized by or which causes any of the effects specified in the performance standards of this title for M-P districts, in Sections 17.42.020(A) through H except as follows:

A. Sections 17.42.020(A), (F) and (G) shall apply only to noise, vibration, odor, glare, or heat which is perceptible from any point within an R district.

B. Section 17.42.020(E) shall apply only to the emission of visible gray smoke of a shade darker than No. 2 on the Ringelmann Chart referred to therein.

(Prior gen. code § 8-52.8)

(Ord. No. 2010-71, § 70, 12-21-10)

17.46.090 Business signs, low profile signs, and service station sign display structures.

Business signs, low profile signs, and service station sign display structures are permitted subject to Section 17.52.520, and Section 17.36.080, Section 17.38.100; Section 17.38.110 and Section 17.38.140.

(Prior gen. code § 8-52.9)

17.46.100 Other regulations.

Except as a temporary use regulated by Section 17.52.480, use of a mobilehome is not permitted.

(Prior gen. code § 8-52.10)

## Chapter 17.48 P DISTRICTS

**Sections:**

17.48.010 Parking districts—Intent.

Parking districts hereinafter designated as P districts, are established to avoid the absorption by other uses of land reserved to furnish needed off-street parking space for passenger automobiles adjacent to concentrations of shopping facilities.

(Prior gen. code § 8-54.0)

17.48.020 Permitted uses.

Any lot or parcel of land in a P district may be used for a parking lot, subject to site development review pursuant to Section 17.54.210. Upon application pursuant to an inconformity with Section 17.54.130, the use of land in a P district for a community facility (See definition of "Community facility" in Section 17.04.010) may be approved as a conditional use if such land is needed for parking.

(Prior gen. code § 8-54.1)

17.48.030 Regulations.

Where the exterior boundary of a parking lot adjoins property in an R district, there shall be constructed along such boundary a solid fence or wall not less than six feet high.

(Prior gen. code § 8-54.2)

## Chapter 17.50 U DISTRICTS

**Sections:**

17.50.010 U districts.

Certain districts, referred to herein as U districts originally established to include all unincorporated territory of the county not within any other district, are hereby declared to be districts, which required special interim controls in pursuance of the purposes of this title set forth in Section 17.02.020. Every use, not otherwise prohibited by law, is a conditional use in U districts, and shall be permitted only if approved by the board of zoning adjustments as provided in Section 17.54.130. Existing uses are permitted to continue as provided in Section 17.54.180.

(Ord. 2002-60 (part): Prior gen. code § 8-56.0)

## Chapter 17.51 CASTRO VALLEY

**Sections:**

17.51.010 Hillside overlay districts.

A. Intent. The hillside overlay districts, hereinafter designated as H-O, are established, per the Castro Valley General Plan, in areas with steep slopes or near high fire hazard, to implement the purpose and intent of the hillside residential land use classification.

B. Applicability. Unless otherwise noted, the requirements of this section apply to all property located within an H-O district.

C. Design Standards and Guidelines. Property located within the H-O district shall be subject to the "Residential Design Standards and Guidelines for the Unincorporated Communities of West Alameda County," as amended, as applicable to the base zoning district. On matters not provided for in the Residential Design Standards and Guidelines for the Unincorporated Communities of West Alameda County, the respective regulations in this zoning ordinance shall apply. If there is a conflict between the residential design guidelines and the requirements of this section, or this section is silent, the residential design guidelines supersede this section.

D. Minimum Lot Size.

1. Minimum lot size is based on the average slope of the parcel as follows:

a. Average slope of ten percent or less: Five thousand (5,000) square foot minimum lot size.

b. Average slope more than ten percent, but less than or equal to twenty (20) percent: Six thousand five hundred (6,500) square foot minimum lot size.

c. Average slope more than twenty (20) percent, but less than or equal to thirty (30) percent: Seven thousand five hundred (7,500) square foot minimum lot size.

d. Average slope greater than thirty (30) percent: Ten thousand (10,000) square foot minimum lot size.

2. Minimum lot size calculations shall exclude:

a. Any private streets, street parking spaces, access easements, stems, and driveways that serve more than one lot;

b. Riparian areas as defined in the residential design guidelines; and

c. Portions of the lot with slope over thirty (30) percent slope. Exception, where entire lot has natural grade over thirty (30) percent, development allowed subject to site development review (SDR) in compliance with Section 17.54.210.

E. Front Setback Adjustment for Parking. In order to reduce grading on lots where the average slope is more than twenty (20) percent, required parking (including a private garage) may be located as close as five feet to the street property line, subject to site development review in compliance with Section 17.54.210 (Site development review). Portions of the dwelling and accessory structures, other than the garage, shall comply with the setback requirements of the base zoning district.

F. Entrances. Entrances must be proportionate to the scale of the façade and must be no taller than two-thirds of the building height.

(Ord. No. 2020-66, § 13, 12-15-20)

17.51.020 Residential small lot districts.

A. Intent. Residential Small Lot districts, hereinafter designated as RSL, are established to support infill projects of duplexes, small lot single-family detached units, and townhouses. The RSL district implements and is consistent with the residential small lot land use classification of the Castro Valley General Plan.

B. Design Standards and Guidelines. Residential projects within the RSL districts located within the planning areas of Castro Valley (areas within the Castro Valley Urbanized Area) are subject to the "Residential Design Standards and Guidelines for the Unincorporated Communities of West Alameda County," as amended, as applicable based on the proposed building type. On matters not provided for in the "Residential Design Standards and Guidelines for the Unincorporated Communities of West Alameda County," the respective regulations in this zoning ordinance apply. If there is a conflict between the residential design guidelines and the requirements of this section, or this section is silent, the residential design guidelines applicable to the proposed building type supersede this section.

C. Permitted Uses. The following principal uses are permitted in an RSL district:

1. One one-family dwelling, one two-family dwelling, two one-family dwellings, multiple dwelling;

2. Licensed transitional or supportive housing for up to six persons, medical or residential care facility for up to six persons;

3. Field crop, orchard, garden; and

4. Small family day cares and large family day cares.

D. Conditional Uses. In addition to the uses listed in Sections 17.52.480 and 17.52.580, the following are conditional uses in RSL districts, and are permitted only if approved by the board of zoning adjustments as provided in Section 17.54.130:

1. Community facilities;

2. Parking lot, when established to fulfill the residential parking requirements for a use on an abutting lot or lots;

3. Indoor plant nursery or greenhouse used only for the cultivation and wholesale of plant materials;

4. Medical or residential care facility for seven or more persons unit as regulated in Section 17.54.133 (Conditional uses—Residential, medical care, transitional and supportive housing facilities);

5. Licensed transitional or supportive housing for seven or more persons per unit as regulated in Section 17.54.133 (Conditional uses—Residential, medical care, transitional and supportive housing facilities);

6. Mobilehome parks subject to the provisions provided in Sections 17.52.1000 to 17.52.1065;

7. Community clubhouse; and

8. Unattended collection box(es) placed in conjunction with an approved community facility as defined in Section 17.04.010.

E. Density Limitations. The density must not exceed seventeen (17) units per acre.

F. Building site.

1. Every use in an RSL district must be on a building site with an area not less than two thousand five hundred (2,500) square feet and a median lot width not less than forty (40) feet.

2. Lot width exceptions: If small-lot single-family homes with attached double loaded garages in front of the primary façade of the main building comply with parking location and design requirements in the "Residential Design Standards and Guidelines for the Unincorporated Communities of West Alameda County," a lot width of thirty-five (35) feet is allowed. The lot width may be reduced to thirty (30) feet if garages are single-car wide, detached and/or accessed from an alley.

G. Yards. The yard requirements in RSL districts are as follows, subject to the general provisions of Section 17.52.330:

1. Depth of front yard: Not less than fifteen (15) feet.

2. Depth of rear yard: Not less than fifteen (15) feet.

3. Width of side yard: Not less than four feet.

H. Height of Buildings. Height must not exceed twenty-five (25) feet, except as provided by Section 17.52.090.

I. Site Development Review. Site development review in compliance with Section 17.54.210 is required for residential projects with five or more units possible.

(Ord. No. 2020-66, § 13, 12-15-20)

17.51.030 Residential medium density family district.

A. Intent. Residential medium density family districts, hereinafter designated as RMF, are established to support medium density multi-family residential development in Castro Valley. The RMF district implements and is consistent with the residential medium density multifamily land use classification of the Castro Valley General Plan.

B. Design Standards and Guidelines. Residential projects within the RMF districts located within the planning areas of Castro Valley (areas within the Castro Valley Urbanized Area) are subject to the "Residential Design Standards and Guidelines for the Unincorporated Communities of West Alameda County," as amended, as applicable based on the proposed building type. On matters not provided for in the "Residential Design Standards and Guidelines for the Unincorporated Communities of West Alameda County," the respective regulations in this zoning ordinance apply. If there is a conflict between the residential design guidelines and the requirements of this section, or this section is silent, the residential design guidelines applicable to the proposed building type supersedes this section, unless otherwise noted below.

C. Permitted Uses. The following principal uses are permitted in an RMF district:

1. Two-family dwelling, multiple dwelling or dwelling group;

2. Field crop, orchard or garden;

3. Licensed transitional or supportive housing for up to six persons, medical or residential care facility for up to six persons; and

4. Small family day care and large family day care.

D. Conditional uses—Planning commission. The following are conditional uses permitted in an RMF district only if approved by the planning commission, sitting as a board of zoning adjustments, as provided in Sections 17.54.135 and 17.14.010:

1. Hospital; and

2. Medical laboratory, dental laboratory.

E. Conditional Uses—Board of Zoning Adjustments. In addition to the uses listed for Sections 17.52.480 and 17.52.580, the following are conditional uses in RMF districts, and are permitted only if approved by the board of zoning adjustments as provided in Section 17.54.130:

1. Community facilities;

2. Day care centers;

3. Parking lot;

4. Medical or residential care facility for seven or more persons as regulated in Section 17.54.133 (Conditional uses—Residential, medical care, transitional and supportive housing facilities);

5. Community clubhouse;

6. Plant nursey, or greenhouse used only for the cultivation of plant materials;

7. Licensed transitional and supportive housing for seven or more persons per unit as regulated in Section 17.54.133 (Conditional uses—Residential, medical care, transitional and supportive housing facilities);

8. Mobilehome parks subject to the provisions provided in Sections 17.52.1000 to 17.52.1065; and

9. Unattended collection box(es) placed in conjunction with an approved community facility as defined in Section 17.04.010.

F. Density Limitations. The density must not exceed twenty-nine (29) dwelling units per acre. This standard supersedes the requirements of the "Residential Design Standards and Guidelines for the Unincorporated Communities of West Alameda County" for townhomes and multi-family residential building types.

G. Building Site. Every use in an RMF district must be on a building site with a lot width of not less than fifty (50) feet and an area not less than five thousand (5,000) square feet. A corner building site must have a median lot width of not less than sixty (60) feet.

H. Yards. The yard requirements in RMF districts are as follows, subject to the general provisions of Section 17.52.330. The standards in this subsection supersede the requirements of the "Residential Design Standards and Guidelines for the Unincorporated Communities of West Alameda County" for multi-family residential building types only. Other building types must follow requirements in the "Residential Design Standards and Guidelines for the Unincorporated Communities of West Alameda County":

1. Depth of front yard: Not less than ten feet.

2. Depth of rear yard: Not less than fifteen (15) feet.

3. Width of side yard: Not less than five feet or ten feet on the street side of a corner lot, or less as required by Section 17.14.080. Townhomes shall have no side setback requirement where they share common walls.

I. Height of Buildings. Height must not exceed thirty-five (35) feet, except as otherwise provided in Section 17.52.090.

J. Site Development Review. Site development review in compliance with Section 17.54.120 required for residential projects with five or more units possible.

(Ord. No. 2020-66, § 13, 12-15-20)

17.51.040 Residential mixed density districts.

A. Intent. Residential mixed density districts, hereinafter designated as RMX, are established to support a mixture of single-family and multi-family residential development in areas close to the commercial business district. The RMX district implements and is consistent with the residential mixed density land use classification of the Castro Valley General Plan.

B. Design Standards and Guidelines. Residential projects within the RMX districts located within the planning areas of Castro Valley (areas within the Castro Valley Urbanized Area) is subject to the "Residential Design Standards and Guidelines for the Unincorporated Communities of West Alameda County," as amended, as applicable based on the proposed building type. On matters not provided for in the "Residential Design Standards and Guidelines for the Unincorporated Communities of West Alameda County," the respective regulations in this zoning ordinance apply. If there is a conflict between the residential design guidelines and the requirements of this section, or this section is silent, the residential design guidelines applicable to the proposed building type supersedes this section, unless otherwise noted below.

C. Permitted Uses. The following principal uses are permitted in an RMX district:

1. One one-family dwelling, one two-family dwelling, two one-family dwellings, multiple dwelling or dwelling group;

2. Field crop, orchard or garden;

3. Licensed transitional or supportive housing for up to six persons, medical or residential care facility for up to six persons; and

4. Small family day care and large family day care.

D. Conditional Uses—Planning Commission. The following are conditional uses and are permitted in an RMX district only if approved by the planning commission, sitting as a board of zoning adjustments, as provided in Sections 17.54.135 and 17.14.010:

1. Hospital; and

2. Medical laboratory, dental laboratory.

E. Conditional Uses—Board of Zoning Adjustments. In addition to the uses listed for Sections 17.52.480 and 17.52.580, the following are conditional uses in RMX districts, and are permitted only if approved by the board of zoning adjustments as provided in Section 17.54.130:

1. Community facilities;

2. Day care centers;

3. Parking lot;

4. Medical or residential care facility for seven or more persons as regulated in Section 17.54.133 (Conditional uses—Residential, medical care, transitional and supportive housing facilities);

5. Single room occupancy facility subject to the provisions of Section 17.54.134 (Conditional uses—Single room occupancy (SRO) facilities);

6. Licensed transitional and supportive housing for seven or more persons per unit as regulated in Section 17.54.133 (Conditional uses—Residential, medical care, transitional and supportive housing facilities);

7. Mobilehome parks subject to the provisions as regulated by Sections 17.52.1000 to 17.52.1065;

8. Plan nursery, or greenhouse used only for the cultivation of plant materials;

9. Community clubhouse; and

10. Unattended collection box(es) placed in conjunction with an approved community facility as defined in Section 17.04.010.

F. Density Limitations.

1. The density must not exceed twenty-nine (29) dwelling units per acre. The standards in this subsection supersede the requirements of the "Residential Design Standards and Guidelines for the Unincorporated Communities of West Alameda County" for townhomes and multi-family residential building types only. Other building types must follow requirements in the "Residential Design Standards and Guidelines for the Unincorporated Communities of West Alameda County."

G. Building Site. Every use in an RMX district must be on a building site with a median lot width not less than fifty (50) feet and an area not less than five thousand (5,000) square feet. A corner building site must have a median lot width of not less than sixty (60) feet.

H. Yards. The yard requirements in RMX districts are as follows, subject to the general provisions of Section 17.52.330. The standards in this subsection supersede the requirements of the "Residential Design Standards and Guidelines for the Unincorporated Communities of West Alameda County" for multi-family residential building types only. Other building types must follow requirements in the "Residential Design Standards and Guidelines for the Unincorporated Communities of West Alameda County":

1. Depth of front yard: Not less than ten feet.

2. Depth of rear yard: Not less than ten feet.

3. Width of side yard: Not less than five feet or ten feet on the street side of a corner lot, or less as required by Section 17.14.080. Townhomes shall have no side setback requirement where they share common walls.

I. Height of Buildings. Height must not exceed forty-five (45) feet, except as provided by Section 17.52.090. The standards in this subsection supersede the requirements of the "Residential Design Standards and Guidelines for the Unincorporated Communities of West Alameda County" for multi-family residential building types only. Other building types must follow requirements in the "Residential Design Standards and Guidelines for the Unincorporated Communities of West Alameda County" if more restrictive.

J. Site Development Review. Site development review in compliance with Section 17.54.210 required for residential projects with five or more units possible.

(Ord. No. 2020-66, § 13, 12-15-20)

17.51.050 Community commercial districts.

A. Intent. Community commercial districts, hereinafter designated as CC, are established to provide a wide range of community-serving retail and commercial uses. The CC district implements and is consistent with the community commercial land use classification of the Castro Valley General Plan.

B. Permitted Uses. The following principal uses are permitted in a CC district:

1. Artisan/maker spaces;

2. Auto parts, retail (not to include parts machining or auto repair);

3. Business services; including but not limited to blue printing or other copying service, banks;

4. Community facilities;

5. Day care centers;

6. Office or office building;

7. Personal service establishment, personal service shop; including but not limited to barber shop, beauty parlor, dry cleaning, pharmacy, self-service laundry;

8. Repair shop (non-automotive) including cameras, shoes, watches, and household appliances;

9. Retail sales, including but not limited to books, clothing, flowers, hardware, household supplies, food sales, travel gifts, and products produced by permitted use on the premises;

10. Restaurants; and

11. Schools.

C. Conditional Uses. The following are conditional uses and are permitted in a CC district only if approved by the planning commission, sitting as a board of zoning adjustments, as regulated by Sections 17.54.135 and 17.34.010:

1. Animal hospital, kennel;

2. Alcohol sales for on or off-site consumption, except at full-service restaurants;

3. Clubhouse, or rooms used by members of an organized club, lodge, union or society;

4. Commercial recreation facility;

5. Community care facility;

6. Drive in and drive through businesses;

7. Funeral homes and mortuaries;

8. Indoor plant nurseries;

9. Indoor recreation facility;

10. Parking lot;

11. Public utility substation, not including service yard, storage of materials, or vehicles, or repair facilities;

12. Service station, Type A; or a facility retailing automotive parts and supplies which are installed and serviced on the site but does not include, engine, transmission or differential rebuilding or body repair;

13. Superstore (single business with area over one hundred thousand (100,000) square feet); and

14. Theaters.

D. Floor Area Ratio. The floor area ratio shall not exceed one and one-half.

E. Yards. The yard requirements in CC districts are as follows, subject to the general provisions of Section 17.52.330:

1. Depth of front yard: There is no front yard requirement, with the exception of where a CC district terminates at the boundary of an R district or any other C district except a C-1 or C-2 district in the same block, the depth of front yard in that block shall be not less than is required in abutting district.

2. Depth of rear yard: None, except that where the abutting lot at the side is in any R district, the depth of the rear yard must be not less than six feet.

3. Width of side yard: None, except that where the abutting lot at the side is in any R district the side year along that line shall be a width is greater than abutting R building site.

F. Height of Buildings. Height must not exceed forty-five (45) feet, except as otherwise provided in Section 17.52.090. If a building is situated within fifty (50) feet of the boundary line of an R district other than RMF or RMX, the height must be no more than thirty-five (35) feet.

G. Public Open Space. On sites one acre or larger, minimum five percent of the site must be devoted to public open space subject to the following standards:

1. Public open space includes courtyards, patios, plazas, public outdoor seating areas, natural open space, public access to roof top open space, artwork, planted areas, and plazas.

2. Public open space must be designed as an integral part of the overall site plan and enhance the building design, public views, and transitions to adjacent uses.

3. Parking lots, parking lot landscaping, buildings, exterior hallways, and stairways do not qualify as open space.

4. All public open space areas shall be maintained by the property owner.

H. Site Development Review. Any building greater or equal to one thousand (1,000) square feet or any construction aggregating greater or equal to one thousand (1,000) square feet placed since July 9, 1977, is subject to site development review in compliance with Section 17.54.210; unless zoning approval is granted upon the determination that the construction constitutes a minor project and that the building permit plans are in compliance with the intent and objectives of the site development review procedure in Section 17.38.070.

I. Signs. Signs permitted subject to same requirements for signs in the C-1 Zone, in Sections 17.38.100 through 17.38.150, in conformance with Section 17.52.520.

(Ord. No. 2020-66, § 13, 12-15-20)

17.51.060 Public facility districts.

A. Intent. Public facility districts, hereinafter designated as PF, are established to support existing and proposed public and institutional uses on publicly owned, leased or operated property, including publicly owned land with uses managed and/or operated by a non-profit entity. The PF district implements and is consistent with the Public Facilities land use classification of the Castro Valley General Plan.

B. Permitted Uses. The following principal uses are permitted in a PF district:

1. Clinic;

2. Indoor recreation facility;

3. Office;

4. Orchard, garden;

5. Public or private riding or hiking trails;

6. Parking lot;

7. Public agency facilities;

8. Public education facilities;

9. Public school district facilities;

10. Public transit stations;

11. Public utility and substation;

12. Radio and television transmission facilities;

13. Railroad or trucking terminal facility; and

14. Utility use.

C. Conditional Uses. In addition to the uses listed in Sections 17.52.480 and 17.52.580, the following are conditional uses in PF districts, and are permitted only if approved by the board of zoning adjustments as provided in Section 17.54.130:

1. Unattended collection box(es) placed in conjunction with an approved community facility as defined in Section 17.04.010; and

2. Service yards for public agency, public education, or public school district facilities.

D. Floor Area Ratio. The floor area ratio shall not exceed one and one-half.

E. Yards. The yard requirements in PF districts are as follows, subject to the general provisions of Section 17.52.330:

1. Depth of front yard: Not less than twenty (20) feet.

2. Depth of rear yard: Not less than twenty (20) feet.

3. Width of side yard: Not less than five feet.

F. Height of Buildings. Height must not exceed forty-five (45) feet except as otherwise provided in Section 17.52.090.

G. Site Development Review. Site development review in compliance with Section 17.54.210 required for any project over 1,000 square feet.

(Ord. No. 2020-66, § 13, 12-15-20)

17.51.070 Open space districts—Natural.

A. Intent. Open space-natural districts, hereinafter designated as OS-N, are established to provide for natural open spaces that have been identified for permanent conservation, typically established as part of PUDs as permanent easements. The OS-N district implements and is consistent with the open-space-natural land use classification of the Castro Valley General Plan.

B. Permitted Uses. The following principal uses are permitted in an OS-N district:

1. Trails, wildlife preserves, and open space uses that maintain the site in its natural state.

C. No Net Loss. Concurrent with or prior to a rezoning of property from open space-natural zone to another zone, an area at least equivalent in size and providing greater habitat value than the subject open space-natural zone area shall be rezoned from another zone to the open space-natural zone.

(Ord. No. 2020-66, § 13, 12-15-20)

17.51.080 Open space districts—Parks.

A. Intent. Open space-parks districts, hereinafter designed as OS-P, are established to provide for current and expected future locations for public parks of all sizes and types in the community. The OS-P district implements and is consistent with the open-space-parks land use classification of the Castro Valley General Plan.

B. Permitted Uses. The following principal uses are permitted in an OS-P district:

1. Administrative support and service facilities of a public regional recreation district;

2. Orchard, garden;

3. Outdoor recreation facility; and

4. Public or private riding or hiking trails.

C. Conditional Uses. The following are conditional uses and are permitted in an OS-P district only if approved by the planning commission, sitting as a board of zoning adjustments, as provided in Sections 17.54.135 and 17.34.010:

1. Community facility; and

2. Temporary uses.

D. Height of Buildings. Height must not exceed thirty (30) feet, except as otherwise provided in Section 17.52.090.

(Ord. No. 2020-66, § 13, 12-15-20)

17.51.090 School districts.

A. Intent. School districts, hereinafter designed as SCV, are established to provide for publicly-owned or operated educational facilities of all sizes serving all age groups, and for sites owned or used by school districts for school related purposes, including operation by a private education facility. The SCV district implements and is consistent with the SCHOOLS land use classification of the Castro Valley General Plan.

B. Permitted Uses. The following principal uses are permitted in a SCV district:

1. Public educational facilities;

2. Schools, attendance at which satisfies the requirements of the compulsory education law of state; and

3. Community facilities.

C. Conditional Use. The following are conditional uses and are permitted in an SCV district only if approved by the planning commission, sitting as a board of zoning adjustments, as provided in Sections 17.54.135 and 17.34.010:

1. Unattended collection box(es) placed in conjunction with an approved community facility.

2. Accessory uses.

3. Outdoor and indoor recreation facility is an accessory use to a principal school use.

D. Yards. The yard requirements in SCV districts are the same as those of adjacent zones, subject to the general provisions of Section 17.52.330.

E. Height of Buildings. The height must be the same as those of adjacent zones except as otherwise provided in Section 17.52.090.

F. Property no Longer Needed for School Purposes. Property in the SCV district determined to no longer be needed for educational purposes may be developed as residential uses pursuant to approval of a Planned Development District (Chapter 17.18, PD Districts) or adoption of a Specific Plan:

1. Density shall be equal to or lower than the surrounding residential units.

2. Any private development proposed on a former school site shall incorporate on site a feature intended to serve as a benefit to the community, such as a park, playground, trail easement, athletic field, public plaza, community meeting facility, or child care center.

a. The feature shall remain accessible to the public. The scale of the community benefit shall be commensurate with the size of the parcel and the intensity of the proposed development.

b. Decisions regarding the type of feature to be provided and its design shall take into consideration public input and shall be coordinated with relevant public entities that will be involved in its operation and maintenance.

(Ord. No. 2020-66, § 13, 12-15-20)

## Chapter 17.52 GENERAL REQUIREMENTS

**Sections:**

17.52.010 General regulations.

The provisions of this title shall be subject to the following general regulations, special provisions, and exceptions.

(Prior gen. code § 8-60.0)

(Ord. No. 2010-71, § 71, 12-21-10)

17.52.020 Public services—Exceptions.

This title shall not limit or interfere with the temporary use of any property as a voting place. Public utility uses excepting buildings and service yards or storage yards are permitted uses in any district, without limitation as to height; provided that plans for any such use, except local distribution lines and except when located in an M-2 district shall be submitted to the planning commission for a report and recommendation prior to the acquisition of any site, easement or right-of-way.

(Prior gen. code § 8-60.1)

17.52.030 Surface mining.

The use of any land for surface mining shall be governed by the provisions of Chapter 6.80 of this code.

(Prior gen. code § 8-60.2)

17.52.035 Conditional uses—Planning commission.

The following are conditional uses and shall be permitted in any district only if approved by the planning commission, sitting as a board of zoning adjustments, as provided in Sections 17.54.135 and 17.52.010:

A. Airport or landing strip for airport;

B. Crematory Units, as defined and limited in Section 6.20.030, within three hundred (300) feet of any established residence in the county.

In addition to the findings required under Section 17.54.130, the planning commission shall not approve such a crematory unit unless it can make the additional findings that:

1. Cremation is not the primary use in a residential or commercial area but accessory or ancillary to a related and legally existing mortuary, funeral home, columbarium, or cemetery use; and

2. Such operation is not a nuisance or threat to public health, safety, or the quiet enjoyment of neighboring occupants; and

3. The cremation operation must be permitted by the regional air quality control agency (currently Bay Area Air Quality Management District) prior to issuance of any county ministerial permits.

(Ord. 2000-53 § 1 (part))

(Ord. No. 2010-71, § 72, 12-21-10; Ord. No. 2011-3, § 2, 1-11-11)

17.52.040 Use permits—Prior.

The following regulations shall apply to every use for which a use permit was lawfully issued pursuant to the provisions of this title which were in effect prior to the effective date of the ordinance codified in this title.

A. If the use, as permitted by the conditions of the use permit, exists and is listed herein as a permitted use in the district under the same conditions, such use shall be lawful and approved as to zoning, subject to those same conditions.

B. Where the land involved has been developed under such use permit, and is by the terms thereof more restricted than by the regulations of this title for the same type of building or use, such restrictions, to the extent that they could have been imposed under the provisions of this title governing conditional use, variances or the approval of site development shall remain in full force and effect.

C. Where the parcel has been developed in accordance with the terms of such a use permit for a use permittee thereunder but not hereafter permitted in the district, the use shall be deemed to be a permitted use for the time period of such use permit, and all the terms and conditions of the use permit shall continue in force, subject to the provisions of Section 17.52.640.

(Prior gen. code §§ 8-60.3—8-60.6)

(Ord. No. 2010-71, § 73, 12-21-10)

17.52.050 Use permits, conditional use permits—Implementation required.

Any use permit or conditional use permit issued pursuant to the provisions of this title shall be implemented within a term of three years of its issuance or it shall be of no force or effect.

(Prior gen. code § 8-60.7)

17.52.060 Adjustments—Prior.

Every zoning adjustment granted in accordance with the provisions of this title which were in effect prior to the effective date of the ordinance codified in this title shall be valid and may be utilized in accordance with its terms and conditions.

(Prior gen. code § 8-60.8)

(Ord. No. 2010-71, § 74, 12-21-10)

17.52.070 Adjustments, variances—Implementation required.

Any adjustment or variance granted pursuant to the provisions of this title shall be implemented within a term of three years of its issuance or it shall be of no force or effect.

(Prior gen. code § 8-60.8.1)

17.52.080 Site development review—Prior.

Every site development review granted in accordance with the provisions of this title which were in effect prior to March 1, 1968, shall be valid and may be utilized in accordance with its terms and conditions provided that any such prior site development review may be rescinded by the planning director following ten days' notice to the permittee and a hearing pursuant to Section 17.54.650 unless it shall have been utilized within one year of the effective date of the order granting subject site development review.

(Prior gen. code § 8-60.8A)

17.52.090 Height of buildings—Exceptions.

A. Schools, churches, hospitals, and other buildings of an institutional character permitted in a district may have a building height in excess of the district limitations but not in excess of seventy-five (75) feet; provided that the requirements in the district for front, rear and side yards shall be increased by one foot for each foot of the building height in excess of forty (40) feet. A television or radio antenna may be of a height not exceeding ninety (90) feet.

B. The building height limitations set forth in this title apply generally to structures, also, but shall not apply to chimneys, church spires, flag poles, or to mechanical appurtenances necessary and incidental to the permitted use of a building.

C. Where the natural ground slope of a lot on the downhill side of the street is greater than one foot in seven feet as measured from the front lot line to the grade at the rear wall of the proposed building, one story in addition to the number permitted in the district in which the lot is situated is permitted on the downhill side of any building. The building height shall not otherwise exceed the limit specified for said district.

(Prior gen. code §§ 8-60.9—8-60.11)

17.52.100 Building site—Recordation.

Prior to obtaining a building permit or otherwise making use of a building site, it shall have been recorded as a lot in the office of the county recorder.

(Prior gen. code § 8-60.12)

17.52.110 Building site—Effective lot frontage.

Every building site shall have an effective lot frontage equal to or greater than one-half the median lot width required in the district, and in no case shall the effective lot frontage be less than twenty-five (25) feet. Whenever a new building site is hereinafter created by division of an existing lot, the effective frontage of each such new building site shall be equal to one-half of either the required or the actual median lot width thereof, whichever is greater. Each such new building site shall be recorded forthwith as a lot in the office of the county recorder.

(Prior gen. code § 8-60.13)

17.52.120 Building site requirements—Exceptions.

Certain lots or parcels of land, as specified hereinafter, may be used as building sites, provided any building, structure, or addition is itself conforming, even though the area and/or the median lot width thereof is less than that required by the district in which such lot or parcel of land is situated, if all other requirements for that district are met. This exception applies in each of the following cases; provided, however, that in no case shall it apply to a lot or parcel of land having an area less than four thousand (4,000) square feet or having a median lot width less than forty (40) feet:

A. Any lot indicated on a recorded subdivision map prior to August 2, 1946, provided however, this subsection shall not apply to such lots located within zoning districts requiring a minimum building site area of one acre or more unless a building permit for a single-family dwelling to be constructed thereon had been filed by March 1, 1977.

B. Any parcel of land shown as a lot on the records of the county recorder as separately owned and assessed prior to August 2, 1946, when the present owner thereof is not the owner of any adjacent land;

C. Any lot having an area of five thousand (5,000) square feet or more, which is indicated upon a recorded subdivision map, provided however, this subsection shall not apply to such lots located within zoning districts requiring a minimum building site area of one acre or more unless a building permit for a single-family dwelling to be constructed thereon had been filed by March 1, 1977.

D. Any lot where the deficiency in area or median lot width is due exclusively to the condemnation of a portion thereof for a public purpose, or the sale of any such portion to any agency or political subdivision of the state or of the federal government and where such deficiency does not exceed twenty-five (25) percent of the district's requirement;

E. Any lot in a combining B district, when the owner thereof owns no adjacent land when the lot was of record prior to the adoption of said B district; provided, however, that unless the lot is also covered under one or more of the preceding subsections of this section, the use thereof shall conform to the median lot width and the yard requirements of the district with which said B districts is combined;

F. Any lot in an A district which contained a minimum of five acres, median lot width of at least three hundred (300) feet, and an effective lot frontage of at least one-half the actual median lot width, which was shown as a lot on the records of the county recorder as separately owned and assessed prior to May 4, 1972, when the present owner thereof is not the owner of any adjacent land;

G. Any lot in an A district which contains a minimum of fifty (50) acres which was shown as a lot on the records of the county recorder as separately owned and assessed prior to May 4, 1972, when the owner thereof owns no adjacent land and which lot has effective lot frontage on an approved private street.

H. Yards Reduced by Condemnation. Wherever a lot hereafter becomes qualified as a building site under the provisions of subsection D of this section, any yard about an existing building thereon which becomes deficient in depth or in width solely because of such condemnation or sale of a portion of the lot shall thereafter be deemed to be a yard conforming to these regulations, and shall not of itself cause the building to become a nonconforming building.

(Prior gen. code §§ 8-60.14—8-60.15)

(Ord. No. 2010-71, § 75, 12-21-10)

17.52.130 Commercial vehicles—Parking in residential districts prohibited.

Either of the following specified acts shall constitute an unauthorized commercial use of land in any residential district and is a violation of this title:

A. The parking in any residential district or upon any street adjacent thereto for a period of time greater than two hours in any twenty-four (24) hour period of any commercial vehicle, commercial truck and/or commercial trailer having a manufacturer's gross vehicle weight rating as defined in the State Vehicle Code, greater than ten thousand (10,000) pounds; or

B. Parking at one time in any residential district or upon any street adjacent thereto, of two or more commercial vehicles, commercial trucks and/or commercial trailers by any person having possession or control thereof.

(Prior gen. code § 8-60.16)

17.52.140 Commercial vehicles—Parking in residential districts prohibited—Exceptions.

The provisions of Section 17.52.130 shall not apply to any such vehicle which is parked while loading or unloading property therefrom, or in connection with the performance of a service to or on property in the immediate vicinity, nor shall they apply to any commercial vehicle, truck or trailer which is parked as a subordinate and accessory use in connection with the conduct of a lawful nonconforming business use established in such R district, or to a commercial vehicle or truck entitled to registration and licensing by the state as a "horseless carriage."

In the R-1-L-B-E district the provisions of Section 17.52.130 shall not prohibit the parking or use of a maximum of four commercial vehicles and/or equipment, regardless of weight rating, when used in conjunction with any use accessory to the residential use of a building site of five acres or more on which the vehicles and/or equipment are stored and used.

(Prior gen. code § 8-60.17)

17.52.150 Commercial vehicles—Parking in residential districts prohibited—Enforcement.

It shall be the duty of the sheriff to enforce the provisions of Section 17.52.130 whenever the vehicle involved is parked upon a public street. It shall be the duty of the building official to enforce the provisions of Section 17.52.130 whenever the vehicle involved is parked on any private premises in an R district and for such purpose he shall have the power of a peace officer and may enter upon any such premises for the purpose of determining whether or not there has been a violation of said section.

(Prior gen. code § 8-60.18)

17.52.160 Commercial vehicles—Parking in residential districts prohibited—Prima facie assumption.

In any prosecution charging a violation of this title by conducting an unauthorized commercial use in a residential district, proof by the people of the state of California that a particular vehicle described in the complaint was parking contrary to the provisions of Section 17.52.130 by the operator or driver of said vehicle, truck or trailer, or by the owner, lessee, tenant or other occupant of the property so zoned, shall constitute a prima facie presumption that an unauthorized commercial use was made of the property.

(Prior gen. code § 8-60.19)

17.52.170 Commercial vehicles—Parking in residential districts prohibited—Penalty.

Any other provision of this title to the contrary notwithstanding, every person convicted of parking on any street in violation of Section 17.52.130 shall be punished by a fine.

(Prior gen. code § 8-60.19.5)

(Ord. No. 2009-32, 7-21-09)

17.52.180 Accessory uses.

In any district, an accessory use is permitted, subject to any special regulations for the district, and to the limitations set forth in this and the following sections, when located on the same premises as a lawfully existing principal use to which it is incidental and subordinate except as otherwise provided in Section 17.06.040O. No use shall be deemed to be or permitted as an accessory use which increases the number of dwelling units in any building or any lot beyond that which is permitted in the district. No recreation vehicle, travel trailer, cargo container, truck trailer, mobilehome, van or vehicle may be inhabited or lived in as an accessory use in any district unless specifically authorized under district regulations by a conditional use permit or administrative conditional use permit. Home occupations shall be governed by Section 17.52.220. The keeping of livestock or pets shall be governed by Sections 17.52.220 and 17.52.230.

(Ord. 93-86 § 2: prior gen. code § 8-60.20)

17.52.190 Boarding stable.

"Boarding stable" means any premises where more than four horses not owned by the owner or occupant of the premises are boarded, kept, or otherwise maintained as contrasted with the open grazing or pasturing of horses.

(Prior gen. code § 8-60.20.5.1)

17.52.200 Accessory uses—Restrictions from certain yards.

No accessory use conducted under the provisions of Section 17.52.180 of this chapter, involving any of the following, shall be conducted within a front yard or within a street side yard on a corner lot in any R or any A district:

A. The repair, dismantling, or painting of motor vehicles or of electrical refrigerators, washers, dryers or other household appliances;

B. Storage or display of equipment, appliances, tools, materials or supplies. (See also Section 17.52.330)

(Prior gen. code § 8-60.21)

(Ord. No. 2010-71, § 76, 12-21-10)

17.52.210 Home occupations.

No home occupation shall be deemed to be, or permitted as an accessory use to a dwelling in any R or in any A district which involves or requires any of the following:

A. The employment of outside help in the dwelling or on the premises, other than domestic servants;

B. Any alteration or installation of appliances, equipment or facility of a nonresidential character to a dwelling or to an accessory building;

C. Any outdoor storage or display of equipment, appliances, tools, materials or supplies;

D. Maintenance on the premises for sale or rental of any stock of goods, which are not homemade;

E. Results in on-street parking or the generation of pedestrian or vehicular traffic beyond that normal to the district, or the parking of any commercial vehicle in violation of Section 17.52.130;

F. The generation of noise, glare, vibration, odor or electrical disturbance perceptible at or beyond the lot lines;

G. Any use of the front yard or side yard for construction or repair or dismantling or the use in the aggregate of an area greater than one-fourth of the area of the dwelling unit;

H. Any sign other than the name plate permitted in the district;

I. 1. The conduct of: a) massage establishment, b) barber shop, c) beauty shop, or d) real estate office;

2. The raising for sale of animals, bees or birds; or

3. The teaching of dancing, music or swimming to an assembled class of more than two pupils;

J. The repair, servicing, painting or dismantling of motor vehicles or of electrical refrigerators, washers, dryers, or other household appliances;

K. The renting of rooms and the providing of table board for more than four persons, or if licensed by the State Department of Mental Health for more than five persons;

L. The provision of day care for more than six children.

(Prior gen. code § 8-60.22)

(Ord. No. 2010-71, § 77, 12-21-10; Ord. No. 2017-35, § 2, 9-12-17; Ord. No. 2018-18, § 2, 5-8-18)

17.52.220 Accessory uses—Recreational.

Recreation facilities on the premises for the use of the occupants and nonpaying guests are permitted, when qualified as accessory uses in any district. Private swimming pools shall be regulated as accessory structures.

(Prior gen. code § 8-60.23)

17.52.230 Accessory uses—Pets, livestock, bees, exotic animals.

The keeping of pets, livestock, bees and exotic animals for which a permit has been obtained in accordance with applicable regulations are permitted in addition to those animals otherwise permitted by this title.

(Prior gen. code § 8-60.25)

17.52.240 Accessory uses—Firework stands.

Firework stands for which a permit has been obtained in accordance with applicable regulations and for which zoning approval has been received are permitted in any C or M zoning district.

(Prior gen. code § 8-60.25B)

17.52.260 Accessory buildings.

Every accessory building attached to a main building shall be subject to all the requirements of this title applicable to the main building. No detached accessory building in an R district shall be located within six feet of any other building on the same lot, or have more than one story or a height in excess of fifteen (15) feet.

(Prior gen. code § 8-60.26)

17.52.270 Accessory buildings—Where not permitted.

No accessory building shall be located between the street lot line and any special building line established pursuant to Chapter 17.102 or any future width line established by ordinance, which traverses the building site. No accessory building in any R district shall be within six feet of the side line of the front half of any abutting lot, or occupy the front half of a lot, or either front quarter of an interior lot abutting two streets, provided; however, that this restriction shall not require any accessory building to be more than seventy-five (75) feet distant from any street lot line.

(Prior gen. code § 8-60.27)

(Ord. No. 2010-71, § 78, 12-21-10)

17.52.280 Accessory buildings—Corner lots.

On a corner lot which abuts a key lot no accessory building shall be nearer the street side lot line than a distance equal to the depth of front yard required on the key lot; provided, however, that this restriction shall not be so applied as to reduce the permitted depth of the accessory building to less than twenty (20) feet. Where the rear lot line of a corner lot in an R district abuts the rear lot line of another lot, no accessory building shall be nearer the street side lot line than the main building or in any case be located less than ten feet from the side lot line.

(Prior gen. code § 8-60.28)

17.52.290 Accessory buildings—Types of structures prohibited.

In any R district, cargo containers, truck trailers, vans, commercial vehicles and similar moved-on containers shall not be permitted as temporary or permanent structures of any type. This section shall not prohibit a moved-on mobilehome as specified under Section 17.04.010 or a temporary use as provided by Section 17.52.470.

(Prior gen. code § 8-60.29)

17.52.300 Accessory building—Private garage.

Except as otherwise provided in Section 17.52.310 no private garage in any R district shall be so located upon a lot that the door providing vehicular access thereto is within twenty (20) feet of any lot line of such lot toward which the door faces.

(Prior gen. code § 8-60.30)

17.52.310 Accessory building—In front yard.

In any R district or A district, where the slope of the natural ground in the required front yard of the lot exceeds a rate of one foot rise or fall for each four feet from the established street grade at the front lot line, or where the ground elevation at the front lot line is five feet or more above or below the established street grade, a private garage or required parking space may be located in a required front yard; provided, however, that no such garage or required parking space shall occupy an area between the front lot line and any special building line, future width line or official right-of-way line established by ordinance.

(Prior gen. code § 8-60.31)

17.52.320 Accessory structures—In rear yard.

Detached accessory buildings in an R district may occupy up to a maximum of thirty (30) percent of the area of a required rear yard, provided that the maximum thirty (30) percent of coverage provision shall not apply to private swimming pools.

(Amended during 1996 codification; prior gen. code § 8-60.32)

17.52.330 Yard regulations.

In order to secure minimum basic provision for light, air, privacy and safety from fire hazards, it is required that every building hereafter constructed shall be upon a building site of dimensions such as to provide for the yards specified for the district in which the lot is located, and the following sections shall apply and control. Every such yard shall be open and unobstructed from the ground upward, except as otherwise provided for accessory buildings in Sections 17.52.270, 17.52.310 and 17.52.320, for fences in Section 17.52.410 and for other buildings in Section 17.52.370 and for signs as regulated by Section 17.52.520 and Section 17.52.470. Except as provided by Sections 17.30.140 and 17.30.150, no mobilehome, recreational vehicle, utility trailer, unmounted camper top or boat shall be stored in the front yard or the required side yard in any R district.

(Prior gen. code § 8-60.33)

(Ord. No. 2010-71, § 79, 12-21-10)

17.52.340 Yards—Dimensions.

Every front yard shall have a depth equal to or greater than that required for the district and shall extend across the full width of the front of the building site. Every rear yard shall have a depth equal to or greater than that required for the district and shall extend across the full width of the rear of the building site. Every side yard shall have a width equal to or greater than that required for the district and shall extend along the side lot line from the front lot line to the rear lot line.

(Prior gen. code § 8-60.34)

17.52.350 Yards—Measurement—Rear and side lines.

The measurement of the required depth of a rear yard or the required width of an interior side yard shall be horizontal and inward from the lot line at a right angle. Where the side lot lines converge, or nearly converge, a line ten feet long within the lot, parallel to the front lot line and at a maximum distance therefrom shall be deemed to be the rear lot line for the purposes of this section.

(Prior gen. code § 8-60.35)

17.52.360 Yards—Measurement—Front line.

The measurement of the required depth of a front yard, or the required width of the street side yard of a corner lot, shall be horizontal and inward from the street lot line at a right angle; provided, however, that where any official right-of-way line, or any future width line pursuant to Chapter 17.102, traverses the building site, the measurement here specified shall be taken from such right-of-way line, such future width line or from the street lot line, whichever produces the lesser yard. Through lots have two front lot lines, from each of which a front yard shall be measured.

(Prior gen. code § 8-60.36)

(Ord. No. 2010-71, § 80, 12-21-10)

17.52.370 Yards—Exceptions—Projections permitted therein.

The following features of a building hereinafter set forth may project into a required yard to the extent specified:

A. Eaves, or any other architectural features may project beyond the front, rear, or side wall a distance not greater than two feet;

B. A landing place, or uncovered porch, and stairway leading thereto which serves a dwelling unit entrance not greater than six feet above the ground level, may project into a required yard a distance not greater than three feet;

C. A building wall encroaching two feet or less into a required yard may be extended so as to continue the same building wall line but may not reduce said required yard to a dimension less than that previously provided.

(Prior gen. code § 8-60.37)

17.52.380 Lot coverage.

In calculating the percentage of lot coverage, the area at ground level of all roofed buildings on the premises shall be included as coverage, excluding the architectural and other features listed in Section 17.52.370.

(Prior gen. code § 8-60.50)

17.52.390 Useable open space.

Where the district regulations specify a minimum of useable open space for each dwelling unit or a building site, the calculation of useable open space shall be made by deducting from the total area of the building site: (A) all the area included as coverage pursuant to Section 17.52.380; (B) all areas paved to provide parking spaces, required driveways and maneuvering areas; (C) any remaining area having a ground slope in excess of twenty (20) percent; and (D) any open space less than ten feet in its least dimension. To the remainder may be added any roof top or outside deck spaces more than seven feet in least dimension which are directly accessible to and safely useable by occupants of the dwelling.

(Prior gen. code § 8-60.51)

17.52.400 Yards—Official lines.

No building or structure shall be located on any lot or building site in the area between a street lot line and any official right-of-way line, future width line or special building line along the street which has been established by ordinance.

(Prior gen. code § 8-60.52)

17.52.410 Fences, walls and hedges.

Fences, walls and hedges, as regulated in this and the following sections may occupy any yard and are required where specified in this title. The term "wall" as used in this connection shall not be deemed to apply to the wall of a building, or to the supporting portion of a retaining wall. The term "hedge" means cultivated plant growth along a line which is sufficiently dense to obstruct passage and visibility from one side to the other.

(Prior gen. code § 8-60.53)

17.52.420 Hedges.

Where the side yard or rear yard of a C or M use abuts an R district, there shall be planted and maintained a hedge approximately four feet wide and six feet high along that property line of that C or M district parcel, except that within twenty (20) feet of a street lot line, the required hedge shall not exceed four feet in height.

(Prior gen. code § 8-60.54)

17.52.430 Fences, walls and hedges—Height limitations.

The maximum permitted height of fences, walls and hedges, except as otherwise provided in Sections 17.52.420 and 17.52.440 shall be as follows:

A. When located in a required yard on a corner lot and within thirty (30) feet of the intersection of the street lot lines or of the projections of such lines: Two feet, measured upward from the center line grade of the street opposite thereto;

B. When located in a required rear or street side yard of a corner lot and within twenty (20) feet of the corner common to such a lot and a key lot at the rear: Four feet;

C. When located in a required front yard other than as specified in subsection A of this section: Four feet;

D. When located in any A or R district other than as specified hereinabove six feet;

E. When located in any C or M district and within five feet of the boundary of any A or R district: Six feet high.

(Prior gen. code § 8-60.55)

17.52.440 Fences, walls and hedges—Exceptions to height limitations.

The limitations on height specified in Section 17.52.430 shall not apply:

A. Where a higher fence is required by any other ordinance of the county or by state or federal regulation;

B. Where a higher fence is made a condition of approval of a conditional use or a variance pursuant to this title, provided that no such condition shall require or permit a fence having a height in excess of twelve (12) feet;

C. To a fence around all or part of a tennis court, a playground or a swimming pool which is, at least in that portion which exceeds the applicable limitation, constructed of open wire or steel mesh capable of admitting not less than ninety (90) percent light as measured by a reputable light meter;

D. An open wire fence up to six feet high in an A district.

(Prior gen. code § 8-60.56)

17.52.450 Fences, walls and hedges—Measurement of height.

Except as otherwise specified in Section 17.52.430A, the height of a fence, wall or hedge shall be measured upward from the ground level beneath it; provided that where any fence, hedge, or wall in a required yard or along a lot line rises directly above or is parallel to and within six feet of the supporting portion of a retaining wall, one-half the supporting height of the retaining wall shall be deducted from the permitted height and the remainder measured upward from the level of the ground fill on the higher side; and provided, further, that no fence or hedge shall extend upward from a retaining wall within thirty (30) feet of a street corner.

(Prior gen. code § 8-60.57)

17.52.460 Fences, walls and hedges—Required.

Wherever a lot is occupied by a nonconforming, commercial or industrial use in an R district, a screening wall, fence, or hedge of the maximum permitted height is required along any rear or interior side lot lines thereof which abut any lot in an R district. This requirement shall not apply to that portion of any such lot line which is within two feet of the wall of a building on the lot and parallel to such line.

(Prior gen. code § 8-60.58)

17.52.470 Temporary use.

Nothing in this title shall be construed to prohibit in any district a temporary building or use or trailer coach not used for residential purposes, necessary and incidental to construction of a building or group of buildings when located on the same lot and only during the period of construction.

(Prior gen. code § 8-60.59)

(Ord. No. 2010-71, § 81, 12-21-10)

17.52.480 Temporary uses—Conditional uses.

In any district, any temporary use of a duration of sixty (60) days or less that is not categorically exempt from the requirements of an environmental impact report under the provisions of the county guidelines for the implementation of the California Environmental Quality Act shall be permitted only if approved by the board of zoning adjustments as provided in Section 17.54.130.

(Ord. 2002-60 (part): Prior gen. code § 8-60.60)

17.52.490 Temporary uses—Administrative conditional uses.

In any district minor temporary uses of land of a duration of sixty (60) days or less, except as otherwise provided herein, having negligible or no permanent effects on the environment that are categorically exempt from the requirements of an environmental impact report under the provisions of the county guidelines for implementation of the California Environmental Quality Act of 1970 including, but not limited to: Grand opening sales and displays, Christmas tree lots, neighborhood and church festivals, firewood sales lots in the A district (but no such permit shall be approved for a period to exceed one year), mobilehome occupancy for a period of one year during construction of permanent living quarters on the same premises in any A or R district, occupancy of a commercial office trailer for a period not to exceed one year in any C or M district, tract and sales office with accessory signs and directional tract signs during the period of construction and original sale of the buildings or lots in a new subdivision, shall be permitted only if an administrative conditional use permit is approved by the planning director. In addition to the above, the planning director may grant an administrative conditional use permit for a tent or canopy subject to the provisions of Sections 17.52.1110 through 17.52.1160. The planning director shall make such investigations as are necessary to determine whether or not the proposed use conforms or may be conditioned to conform to the requirements and intent of this title. If from the information submitted or developed upon investigation, the planning director finds that compliance with the requirements and intent of this title would be secured, the administrative conditional use permit shall be approved. If it is found that such compliance is not secure, the permit shall be denied or approved subject to such specified conditions, changes or additions as will assure such compliance.

The order approving or disapproving an administrative conditional use permit shall become effective five days after the date of such action unless a written appeal is filed pursuant to and in compliance with Section 17.54.670.

(Ord. 2002-60 (part): Prior gen. code § 8-60.60.1)

(Ord. No. 2010-7, § 3, 2-9-10)

17.52.500 Administrative conditional uses—Violation.

Once an administrative conditional use is established, all of the conditions specified in the permit's approval shall become operative and the violation of any of them shall constitute a violation of this title.

(Prior gen. code § 8-60.60.2)

17.52.505 Administrative minor use permit.

A. Purpose. The administrative minor use permit (AMUP) provides a process for reviewing uses that may be appropriate in the applicable zone but whose effects on a site and adjacent uses shall be subject to review and approval. The purpose of an administrative minor use permit is to provide flexibility and to reduce processing times for minor projects that are accessory to and consistent with permitted or conditionally permitted uses in the applicable zoning district.

B. Review Authority. The application for an administrative minor use permit shall be reviewed and approved or denied by the planning director. A decision pursuant to this section shall be final, subject to appeal in compliance with Section 17.54.670 (Appeals).

C. Types of Uses and Activities. An administrative minor use permit may be issued for the following types of uses and activities that are operating in conjunction with a permitted or conditionally permitted facility:

1. Outdoor commercial, including but not limited to the uses described in subsections a through e below. Outdoor commercial uses shall be subject to any applicable county specific plan, which may prohibit or otherwise regulate such uses. Outdoor commercial uses shall not be allowed for a "microenterprise home kitchen operation" (MEHKO) pursuant to Assembly Bill 626 (AB 626) (2018).

This category includes, among other uses:

a. Outdoor seating for dining purposes;

b. Outdoor seating and meal service for on-site alcohol service with on-site meal service as defined by the California Department of Alcoholic Beverage Control (ABC) and in compliance with all applicable ABC licenses and requirements;

c. Outdoor personal services (cosmetologists, barber shops, beauty salons, and other similar personal grooming services);

d. Outdoor retail including merchandise display areas; and

e. Outdoor fitness classes or training.

2. Outdoor community facilities as defined by the Alameda County Zoning Ordinance, Section 17.04.010.

3. Pop-up spaces and uses for food preparation and service or for retail.

4. Mobile food, beverage or retail uses (e.g. food trucks) located at specified private property locations.

5. Musical performances (including amplified music) accessory to an existing use.

6. Minor façade changes including signage.

D. Application Filing, Processing, and Review.

1. Application Filing and Processing. The application shall be filed with the Alameda County Planning Department using the information and materials specified in the most up-to-date department handout for an administrative minor use permit, together with the required fee. It is the responsibility of the applicant to provide evidence in support of the findings required by subsection F (Required Findings), below.

2. Application Review. Each application shall be reviewed by the planning director to ensure that the proposal complies with all applicable requirements of this code and any applicable specific plan or general plan. However, notwithstanding any provision in this code to the contrary, and to the extent required to facilitate an otherwise allowable use pursuant to subsection C above:

a. Parking requirements may be reduced by up to fifty (50) percent for uses longer than seven consecutive days in duration or by up to one hundred (100) percent for uses seven consecutive days or fewer in duration.

b. Permitted uses may occur outdoors on private property.

E. Administrative Decision and Notice.

1. Administrative Decision. An administrative minor use permit decision shall be issued without a hearing.

2. Notice. Before a decision on an administrative minor use permit, the Department shall provide notice in compliance with Section 17.54.830(D) for similar approvals which do not require a public hearing. The notice shall state that the planning director will decide whether to approve or deny the administrative minor use permit application on a date specified in the notice and that the decision is appealable.

3. Conditions of Approval. The planning director may add conditions of approval as necessary to ensure the use meets the required findings below.

4. Administrative Minor Use Permits shall be subject to time limits and expiration listed in subsections a through e below. The permittee shall have no right to continue any uses approved pursuant to this section beyond the expiration date of the permit, including expiration pursuant to this subsection or subsection (G)(2), below.

a. Outdoor commercial: Five years;

b. Outdoor community facilities: Five years;

c. Pop-up spaces and uses: One year;

d. Mobile food, beverage, or retail uses (such as but not limited to food trucks): One year;

e. Musical performances: One year;

f. Minor façade changes including signage: No time limit.

5. Administrative minor use permits shall be subject to periodic administrative review to determine conformance with the conditions of approval and to determine that the findings upon which the approval was based are still met.

F. Required Findings. The planning director may approve an administrative minor use permit only after making all of the following findings:

1. The proposed use is consistent with the general plan and any applicable specific plan;

2. The design, location, size, and operating characteristics of the proposed activity will be compatible with the land uses in the vicinity;

3. The site is physically suitable for the use in terms of:

a. Its design, location, shape, and size, and the operating characteristics of the proposed use,

b. Access to appropriate services, utilities, and public protection (e.g., fire and medical access, waste collection, and disposal);

4. The site includes physical improvements and/or the permitted facility that are of a high-quality nature consistent with the immediate surroundings;

5. Any new or modified signage conforms to requirements in the zoning ordinance and design guidelines included and any applicable specific plan; and

6. The proposed use will not be inconsistent with applicable federal, state or local laws or regulations.

G. Abandonment and Revocation.

1. An Administrative minor use permit becomes null and void if not implemented within twelve (12) months following its effective date. The planning director may, without a hearing, extend the time to implement the use for a maximum period of one additional twelve (12)-month period only, upon application filed with the planning department before the expiration of the initial twelve (12)-month time period. Extensions will only be granted if the findings can still be made based on the existing conditions of the site and the use.

2. If a use granted under an administrative minor use permit is abandoned for a period of six months, the administrative minor use permit shall expire. An applicant may apply for a new administrative use permit at any time following such expiration.

3. Whenever the planning director determines that permit conditions have been or are being violated, the planning director may revoke or modify the administrative minor use permit. The planning director shall send a written notice of the revocation or modification to the permittee and the property owner by personal service or by prepaid certified mail, return receipt requested, to the permittee and property owner's notice addresses provided on the application. The notice must include:

a. A statement that the permit is being revoked or modified under this chapter;

b. The basis for the determination;

c. A statement that the permittee may request a hearing before the planning commission per Section 17.54.070 on the revocation or modification by submitting a hearing request, in writing, to the planning department, within ten calendar days of the date of the notice;

d. A statement that the failure to request a hearing on the notice of suspension or revocation will constitute a waiver of all hearing and appeal rights, and the suspension or revocation will be final; and

e. Signature of the planning director or designee making the determination.

4. Service of notice shall be deemed complete at the time of personal service or the time the notice is deposited in the mail. Failure of any person to receive notice shall not affect the validity of any proceedings hereunder.

5. If the permittee requests a hearing within ten days, the planning director shall set a date for a public hearing upon the proposed revocation or modification before the planning commission.

6. The hearing notice shall be served on the permittee and property owner's notice addresses at least ten days before the date of the hearing, and specify the date, time, and place when and where it will be held.

H. Penalty for Violations.

1. The violation by any person of any provision of this section or condition of an administrative minor use permit granted under the terms of this section is an infraction and subject to enforcement pursuant to Chapters 17.58 and 17.59 of this code (with the exception of enforcement as a misdemeanor).

2. Each person is guilty of a separate offense for each and every day during any portion of which a violation is committed, continued, or permitted, and shall be punished accordingly.

(Ord. No. 2021-56, § 2, 12-21-21)

17.52.510 Signs.

For the purpose of this title, additional types of signs are distinguished and defined and shall be subject to the regulations specified for each. The word "illuminated" when used in reference to signs shall mean giving forth direct artificial light, and shall not refer to light cast upon a sign from an outside source. Where the aggregate area of signs is limited, all faces of a sign shall be included in the calculation. Where two advertising signs are located on the same supporting members and the two faces of the signs are at no point more than two feet from one another, each face shall be considered a single sign.

(Prior gen. code § 8-60.61)

17.52.515 Billboards and advertising signs.

A. General Provision. Notwithstanding any other provision in Title 17, no person shall install, move, alter, expand, modify, replace or otherwise maintain or operate any billboard or advertising sign in the unincorporated area of Alameda County, except:

1. Those billboards or advertising signs which legally exist as of the time this section is first adopted;

2. Those billboards or advertising signs for which a valid permit has been issued and has not expired;

3. Pursuant to an agreement relocating presently existing, legal billboards or advertising signs pursuant to Business and Professions Code Section 5412; provided that every billboard or advertising sign relocated pursuant to a relocation agreement shall fully comply with the site development review process and criteria in Sections 17.54.220 and 17.54.226, further provided such signs are located:

a. On a parcel that does not contain residential or agricultural uses,

b. On or adjacent to a parcel with interstate or primary highway frontage,

c. Within six hundred sixty (660) feet of the edge of the right-of-way of an interstate or primary highway, and

d. In a manner consistent with adopted Scenic Corridor (SC) overlay zones, as required by section 17.30.190; or

4. As required under federal or state law.

For purposes of this section, "billboard" shall mean a permanent structure or sign used for the display of offsite commercial messages and shall include and be synonymous with "advertising sign" as that term is defined in Section 17.04.010.

B. Purpose. The purpose and intent of this section is:

1. To protect and advance the county's interests in community aesthetics by the control of visual clutter, protection of scenic corridors, pedestrian and driver safety, and the protection of property values;

2. To implement the county's general plan by insuring that billboards and advertising signs within the county's unincorporated area are compatible with their surroundings and are in keeping with the goals and objectives of the those plans; and

3. To maintain the attractiveness and orderliness of the county's unincorporated area's appearance.

C. Substitution of Messages. Subject to the property owner's consent, a noncommercial message of any type may be substituted for any duly permitted or allowed commercial message or any duly permitted or allowed noncommercial message in an advertising sign, provided that the sign structure or mounting device is legal, without consideration of message content. Such substitution shall not involve an addition to, enlargement of, or other modification or change in use of the advertising sign other than the message substitution. Such substitution of message may be made without any additional approval or permitting. This provision prevails over any more specific provision to the contrary within this section. 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. This provision does not create a right to increase the total amount of signage on a parcel, lot or land use; does not affect the requirement that a sign structure or mounting device be properly permitted; does not allow a change in the physical structure of a sign or its mounting device; does not allow the substitution of an off-site commercial message in place of an on-site commercial message; and does not allow one particular on-site commercial message to be substituted for another without a permit.

D. Removal of Existing Billboards and Advertising Signs.

1. In accordance with California Business and Professions Code Section 5412.1, those billboards or advertising signs meeting all of the following criteria shall be removed within the time periods set forth below without compensation:

a. The billboard or advertising sign is located within an area shown as residential in the county's general plan;

b. The billboard or advertising sign is located within an area zoned for residential use;

c. The billboard or advertising sign is not located within six hundred sixty (660) feet from the edge of the right-of-way of, and the copy is visible from, an interstate or primary highway, nor is placed or maintained beyond six hundred sixty (660) feet from the edge of the right-of-way of an interstate or primary highway with the purpose of its message being read from the main traveled way; and

d. The billboard or advertising sign is not required to be removed because of an existing overlay zone, combining zone, or any other special zoning district whose primary purpose is the removal or control of signs.

2. Any billboard or advertising sign meeting all criteria listed in subsection (D)(1) of this section shall be removed at the close of the amortization period listed below:

|  |  |
| --- | --- |
| Fair Market Value on Date of  Notice of Removal Requirement | Minimum  Years  Allowed |
| Under $1,999.00 | 2 |
| $2,000.00 to $3,999.00 | 3 |
| $4,000.00 to $5,999.00 | 4 |
| $6,000.00 to $7,999.00 | 5 |
| $8,000.00 to $9,999.00 | 6 |
| $10,000.00 and over | 7 |

The amounts provided in this section shall be adjusted each January 1st after January 1, 1983 in accordance with the changes in building costs as indicated in the United States Department of Commerce Composite Index for Construction Costs.

E. Determination of Fair Market Value. The director of the Alameda County community development agency ("director"), or his/her designee, shall determine the fair market value ("FMV") of the billboard or advertising sign and the resulting amortization period. The amortization period shall run from the date of the notice of amortization, which shall be sent to billboard or advertising sign owners and underlying property owners via registered U.S. Mail. Underlying property owners, for the purposes of this section, are those names contained on the latest available equalized assessment role. Failure to receive the notice of amortization shall not invalidate or otherwise affect the amortization period.

F. Administrative Appeal Procedure.

1. Any interested party may appeal a determination of FMV or the resulting amortization period to the board of supervisors by filing an appeal with the clerk of the board. That appeal must be in writing and must be actually received by the clerk of the board no later than 5:00 p.m. on or before the 45th calendar day following the date of mailing of the notice of amortization.

2. The written appeal shall identify the specific grounds for the appeal and state whether, for example, appellant is asserting there was an error or abuse of discretion by the county or that the county's determinations are not supported by the evidence in the record. The burden is on the appellant to provide sufficient evidence and argument to overturn the county's determinations. In addition, the appellant shall include the following information in the written appeal:

a. Location and identification of specific billboard or advertising sign under appeal;

b. Specific determination(s) of the county being challenged;

c. Current photograph of billboard or advertising sign;

d. Legal argument and factual evidence, including all relevant documentation, supporting the appeal including, without limitation, building permits (if applicable) and repair and/or improvement records.

The county may request additional information as it deems reasonably necessary to evaluate the appeal.

3. Failure to timely file an appeal will result in a waiver of any rights to further challenge the county's determinations contained in the notice of amortization.

4. Appeal Fee. Established per fee schedule.

5. Notification of Completeness. The county will notify appellant within twenty (20) business days of actual receipt of the written appeal whether the appeal application is deemed complete. The county's failure to notify appellant within said time period will result in the application being deemed complete, except that the county may subsequently request additional information it deems reasonably necessary in order to evaluate the appeal.

6. The board of supervisors shall promptly provide appellant with a written decision on the appeal, but in no event later than ninety (90) calendar days after notifying the appellant that the appeal is complete or, in the case when the application is deemed complete, after the date the application is deemed complete, unless an extension is agreed to by the appellant. Requests by the county for additional information after the application has been deemed complete will not modify the timing of the ninety (90) day period during which the written determination is being made, provided that the appellant responds in a timely manner to the county's request. Failure of the county to timely issue a written decision shall result in granting of the appeal.

7. The written decision of the board of supervisors is final and not administratively appealable.

G. Severance. If any section, sentence, clause, phrase, word, portion or provision of this section is held invalid or, unconstitutional, or unenforceable, by any court of competent jurisdiction, such holding shall not affect, impair, or invalidate any other section, sentence, clause, phrase, word, portion, or provision of this section which can be given effect without the invalid portion. In adopting this section, the board of supervisors affirmatively declares that it would have approved and adopted the section even without any portion which may be held invalid or unenforceable.

(Ord. No. 2008-59, § 1, 9-9-08; Ord. No. 2010-49, § 12, 9-14-10; Ord. No. 2019-2, § 2, 1-15-19)

17.52.520 Signs permitted.

The following signs are permitted in any district and may be located in required yards, other sign control provisions notwithstanding; and need not be included in any computation of permitted aggregate sign area.

A. One unilluminated temporary sign, maximum one square foot in area, on each lot for up to ninety (90) days;

B. House numbers, mail box identification, street names, "no trespass" signs, and other warning signs;

C. Courtesy signs identifying a benefactor, a location of historic interest, or a statue or monument;

D. One name plate, two square feet maximum area and shall not be illuminated;

E. Pedestrian signs:

1. Must be suspended from a canopy over a sidewalk which is directly in front of the door of the business thereby identified,

2. Must be perpendicular to the business building wall,

3. Must not be more than ten square feet in area if double-faced, five square feet in area if single-faced,

4. Must provide a minimum of eight-foot clearance to the sidewalk below,

5. Are limited to one per business per building elevation;

F. Signs serving to direct the flow of pedestrian and vehicular traffic, with eight square feet per sign, except pavement markings which are not so restricted as to maximum area;

G. Temporary nonstructural signs promoting public health, safety, or welfare programs and activities: Eight square feet aggregate area per lot;

H. Temporary political sign(s) eighteen (18) square feet aggregate area per lot;

I. Safe or lease sign, with two signs permitted per lot, six square feet maximum area per sign and shall not be illuminated; provided, however, that sale or lease signs in any C or M district shall not exceed twenty-four (24) square feet. One such sign may be placed for each one hundred (100) feet of street frontage;

J. Subdivision sale, rent, or lease sign, to advertise the original sale, rent, or lease of buildings or lots in connection with a subdivision development: sixty-four (64) square feet plus on additional sign of like dimension for each thirty-five (35) lots or buildings for sale, rent, or lease, twenty (20) feet maximum height, and shall not be illuminated;

K. Apartment rental sign, for apartment complexes of no less than five dwelling units: One sign, thirty-two (32) square feet maximum area, ten feet maximum height, shall not be illuminated; and shall be removed when initial occupancy occurs within eighty (80) percent or more of the dwelling units;

L. A bulletin board used to display announcements relative to meetings held on the premises of a church, school, auditorium, or other place of public assembly, twenty-four (24) square feet in area, unless otherwise approved under a conditional use permit, variance, or site development review, attached to the wall or regulated as to height by those limitations on fences and hedges contained in Section 17.52.430;

M. A directory or other exclusively informational listing of tenants' names attached to the wall at the entrance of a building, or if freestanding, regulated as to height by those limitations on fences and hedges contained in Section 17.52.430, and other provisions of this section notwithstanding, may not be located within a required front or street side yard, twelve (12) square feet maximum aggregate area;

N. Identification sign, thirty-two (32) square feet maximum area unless otherwise approved under a conditional use permit, variance; or site development review or if freestanding, regulated as to height by those limitations on fences, walls, and hedges contained in Section 17.52.430;

O. Not more than two service station price signs thirty-two (32) square feet maximum aggregate area, six feet maximum height and may be attached to and made part of service station sign displace structure pursuant to Section 17.38.140;

P. Signs located inside a building or structure, provided any such sign is neither attached to windows with its sign copy visible from the outside nor otherwise so located inside so as to be conspicuously visible and readable without intentional and deliberate effort from outside the building or structure, provided, however, that any sign or signs which in the aggregate have an area not exceeding twenty-five (25) percent of the window area from which they are viewed are also permitted and need not be included in any computation of permitted aggregate sign area;

Q. Signs placed on or attached to bus stop benches or transit shelters in the public right-of-way either sponsored by, or placed pursuant to a contract with, AC Transit or another common carrier.

(Prior gen. code § 8-60.65)

(Ord. No. 2010-49, § 13, 9-14-10; Ord. No. O-2014-43, § 1, 11-4-14; Ord. No. 2016-51, § 2, 10-4-16)

17.52.530 Signs—Conditional uses.

Except where signs are listed as permitted uses, the following are conditional uses in any district, may be located in required yards, and shall be permitted only if approved as provided in Section 17.54.130:

A. Community identification sign, one hundred twenty (120) square feet, twenty (20) feet maximum height, shall be located within one thousand (1,000) feet of the corporation boundary of the community to which the sign refers, illumination shall not be intermittent and sign copy shall be limited to:

1. The name of the post office or offices serving the area; and/or community in which the sign is located;

2. Information relating to the service clubs active in the area;

3. Community slogans or mottos;

4. Directional information.

(Prior gen. code § 8-60.65.1)

17.52.540 Abatement of signs relating to inoperative functions.

Signs pertaining to enterprises or occupants that are no longer using a property shall be removed from the premises or sign copy on such signs shall be obliterated, within thirty (30) days after the associated enterprise or occupant has vacated the premises. Other signs of a temporary nature (including political signs) shall be removed within fifteen (15) days following the event or election or other purpose served by the sign in the first instance.

(Prior gen. code § 8-60.65.2)

(Ord. No. 2010-71, § 82, 12-21-10)

17.52.550 Reserved.

Ord. No. 2019-2, § 3, adopted January 15, 2019, repealed § 17.52.550, which pertained to advertising signs adjacent to scenic routes and derived from prior gen. code § 8-60.67.

17.52.560 Advertising signs adjacent to scenic routes—Scenic route corridors.

No advertising sign shall be located or constructed in any district in a scenic route corridor adopted as part of the specific plan for areas of environmental significance.

(Prior gen. code § 8-60.67.1)

17.52.565 Advertising signs for tobacco products.

A. Purpose. The primary purpose of this section is to promote the general welfare and reduce illegal use and purchase of tobacco products by minors. This is accomplished by limiting the exposure of minors to publicly visible advertising signs of tobacco products.

B. Definitions. For purposes of this section, the following definitions apply:

1. "Child day care center" shall have the same meaning as in Section 1596.750 of the California Health and Safety Code.

2. "Library" means any public library dearly identified on the outside of the facility as library.

3. "Playground" means any outdoor premises or grounds owned or operated by the county, a park or recreation district, a public or private school, child day care center, youth or recreational center, containing any play or athletic equipment used or intended to be used by minors.

4. "Publicly visible" means visible to the public from any street, sidewalk, or other public thoroughfare, and includes the placement of outdoor signs such as billboards, signs attached to poles, posts or other fixtures, signs attached to the outside of buildings, signs placed in the windows or doors of buildings that are visible to passersby, and free-standing signs on the sidewalk.

5. "Tobacco products" means any product that contains tobacco leaf, including but not limited to cigarettes, cigars, pipes, tobacco, snuff, chewing tobacco and dipping tobacco, cigarette papers or other instrument or paraphernalia that is designed for the smoking or ingestion of tobacco, products prepared from tobacco or any controlled substance.

6. The verb "to place", and any of its variants, includes the erecting, construction, posting, painting, printing, tacking, nailing, gluing, sticking, carving or otherwise fastening or affixing or making visible any advertising display on or to the ground or any tree, bush, rock, fence, post, wall, building, structure or thing.

7. "School" shall have the same meaning as in Section 6.108.020M of this code.

C. Tobacco Products Advertising Restrictions. No person or entity shall place any advertising sign in the unincorporated area of Alameda County promoting the sale of tobacco products that if the face of the advertising sign is publicly visible from any school, child day care center, outdoor recreation facility, playground, or library.

D. Exceptions. This section shall not apply to the following:

1. The placement of an advertising sign: (a) inside premises that lawfully sell tobacco products, including without limitation, any neon or electrically charged sign that is provided as part of a promotion of a particular brand of product, as long as it is compliant with the sign ordinance; or (b) on commercial vehicles used for the primary purpose of transporting tobacco products;

2. Any tobacco products advertising sign located in an industrial zone (designated M-1, M-2, and M-P) or in a commercial zone (designated C-1, C-2, C-O, C-N, SO, Sand H-1) if the advertising sign is more than one thousand (1,000) feet from any school, child day care center, outdoor recreation facility, playground, or library;

3. Any tobacco products advertising sign on a vehicle that provides public transportation, including taxicabs or busses;

4. Notwithstanding the Federal Highway Beautification Act, any tobacco products advertising sign adjacent to and facing an interstate highway.

E. Measure of Distance. The distance between any advertising sign and any school, child day care center, outdoor recreation facility, playground, library, or non-commercial or non-industrial zone shall be measured in a straight line, without regard to intervening structures, from the advertising sign to the closest property line of the school, child day care center, outdoor recreation facility, playground, or library, or to the closest boundary of the zone.

F. Construction. This section shall not be construed to permit any advertising sign that is otherwise restricted or prohibited by law. This section shall be construed to apply only to commercial speech.

G. Administrative Enforcement. Any person who violates, disobeys, omits, neglects, refuses to comply with, or resists the enforcement of any of the provisions of this ordinance shall be subject to procedures contained in Chapter 59 of Title 17.

H. Administrative Penalties. When an authorized enforcement officer finds that a violation of this section has taken place, the enforcement officer may assess or impose:

1. Civil penalties pursuant to the standards and procedures established in Chapter 59 of Title 17;

2. Administrative citations pursuant to the standards and procedures established in Chapter 59 of Title 17; and/or

3. Property use limitations pursuant to the standards and procedures established in Chapter 54 of Title 17.

I. Civil Actions. In addition to other remedies provided in this section, any violation of this section may be enforced by a civil action brought by the county. In such action, the county may seek, and the court shall grant, as appropriate, any or all of the following remedies:

1. A temporary and/or permanent injunction;

2. Assessment of the violator for costs of any investigation, inspection, or monitoring survey which led to the establishment of the violation, and for reasonable costs of preparing and bringing legal action under this subsection, including but not limited to attorney compensation;

3. Costs incurred in removing, correcting, or terminating the adverse effects resulting from the violation.

J. Continuing Violation. Unless otherwise provided, a person shall be deemed guilty of a separate offense for each and every day during any portion of which a violation of this section is committed, continued or permitted by the person and shall be punishable accordingly as herein provided.

K. Concealment. Causing, permitting, aiding, abetting or concealing a violation of any provision of this section shall constitute a violation of such provision.

L. Reinspection Fees. Whenever an authorized enforcement officer determines that upon reinspection of the premises there has been a failure to comply with any orders, notices or directions of the county, the enforcement officer may charge a reinspection fee.

M. Remedies Not Exclusive. Remedies under this section 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. The enforcement officer shall have the discretion to select a particular remedy to further the purposes and intent of the section, depending on the particular circumstances. The enforcement officer's decision to select a particular remedy is not subject to appeal.

N. Joint and Several Liability. The property owner and the advertising sign owner/operator shall be jointly and severally liable for violations of this section.

O. Disclaimers. By prohibiting the advertising or promotion of tobacco products in outdoor or publicly visible locations, the county is assuming an undertaking only to promote the general welfare by discouraging and reducing the illegal purchase and use of tobacco products to minors. 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 or entity who claims that such breach proximately caused injury.

P. Severability and Validity. If any portion of this section or the application thereof to any person or entity or circumstances is declared invalid or unenforceable by a court of competent jurisdiction, the remaining portions of this section and the application of such portions to other persons or circumstances are to be considered valid. To this end, the provisions of this section are severable.

(Ord. No. 2010-48, § 1, 9-14-10)

17.52.566 Advertising signs for alcoholic beverages.

A. Purpose. The primary purpose of this section is to promote the general welfare and reduce illegal consumption and purchase of alcoholic beverages by minors. This is accomplished by limiting the exposure of minors to publicly visible advertising signs of alcoholic beverages.

B. Definitions. For purposes of this section, the following definitions apply:

1. "Alcoholic Beverages" shall have the same meaning as in Section 6.104.040 of this code.

2. "Child Day Care Center" shall have the same meaning as in Section 1596.750 of the California Health and Safety Code.

3. "Library" means any public library clearly identified on the outside of the facility as a library.

4. "Playground" means any outdoor premises or grounds owned or operated by the county, a park or recreation district, a public or private school, child day care center, youth or recreational center, containing any play or athletic equipment used or intended to be used by minors.

5. "Publicly visible" means visible to the public from any street, sidewalk, or other public thoroughfare, and includes the placement of outdoor signs such as billboards, signs attached to poles, posts or other fixtures, signs attached to the outside of buildings, signs placed in the windows or doors of buildings that are visible to passersby, and free-standing signs on the sidewalk.

6. The verb "to place", and any of its variants, includes the erecting, construction, posting, painting, printing, tacking, nailing, gluing, sticking, carving or otherwise fastening or affixing or making visible any advertising display on or to the ground or any tree, bush, rock, fence, post, wall, building, structure or thing.

7. "School' shall have the same meaning as in Section 6.108.020M of this code.

C. Alcoholic Beverages Advertising Restrictions. No person or entity shall place any advertising sign in the unincorporated area of Alameda County promoting the sale of alcoholic beverages if the face of the advertising sign is publicly visible from any school, child day care center, outdoor recreation facility, playground, or library.

D. Exceptions. This section shall not apply to the following:

1. The placement of an advertising sign: (a) inside premises that lawfully sell alcoholic beverages, including without limitation, any neon or electrically charged sign that is provided as part of a promotion of a particular brand of product, as long as it is compliant with the sign ordinance; (b) on commercial vehicles used for the primary purpose of transporting alcoholic beverages; or (c) in conjunction with a one-day alcoholic beverage sales license or temporary license issued by the California Department of Alcoholic Beverage Control;

2. Any alcoholic beverages advertising sign located in an industrial zone (designated M-1, M-2, and M-P) or in a commercial zone (designated C-1, C-2, C-O, C-N, SO, Sand H-1) if the advertising sign is more than five hundred (500) feet any school, child day care center, outdoor recreation facility, playground, or library;

3. Any alcoholic beverages advertising sign on a vehicle that provides public transportation, including taxicabs or busses; and

4. Notwithstanding the Federal Highway Beautification Act, any alcoholic beverages advertising sign adjacent to and facing an interstate highway.

E. Measure of Distance. The distance between any advertising sign and any school, child day care center, outdoor recreation facility, playground, library shall be measured in a straight line, without regard to intervening structures, from the advertising sign to the closest property line of the school, child day care center, outdoor recreation facility, playground, or library.

F. Construction. This section shall not be construed to permit any advertising sign that is otherwise restricted or prohibited by law. This section shall be construed to apply only to commercial speech.

G. Administrative Enforcement. Any person who violates, disobeys, omits, neglects, refuses to comply with, or resists the enforcement of any of the provisions of this ordinance shall be subject to procedures contained in Chapter 59 of Title 17.

H. Administrative Penalties. When an authorized enforcement officer finds that a violation of this section has taken place, the enforcement officer may assess or impose:

1. Civil penalties pursuant to the standards and procedures established in Chapter 59 of Title 17;

2. Administrative citations pursuant to the standards and procedures established in Chapter 59 of Title 17; and/or

3. Property use limitations pursuant to the standards and procedures established in Chapter 54 of Title 17.

I. Civil Actions. In addition to other remedies provided in this section, any violation of this section may be enforced by a civil action brought by the county. In such action, the county may seek, and the court shall grant, as appropriate, any or all of the following remedies:

1. A temporary and/or permanent injunction;

2. Assessment of the violator for costs of any investigation, inspection, or monitoring survey which led to the establishment of the violation, and for reasonable costs of preparing and bringing legal action under this subsection, including but not limited to attorney compensation;

3. Costs incurred in removing, correcting, or terminating the adverse effects resulting from the violation.

J. Continuing Violation. Unless otherwise provided, a person shall be deemed guilty of a separate offense for each and every day during any portion of which a violation of this section is committed, continued or permitted by the person and shall be punishable accordingly as herein provided.

K. Concealment. Causing, permitting, aiding, abetting or concealing a violation of any provision of this section shall constitute a violation of such provision.

L. Reinspection Fees. Whenever an authorized enforcement officer determines that upon reinspection of the premises there has been a failure to comply with any orders, notices or directions of the county, the enforcement officer may charge a reinspection fee.

M. Remedies Not Exclusive. Remedies under this section 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. The enforcement officer shall have the discretion to select a particular remedy to further the purposes and intent of the section, depending on the particular circumstances. The enforcement officer's decision to select a particular remedy is not subject to appeal.

N. Joint and Several Liability. The property owner and the advertising sign owner/operator shall be jointly and severally liable for violations of this section.

O. Disclaimers. By prohibiting the advertising or promotion of alcoholic beverages in outdoor or publicly visible locations, the county is assuming an undertaking only to promote the general welfare by discouraging and reducing the illegal purchase and consumption of alcoholic beverages by minors. 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 or entity who claims that such breach proximately caused injury.

P. Severability and Validity. If any portion of this section or the application thereof to any person or entity or circumstances is declared invalid or unenforceable by a court of competent jurisdiction, the remaining portions of this section and the application of such portions to other persons or circumstances are to be considered valid. To this end, the provisions of this section are severable.

(Ord. No. 2010-47, § 1, 9-14-10)

17.52.570 Specific plan regulations.

Regulations that are part of an officially adopted specific plan shall take precedence over regulations required by this title.

(Prior gen. code § 8-60.69)

17.52.580 Conditional uses—Board of zoning adjustments.

Except where they are listed in the district regulations as permitted uses, the following are conditional uses in any district and shall be permitted only if approved by the board of zoning adjustments, as provided in Section 17.54.130:

A. Shelter;

B. Temporary use as regulated in Section 17.52.480; and

C. Church of wood frame or more lasting construction;

D. Subdivision entrance structures;

E. Group living quarters housing persons placed by an authorized agency for rehabilitation purposes and which is funded by or licensed by or is operated under the auspices of an appropriate federal, state or county governmental agency. These group living quarters are characterized by short-term nonmedical care occupancies as distinguished from those residential care facilities for the ambulatory aged licensed by the State Department of Social Services Agencies and as distinguished from those medical care facilities as licensed by the State Department of Health;

F. Innovative or unconventional housing to alleviate homelessness where the project:

1. Will address the housing needs of individuals or families experiencing homelessness;

2. Is in an area near transit and services;

3. Is secondary or ancillary to the primary use and is not located in the Ashland/Cherryland, San Lorenzo Village or Castro Valley Central Business District Specific Plan Areas;

4. Will not impede local economic development; and

5. May focus on unique needs of the occupants, such as income affordability (low-, very-low, or moderate income) or targeted populations (such as seniors or veterans).

(Ord. 2002-60 (part); Ord. 2000-53 § 1 (part); prior gen. code § 8-61.0)

(Ord. No. 2019-44, § 2, 10-15-19)

17.52.585 Conditional use—Cannabis cultivation or combined cannabis operation.

A. Cannabis cultivation and combined cannabis operations shall be permitted as conditional uses in the A district if approved by the board of zoning adjustments as provided in Section 17.54.130 and pursuant to Section 17.06.040(R) and (S), respectively.

B. A cannabis cultivation permit or combined cannabis operation permit must be issued and any appeals finally determined in accordance with Chapter 6.106 or 6.109 of this code, respectively, prior to the hearing on an application for a conditional use permit pursuant to this section. A conditional use permit issued pursuant to this section shall be effective only during such time as the permittee also holds a valid and effective cannabis cultivation permit pursuant to Chapter 6.106 or combined cannabis operation permit pursuant to Chapter 6.109 and a valid and effective state license permitting the cannabis activities.

C. Cannabis cultivation or combined cannabis operation uses approved pursuant to this section shall meet the criteria established by Section 17.06.040(R) or (S), respectively, Section 17.54.130, Section 17.54.140 and any criteria established for the district. In addition, no conditional use permit for cannabis cultivation or combined cannabis operation shall issue unless the following additional findings are made by the board of zoning adjustments based on sufficient evidence:

1. The applicant has demonstrated an ability to provide effective security for the cannabis cultivation or combined cannabis operation site and to provide a safe environment for people working at the site;

2. Theft and diversion of cannabis cultivated on the premises is prevented;

3. Artificial light shall not escape structures used for cannabis cultivation (e.g. greenhouses) at a level that is visible from neighboring properties between sunset and sunrise. Lighting that is visible from the exterior of the cannabis cultivation area is prohibited, except such lighting as is reasonably utilized for the security of the premises;

4. Any direct or sky-reflected glare or heat shall not be perceptible at any point outside of the cannabis Cultivation site;

5. Noise or vibration, other than that related to transportation activities and temporary construction work, shall not be discernible without instruments at any lot line of the site;

6. Odorous gases or odorous matter shall not be emitted in quantities such as to be perceptible outside of the cannabis cultivation site;

7. The discharge into any public sewer, private sewage disposal system or stream or into the ground shall not occur except in accordance with the standards approved by the State Department of Health, of any materials of such nature or temperature as to contaminate any water supply, interfere with bacterial processes and sewage treatment, or in any way cause the emission of dangerous or offensive elements;

8. Any dust, dirt or particulate matter shall not be discharged into the air from any activity or from any products stored on the site; and

9. The areas of the site to be actively used for cannabis cultivation activities are set back as follows:

a. At least fifty (50) feet from any property line shared with an adjacent property with different ownership, unless waived in writing by the adjacent owner;

b. At least three hundred (300) feet from any residence on an adjacent property with different ownership, unless waived in writing by the adjacent owner; and

c. At least one thousand (1,000) feet from any school for pre-K to 12th grade students, licensed child or day care facility, public park or playground, drug or alcohol recovery facility or public recreation center.

D. The planning director may establish additional performance standards and standard conditions providing detailed guidance for applicants and permittees. Permittees shall be required to comply with the performance standards and any conditions of approval applicable to a permit issued pursuant to this chapter.

(Ord. No. 2017-37, § 2, 9-12-17; Ord. No. 2018-24, § 2, 5-8-18; Ord. No. 2019-23, § 2, 6-18-19)

17.52.586 Conditional use—Cannabis testing laboratory.

A. A cannabis testing laboratory shall be permitted as a conditional use in the A district if approved by the board of zoning adjustments as provided in Section 17.54.130 and pursuant to Section 17.06.040(T).

B. A conditional use permit issued pursuant to this section shall be effective only during such time as the permittee also holds a valid and effective state license for a testing laboratory pursuant to the Medicinal and Adult-Use Cannabis Regulation and Safety Act.

C. Cannabis testing laboratory uses approved pursuant to this section shall meet the criteria established by Section 17.06.040(T), Section 17.54.130, Section 17.54.140 and any criteria established for the district. In addition, no conditional use permit for a cannabis testing laboratory shall issue unless the following additional findings are made by the board of zoning adjustments based on sufficient evidence:

1. The applicant has demonstrated an ability to provide effective security for the cannabis testing laboratory site and to provide a safe environment for people working at the site;

2. Theft and diversion of cannabis on the premises is prevented;

3. Artificial light shall not escape structures used for cannabis testing at a level that is visible from neighboring properties between sunset and sunrise. Lighting that is visible from the exterior of cannabis testing structures is prohibited, except such lighting as is reasonably utilized for the security of the premises;

4. Odorous gases or odorous matter shall not be emitted in quantities such as to be perceptible outside of the cannabis testing site;

5. The discharge into any public sewer, private sewage disposal system or stream or into the ground shall not occur except in accordance with the standards approved by the State Department of Health, of any materials of such nature or temperature as to contaminate any water supply, interfere with bacterial processes and sewage treatment, or in any way cause the emission of dangerous or offensive elements;

6. Any dust, dirt or particulate matter shall not be discharged into the air from any activity or from any products stored on the site; and

7. The areas of the site to be actively used for cannabis testing Laboratory activities are set back as follows:

a. At least twenty (20) feet from any property line shared with an adjacent property with different ownership, unless waived in writing by the adjacent owner;

b. At least one hundred (100) feet from any residence on an adjacent property with different ownership, unless waived in writing by the adjacent owner; and

c. At least one thousand (1,000) feet from any school for pre-K to 12th grade students, licensed child or day care facility, public park or playground, drug or alcohol recovery facility or public recreation center.

D. The planning director may establish additional performance standards and standard conditions providing detailed guidance for applicants and permittees. Permittees shall be required to comply with the performance standards and any conditions of approval applicable to a permit issued pursuant to this chapter.

(Ord. No. 2019-23, § 2, 6-18-19)

17.52.590 Site development review—All districts—When required.

In addition to the requirement for site development review as provided by other provisions of this title, site development review is additionally required as follows:

A. Whenever a building site or site of a proposed use is located in an area of environmental significance, every structure requiring a building permit hereafter placed upon such site shall be subject to site development review, pursuant to Section 17.54.210, unless prior thereto zoning approval is granted upon the determination that the structure is for a minor project consistent with the objectives and policies of the specific plan establishing the area of environmental significance or unless the site and use have been the subject of a prior application such as subdivision, PD, or conditional use permit, under which environmental review has been completed and the specific plan has already been considered.

Such sites shall be subject to special regulations and policies which depend upon the nature of each area as set forth in the specific plan for areas of environmental significance.

B. All structures to be moved onto property in the unincorporated area of this county shall be the subject of an approved site development review pursuant to Section 17.54.210.

C. Whenever a satellite dish antenna is hereafter placed upon a building site in the following zoning districts: R-S, R-4, any C district, M-1 district.

D. All structures and uses to be located on property shown on Assessors Map 96 Block 140 in the unincorporated area of Alameda County, Sunol, Pleasanton Township shall be subject to an approved site development review pursuant to Section 17.54.210.

(Prior gen. code § 8-61.2)

17.52.600 Site development review required by specific plan.

Site development review, pursuant to Sections 17.54.210—17.54.290, shall be required under the conditions of, and where specified by, an officially adopted specific plan.

(Prior gen. code § 8-61.3)

(Ord. No. 2010-71, § 83, 12-21-10)

17.52.610 Nonconforming uses and buildings.

Any use lawfully occupying a building or land which no longer conforms to the regulations of the district in which it is located due to the adoption of the zoning ordinance or a subsequent amendment thereto shall be deemed to be a nonconforming use, and may continue except as otherwise provided herein. Any lawfully existing building or structure which is wholly or partially used or designed for use contrary to the regulations of the district in which it is located, or which is by reason of its height or bulk, or with respect to the yards or parking spaces about it or in any other manner deficient with respect to such regulations, shall be deemed to be a nonconforming building, and may continue except as otherwise provided herein.

(Prior gen. code § 8-62.0)

17.52.620 Nonconforming uses and buildings—Exception.

A building lawfully constructed or a use lawfully occupying a building or land in accordance with the terms and conditions of a variance shall not be thereafter deemed to be nonconforming solely on the basis of a deficiency authorized by the specific variance granted.

(Prior gen. code § 8-62.1)

17.52.630 Nonconforming buildings—Completion.

Any building for which a valid building permit has been issued prior to the time of any amendment of this title, may be completed and used in accordance with the approved plans; provided, that construction is diligently prosecuted to completion. Every such building shall thereafter be deemed to be a lawfully existing building and Section 17.52.610 of this chapter shall apply.

(Prior gen. code § 8-62.2)

17.52.640 Nonconforming uses and buildings—Changes.

No nonconforming use except as provided in Section 17.52.650 shall be enlarged or extended so as to occupy a greater area of land or of a building than that occupied at the time it became a nonconforming use. Except as otherwise provided in Section 17.52.650 of this chapter, no nonconforming building shall be enlarged, extended or structurally altered unless the entire building and the use thereof is so changed as to be conforming in every respect. Except as otherwise provided in Section 17.52.660, no nonconforming use shall be changed to a different nonconforming use. The provisions of this section shall not apply to dwellings in the A district that are nonconforming solely because they were not subject to site development review pursuant to Section 17.06.090 of this title.

(Prior gen. code § 8-62.3)

(Ord. No. 2010-71, § 84, 12-21-10)

17.52.650 Nonconforming dwelling—Exception.

A nonconforming dwelling in any R or A district, where the nonconformity consists only of deficiency in yard dimensions or the required parking spaces and where no such deficiency exceeds fifty (50) percent of the requirements of the district, or any dwelling in an A district which is located on a building site of at least five acres, which parcel was of record prior to May 5, 1972, may be structurally altered or enlarged; provided, that any addition or enlargement shall itself be fully conforming and that the number of dwelling units therein shall not be increased.

(Prior gen. code § 8-62.4)

(Ord. No. 2010-71, § 85, 12-21-10)

17.52.660 Nonconforming buildings—Exception.

A business conducted entirely within a building may change to a different business if the new business:

A. Is among the "permitted uses" but does not require a conditional use permit in the zoning district in which it is to be located; or if in a residential zoning district and the existing nonconforming use and the new business are both "permitted uses" in the C-N (neighborhood commercial) zoning district; and

B. Is to be conducted entirely within the building; and

C. Does not require a greater number of off-street parking spaces or loading spaces than the former business; and

D. Does not engage in the sales of alcoholic beverages; or, if existing nonconforming use engages in the selling of alcoholic beverages, does not expand in floor area, result in change in the classification of alcoholic beverages sold, including effective change or any up-grade of the state alcoholic beverage sales license, or substantially change the mode and character of operation, including, but not limited to, the addition of any type of entertainment, live or otherwise.

(Ord. 96-15 § 1 (part); prior gen. code § 8-62.5)

17.52.670 Nonconforming buildings—Maintenance.

Ordinary maintenance and minor repair of a nonconforming building is permitted; provided, that the aggregate cost of the work done in any period of twelve (12) months on minor alterations or replacement of interior walls, fixtures or plumbing shall not exceed twenty-five (25) percent of the assessed value of the building according to the assessment thereof by the assessor of the county for the fiscal year in which the work was done, and provided further that neither the cubical content of the building nor the number of dwelling units therein shall be increased. The provisions of this section shall not apply to dwellings in the A district that are nonconforming solely because they were not subject to site development review pursuant to Section 17.06.090 of this title.

(Prior gen. code § 8-62.6)

17.52.680 Restoration of damaged buildings.

The restoration and resumption of the former use of a nonconforming building that is damaged or partially destroyed by fire, explosion, Act of God or the public enemy to the extent of seventy-five (75) percent or less shall be permitted, provided that such restoration is permitted by the building code of the county and is started within one year after such damage and diligently prosecuted to completion. A nonconforming building that is completely destroyed, or damaged or partially destroyed to a greater extent than above specified, shall not thereafter be restored, except in full conformity with all the regulations of this title, except that dwellings in the A district that are nonconforming solely because they were not subject to site development review pursuant to Section 17.06.090 of this title, may be restored without regard to the extent of such damage. The proportion of damage or partial destruction shall be based upon the ratio of the estimated cost of restoring the building to its prior condition to the estimated cost of duplicating the entire structure as it existed prior thereto. Estimates for this purpose shall be made by the building official.

(Prior gen. code § 8-62.7)

17.52.690 Abandonment.

Whenever a nonconforming use of land or of a building in any district is changed to a conforming use or abandoned for a continuous period of six months or more, such use shall not thereafter be reestablished, and any subsequent use of the premises shall be in conformity with all the regulations of this title. The provisions of this section shall not apply to dwellings in the A district that are nonconforming solely because they were not subject to site development review pursuant to Section 17.06.090 of this title.

(Prior gen. code § 8-62.8)

17.52.695 Nonconforming sale of alcoholic beverages.

Any establishment with a nonconforming alcoholic beverages sales use that does not retain the same type of retail liquor license within a license classification or does not remain in continuous operation with no substantial change in mode or character of operation or both shall lose its nonconforming status, and shall not thereafter be reestablished, and any subsequent use of the premises shall be in conformity with all the regulations of this title.

A. A break in "continuous operation" does not include a period of less than thirty (30) days, the suspension of business due to extraordinary circumstances beyond the control of the licensee, or a closure of up to one hundred eighty (180) days during the diligent pursuit of building repairs or remodeling undertaken pursuant to a valid building permit.

B. "Substantial change in mode or character of operation" includes: (i) closure, abandonment, discontinuance, or suspension of the business for more than one hundred eighty (180) consecutive days; (ii) alteration of the premises that would result in an increase of more than ten percent of the existing gross floor area of all structures on the premises; (iii) revocation or suspension of the license by the Department of Alcoholic Beverage Control for a period of more than thirty (30) days; or (iv) conviction of the owner, operator, or licensee for violation of Health and Safety Code Sections 11350, 11351, 11352, 11550 or 11364.7 when the conviction relates to the premises or operation of the establishment.

C. An action to revoke a nonconforming alcoholic beverages sales use under this section shall be taken by the board of zoning adjustments in whose jurisdiction the property is located pursuant to the procedures of the board of zoning adjustments.

(Ord. 2004-83 § 1)

17.52.700 Licenses for nonconforming uses—Renewal, etc.—Conditional use permit.

In every case in which, under the provisions of any ordinance of this county in on August 1, 1946, a license or permit is required for the establishing, maintaining, or conducting of any business use and the business use exists as a nonconforming use under this chapter, then the license or permit shall not be authorized, issued, renewed, re-issued or extended for the business use unless and until a conditional use permit has been secured for the continued maintenance or conducting of the business use.

(Prior gen. code § 8-62.9)

(Ord. No. 2010-71, § 86, 12-21-10)

17.52.710 Nonconforming signs.

All signs, name plates, and their supporting members that did not comply with all provisions of this title as of May 10, 1969, shall be brought into compliance with the provisions of this title within the time limits set forth in this section:

|  |  |
| --- | --- |
| Change Required to Bring Sign into Compliance | Conformance Date: |
| Alteration of lighting or movement | May 10, 1969, plus one year; |
| Size or height reduction | three years; |
| Removal of sign painted on wall | one year; |
| Relocation on same building site | May 10, 1969, plus two years; |
| Removal of a freestanding business sign | three years; |
| Removal of an advertising sign where not permitted | five years; |

provided, however, that any sign nonconforming in more than one respect shall be brought into compliance with the time limit of the greatest duration.

(Prior gen. code § 8-62.10)

17.52.720 Nonconforming signs.

All signs, name plates and their supporting members that were rendered nonconforming by Ordinance No. 74-1, effective February 8, 1974, and Ordinance No. 75-80, effective August 9, 1976, shall be brought into compliance with the provisions of this title on or prior to February 8, 1977. All signs, name plates and their supporting members that are rendered nonconforming by amendments to this title enacted subsequent to August 9, 1976, shall be brought into compliance with the provisions of this title within three years of the effective date of any such amendments.

(Prior gen. code § 8-62.11)

17.52.730 Signs accessory to nonconforming business or industry.

Signs and supporting members which are accessory to a business or industry existing as a nonconforming use in any A or R district are permitted subject to the sign regulation contained in Section 17.36.070.

(Prior gen. code § 8-62.12)

17.52.740 Signs—Accessory to a building located within a required yard.

Signs accessory to a building located wholly or partially within a required yard may be located on such a building in accordance with the regulations of this title regardless of the building encroachment.

(Prior gen. code § 8-62.13)

17.52.741 Nonconforming use—Firearms sales.

Upon the effective date of the ordinance codified in this chapter, any person who claims or believes that he or she has established a legal nonconforming use to conduct firearms sales, including sales of ammunition, shall within ninety (90) days of the effective date of the ordinance codified in this chapter provide written evidence describing the extent and scope of such use to the board of zoning adjustments. If a legal nonconforming use has been established, continued firearms sales may continue if all applicable state and federal permits and licenses have been obtained and maintained in good standing, and a valid firearms dealer's license has been issued by the County of Alameda. The nonconforming use may not be increased, enlarged or expanded without an additional land use permit as provided by this chapter and Chapter 17.54.

(Ord. 2002-60 (part): Ord. 98-53 § 1 (part))

17.52.750 Parking and loading spaces.

There shall be provided and maintained in accordance with those regulations, off-street automobile parking and loading spaces for every building and use. No building or structure shall be erected or use established and no existing building shall be structurally altered, unless there be already in existence, or unless provision therefore is made concurrently with such erection or structural alteration or new use, the number of parking spaces and loading spaces necessary to meet the minimum requirements hereinafter set forth.

(Prior gen. code § 8-63.0)

17.52.760 Continuing character of obligation.

The maintenance of the parking and loading spaces required shall be a continuing obligation of the owner of the real estate upon which the building or structure is located as long as the building or structure exists and the use requiring such space continues. It shall be unlawful for an owner of a building or structure affected by these requirements to discontinue, change or dispense with or to cause the discontinuance, sale or transfer of such building or structure, without establishing alternative spaces which conform to those requirements; or for any person, firm, or corporation to use such building or structure without providing such required parking or loading spaces, in compliance with these regulations.

(Prior gen. code § 8-63.1)

17.52.770 Parking spaces—Accessibility.

These regulations are intended to provide off-street spaces for the parking of the automobiles of tenants of the premises and visitors in the case of residential uses, and for clients, customers, employees and callers in the case of nonresidential uses. They are required to be kept accessible for these purposes continuously, and the use of any such required space or spaces, or of any driveway or maneuvering space necessary to provide access thereto for the storage of a trailer coach, boat, vehicle trailer, unmounted camper unit, or goods of any kind shall constitute discontinuance thereof in violation of Section 17.52.760.

(Prior gen. code § 8-63.2)

17.52.780 Parking spaces—Size and location.

Except as provided for in Section 17.30.110, concerning secondary units, every required parking space shall have an area not less than one hundred eighty (180) square feet and shall have a width not less than nine feet, and a length of not less than eighteen (18) feet, or be designed as specified in the Alameda County Residential Design Guidelines, exclusive of maneuvering space and driveways which shall be provided as required to make each parking space independently accessible from the street at all times. No required parking space shall occupy any required front yard or any required street side yard of a corner lot, or any required setback from a driveway or any part of a required loading space. All required parking spaces shall be provided on the same building site as the use of building for which they are required.

(Prior gen. code § 8-63.4)

(Ord. No. 2017-13, § 2(Pt. 2), 4-25-17)

17.52.790 Parking spaces—Access driveways.

In an R or A district, the width of the driveway hereafter provided shall not be less than shown in the following table opposite the number of off-street parking spaces served; provided that where a driveway is divided by a center strip, the width shall be not less than ten feet on each side, and provided that where a site plan is required to be approved a greater width of driveway may be required as a condition of approval:

|  |  |
| --- | --- |
| Number of Parking  Spaces Served | Minimum Width  Driveway Required |
| 4 or less | 12 feet |
| 5 or more | 20 feet |

(Prior gen. code § 8-63.5)

17.52.800 Setback from access driveway.

Except in A, R-1 and R-2 districts, wherever any such driveway passes by the wall or wall of a dwelling, the driveway shall be distant from such wall not less than ten feet. Every driveway adjacent to a pedestrian path or sidewalk running parallel thereto, shall have a curb or equivalent buffer not less than four inches high along that side of the paving.

(Prior gen. code § 8-63.6)

17.52.810 Parking space location—Exception.

Subject to the same limitations as in Section 17.08.040C, the provision may be made upon a lot in an R district which abuts the building site upon which the use of building is located, upon approval as provided in Section 17.54.130 for a conditional use.

(Prior gen. code § 8-63.7)

17.52.820 Loading spaces—Size and location.

Every required loading space shall be not less than ten feet in width and sixty (60) feet in length, and shall be clear to a height of not less than fourteen (14) feet. Every required loading space shall be on the same lot as the structure it serves or on an abutting lot and shall be continuously accessible from the street. No loading space shall occupy any part of a required parking space, or any required street side yard of a corner lot.

(Prior gen. code § 8-63.8)

17.52.830 Parking and loading spaces—Approval of plan.

A site plan showing the location of the existing and proposed building or buildings and other improvements, the location of all required parking and loading spaces, and all provisions for maneuvering space and access thereto from a public right-of-way including proposed curb cuts, shall be submitted and approved as being convenient and functional prior to the issuance of a building permit. No approval of occupancy shall be issued upon completion of a building or structural alteration of a building or for any land use when no buildings are erected or altered, unless and until all such spaces as required and as shown upon approved plans and made a part of the building permit are in place and ready for use.

(Prior gen. code § 8-63.9)

17.52.840 Parking and loading spaces—Maintenance.

All parking and loading spaces, access driveways, and maneuvering areas required by this title shall be graded and well drained and shall be maintained with all-weather dust-free surfacing. In all districts except A, R-1, or F-P districts they shall be paved with asphaltic concrete or Portland cement concrete. Whenever the exterior boundary of an open parking area providing space for five or more automobiles is less than ten feet from any other lot in an R district, such areas shall be screened therefrom by a solid masonry wall, a compact evergreen hedge or a fence having a height equal to the maximum permitted under Section 17.52.430. Lighting of parking and loading spaces shall be so arranged as to be directed downward and away from any residential area.

(Prior gen. code § 8-63.10)

(Ord. No. 2010-71, § 87, 12-21-10)

17.52.850 Parking and loading spaces—Exception.

Whenever a parcel of land in an R district is lawfully used for parking and the parking facility is maintained to meet the requirements of this title for a use of building on an abutting lot in the same ownership, the requirements of Section 17.52.840 as to a separating fence, wall or hedge shall not apply to the line separating it from such lot.

(Prior gen. code § 8-63.11)

17.52.860 Collective action permitted.

Nothing in this title shall be construed to prevent the joint use of parking or loading space for two or more buildings or uses if the total of such spaces provided is not less than the sum of the requirements for the individual uses computed separately in accordance with these regulations.

(Prior gen. code § 8-63.12)

17.52.870 Mixed uses.

When two or more uses occupy the same building or building site, the required number of parking and loading spaces shall be the sum of the requirements of the various uses computed separately. No parking or loading space required to be provided for one of such uses shall be considered as providing a required space for any other such use, except pursuant to and in conformity with the provisions of Section 17.52.880.

(Prior gen. code § 8-63.13)

17.52.880 Joint use of parking spaces.

Where an attested copy of a contract between the parties concerned is filed with the application for a building permit, which contract sets forth a valid agreement for joint use of parking spaces for the life of the buildings or uses concerned, the number of spaces required jointly for a place of assembly, the use of which is principally exercised during nonbusiness hours, and a business use or uses regularly closed at such times may be reduced so that the total equals whichever is reater of: (A) all the spaces required for the business use or uses plus one-half of the spaces required for the place of assembly, or (B) all the spaces required for the place of assembly plus one-half of the spaces required for the business use or uses.

(Prior gen. code § 8-63.14)

17.52.890 Number of spaces required.

The number of parking and/or loading spaces required shall be as specified in the following sections for the various types of buildings and uses. When the calculation results in a fractional number, any fraction up to and including one-half shall be disregarded and any fraction over one-half shall be adjusted to the next higher whole number. In the case of a use not specifically mentioned in these regulations, the minimum number of parking and loading spaces required shall be the same as for a specified use found by the planning director to have similar characteristics in relation to the need for automobile parking and loading spaces.

(Ord. 2002-60 (part): Prior gen. code § 8-63.15)

17.52.900 Floor area.

For the purposes of calculating the number of parking spaces or loading spaces required, the term "floor area" shall mean the floor area of space used for service to the public as customers, patrons, clients, or patients, or occupied by tenants of the offices in the case of an office building. The term shall include floor area occupied by fixtures and equipment used for display or sale of merchandise; but shall not include floor space used for non-public purposes such as storage, incidental repair, processing or packaging of merchandise, show windows or offices incidental to the management or maintenance of stores or buildings. Floor space used principally for toilet or rest rooms, fitting or dressing or alteration rooms, for utilities and for parking or loading spaces within the building shall also be excluded from floor area.

(Prior gen. code § 8-63.16)

17.52.910 Parking spaces required—Residential buildings.

The number of parking spaces required for residential buildings shall be not less than as specified in Table 17.52.910, adjusting fractions pursuant to Section 17.52.890.

|  |  |
| --- | --- |
| Table 17.52.910   Parking Spaces Required for Residential Buildings | |
| Use | Number of Spaces Required |
| Dwelling, including single, two-family and multiple residences, group dwellings, apartment houses, apartment hotels, and all other similar structures devoted to habitation | 2 for each dwelling unit, plus 1 for each bedroom available for accommodating a paying guest |
| Hotel, motel, boarding house, clubhouse, fraternity or sorority, and single room occupancy facilities | 2 plus 1 for each bedroom available for sorority; accommodating guests a paying guest |
| Medical or residential care facility, and transitional and supportive housing developments | 2 plus 1 for each 6 beds for persons not related to the resident family or manager |
| Hospital | 2 plus 1 for each 4 patient beds, (except that those patient beds designated as "long term care beds" by the State Department of Public Health may be computed 1 per 6 patient beds) plus 1 for each staff doctor; plus 1 for each 1,000 square feet of gross floor area in the main building or buildings |
| Mobilehome park | 2 for each mobilehome site; other provisions of this title notwithstanding, the access to one of these spaces may be within the access to the second space; plus 1 for each 10 mobilehome sites |
| Recreational vehicle park | 1 for each recreational vehicle site located on each recreational vehicle site, plus 1 for each 15 recreational vehicle sites |
| Emergency shelter | 3 plus 1 per each 10 individual beds. |
| Agricultural employee housing | 1 space per unit, or 1 for each 4 beds |

(Prior gen. code § 8-63.17)

(Ord. No. 2012-58, § 18, 4-10-12)

17.52.920 Parking spaces required—Places of assembly.

The number of parking spaces required for places of public assembly shall be not less than specified in Table 17.52.920, adjusting fractions pursuant to Section 17.52.890.

|  |  |
| --- | --- |
| Table 17.52.920   Parking Spaces Required for Places of Assembly | |
| Use | Number of Spaces Required |
| Auditorium, church, mortuary, chapel, sports stadium or arena, race track, theater | 1 for each 4 seats, counting 18 inches of seating space on a bench as 1 seat, and counting only the largest assembly room in the case of a church |
| Assembly, exhibition, convention, meeting or dance hall; skating rink, bowling alley, library | 1 for each 100 square feet of floor area used for assembly, or 1 for each 6 occupants making up the occupant load as determined by the county building official, whichever is the greater requirement |
| Restaurant, bar, or other establishment of dining or drinking | 1 for each 60 square feet of floor area, or 1 for each 4 such occupants making up the occupant load as determined by the county building official, whichever is the greater requirement |

(Prior gen. code § 8-63.18)

(Ord. No. 2010-71, § 88, 12-21-10)

17.52.930 Parking spaces required—Business establishments.

The number of parking spaces required for business establishments shall be not less than specified in Table 17.52.930, adjusting fractions pursuant to Section 17.52.890.

|  |  |
| --- | --- |
| Table 17.52.930   Parking Spaces Required for Business Establishments | |
| Use | Number of Spaces Required |
| Retail store, market or shop; shopping center | |
| Floor area 6,000 square feet or less | 1 for each 300 square feet thereof |
| Floor area over 6,000 but less than 12,000 square feet | 20 plus 1 for each 150 square feet in excess of 6,000 |
| Floor area 12,000 square feet or more | 60 plus 1 for each 100 square feet in excess of 12,000 |
| Office or office building, bank clinic, laboratory | 1 for each 250 square feet of floor area |
| Manufacturing or industrial plant, storage building or yard, public utility building (except office), contractor's yard, lumber yard, business service shop, industrial laboratory, or use similar to any of these | 1 for each 2 employees, based on the design capacity of the largest work shift, or 1 for each 1,000 square feet of floor area, whichever is the greater requirement |

(Prior gen. code § 8-63.19)

(Ord. No. 2010-71, § 89, 12-21-10)

17.52.940 Loading spaces required—Commercial and industrial uses.

Every department store, freight terminal or railroad yard, hospital, industrial plant, manufacturing establishment, retail establishment, storage, warehouse, or wholesale establishment, which has an aggregate gross floor area of fifteen thousand (15,000) square feet or more, arranged intended or designed for such use, shall provide loading spaces in accordance with Table 17.52.940.

|  |  |
| --- | --- |
| Table 17.52.940   Loading Spaces Required for   Commercial and Industrial Uses | |
| Aggregate Gross Area  Used In Square Feet | Number of Loading  Spaces Required |
| 15,000 or more, but not over 40,000 | 1 |
| Over 40,000 but not over 100,000 | 2 |
| Over 100,000 but not over 160,000 | 3 |
| Over 160,000 | 3 plus 1 for each full 80,000 square feet in excess of 160,000 |

(Prior gen. code § 8-64.0)

17.52.950 Loading spaces required—Other uses.

Every auditorium convention hall, exhibition hall, mortuary, hotel, motel, multiple dwelling, office building, restaurant or sports arena, which has an aggregate gross floor area of one hundred thousand (100,000) square feet or more, arranged, intended or designed for such use, shall provide loading spaces in accordance with Table 17.52.950.

|  |  |  |  |
| --- | --- | --- | --- |
| Table 17.52.950   Loading Spaces Required for Other Uses | | | |
| Aggregate Gross Area  Used In Square Feet | | Number of  Loading  Spaces Required | |
| Over: | But Not  More Than | |  |
| 100,000 | 150,000 | | 1 |
| 150,000 | 400,000 | | 2 |
| 400,000 | 660,000 | | 3 |
| 660,000 | 970,000 | | 4 |
| 970,000 |  | | plus 1 for each full 330,000  square feet in excess of  970,000 |

(Prior gen. code § 8-64.1)

17.52.955 Garage conversions—Limitations.

Within all residentially zoned districts and Planned Development (PD) districts with residential uses, garage conversions to non-garage uses shall not be permitted, except when all of the following conditions are met:

A. When no other conforming building space is available on the property for conversion or addition into a non-garage space;

B. When, after review of replacement design elements, the garage conversion is found to be architecturally consistent with the rest of the primary structure(s) located on the property;

C. When the garage, if attached to the primary structure, includes an internal connection to the rest of the primary structure;

D. When other conforming on-site parking space(s) is (are) available for replacement at a one-to-one ratio for the number of on-site parking spaces required by the zoning district and/or use;

E. When there is evidence in the public record that all required conforming on-site replacement parking will be continuously maintained and readily accessible from the public right-of-way;

F. When alternative, conforming enclosed storage space of adequate size is provided. Adequate storage space shall be as determined by the planning director or other decision body; and

G. When the replacement storage space complies with the Neighborhood Preservation Ordinance standards (Chapters 6.64 and 6.65 of the Alameda County General Ordinance Code).

Applications for garage conversions that meet all of the conditions listed herein shall be processed per Section 17.54.220B of this title.

(Ord. 2004-97, § 2)

17.52.956 Garage conversions—Compliance with performance standards.

All garage conversions shall be maintained in compliance with Title 6, Chapters 6.64 and 6.65, and in compliance with Section 17.52.955 of this title. Any violation of Chapters 6.64 and 6.65 and of Section 17.52.955 shall constitute a violation of this title.

(Ord. 2004-97, § 3)

17.52.960 Service stations.

The regulations set forth in this and the following sections shall apply to the operation of a facility for the refueling and lubrication of motor vehicles. Two types of facility are recognized in the district regulations: One, more restricted and herein designated as a service station Type A, and the other less restricted and herein designated as a service station Type B. Wherever a service station of either type is located adjacent to or opposite any R district, all exterior lighting shall be so installed as to be directed away from such R district. Along any boundary of a service station site which abuts any property in any R district, there shall be a solid masonry wall, a fence or a compact evergreen hedge, having a height equal to the maximum permitted under Section 17.52.430.

(Prior gen. code § 8-65.0)

(Ord. No. 2010-71, § 90, 12-21-10)

17.52.970 Service station Type A.

Wherever a service station Type A is permitted by the district regulations, a service station Type B shall be deemed to be excluded. Every service station Type A shall be subject to the following limitations and requirements:

A. The building site shall have an area not less than ten thousand (10,000) square feet, with an effective lot frontage on at least one street, not less than one hundred twenty (120) feet;

B. The lot coverage, calculated as provided in Section 17.52.380 shall not exceed twenty (20) percent;

C. No building shall be less than forty (40) feet from any street line;

D. All operations except those related to the actual refueling process, shall be conducted within a building;

E. There shall be provided, and maintained with planting a strip not less than six feet wide along all lot lines abutting any property in an R district.

(Prior gen. code § 8-65.1)

17.52.980 Service station Type A—Accessory uses.

Uses accessory to service station Type A may include minor servicing of brakes and electrical equipment, the focusing of headlamps by adjustment, battery changing and the cleaning, adjustment and replacement of lights, spark plugs, distributor points and fan belts. The following accessory uses are prohibited: sale of any alcoholic beverage; repair or reconditioning of the chassis, the engine, the body or the fenders of a motor vehicle; battery repair or rebuilding; valve grinding; welding, tire recapping; body painting; steam cleaning; car washing with mechanical equipment; upholstery repair or replacement; or the display outside a building of used vehicles, parts, parts of vehicles or tires for sale.

(Prior gen. code § 8-65.2)

17.52.990 Service station Type B.

Wherever a service station Type B is permitted by the district regulations, the uses and restrictions set forth in Sections 17.52.970 and 17.52.980 are modified to the following extent: accessory uses may also include services and repair facilities not prohibited by the general regulations of the district within which the station is located; provided, however, such accessory uses shall not include the sale of any alcoholic beverage.

(Prior gen. code § 8-65.3)

17.52.1000 Mobilehome parks.

The regulations set forth in this and following sections shall apply to the construction, maintenance and operation of mobilehome parks established after November 30, 1969, and to the expansion of any mobilehome park existing on November 30,1969.

(Prior gen. code § 8-70.0)

17.52.1010 Mobilehome parks—Building site.

All mobilehome parks shall be on a building site having an area not less than five acres and a median lot width not less than three hundred (300) feet.

(Prior gen. code § 8-70.1)

17.52.1020 Mobilehome parks—Density.

Except as otherwise provided in a combining district or specific plan, the number of dwelling units permitted on a building site in a mobilehome park shall not exceed the number obtained by dividing the area in square feet of the building site by five thousand (5,000), disregarding any fraction.

(Prior gen. code § 8-70.2)

(Ord. No. 2012-58, § 19, 4-10-12)

17.52.1030 Mobilehome parks—Mobilehome sites.

Mobilehome sites shall have a minimum area of two thousand five hundred (2,500) square feet and a minimum width of thirty-five (35) feet.

(Prior gen. code § 8-70.3)

17.52.1040 Mobilehome parks—Utilities.

All utilities within the mobilehome park boundaries shall be underground.

(Prior gen. code § 8-70.4)

17.52.1050 Mobilehome parks—Common areas.

There shall be provided within the park a minimum of three hundred (300) square feet of common area for each mobilehome site. This area shall be divided in appropriate amounts for recreation areas and buildings, storage areas and utility areas with the recreation area provided at not less than two hundred (200) square feet per site. The common areas shall have a minimum width of ten feet and shall include no portion of the required front yard, roadways, parking areas, mobilehome sites or areas with a ground slope exceeding twenty (20) percent.

(Prior gen. code § 8-70.5)

17.52.1060 Mobilehome parks—Fencing.

The perimeter of the mobilehome park shall be surrounded by a fence equal to the height permitted by Section 17.52.430.

(Prior gen. code § 8-70.6)

(Ord. No. 2010-71, § 91, 12-21-10)

17.52.1065 Mobilehome parks—Parking.

Pursuant to Section 17.52.910 (Parking spaces required—Residential buildings), every mobilehome site shall have two parking spaces. A mobilehome park shall also provide one parking space for every ten (10) mobilehome sites.

(Ord. No. 2012-58, § 20, 4-10-12)

17.52.1070 Recreational vehicle parks.

The regulations set forth in this and following sections shall apply to the construction, maintenance and operation of recreational vehicle parks.

(Prior gen. code § 8-71.0)

17.52.1080 Recreational vehicle parks—Building site.

All recreational vehicle parks shall be on a building site having an area not less than two acres and a median lot width not less than one hundred fifty (150) feet.

(Prior gen. code § 8-71.1)

17.52.1090 Recreational vehicle parks—Recreational vehicle site.

Recreational vehicle sites shall have a minimum area of eight hundred (800) square feet and a minimum width of sixteen (16) feet.

(Prior gen. code § 8-71.2)

17.52.1100 Reserved.

Ord. No. 2021-56, § 4, adopted December 21, 2021, repealed § 17.52.1100, which pertained to mobile outdoor businesses and derived from Ord. No. 2008-33 and Ord. No. 2010-71, adopted December 21, 2010.

17.52.1110 Tents and canopies—Intent.

The intent of this section is to set standards for tents and canopies to ensure that they are maintained in good condition and do not contribute to neighborhood blight, and to control their use as coverings or shelters for exterior residential purposes, assemblies, or commercial activities.

(Ord. No. 2010-7, § 4, 2-9-10)

17.52.1115 Exceptions.

The provisions of Sections 17.52.1110 and 17.52.1120 through 17.52.1150 shall not apply to:

A. Tents or Canopies used for permitted agricultural uses; or

B. Tents or canopies otherwise permitted pursuant to a conditional use permit, planned development permit, site development review for a principal use or structure, variance, or as otherwise permitted by this chapter.

(Ord. No. 2010-7, § 4, 2-9-10)

17.52.1120 Tents and canopies—Restrictions.

Tents and canopies shall be subject to the following restrictions, unless otherwise permitted pursuant to Sections 17.52.1115:

A. All tents or canopies shall meet all fire department standards.

B. All tents or canopies shall be maintained in good condition, including free of rips or tears.

C. All tents or canopies shall be securely anchored to the ground or to a structure that is anchored to the ground at all times.

D. At such time as a tent or canopy is removed the frame and all supporting members shall be removed as well.

(Ord. No. 2010-7, § 4, 2-9-10)

17.52.1125 Tents and canopies—Additional restrictions.

A. Tents and canopies located on properties in those portions of the county subject to the east county area plan or measure D, or located on properties that are zoned agriculture (A) or in a planned development (PO) zoning district based on the agriculture zoning district, shall be subject to the following additional restrictions, unless otherwise permitted pursuant to Sections 17.52.1115 or 17.52.1130:

1. A tent or canopy installed for a non-agricultural or non-residential use shall not remain erected for more than twelve (12) days out of any thirty (30) day period.

2. A tent or canopy installed for a non-agricultural use shall cover no more than four hundred (400) square feet in total aggregate area.

3. A tent or canopy shall not be located within a required setback.

4. A tent or canopy used to cover a vehicle shall be located in the rear half of the residential building envelope.

For the purposes of determining thirty (30) days as required by Section 17.52.1125(A)(1), a full 30-day period shall need to elapse upon removal of the tent or canopy.

B. Tents and canopies located on properties that are not in those portions of the county subject to the east county area plan or measure D, or not located on properties that are zoned agriculture (A) or in a planned development (PO) zoning district based on the agriculture zoning district, shall be subject to the following additional restrictions, unless otherwise permitted pursuant to Section 17.52.1115 or 17.52.1140:

1. A tent or canopy shall not be taller than ten feet.

2. A tent or canopy shall cover no more than two hundred (200) square feet in horizontal area, nor more than twenty (20) percent of the rear yard area, whichever is less. This limitation shall be aggregate of all tents and canopies on any single lot.

3. A tent or canopy shall not be located within five feet of a side or rear property line.

4. A tent or canopy shall be located within the rear half of the lot.

5. A tent or canopy shall not be located within a required front or street side yard.

17.52.1130 Tents and canopies—Administrative conditional use permits.

In those portions of the county subject to the east county area plan or measure D, or located within an agriculture (A) zoning district, or a planned development (PD) zoning district based on the agriculture zoning district, an administrative conditional use permit subject to the provisions of Section 17.52.490 is required for all tents or canopies provided for shelter or cover of persons for assemblies or commercial activities not requiring a conditional use permit, planned development permit, site development review, or variance, and that are installed for twelve (12) days or more out of any thirty (30) day period or are larger than four hundred (400) square feet in total aggregate area. On any parcel or adjacent parcels under common ownership or control, no such administrative conditional use permit shall be granted for a period greater than twelve (12) consecutive days out of any thirty (30) day period, nor shall more than six (6) such administrative conditional use permits be granted in any twelve (12) consecutive month period.

Notwithstanding the above, the planning director may grant a master administrative conditional use permit for a period not to exceed one calendar year for a greater number of events, up to a maximum of nine events per calendar year provided no event period allows for more than twelve (12) consecutive days out of any thirty (30) day period. The master permit may be approved provided that the applicant submits and the planning director approves a specific calendar of events. The planning director shall have discretion to approve, approve with modifications, or deny any such master administrative conditional use permit. The planning director's decision may be appealed pursuant to Section 17.54.670.

The planning director may vary the provisions of section 17.52.1125(a), through the administrative conditional use permit, upon a finding that it would be consistent with the intent stated in Section 17.52.1110 and standards stated in Section 17.52.1135.

(Ord. No. 2010-7, § 4, 2-9-10)

17.52.1135 Tents and canopies—Administrative conditional use permit standards.

Any administrative conditional use permit pursuant to Section 17.52.1130 shall ensure the following:

A. That the proposed tent or canopy meets all fire department standards;

B. That the proposed tent or canopy is located so as to minimize visual and other impacts on adjacent properties;

C. That the proposed tent or canopy is located such that it does not interfere with traffic flow or parking.

(Ord. No. 2010-7, § 4, 2-9-10)

17.52.1140 Tents and canopies—Site development review for accessory structure.

In addition to the requirements of Sections 17.52.1120 and 17.52.1125B, a site development review is required for all tents and canopies located on properties that are not in those portions of the county subject to the east county area plan or measure D, or not located on properties that are zoned agriculture (A) or in a planned development (PD) zoning district based on the Agriculture zoning district, and located in any C district, any PD district based on any C district, or any area of a specific plan designated for commercial uses. This requirement shall not apply to proposals for tents or canopies that are not otherwise part of a discretionary review permit.

The planning director may vary the provisions of Section 17.52.1125(B), through the site development review, upon a finding that it would be consistent with the intent stated in Section 17.52.1110 and standards stated in Section 17.52.1145.

(Ord. No. 2010-7, § 4, 2-9-10)

17.52.1145 Tents and canopies—Site development review for accessory structure standards.

Any site development review pursuant to Section 17.52.1140 shall ensure the following:

A. That the proposed tent or canopy meets all fire department standards;

B. That the proposed tent or canopy is located so as to minimize adverse visual and other impacts on adjacent properties;

C. That the proposed tent or canopy is located such that it does not interfere with traffic flow or parking, and that the event for which it is approved does not cause traffic or parking impacts beyond the property lines;

D. That the event for which the tent or canopy is approved meets all county department of environmental health requirements, as applicable;

E. That the event for which the tent or canopy is approved meets all county building inspection department requirements, as applicable;

F. That the event for which the tent of canopy is approved meets all sheriff's department requirements, as applicable;

G. That the event for which the proposed tent or canopy is approved is limited to hours that are consistent with the surrounding area, as applicable; and

H. That the event for which the proposed tent of canopy is approved minimizes impacts, including but not limited to noise, dust, glare and light pollution, or odors on adjacent properties, as applicable.

(Ord. No. 2010-7, § 4, 2-9-10)

17.52.1150 Tents and canopies—Notice.

Prior to approval of any administrative conditional use permit under Sections 17.52.1130 and 17.52.1135 or site development review under Sections 17.52.1140 and 17.52.1145, the planning director shall notify adjacent property owners and residents of the application and give them no less than ten days to comment on the application. No public hearing is required; however the planning director, in his or her sole discretion, may hold a public hearing prior to taking action on the application. Where the planning director holds a public hearing under this section, the provisions of Section 17.54.650 shall not apply.

(Ord. No. 2010-7, § 4, 2-9-10)

17.52.1160 Standards for emergency shelters—Purpose.

The purpose of this section is to establish the development standards for emergency shelters.

(Ord. No. 2012-58, § 21, 4-10-12)

17.52.1165 Emergency shelter—Regulations.

Emergency shelters shall be subject to the following regulations and development standards:

A. An emergency shelter shall obtain and maintain in good standing all required licenses, permits, and approvals from county and state agencies or departments. An emergency shelter shall comply with all county and state health and safety requirements for food, medical, and other supportive services provided on-site;

B. No Emergency shelter facility shall have more than sixty (60) beds;

C. Each resident shall be provided a minimum of fifty (50) gross square feet of personal living space, not including space for common areas;

D. Bathing facilities shall be provided in quantity and location as required in the California Plumbing Code (Title 24 Part 5), as amended, and shall comply with the accessibility requirements of the California Building Code (Title 24 Part 2), as amended;

E. No individual or family shall reside in an emergency shelter for more than one hundred eighty (180) consecutive days;

F. The operation of buses or vans to transport residents to or from off-site activities shall not generate vehicular traffic substantially greater than that normally generated by residential activities in the surrounding area, to the satisfaction of the planning director;

G. The on-street parking demand generated by the facility due to visitors shall not be substantially greater than that normally generated by the surrounding residential activities, to the satisfaction of the planning director;

H. Arrangements for delivery of goods shall be made within the hours that are compatible with and will not adversely affect the livability of the surrounding properties;

I. The facility's program shall not generate noise at levels that will adversely affect the livability of the surrounding properties, and shall at all times maintain compliance with the county noise ordinance;

J. Onsite management shall be provided twenty-four (24) hours a day, seven days per week. All facilities must provide a management plan to the satisfaction of the planning director that shall contain policies, maintenance plans, intake procedures, tenant rules, and security procedures;

K. The facility is no closer than three hundred (300) feet from other emergency shelters unless findings can be made that such an additional facility would not have a negative impact upon residential activities in the surrounding area;

L. On-site parking shall be provided in accordance with Section 17.52.910;

M. The facilities shall provide exterior lighting in the parking lot, on building exteriors, and pedestrian accesses. All exterior lighting shall be down-cast and shall not illuminate above the horizontal. No light source shall be exposed above the horizontal, nor visible from neighboring residential use properties;

N. Required yards shall conform with the R-4 zoning district yard requirements;

O. A waiting and client intake area of not less than one hundred (100) square feet shall be provided inside the main building; and

P. Violations of this section shall be subject to enforcement, penalties and abatement under Chapters 17.58 and 17.59 of this title.

(Ord. No. 2012-58, § 22, 4-10-12)

17.52.1170 Title.

This section and the following sections shall be known as the unattended collection box ordinance of Alameda County.

(Ord. No. 2013-26, § 10, 7-16-13)

17.52.1180 Purpose and intent.

The purpose of the ordinance from which these sections were derived is to regulate the placement of unattended collection boxes within unincorporated Alameda County. The procedures and requirements of this chapter are enacted to:

A. Promote the community's health, safety, and welfare by regulating unattended collection boxes for clothing or other salvageable personal property within the county.

B. Ensure that unattended collection boxes do not pose a hazard to pedestrian and vehicular traffic.

C. Ensure that material is not allowed to accumulate outside of the unattended collection boxes where it can be scattered by adverse weather conditions, animal contact, or human activities;

D. Establish criteria that avoid attracting vermin, unsightliness, and public health or safety hazards.

E. The ordinance from which these sections were derived shall also apply to parcels within a specific plan.

(Ord. No. 2013-26, § 10, 7-16-13)

17.52.1190 Definitions.

"Permittee" means the property owner who has been issued a permit authorizing the placement of an unattended collection box.

"Property owner" means the person, entity, association, or organization who owns the real property where the unattended collection box is proposed to be located.

(Ord. No. 2013-26, § 10, 7-16-13)

17.52.1200 Permits.

A. It shall be unlawful and a public nuisance to place, operate, maintain or allow unattended collection boxes on real property unless the property owner first obtains a conditional use permit pursuant to this chapter and sections 17.54.130 (Conditional uses), 17.54.140 (Conditional uses—Action), 17.54.150 (Conditional uses—Changes and renewals), 17.54.160 (Conditional uses—Combined applications), 17.54.170 (Conditions), 17.54.180 (Prior uses), and 17.54.190 (Conditional uses—Effective date) of the Alameda County General Ordinance Code and the unattended collection box is placed, operated, and maintained in accordance with all provisions in this chapter.

B. The permit application shall be made on a form provided by the county and shall include the following information:

1. The name, address, e-mail, website (if available) and telephone number of the operator.

2. The text of the disclosures that will be made on the unattended collection box as required in Section 17.52.1230(A)(3) and (A)(4).

3. The physical address of the property owner's real property and a drawing sufficient to indicate the proposed location of the unattended collection box on the property owner's real property, as well as the size of the proposed unattended collection box, and consent of the property owner to place the unattended collection box on its real property.

C. Reserved.

D. The county shall not issue a permit unless:

1. The applicant has submitted a complete and accurate application accompanied by the applicable fee.

2. Written consent of the property owner is provided.

3. The proposed location and placement of the unattended collection box on the Property Owner's real property is in compliance with all applicable laws.

E. A permit issued hereunder shall be valid for one unattended collection box. A second unattended collection box may be approved only if the following findings are made:

1. The daily collection of items from the unattended collection box fails to provide adequate overflow abatement.

2. The volume of materials collected daily, and for a period no less than thirty (30) days, would exceed the internal capacity of an unattended collection box that is eighty-two (82) inches high, fifty-six (56) inches wide and forty-nine (49) inches deep.

3. The additional unattended collection box could be placed in accordance with Section 17.52.1220.

F. No permittee shall transfer, assign, or convey such permit to another party.

G. If approved, a permit for an unattended collection box shall be for a term not less than three years.

(Ord. No. 2013-26, § 10, 7-16-13)

17.52.1210 Renewal of permits.

A. A permittee may apply for permit renewal by submitting to the county a renewal application and a deposit in an amount set by resolution of the board of supervisors before the expiration of the permit.

B. The county may renew the permit if no circumstances existed during the term of the permit, at the time of submission of an application for renewal, or at any time during the review of the application for renewal, that are inconsistent with any finding required for approval of a new permit as specified in Section 17.52.1200 or that would justify the revocation of the permit as specified in Section 17.52.1240.

(Ord. No. 2013-26, § 10, 7-16-13)

17.52.1220 Modification of permits.

A. If during the term of the permit, a permittee desires to change the operator of the unattended collection box, would like to change the location of the unattended collection box or would like to place an second unattended collection box, the permittee may request a modification to the permit by submitting to the county an application and a deposit in an amount set by resolution of the board of supervisors.

B. The county may approve the modification if no circumstances existed during the term of the existing permit, at the time of submission of an application for modification, or at any time during the review of the application for modification, that are inconsistent with any finding required for approval of a new permit as specified in Section 17.52.1200 or that would justify the revocation of the permit as specified in Section 17.52.1240.

C. The in-kind replacement of an unattended collection box, that is operated by the same vendor and is positioned at the same location on the parcel as the previous unattended collection box placed in accordance with this chapter, shall not constitute a modification of a permit.

(Ord. No. 2013-26, § 10, 7-16-13)

17.52.1230 Requirements and maintenance.

A. The permittee shall be responsible for operating and maintaining, or causing to be operated and maintained all unattended collection boxes located in the unincorporated Alameda County as follows:

1. Unattended collection boxes shall be maintained in good condition and appearance with no structural damage, holes, or visible rust, and shall be free of graffiti.

2. Unattended collection boxes shall be locked or otherwise secured.

3. Unattended collection boxes shall contain the following contact information in two-inch font visible from the front of each unattended collection box: The name, address, e-mail, and phone number of the person(s) responsible for maintaining the unattended collection box.

4. The front of every unattended collection box shall display conspicuously a statement in at least two-inch font that either reads, "this collection box is owned and operated by a for-profit organization" or "this collection box is owned and operated by a nonprofit organization." For purposes of this chapter, a commercial fundraiser shall be classified as a for-profit organization.

a. If the unattended collection box is owned by a nonprofit organization, the front of the unattended collection box shall also display conspicuously a statement describing the charitable cause that will benefit from the items collected.

b. If the unattended collection box is owned by a for-profit entity, the front of the unattended collection box shall also conspicuously display a statement that reads, "this collection is not tax deductible." If the unattended collection box is owned and operated by a commercial fundraiser, the commercial fundraiser may post notice of collections to a charitable cause only on the sides of the box. This notice shall always be smaller in size than the for-profit entity's name and address and shall constitute only twenty-five (25) percent of the notice space of the box.

5. Unattended collection boxes shall be serviced and emptied as needed, but at least every forty-eight (48) hours.

6. Unattended collection boxes shall be no more than eighty-two (82) inches high, fifty-six (56) inches wide and forty-nine (49) inches deep.

7. Unattended collection boxes shall be marked clearly to identify the type of material to be deposited.

8. Unattended collection boxes shall be free of any advertising which is unrelated to the business of the operator of the unattended collection box.

9. Unattended collection boxes shall remain only in the exact location for which they have been permitted and may not be moved unless the box is entirely removed from the property or replaced with an identical box in the same location.

10. Unattended collection boxes shall be located in a well lit area.

11. Unattended collection boxes shall be subordinate to the principal use of the property.

B. The permittee shall be responsible for maintaining or causing to be maintained a ten-foot area surrounding the unattended collection box. This area shall be free of any junk, garbage, trash, debris, or other refuse material as defined in Chapter 6.65 of the Alameda County Ordinance Code.

C. The permittee shall be responsible for abating and removing all junk, garbage, trash, debris, and other refuse material as defined in Chapter 6.65 of the Alameda County Ordinance Code within the ten-foot area surrounding the unattended collection box within twenty-four (24) hours of written notice from the county.

D. The permittee shall be responsible for all costs for abating and removing any junk, garbage, trash, debris and other refuse material as defined in Chapter 6.65 of the Alameda County Ordinance Code from the area surrounding the unattended collection boxes.

E. It shall be unlawful for any party to place an unattended collection box in any district or any adopted specific plan area; provided, however, that the county may approve a permit for an unattended collection box on a parcel with a community facility as defined in Chapter 17.04 of the Alameda County General Ordinance Code.

F. Unless a second unattended collection box has been permitted by the county, no unattended collection box shall be placed within two thousand five hundred (2,500) feet of another unattended collection box.

G. No unattended collection box shall be placed in required parking spaces, required landscaping, setbacks, or the public right of way as defined in Title 17 of the Alameda County General Ordinance Code.

H. No more than one unattended collection box shall be placed on each parcel of real property. If daily collection of items from this the box does not provide adequate overflow abatement, a permittee may apply for one additional box to relieve this issue as provided in Sections 17.52.1200 and 17.52.1220.

I. The permittee shall provide information to the county regarding the quantity and type of materials collected from an unattended collection box. The permittee shall also specify the quantity and type of materials collected from the box that have been recycled, reused or discarded as waste. This information shall be provided annually and be submitted in the manner specified by the planning director.

(Ord. No. 2013-26, § 10, 7-16-13)

17.52.1240 Revocation of permit.

The board of zoning adjustments shall have the right to revoke any permit issued hereunder if any of the grounds to refuse issuance of the initial permit exists. In addition, the failure of the permittee to comply with the provisions of this chapter, or other provisions of this code or other law, shall also constitute grounds for revocation of the permit. The county shall provide a written notification to the permittee stating the specific grounds for revocation. Upon revocation, the unattended collection box shall be removed from the permittee's real property within thirty (30) calendar days and if not removed within this time period the county may remove and dispose of the unattended collection box at the permittee's sole cost and expense.

(Ord. No. 2013-26, § 10, 7-16-13)

17.52.1250 Removal of unattended collection boxes and liability.

Upon discovering the existence of unattended collection box on private property within the county lacking the required permit, the planning director or designee shall have the authority to cause the abatement and removal thereof in accordance with the procedure outlined in Chapter 17.59 (Abatement).

(Ord. No. 2013-26, § 10, 7-16-13)

17.52.1260 Removal of an unattended collection boxes by the property owner.

A. A property owner who causes the removal of an unattended collection box shall send a written notice of removal to the address that is conspicuously displayed on the front of every unattended collection box pursuant to Section 17.52.1230. That notice shall be mailed within five days of removal and include the current location of the box. This paragraph shall not apply if no address appears on the front of the unattended collection box.

B. Except as provided in subsection C, a property owner shall not have immunity from civil liability if he or she has given written consent for the unattended collection box to be placed on the private property.

C. An owner of property who has given written consent for the placement of an unattended collection box on their property may rescind his or her consent by providing written notice of the rescission to the collection box owner or operator. For purposes of this subdivision, consent shall be deemed rescinded ten calendar days after the owner of private property deposits a written notice of rescission in the United States mail, postage prepaid, addressed to the address displayed on the unattended collection box pursuant to Section 17.52.1230.

D. A property owner who causes the removal of an unattended collection box to a storage facility, or otherwise disposes of an unattended collection box, despite valid written consent from the property owner at the time of removal, shall be civilly liable to the owner or operator of the unattended collection box for four times the amount of the towing and storage charges, or one thousand dollars ($1,000.00), whichever is higher.

E. Subsection D shall not apply to make a person liable for removal of an unattended collection box where removal is necessary to comply with enforcement of applicable permitting, zoning, or other local ordinances.

(Ord. No. 2013-26, § 10, 7-16-13)

17.52.1270 Appeals.

Appeals shall be handled in accordance with Section 17.54.670 of this code.

(Ord. No. 2013-26, § 10, 7-16-13)

17.52.1280 Violations.

Any violation of the provisions of this section is a public nuisance and shall be subject to enforcement remedies, penalties, and abatement provided by Chapters 6.65, 17.58 and 17.59 of the Alameda County General Ordinance Code.

(Ord. No. 2013-26, § 10, 7-16-13)

17.52.1290 Implementation and construction.

A. The provisions of this chapter shall apply to all unattended collection boxes located within unincorporated territory of the county as of the effective date of the ordinance which these sections were derived. All property owners of parcels on which unattended collection boxes exist as of the effective date of the ordinance which these sections were derived shall have sixty (60) days from that date to file a permit application as provided for in this chapter.

B. Nothing in the ordinance which these sections were derived is intended to diminish or otherwise alter the requirements of any other federal, state, or municipal law governing regulation of unattended collection boxes.

(Ord. No. 2013-26, § 10, 7-16-13)

17.52.1300 Exemption.

Unattended collection boxes located entirely within the interior of a building are exempt from the requirements of this chapter.

(Ord. No. 2013-26, § 10, 7-16-13)

17.52.1310 Auto repair uses in Castro Valley.

A. Applicability. The regulations set forth in this section apply to auto repair uses, as well as any other use, such as auto dealerships or service stations, that perform auto servicing and repair as an accessory activity, within Castro Valley (areas within the Castro Valley Urbanized Area) and located directly adjacent to, or across the street from, a residential zone district.

B. Discretionary Review.

1. An existing auto repair use may be expanded with approval by the planning director if total alterations result in no more than twenty (20) percent increase in the existing floor area of all buildings on a lot or lots.

2. If total alterations to an existing auto repair use are greater than a twenty (20) percent increase in the existing floor area the application is subject to a conditional use permit.

C. Operating Requirements.

1. Repair of automobiles must be performed within enclosed buildings only.

2. Storage or display of a product, trash, parts, all goods for sale, other than those required for the operation and maintenance of automobiles must be in an enclosed building.

3. Operation within the use must not be detrimental to adjoining properties through the creation of excessive dust, noise, or odor.

D. Lighting. Exterior lighting must be hooded or shielded so that the light source is not directly visible to an adjacent residential zone district.

E. Landscaping.

1. Area. A landscape area, a minimum width of five feet, is required:

a. Along all street frontages of the lot or lots;

b. Within any yard adjacent to a residential zone district; and

c. On the perimeters of all parking areas that abut a residential zone district.

2. Area Exception. The portion of the lot line where an access driveway is required by the county, as determined by the planning director, is exempt from the landscape area requirement.

3. Water Efficiency. Landscaping must be consistent with Chapter 17.64 (Water Efficient Landscape Ordinance).

4. Maintenance. All landscaping, vegetation, and plantings must be maintained in a healthful and thriving condition at all times.

a. Any damaged, dead, or decaying vegetation must be replaced by the equivalent vegetation of a size, form, and character which will be comparable at full growth.

b. All landscaping must be adequately and efficiently irrigated. Irrigation systems and their components must be maintained in a fully functional manner.

F. Site Maintenance. All areas of the site must be maintained free of debris, litter, graffiti or any inappropriate materials at all times. All asphalt, paving, and striping must be maintained in good repair to the satisfaction of the planning director.

G. Parking and Screening.

1. Parking area and auto storage space must be screened from view of abutting residential property in compliance with Sections 17.52.410 through 17.52.460.

2. Long-Term Overnight Parking. Any vehicle, recreational vehicle, towing vehicle, and other similar vehicle associated with auto use must not be parked or stored on-site in the front of the lot overnight for a period of longer than two days in any seven-day period, unless enclosed within a structure, subject to active repair and maintenance by the business, or part of a display approved by the planning director.

3. On-street parking may not be used to park or store vehicles associated with the use, including but not limited to towing vehicles, recreational vehicles, vehicles that are under repair or waiting for pick up by the customer, or other similar vehicles.

H. Automobile Sales Prohibited. Parking or storage of vehicles on-site for sales purposes is prohibited.

(Ord. No. 2020-66, § 14, 12-15-20)

17.52.1320 Reserved.

17.52.1330 Day care centers in Castro Valley.

A. Applicability. This section establishes regulations for day care centers in Castro Valley (areas within the Castro Valley Urbanized Area).

B. Operating Requirements.

1. Noise. Facility must limit noise levels from exceeding a LdN level of 55 db at the lot lines.

2. Hours of operation must be limited to the hours of 6:30 a.m. to 6:00 p.m.

3. Outdoor play time must be limited to the hours of 7:00 a.m. to 6:00 p.m.

4. Playground apparatus (swings, jungle gym, etc.) must be located in the rear or side yards only.

C. Lighting. On-site exterior lighting is allowed for safety purposes only, must consist of low wattage fixtures, and must be directed downward and shielded.

D. Parking and Screening.

1. Day care centers must include one parking space per each two employees, one space per company vehicle, and one space for every ten children at the facility.

2. Parking, Drop-off Area. At least two (2) off-street parking spaces must be provided exclusively for dropping off and picking up children. Alternative parking and drop-off arrangements may be required by the planning director based on traffic and pedestrian safety considerations.

a. If the driveway is the designated parking area for the day care center, the driveway must remain clear and available for customers during hours of operation.

b. A center located on a street with a speed limit of thirty (30) miles per hour or greater must provide a drop-off/pick-up area designed to prevent vehicles from backing onto the street (e.g., circular driveway).

3. All outdoor play area must be screened from view of street and any adjacent property owners through fencing and hedges in compliance with Sections 17.52.410 through 17.52.460.

(Ord. No. 2020-66, § 14, 12-15-20)

17.52.1340 Community facilities in Castro Valley.

A. Applicability. The regulations set forth in this section apply to community facilities in Castro Valley (areas within the Castro Valley Urbanized Area).

B. Additional requirements when located in the C-N districts adjacent to a residential zone district:

1. Operating Requirements.

a. Community facility uses must incorporate screening, buffers, and other features to minimize adverse visual or noise impacts of the use on adjacent properties.

b. Noise. The noise level of activities within community facility uses must not exceed a LdN level of sixty (60) db when measured at the property line that is across the street from or abutting a parcel zoned residential.

2. Parking and Screening.

a. Parking in the required front yard is prohibited.

b. Parking and loading areas must be screened from view of street and adjacent property owners with landscaping or other screening in compliance with Sections 17.52.410 through 17.52.460.

c. Outside Recreational Areas. All outdoor recreational areas must be screened from view of any adjacent residential uses through fencing and hedges in compliance with Sections 17.52.410 through 17.52.460.

C. Accessory Uses. In Castro Valley (areas within the Castro Valley Urbanized Area), day care centers are permitted as an accessory use within an existing community facility use, subject to the requirements of Section 17.52.1330 (Day care centers in Castro Valley).

(Ord. No. 2020-66, § 14, 12-15-20)

17.52.1350 Drive-in businesses in Castro Valley.

A. Applicability. The regulations set forth in this section apply to drive-in businesses in the C-N districts in Castro Valley (areas within the Castro Valley Urbanized Area).

B. Operating Requirements.

1. Noise. Any drive-up or drive-through speaker system shall emit no more than sixty-five (65) decibels and at no time shall any speaker system be audible above daytime ambient noise levels beyond the property lines of the site. The system shall be designed to compensate for ambient noise levels in the immediate area.

2. Deliveries. All deliveries made to drive-in businesses located on sites adjacent to residential zones must be scheduled during non-commute hours and periods of low activity at the restaurant between 8:00 a.m. and 11:00 a.m. and from 2:00 p.m. to 5:00 p.m.

C. Drive-in Lanes.

1. Drive-in lanes that are located less than fifty (50) feet from residential uses must be separated from existing residential uses by buildings, and/or extensively landscaped areas or decorative block walls approved by the Planning director.

2. Drive-in lanes must be constructed with the necessary vehicle stacking capacity so that vehicles using the drive-in lane do not overflow into the on-site parking aisles, public street right-of-way or public streets.

3. Drive-in lanes must be shielded in a manner approved by the planning director to eliminate vehicle headlight glare into adjoining land and on-coming traffic approaching the drive-in site property.

D. Accessways.

1. Each developed site must not have more than two accessways to any one street except that the planning director shall have the right to prescribe additional requirements if it is deemed necessary that a change in the location and number of accessways will reduce the possibilities of traffic hazards.

2. Pedestrian access shall be provided from each abutting street to the primary entrance with a continuous four-foot-wide sidewalk or delineated walkway. Pedestrian walkways should not intersect the drive-through drive aisles, but where they do the walkways shall have clear visibility and shall be delineated by textured and colored paving.

E. Lighting. All lighting or illuminated displays must be designed and maintained in a manner to prevent glare or direct illumination from intruding into any adjacent residential property.

F. Restroom Locations. All restrooms (if required) must be located in and accessed from the interior of the structure.

G. Parking and Screening. In addition to the requirements applicable to the zone district in which such use is located must also comply with the following:

1. On-site parking must be provided for each employee on duty. The peak employment period must be used to determine the number of employee parking spaces.

2. Drive-in restaurants must provide a minimum of two parking spaces for each one hundred (100) square feet of floor area.

3. All trash areas must be fully enclosed and constructed of a material which shall be in harmony with the architecture of the building. Provisions for adequate vehicular access to and from such areas for the collection of trash and garbage must be provided.

(Ord. No. 2020-66, § 14, 12-15-20)

17.52.1360 Parking lots in Castro Valley.

A. Applicability. The regulations set forth in this section apply to commercial parking lots in the C-N districts in Castro Valley (areas within the Castro Valley Urbanized Area).

B. Lighting. Lighting of outdoor parking areas must be designed and maintained in a manner to prevent glare or direct illumination from intruding into any adjacent residential property. A minimum of one-foot candle of illumination shall be provided throughout the parking area.

C. Site Maintenance. The area must be kept free of debris and trash.

D. Where pedestrian circulation crosses vehicular routes, a crosswalk, speed bumps, or signage must be provided to emphasize the conflict point and improve its visibility and safety.

E. Parking and Screening.

1. Parking lots must incorporate screening, buffers, and other features to minimize adverse visual or noise impacts of the use on adjacent properties.

2. Parking facilities for six or more vehicles must be screened from view by a wall or hedge minimum three feet and maximum five feet tall, except if located adjacent to a residential district wall, or hedge must be a minimum six feet and maximum eight feet tall. The screening must be designed in such a manner to screen the parking from view and must not be closer than five feet to the street lot line.

3. All new parking lots must be constructed with a landscaped buffer perimeter of no less than two feet.

4. Overnight parking prohibited.

(Ord. No. 2020-66, § 14, 12-15-20)

## Chapter 17.54 PROCEDURES

**Sections:**

17.54.010 Zoning approval.

The term "zoning approval" or "approved as to zoning" refers to and means an official notation by the planning director or his authorized representative upon a building permit, occupancy permit, or license, or upon a written request certifying that the use, building, or structure specified thereon is in conformance with the regulations and provisions of this title. Zoning approval shall be obtained for every new use of land, new building or structure that exercises a variance, conditional use, cluster permit, residential planned development district, quarry, or site development review. The zoning approval shall include reference to any limitations in conditions to which the approval is subject. Any application for a permit or license may be referred to the planning department for a report as to conformity with the regulations and provisions of this title.

(Prior gen. code § 8-90.0)

17.54.020 Zoning approval—Lapse.

A zoning approval shall lapse and become void whenever the permit or license upon which it is given either lapses or is revoked. A zoning approval authorized for a variance or from a conditional use shall lapse and become void if not exercised within one year, unless otherwise specified in the authorizing action.

(Prior gen. code § 8-90.2)

17.54.030 Zoning approval—Permits revocable.

Whenever zoning approval is found to have been obtained by fraud or to have been issued illegally or in error, it shall be revoked. Whenever a use covered by zoning approval or by any previously issued variance, conditional use permit or site development review is found to be exercised unlawfully or contrary to any condition or limitation of its issuance or to be exercised as to constitute a nuisance or to be detrimental to the public health or safety, the matter shall be reported to the code enforcement manager. The code enforcement manager shall make such investigations as are necessary to determine whether such conditions exist and, if so, shall set the matter for hearing. After a hearing conducted pursuant to Section 17.54.650 the planning director, upon recommendation of the code enforcement manager, may revoke any such zoning approval or any variance, conditional use permit or site development review unless the exercise thereof has been so altered as to eliminate cause for revocation. At the planning director's discretion, where the planning director feels that such revocation may have community or county-wide import, the planning director may transfer jurisdiction for such revocation to a board of zoning adjustments or the planning commission. Upon any such revocation, Section 17.58.050 shall control.

(Ord. 2002-60 (part): Prior gen. code § 8-90.3)

(Ord. No. 2010-71, § 93, 12-21-10)

17.54.040 Zoning approval—Not applicable to quarries.

The use of any land for the operation or maintenance of a quarry or a sand and gravel pit shall be governed by the provisions of Chapter 6.80 of this code, and the issuance of a permit by the board of supervisors, pursuant to the said Chapter 6.80 shall be required for every such use in lieu of the procedure set forth in this title for other uses of land.

(Prior gen. code § 8-90.4)

17.54.050 Uses not listed—Procedure.

Whenever there is doubt as to the district classification of a use not listed in any part of this title, the planning department may refer the matter to the planning commission for action pursuant to Section 17.54.060. The referral shall include a detailed description of the proposed use.

(Prior gen. code § 8-91.0)

17.54.060 Uses not listed—Action.

Upon referral as provided in Section 17.54.050, the planning commission shall consider the district classification of a use not listed in any part of this title, and shall make such investigations as are necessary to compare the nature and characteristics of the use in question with those of the listed uses in the various districts. If the use is found to be, in all essentials pertinent to the intent of this title of the same character as a permitted use in any district or districts, or of the same character as a conditional use in any district or districts, the commission shall so determine and the order shall be final, unless a notice of appeal is filed pursuant to Section 17.54.670 within ten days after the date of such an order. The person requesting the determination shall be notified forthwith and the final determination shall become a permanent public record.

(Prior gen. code § 8-91.1)

17.54.070 Administration or enforcement—Appeals.

Upon written application setting forth the grounds for appeal, the planning commission shall have jurisdiction to hear and decide appeals alleging error in any order, requirement, permit, revocation, decision or determination made by any official of the county, other than a member of the planning commission, or Board of Supervisors in the administration or enforcement of planning commission rules, or of the precise plans or zoning regulations of the county; provided however, that all appeals from decisions of the board of zoning adjustments which are required to be made following noticed public hearing and those appeals from the decision of the planning director on a site development review which also requires affirmative action on a variance in order to be implemented shall be governed by the procedure contained in Section 17.54.670. The order deciding such appeal shall become effective ten days after the date of such order unless notice of appeal is filed pursuant to Section 17.54.670 within said period of ten days.

(Ord. 2002-60 (part): Prior gen. code § 8-92.0)

17.54.080 Variances.

Upon application in proper form pursuant to Sections 17.54.590 and 17.54.610 and subject to the procedure governing variances set forth herein, the strict terms of Title 17 of this code, except as to regulations relating to principal uses, may be varied in specific cases upon affirmative findings of fact upon each of these three requirements:

A. That there are special circumstances including size, shape, topography, location or surroundings, applicable to the property which deprive the property of privileges enjoyed by other property in the vicinity under the identical zoning classification;

B. That the granting of the application will not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone;

C. That the granting of the application will not be detrimental to persons or property in the neighborhood or to the public welfare.

(Prior gen. code § 8-93.0)

17.54.081 Variances—Firearms sales.

A conditional use permit for firearms sales issued pursuant to this title is subject to the variance provisions set forth in Chapter 17.54.

(Ord. 98-53 § 1 (part))

(Ord. No. 2010-71, § 94, 12-21-10)

17.54.090 Variances—Procedure.

The board of zoning adjustments shall receive, hear and take action upon each application for a variance, except those concurrent with a conditional use permit or site development review that the planning commission hears, in which case the planning commission shall receive, hear and take action upon the variance. Notice of the hearing shall be given pursuant to Section 17.54.830.

(Ord. 2002-60 (part): Prior gen. code § 8-93.1)

(Ord. No. 2009-17, § 4, 4-14-09; Ord. No. 2010-71, § 95, 12-21-10)

17.54.100 Variances—Action.

After the conclusion of the hearing on the application for a variance, it may be granted, in whole or in part, and subject to such conditions, limitations and guarantees as may be specified pursuant to Section 17.54.110, if from the information presented with the application and at the hearing it is found that the circumstances are as specified in Section 17.54.080, and otherwise the application shall be denied.

Where for any reason the board of zoning adjustments is unable to take an action on an application, the planning director has the power to transfer the application to the planning commission, who shall then receive, hear, and decide such applications as specified in Section 17.54.080.

(Ord. 2004-61 § 1 (part): prior gen. code § 8-93.2)

17.54.110 Variances—Conditions.

In granting a variance, the character and extent thereof shall be specified and the variance shall be made subject to such conditions and guarantees as are deemed necessary to secure conformance to the requirements set forth in Section 17.54.080. A variance may be made valid only for a specified term. If any portion of a variance is utilized, all of its conditions and specifications shall be operative, and the violation of any of them shall constitute a violation of this title.

(Prior gen. code § 8-93.3)

17.54.120 Variances—Effective date.

The order granting a variance, or denying the same, shall become effective ten days after the date of such order, unless a notice of appeal is filed pursuant to Section 17.54.670 of this chapter.

(Prior gen. code § 8-93.4)

17.54.130 Conditional uses.

Certain uses, referred to in this title as conditional uses, are hereby declared to possess characteristics which require special review and appraisal in each instance, in order to determine whether or not the use:

A. Is required by the public need;

B. Will be properly related to other land uses and transportation and service facilities in the vicinity;

C. If permitted, will under all the circumstances and conditions of the particular case, materially affect adversely the health or safety of persons residing or working in the vicinity, or be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood; and

D. Will be contrary to the specific intent clauses or performance standards established for the district, in which it is to be located.

A use in any district which is listed, explicitly or by reference, as a conditional use in the district's regulations, or in Section 17.52.580 or 17.52.585 shall be approved or disapproved as to zoning only upon filing an application in proper form and in accordance with the procedure governing such uses set forth hereinafter.

(Prior gen. code § 8-94.0)

(Ord. No. 2010-71, § 96, 12-21-10; Ord. No. 2017-37, § 2, 9-12-17)

17.54.131 Conditional uses—Firearms sales.

In addition to the findings required of the board of zoning adjustments under Sections 17.54.130 and 17.54.140, no conditional use permit for firearms sales shall issue unless the following additional findings are made by the board of zoning adjustments based on sufficient evidence:

A. That the district in which the proposed sales activity is to occur is appropriate;

B. That the subject premises is not within five hundred (500) feet of any of the following: Residentially zoned district; elementary, middle or high school; pre-school or day care center; other firearms sales business; or liquor stores or establishments in which liquor is served;

C. That the applicant possesses, in current form, all of the firearms dealer licenses required by federal and state law;

D. That the applicant has been informed that, in addition to a conditional use permit, applicant is required to obtain a firearms dealer license issued by the County of Alameda before sale activity can commence, and that information regarding how such license may be obtained has been provided to the applicant;

E. That the subject premises is in full compliance with the requirements of the applicable building codes, fire codes and other technical codes and regulations which govern the use, occupancy, maintenance, construction or design of the building or structure;

F. That the applicant has provided sufficient detail regarding the intended compliance with the Penal Code requirements for safe storage of firearms and ammunition to be kept at the subject place of business and building security.

(Ord. 2002-60 (part); Ord. 98-53 § 1 (part))

17.54.132 Conditional uses—Superstores.

A. Additional Procedures. An applicant for a conditional use permit for a superstore shall follow the procedures for conditional use permits otherwise provided under this chapter. In addition, the applicant shall submit to the planning director an economic impact analysis prepared by a consultant recommended by the planning director and approved by the planning commission, and paid for in full by the applicant. The consultant shall be qualified by education, training, and experience to conduct economic and fiscal impact analyses. The analysis shall include, in addition to any other information requested by the planning director and/or planning commission, all of the following:

1. An assessment of the extent to which the proposed superstore will capture a share of retail sales in the market area;

2. An assessment of how the construction and operation of the proposed superstore will affect the supply and demand for retail space in the market area;

3. An assessment of the number of persons employed in existing retail stores in the market area, an estimate of the number of persons who will likely be employed by the proposed superstore, and an analysis of whether the proposed superstore will result in a net increase or decrease in employment in the market area;

4. An assessment of how the construction and operation of the proposed superstore will affect wages and benefits, community income levels in the market area;

5. A projection of the costs of public services and public facilities resulting from the construction and operation of the proposed superstore and the incidence of those costs;

6. A projection of the public revenues resulting from the construction and operation of the proposed superstore and the incidence of those revenues;

7. An assessment of the effect that the construction and operation of the proposed superstore will have on retail operations in the same market area, including the potential for blight resulting from retail business closures;

8. An assessment of the effect that the construction and operation of the superstore will have on the ability of the county to implement the goals contained in its general plan;

9. An assessment of the effect that the construction and operation of the proposed superstore will have on average total vehicle miles traveled by retail customers in the same market area; and

10. An assessment of the potential for long-term vacancy of the property on which the superstore is proposed in the event the superstore vacates the premises.

As used in this section, "market area" means a geographical area that is described in independent and recognized commercial trade literature, recognized and established business or manufacturing policies or practices, or publications of recognized independent research organizations, as being an area that is large enough to support the location of the specific superstore proposed.

B. Public Review. Upon receipt of a completed economic impact analysis as described in subsection A of this section, the planning director shall provide public notice of its completion. The planning director shall make the completed economic impact analysis available for public review for a period of no less than thirty (30) days prior to any public hearing on the application for a conditional use permit for the superstore.

C. Additional Findings. In addition to any other findings required for a conditional use permit provided under this chapter, a conditional use permit for a superstore shall not be approved unless the planning commission, or the board of supervisors on appeal, finds that the superstore will not have a net adverse economic impact within the market area. Such finding shall be based on the economic impact analysis described in subsection A of this section, any public comments on the economic impact analysis received during the public review period specified in subsection B of this section, and any other information submitted to and received by the planning director, planning commission, and/or board of supervisors prior to the close of any public hearing(s) on the application.

(Ord. 2006-18 § 2 (part))

17.54.133 Conditional uses—Residential, medical care, transitional and supportive housing facilities.

In addition to the findings required of the board of zoning adjustments under Sections 17.54.130 (Conditional uses) and 17.54.140 (Conditional uses—Action), a conditional use permit for any conditionally permitted residential or medical care facility, transitional housing facility, or supportive housing facility may only be granted upon determination that the proposal conforms to all of the following additional use permit criteria:

A. Staffing of the facility shall at all times remain in compliance with any State Licensing Agency requirements;

B. The operation of buses or vans to transport residents to or from off-site activities shall not generate vehicular traffic substantially greater than that normally generated by residential activities in the surrounding area;

C. The on-street parking demand generated by the facility due to visitors shall not be substantially greater than that normally generated by the surrounding residential activities;

D. Arrangements for delivery of goods shall be made within the hours that are compatible with and will not adversely affect the livability of the surrounding properties;

E. That the facility's program shall not generate noise at levels that will adversely affect the livability of the surrounding properties, and shall at all times maintain compliance with the county noise ordinance;

F. Onsite management shall be provided twenty-four (24) hours a day, seven days per week. Prior to operation, all facilities must provide to the planning director a management plan that shall contain policies, maintenance plans, rental procedures, tenant rules, and security procedures;

G. In accordance with Sections 1267.9 and 1520.5 of the California Health and Safety Code, no facility shall be closer than three hundred (300) feet from other similar activities or facilities unless findings can be made that such an additional facility would not have a negative impact upon residential activities in the surrounding area;

H. Parking shall be provided in accordance with Section 17.52.910 (Parking spaces required—Residential buildings);

I. The facilities shall provide exterior lighting in the parking lot, on building exteriors, and pedestrian accesses. All exterior lighting shall be down-cast and shall not illuminate above the horizontal. No light source shall be exposed above the horizontal, nor visible from neighboring residential use properties; and

J. Yards shall conform to the zoning requirements established for the district in which it is located.

(Ord. No. 2012-58, § 23, 4-10-12)

17.54.134 Conditional uses—Single room occupancy (SRO) facilities.

Single room occupancy facilities shall be subject to the following regulations and development standards:

A. Excluding the bathroom area and closet(s), the single room occupancy unit must be a minimum of one hundred fifty (150) square feet in floor area and the maximum size shall be not more than four hundred (400) square feet. Each unit shall be designed to accommodate a maximum of two people.

B. Each single room occupancy unit must include a closet and may contain either kitchen facilities or bath facilities but not both.

C. Complete common cooking facilities/kitchens must be provided if any unit within the SRO Facility does not have a kitchen. One complete cooking facility/kitchen shall be provided within the SRO facility for every twenty (20) SRO units or portion thereof that do not have kitchens, or have one kitchen on any floor where SRO units without kitchens are located.

D. Common bathrooms must be located on any floor with any unit that does not have a full bathroom. Common bathrooms shall be either single occupant use with provisions for privacy or multi-occupant use with separate provisions for men and women. Common bathrooms shall have shower or bathtub facilities at a ratio of one for every seven units or fraction thereof. Each shared shower or bathtub facility shall be provided with an interior lockable door.

E. Each SRO facility shall have at least ten (10) square feet of common usable area per unit; however no SRO facility shall provide less than two hundred (200) square feet of common outdoor area and two hundred (200) square feet of common indoor area. Maintenance areas, laundry facilities, storage (including bicycle storage), and common hallways shall not be included as usable indoor common space. Landscape areas that are less than eight feet wide shall not be included as outdoor common space.

F. A SRO Facility with twelve (12) or more units shall provide twenty-four (24) hour on-site management, and include a dwelling unit designated for the manager. All SRO Facilities must have a management plan approved prior to occupation by the Alameda County Department of Housing and Community Development. The management plan shall contain management policies, maintenance plans, rental procedures, tenant rules, and security procedures.

G. Single room occupancy facilities shall include laundry facilities.

H. A cleaning supply storeroom and/or utility closet with at least one laundry tub with hot and cold running water must be provided on each floor of the SRO facility.

I. Parking shall be provided in accordance with Section 17.52.910.

(Ord. No. 2012-58, § 1, 4-10-12)

17.54.135 Conditional uses—Planning commission action.

The planning commission, sitting as a board of zoning adjustments, shall receive, hear and decide certain applications for a conditional use permit and after the conclusion of the hearing may authorize approval as to zoning of the proposed use if the evidence contained in or accompanying the application or presented at the hearing is deemed sufficient to establish that, under all circumstances and conditions of the particular case, the use is properly located in all respects as specified in Section 17.54.130, and otherwise the planning commission shall disapprove the same. In each case, notice of the hearing shall be given pursuant to Section 17.54.830.

(Ord. 99-26 (part))

(Ord. No. 2009-17, § 5, 4-14-09)

17.54.140 Conditional uses—Action.

Except as provided in Section 17.17.020 or Section 17.54.135, the board of zoning adjustments shall receive, hear and decide applications for a conditional use permit and after the conclusion of the hearing may authorize approval as to zoning of the proposed use if the evidence contained in or accompanying the application or presented at the hearing is deemed sufficient to establish that, under all circumstances and conditions of the particular case, the use is properly located in all respects as specified in Section 17.54.130, and otherwise the board of zoning adjustments shall disapprove the same. In each case, notice of the hearing shall be given pursuant to Section 17.54.830.

Where for any reason a board of zoning adjustments is unable to take an action on an application, the planning director has the power to transfer the application to the planning commission, who shall then receive, hear, and decide such applications as specified in Section 17.54.130.

(Ord. 2002-60 (part): Ord. 2000-53 § 1 (part); Ord. 99-26 (part); prior gen. code § 8-94.1)

(Ord. No. 2009-17, § 6, 4-14-09; Ord. No. 2010-71, § 97, 12-21-10)

17.54.141 Conditional uses—Action—Firearms sales.

In order for a conditional use permit for firearms sales to become effective and remain operable and in full force, the following are required of the applicant:

A. A final inspection from appropriate building officials demonstrating code compliance;

B. Within thirty (30) days of obtaining a conditional use permit, and prior to any sales activity, a firearms dealer license shall be secured from the appropriate county agency;

C. The county-issued firearms dealer's license be maintained in good standing;

D. The maintenance of accurate and detailed firearms and ammunition transaction records;

E. Transaction records shall be available for inspection as required by the California Penal Code;

F. Compliance with all other state and federal statutory requirements for the sale of firearms and ammunition and reporting of firearms transactions, including, but not limited to Section 12070 et seq. of the California Penal Code.

(Ord. 98-53 § 1 (part))

17.54.142 Conditional uses—Unattended collection boxes.

In addition to the findings required of the board of zoning adjustments under Sections 17.54.130 (Conditional uses) and 17.54.140 (Conditional uses—Action), a conditional use permit for any conditionally permitted unattended collection box may only be granted upon determination that the proposal conforms to the additional use permit criteria in Section 17.52.1190. If the application is to allow the continued use of an unattended collection box or to modify a conditional use permit for which approval was previously granted by the county, the board of zoning adjustments shall also find that there are no circumstances that would justify revocation of the conditional use permit or removal of the unattended collection box as specified in Section 17.52.1230.

(Ord. No. 2013-26, § 10, 7-16-13)

17.54.150 Conditional uses—Changes and renewals.

Except as provided in Section 17.17.020 and Section 17.54.135, the board of zoning adjustments shall receive, hear and decide applications to renew or extend the term of a conditional use or to modify or waive any condition previously imposed upon a conditional use, or upon a use permit issued prior to the effective date of the ordinance codified in this section. Every such application shall be subject to the same procedure and regulations as set forth herein for a conditional use.

(Ord. 2002-60 (part): Prior gen. code § 8-94.2)

(Ord. No. 2010-71, § 98, 12-21-10)

17.54.160 Conditional uses—Combined applications.

If the proposed conditional use is one listed in the district regulations as subject to site development review, procedure upon the application shall be subject to the additional requirements of Section 17.54.210 of this chapter. No separate application for site development review is required in such cases, but disapproval of either shall constitute disapproval of the application. Where the proposed conditional use permit is accompanied by a concurrent application for a variance pursuant to Section 17.54.090 the board of zoning adjustments shall act separately on each.

(Ord. 2002-60 (part): Prior gen. code § 8-94.3)

17.54.170 Conditions.

The approval of a conditional use permit may be valid only for a specified term, and may be made contingent upon the acceptance and observance of specified conditions, including but not limited to the following matters:

A. Substantial conformity to approved plans and drawings;

B. Limitations on time of day for the conduct of specified activities;

C. Time period within which the approval shall be exercised and the proposed use brought into existence, failing which the approval shall lapse and be void;

D. Guarantees as to compliance with the terms of the approval, including the posting of bond;

E. Compliance with requirements of other departments of the county government.

(Prior gen. code § 8-94.4)

17.54.180 Prior uses.

A lawfully existing use in any district which is or becomes as a result of any subsequent amendment of these regulations or of the district boundaries, classified as a conditional use shall be deemed to be an approved conditional use without further action, and may continue, subject to any previously imposed conditions, as long as the use and building remain the same.

(Prior gen. code § 8-94.5)

17.54.190 Conditional uses—Effective date.

The order authorizing approval of a conditional use or disapproving the same, shall become effective ten days after the date of such order unless a notice of appeal is filed pursuant to Section 17.54.670 of this chapter.

(Prior gen. code § 8-94.6)

17.54.200 Conditional uses—Violation.

Once a conditional use is established all of the conditions specified in the permit's approval shall become operative and the violation of any of them shall constitute a violation of this title.

(Prior gen. code § 8-94.7)

17.54.210 Site development review.

Site development review is intended to promote orderly, attractive, and harmonious development; recognize environmental limitations on development; stabilize land values and investments; and promote the general welfare by preventing establishment of uses or erection of structures having qualities which would not meet the specific intent clauses or performance standards of this title or which are not properly related to their sites, surroundings, traffic circulation, or their environmental setting. Where the use proposed, the adjacent land uses, environmental significance or limitations, topography, or traffic circulation is found to so require, the planning director may establish more stringent regulations than those otherwise specified for the district.

(Prior gen. code § 8-95.0)

17.54.220 Site development review—Procedure.

A. Non-Garage Conversions—Site Development Review—Procedure. The planning director or his or her designated representative shall receive and decide applications for site development review. No public hearing is required, but the planning director may give such notice as he deems appropriate. Should the planning director or other public body hold a public hearing on a site development review the planning department shall give notice of the hearing pursuant to Section 17.54.830.

B. Garage Conversions—Site Development Review—Procedure. The county board of zoning adjustments shall hold a public hearing and render a decision on the application. Notice of the hearing shall be given pursuant to Section 17.54.830.

C. Garage Conversions— Findings Required. The conditions listed in Section 17.52.955 of this title shall be met in the affirmative and entered into the public record as findings of fact prior to approval of a site development review for garage conversions.

(Ord. 2004-97 § 4: prior gen. code § 8-95.1)

(Ord. No. 2009-17, § 7, 4-14-09; Ord. No. 2010-49, § 14, 9-14-10; Ord. No. 2010-71, § 99, 12-21-10)

17.54.225 Site development review for garage conversions—Applications.

Applications for garage conversions shall include the materials required pursuant to "Site Development Review—Applications" Section 17.54.230, except that site development reviews for garage conversions shall also include:

A. Elevations of all exterior wall surfaces of the existing on-site primary structure(s), and of the proposed garage conversion;

B. Annotated photographs of all street-facing exterior wall surfaces of the five neighboring properties at either side of the subject site, and of the ten closest properties across the street from the subject site;

C. Floor plans of all of the on-site primary structures and of the proposed garage conversion; and

D. Site plans showing the entire subject property and all structures therein, including the replacement storage space, the proposed on-site parking spaces, and showing site plans for all adjacent parcels that share property lines with the subject parcel, including their curb-cuts and driveways, and locations of all structures.

E. Site development review shall not be required for garage conversions when the purpose of the conversion is to create a new secondary unit within the space of an existing attached or detached garage, and the new unit meets the requirements contained in Section 17.30.110, concerning secondary units.

(Ord. 2004-97 § 5)

(Ord. No. 2017-13, § 2(Pt. 2), 4-25-17)

17.54.226 Site development review for relocation agreement billboards—Applications and criteria.

A. An application for a billboard review permit shall be made on forms prescribed by the planning director and shall be filed with the planning department. The application shall include the materials required per "site development review—applications" Section 17.54.230 and the following additional material:

1. Elevation plan, fully dimensioned, showing location of all buildings and improvements and the location of the proposed billboard, together with the location, size and height of all existing signs on the premises;

2. Photo simulations of the proposed billboard;

3. Site plans showing the entire subject property and all structures therein;

4. Structural details and circulations prepared and signed by an engineer or architect registered in the state. Such details shall be required when the area of the sign exceeds five square feet and the height of the sign exceeds six feet;

5. A statement of the owner of the proposed billboard as to whether the sign is to display commercial or noncommercial messages, or both. If the proposed sign is to be used to display commercial messages, then the applicant shall also state whether the message is to be for on-site or off-site advertisements;

6. A statement of the owner of the proposed billboard as to whether the sign will allow for public service announcements that provide a community benefit.

B. Relocation Agreement Billboard Criteria. In determining whether to grant or deny a billboard review permit, the planning commission and Board of Supervisors shall consider whether the proposed billboard or advertising sign:

1. Serves the public interest in aesthetics and safety and is not detrimental or injurious to property or improvements in the neighborhood;

2. Will not be detrimental to the health or safety of persons residing or working in the neighborhood;

3. Ensures adequate opportunity for persons to exercise their right of free speech by display of signs;

4. Protects and preserves the character of residential areas by prohibiting commercial signage in such areas, except as required by state law or judicial decisions;

5. Is compatible with uses and structures on the site and in the surrounding area. Compatibility shall be determined by the relationships of the elements of form, proportion, scale, and overall sign size;

6. Does not constitute a hazard to the safe and efficient operation of vehicles on a street or a freeway or create a condition that endangers the safety of persons, pedestrians, or property;

7. Does not create a traffic safety problem with regard to on-site access, circulation or visibility, speed of travel on adjacent roadways, sight visibility, and/or visibility of access ramps;

8. Will not cause or contribute to a net increase in the cumulative number of existing billboards in a neighborhood or community.

C. Relocation Agreement Billboard Prohibition. In determining whether to grant or deny a billboard review permit, neither the planning commission nor the Board of Supervisors shall authorize the installation or relocation of a relocation billboard in an R district, an A district, or a PO district which allows residential or agricultural uses.

D. Appeal of Relocation Agreement Billboard Determination. Following a final decision by the Board of Supervisors any concerned person may seek judicial review of the final decision to grant or deny a billboard review permit for a relocation agreement billboard pursuant to California Code of Civil Procedure Section 1094.5, in conjunction with Sections 1094.6 or 1094.8, as applicable.

(Ord. No. 2010-49, § 15, 9-14-10)

17.54.230 Site development review—Applications.

Every application for site development review shall be in proper form as provided in Section 17.54.590 and shall be accompanied by a site plan prepared by a licensed civil engineer, land surveyor, architect, landscape architect or a registered building designer; provided, however, that the boundary and topographic survey on the site plan shall be prepared by a licensed civil engineer or land surveyor whose seal shall appear on said site plan, drawn to scale and indicating clearly and with full dimensions the following information:

A. Parcel dimensions in distance and bearings;

B. Existing and proposed buildings and structures—their location, size, height and use;

C. Dimensions of yards and open spaces between buildings;

D. Fences and walls—their location, height and materials;

E. Parking spaces—their location, number, dimensions and internal circulation;

F. Access—vehicular, pedestrian and service, with points of ingress and egress, internal circulation, design, and improvements;

G. Street dedications and improvements—existing, and proposed, if any;

H. Such other data as may be required under the circumstances of the case to permit the planning director to make the required findings.

Where the proposed use includes any main building other than dwellings, or any commercial or industrial use, the plan shall also show:

I. Signs—their location, size, height and types of materials, and lighting;

J. Loading spaces—their location, number, dimensions and internal circulation;

K. Lighting—its location and general nature.

(Prior gen. code § 8-95.2)

17.54.240 Site development review—Investigation.

The planning director, upon receipt of an application for site development review, shall make such investigations as are necessary to determine whether or not the proposed use or structure conforms or may be conditioned to conform fully to the regulations for the district as herein set forth. The planning director may request reports and recommendations from the county surveyor, building official and health officer, public works department, other offices of the county, or any other interested public agencies regarding matters within their jurisdiction which may be affected by the proposed use or structure.

(Prior gen. code § 8-95.3)

17.54.250 Site development review—Investigation by consultants.

If, in the opinion of the planning director, the proposed use may cause the emission of dangerous or objectionable noise, odors, lights, dust, smoke or vibrations, the planning director with the consent of the applicant, may refer the application for investigation and report to one or more expert consultants qualified to advise as to whether a proposed use will conform to the applicable performance standards. Such consultant or consultants shall report in writing to the planning director and a copy of such report shall be furnished to the applicant. The applicant shall be required to pay the fee for service of said consultant(s).

(Prior gen. code § 8-95.4)

17.54.260 Site development review—Action.

At the conclusion of such investigation, the planning director shall determine from the reports and data submitted whether the use and structures will meet the requirements and intent of this title, and upon making an affirmative finding, shall approve said application. If from the information submitted, the planning director finds that compliance with the requirements of this title and the intent set forth herein would not be secure, the planning director shall disapprove or approve subject to such specified conditions, changes, or additions as will assure compliance.

(Prior gen. code § 8-95.5)

17.54.270 Site development review—Effective date.

The order approving or disapproving a site development review shall become effective ten days after the date of such action, unless a written appeal is filed pursuant to and in compliance with Section 17.54.070.

(Prior gen. code § 8-95.6)

17.54.280 Site development review—Conformity required.

Wherever a plan for the development of a building site has been the subject of site development review as hereinabove specified and has been given final approval the use of the building site thereafter shall be subject to compliance with the plan in conformance to all details specified thereon and subject to all the conditions set forth in the action of approval.

(Prior gen. code § 8-95.7)

17.54.290 Site development review—Plan modifications.

The planning director shall near and decide applications to modify any plan approved under the procedure for site development review, or to modify any condition set forth in the action of approval, subject to the same procedure and regulations as those applicable to the original application.

(Prior gen. code § 8-95.8)

17.54.295 Design review in Castro Valley.

A. The procedures set forth in this section establishes the design review procedure for non-residential projects in Castro Valley (areas within the Castro Valley Urbanized Area).

B. Design review is required for all non-residential projects in Castro Valley (areas within the Castro Valley Urbanized Area) except projects exempt from site development review.

C. The design review application shall be submitted as a part of the application for the site development permit, conditional use permit, or variance.

D. Design Review Advisory Recommendation.

1. Advisory Recommendation. The planning director will present applications to the Castro Valley Municipal Advisory Council for its review and advisory recommendation.

2. If the planning director is not the final review authority for the subject property, the planning director shall forward the Castro Valley Municipal Advisory Council's recommendation to the final review authority.

E. In granting design review approval, the review authority shall first make all of the following findings:

1. The proposed project would be harmonious and compatible with existing development and with the overall character of the area;

2. The location, size, design, and operating characteristics of the proposed project would promote the orderly growth of Castro Valley and would not be detrimental to the public interest, health, safety, convenience, or welfare of neighboring properties or to that of the overall community;

3. Site and architectural design and functional plan of the structure(s) and related improvements, including landscaping, are of reasonable aesthetic quality and implement the objectives of the Castro Valley General Plan;

4. Structure(s) and related improvements, including access and parking, are suitable for the proposed use of the property, consistent with the intent of the applicable zoning district, promote orderly development in the vicinity of the subject site, and provide adequate consideration of the existing and contemplated uses of land; and

5. The design and layout of the proposed project are consistent with the Castro Valley General Plan, the development standards of this code, and any approved design guidelines.

(Ord. No. 2020-66, § 15, 12-15-20)

17.54.300 Single-family residence—Cluster permit.

A single-family residence cluster development is intended to encourage the arrangement of single-family residences on suitable lands in such manner that will:

A. Be in accord with the general plan of the county;

B. Provide efficient use of the land that includes preservation of significant amounts of open areas and natural and topographic landscape features;

C. Provide an environment that will encourage the use of common open areas for community activities and other amenities;

D. Provide variety in the siting of residences and the design of access and circulation facilities;

E. Be compatible with and enhance the development of the general area.

(Prior gen. code § 8-96.0)

(Ord. No. 2010-71, § 100, 12-21-10)

17.54.310 Cluster permit.

A cluster development of single-family residences is permitted only in R-1 (single-family residence) districts, and R-1 combining districts upon issuance of a cluster permit in accordance with the provisions of this title.

(Prior gen. code § 8-96.1)

17.54.320 Preliminary cluster development plan—Application.

Any land owner desiring a cluster permit shall submit to the planning commission a preliminary cluster development plan.

(Prior gen. code § 8-96.2)

17.54.330 Preliminary plan—Professional services required.

The preliminary plan shall contain certifications that a civil engineer, a landscape architect and an architect or registered building designer have participated in the preparation of the preliminary plan.

(Prior gen. code § 8-96.3)

17.54.340 Preliminary plan—Information required.

The preliminary plan shall be submitted to the planning commission in the form specified.

(Prior gen. code § 8-96.4)

17.54.350 Preliminary plan—Action by the planning commission.

After consideration of the preliminary plan and any other pertinent information, the planning commission shall advise the applicant of its evaluation of the plan. This evaluation shall include a statement regarding whether the preliminary plan appears either to meet or not meet the intent of the provisions of this title and may include a statement regarding:

A. Development objectives pertinent to the characteristics of the site in question which should be observed in the design of the cluster development including:

1. Preservation of specified natural and topographic landscape features,

2. Type and extent of circulation facilities,

3. Nature and extent of grading;

B. Basic design changes which appear necessary in order to meet said intent which may include reduction of dwelling unit density and modifications in the location of buildings, roads and common areas.

(Prior gen. code § 8-96.5)

17.54.360 Cluster permit—Application.

An application for a cluster permit shall be submitted to the planning commission in the form specified by the planning commission.

(Prior gen. code § 8-96.6)

17.54.370 Cluster permit plan—Persons authorized to prepare.

Same as Section 17.54.330.

(Prior gen. code § 8-96.7)

17.54.380 Cluster permit plan.

The cluster permit plan shall be based on the above preliminary plan and shall be in the form specified by the planning commission.

(Prior gen. code § 8-96.8)

17.54.390 Cluster permit plan—Hearing by the planning commission.

Upon receipt of the application for a cluster permit, the planning commission shall hold a public hearing thereon. Notice of the hearing shall be given pursuant to Section 17.54.830.

(Prior gen. code § 8-96.9)

(Ord. No. 2009-17, § 8, 4-14-09)

17.54.400 Cluster permit plan—Findings and action by the planning commission.

The planning commission shall consider the intent and standards of the district and of this title and if the cluster permit plan is found to be in compliance with these provisions, may issue a cluster permit which shall set forth the conditions of approval the planning commission deems necessary to assure the affirmative findings. If the cluster permit plan is found not to be in compliance, or cannot be conditioned to comply with the intent and standards of the district and of this title, the planning commission shall deny the application. An order authorizing approval of a cluster permit or disapproving the same shall become effective ten days after the date of such an order, unless a notice of appeal is filed pursuant to Section 17.54.670.

(Prior gen. code § 8-96.10)

(Ord. No. 2010-71, § 101, 12-21-10)

17.54.410 Cluster permit—Time limit.

Within two years of the date of approval of a cluster permit a final subdivision map in accordance with the provisions of the approved permit shall be recorded. Failure to file a final subdivision map within this period shall render said permit null and void.

(Prior gen. code § 8-96.11)

17.54.420 Cluster permit—Building permits to conform.

All building permits issued within the boundaries of an approved cluster development shall conform to the provisions of the approved cluster permit until such time as said cluster permit expires or the property owner has filed with the planning commission notification in writing of his intent to abandon this permit which notification shall render said permit null and void.

(Prior gen. code § 8-96.12)

17.54.430 Cluster permit—Other expiration.

In addition to these provisions relating to cluster permit expiration in Sections 17.54.410 and 17.54.420, a cluster permit shall be null and void if a tentative subdivision map is approved that is not in conformance with the provisions of the cluster permit.

(Prior gen. code § 8-96.13)

17.54.440 Applicability—Title 17.

Cluster developments shall be in accord with all provisions of this title, except where provisions of Sections 17.54.300 through 17.54.580 inclusive are applicable.

(Prior gen. code § 8-96.14)

17.54.450 Minimum project area.

The cluster development shall consist of a lot or contiguous lots under one ownership or control containing a project acreage of a least ten acres or having a potential of at least fifty (50) dwelling units as determined by the provisions of Section 17.54.460. Project acreage shall include only those lands to be used for lots, lands to be owned in common by the residents of the project and lands used for circulation facilities.

(Prior gen. code § 8-96.15)

17.54.460 Density.

The maximum number of residential units shall be calculated in accordance with the provisions of Table 17.54.460.

|  |  |  |  |
| --- | --- | --- | --- |
| Table 17.54.460   Maximum Number of Residential Units | | | |
| Zoning District | | | Maximum Units Per Project Acre |
| R-1 | (5,000) | 5.5 | |
| R-1-B-8 | (8,000) | 4.2 | |
| R-1-B-10 | (10,000) | 3.5 | |
| R-1-B-20 | (20,000) | 2.0 | |
| R-1-B-40 | (40,000) | 1.0 | |
| R-1-B-E (Specified lot size less than 1 acre) | | | Determined in direct proportion by interpolation of those ratios expressed. |
| R-1-B-E (Specified lot size over 1 acre) | | | Determined in direct proportion by the existing zoning. |

(Prior gen. code § 8-96.16)

(Ord. No. 2010-71, § 102, 12-21-10)

17.54.470 Peripheral setback.

No dwelling unit shall be located less than twenty (20) feet from any boundary of the cluster development.

(Prior gen. code § 8-96.17)

17.54.480 Yards.

Except as provided in Sections 17.54.470 and 17.54.500 and in lieu of yards required by other provisions of this title, the following minimum yards are required for each building site:

A. All yards adjoining a building wall not exceeding one story in height: five feet;

B. All yards adjoining a building wall two stories in height: ten feet;

C. In addition to those yards required by the foregoing provisions of this section, yards adjoining a street shall be increased:

1. Five feet from a limited access street (less than three hundred (300) vehicular trips per day),

2. Ten feet from a minor residential street (three hundred (300)—six hundred (600) vehicular trips per day),

3. Twenty (20) feet from a neighborhood collector street (six hundred (600)—two thousand (2,000) vehicular trips per day),

4. Thirty (30) feet from a major thoroughfare (over two thousand (2,000) vehicular trips per day).

(Prior gen. code § 8-96.18)

17.54.490 Standards—Private open area.

Each building site shall have a private open area. The private open area shall contain at least five hundred (500) square feet of useable open space and measure not less than twenty (20) feet in width or depth and shall easily be accessible from the dwelling units. The required private open area shall not include a required yard adjoining a street, off-street parking spaces or vehicular access thereto.

(Prior gen. code § 8-96.19)

17.54.500 Modification of building site requirements.

In the interest of design flexibility and to provide variety in housing types and site development, certain reductions in the building site requirements for the district and the requirements of Section 17.54.480 may be permitted, or higher standards required. However, the building site area may not be reduced to less than that required for the district except for building sites adjacent to common areas of substantial size which building sites may be reduced to an area of not less than five thousand (5,000) square feet and a width of not less than fifty (50) feet. Any modification of minimum standards must be found by the planning commission to be in best interest of the residents of the development. An approved reduction in the minimum standards must be found to be not detrimental either to the residents within the project or the uses adjoining the project. When reductions in minimum standards are requested by the applicant, the request shall be accompanied by evidence furnished by the project's architect or landscape architect which illustrate that the cluster plan which includes a modification of standards permit the following objectives to be met as well as or better than employment of minimum standards otherwise required.

(Prior gen. code § 8-96.20)

17.54.510 Cluster plan building site objectives.

A. Area. To achieve an equitable distribution of private useable open space and common open space while maintaining the over-all densities proposed by the general plan;

B. Effective Lot Frontage. To assure permanent access of a width providing safe and efficient vehicle movement to a maintained street;

C. Median Lot Width. To provide adequate space to accommodate a dwelling of reasonable design with the required yards and open areas;

D. Yards. To provide insulation from off-site activities and to provide natural light and ventilation, privacy, and convenient access to and around each building and visually pleasing spatial relationship between adjoining buildings;

E. Yards Adjacent to Street. To provide varied visual relationship between streets and dwellings and provide protection from traffic conflicts, noise, congestion and property damage;

F. Provide Open Area. To provide useable and attractive areas for outdoor living.

(Prior gen. code § 8-97.0)

(Ord. No. 2010-71, § 103, 12-21-10)

17.54.520 Common areas—Provision and design.

A. All lands not utilized for building sites, and public uses shall be owned in common in accordance with the provisions of Section 17.54.530;

B. A minimum of five hundred (500) square feet per dwelling unit (exclusive of private streets) of the common areas provided shall:

1. Not exceed a maximum gradient of ten percent,

2. Be assembled in minimum areas measuring not less than ten thousand (10,000) square feet, not less than one hundred (100) feet in width or depth;

C. All portions of the common areas used for active recreation areas shall be located not less than fifty (50) feet from any dwelling unit.

(Prior gen. code § 8-97.1)

17.54.530 Common areas—Preservation and maintenance.

Ownership and maintenance of all areas owned in common shall be by an automatic-membership homes association being an incorporated nonprofit organization capable of dissolution only by a one hundred (100) percent affirmative vote of the membership, operating under recorded land agreements through which each lot owner in a cluster development is automatically a member, and each lot is automatically subject to a charge for a proportionate share of expenses for maintaining the common property and other facilities owned by the organization. The association shall be authorized to impose a lien on any lot for which required maintenance charges have not been paid. Maintenance of areas owned in common shall include the prevention of health and safety hazards.

(Prior gen. code § 8-97.2)

17.54.540 Vehicular and pedestrian access and circulation.

Vehicular and pedestrian access and circulation shall be adequate for anticipated traffic volumes. Adequate access shall be provided to all structures within the development, and provision shall be made for future development of adjacent, undeveloped acreage. Design and improvement of streets shall conform to applicable county standards. All streets shall be offered for dedication to the county. Private streets, the design and improvement of which have been approved by the planning commission, may be permitted provided they are limited access streets as defined by Section 17.54.480; do not serve through traffic and will be perpetually maintained by the homeowners association.

(Prior gen. code § 8-97.3)

(Ord. No. 2010-71, § 104, 12-21-10)

17.54.550 Arrangement of buildings and facilities.

All of the elements of the cluster development shall be harmoniously and efficiently organized in relation to topography, the size and shape of the plot, the character of adjoining property, and the type and size of the buildings.

(Prior gen. code § 8-97.4)

17.54.560 Planting and fencing.

The appeal and character of the site shall be preserved or enhanced by retaining and protecting existing trees and other site features to the extent that they enhance the project and additional new plant material shall be added for privacy, shade, and to screen out objectionable features. Where needed for protection or screening purposes, appropriately designed fences, walls or planting shall be installed along property boundary lines, laundry yards, refuse collection points, playgrounds and other locations.

(Prior gen. code § 8-97.5)

17.54.570 Grading.

Grading shall be designed to assure stable ground forms, adequate surface drainage, safe and convenient access to and around the buildings and to conserve desirable existing vegetation and natural ground forms. Any unusual hazard to pedestrians created by slopes or sudden grade changes shall be minimized by the installation of fences, walls, rails or planting.

(Prior gen. code § 8-97.6)

17.54.580 Drainage.

Installation of adequate facilities for the collection and disposal of stormwaters shall be provided to prevent damage to property and to provide for the safety and convenience of occupants.

(Prior gen. code § 8-97.7)

17.54.590 Applications—Petitions and appeals—Form and scope.

The planning director shall prescribe the form and scope of all petitions, applications and appeals and shall also specify the accompanying data to be furnished so as to assure the fullest practicable presentation of facts for proper consideration of the matter involved in each case and for a permanent record, and the following regulations shall apply.

(Prior gen. code § 8-100.0)

17.54.591 Applications—Firearms sales.

In addition to the application requirements prescribed in Section 17.54.590 et seq., the application for a conditional use permit for the sale of firearms or ammunition shall contain the following information and data:

A. A detailed description of the location of the property from which the proposed firearms sale activity is to occur and a detailed description of the building or structure within which the sale of firearms is to take place including, but not limited to, the building floor-plan;

B. The true and complete legal name and complete address of each owner and tenant of the building or structure within which the sale activity is to take place;

C. A detailed description of all the makes and models of firearms and ammunition being offered for sale;

D. A detailed description of the planned compliance with building and inventory security measures required by state law;

E. The identification of any existing firearms dealer sales sites located within five hundred (500) feet of the applicant's proposed sales site.

(Ord. 98-53 § 1 (part))

17.54.600 Applications—Where filed.

Every application for a variance, for a conditional use, site development review, or for a cluster permit shall be filed with the planning department.

(Prior gen. code § 8-100.1)

17.54.610 Applications—Acceptance.

Every application filed and accepted pursuant to Section 17.54.600 shall be complete, legible and on a prescribed form, and shall include a verification by at least one owner of the property affected attesting to the truth and correctness of all the facts and drawings presented under penalty of perjury.

(Prior gen. code § 8-100.2)

17.54.620 Applications—Fees.

No application required by this title shall be considered to be in proper form unless it is accompanied by a fee as established by resolution by the board of supervisors, nor shall any application be accepted which is not in full compliance with all other requirements of this title. No part of any required fee shall be returned to the applicant, and every such fee shall be deposited with the county treasurer.

(Prior gen. code § 8-100.3)

17.54.630 Applications—Exceptions to requirement of fee.

The fee required to accompany any application as specified in Section 17.54.620 shall be waived in the following cases:

A. Where the application is made and filed by any public agency of a city, county, state or federal government;

B. Where the application is for variance to permit a building to be relocated on the same lot, if such relocation is necessary solely because of the condemnation of a portion thereof for a public purpose or the sale of such portion of a public agency of the county, state or federal government.

C. Where the application is for a site development review for signs as provided in Sections 17.04.010, 17.34.100, 17.38.110, 17.38.120 and 17.38.130.

(Prior gen. code § 8-100.5)

17.54.640 Applications—Effect of denial.

No application for a variance, a conditional use or a site development review which has been denied wholly or in part shall be resubmitted, within one year from the date of the final order of denial, except on grounds of new evidence or proof of changed conditions found to be valid by the officer or public body which issued such final order.

(Prior gen. code § 8-100.6)

17.54.650 Hearings—Notice.

Upon receipt in proper form of any application for a variance, for a conditional use, for a cluster permit, or a cluster permit preliminary plan, or for a determination relative to whether a use is nonconforming or for a determination as to whether a use is illegal or should be abated by the building official, the date for the public hearing thereon shall be set. At least one public hearing shall be held on each such application by the agency designated to receive it. Notice of the time and place of each such hearing shall be given pursuant to Section 17.54.830.

(Prior gen. code § 8-101.0)

(Ord. No. 2009-17, § 9, 4-14-09)

17.54.660 Hearings—Continuance.

At any public hearing, the presiding officer may order the hearing to be continued by publicly announcing the time and place of a continuance and no further notice thereof shall be required.

(Prior gen. code § 8-101.1)

17.54.670 Appeals.

An appeal may be taken to the board of supervisors within ten days after the date of any order made by the planning commission, the planning director, or the board of zoning adjustments pursuant to Sections 17.18.130, 17.54.030, 17.54.060, 17.54.070, 17.54.100, 17.54.140, or 17.54.400. The appeal may be taken by any property owner or other person aggrieved or by an officer, department, board, or commission affected by the order within said ten-day period, by filing with the clerk of the board of supervisors or the planning department a notice of appeal specifying the grounds for such appeal. Filing such notice shall stay all proceedings in furtherance of the order appealed from. The planning department is designated as an agent of the clerk of the board for purposes of receiving a notice of appeal.

(Ord. 2002-60 (part): Prior gen. code § 8-102.0)

(Ord. No. 2009-17, § 10, 4-14-09)

17.54.680 Appeals—Transmittal of record.

Upon receiving an appeal the clerk of the board of supervisors or planning department shall indicate upon every notice of appeal received pursuant to Section 17.54.670 the date upon which it was filed. If filed with the clerk of the board, the clerk shall transmit a copy thereof to the planning department. If filed with the planning department, the planning department shall transmit a copy thereof to the clerk of the board. The planning department shall immediately make available to the board all of the documents constituting the record upon which the action appealed was taken.

(Prior gen. code § 8-102.1)

(Ord. No. 2009-17, § 11, 4-14-09)

17.54.690 Appeals—Representation.

The planning department shall be represented at the hearing on the appeal, in order to make known the reasons for the action taken.

(Prior gen. code § 8-102.2)

17.54.700 Appeals—Notice of hearing.

The board of supervisors shall give written notice of the time and place for hearing any appeal filed pursuant to Section 17.54.670. Such notice shall be published and shall be given to the applicant, to the appellant, to the agency which made the order appealed, and to any other person requesting such notice and depositing with the clerk of the board a self-addressed, stamped envelope to be used for that purpose. In addition, notice shall be given pursuant to Section 17.54.830.

(Prior gen. code § 8-102.3)

(Ord. No. 2009-17, § 12, 4-14-09)

17.54.710 Board of supervisors—Action on appeals.

The board of supervisors may hear additional evidence and may sustain, modify, or overrule any order brought before it on appeal pursuant to Section 17.54.670, and may make such findings and decisions as are not inconsistent with state law and county ordinances; provided that, if no motion relative to the order appealed attains a majority vote of the board of supervisors within thirty (30) days from the date of the hearing by said board thereon, said order shall stand sustained and be final.

(Prior gen. code § 8-102.4)

(Ord. No. 2010-22, § 2, 6-29-10; Ord. No. 2010-71, § 105, 12-21-10)

17.54.720 Amendments.

When the board of supervisors deems it to be for the public interest, this title may be amended by reclassifying property or by changing any of its provision. The procedure shall be as set forth in the following sections.

(Prior gen. code § 8-103.0)

17.54.730 Amendments—Initiation of.

An amendment may be initiated by resolution of the board of supervisors or of the planning commission. In the case of a proposed reclassification of property, amendment also may be initiated by a petition. When such amendment is initiated by petition, the petition shall be signed and verified by the owner of the property affected by the proposed change.

(Prior gen. code § 8-103.1)

17.54.740 Amendments—Content of petition.

Every petition to reclassify property shall be upon a form prescribed for that purpose by the planning commission and shall be accompanied by such information, maps and other data as the commission may by its rules require.

(Prior gen. code § 8-103.2)

17.54.750 Amendments—Notice of hearing.

Upon passage of a resolution as specified in Section 17.54.730 or upon receipt in proper form of a petition to reclassify property, the proposal shall be set for public hearing before the planning commission as required by state law. Notice of the hearing shall be given pursuant to Section 17.54.830.

(Prior gen. code § 8-103.3)

(Ord. No. 2009-17, § 13, 4-14-09)

17.54.760 Reserved.

Editor's note(s)—Ord. No. 2009-17, § 14, adopted April 14, 2009, repealed § 17.54.760, which pertained to amendments; additional notice and derived from prior gen. code § 8-103.4 and Ord. No. 98-52 § 1, 1998.

17.54.770 Failure to post notices.

Any failure to post public notices shall not invalidate any proceedings for an amendment of this title.

(Prior gen. code § 8-103.5)

17.54.780 Amendments—Planning commission action.

After the conclusion of hearings on any proposed amendment, the planning commission shall make a report of its findings and recommendations and reasons with respect to the same, and shall file with the board of supervisors an attested copy thereof within thirty (30) days after the date of the conclusion of the hearing.

(Prior gen. code § 8-103.6)

17.54.790 Amendments—Consensual conditions.

The planning commission may recommend, and the board of supervisors may impose, conditions to the zoning reclassification of property where it is deemed proper to do so, and where the applicant for rezoning consents, so as not to create problems inimical to the public health, safety and general welfare of the county. Such conditions shall run with the land for however long the property remains in the zoning district involved.

(Prior gen. code § 8-103.6.5)

17.54.800 Amendments—Board of supervisors action.

Upon receipt of a report from the planning commission, or upon the expiration of thirty (30) days after the conclusion of the hearing by the planning commission on any amendment initiated by petition or by resolution of the board of supervisors, the board of supervisors shall set the matter for public hearing, after notice thereof, given pursuant to Section 17.54.830. After the conclusion of such hearing, the board of supervisors may adopt the amendment of any part thereof set forth in the petition or in the resolution of intention in such form as the board may deem to be advisable.

(Prior gen. code § 8-103.7)

(Ord. No. 2009-17, § 15, 4-14-09)

17.54.810 Amendments—Board of supervisors action—Failure to act.

When the report of the planning commission pursuant to Section 17.54.800 contains a recommendation that a proposed amendment be disapproved and no motion relative thereto attains a majority vote of the board of supervisors within thirty (30) days from the date of the hearing thereon, such failure to act shall constitute disapproval of the proposed amendment.

(Prior gen. code § 8-103.8)

17.54.820 Limitations of actions.

Any court action or proceeding to attach, review, set aside, void or annul any decision of matters listed in this title otherwise subject to court review or concerning any of the proceedings, acts, or determinations, taken, done or made prior to such decision, or to determine the reasonableness, legality or validity of any condition attached thereto, shall not be maintained by any person unless such action or proceeding is commenced within forty-five (45) days after the effective date of such decision. Thereafter all persons are barred from any such action or proceeding or any defense of invalidity or unreasonableness of such decisions or of such proceedings, acts or determinations.

(Prior gen. code § 8-103.9)

17.54.830 Public notice.

The planning department shall give notice for all hearings before the planning director, the board of zoning adjustments, the planning commission, and the board of supervisors for amendments to the zoning ordinance involving reclassification from one zoning district to another, cluster permits, conditional use permits, variances, and, as provided in subsection D of this section, for site development reviews. In addition to such notice as the Government Code or successor legislation may require, notice shall be given as follows:

A. Once an application is accepted as complete:

1. The applicant shall post a notice on the property within ten days of notification that the application is complete. Except as otherwise provided in this subsection, the notice shall be on a sign two feet by three feet in dimension, constructed of wood or metal, and secured to the ground to the satisfaction of the planning director. The planning director, at his or her discretion, may allow smaller signs, but not smaller than eleven (11) inches by seventeen (17) inches, of heavy card stock laminated with plastic for minor projects; or may require larger signs, up to a maximum of four feet by six feet, for projects of significant public interest or where visibility may be an issue. The notice shall contain the project file number; the name of the applicant; the project address or location if there is no address; the assessor's parcel number(s); a map showing the parcel(s) involved in the project; a brief description of the project; site plans and elevations if appropriate; applicant contact information; tentative hearing date(s) (if available); a statement that additional information, including the hearing date(s), is available by contacting the planning department either by telephone or in person; and other relevant information as the planning director may require. The sign shall also include space for public notices. Except for applications that involve only one single-family house or duplex, such on-site notices shall be placed parallel to and as close as possible to each street lot line of the site; if a street frontage is more than six hundred (600) feet in length, there shall be a second, identical notice posted along that street frontage. For applications that involve only one single-family house or duplex, only one sign is required to be posted along the front lot line of the property. Signs must be visible to pedestrians and motorists and may not be posted in the public right-of-way. On-site notices may not be affixed to the outside of a window, but, where the planning director, or his or her designee, determines that there is no reasonable way to mount the sign in the ground, it may be placed inside a window so long as it is clearly visible to passersby. This notice shall remain in place until final action on the project, including appeals. The applicant shall remove the notice within ten working days of the final action.

2. The planning department shall mail a preliminary notice to all property owners and residents located within five hundred (500) feet of the exterior limits of the property or properties that are the subject of the application as listed on the most recent assessor's rolls coupled with the Geographic Information System or Emergency 911 address lists. The planning director, at his or her discretion, may mail this notice to all property owners and residents located within one thousand (1,000) feet of the exterior limits of the property. This notice shall contain the project file number; the name of the applicant; the project address or location if there is no address; the assessor's parcel number(s); a map showing the parcels involved in the project; a brief description of the project; site plans and elevations if appropriate; applicant contact information; tentative hearing date(s) (if available); a statement that additional information, including the actual hearing date(s) is available by contacting the planning department either by telephone or in person; and other relevant information as the planning director may determine.

B. No less than ten days prior to the hearing the planning department shall:

1. Mail a notice to all property owners and residents located within five hundred (500) feet of the exterior limits of the property or properties that are the subject of the application as listed on the most recent assessor's rolls coupled with the Geographic Information System or Emergency 911 address lists. The planning director, at his or her discretion, may mail this notice to all property owners and residents located within one thousand (1,000) feet of the exterior limits of the property. If the number of owners located within three hundred (300) feet of the real property that is the subject of the hearing to whom notice would be mailed or delivered pursuant to this section is greater than one thousand (1,000) feet, the planning department may, in lieu of mailed or delivered notice, provide notice by placing a display advertisement of at least one-eighth page in at least one newspaper of general circulation in the community or area where the action is proposed at least ten days prior to the hearing. Such notice shall contain the information required in subsection (A)(2) of this section.

2. Post a notice on the property. In the case of an area-wide planning commission initiated rezoning, in addition to the requirements of subsections (A)(2) and (B)(1) of this section, the planning department shall:

a. Mail a notice to all property owners in and residents of the affected area as in subsection (A)(2) of this section; and

b. Post notices in at least three conspicuous public places in the area proposed to be reclassified.

The above notices shall contain all information required by pertinent Government Code sections and in subsection (A)(1) of this section, including, but not limited to, the date, time, and place of the public hearing, the identity of the hearing body or officer, a general explanation of the matter to be considered, and a general description, in text or by diagram, of the location of the real property, if any, that is the subject of the hearing.

The on-site posting required under subsection (A)(1) of this section shall not apply to a planning commission initiated rezoning.

C. When the planning commission initiates an action, the planning department shall notify all property owners in and residents of the proposed area of consideration of the hearing at which the planning commission will consider initiating the action as in subsection (B)(1) of this section. Following that hearing or any subsequent hearing at which the commission or board of supervisors acts on the proposal, the planning department shall notify all property owners in and residents of the proposed area of consideration of the commission's or board's action. This notice shall be in addition to that required under subsection B of this section.

D. The above provisions shall apply only to those site development reviews for which a public hearing is held. However, where a public hearing is not held, but notice is given to surrounding residents and property owners it shall be given to residents and property owners within a five hundred (500) foot radius of the exterior limits of the property or properties under consideration.

(Ord. No. 2009-17, § 16, 4-14-09)

## Chapter 17.58 ENFORCEMENT

**Sections:**

17.58.010 Permits shall conform.

Every department and every employee of the county authorized to issue permits or licenses affecting the use or occupancy of land or of a building or structure shall comply with the provisions of this title. Where any action of referral or on an appeal is required by this title, no permit or license involved shall be issued unless and until such action has been taken and the time within which any further appeal could have been taken has expired. Any permit or license hereafter issued for a building, structure, use or occupancy contrary to the provisions of this title shall be void and of no effect.

(Ord. 2004-13 § 1 (part); prior gen. code § 8-105.0)

(Ord. No. 2010-71, § 107, 12-21-10)

17.58.020 Duty of planning commission.

It is the duty of the planning commission to assure the proper administration of this title, and the commission shall have the power to establish from time to time such policies, rules and regulations not in conflict with this code as are necessary for that purpose.

(Ord. 2004-13 § 1 (part); prior gen. code § 8-106.0)

17.58.030 Duty of the planning department.

It is the duty of the planning department as the staff of the planning commission, to administer this title and the rules of the planning commission.

(Ord. 2004-13 § 1 (part); prior gen. code § 8-106.1)

17.58.040 Duty of county officers.

It is the duty of the planning director and of all other officials of the county concerned with any of the matters regulated by this title to enforce it. For such purpose the planning director and his or her designated representatives shall have the powers of a police officer.

(Ord. 2004-13 § 1 (part); prior gen. code § 8-106.2)

17.58.050 Duty of the enforcement officer.

Any building or structure set up, erected, constructed, altered, enlarged, converted, moved or maintained contrary to this title is unlawful and is hereby declared to be a public nuisance and may be abated by the enforcement officer as set forth herein.

(Ord. 2004-13 § 1 (part): prior gen. code § 8-106.3)

17.58.060 Violation—Penalty.

A. Any person, firm, or corporation violating or causing or permitting to be violated any of the provisions of this title shall be subject to a fine.

B. Any condition caused or permitted to exist in violation of any of the provisions of this title shall be deemed a public nuisance and may be summarily abated as such by the county.

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

D. The planning director shall have the power to designate by written order that particular officers or employees shall be authorized to enforce particular provisions of this title.

(Ord. 2004-13 § 1 (part); prior gen. code § 8-107.0)

(Ord. No. 2009-32, 7-21-09)

## Chapter 17.59 ABATEMENT PROCEDURES[[9]](#footnote-9)

**Sections:**

17.59.010 Declaration of public nuisance by enforcement officer.

Any property found by the enforcement officer to be maintained in violation of Title 17 is declared to be a public nuisance and shall be abated by rehabilitation, removal, demolition, or repair pursuant to the procedures set forth herein. The procedures for abatement set forth herein shall not be exclusive and shall not in any manner limit or restrict the county from enforcing other county ordinances or abating public nuisances in any other manner provided by law.

(Ord. 2004-13 § 2 (part))

17.59.020 Notification of nuisance.

Whenever the enforcement officer determines that any property within the county is being maintained contrary to one or more of the provisions of Title 17, the enforcement officer shall give written notice in accordance with provisions of Section 17.59.030 covering service in person or by mail.

(Ord. 2004-13 § 2 (part))

17.59.030 Notice to abate.

Notice to abate shall be provided in person or by pre-paid certified mail, return receipt requested and shall include a copy of this chapter and a statement describing the section(s) found to be violated. It shall further set forth a reasonable time for correcting the violation(s), but in no event less than ten nor more than sixty (60) calendar days and may also set forth suggested methods of correcting the same. The enforcement officer shall inspect the property within the time limit for correcting the violation(s) to determine whether the violation(s) has been corrected. If the property is found to be in compliance with this chapter, the matter will be dropped and no further enforcement action taken. If the property is not found to be in compliance with this chapter, further enforcement action shall occur as set forth herein.

(Ord. 2004-13 § 2 (part))

(Ord. No. 2009-32, 7-21-09)

17.59.040 Administrative hearing to abate nuisance.

In the event said owner shall fail, neglect or refuse to comply with notice to abate a nuisance, an administrative hearing shall be conducted.

(Ord. 2004-13 § 2 (part))

17.59.050 Notice of hearing.

Notice of said hearing shall be served upon the owner not less than seven calendar days before the time fixed for the hearing. Notice of hearing shall be served in person, or by prepaid certified mail, return receipt requested to the owner's last known address. Service shall be deemed to be complete at the time notice is personally served or deposited in the mail. Failure of any person to receive notice shall not affect the validity of any proceedings hereunder. Notice shall be substantially in the format set forth below.

**COUNTY OF ALAMEDA**  
NOTICE OF ADMINISTRATIVE HEARING   
**ON ABATEMENT OF NUISANCE**

This is a notice of hearing before the board of zoning adjustments to ascertain whether certain property situated in the County of Alameda, state of California, known and designated as (street address) in said county and more particularly described as (assessor's parcel number) constitutes a public nuisance subject to abatement by the rehabilitation of such property or by the repair removal or demolition and removal of buildings situated hereon. If said property in whole or part, is found to constitute a public nuisance as defined in this chapter and the same is not promptly abated by the owner, such nuisance may be abated by the County of Alameda, in which case the cost of such rehabilitation, repair, removal or demolition will be assessed upon such property and such costs together with interest thereon, will constitute a lien upon such property until paid; in addition, you the owner(s) may be cited for violation of the provisions of county ordinances and subject to a fine.

Said alleged conditions consist of the following:

In violation of Alameda County General Ordinance Code section(s):

The recommended method(s) of abatement are:

All persons having an interest in said matters may attend the hearing and their testimony and evidence will be heard and given due consideration.

Dated this \_\_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_, 20 .

Board of Zoning Adjustments

Time and Date of Hearing:

Location of Hearing:

(Ord. 2004-13 § 2 (part))

(Ord. No. 2010-71, § 110, 12-21-10)

17.59.060 Administrative hearing by board of zoning adjustments.

At the time stated in the notice, the board of zoning adjustments shall hear and consider all relevant evidence, objections or protests, and shall receive testimony relative to such alleged public nuisance and to proposed rehabilitation, repair, removal or demolition of such property. Said hearing may be continued from time to time.

If the board of zoning adjustments finds that such public nuisance does exist and that there is sufficient cause to rehabilitate, demolish, remove or repair the nuisance, the enforcement officer shall prepare findings and an order for the board of zoning adjustments adoption, which shall specify the nature of the nuisance, the methods(s) of abatement and the time within which the work shall be commenced and completed which shall not exceed sixty (60) calendar days. The order shall include reference to the right to appeal set forth in Section 17.59.090

(Ord. 2004-13 § 2 (part))

17.59.070 Service of board of zoning adjustments order to abate.

A copy of the findings and order shall be served on all owners of the subject properly in the same manner as provided for notice of hearing in Section 17.59.050. In addition, a copy of the findings and order shall be forthwith conspicuously posted on or near the property.

(Ord. 2004-13 § 2 (part))

17.59.080 Procedure—No appeal.

In the absence of any appeal, the nuisance shall be abated in the manner and means specifically set forth in said findings and order. In the event the owner fails to abate the nuisance as ordered, the enforcement officer shall cause the nuisance to be abated by county employees or private contract. The costs shall be billed to the owner as specified in Section 17.59.140.

(Ord. 2004-13 § 2 (part))

17.59.090 Procedure—Appeal to Board of Supervisors.

The owner(s) may appeal to the Alameda County Board of Supervisors the board of zoning adjustments findings and order by filing an appeal with the clerk of the board within ten calendar days from the date of service of the board of zoning adjustments decision. The appeal shall contain:

A. A specific identification of the subject property;

B. The names and addresses of all appellants;

C. A statement of appellant's legal interest in the subject property;

D. A statement of ordinary and concise language of the specific order or action protested and the grounds for appeal, together with all material facts and support thereof;

E. The date and signatures of all appellants; and

F. The verification of at least one appellant as to the truth of the matters stated in the appeal.

As soon as practicable after receiving the appeal, the clerk of the board shall set a date for the Board of Supervisors to hear the appeal which date shall not be less than seven calendar days from the date the appeal was filed. The clerk of the board shall give each appellant written notice of the time and the place of the hearing at least five calendar days prior to the date of the hearing either by causing a copy of the notice to be delivered to the appellant personally or by mailing a copy thereof, postage prepaid, addressed to the appellant at the address(es) shown on the appeal. Continuances of the hearing from time to time may be granted by the Board of Supervisors on request of the owner for good cause shown, or on the Board of Supervisors' own motion.

(Ord. 2004-13 § 2 (part))

(Ord. No. 2010-71, § 111, 12-21-10)

17.59.100 Decision by Board of Supervisors.

Upon the conclusion of the hearing, the Board of Supervisors shall determine whether the property or any part thereof as maintained constitutes a public nuisance if a public nuisance is found the Board of Supervisors shall adopt a resolution declaring such property to be a public nuisance setting forth its findings and ordering the abatement of the same by having such property rehabilitated, repaired or demolished and removed in the manner and means specifically set forth in said resolution. The resolution shall set forth the time within which such work shall be completed by the owner, in no event less than three calendar days. The decision and order of the Board of Supervisors shall be final.

(Ord. 2004-13 § 2 (part))

17.59.110 Service of Board of Supervisors order to abate.

A copy of the resolution of the Board of Supervisors ordering the abatement of said nuisance shall be served upon the owner of said property in the same manner as provided for notice of hearing in Section 17.59.050. Upon abatement in full by the owner as determined by the county the proceeding hereunder shall terminate.

(Ord. 2004-13 § 2 (part))

17.59.120 Limitation of filing judicial action.

Any action appealing the Board of Supervisors decision and order shall be commenced within thirty (30) calendar days of the date of service of the decision.

(Ord. 2004-13 § 2 (part))

17.59.130 Procedure—Hearing before board of zoning adjustments and Board of Supervisors.

A. All hearings shall be electronically tape recorded.

B. Hearings need not be conducted according to the California Code of Evidence.

C. Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence, but shall not be sufficient in itself to support finding unless it would be admissible over objection in civil actions in courts of competent jurisdiction in this state. Any relevant evidence shall be admitted if it is the type of evidence on which reasonable persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions in courts of competent jurisdiction in the state.

D. Irrelevant and unduly repetitious evidence shall be excluded.

(Ord. 2004-13 § 2 (part))

(Ord. No. 2010-71, § 112, 12-21-10)

17.59.140 Abatement by county.

A. If such nuisance not abated as ordered within said abatement period, the enforcement officer shall cause the same to be abated by county employees or private contract. The enforcement officer, county employees and/or private contractor are expressly authorized to enter upon said property for such purposes. The cost of abating the nuisance shall be billed to the owner and shall become due and payable to the enforcement agency thirty (30) calendar days thereafter.

B. No person(s) shall obstruct, impede or interfere with the enforcement officer or designated representative, or with any person who owns or holds any interest or estate in any property in the performing of any necessary act, preliminary to or incidental, carrying out an abatement order issued pursuant to Sections 17.59.010, 17.59.050 and 17.59.080.

(Ord. 2004-13 § 2 (part))

17.59.150 Powers of abatement.

No property shall be found to be a public nuisance under Section 17.59.010 and ordered demolished unless there is no reasonable way other than demolition and removal to correct such nuisance, as determined by the county.

(Ord. 2004-13 § 2 (part))

17.59.160 Notice of intent to demolish.

A copy of any order or resolution requiring abatement by demolition under Sections 17.59.060 and 17.59.100 shall be recorded with the Alameda County recorder.

(Ord. 2004-13 § 2 (part))

17.59.170 Record of cost of abatement.

The enforcement officer shall keep an account of the cost, including incidental expenses, of abating such nuisance on each separate lot or parcel of land where the work is done by or under contract with the county and shall render an itemized report in writing to the Board of Supervisors showing the cost of abatement, including the rehabilitation, demolition and all nuisances removed; or repair of said property provided that before said report is submitted to the Board of Supervisors copy of the same shall be posted for at least five days upon or in front of property hereinafter described, to be removed, repaired or demolished in order to abate a public nuisance on said real property together with a notice of the time when said report shall be heard by the Board of Supervisors for continuation. A copy of said report and notice shall be served upon the owner of said property in accordance with the provisions of Section 17.59.050 at least five calendar days prior to submitting the same to the Board of Supervisors. Proof of said posting and service shall be made by affidavit filed with the clerk of the board.

(Ord. 2004-13 § 2 (part))

17.59.180 Assessment lien.

A. The total cost of abating such nuisance as so confirmed by the Board of Supervisors, shall constitute a special assessment against the respective lot or parcel of land to which it relates, and upon recordation in the office of the county recorder of a notice lien, as so made and confirmed, shall constitute a lien on said property for the amount of such assessment.

B. After such confirmation and recordation, a certified copy of the Board of Supervisors' decision shall be filed with the Alameda County auditor-controller. For filings made on or before August 1st each year, it shall be the duty of said auditor-controller to add the amounts of the respective assessments to the next regular tax bills levied against said respective lots and parcels of land for municipal purposes and thereafter said amounts shall be collected at the same time and in the same manner as ordinary property taxes are collected, and shall be subject to the same penalties and the same procedure and sale in case of delinquency as provided for ordinary property taxes. Filings made after August 1st shall apply to the following year's regular tax bills. All laws applicable to the levy collection and enforcement of property taxes shall be applicable to such special assessment.

C. In the alternative, after such recordation, such lien may be foreclosed by judicial or other sale in the manner and means provided by law.

D. Such notice of lien for recordation shall be in form substantially as follows:

**NOTICE OF LIEN**

**(Claim of County of Alameda)**

Pursuant to the authority vested by the provisions of Section \_\_\_\_\_\_\_ of Alameda County Ordinance No\_\_\_\_\_\_\_, the board of zoning adjustments of the County of Alameda did on or about the day of \_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_\_\_ cause the property hereinafter described, to be rehabilitated or the building or structure on the property hereinafter described, to be removed, repaired or demolished in order to abate a public nuisance on said real property; and the Board of Supervisors of the County of Alameda did on the day of \_\_\_\_\_\_\_\_, 20\_\_\_\_, assess the cost of such rehabilitation, removal, repair or demolition upon the real property hereinafter described, and the same has not been paid nor any part thereof, and that said County of Alameda does hereby claim a lien on such rehabilitation, removal, repair or demolition in the amount of said assessment, to wit the sum of $ \_\_\_\_\_\_\_\_\_\_\_\_; and the same, shall be a lien upon said real property until the same has been paid in full and discharged of record.

The real property hereinabove mentioned, and upon which a lien is claimed, is that certain parcel of land lying and being in the County of Alameda, state of California, and particularly described as follows:

(description)

Dated this \_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_.

Board of Zoning Adjustments, County of Alameda.

(Ord. 2004-13 § 2 (part))

(Ord. No. 2010-71, § 113, 12-21-10)

17.59.190 Alternative actions available.

Nothing in this chapter shall be deemed to prevent the Board of Supervisors from ordering the commencement of a civil proceeding to abate a public nuisance pursuant to applicable law.

(Ord. 2004-13 § 2 (part))

(Ord. No. 2010-71, § 109, 12-21-10; Ord. No. 2009-32, 7-21-09)

17.59.200 Violation and penalties.

A. Any person, firm or corporation shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of this title is committed, continued or permitted by such person and shall be punishable accordingly.

B. The enforcement officer shall have the power to designate particular officers or employees to enforce particular provisions of this title. Officers or employees so designated shall have the authority to impose fines and/or fees.

C. If the planning director determines that a nuisance does not necessitate immediate summary abatement under the procedures set forth in Section 17.59.040 et seq., the nuisance shall be deemed a violation and fines or fees will be imposed on the owner of the property and/or anyone known to the planning director to be in possession of the property.

D. The following is a schedule of fines and fees:

|  |  |
| --- | --- |
|  | **Fines and Fees** |
| Initial inspection fee (to verify violation) | None |
| Re-inspection fee (violation corrected) | None |
| Re-inspection fee (violation not corrected) | 1 hour staff time |
| Each additional inspection fee | 1 hour staff time |
| Administrative hearing/public nuisance hearing fee  (board of zoning adjustments) | $50.00 |
| Fee for appeals to the board of supervisors | $25.00 |
| Abatement fees | Staff time plus actual abatement costs |
| Fine for violations of non-permitted uses in any district | $250.00 for 1st failed re-inspection |
| $500.00 for 2nd failed re-inspection |
| $1,000.00 for 3rd failed re-inspection |
| $1,500.00 for 4th and subsequent failed re-inspections |
| Fine for violations of non-permitted uses in any district that remain beyond six months (penalty will be assessed every six (6) months until violations are corrected) | $5,000.00 |

The owner(s) may appeal to the board of zoning adjustments any fines or fees imposed by the enforcement officer by filing an appeal with the planning department within ten calendar days from the mailing date of written notification of the action. Staff time shall be billed at the rate noted on the most current Alameda County Community Development Agency Planning Department Billable Rate schedule.

(Ord. 2004-13 § 2 (part))

(Ord. No. 2009-32, 7-21-09)

## Chapter 17.60 REASONABLE ACCOMMODATION

**Sections:**

17.60.010 Intent.

It is the policy of Alameda County to provide reasonable accommodation for exemptions in the application of its zoning laws to rules, policies, practices, and procedures for the siting, development, and use of housing, as well as other related residential services and facilities, to persons with disabilities seeking fair access to housing. The purpose of this section is to provide a process for making a request for reasonable accommodation to individual persons with disabilities, to be applicable to individual residential units.

17.60.020 Application.

Any person who requires reasonable accommodation, because of a disability, in the application of a zoning law which may be acting as a barrier to fair housing opportunities, or any person acting on behalf of or for the benefit of such a person, may request such accommodation on a form to be provided by the planning director.

17.60.030 Required information.

The applicant shall provide the following information:

A. Applicant's name, address, and telephone number;

B. Address of the property for which the request is being made;

C. The current actual use of the property;

D. The zoning code provision, regulation, or policy from which accommodation is being requested; and

E. Why the accommodation is necessary to make the specific housing accessible to people with disabilities. For purposes of this chapter, "disabled," "disability," and other related terms shall be defined as in the Federal Americans with Disabilities Act of 1990, the California Fair Employment and Housing Act, or their successor legislation.

17.60.040 Process.

If the project for which the request is being made requires no other planning permit or approval, the planning director shall decide whether or not to grant the request. No public hearing is required unless one is requested as provided below in Section 17.60.060. If the project for which the request is being made also requires some other planning permit or approval, except a variance since none would be required for request for consideration of an exemption(s) from development standard(s), the application shall be combined and processed with the application for such permit or approval.

17.60.050 Notice of request for reasonable accommodation.

Written notice of a request for reasonable accommodation shall be given as follows:

A. Where the request does not require another planning permit or approval, and where the request for reasonable accommodation involves conversion of a garage to living space, variance from the requirements of this chapter, or use of a recreational vehicle in a required setback, notice shall be mailed to the owners of record of all properties within a three hundred (300) foot radius of the property which is the subject of the request. Where the request does not require another planning permit or approval, and where the request is for any other reasonable accommodation, notice shall be mailed to the owners of record of all properties within a one hundred (100) foot radius of the property which is the subject of the request. This notice shall include the information in Section 17.060.030, above, shall indicate that any person may request a hearing on the request as provided in Section 17.60.060, and shall describe the approval process.

B. In the event that the request is being made in conjunction with some other process, notice shall be included with the notice of the other proceeding.

(Ord. No. 2017-13, § 2(Pt. 2), 4-25-17)

17.60.060 Planning director's hearing.

Where the request does not require another planning permit or approval, any person may request that the planning director hold a public hearing on the request for reasonable accommodation. Such request must be made in writing to the planning director within fifteen (15) days of the date of the notice of request for reasonable accommodation. If requested, the planning director shall conduct a hearing on the request for reasonable accommodation within thirty (30) days of the date of the notice of request for reasonable accommodation, at which all reasonable evidence and credible testimony shall be considered. Notice shall be mailed ten days prior to the hearing to the owners of record of all properties within a 100-foot radius of the property which is the subject of the request. This notice shall include the information in Section 17.060.030, above.

17.60.070 Grounds for reasonable accommodation.

A request for reasonable accommodation may be approved, approved subject to conditions, or denied. In making a determination regarding the reasonableness of a requested accommodation, the following factors shall be considered:

A. Special need created by a disability;

B. Potential benefit to current and/or potential residents and/or visitors that can be accomplished by the requested modification;

C. Alternative accommodations which may provide an equivalent level of benefit to residents;

D. Potential impact on surrounding uses;

E. Whether the requested accommodation would impose an undue hardship on the immediate surrounding neighbors;

F. Physical attributes of the property and structures, including consistency of design with the immediate surrounding neighborhood; and

G. Whether the requested accommodation would impose an undue financial or administrative burden on the county.

17.60.080 Notice of decision.

Where the request does not require another planning permit or approval, if there is no request for a public hearing on the request for reasonable accommodation the planning director shall decide whether or not to grant the accommodation within thirty (30) days of mailing the public notice required under Section 17.60.050 above. If there is a public hearing, the planning director shall decide to approve, approve subject to conditions, or deny the accommodation within fifteen days of the hearing. The planning director shall mail a notice of the decision to the applicant, to persons notified of the request under Section 07.60.050 above, and to all other interested parties. Such notice shall contain the Planning Director's factual findings, conclusions, and reasons for the decision.

Where the request is being made in conjunction with another process, the decision shall be part of the decision making process for the project.

17.60.090 Appeal to the Board of Supervisors.

Where the request does not require another planning permit or approval, within ten days after the notice of planning director's decision, any person may appeal the decision in writing to the Board of Supervisors. All appeals shall contain a statement of the grounds for the appeal. All such appeals shall follow procedures per Section 17.54.670 of the county zoning ordinance.

Where the decision is part of another approval, appeal of the decision shall follow the process for the underlying approval.

17.60.100 Term limits for grants of reasonable accommodation.

Where the request for reasonable accommodation involves conversion of a garage to living space, variance from the requirements of this chapter for a secondary unit, or use of a recreational vehicle in a required setback, the request shall include a specific time limit and shall be made contingent on a specific person's actual need for the accommodation.

At the expiration of this period the applicant shall notify the planning director if the need continues. The planning director may extend the term for a period for a specific time limit after following the process described above in Sections 17.60.050 through 17.60.090. If the applicant does not notify the planning director at or before the expiration, or if the planning director does not extend the term, the premises shall be returned to the condition prior to the accommodation. Any violation to the granted term limits shall follow procedures per Chapter 17.59, Abatement of Procedures, of the county zoning ordinance.

Where the request is for any other purpose, including but not limited to encroachment of a ramp or elevator housing into a required setback or construction or placement of accessory structures for medical or other necessary equipment there shall be no time limit on the accommodation.

Nothing in this section shall preclude rescission of the grant of reasonable accommodation as indicated in Section 17.60.110.

17.60.110 Rescission of grants of reasonable accommodation.

Any approval or conditional approval of a request for reasonable accommodation may be rescinded subject to Section 17.54.030 of the county zoning ordinance.

17.60.120 Fees.

There shall be no fee for an application for reasonable accommodation. Fees for appeals to planning director's decision on reasonable accommodation shall be the same as those fees for appeals as established per county ordinance.

(Ord. No. 2006-40, 8-3-06)

## Chapter 17.62 HISTORIC PRESERVATION ORDINANCE

**Sections:**

17.62.010 Title.

This chapter shall be known as the historic preservation ordinance of Alameda County.

(Ord. No. 2012-5, § 6, 1-10-12)

17.62.020 Purpose.

The purpose of this chapter shall be to:

A. Identify, protect, and encourage the preservation of significant architectural, historic, prehistoric and cultural structures, sites, resources and properties in the county;

B. Ensure the preservation, protection, enhancement and perpetuation of historic structures, sites and other resources to the fullest extent feasible;

C. Encourage, through public or private action, the maintenance or rehabilitation of historic structures, sites and other resources;

D. Safeguard the county's historic resources, both public and private projects;

E. Encourage development that sensitively incorporates the retention, preservation and re-use of historic structures, sites and other resources;

F. Foster civic pride in the character and quality of the county's historic resources and in the accomplishments of its people through history;

G. Provide a mechanism, through surveys, nominations and other available means, to compile, update and maintain a register of historic resources within the county;

H. Protect and enhance the county's attraction to tourists and visitors;

I. Provide for consistency with state and federal preservation standards, criteria and practices;

J. Encourage new development that will be aesthetically compatible with historic resources;

K. Make available incentive opportunities to preserve Alameda County's historic resources.

(Ord. No. 2012-5, § 6, 1-10-12)

17.62.030 Definitions.

For the purposes of this chapter, certain words and phrases shall be interpreted as set forth in this section unless it is apparent from the context that a different meaning is intended.

"Alameda County Register" or "register" means the list of properties officially recognized as historically significant by Section 17.62.050 of this chapter.

"Board of Supervisors" or "board" means the Board of Supervisors of the County of Alameda. "Building official" means the building official designated in Chapter 15.08 of Title 15 of this code, and his or her designee(s).

"California Environmental Quality Act" means the California Public Resources Code Section 21000 et seq. as it may be amended. The California Environmental Quality Act may also be referred to in this chapter as "CEQA."

"California Register" means the California Register of Historical Resources as defined in California Public Resources Code Section 5020.1 as it may be amended from time to time.

"California Register resource" means any resource designated on the California Register as it may be amended from time to time.

"Certificate of appropriateness" means a permit approving an alteration to or demolition of a historic resource listed on the Alameda County Register or the demolition of a property otherwise eligible to be listed on the Alameda County Register pursuant to the provisions of this chapter.

"Commission" means the parks, recreation and historical commission.

"Comprehensive survey of historic sites" means the survey of historic resources throughout unincorporated Alameda County that was conducted in conjunction with the creation of this chapter.

"Contributing resource" means a resource designated as a contributing resource by the Board of Supervisors in accordance with this chapter.

"County" means the unincorporated areas of the County of Alameda.

"Cultural resources surveys" means the cultural resources surveys done for the county, including the preliminary cultural resources surveys for the Ashland and Cherryland Districts, the San Lorenzo Area, and the East Valley Area; the comprehensive survey of historic sites; and any other surveys as they may be completed.

"Dangerous building" means an immediately dangerous building or structure as defined in Section 15.08.170 of the Alameda County Building Code.

"Department" means the Alameda County planning department.

"Development project" for the purposes of this chapter means and includes the following:

1. The alteration, modification or rehabilitation of the exteriors of landmarks, contributing resources and non-contributing resources;

2. The alteration, modification or rehabilitation of interiors of landmarks and contributory resources where the interiors constitute "features or characteristics" as defined herein; or

3. New construction within a historic preservation district.

"Director" means the director of the planning department of Alameda County.

"Feature or characteristic" means fixtures, components or appurtenances attached to, contiguous with or otherwise related to a structure or property including landscaping, setbacks, distinguishing aspects, roof attributes, overlays, moldings, sculptures, fountains, light fixtures, windows and monuments. "Feature or characteristic" may include historically and/or architecturally significant interior areas that are accessible to or made available to the public, including, without limitation, areas commonly used as public spaces such as lobbies, meeting rooms, gathering rooms, public hallways, great halls, bank lobbies or other similar spaces. Interior areas that generally are not accessible to or made available to the public, but which occasionally may be visited by business invitees or members of the public, including those on a tour of a facility, do not constitute a "feature or characteristic" for purposes of this chapter.

"Historic resource" or "cultural resource" means, but is not limited to, any object, building, structure, site, area, place, or record which is historically or archaeologically significant, or is significant in the architectural, engineering, scientific, economic, agricultural, educational, social, political, military, or cultural annals of Alameda County.

"Initiation of designation" means the action taken, or the date on which such action is taken, to place a historic resource on the Alameda County Register, including the completion of an application by a property owner, a nomination by the Board of Supervisors, or an adoption of a resolution of intent to nominate by the commission.

"Inventory of potential historic resources" means the repository of information retained by the planning department regarding buildings that have been evaluated for historic significance through an official study. The inventory includes the resources specified in the Alameda County Register, but also includes surveyed structures not yet found to be historic resources.

"Landmark" means a property in unincorporated Alameda County, or a county-owned building or property in an incorporated area of Alameda County, of exceptional historical or architectural value that is an example of an important style, type, or convention, or which are intimately associated with a person, organization, event, or historical pattern of major importance at the local level designated as a landmark by the Board of Supervisors in accordance with this chapter.

"Listed historic resource" means any historic resource listed in the Alameda County Register in accordance with this chapter. "Listed historic resource" includes any resource designated by the Board of Supervisors as a landmark, contributing resource to a historic preservation district, or a structure of merit. "Listed historic resource" does not include a non-contributing resource in a historic preservation district.

"Mills Act" means California Government Sections 50280 et seq., as it may be amended from time to time.

"National Environmental Protection Act" means 42 U.S.C. Section 4321 et seq., as it may be amended from time to time. The National Environmental Protection Act may be referred to in this chapter as NEPA.

"National Historic Preservation Act" means 16 U.S.C. Sec. 470 et seq., as it may be amended from time to time.

"National Register of Historic Places" means the official inventory of districts, sites, buildings, structures and objects significant in American history, architecture, archeology and culture which is maintained by the Secretary of the Interior under the authority of the Historic Sites Act of 1935 and the National Historic Preservation Act of 1966 (16 U.S.C. Sec. 470 et seq., 36 C.F.R. Sections 60, 63).

"National Register resource" means any resource listed in the National Register of Historic Places.

"Nominated resource" means a resource nominated for placement on the Alameda County Register as provided for in Section 17.62.080 of this chapter.

"Nomination" means a nomination for placement of a resource on the Alameda County Register pursuant to Section 17.62.080 of this chapter.

"Non-contributing resources" means all resources within a historic preservation district that are not identified as contributing resources. "Planning commission" means the planning commission of Alameda County. The planning commission is always referred to in this ordinance as "the planning commission," never as "the commission," which is reserved for the parks, recreation and historical commission.

"Preventative maintenance" means any work the sole purpose and effect of which is to correct deterioration, decay or damage and which comply with the Secretary of the Interior's Standards and Guidelines.

"Resource" means any building, structure, site, area, place, feature, characteristic, appurtenance, landscape, landscape plan or improvement.

"Secretary of the Interior Standards" means the Secretary of the Interior Standards for Treatment of Historic Properties found at 36 C.F.R. 68.3, as it may be amended from time to time.

"Significant feature or characteristic" means a feature or characteristic identified by the Board of Supervisors as significant from a historical standpoint pursuant to Section 17.62.080 of this chapter.

"State Historical Building Code" means the State Historical Building Code as contained in Part 8 of Title 24 (California Building Standards Code) of the California Code of Regulations, as it may be amended from time to time.

"Structure of merit" means a resource designated by the Board of Supervisors in accordance with Section 17.62.080C of this chapter.

"Survey" means a process by which resources are documented for landmark, structure of merit, or historic preservation district consideration.

"Zoning code" shall mean Title 17 of the county code, as it may be amended from time to time.

(Ord. No. 2012-5, § 6, 1-10-12)

17.62.040 Cultural resource surveys.

A. The county will maintain a list of all surveys and will use the survey information to identify and protect potentially historic resources as outlined in this chapter. All surveys shall be prepared by or under supervision of an architectural historian satisfying the professional qualification standards for architectural historians specified in the Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation.

B. Three cultural resource surveys of portions of Alameda County were conducted prior to creation of this chapter:

1. Preliminary Cultural Resources Survey, Ashland and Cherryland Districts, San Lorenzo, Alameda County (April 1998);

2. Unincorporated San Lorenzo Historic Building Survey, Alameda County (November 2000); and

3. Historical and Cultural Resource Survey, East Alameda County (June 2005).

C. All properties evaluated in the above surveys, regardless of the conclusions as to their historic significance, will go into an inventory of potential historic resources. This inventory shall also include the results of any future historic resource surveys, including historic resource evaluations done in conjunction with the completion of any Environmental Impact Reports (EIRs) or negative declarations prepared pursuant to CEQA in the county. The planning department shall take appropriate steps to ensure that the inventory is properly maintained and regularly updated. The planning department shall also take appropriate steps to maintain and regularly update a list or compilation of resources within the county that are on the California Register of Historical Resources or the National Register of Historic Places, and to make the list or compilation available for public review and use.

(Ord. No. 2012-5, § 6, 1-10-12)

17.62.050 The Alameda County Register.

A. The list of landmarks, historic preservation districts, contributing resources and structures of merit shall be known, collectively, as the Alameda County Register.

B. Within one hundred eighty (180) days of the effective date of the ordinance codified in this chapter, the following properties are considered eligible for inclusion on the Alameda County Register:

1. Properties deemed likely significant in previous surveys (properties rated "Y" in the Ashland and Cherryland survey, "1" in the San Lorenzo survey and "K" in the East Alameda survey) that, as part of the Comprehensive Survey of Historic Sites in unincorporated Alameda County, were verified to merit continued listing;

2. All landmarks, contributing buildings and historic preservation districts identified in the comprehensive survey that were not identified in any of the three previous surveys;

3. Properties identified by the commission that meet the structure of merit criteria set forth below in Section 17.62080C that were identified prior to the adoption of the ordinance codified in this chapter.

C. Owners of properties specified in subsection B shall be notified in writing that the Board of Supervisors has adopted historic preservation ordinance and as a result their property could be included on the Alameda County Register if they so desire. The property owners shall be notified in the manner specified in Section 17.62.120. Owners of these properties that wish to add their property to the Alameda County Register must submit their written consent to be added to the register to the planning department within one hundred eighty (180) days of the adoption of the ordinance codified in this chapter. Upon receipt of the written consent, the property shall be verified by the director as acceptable by conducting a review of county records and conducting a site visit to confirm that no alterations have been performed that would render the property ineligible for listing. If no written consent to be added to the register is submitted by the owners of properties specified in subsection B to the planning department within one hundred eighty (180) days of the adoption of the ordinance codified in this chapter, such properties will not be added to the register unless they are subsequently nominated pursuant to Section 17.62.080. Lack of receipt of consent by the director pursuant to this subsection shall not constitute a denial of a nomination.

(Ord. No. 2012-5, § 6, 1-10-12)

17.62.060 Criteria and requirements for placement on, and deletion from, the Alameda County Register.

The criteria and requirements for placement on, or deletion from, the Alameda County Register as landmarks, historic preservation districts, contributing resources or structures of merit are as follows:

A. A nominated resource shall be added to the Alameda County Register as a landmark if the Board of Supervisors finds, after holding the hearings required by this chapter, that all of the requirements set forth below are satisfied:

1. The nominated resource meets one or more of the following criteria:

a. It is associated with events that have made a significant contribution to the broad patterns of the history of the county, the region, the state or the nation;

b. It is associated with the lives of persons significant in the county's past;

c. It embodies the distinctive characteristics of a type, period or method of construction;

d. It represents the work of an important creative individual or master;

e. It possesses high artistic values; or

f. It has yielded, or may be likely to yield, information important in the prehistory or history of the county, the region, the state or the nation.

2. The nominated resource has integrity of location, design, setting, materials, workmanship, feeling and association. Integrity shall be judged with reference to the particular criterion or criteria specified in subparagraph (A)(1);

3. The nominated resource has significance historically or architecturally, and its designation as a landmark is reasonable, appropriate and necessary to promote, protect and further the goals and purposes of this chapter.

4. The nominated resource has been evaluated by a qualified historical resources consultant who meets one or more of the Secretary of the Interior's professional qualifications standards or who are certified by the register of professional archaeologists, and the evaluator has submitted documents that provide evidence of the resources historical or architectural significance.

B. A geographic area nominated as a historic preservation district shall be added to the Alameda County Register as a historic preservation district if the Board of Supervisors finds, after holding the hearings required by this chapter, that all of the requirements set forth below are satisfied:

1. The area is a geographically definable area;

2. The area possesses either:

a. A significant concentration or continuity of buildings unified by: a) past events; or b) aesthetically by plan or physical development; or

b. The area is associated with an event, person, or period significant or important to county history.

3. The designation of the geographic area as a historic preservation district is reasonable, appropriate and necessary to protect, promote and further the goals and purposes of this chapter and is not inconsistent with other goals and policies of the county.

4. A historic preservation district shall have integrity of location, design, setting, materials, workmanship, feeling and association.

5. The collective historic value of the buildings and structures in a historic preservation district taken together is greater than the historic value of each individual building or structure.

6. The application is accompanied by a form bearing the signatures of at least fifty-one (51) percent of all property owners within the area of the proposed district.

7. The board finds that the addition of the district to the register does not in any manner interfere, eliminate or otherwise obviate the identification, qualification, designation and preservation requirements of the creation of historic preservation districts pursuant to Chapter 17.20 of this title.

C. A nominated resource shall be added to the Alameda County Register as a structure of merit if the Board of Supervisors finds, after holding the hearing(s) required by this chapter, that it satisfies one or more of the following criteria:

1. It represents in its location an established and familiar visual feature of the neighborhood, community or county; or

2. It materially benefits the historic, architectural or aesthetic character of the neighborhood or area; or

3. It is an example of a type of building that once was common but is now rare in its neighborhood, community or area; or

4. It is connected with a business or use which was once common but is now rare; or

5. It contributes to an understanding of the contextual significance of a neighborhood, community or area.

D. A nominated resource shall be added to the Alameda County Register as a contributing resource if the Board of Supervisors finds, after holding the hearing(s) required by this chapter, that it satisfies one or more of the following criteria:

1. The nominated resource is within a historic district;

2. The nominated resource either embodies the significant features and characteristics of the historic district or adds to the historical associations, historical architectural qualities or archaeological values identified for the historic district;

3. The nominated resource was present during the period of historical significance of the historic district and relates to the documented historical significance of the historic district;

4. The nominated resource either possesses historic integrity or is capable of yielding important information about the period of historical significance of the historic district; and

5. The nominated resource has important historic or architectural worth, and its designation as a contributing resource is reasonable, appropriate and necessary to protect, promote and further the goals and purposes of this chapter.

(Ord. No. 2012-5, § 6, 1-10-12)

17.62.070 Deletions from the register.

An application to delete a listed historic resource from the Alameda County Register may be approved if the Board of Supervisors finds, after holding the hearings required by this chapter, that the listed historic resource no longer meets the requirements set forth above; provided that where a landmark, historic preservation district or structure of merit is proposed for deletion due to a loss of integrity, the loss of integrity was not the result of any illegal act or willful neglect by the owner or agent of the owner.

(Ord. No. 2012-5, § 6, 1-10-12)

17.62.080 Procedures to nominate resources for placement or deletion from the Alameda County Register.

A. The following parties shall have the authority to nominate a resource for placement on or deletion from the Alameda County Register as landmarks, historic preservation districts, contributing resources or structures of merit:

1. The owner of the historic resource proposed for designation, an authorized agent or, in the case of a historic preservation district, no less than fifty-one (51) percent of property owners within the area of the proposed district;

2. The parks, recreation and historical commission; and

3. The Board of Supervisors.

However, no nomination for placement on the Alameda County Register as a landmark, or structure of merit shall proceed without the written consent of the property owner on a form supplied by the county.

B. If designation is initiated by the owner, an application for designation shall be made to the planning department through submittal of the prescribed application form accompanied by a non-refundable filing fee as set forth in the schedule of fees established by resolution of the Board of Supervisors and supporting documentation including, but not limited to, state of California Department of Parks Recreation 523 series forms or other historic resource inventory forms as may be approved by the state. Such documentation must be prepared by an individual who meets the professional qualification standards published by the National Park Service in the Federal Register (Code of Federal Regulation, 36 CFR Part 61), as determined by the State Office of Historic Preservation. Submission of an application for designation shall be deemed written consent by the owner to the designation by the county. If an application is determined to be incomplete, it shall be returned to the applicant and the applicant may re-submit the application with the documentation necessary to complete it without an additional filing fee.

C. The parks, recreation and historical commission may initiate the designation of landmarks, historic preservation districts, contributing resources or structures of merit by adopting a resolution of intent to nominate. The commission may adopt a resolution of intent to nominate on its own motion, at the request of the planning department, or at the request of members of the public. Any resolution of intent to nominate initiated by the commission must be based upon the same documentation that would be required of an owner's application for designation and preliminary findings that the resource potentially meets the criteria for either a landmark, structure of merit, historic preservation district or contributing resource provided in Section 17.62.060. The planning department shall notify the owner and the occupants of the property by certified mail thirty (30) days prior to the commission meeting when the subject property of the resolution of intent to nominate shall be considered for nomination and shall request written consent for designation from the owner on a form supplied by the county. The request for written consent for designation shall inform the property owner of the process to be pursued pursuant to Section 17.62.100 and the right of the property owner to grant or withhold consent regarding nominations by the commission. Notice of public meetings shall follow the guidelines established in Section 17.62.120 of this chapter.

D. The Board of Supervisors may initiate designation of landmarks, historic preservation districts, contributing resources or structures of merit by adopting a resolution identifying the resource to be nominated and transmitting its resolution to the commission. The commission shall consider recommendations to the board regarding a proposed nomination pursuant to Section 17.62.100. If designation is initiated by the Board of Supervisors, such action must be based upon the same documentation that would be required of an owner's application for designation and findings that the resource potentially meets the criteria for either a landmark, structure of merit, historic preservation district or contributing resource provided in Section 17.62.060. The clerk of the Board of Supervisors shall notify the owner and the occupants of the property by certified mail thirty (30) days prior to the Board of Supervisors meeting regarding the initiation of the designation and shall request written consent for designation from the owner on a form supplied by the county. The request for written consent for designation shall inform the property owner of the process to be pursued pursuant to Section 17.62.100 and that the property owner may advise the board of their granting or withholding of consent. Notice of public meetings shall follow the guidelines established in Section 17.62.120 of this chapter.

E. The application, resolution of intent to nominate, or nomination shall indicate the parameters of the historic resource that is being nominated with specificity, including any related structures or landscape that is to be considered.

F. The owner of a historic resource proposed for designation may notify the planning director in writing of their consent, or withholding consent, to the proposed designation at any time after initiation and prior to a final designation by the board.

G. A request to delete a listed resource from the register will be initiated in the same manner and using the same procedure as was followed to nominate a potentially historic resource. The action shall result from new information, the discovery of earlier misinformation or change of original circumstances, conditions or factors that justified the designation. Notice of removal of a listed resource shall be sent to the same persons or other parties as set forth in Section 17.62.120.

(Ord. No. 2012-5, § 6, 1-10-12)

17.62.090 Nominated resource protections pending final decision.

A. Subject to the time limits set forth in subsection B, any nominated resource proposed for consideration as a landmark or contributing resource shall be considered to be a landmark or contributing resource for purposes of Section 17.62.160 herein, and it shall be subject to the restrictions and protections of Section 17.62.160 as if it were a landmark or contributing resource. Any geographic area proposed for consideration as a historic preservation district shall be considered to be a historic preservation district for purposes of Section 17.62.160 herein, and the resources located within the proposed historic preservation district shall be subject to the restrictions and protections of Section 17.62.160 as if they were located within a historic preservation district.

B. The restrictions of subsection A shall apply for a period of one hundred eighty (180) days from the date of a nomination by the Board of Supervisors or adoption by the commission of a resolution of intent to nominate a property as a landmark, a contributing resource or a property within a historic preservation district. After one hundred eighty (180) days have elapsed from the date of the initiation of designation, if the Board of Supervisors has not adopted an ordinance designating the nominated resource as a landmark, contributing resource or historic preservation district, the restrictions and protections established by subsection A shall no longer apply unless the Board of Supervisors has adopted an ordinance to extend the one hundred eighty (180) day limit to consider the nomination.

C. Listed historic resources proposed for deletion from the Alameda County Register shall be subject to the restrictions and protections of Section 17.62.160 unless and until a final decision is made by the Board of Supervisors to delete the listed historic resources from the Alameda County Register.

(Ord. No. 2012-5, § 6, 1-10-12)

17.62.100 Nomination hearing by the parks, recreation and historical commission.

The commission shall conduct public hearings on nominations for designation on, or proposals for deletion from, the Alameda County Register. At the conclusion of hearings, the commission shall make a recommendation to the Board of Supervisors on the nomination or proposal.

A. Notice of the hearing shall be provided pursuant to Section 17.62.120.

B. A hearing on an application shall be scheduled and a recommendation made by the commission within sixty (60) days of the date that the application is determined to be complete. If the commission does not act within the timeframe, the owner may request that the proposal be transmitted directly to the Board of Supervisors for its determination.

C. A hearing on a property subject to a commission resolution of intent to nominate shall be scheduled and a recommendation made by the commission within sixty (60) days of the date that the commission initiated a proposed designation or proposal for deletion. If the commission does not act within the timeframe, the owner may request that the proposed designation be transmitted directly to the Board of Supervisors for its determination, otherwise the nomination for placement shall be considered denied pursuant to Section 17.62.140.

D. A hearing on a nomination proposed by the board shall be scheduled and a recommendation made by the commission within sixty (60) days of the date that the board initiated a proposed designation or proposal for deletion. If the Commission does not act within the timeframe, either the owner or the board may request that the proposed designation be transmitted directly to the Board of Supervisors for its determination, otherwise the nomination for placement shall be considered denied pursuant to Section 17.62.140.

E. A staff report concerning the historic resource under consideration for placement or deletion from the register shall be provided to the commission. The report shall address the significance and integrity of the historic resource as it relates to the designation criteria, provide other relevant information, and include a recommendation concerning the application and the basis therefore. The staff report shall also state whether the owners of the property have consented or withheld consent to the proposed action.

F. In the event of a nomination or proposed deletion of a historic preservation district, the director shall also notify the planning commission. The planning commission shall have at least thirty (30) days to review the proposed designations and boundaries of the historic preservation district, or the proposed deletion. The planning commission may provide comments, however lack of comments by the planning commission shall neither prevent the commission from acting on the nomination or proposed deletion nor preclude any actions by the planning commission authorized under Chapter 17.20.

G. Any recommendation for placement or deletion form the register initiated by the parks, recreation and historical commission shall be supported by a preponderance of the evidence that the historic resource meets or no longer meets the designation criteria for one of the registration categories set forth in Section 17.62.060. The commission shall also include in their analysis whether or not the owner has granted or withheld written consent to the designation. If the owner has not granted written consent to the placement of the property on the register, the commission shall not adopt a resolution of intent to nominate.

H. The commission secretary shall transmit to the Board of Supervisors the commission's recommendations on inclusion on or deletion from the Alameda County Register.

(Ord. No. 2012-5, § 6, 1-10-12)

17.62.110 Action by the Board of Supervisors on amendments to the register.

A. Within sixty (60) days of the receipt of the transmittal by the Clerk of the Board of Supervisors of an action by the commission pursuant to Section 17.62.100, the board shall hold a public hearing thereon. The board may adopt, modify or reject the actions recommended by the commission. In the alternative, the Board of Supervisors may refer the proposed actions to the commission for further hearings, consideration or study. Adoption of any inclusion on or deletion from the Alameda County Register shall be made by uncodified ordinance which shall contain findings of fact in support of each designation. The uncodified ordinance shall identify significant features or characteristics of resources added to the Alameda County Register, and shall identify contributing resources and non-contributing resources in a historic preservation district.

B. Notice of public hearing shall be provided in accordance with Section 17.62.120. In addition, notice shall be published once not less than ten days before the hearing in a newspaper of general circulation.

C. A historic resource placed on the register shall be subject to the provisions set forth in this chapter.

(Ord. No. 2012-5, § 6, 1-10-12)

17.62.120 Notice of public hearing.

A. Notice of public hearings shall be provided as manner described below:

1. Written notice shall be given not less than ten days prior to the hearing to the following individuals:

a. The owners of the nominated resources or the owners of the listed resource proposed for deletion, as shown on the latest tax roll. In the case of a nomination or proposal for deletion regarding a historic preservation district, the notice shall be provided to all property owners within the proposed district or the district proposed for deletion, as shown on the latest tax roll.

b. Where the resource is proposed for inclusion on, or deletion from the register as a landmark, all property owners within five hundred (500) feet of the resource, as shown on the latest tax roll. In the case of a nomination regarding a historic preservation district, the nomination notice shall be provided to all property owners within the proposed district and to all property owners whose property abuts property proposed for inclusion in the historic preservation district.

c. Anyone who has in writing to the commission secretary requested notice of the nomination.

2. If designation is initiated by the commission or Board of Supervisors, notice shall be sent by certified mail to all owners and occupants of the subject properties at the address shown on the most current property tax roll of Alameda County. Such notice shall be in addition to the requirements outlined in subsections (A)(1)(a), (A)(1)(b) and (A)(1)(c) of this subparagraph.

3. The county may in its discretion provide additional notice beyond that specified in this section.

B. The form and contents of the public hearing notice must conform to the standards described below:

1. Common address and assessor's parcel number, if any, of the nominated resource or the resource proposed for deletion;

2. A general explanation of the proposed designation or proposed deletion.

3. The date and place of the public hearing or hearings before the Commission.

(Ord. No. 2012-5, § 6, 1-10-12)

17.62.130 Notice of action by the Board of Supervisors.

A. following adoption by the Board of Supervisors of the resolution placing or removing the resource on the Alameda County Register, a copy of the findings shall be sent by first class mail to the owners and occupants of the designated resource. Staff shall also notify the parks, recreation and historical commission and any agency or department of the county requesting such notice.

B. A certified copy of the resolution, a complete legal description of the resource, and the effective date of the designation or removal of the resource shall be recorded in the records of the county recorder. Failure to record with the county recorder does not invalidate the requirements of this chapter.

C. A disclosure statement, in a form prescribed by the planning director, shall be recorded for all historic resources included on the register. This statement shall be included in any future transfer or sale documents.

(Ord. No. 2012-5, § 6, 1-10-12)

17.62.140 Frequency of nominations.

When a nomination for placement of a resource on the register has been denied, no new nomination for placement of the same or substantially the same resource may be filed or submitted for a period of three years from the effective date of the final denial of the nomination, except that an owner of a resource may file a new nomination following the passage of one year from the date of final denial. Where a nomination for deletion of a listed historic resource from the register has been denied, no new application to delete the same listed historic resource may be filed or submitted for a period of one year from the effective date of the final denial.

(Ord. No. 2012-5, § 6, 1-10-12)

17.62.150 Proposed demolition or relocation of buildings or structures that are at least fifty years old.

A project that may cause a substantial adverse change in the significance of an historical resource is a project that may have a significant effect on the environment. The fact that a resource is not listed in the national, state or Alameda County Register does not preclude a lead agency from determining whether the resource may be eligible for listing in an historical resource for purposes of this section. The screening of demolition permits shall be conducted as prescribed by this chapter.

A. If a permit is sought to demolish or relocate a building or structure that was constructed at least fifty (50) years prior to the date of application for demolition or relocation, and that building or structure is not currently on the register, and is not the subject of a pending nomination to the register, the permit application shall be referred to the planning director to allow the director to make a preliminary determination of whether the structure meets the criteria of a landmark. For purposes of this section, a building or structure for which a building permit was issued and construction commenced not less than fifty (50) years prior to the date of application for a demolition or relocation permit shall be subject to this section, regardless of when the construction was completed, and regardless of whether the building or structure was thereafter expanded, modified or otherwise altered. Absent sufficient evidence to the contrary, the date of issuance of the building permit shall be considered to be the date on which construction commenced.

B. A request to demolish a structure over fifty (50) years in age shall be made to the planning department through submittal of the prescribed application form accompanied by a non-refundable fee as set forth in the schedule of fees established by resolution of the Board of Supervisors and supporting documentation as determined by the planning department.

1. Within forty-five (45) days of receipt of a complete application to demolish or relocate a building or structure as specified under subsection A of this section, the planning director shall make a preliminary determination of whether the building or structure is eligible for listing on the register. In making this preliminary determination, the planning director shall apply the eligibility criteria and factors specified in Section 17.62.080.

2. The planning director shall notify the property owner of the preliminary determination by first-class, prepaid mail. Failure of the planning director to act within the forty-five (45) day period shall be considered to be a determination that the structure is not eligible for listing on the register. For purposes of this section, the decision shall be considered to have been made on or before the date of mailing of the notice.

3. The effects of the preliminary determination are provided below:

a. If the planning director determines that the building or structure is eligible for consideration for listing on the register, the applicant shall be informed that a certificate of appropriateness is required for such demolition. Review of the proposed demolition shall then proceed according to the certificate of appropriateness review procedures outlined in Section 17.62.160.

b. If the planning director determines that the building or structure is not eligible for listing on the Alameda County Register, the permit to demolish or relocate the building or structure shall be issued without further restrictions under this chapter.

(Ord. No. 2012-5, § 6, 1-10-12)

17.62.160 Certificate of appropriateness.

A certificate of appropriateness is required for any alteration, relocation or demolition of a landmark, structure of merit or contributing resource within a historic preservation district. A certificate of appropriateness is also required for new construction on a site occupied by a landmark, structure of merit, contributing resource, or within a historic preservation district. Approval of such work shall be required even if no other permits or entitlements are required by the county. The issuance of a certificate of appropriateness is not required for preventative maintenance or interior work that does not affect the appearance of the exterior.

(Ord. No. 2012-5, § 6, 1-10-12)

17.62.170 Certificate of appropriateness—Application.

The owner or authorized representative shall file an application for a certificate of appropriateness with the planning department on forms provided by the department for such purpose. The application shall be accompanied by material required in application forms and a non-refundable filing fee as set forth in the schedule of fees established by resolution of the Board of Supervisors. As soon thereafter as practicable after the application is deemed complete, the application shall be forwarded to the parks, recreation and historical commission for its review at a public hearing.

(Ord. No. 2012-5, § 6, 1-10-12)

17.62.180 Certificate of appropriateness—Review procedures.

A. The commission may review and make recommendations to the planning director regarding a filed certificate of appropriateness, except for those projects classified as "small projects" under Section 17.62.200. The required public notice of the commission hearing on the review and recommendation of a certificate of appropriateness shall be provided according to the provisions outlined in Section 17.62.120. At such hearing, the applicant and other interested parties shall have the right to present evidence regarding the application for the certificate of appropriateness. The commission may continue the public hearing until its next regular meeting or may defer action after closing the public hearing until its next regular meeting. Final action by the commission shall not be deferred longer than ninety (90) days after the date on which the certificate of appropriateness was initially filed.

B. The commission may recommend approval of the certificate of appropriateness, recommend approval with changes, or it may recommend denial of the application. Any recommendation of the commission shall be in writing and shall state the findings of fact and reasons relied upon to reach the recommendation, and such recommendation shall be forwarded to the planning director.

C. The director shall act on the certificate of appropriateness application within one hundred five (105) days after the date the certificate of appropriateness was filed. The decision of the planning director shall be final unless appealed as provided for in Section 17.62.250.

(Ord. No. 2012-5, § 6, 1-10-12)

17.62.190 Certificate of appropriateness—Permit findings.

The historical resources included in the register, and resources deemed eligible for inclusion pursuant to criteria set forth in this chapter, are presumed to be historically or culturally significant, unless the preponderance of the evidence demonstrates that the resource is not historically or culturally significant. One or more of the following findings are required for the approval of a certificate of appropriateness:

A. The certificate of appropriateness has been conditioned upon all alterations complying with the Secretary of the Interior's Standards for the Treatment of Historic Properties and the Secretary of the Interior's Standards for Rehabilitation and Illustrated Guidelines for Rehabilitating Historic Buildings, and with the California Historical Building Code and the California Health and Safety Code Section 18950 et seq., as amended, and applied to the project by the building official;

B. The proposed alteration, relocation or demolition would not destroy or have a significant adverse affect on the integrity of the designated resource, and the resource will retain the essential elements that make it significant;

C. In the case of any proposed alteration that includes detached new construction on the parcel occupied by the designated landmark, contributing resource or within the historic preservation district, the exterior features of such new construction would not have a significant adverse affect or be incompatible with the exterior features of the designated resource(s).

D. There is no feasible alternative that would avoid the significant adverse affect on the integrity of the designated resource. The owner shall provide facts and substantial evidence demonstrating that there is no feasible alternative to the proposed alteration or demolition that would preserve the integrity of the designated resource. In the case of demolition, up to a six-month waiting period may be imposed by the Board of Supervisors from the date of the commission hearing at which the commission recommendation was made.

(Ord. No. 2012-5, § 6, 1-10-12)

17.62.200 Certificate of appropriateness—Small project review.

A. Applicants may obtain a certificate of appropriateness by going through small project review if the proposed alteration or demolition is determined eligible for such review. After the application for small project review is deemed complete by the planning department, the department director or designee shall evaluate the application within ten working days to determine its eligibility for small project review which includes the following:

1. Demolition or removal of non-contributing features, including, but not limited to, non-contributing additions, garages, accessory structures or incompatible, previously replaced windows, doors or siding material;

2. Any undertaking that does not change exterior features, including but not limited to, re-roofing if the roofing material is compatible in appearance, color and profile to the existing or original roofing material;

3. Replacement of windows and doors if the proposed replacements match the existing or original windows and doors;

4. Addition less than two hundred (200) square feet proposed for side or rear elevations; and

5. Any other undertaking determined by the department director or designee to not materially alter the features or have an adverse effect on the integrity of a landmark.

B. If the proposed alteration or demolition meets the small project review eligibility criteria and is deemed to be consistent with the Secretary of the Interior's Standards, the department director or designee may approve the certificate of appropriateness and notify the commission of such action. If a certificate of appropriateness is granted under small project review, no public hearing shall be required.

C. If the proposed alteration or demolition does not meet the small project review eligibility criteria and/or is not consistent with the Secretary of the Interior's Standards, the department director or designee shall forward the application to the commission for its review and recommendation according to the standard certificate of appropriateness process. No hearing shall be required on the decision by the planning director to elevate the review of a certificate of compliance to the commission, and this decision of the planning director shall be final and shall not be subject to appeal.

(Ord. No. 2012-5, § 6, 1-10-12)

17.62.210 Certificate of appropriateness—Permit expiration.

A. Unless extended pursuant to subsection C of this section, a certificate of appropriateness for the demolition of a building or structure shall expire at the end of one hundred eighty (180) days from the date of issuance of the certificate of appropriateness unless a demolition permit or a building permit for the demolition work has been obtained and exercised. For purposes of this section, the term exercised means substantial expenditures in good faith reliance upon the permit. The burden of proof in showing substantial expenditures in good faith reliance upon the permit shall be placed upon the permit holder.

B. Unless extended pursuant to subsection C of this section, a certificate of appropriateness for other than a demolition shall expire at the end of three years from the date of issuance unless a building permit has been obtained and exercised for the project or, if no building permit is required for the work, the work has physically commenced. For purposes of this section, the term "exercised" means substantial expenditures in good faith reliance upon the building permit. The burden of proof in showing substantial expenditures in good faith reliance upon the building permit shall be placed upon the permit holder.

C. Applications for extensions shall be handled in the manner described below:

1. Except as provided in subsection (C)(2) of this section, one or more extensions of a certificate of appropriateness may be granted for a cumulative total extension period of five years upon application to the planning director filed no later than thirty (30) days prior to expiration. The application for extension of a certificate of appropriateness shall be subject to staff review under the general direction of the planning director.

2. A certificate of appropriateness for the demolition of a building or structure may be extended for a period of up to an additional forty-five (45) days upon application to the planning director filed no later than thirty (30) days prior to expiration. The application for extension of a certificate of appropriateness shall be subject to staff review under the general direction of the planning director or his or her designee.

D. An application for a modification to a final approval of a certificate of appropriateness application or a condition of approval of a certificate of appropriateness application shall be heard and/or considered in the same manner and by the same body as the original certificate of appropriateness application.

(Ord. No. 2012-5, § 6, 1-10-12)

17.62.220 Certificate of appropriateness—Permit revocation.

The planning director or designee may, in writing, revoke a certificate of appropriateness for reasons of 1) non-compliance with any terms or conditions of the certificate of appropriateness; or 2) finding of fraud or misrepresentation used in the process of obtaining the certificate of appropriateness.

(Ord. No. 2012-5, § 6, 1-10-12)

17.62.230 Notification by the building official.

The building official shall forward to the planning department all applications for permits or other entitlements in which all or part of the work to be performed thereunder is subject to the review of the commission or planning department.

(Ord. No. 2012-5, § 6, 1-10-12)

17.62.240 County projects.

A. Except as provided herein, the provisions of this chapter requiring hearing(s) before the commission or planning department shall apply to development projects involving, or requests for demolition or relocation of, landmarks, structures of merit or contributing resources which are owned by the county, including public projects within the Alameda County national historic landmark, historic preservation district; provided that the commission or planning department shall make a recommendation to the county Board of Supervisors or other county decision-making body, entity or person, rather than issuing a decision. When acting on county projects, the Board of Supervisors or other county decision-making body, entity or person shall apply the same standards, and make the same findings, required by this chapter for private projects.

B. The Board of Supervisors may, by resolution or ordinance, exempt from review by the planning department or commission individual county projects or categories of county projects.

(Ord. No. 2012-5, § 6, 1-10-12)

17.62.250 Appeals.

A. Any interested person who is dissatisfied by the decision of the department director may appeal the determination to the Board of Supervisors. Appeals shall be submitted in writing not more than ten days following the date the action was taken by the director. The appeal may be taken by any property owner or other person aggrieved by the order within a said ten-day period, by filing with the clerk of the Board of Supervisors a notice of appeal that specifying the grounds for such appeal. The appellant shall pay a nonrefundable filing fee as set forth in the schedule of fees established by resolution of the Board of Supervisors.

B. The Board of Supervisors shall give written notice of the time and place for hearing any appeal. Such notice may be published and shall be given to the applicant, to the appellant, to the agency which made the order appealed, and to any other persons requesting such notice and depositing with the clerk of the board a self-addressed, stamped envelope to be used for this purpose.

C. Within thirty (30) days of the notice to appeal, or as soon thereafter as is practicable, the Board of Supervisors shall hold a hearing on the appeal and shall sustain, modify or overrule any order brought before it pursuant to subsection A of this section.

(Ord. No. 2012-5, § 6, 1-10-12)

17.62.260 Dangerous buildings and immediately dangerous buildings, structures or resources.

The building official shall notify the planning director upon designation of any listed historic resource or any nominated resource as a substandard, dangerous, or immediately dangerous building, structure or resource.

(Ord. No. 2012-5, § 6, 1-10-12)

17.62.270 Demolition and abatement—Listed historic resources.

A. The provisions of this chapter shall not be construed to regulate, restrict, limit or modify the authority of the county and the building official or his or her designee(s) as specified below, to issue demolition or other permits under the building code set forth in Title 15 of this code for the abatement of any nominated resource or any listed historic resource determined to be immediately dangerous, and a threat to public health and safety.

B. Only such work that has been found reasonably necessary as determined by the county's building official to correct the unsafe or dangerous condition may be performed pursuant to this subsection.

(Ord. No. 2012-5, § 6, 1-10-12)

17.62.280 Dangerous buildings—Deletion from register.

A. When an individually listed resource on the register, or portion thereof, has been lawfully demolished, removed or disturbed pursuant to any provisions of this chapter, the clerk of the board upon notice from the planning director, shall cause the resource, or portion thereof, to be deleted from the register. Upon deletion, the provisions of this chapter shall not be considered to encumber any remaining property on which the resource was located. Landmark(s) in which a majority of the significant feature(s) and characteristic(s) are destroyed by natural disaster(s), acts of God or other similar events not attributable to the willful or intentional action of the owner or owner's agent, shall be considered lawfully demolished, removed or disturbed for the purposes of this section.

B. When a listed historic resource in a historic district, or portion thereof, has been lawfully demolished, removed or disturbed pursuant to any provisions of this chapter, the clerk of the board upon notice from the planning director, shall cause such listed historic resource, or portion thereof, to be downgraded to a noncontributing resource in the historic district. Listed historic resource(s) in a historic district in which a majority of the significant feature(s) and characteristic(s) are destroyed by natural disaster(s), acts of God or other similar events not attributable to the willful or intentional action of the owner or owner's agent shall be considered lawfully demolished, removed or disturbed for the purposes of this section.

(Ord. No. 2012-5, § 6, 1-10-12)

17.62.290 Preservation incentives.

In order to further the goal of historic preservation in Alameda County and the purposes of this chapter, the commission shall develop economic and other incentive programs to support the preservation, maintenance, and appropriate rehabilitation of designated landmarks and recommend to the Board of Supervisors the adoption and implementation of such programs.

(Ord. No. 2012-5, § 6, 1-10-12)

17.62.300 California State Historical Building Code.

The building official is authorized to use and shall use the California Historical Building Code for projects involving landmarks and contributing resources. The parks, recreation and historical commission and the planning director are authorized to and shall utilize the California Historical Building Code for preservation projects.

(Ord. No. 2012-5, § 6, 1-10-12)

17.62.310 Mills Act contracts.

A. Mills Act (California Govt. Code Section 50280 et seq.) contracts granting property tax relief shall be made available by the county only to owners of properties listed in the Alameda County Register (either as landmarks or as contributing resources within historic preservation districts), as well as properties located within the county that are listed in: the National Register of Historic Places (either as individual listings or as contributing properties within National Register historic preservation districts); or the California Register of Historical Places. Such owners may qualify for property tax relief if they pledge to rehabilitate and maintain the historical and architectural character of the property for a minimum ten-year period. Properties that have been previously listed on the above-mentioned register(s), but that have been removed from the register(s) and are no longer listed, shall not be eligible for a Mills Act contract with the county.

B. Mills Act contracts shall be made available pursuant to California law. The planning department shall make available appropriate Mills Act application materials.

C. Mills Act contract applications shall be made to the planning department, who shall, within sixty (60) days of receipt of a completed application, prepare and make recommendations on the contents of the contract for consideration by the Board of Supervisors. A fee for the application, to cover all or portions of the costs of the preparation of the contract in the amounts set by Board of Supervisors resolution may be charged.

D. The Board of Supervisors shall, in public hearing, resolve to approve, approve with conditions, or deny the proposed contract. Should the Board of Supervisors fail to act on the proposed contract within one year of its receipt of the proposal, the proposal shall be deemed denied.

E. A Mills Act contract application that has failed to be approved by the Board of Supervisors cannot be resubmitted for one year from the date of county Board of Supervisors action, or where the Board of Supervisors fails to take action, within one year from the date that the application is deemed denied pursuant to subsection D above.

(Ord. No. 2012-5, § 6, 1-10-12)

17.62.320 Other government-sponsored incentive programs.

The county shall make available information to owners of historic resources information about local, state, and federal incentives programs.

(Ord. No. 2012-5, § 6, 1-10-12)

17.62.330 Minimum maintenance requirements.

A. The owner, lessee or other person legally in possession of a listed historic resource shall comply with all applicable codes, laws and regulations governing the maintenance of property. Every historic resource shall be maintained in good repair by the owner or such other person who has legal possession or control thereof, in order to preserve the historic resource against decay and deterioration to the greatest extent practicable. It is the intent of this section to preserve from deliberate or inadvertent neglect the exterior features of listed historic resources and the interior portions thereof when such maintenance is necessary to prevent deterioration and decay of the exterior. Listed historic resources shall be preserved against such decay and deterioration and shall remain free from structural defects through prompt corrections of any of the following defects:

1. Façades that may fall and injure members of the public or damage property;

2. Deteriorated or inadequate foundation, defective or deteriorated flooring or floor supports, deteriorated walls or other vertical structural supports;

3. Members of ceilings, roofs, ceiling and roof supports or other horizontal members which sag, split or buckle due to defective material or deterioration;

4. Deteriorated, crumbling or loose exterior plaster;

5. Deteriorated or ineffective waterproofing of exterior walls, roofs, foundations or floors, including broken windows or doors;

6. Defective or insufficient weather protection for exterior wall covering, including lack of paint or other protective covering;

7. Any fault or defect in the building which renders it structurally unsafe or not properly watertight.

B. If the commission has reason to believe that a historic resource is being neglected and subject to damage from weather or vandalism, the commission shall direct the planning department to meet with the owner or other person having legal custody and control of the resource and to discuss with them the ways to improve the condition of the property. If no attempt or insufficient effort is made to correct any noted conditions thereafter, the commission may, at a noticed public hearing, make a formal request that the planning department or other appropriate department or agency take action to require corrections of defects in the subject resource in order that such resource may be preserved in accordance with this chapter.

(Ord. No. 2012-5, § 6, 1-10-12)

17.62.340 Enforcement and penalties.

The code enforcement manager and building official, and designees, are hereby authorized to enforce the provisions of this chapter, and, in addition to all other powers available to them in the enforcement of this chapter. The county counsel is authorized to take such legal actions as are lawfully available. A certificate of appropriateness shall not be issued for the demolition of a historic resource because of the failure of the owner to comply with the provisions of this section.

A. No person shall cause, willfully or otherwise, by action or inaction, alteration of, environmental change to, damage to or demolition of any significant feature(s) or characteristic(s) of a landmark or all or portion of a historic preservation district, or other listed historic resource, or National Register resource or California Register resource without first having obtained a proper county authorization for same.

B. Any person who violates a requirement of this chapter or fails to obey an order issued by the commission or comply with a condition of approval of any certificate or permit issued under this chapter shall be guilty of a misdemeanor.

C. For purposes of this chapter, each daily violation shall be considered a new and separate offense.

D. Any alteration or demolition of a historic resource in violation of this chapter is expressly declared to be a nuisance and shall be abated by restoring or reconstructing the property to its original condition prior to the violation. Any person or entity that demolishes or substantially alters or causes substantial alteration or demolition of a structure, in violation of the provisions of this chapter, shall be liable for a civil penalty.

E. Alteration or demolition of a historic resource in violation of this chapter shall authorize the county to issue a temporary moratorium for the development of the subject property for a period not to exceed twenty-four (24) months from the date the county becomes aware of the alteration or demolition in violation of this chapter. The purpose of the moratorium is to provide the county an opportunity to study and determine appropriate mitigation measures for the alteration or removal of the historic resource, and to ensure measures are incorporated into any future development plans and approvals for the subject property. Mitigation measures as determined by the planning department and commission shall be imposed as a condition of any subsequent permit for development of the subject property.

F. In the case of demolition, the civil penalty shall be equal to one-half the assessed value of the historic resource prior to the demolition. In the case of alteration, the civil penalty shall be equal to one-half the cost of restoration of the altered portion of the historic resource. Once the civil penalty has been paid, building and construction permits and/or a certificate of occupancy may be issued.

G. The county counsel may maintain an action for injunctive relief to restrain a violation or cause, where possible, the complete or partial restoration, reconstruction or replacement of any structure demolished, partially demolished, altered or partially altered in violation of this chapter.

(Ord. No. 2012-5, § 6, 1-10-12)

17.62.350 Additional penalties.

The penalties provided for in this chapter are designated as non-exclusive, and are in addition to any other remedies the county may have.

(Ord. No. 2012-5, § 6, 1-10-12)

17.62.360 General provisions.

Judicial review of any final decision under this chapter shall be filed within thirty (30) days of the date of the decision, and review shall be pursuant to Section 1094.5 of the Code of Civil Procedure.

(Ord. No. 2012-5, § 6, 1-10-12)

17.62.370 Fees.

The Board of Supervisors may, by resolution, establish the fee(s) for submission of the nomination, and all other applications and submissions made pursuant to this chapter. In the absence of a Board of Supervisors resolution, the planning department may establish the fee and charge schedule.

(Ord. No. 2012-5, § 6, 1-10-12)

17.62.380 County code references.

All references in this chapter to sections of this code shall incorporate those sections as such sections may be amended from time to time.

(Ord. No. 2012-5, § 6, 1-10-12)

17.62.390 Severability.

Should any section or other portion of this chapter be determined to be unlawful or unenforceable by a court of competent jurisdiction, the remaining section(s) and portion(s) of this chapter shall be considered severable and shall remain in full force and effect.

(Ord. No. 2012-5, § 6, 1-10-12)

17.62.400 Other laws.

There are many other laws, regulations and ordinance that apply to land use, development, and construction activities. The provisions of this historic preservation ordinance are intended to be in addition to and not in conflict with these other laws, regulations and ordinances. If any provision of this historic preservation ordinance conflicts with any duly adopted and valid statutes of the federal or state government of the state of California, the federal and state statutes shall take precedence.

(Ord. No. 2012-5, § 6, 1-10-12)

## Chapter 17.64 WATER EFFICIENT LANDSCAPE ORDINANCE

**Sections:**

17.64.010 Authority.

This chapter is enacted pursuant to California Government Code Section 65591 et seq. and is a "water-efficient landscape ordinance" adopted by a local agency under the provisions of said section.

(Ord. No. 2012-43, § 1, 7-24-12)

17.64.020 Purpose.

The Board of Supervisors finds and declares that it is in the public interest to promote the conservation and efficient use of water and to prevent the waste of this valuable resource while recognizing the values and benefits of landscapes as essential to the quality of life in California. Landscapes provide areas for active and passive recreation and enhance the environment by cleaning air and water, preventing erosion, offering fire protection, and replacing ecosystems lost to development. The purpose of the regulations set forth in this chapter is to establish a structure for planning, designing, installing, maintaining and managing water effi cient landscapes in new construction and rehabilitated projects and establish provisions for water management practices and water waste prevention for existing landscapes. To the extent that a conflict exists between this chapter and other portions of the county ordinance, the requirements of this chapter shall control.

(Ord. No. 2012-43, § 1, 7-24-12)

17.64.030 Applicability.

A. After January 1, 2010, this chapter shall apply to all of the following landscape projects:

1. New and rehabilitated landscapes for public agency projects and private commercial development projects that increase the area of irrigated landscape by an amount equal to or greater than two thousand five hundred (2,500) square feet and that are part of a project requiring a building permit, plan check or planning permit.

2. New and rehabilitated landscapes which are developer installed for single-family and multi-family projects that increase the area of irrigated landscape by an amount equal to or greater than two thousand five hundred (2,500) square feet and that are part of a project requiring a building permit, plan check or planning permit.

3. New and rehabilitated landscapes that are homeowner provided or homeowner-hired in single-family and multi-family residential projects that increase the area of irrigated landscape by an amount equal to or greater than five thousand (5,000) square feet and that are part of a project requiring a building permit, plan check or planning permit.

4. Existing landscapes as limited by Section 17.64.180.

5. Cemeteries: Recognizing the special landscape management needs of cemeteries, new and rehabilitated cemeteries are governed by §§ 492.4, 492.11, and 492. 12 of the California Code of Regulations or successor document and existing cemeteries are governed by §§ 493, 493.1, and 493.2 of the California Code of Regulations or successor document.

B. This chapter does not apply to:

1. Registered local, state or federal historical sites;

2. Ecological restoration projects that do not require a permanent irrigation system;

3. Mined-land reclamation projects that do not require a permanent irrigation system; or

4. Plant collections, as part of botanical gardens and arboretums open to the public.

(Ord. No. 2012-43, § 1, 7-24-12)

17.64.040 Definitions.

The following words and phrases whenever used in this chapter shall be construed as defined below:

"Certificate of completion" means the document required by Section 17.64.120.

"Certified landscape irrigation auditor" means a person certified to perform landscape irrigation audits by an accredited academic institution, a professional trade organization or other program such as the US Environmental Protection Agency's WaterSense irrigation auditor certification program and Irrigation Association's Certified Landscape Irrigation Auditor program.

"Compost" means the product of controlled biological decomposition of organic materials, often including urban plant debris and food waste. It is an organic matter resource that has the unique ability to improve the chemical, physical and biological characteristics of soils or growing media. It contains plant nutrients but is typically not characterized as a fertilizer. (Excerpted from US Compost Council, Field Guide to Compost Use.)

"Drought resistant soil" means soil that has been managed by amending with compost and covering with mulch, for example, to maximize rainfall infiltration, increase the soil's capacity to hold water, and allow for plant roots to penetrate and proliferate such that the landscape can survive with less than optimal water (i.e., less than maximum applied water allowance (MAWA)).

"Ecological restoration project" means a project where the site is intentionally altered to establish a defined, indigenous, historic ecosystem.

"Established landscape" means the point at which plants in the landscape have developed significant root growth into the soil. Typically, most plants are established after one or two years of growth.

"Estimated Total Water Use" (ETWU) means the total water used for the landscape as described in Section 17.64.070.

"ET Adjustment Factor" (ETAF) means a factor of 0.7, that, when applied to reference evapotranspiration, adjusts for plant factors and irrigation efficiency, two major influences upon the amount of water that needs to be applied to the landscape. A combined plant mix with a site-wide average of 0.5 is the basis of the plant factor portion of this calculation. For purposes of the ETAF, the average irrigation efficiency is 0.71. Therefore, the ET Adjustment Factor is (0.7) = (0.5/0.71). ETAF for a Special Landscape Area shall not exceed 1.0. ETAF for existing non rehabilitated landscapes is 0.8.

ETo. See reference evapotranspiration.

"Hardscapes" means any durable material (pervious and non-pervious).

"Hydrozone" means a portion of the landscaped area having plants with similar water needs. A hydrozone may be irrigated or non-irrigated.

"Infiltration rate" means the rate of water entry into the soil expressed as a depth of water per unit of time (e.g., inches per hour).

"Integrated pest management" (IPM) means a sustainable approach to managing pests that combines biological, cultural, physical and chemical tools in a way that minimizes economic, health, and environmental risks.

"Irrigation audit" means an in-depth evaluation of the performance of an irrigation system conducted by a certified landscape irrigation auditor. An irrigation audit includes, but is not limited to: inspection, system tune-up, system test with distribution uniformity or emission uniformity, reporting overspray or runoff that causes overland flow, and preparation of an irrigation schedule.

"Irrigation efficiency" (IE) means the measurement of the amount of water beneficially used divided by the amount of water applied. Irrigation efficiency is derived from measurements and estimates of irrigation system characteristics and management practices. The minimum average irrigation efficiency for purposes of this chapter is 0.71. Greater irrigation efficiency can be expected from well designed and maintained systems.

"Irrigation survey" means an evaluation of an irrigation system that is less detailed than an irrigation audit. An irrigation survey includes, but is not limited to, inspection, system test, and written recommendations to improve performance of the irrigation system.

"Irrigation water use analysis" means an analysis of water use data based on meter readings and billing data.

"Landscape area" (LA) means all the planting areas, turf areas, and water features in a landscape design plan subject to the maximum applied water allowance calculation. The landscape area does not include footprints of buildings or structures, sidewalks, driveways, parking lots, decks, patios, gravel or stone walks, other pervious or non-pervious hardscapes, and other non-irrigated areas designated for non-development (e.g., open spaces and existing native vegetation).

"Landscape project" means total area of landscape in a project as defined in "landscape area" for the purposes of this chapter.

"Maximum applied water allowance" (MAWA) means the upper limit of annual applied water for the established landscaped area as specified in Section 17.64.070. It is based upon the area's reference evapotranspiration, the ET adjustment factor, and the size of the landscape area. The estimated total water use shall not exceed the maximum applied water allowance. Special landscape areas, including recreation areas, areas permanently and solely dedicated to edible plants such as orchards and vegetable gardens, and areas irrigated with recycled water are subject to the MAWA with an ETAF not to exceed 1.0.

"Mined-land reclamation projects" means any surface mining operation with a reclamation plan approved in accordance with the Surface Mining and Reclamation Act of 1975.

"Mulch" means any organic material such as leaves, arbor or wood chips, recycled wood waste, 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.

"New construction" means, for the purposes of this chapter, a new building with a landscape or other new landscape, such as a park, playground, or greenbelt without an associated building.

"Overspray" means the irrigation water which is delivered beyond the target area.

"Permit" means an authorizing document issued by local agencies for new construction or rehabilitated landscapes.

"Pervious" means any surface or material that allows the passage of water through the material and into the underlying soil.

"Plant factor" (PF) is a factor, when multiplied by ETo, estimates the amount of water needed by plants. For purposes of this chapter, the plant factor range for low water use plants is 0 to 0.3, the plant factor range for moderate water use plants is 0.4 to 0.6, and the plant factor range for high water use plants is 0.7 to 1.0. Plant factors cited in this chapter are derived from the Department of Water Resources 2000 publication "Water Use Classification of Landscape Species".

"Project applicant" means the individual or entity submitting a landscape documentation package to request a permit, plan check, or design review from the local agency. A project applicant may be the property owner or his or her designee.

"Record drawings" means a set of reproducible drawings which show significant changes in the work made during construction and which are usually based on drawings marked up in the field and other data furnished by the contractor.

"Recreational area" means areas dedicated to active play such as parks, sports fields, and golf courses where turf provides a playing surface.

"Recycled water" means treated or recycled waste water of a quality suitable for non-potable uses such as landscape irrigation and water features. This water is not intended for human consumption.

"Reference evapotranspiration" (ETo) means a standard measurement of environmental parameters which affect the water use of plants. ETo is expressed in inches per day, month, or year, and is an estimate of the evapotranspiration of a large field of four- to seven-inch tall, cool-season grass that is well watered. Reference evapotranspiration is used as the basis of determining the maximum applied water allowance so that regional differences in climate can be accommodated.

"Rehabilitated landscape" means any re-landscaping project that requires a permit, plan check, or design review, meets the requirements of Section 17.64.030, and the modified landscape area is equal to or greater than two thousand five hundred (2,500) square feet, is at least fifty (50) percent of the total landscape area, and the modifications are completed within one year of application submittal.

"Runoff" means water which is not absorbed by the soil or landscape to which it is applied and flows from the landscape area. For example, runoff may result from water that is applied at too great a rate (application rate exceeds infiltration rate) or when there is a slope.

"Water feature" means a design element where open water performs an aesthetic or recreational function. Water features include ponds, lakes, waterfalls, fountains, artificial streams, spas, and swimming pools (where water is artificially supplied). The surface area of water features is included in the high water use hydrozone of the landscape area. Constructed wetlands used for on-site wastewater treatment or stormwater best management practices that are not irrigated and used solely for water treatment or stormwater retention are not water features and, therefore, are not subject to the water budget calculation.

"Watering window" means the time of day irrigation is allowed.

(Ord. No. 2012-43, § 1, 7-24-12)

17.64.050 Compliance with landscape documentation package.

A. Prior to construction, the county planning department shall:

1. Provide the project applicant with the chapter and procedures for permits, plan checks, or design reviews;

2. Review the landscape documentation package submitted by the project applicant;

3. Approve or deny the landscape documentation package; and

4. Issue a permit or approve the plan check or design review for the project applicant.

B. Prior to construction, the project applicant shall:

1. Submit a landscape documentation package to the county planning department.

C. Upon approval of the landscape documentation package by the county planning department, the project applicant shall:

1. Receive a permit or approval of the plan check or design review and record the date of the permit in the certificate of completion; and

2. Submit a copy of the approved landscape documentation package along with the record drawings, and any other information to the property owner or his/her designee.

(Ord. No. 2012-43, § 1, 7-24-12)

17.64.060 Landscape documentation package.

The landscape document package shall follow the requirements of § 492.3 of the California Code of Regulations or successor document.

(Ord. No. 2012-43, § 1, 7-24-12)

17.64.070 Water efficient landscape worksheet.

A project applicant shall complete a water efficient landscape worksheet that meets the requirements of California Code of Regulations § 492.4 or successor document.

(Ord. No. 2012-43, § 1, 7-24-12)

17.64.080 Soil management report.

The project applicant or designee shall complete a soil management report addressing soil attributes of the project site in order to create drought resistant soil, reduce runoff, and encourage healthy plant growth. The soil management report shall meet the requirements of California Code of Regulations § 492.5 or successor document. The project applicant shall submit the report as part of the landscape documentation package. The report shall be available to the professionals preparing the landscape design plans and irrigation design plans to make any necessary adjustments to the design plans. The project applicant shall submit documentation verifying implementation of soil management report recommendations to the county with the certificate of completion.

(Ord. No. 2012-43, § 1, 7-24-12)

17.64.090 Landscape design plan.

The project applicant shall submit a landscape design plan meeting the requirements of California Code of Regulations § 492.6 or successor document as part of the landscape documentation package. This plan shall:

A. Screen infrastructure such as drains and catch basins with trees and shrubs to maintain a naturalized appearance.

B. Install effective screening for areas of stormwater treatment areas with landscape plants, berms, or other natural features.

C. Use of accent trees and shrubs.

D. Avoid homogeneous plantings in areas generally visible from the public right of way.

E. Specify installation of mature plants where feasible; shrubs and trees shall be installed at a size to serve intended screening purposes at time of installation.

F. Specify the use a variety of landscape plants with respect to palette, height and dimension.

G. Specify use of sixty (60) percent of landscaping that does not go dormant during the summer periods.

(Ord. No. 2012-43, § 1, 7-24-12)

17.64.100 Irrigation design plan.

The project applicant shall submit an irrigation design plan meeting the requirements of California Code of Regulations § 492.7 or successor document and the manufacturers' recommendations as part of the landscape documentation package. The irrigation system and its related components shall be planned and designed to allow for proper installation, management, and maintenance. For the efficient use of water, all irrigation schedules shall be developed, managed, and evaluated to utilize the minimum amount of water required to maintain plant health. Irrigation schedules shall meet the requirements of California Code of Regulations § 492.10 or successor document.

(Ord. No. 2012-43, § 1, 7-24-12)

17.64.110 Grading design plan.

The project applicant shall submit a grading plan meeting the requirements of California Code of Regulations § 492.8 or successor document designed to minimize soil erosion, runoff, and water waste as part of the landscape documentation package. A comprehensive grading plan prepared by a civil engineer for permits satisfies this requirement.

(Ord. No. 2012-43, § 1, 7-24-12)

17.64.120 Certificate of completion.

The project applicant shall submit a signed certificate of completion to the planning department prior to requesting a landscape inspection. The certificate of completion shall meet the requirements the California Code of Regulations § 492.9 or successor document. The planning department shall perform a final inspection upon receipt of the certificate of completion verifying implementation of the approved landscape and irrigation plans and soil report recommendations and, upon verification of conformance with the chapter, sign the permit card.

(Ord. No. 2012-43, § 1, 7-24-12)

17.64.130 Landscape and irrigation maintenance schedule.

A. Landscapes shall be maintained to ensure water use efficiency. A regular maintenance schedule shall be submitted with the certificate of completion.

B. A regular maintenance schedule shall include, but not be limited to, routine inspection; adjustment and repair of the irrigation system and its components; aerating and dethatching turf areas; replenishing mulch; fertilizing; pruning; weeding in all landscape areas, and removing and obstruction to emission devices. Operation of the irrigation system outside the normal watering window is allowed for auditing and system maintenance.

C. Repair of all irrigation equipment shall be done with the originally installed components or their equivalents.

D. A project applicant is encouraged to implement sustainable or environmentally friendly practices for overall landscape maintenance. The following are highly recommended.

E. After project completion and coincident with periodic stormwater quality inspections, the planning director shall inspect the installed landscape and may require modifications to the plantings and/or ground cover, if necessary, in order to:

1. Replant areas where dead or moribund plants are found;

2. Effectively screen infrastructure such as but not limited to gratings, standpipes, and junction boxes;

3. Effectively screen areas of bare dirt arising from plant mortality or deficiencies in plant growth or the landscape design.

(Ord. No. 2012-43, § 1, 7-24-12)

17.64.140 Irrigation audit, survey, and water use analysis.

A. All landscape irrigation audits shall be conducted by a certified landscape irrigation auditor.

B. For new construction and rehabilitated landscape projects installed after January 1, 2010:

1. The project applicant shall submit an irrigation audit report with the certificate of completion to the water supplier that may include, but is not limited to: inspection, system tune-up, system test with distribution uniformity, reporting overspray or run off that causes overland flow, and preparation of an irrigation schedule;

2. The water supplier shall administer programs that may include, but not be limited to, irrigation water use analysis, irrigation audits, and irrigation surveys for compliance with the maximum applied water allowance.

(Ord. No. 2012-43, § 1, 7-24-12)

17.64.150 Stormwater management.

A. Stormwater management practices minimize runoff and increase infiltration which recharges groundwater and improves water quality. Implementing stormwater best management practices into the landscape and grading design plans to minimize runoff and to increase on-site retention and infiltration are encouraged. Examples include:

1. Rain gardens, infiltration beds, swales and basins that allow water to collect and soak into the ground;

2. Constructed wetlands and retention ponds that retain water, handle excess flow and filter pollutants; and

3. Pervious or porous surfaces (e.g., permeable pavers or blocks, pervious or porous concrete, etc.) that minimize runoff.

B. Rain harvesting or catchment technologies such as cisterns are recommended for storage and use of rainwater to satisfy a percentage of the landscape irrigation requirements.

C. Project applicants shall refer to the Alameda county public works agency for information on any applicable stormwater ordinances and stormwater management plans.

(Ord. No. 2012-43, § 1, 7-24-12)

17.64.160 Public education.

All model homes that are landscaped shall use signs and written information to demonstrate the principles of water efficient landscapes described in this chapter.

A. Signs shall be used to identify the model as an example of a water efficient landscape featuring elements such as hydrozones, irrigation equipment, and others that contribute to the overall water efficient theme.

B. Information shall be provided about designing, installing, managing, and maintaining water efficient landscapes.

(Ord. No. 2012-43, § 1, 7-24-12)

17.64.170 Irrigation audit, survey, and water use analysis for existing landscapes.

A. This section shall apply to all existing landscapes that were installed before January 1, 2010, are over one acre in size, and exceed the applicable maximum applied water allowance.

1. For all landscapes that have a water meter, the water supplier shall administer programs that may include, but not be limited to, irrigation water use analyses, irrigation surveys, and irrigation audits to evaluate water use and provide recommendations as necessary to reduce landscape water use to a level that does not exceed the maximum applied water allowance for existing landscapes. The maximum applied water allowance for existing landscapes shall be calculated as: MAWA = (0.8) (ETo) (LA) (0.62).

2. For all landscapes that do not have a separate irrigation water meter, the planning department shall administer programs that may include, but not be limited to, irrigation surveys and irrigation audits to evaluate water use and provide recommendations as necessary in order to prevent water waste.

B. All landscape irrigation audits shall be conducted by a certified landscape irrigation auditor.

(Ord. No. 2012-43, § 1, 7-24-12)

17.64.180 Effective precipitation.

The county may consider effective precipitation as defined in the California Code of Regulations § 494 or successor document in tracking water use.

(Ord. No. 2012-43, § 1, 7-24-12)

## Chapter 17.66 SOIL IMPORTING

**Sections:**

17.66.010 Purpose.

This chapter regulates the importing of soil or other fill material in the unincorporated areas of the county to ensure that such importing is related to appropriate land uses in the zoning district, to promote soil stability, to reduce negative environmental impacts, to reduce human health impacts, to reduce the traffic impacts from delivery vehicles, and to reduce the potential transfer of human and ecological risks between properties due to the import of polluted fill materials, and to reduce the potential import of hazardous wastes to properties accepting fill.

(Ord. No. 2019-43, § 2, 10-15-19)

17.66.020 Definitions.

As used in this chapter, the following terms are defined as follows:

"Agricultural use" means the science or practice of farming or ranching, including cultivation of the soil for the growing of crops or the rearing of animals to provide food, wool, fabric, or other products. This definition includes, for example, crops, orchards, and animal grazing.

"Agriculture plan" means the written plan submitted by the property owner that outlines the scope and timeline for the proposed soil import operation, implementation of the agricultural use, and any associated reclamation activities.

"Clean soil" is defined as natural materials (e.g., soil, clay, silt, sand, gravel, rock, or a mixture or combination for such materials) that have concentrations of naturally occurring chemicals (e.g., metals) at or below background levels at the receiving lot and concentrations of man-made chemicals below applicable risk based screening levels for human health risk, ecological risk (aquatic and terrestrial receptors), and concerns for nuisance and gross contamination.

"Director" means the director of the community development agency of the County of Alameda, or designee.

"Import" means the bringing of soil or other fill material onto a lot from an off-site location, for any purpose.

"Organic mulch" means decomposed or partially decomposed material comprised of leaves, wood, plant materials, discarded food and food scraps, paper or wood products, animal manure, peat or other biological carbon-based materials; organic mulch is not earth material of any origin that has been excavated from the ground.

"Protocols for soil import and export" means the county environmental health department's published document presenting procedures and reporting requirements for characterization and export of proposed soil sources for import to another site.

"Qualified biologist" means a professional who, by education, training and experience possess the expertise in the branch of science concerning living organisms adequate to evaluate the impacts of soil importing on living organisms.

"Qualified professional" means a licensed geologist or other professional who, by education, training, and experience possesses the expertise necessary to evaluate soil proposed for import in accordance with the county's protocols for soil import and export to ensure that the soil is suitable for import to the site.

"Soil" means all-natural earth material including soil, clay, silt, sand, gravel, rock, or a mixture or combination for such materials. Soil specifically does not include trash, debris, piping of any material, wooden boards, logs, branches or chips, broken concrete or asphalt, metal pieces of any kind, plastic, glass, or other human-made materials.

"Soil import" means the bringing of soil onto a lot from an off-site location, for any purpose.

"Soil import documentation" means technical reports prepared by a qualified professional that analyze the soil to be imported in accordance with Section 2 (Evaluation of Fill Material Suitability and associated tables) of the county's protocols for soil import and export.

"Special status species" means designated (rare, threatened, or endangered) and candidate species for listing by the California Department of Fish and Wildlife (CDFW); and designated (threatened or endangered) and candidate species for listing by the U.S. Fish and Wildlife Service (USFW); and species considered to be rare or endangered under the conditions of Section 15380 of the California Environmental Quality Act Guidelines, such as those identified on lists 1A, 1B, and 2 in the 2001 Inventory of Rare and Endangered Plants of California by the California Native Plant Society (CNPS); and possibly other species which are considered sensitive or of special concern due to limited distribution or lack of adequate information to permit listing or rejection for state or federal status, such as those included on list 3 in the CNPS Inventory or identified as animal "California Special Concern" (CSC) species by the CDFW. Species designated as CSC have no legal protective status under the California Endangered Species Act but are of concern to the CDFW.

(Ord. No. 2019-43, § 2, 10-15-19)

17.66.030 General provisions.

A. Soil importing is prohibited in the unincorporated areas of the County except as provided in this chapter.

B. All soil imported in accordance with this chapter must not contain chemicals at concentrations that exceed the applicable risk-based screening levels, which shall be verified by a qualified professional.

1. Soil import documentation prepared or reviewed by a qualified professional in accordance with this chapter shall be stored for at least five years and shall be available for periodic review and audit by the county planning department at any time, up to four times per year.

2. If the review or audit demonstrates the imported soil has been inadequately characterized or contains chemicals with concentrations exceeding the applicable risk-based screening levels, then the county code enforcement division may refer the matter to other county, state, and federal agencies.

C. This chapter does not regulate or prohibit importing the following:

1. Soil purchased from an established retail or wholesale outlet, including hardware stores, soil and stone retailers and wholesalers, landscape centers, and similar commercial soil enterprises. Transport of soil between properties, such as brokered transports from construction sites, are not considered soil purchased pursuant to this subsection.

2. Organic mulch.

3. Asphalt grinding or road base (excluding concrete debris), provided that it is used for agricultural road repair only; importing for other purposes, including for fill, and importing concrete debris, are prohibited.

4. Movement of clean soil from an adjacent lot or a lot separated by no more than a road or utility easement, provided the source lot and destination lot are owned by the same person.

5. Soil or other materials to be used for the purpose of surface mining operations or reclamation as regulated under Chapter 6.80 of the Alameda County General Ordinance Code.

D. Prohibited Operations.

1. Importing the following materials, or fill material containing the following materials, is not permitted pursuant to this chapter: Trash, debris, piping of any material, wooden boards, logs, branches or chips, broken concrete or asphalt, metal pieces of any kind, plastic, glass, or other human-made materials. This chapter does not regulate sanitary landfills, which require a conditional use permit (Alameda County General Ordinance Code 17.06.035(A)) and compliance with other applicable federal, state, and local laws.

2. Importing earthen materials that contain or include any of the following is prohibited: any human-made or artificial chemicals, substances or contaminants at concentrations greater than those determined through required testing processes to be both: a) safe for human contact; and b) adequate for protection of: watercourses or ponds and the water contained therein, groundwater located or flowing beneath the surface, and biological habitat and native species found on or known to use the subject lot and surrounding lots.

E. Maximum Import per Lot. For tiers of soil import under Sections 17.66.050 and 17.66.060 that do not require discretionary review, soil import per lot shall be limited to five years. After the fifth year of soil import, an administrative conditional use permit or conditional use permit will be required for any amount of soil imported.

F. Expiration. Any approved administrative conditional use permit shall expire within one year maximum of its issuance, with the possibility that they may be approved for less time. Any approved conditional use permit shall expire within five years maximum of permit issuance, with the possibility that they may be approved for less time. Proposals to import more soil subsequent to the administrative conditional use permit or conditional use permit shall require prior approval of a new conditional use permit. No subsequent administrative conditional use permit shall be possible after the first administrative conditional use permit is approved for each property.

(Ord. No. 2019-43, § 2, 10-15-19)

17.66.040 Compliance with existing laws and regulations.

A. Compliance with the regulations and requirements of state and federal regulatory agencies is required, including but not limited to the following:

1. Bay Area Air Quality Management District;

2. California Department of Fish and Wildlife;

3. California Water Resources Control Board San Francisco Bay Region;

4. California Department of Toxic Substances Control;

5. United States Fish and Wildlife Service;

6. U.S. Army Corps of Engineers.

B. Issuance of a permit or other authorization to import soil pursuant to this chapter shall not constitute an exemption from other applicable laws or regulations, including but not limited to:

1. Alameda County Grading Ordinance;

2. Alameda County Watercourse Protection Ordinance;

3. Alameda County Health and Safety Ordinances;

4. Alameda County Business License Tax ordinance;

5. Alameda County Surface Mining Ordinance;

6. California Endangered Species Act;

7. California Surface Mining and Reclamation Act;

8. U.S. Endangered Species Act;

9. U.S. Migratory Bird Treaty Act.

C. County planning department may provide notice to agencies with jurisdiction over hazardous materials, watercourse and water quality protection, and biological protection of the United States of America and the State of California, including but not limited to each of the above-mentioned agencies, to facilitate enforcement of existing laws and regulations within the jurisdiction of other agencies.

D. Any proposals to import soil, or actions to import soil, will be subject to notification by the county planning department to the aforementioned state and federal agencies.

E. Soil importing must be compliant with any applicable Williamson Act Contract.

F. For all soil import of any volume:

1. Prior to operations, all property owners importing soil subject to this chapter shall register with the Alameda County Community Development Agency, Planning Department, their intended soil importing activity, including providing an agriculture plan, and shall pay all administrative fees associated with the proposed soil import. Registration shall be in accordance with such forms and procedures as may be adopted by the director.

2. The following habitat features shall be protected and avoided during the placement of imported soil under Tiers 1 or 2 as defined in Sections 17.66.050 and 17.66.060 below:

a. Seasonal and perennial ponds, including stock ponds.

b. Riparian corridors along intermittent, seasonal, and perennial creek channels.

c. Rock outcrops in chaparral habitat.

d. Upland grassland habitat within 1.7 miles from potential breeding ponds.

e. Burrows.

3. If burrows are present within an area proposed for the placement of imported soil, the property owner shall have a qualified biologist assess the potential presence of special status species at the proposed placement location.

4. A habitat assessment shall be prepared by a qualified biologist who has the education, training and experience and possesses the expertise to identify habitat of special status species.

5. Imported soil shall not be placed in:

a. Ponds that may support the breeding of special status species (Note: Property owner must comply with existing laws and regulations prohibiting placing fill material in seasonal or perennial ponds without federal and/or state permits for the placement of fill in ponds); or

b. Riparian corridors (Note: Property owner must comply with existing laws and regulations prohibiting placing fill material in riparian corridors associated with ephemeral, intermittent, seasonal, or perennial streams without federal and/or state permits for the placement of fill in streams).

6. Property owner shall consult with U.S. Fish and Wildlife Service (USFWS) and staff at the California Department of Fish and Wildlife (CDFW), if soil import is to occur in areas with documented occurrences or potential habitat for special status species as defined on maps found in Chapter 2 and/or Appendix D of the East Alameda County Conservation Strategy (EACCS); or for areas outside of EACCS map coverage, the State of California Natural Diversity Database (CNDDB); and/or by the qualified biologist. For the purposes of this paragraph, documented occurrences mean points on the CNDDB and/or EACCS maps that identify where species have been recorded. In all cases, the most recent edition of the CNDDB should be utilized.

7. Before imported soil is placed in any of the features described below, the property owner shall contact the Army Corps of Engineers, appropriate water board, and CDFW to discuss the need to obtain permits prior to placing imported soil in these features.

a. Areas of soggy ground that remain soggy for at least two weeks during the rainy season.

b. Any stream channel with a defined bed and bank (e.g., a topographic change from the adjacent land), no matter how small or how often water flows through the channel in a typical year.

c. The bottom of any canyon.

d. Any pond or impoundment of water, including stock ponds.

(Ord. No. 2019-43, § 2, 10-15-19)

17.66.050 Tier 1—Soil importing on large lots in the R-1 district.

A. Soil importing is permissible on lots at least one acre in size and not more than five acres in size in the R-1 (or equivalent) district in accordance with this chapter.

B. Any and all soil import must be for an agricultural use.

C. The depth of soil import shall not exceed three feet above existing grade unless it is imported in accordance with one of following:

1. A building permit from the county public works agency,

2. A grading permit from the county public works agency, or

3. A conditional use permit issued pursuant to this title.

D. Soil importing is regulated in accordance with the following tiered screening and review levels:

1. Tier 1a. Up to one cubic yard per acre per year is permitted as a reasonable accessory use to existing permitted uses.

2. Tier 1b. Over one and up to ten cubic yards per acre per year, up to a maximum of thirty (30) cubic yards per property per year, may be imported provided the property owner:

a. Submits to the county planning department soil import documentation prepared by a qualified professional.

3. Tier 1c. Over ten and up to twenty (20) cubic yards per acre per year, up to a maximum of fifty (50) cubic yards per property per year, provided the property owner:

a. Submits to the county planning department soil import documentation prepared by a qualified professional;

b. Obtains an administrative conditional use permit pursuant to this title.

4. Tier 1d. Over twenty (20) and up to fifty (50) cubic yards per acre per year, up to a maximum of eighty (80) cubic yards per property per year, provided the property owner:

a. Submits to the county planning department soil import documentation prepared by a qualified professional;

b. Obtains an administrative conditional use permit pursuant to this title; and

c. The county planning department provides notification to neighbors in accordance with Alameda County Zoning Ordinance Section 17.54.830(D).

5. Tier 1e. Over fifty (50) cubic yards per acre per year or more than eighty (80) cubic yards per property:

a. Submits to the county planning department soil import documentation prepared by a qualified professional.

b. Obtains conditional use permit pursuant to this title.

(Ord. No. 2019-43, § 2, 10-15-19)

17.66.060 Tier 2—Soil importing on lots in the A district.

A. Soil importing is permissible on lots in the A (or equivalent) district in accordance with this chapter.

B. Any and all soil import must be for an agricultural use.

C. The depth of soil import shall not exceed three feet above existing grade unless it is imported in accordance with one of following:

1. A building permit from the county public works agency,

2. A grading permit from the county public works agency, or

3. An administrative conditional use permit or conditional use permit issued pursuant to this title.

D. Soil importing is regulated in accordance with the following tiered screening and review levels:

1. Tier 2a. Up to ten cubic yards per acre per year, up to a maximum of one thousand (1,000) cubic yards per property per year and less than three feet vertically in depth above any existing grade is permitted, subject to Section 17.66.030:

a. Property owner shall ensure the imported soil has been characterized as clean soil by a qualified professional prior to importing to the site. subject to audit of the soil import documentation by the county planning department.

2. Tier 2b. Over ten and up to twenty (20) cubic yards per acre per year, up to a maximum of fifteen thousand (15,000) cubic yards per property per year, whichever value is lowest, or any import in any amount resulting in a depth of between three and five feet vertically above any existing grade:

a. Property owner must obtain an administrative conditional use permit pursuant to this title.

3. Tier 2c. Over twenty (20) cubic yards per acre per year or more than fifteen thousand (15,000) cubic yards per property per year, whichever is lowest, or any import in any amount resulting in a depth of over five feet vertically above any existing grade:

a. Property owner must obtain a conditional use permit pursuant to this title.

(Ord. No. 2019-43, § 2, 10-15-19)

17.66.070 Administrative conditional use permit for soil importing.

A. An administrative conditional use permit may be issued in accordance with this chapter (in lieu of Sections 17.52.480, et seq.).

B. In the districts specified in this title, an administrative conditional use permit may be issued for soil importing provided the proposed project does not require the preparation of a new environmental impact report pursuant to the California Environmental Quality Act (CEQA).

C. If the proposed project requires a new environmental impact report, it may not be approved via an administrative conditional use permit but the project proponent may apply for a conditional use permit in accordance with Section 17.54.130 and this chapter.

(Ord. No. 2019-43, § 2, 10-15-19)

17.66.080 Specific findings for administrative conditional use permit and conditional use permit.

An administrative conditional use permit or conditional use permit may be issued for soil importing only if the proposed use meets the requirements of Section 17.66.070 (Administrative Conditional Use Permit for Soil Importing) or Section 17.54.130 (Conditional Uses), as applicable, and the following additional findings are made:

A. The amount, design, location, and the nature of any proposed soil importing is necessary to establish or maintain an agricultural use presently permitted on the property in accordance with Section 17.06.040, Section 17.08.040 or Chapter 17.26 of this title;

B. Soil importing will not endanger public and/or private property, will not result in excessive soil being deposited on any public right-of-way, will not endanger public health and safety, and will not impair groundwater or any spring or existing watercourse, or adversely affect the existence of, or habitat for, special status species under the State or Federal Endangered Species Acts;

C. Property owner will minimize the impacts to the natural landscape, scenic, biological and aquatic resources, and erosion impacts that may otherwise be caused by the soil import;

D. For soil importing associated with a new agricultural building on a development site within the boundaries of a lot, the subject site shall be one that is the most appropriate for the imported soil in comparison with other available development sites on the lot, taking into consideration other development constraints and regulations applicable to the lot;

E. Soil importing and associated grading improvements will conform to the natural terrain and existing topography of the site as much as possible, and should not create a significant visual change;

F. Soil importing will conform to any applicable general plan or specific plan policies;

G. Soil import documentation documenting the suitability of the soil for import to the lot has been prepared by a qualified professional;

H. Permittee has submitted a truck traffic plan that adequately mitigates impacts from truck traffic generated by the proposed soil import; and

I. Permittee has submitted an agriculture plan that specifically describes the proposed agricultural use to be facilitated by the proposed soil import. The agriculture plan must identify a reasonable schedule for completing work needed to implement the agricultural use.

(Ord. No. 2019-43, § 2, 10-15-19)

17.66.090 Standard conditions for administrative conditional use permit and conditional use permit.

A. Soil importing shall be permitted only to the extent necessary to establish or maintain an agricultural use presently permitted on the property in accordance with Section 17.06.040, Section 17.08.040 or Chapter 17.26 of this title.

B. The permittee shall obtain and make available to the county planning department soil import documentation prepared by a qualified professional certifying the suitability of the soil import to the site. The soil import documentation must be either:

1. Provided to the permittee from a qualified professional retained by the permittee; or

2. Provided to the permittee from a qualified professional retained by someone other than the permittee (e.g., the soil import source property, the shipper or a third party), that has been independently reviewed by a qualified professional retained by the permittee.

C. Soil import documentation shall be stored for at least five years and shall be available for periodic review and audit by the county planning department at any time, up to four times per year. If the review or audit demonstrates inadequate characterization of the soil import or soil contamination with chemical concentrations greater than the applicable risk-based screening levels, then the county code enforcement division may initiate enforcement and abatement proceedings and may refer the matter to other county, state, and federal agencies.

D. Impacts from truck traffic shall be mitigated in accordance with permittee's truck traffic plan.

E. Permittee shall obtain a grading permit from the county public works agency, if applicable.

F. Permittee shall implement an agriculture plan approved by the planning director consistent with the schedule for completion included in the agriculture plan. Each day the property owner fails to meet the deadlines established by the agriculture plan and/or the permit shall constitute a separate offense and is subject to penalty in accordance with Section 17.66.150.

G. Permits shall be limited in duration to the reasonable time required to import soil sufficient to implement the agriculture plan, up to a maximum of one year for administrative conditional use permits and up to five years for conditional use permits.

H. Annual inspections and reports of soil import and agriculture activities are required. Permittees shall forward an annual report to the director on each anniversary of the permit issuance date. The annual report shall include a description of the soil imported, and the total tonnage of soil imported. If requested, a copy of any supporting documentation shall also be provided to the director.

I. The community development agency shall arrange for inspection of a soil import operation within six months of receipt of the annual report required by this chapter, to determine whether the soil import operation is in compliance with the approved permit and/or agriculture plan, and approved financial assurances. In no event shall less than one inspection be conducted in any calendar year. Said inspections may be conducted by the county and/or its consultants. The permittee shall be solely responsible for the reasonable cost of such inspection, including reasonable consultant costs.

J. Permittee shall provide financial assurances sufficient to guarantee completion of the agriculture plan or remediation of the property to pre-soil import conditions.

K. Permittee shall release the county, and its agents, officers, elected officials, and employees from any injuries, damages, or liabilities of any kind that result from any arrest or prosecution of permittee, delivery operators or brokers, owners or operators of the source material site, or others involved in the soil import, for violation of state or federal laws in a form satisfactory to the director.

L. Permittee shall indemnify and hold harmless the county and its agents, officers, elected officials, and employees for any claims, damages, or injuries arising from issuance of the permit, operation of the soil import, adoption or enforcement of conditions of the permit, or the county's compliance with CEQA in a form satisfactory to the director.

(Ord. No. 2019-43, § 2, 10-15-19)

17.66.100 Agriculture plans—Required content and implementation.

A. Permittee shall import soil only in order to implement an agricultural use in accordance with an approved agriculture plan. Permittee shall ensure that the agricultural use is implemented in accordance with conditions of the permit, the agriculture plan, and this chapter.

B. The agriculture plan shall specify the amount of soil to be imported by weight and by volume.

C. Implementation—Complete or Phased.

1. The agricultural use will be deemed completely implemented when the project is completed (e.g., when construction or all planting is completed) and all approvals required to commence the agricultural use (e.g., occupancy permit) have been issued.

2. Implementation may occur in phases. For phased implementation, the establishment of the agricultural use may occur over successive periods following completion of soil import at successive locations within the lot, as specified in the agriculture plan. In all cases, establishment of the agricultural use shall take place as soon as practical. Each phase shall be specifically described in the agriculture plan and shall include:

a. The beginning and expected ending dates for each phase;

b. All establishment of agriculture activities required;

c. Criteria for measuring completion of specific establishment of agriculture activities; and

d. Estimated costs for completion of each phase of establishment of agriculture.

3. Interim agricultural uses may be required if phased or complete implementation is not achieved within the timeframe specified in the agriculture plan.

D. Drainage, Erosion and Sediment Control. Agriculture plans shall address the appropriate control and mitigation for drainage, erosion and sediment control during the soil import and implementation of the agricultural use. The agriculture plan shall specifically address the property owner's plan to comply with the following requirements:

1. Streams, ponds, wetlands or watershed features shall be avoided or, if affected by soil import, restored in the final stage of establishment of agriculture.

2. All activities of soil import or establishment of agriculture shall be designed and carried out to minimize erosion, provide for maintenance of all applicable water runoff quality standards as prescribed by state law including consultation with Regional Water Quality Control Board staff as necessary, provide for drainage to natural outlets or interior basins designed for water storage, and to eliminate potholes and similar catchments that could serve as breeding areas for mosquitoes.

3. Silt basins designed to store water during periods of surface runoff shall be equipped with sediment control and removal facilities and protected spillways designed to minimize erosion when such basins have outlet to lower ground.

4. Final grading and drainage shall be designed in a manner to prevent discharge of sediment above natural levels existent prior to soil import operations.

5. Upon complete implementation, no condition shall remain that will or could lead to the degradation of water quality below applicable standards of the regional water quality control board or any other agency with authority over water quality.

E. Final Slope Gradient. Agriculture plans shall address the final slope gradient upon the completion of the soil import and implementation of the agricultural use and any phases thereof. The agriculture plan shall specifically address the property owner's plan to comply with the following requirements:

1. Final slopes shall be of such gradient as necessary to provide for slope stability, maintenance of establishment of agriculture, public safety, and the control of drainage, as may be determined by engineering analysis of soils and geologic factors.

2. Final slopes shall not be steeper than two feet horizontal to one foot vertical (2:1) unless the permittee can demonstrate to the satisfaction of the director that any such steeper slope will not:

a. Be incompatible with future uses approved for the site;

b. Be hazardous to persons that may utilize the site under future uses approved for the site; and

c. Reduce the effectiveness of revegetation and erosion control measures where such are necessary.

3. In no event shall the steepness of slopes exceed the critical gradient as determined by an engineering analysis of the slope stability.

F. Revegetation. Agriculture plans shall require all lands affected by soil importing shall be revegetated for establishment of agriculture unless any such revegetation is determined by the director to be technically infeasible or not beneficial with respect to the intent of this chapter. Revegetation methods and plant materials utilized for establishment of agriculture shall be appropriate for the topographical, soil and eliminate conditions present at the site. Where agriculture is not to be established, native species shall be used wherever practical.

G. Additional Requirements. The county may impose additional performance standards as developed either in review of individual projects or through the formulation and adoption of generally applicable performance standards.

(Ord. No. 2019-43, § 2, 10-15-19)

17.66.110 Environmental review.

A. All projects shall comply with the California Environmental Quality Act.

B. The county planning department shall be the lead agency for any project requiring environmental review pursuant to the California Environmental Quality Act.

(Ord. No. 2019-43, § 2, 10-15-19)

17.66.120 Fees.

The application fees for a soil import permit or approval of an agriculture plan, or for modification of an existing permit or approved agriculture plan shall be as established by the board of supervisors and shall be submitted at the time of application. The county shall establish such fees as it deems necessary to cover the reasonable costs incurred in implementing this chapter and county rations, including but not limited to, processing of applications, annual reports, inspections, monitoring, enforcement and compliance. The permittee shall pay such fees as required by the county, at the time of filing of the soil import permit application, agriculture plan application, and at such other times as are determined by the county to be appropriate in order to ensure that all reasonable costs of implementing this chapter are borne by the operator.

(Ord. No. 2019-43, § 2, 10-15-19)

17.66.130 Administrative fees.

The property owner shall pay an administrative fee of one dollar and twenty-nine cents ($1.29) per cubic yard for all soil imported to their lot. The quantity of soil on which the administrative fee is based shall be the total volume of material projected for import. The fee is payable prior to commencing soil import. For projects with phased implementation plans, the fee is payable prior to commencing the soil import for each phase. If the amount of soil imported differs from the amount projected, the property owner shall either be invoiced or refunded accordingly.

(Ord. No. 2019-43, § 2, 10-15-19)

17.66.140 Performance assurance requirement.

A. Financial security in a form and amount determined by the director, shall be furnished to guarantee faithful performance of the work to be done under the terms of the soil import permit and agriculture plan or to guarantee reclamation and remediation of the affected property to pre-soil import conditions, in the event of failure by the permittee to implement the terms of the conditions of the permit or of this chapter.

B. Cost estimates for the financial assurance shall be submitted to the community development agency for review and approval prior to the permittee securing financial assurances. The amount of the financial assurance shall be based upon the estimated costs of implementing the agriculture plan or remediating the property to pre-soil import conditions.

C. If the board of zoning adjustments, following a public hearing, determines that the property owner is financially incapable of implementing the agriculture plan or has abandoned its operations prior to implementation, the director shall:

1. Notify the property owner by personal service or certified mail that the county intends to take appropriate action to forfeit the financial assurance and specify the reasons for so doing.

2. Allow the property owner at least thirty (30) and up to sixty (60) days after notification to implement the agriculture plan.

3. Proceed to take appropriate action to require forfeiture of the financial assurance if the permittee does not comply with the provisions of subsection B.

4. Use the proceeds from the forfeited financial assurance to implement the agricultural use on the property or remediate the property to pre-soil import conditions. The property owner shall be responsible for the costs which are in excess of the proceeds from the forfeited financial assurance.

(Ord. No. 2019-43, § 2, 10-15-19)

17.66.150 Violation—Enforcement and penalties.

A. If the director, based upon an annual inspection or otherwise confirmed by an inspection of the property or soil import operation, determines that the property or operations are not in compliance with this chapter, the permit, and/or the agriculture plan, the county may revoke the permit in accordance with Section 17.54.030 of this title and may enforce this chapter in accordance with Chapters 17.58 and 17.59 of this title, as set forth in this section, or as otherwise provided by law.

B. Fines for each violation may be assessed as follows:

1. Any person, firm or corporation shall be guilty of a separate offense for each and every violation of any provision of this chapter that is committed, continued or permitted by such person and shall be punishable accordingly. Each incident of a vehicle delivering or depositing soil or other fill material to a property in the unincorporated area of the county shall constitute a separate offense.

2. Any person, firm or corporation shall be 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 such person and shall be punishable accordingly.

3. The fine for each offense is one thousand dollars ($1,000.00).

C. Procedures and fees for inspections, appeals and abatement shall be as set forth in Chapter 17.59, including Section 17.59.200(D).

D. In addition to the penalties provided in this chapter, any condition caused or allowed to exist in violation of any of the provisions of this chapter shall be deemed a public nuisance and shall create a cause of action for injunctive relief and civil penalties in accordance with Chapter 17.59 of this code. The remedies provided by this chapter are cumulative and in addition to any other remedies available at law or in equity.

(Ord. No. 2019-43, § 2, 10-15-19)

## Chapter 17.100 FUTURE WIDTH LINES

**Sections:**

17.100.010 Future width lines.

For the purpose of measuring yard dimensions and determining building locations with respect to future width lines, there are the future width lines contained in this article for streets and highways.

(Prior gen. code § 8-80.0; Ord. No. 2010-71, § 114, 12-21-10)

17.100.020 Same—Establishment pending.

Establishment of future width lines is pending the establishment of official plan lines based upon the street and highway plan or sections thereof, of the master plan of the county.

(Prior gen. code § 8-80.12; Ord. No. 2010-71, § 114, 12-21-10)

17.100.030 162nd Avenue.

From East 14th Street to Foothill Boulevard, thirty (30) feet as measured from and on each side of the existing centerline.

(Prior gen. code § 8-81.74; based on § 2, Ord. No. 291 N.S.; amended by § 2, Ord. No. 517 N.S.; Ord. No. 2010-71, § 114, 12-21-10)

17.100.040 166th Avenue.

From East 14th Street to Los Banos Street, thirty (30) feet as measured from and on each side of the existing centerline.

(Prior gen. code § 8-81.75; based on § 2, Ord. No. 291 N.S.; Ord. No. 2010-71, § 114, 12-21-10)

17.100.050 168th Avenue.

From East 14th Street to Los Banos Street, thirty (30) feet as measured from and on each side of the existing centerline.

(Prior gen. code § 8-81.76; based on § 2, Ord. No. 291 N.S.; Ord. No. 2010-71, § 114, 12-21-10)

17.100.060 A Street.

From the city of Hayward boundary at Ruby Street northeasterly to Grove Way, a maximum of ninety-three (93) feet on the northwesterly side and forty-seven (47) feet on the southeasterly side from the existing right-of-way lines, as shown on the map labeled "A Street Future Width Lines, Exhibit A, August 2, 1971", on file with the Alameda County Planning Commission, 399 Elmhurst Street, Hayward, California.

(Prior gen. code § 8-82.56; based on § 1, Ord. No. 71-80; Ord. No. 2010-71, § 114, 12-21-10)

17.100.070 Alisal Street.

From Sycamore Road to Happy Valley Road, thirty (30) feet as measured from and on each side of the existing centerline.

(Prior gen. code § 8-82.46; based on Ord. No. 341 N.S.; amended by § 6, Ord. No. 70-34; Ord. No. 2010-71, § 114, 12-21-10)

17.100.080 Andrade Road.

From Sheridan Road to Mission Road, thirty (30) feet as measured from and on each side of the existing centerline.

(Prior gen. code § 8-81.2; based on § 2, Ord. No. 238 N.S.; Ord. No. 2010-71, § 114, 12-21-10)

17.100.090 Anita Avenue.

From Castro Valley Boulevard to Somerset Avenue, twenty-five (25) feet as measured from and on each side of the existing centerline.

(Prior gen. code § 8-81.3; based on § 1, Ord. No. 577 N.S.; Ord. No. 2010-71, § 114, 12-21-10)

17.100.100 Ashland Avenue.

A. From East Lewelling Boulevard to the Union Pacific, formerly the Western Pacific, Railroad right-of-way, forty (40) feet as measured from and on each side of the existing centerline.

(Prior gen. code § 8-81.5; based on § 2, Ord. No. 433 N.S.)

B. From the Union Pacific, formerly the Western Pacific, Railroad right-of-way to Delano Street, forty-four (44) feet as measured westerly from the existing centerline, and thirty-six (36) feet as measured easterly from the existing centerline.

(Prior gen. code § 8-81.6; based on § 2, Ord. No. 291 N.S.)

C. From Delano Street to East 14th Street, thirty-seven (37) feet as measured westerly from the existing centerline, and forty-three (43) feet as measured easterly from the existing centerline.

(Prior gen. code § 8-81.4; based on § 2, Ord. No. 291 N.S.; Ord. No. 2010-71, § 114, 12-21-10)

17.100.110 Bartlett Avenue.

From Hesperian Boulevard to Garden Avenue, thirty (30) feet as measured from and on each side of the existing centerline.

(Prior gen. code § 8-81.7; based on § 2, Ord. No. 363 N.S.; Ord. No. 2010-71, § 114, 12-21-10)

17.100.120 Bond Street.

From Foothill Road to Main Street, thirty (30) feet as measured from and on each side of the existing centerline.

(Prior gen. code § 8-81.10; based on § 2, Ord. No. 172 N.S.; Ord. No. 2010-71, § 114, 12-21-10)

17.100.130 Byron-Bethany Road.

On the southwesterly side fifty (50) feet westerly from the existing westerly right-of-way line, from Contra Costa County Line to San Joaquin County Line.

(Prior gen. code § 8-81.10B; based on § 2, Ord. No. 67-42; Ord. No. 2010-71, § 114, 12-21-10)

17.100.140 Calaveras Road.

From Mission Road to the county line dividing Alameda County and Santa Clara County, thirty (30) feet as measured from and on each side of the existing centerline.

(Prior gen. code § 8-81.11; based on § 2, Ord. No. 172 N.S.; Ord. No. 2010-71, § 114, 12-21-10)

17.100.150 Castlewood Drive.

From Foothill Road to Pleasanton-Sunol Road, fifty (50) feet as measured from and on each side of the existing centerline.

(Prior gen. code § 8-81.12; based on § 2, Ord. No. 172 N.S.; Ord. No. 2010-71, § 114, 12-21-10)

17.100.160 Center Street.

A. From the boundary line of the city of Hayward to Grove Way, forty (40) feet as measured from and on each side of the existing centerline.

(Prior gen. code § 8-81.13; based on § 2, Ord. No. 414 N.S.)

B. From Castro Valley Boulevard to James Avenue, thirty (30) feet from and on each side of the existing centerline.

(Prior gen. code § 8-81.15; based on § 2, Ord. No. 493 N.S.; Ord. No. 2010-71, § 114, 12-21-10)

17.100.170 Crow Canyon Road.

A. From East Castro Valley Boulevard to Manter Road, fifty (50) feet as measured from and on each side of the existing centerline.

(Prior gen. code § 8-81.16; based on § 2, Ord. No. 295 N.S.; amended by § 1, Ord. No. 80-22)

B. From the east side of the Greenridge Road intersection to Norris Canyon Road, fifty (50) feet as measured from and on each side of the existing centerline.

(Prior gen. code § 8-81.161; based on § 2, Ord. No. 80-22)

C. From a point 0.975 miles north of the intersection of Norris Canyon Road to the county line dividing Alameda County and Contra Costa County, fifty (50) feet as measured from and on each side of the existing centerline.

(Prior gen. code §§ 8-81.16, 8-81.161, 8-81.162; based on § 2, Ord. No. 80-22; Ord. No. 2010-71, § 114, 12-21-10)

17.100.180 D Street.

From where City Limit of Hayward crosses D Street to Fairview Avenue, forty (40) feet from and on each side of existing centerline.

(Prior gen. code § 8-82.45; based on § 1, Ord. No. 1016 N.S.; amended by § 1, Ord. No. 1018 N.S.; Ord. No. 2010-71, § 114, 12-21-10)

17.100.190 East Lewelling Boulevard.

From the Union Pacific, formerly the Western Pacific, Railroad right-of-way to the easterly line of Mission Boulevard forty (40) feet as measured from and on each side of the existing centerline.

(Prior gen. code § 8-81.21; based on § 2, Ord. No. 291 N.S.)

Northerly side, from the Union Pacific, formerly the Southern Pacific, Railroad right-of-way to a point five hundred twenty-five (525) feet westerly from the centerline of Ashland Avenue, eighty (80) feet as measured northerly from the existing southerly right-at-way line.

(Prior gen code § 8-81.22; based on § 1, Ord. No. 426 N.S.)

From a point five hundred twenty-five (525) feet westerly from the centerline at Ashland Avenue to a point one hundred twenty-five (125) feet westerly from the centerline of Ashland Avenue:

The northerly future width line shall be established as follows:

Commencing at a point forty-seven (47) feet northerly from the centerline of Lewelling Boulevard, measured at right angles thereto, distant along said centerline five hundred twenty-five (525) feet westerly from the centerline of Ashland Avenue; thence easterly to a point thirty-three (33) feet northerly from the centerline of Lewelling Boulevard, measured at right angles thereto, distant along said centerline one hundred twenty-five (125) feet westerly from the centerline of Ashland Avenue.

The southerly future width line shall be established eighty (80) feet southerly from the northerly future width line hereinabove established.

(Prior gen. code § 8-81.23; based on § 1, Ord. No. 426 N.S.)

Southerly side, from a point one hundred twenty-five (125) feet westerly from the centerline of Ashland Avenue to the angle point approximately sixty (60) feet easterly from the centerline of Alisal Court, eighty (80) feet as measured southerly from the existing northerly right-of-way line.

(Prior gen. code § 8-81.24; based on § 1, Ord. No. 426 N.S.)

From the angle point approximately sixty (60) feet easterly from the centerline of Alisal Court to the Union Pacific, formerly the Western Pacific, Railroad right-of-way.

The southerly future width line shall be established as follows:

Commencing at a point forty-seven (47) feet southerly from the centerline of Lewelling Boulevard, measured at right angles thereto, distant along said centerline 59.55 feet easterly from the centerline of Alisal Court; thence easterly to a point on the southwesterly right-of-way line of the Union Pacific, formerly the Western Pacific, Railroad right-of-way forty (40) feet southerly of the centerline of Lewelling Boulevard, measured at right angles thereto.

The northerly future width line shall be established eighty (80) feet northerly from the southerly future width line hereinabove established.

(Prior gen. code § 8-81.25; based on § 1, Ord. No. 426 N.S.; Ord. No. 2010-71, § 114, 12-21-10)

17.100.200 Eden Canyon Road.

From East Castro Valley Boulevard to the northeasterly terminus, thirty (30) feet as measured from and on each side of the existing centerline.

(Prior gen. code § 8-81.28; based on § 2, Ord. No. 295 N.S.; Ord. No. 2010-71, § 114, 12-21-10)

17.100.210 Fairview Avenue.

From D Street to Hayward Boulevard, thirty (30) feet from and on each side of existing centerline.

(Prior gen. code § 8-82.44; based on § 1, Ord. No. 1016 N.S.; amended by § 1, Ord. No. 1018 N.S.; Ord. No. 2010-71, § 114, 12-21-10)

17.100.220 Foothill Road.

A. From Dublin Canyon Road to Verona Road, fifty (50) feet as measured from and on each side of the existing centerline.

(Prior gen. code § 8-81.30; based on § 2, Ord. No. 172 N.S.)

B. From Verona Road to Kilkare Road, thirty (30) feet as measured from and on each side of the existing centerline.

(Prior gen. code § 8-81.31; based on § 2, Ord. No. 172 N.S.; Ord. No. 2010-71, § 114, 12-21-10)

17.100.230 Garden Avenue.

From Bartlett Avenue to West A Street, thirty (30) feet as measured from and on each side of the existing centerline.

(Prior gen. code § 8-81.32; based on § 2, Ord. No. 363 N.S.; Ord. No. 2010-71, § 114, 12-21-10)

17.100.240 Garin Avenue.

From the easterly boundary line of the city of Hayward to its easterly terminus, thirty-four (34) feet as measured from and on each side of the existing centerline.

(Prior gen. code § 8-81.33; based on § 1, Ord. No. 544 N.S.; Ord. No. 2010-71, § 114, 12-21-10)

17.100.250 Grant Avenue.

A. From Via Alamitos to Lorenzo Avenue, eighty-six (86) feet as measured southeasterly from the existing northwesterly right-of-way line.

(Prior gen. code § 8-81.34; based on § 2, Ord. No. 299 N.S.)

B. From Lorenzo Avenue to Channel Street, seventy-eight (78) feet as measured southeasterly from the existing northwesterly right-of-way line.

(Prior gen. code § 8-81.35; based on § 2, Ord. No. 299 N.S.)

C. From Channel Street to the Union Pacific, formerly the Southern Pacific, Railroad right-of-way, forty-seven (47) feet as measured northerly from the existing centerline and thirty-nine (39) feet as measured southerly from the existing centerline.

(Prior gen. code § 8-81.36; based on § 2, Ord. No. 100 N.S.; Ord. No. 2010-71, § 114, 12-21-10)

17.100.260 Grant Line Road.

From the existing northerly right-of-way boundary of Interstate 580 north and east to the Alameda County-San Joaquin County Boundary fifty-five (55) feet as measured from and on each side of existing centerline.

(Prior gen. code § 8-81.374; based on § 1, Ord. No. 67-40; Ord. No. 2010-71, § 114, 12-21-10)

17.100.270 Grove Way.

A. From city of Hayward to a point approximately one hundred twenty (120) feet northeasterly of Oak Street, thirty (30) feet as measured from and on each side of the existing centerline.

(Prior gen. code § 8-81.39; based on § 2, Ord. No. 291 N.S.)

B. From Redwood Road to Center Street, forty (40) feet as measured from and on each side of the existing centerline.

(Prior gen. code § 8-82.32; based on § 2, Ord. No. 446 N.S.)

C. From Center Street to East Castro Valley Boulevard, forty-three (43) feet as measured from and on each side of the existing centerline.

(Prior gen. code § 8-81.38; based on § 2, Ord. No. 182 N.S.; renumbered by § 2, Ord. No. 70-34; Ord. No. 2010-71, § 114, 12-21-10)

17.100.280 Hampton Road.

From Meekland Avenue to Mission Boulevard, thirty (30) feet as measured from and on the existing centerline.

(Prior gen. code § 8-81.40; based on § 2, Ord. No. 291 N.S.; Ord. No. 2010-71, § 114, 12-21-10)

17.100.290 Hansen Road.

From East Avenue to Randall Way on either or both sides of the existing right-of-way lines as shown on the map labeled "Exhibit A, Hansen Road, East Avenue to Fairview Avenue, Future Width Lines (four sheets), March, 1972", on file with the Alameda County planning commission.

(Prior gen. code § 8-81.41; based on § 2, Ord. No. 212 N.S.; amended by § 1, Ord. No. 74-86; Ord. No. 2010-71, § 114, 12-21-10)

17.100.300 Happy Valley Road.

From Pleasanton-Sunol Road to Alisal Street, twenty-five (25) feet as measured from and on each side of the existing centerline.

(Prior gen. code § 8-81.42; based on § 2, Ord. No. 341 N.S.; Ord. No. 2010-71, § 114, 12-21-10)

17.100.310 Haviland Avenue.

From Medford Avenue to Willow Avenue, thirty (30) feet as measured from and on each side of the existing centerline.

(Prior gen. code § 8-81.43; based on § 2, Ord. No. 291 N.S.)

17.100.320 Hill Avenue.

From the boundary line of the city of Hayward southeasterly to end, thirty (30) feet as measured from and on each side of the existing centerline.

(Prior gen. code § 8-81.44; based on § 2, Ord. No. 212 N.S.; Ord. No. 2010-71, § 114, 12-21-10)

17.100.330 Huber Drive.

Twenty-two (22) feet as measured from and on each side of the existing centerline.

(Prior gen. code § 8-81.46; based on § 1, Ord. No. 506 N.S.; Ord. No. 2010-71, § 114, 12-21-10)

17.100.340 Jensen Road.

From East Castro Valley Boulevard to the northeasterly terminus, thirty (30) feet as measured from and on each side of the existing centerline.

(Prior gen. code § 8-81.47; based on § 2, Ord. No. 295 N.S.; Ord. No. 2010-71, § 114, 12-21-10)

17.100.350 Kelly Street.

From where City Limit of Hayward crosses Kelly Street to Maud Avenue, thirty-four (34) feet from and on each side of the existing centerline.

(Prior gen. code § 8-82.43; based on § 1, Ord. No. 1016 N.S.; amended by § 1, Ord. No. 1018 N.S.; Ord. No. 2010-71, § 114, 12-21-10)

17.100.360 Kilkare Road.

From Foothill Road to the northwesterly terminus, twenty-five (25) feet as measured from and on each side of the existing centerline.

(Prior gen. code § 8-81.49; based on § 2, Ord. No. 172 N.S.; Ord. No. 2010-71, § 114, 12-21-10)

17.100.370 Lake Chabot Road.

A. From the most westerly corner of Tract 1674 to a point approximately three thousand seven hundred (3,700) feet northwesterly therefrom, fifty-six (56) feet as measured northeasterly from the centerline of the existing sixty (60) foot right-of-way.

(Prior gen. code § 8-81.51; based on § 2, Ord. No. 240 N.S.)

B. From a point approximately three thousand seven hundred (3,700) feet northwesterly of the most westerly corner of Tract 1674 to the boundary of the city of San Leandro, fifty-six (56) feet as measured southwesterly from the centerline of the existing right-of-way.

(Prior gen. code § 8-81.52, Based on § 2, Ord. No. 240 N.S.; amended by § 4, Ord. No. 70-34; Ord. No. 2010-71, § 114, 12-21-10)

17.100.380 Las Positas Road.

From North Livermore Avenue, easterly to First Street, thirty (30) feet as measured from and on each side of the existing centerline.

(Prior gen. code § 8-82.35; based on § I, Ord. No. 697 N.S.; Ord. No. 2010-71, § 114, 12-21-10)

17.100.390 Laurel Avenue.

From Meekland Avenue to the city of Hayward boundary line, thirty (30) feet as measured from and on each side of the existing centerline.

(Prior gen. code § 8-81-53; based on § 2, Ord. No. 291 N.S.; Ord. No. 2010-71, § 114, 12-21-10)

17.100.400 Lewelling Boulevard.

A. From Hesperian Boulevard to Usher Street, forty-two (42) feet as measured from and on each side of the existing centerline.

(Prior gen. code § 8-81.55; based on § 1, Ord. No. 426 N.S.)

B. From Usher Street to Tracy Street; the northerly future width lines shall be established as follows: Commencing at a point on the easterly right-of-way lines of Usher Street (formerly Second Street) distant thereon forty (40) feet northerly from the intersection thereof with the centerline of Lewelling Boulevard; thence easterly to a point on the easterly right-of-way line of Tracy Street (formerly Third Street) distant thereon forty-seven (47) feet northerly from the intersection thereof with the centerline of Lewelling Boulevard.

The southerly future width line shall be established eighty (80) feet southerly from the northerly future width line hereinabove established.

(Prior gen. code § 8-81.56; based on § 1, Ord. No. 426 N.S.)

C. Northerly side, from Tracy Street to the Union Pacific, formerly the Southern Pacific, Railroad right-of-way, eighty (80) feet as measured northerly from the existing southerly right-of-way line.

(Prior gen. code § 8-81.57; based on § 1, Ord. No. 426 N. S.; Ord. No. 2010-71, § 114, 12-21-10)

17.100.410 Lorenzo Avenue.

From Grant Avenue to its northerly terminus, twenty-five (25) feet as measured from and on each side of the existing centerline.

(Prior gen. code § 8-81.58; based on § 2, Ord. No. 167 N.S.; Ord. No. 2010-71, § 114, 12-21-10)

17.100.420 Los Banos Street.

From 165th Avenue to 169th Avenue, thirty (30) feet as measured from and on each side of the existing centerline.

(Prior gen. code § 8-81.59; based on § 2, Ord. No. 291 N.S.; Ord. No. 2010-71, § 114, 12-21-10)

17.100.430 Marcella Street.

From Mono Avenue to 162nd Avenue, thirty (30) feet as measured from and on each side of the existing centerline.

(Prior gen. code § 8-81.61; based on § 2, Ord. No. 291 N.S.; Ord. No. 2010-71, § 114, 12-21-10)

17.100.440 Martin Avenue.

From Mohr Avenue to the northerly terminus, thirty (30) feet as measured from and on the existing centerline.

(Prior gen. code § 8-81.62; based on § 2, Ord. No. 172 N.S.; Ord. No. 2010-71, § 114, 12-21-10)

17.100.450 Mateo Street.

From Mono Avenue to 162nd Avenue, thirty (30) feet as measured from and on each side of the existing centerline.

(Prior gen. code § 8-81.64; based on § 2, Ord. No. 291 N.S.; Ord. No. 2010-71, § 114, 12-21-10)

17.100.460 Mattox Road.

A. From Mission Boulevard to Foothill Boulevard, thirty (30) feet as measured from and on each side of the existing centerline.

(Prior gen. code § 8-81.65; based on § 2, Ord. No. 291 N.S.)

B. Southeasterly side, from Foothill Boulevard to Oak Street, thirty (30) feet as measured southeasterly from the existing centerline.

(Prior gen. code § 8-81.66; based on § 2, Ord. No. 291 N.S.; Ord. No. 2010-71, § 114, 12-21-10)

17.100.470 Maubert Avenue.

From Tanager Avenue to 163rd Avenue, thirty (30) feet as measured from and on each side of the existing centerline.

(Prior gen. code § 8-81.67; based on § 2, Ord. No. 291 N.S. and § 1, Ord. No. 554 N.S.; Ord. No. 2010-71, § 114, 12-21-10)

17.100.480 Maud Avenue.

From Kelly Street to D Street, forty (40) feet from and on each side of the existing centerline.

(Prior gen. code § 8-82.42; based on § 1, Ord. No. 1016 N.S.; amended by § 1, Ord. No. 1018 N.S.; Ord. No. 2010-71, § 114, 12-21-10)

17.100.490 Medford Avenue.

From Meekland Avenue to Mission Boulevard, thirty (30) feet as measured from and on each side of the existing centerline.

(Prior gen. code § 8-81.68; based on § 2, Ord. No. 291 N.S.; Ord. No. 2010-71, § 114, 12-21-10)

17.100.500 Meekland Avenue.

A. From East Lewelling Boulevard to San Lorenzo Creek, thirty-two (32) feet as measured from and on each side of the existing centerline.

(Prior gen. code § 8-82.54; based on § 1, Ord. No. 68-76)

B. From San Lorenzo Creek to A Street, thirty-four (34) feet as measured from and on each side of the existing centerline.

(Prior gen. code § 8-81.69; based on § 2, Ord. No. 291 N.S.; Ord. No. 2010-71, § 114, 12-21-10)

17.100.510 Mono Avenue.

From Maubert Avenue to Mateo Street, thirty (30) feet as measured from and on each side of the existing centerline.

(Prior gen. code § 8-81.72; based on § 2, Ord. No. 291 N.S.; Ord. No. 2010-71, § 114, 12-21-10)

17.100.520 North Livermore Avenue.

From Portola Avenue, northerly to Manning Road, forty (40) feet as measured from each side of the existing centerline.

(Prior gen. code § 8-82.34; based on § 1, Ord. No. 697 N. S.; Ord. No. 2010-71, § 114, 12-21-10)

17.100.530 Palo Verde Road.

From East Castro Valley Boulevard to East Castro Valley Boulevard, forty-three (43) feet as measured from and on each side of the existing centerline.

(Prior gen. code § 8-81.80; based on § 2, Ord. No. 212 N.S.; Ord. No. 2010-71, § 114, 12-21-10)

17.100.540 Palomares Road.

From Palo Verde Road southeasterly to Niles Canyon Road forty-three (43) feet as measured from and on each side of the existing centerline.

(Prior gen. code § 8-81.78; based on § 2, Ord. No. 212 N.S.; amended by Ord. No. 238 N.S.; Ord. No. 2010-71, § 114, 12-21-10)

17.100.550 Pleasanton-Sunol Road.

From Verona Road to the boundary line of the city of Pleasanton, fifty (50) feet as measured from and on each side of the existing centerline.

(Prior gen. code § 8-82.47; based on § 2, Ord. No. 172 N.S.; Ord. No. 2010-71, § 114, 12-21-10)

17.100.560 Poplar Avenue.

From Meekland Avenue to Princeton Street, thirty (30) feet as measured from and on each side of the existing centerline.

(Prior gen. code § 8-81.81; based on § 2, Ord. No. 291 N.S.; Ord. No. 2010-71, § 114, 12-21-10)

17.100.570 Princeton Street.

From Willow Avenue to A Street, thirty (30) feet as measured from and on each side of the existing centerline.

(Prior gen. code § 8-81.82; based on § 2, Ord. No. 291 N.S.; Ord. No. 2010-71, § 114, 12-21-10)

17.100.580 Redwood Road.

A. From Grove Way north to Vegas Avenue thirty (30) feet east of the existing easterly right-of-way line.

B. From Vegas Avenue north to Pine Street, a maximum of thirty-seven (37) feet on either side of the existing right-of-way as shown on the map labeled "Redwood Road Future Width Lines, Exhibit A, August 2, 1971," on file with the Alameda County Planning Commission, 399 Elmhurst Street, Hayward, California.

C. From Pine Street north to Castro Valley Boulevard, thirty-seven (37) feet west and fourteen (14) feet east of the existing right-of-way lines.

(Prior gen. code § 8-82.57; based on § 1, Ord. No. 71-80; Ord. No. 2010-71, § 114, 12-21-10)

17.100.590 Regent Way.

From Ehle Street to John Street, twenty-five (25) feet as measured from and on each side of the existing centerline.

(Prior gen. code § 8-81.83; based on § 2, Ord. No. 388 N.S.; Ord. No. 2010-71, § 114, 12-21-10)

17.100.600 Royal Avenue.

From Bartlett Avenue to West A Street, thirty (30) feet as measured from and on each side of the existing centerline.

(Prior gen. code § 8-81.87; based on § 2, Ord. No. 363 N.S.; Ord. No. 2010-71, § 114, 12-21-10)

17.100.610 San Carlos Avenue.

From Park Way to Stanton Avenue, five feet as measured south from the existing southerly right-of-way line.

(Prior gen. code § 8-82.55; based on § 1, Ord. No. 70-24; Ord. No. 2010-71, § 114, 12-21-10)

17.100.620 Santa Maria Avenue.

From Castro Valley Boulevard to Somerset Avenue, twenty-eight (28) feet, from and on either side of the existing centerline.

(Prior gen. code § 8-82.0; based on § 2, Ord. No. 957 N.S.; Ord. No. 2010-71, § 114, 12-21-10)

17.100.630 Sheridan Road.

From Mission Road southeasterly to end, thirty (30) feet as measured from and on each side of the existing centerline.

(Prior gen. code § 8-82.3; based on § 2, Ord. No. 238 N.S.; Ord. No. 2010-71, § 114, 12-21-10)

17.100.640 Smalley Avenue.

From Meekland Avenue to the city of Hayward boundary line, thirty (30) feet as measured from and on each side of the existing centerline.

(Prior gen. code § 8-82.4, Based on § 2, Ord. No. 291 N.S.; Ord. No. 2010-71, § 114, 12-21-10)

17.100.650 Somerset Avenue.

From 168th Avenue to Redwood Road, thirty (30) feet as measured from and on each side of the existing centerline.

(Prior gen. code § 8-82.5; based on § 2, Ord. No. 521 N.S.; Ord. No. 2010-71, § 114, 12-21-10)

17.100.660 South Livermore Avenue.

From the boundary line of the city of Livermore to Tesla Road, fifty (50) feet as measured from and on each side of the existing centerline.

(Prior gen. code § 8-82.7; based on § 1, Ord. No. 444 N.S.; Ord. No. 2010-71, § 114, 12-21-10)

17.100.670 Stanley Boulevard.

A. From the boundary line of the city of Pleasanton to the Union Pacific, formerly the Southern Pacific, Railroad right-of-way, forty (40) feet as measured from and on each side of the existing centerline.

(Prior gen. code § 8-82.9; based on § 2, Ord. No. 172 N.S.)

B. From the Union Pacific, formerly the Southern Pacific, Railroad right-of-way to Isabel Avenue, sixty-three (63) feet as measured southeasterly from the existing centerline and thirty-three (33) feet measured northwesterly from the existing centerline.

(Prior gen. code § 8-82.10; based on § 2, Ord. No. 172 N.S.; amended by Ord. No. 376 N.S.; Ord. No. 2010-71, § 114, 12-21-10)

17.100.680 Stanton Avenue.

From Castro Valley Boulevard to Somerset Street, thirty-four (34) feet as measured from and on each side of the existing centerline.

(Prior gen. code § 8-82.11; based on § 2, Ord. No. 364 N.S.; Ord. No. 2010-71, § 114, 12-21-10)

17.100.690 Sunnyslope Avenue.

From East Castro Valley Boulevard to the northeasterly terminus, thirty (30) feet as measured from and on each side of the existing centerline.

(Prior gen. code § 8-82.12; based on § 2, Ord. No. 295 N.S.; Ord. No. 2010-71, § 114, 12-21-10)

17.100.700 Tanager Avenue.

From Liberty Street to Maubert Avenue, thirty (30) feet as measured from and on each side of the existing centerline.

(Prior gen. code § 8-82.14; based on § 2, Ord. No. 291 N.S.; Ord. No. 2010-71, § 114, 12-21-10)

17.100.710 Tesla Road.

A. From South Livermore Avenue to South Vasco Road, fifty (50) feet as measured from and on each side of the existing centerline.

(Prior gen. code § 8-82.17; based on § 1, Ord. No. 444 N.S.)

B. From South Vasco Road to Greenville Road, forty (40) feet as measured from and on each side of the existing centerline.

(Prior gen. code § 8-82.18; based on § 1, Ord. No. 444 N.S.; Ord. No. 2010-71, § 114, 12-21-10)

17.100.720 Vallejo Street.

From Sunset Boulevard to the northerly terminus, thirty (30) feet as measured from and on each side of the existing centerline.

(Prior gen. code § 8-82.19; based on § 2, Ord. No. 507 N.S.; Ord. No. 2010-71, § 114, 12-21-10)

17.100.730 Vasco Road.

From the southerly right-of-way line of Dalton Avenue (Livermore City Boundary) to the Alameda County — Contra Costa County boundary, forty-four (44) feet as measured from and on each side of the existing centerline.

(Prior gen. code § 8-82.202; based on § 2, Ord. No. 67-24; Ord. No. 2010-71, § 114, 12-21-10)

17.100.740 Vineyard Avenue.

From the city of Pleasanton boundary line to the Pleasanton-Murray Township line, forty-three (43) feet as measured from and on each side of the existing centerline.

(Prior gen. code § 8-82.21; based on § 2, Ord. No. 172 N.S.; Ord. No. 2010-71, § 114, 12-21-10)

17.100.750 Wente Street.

From South Livermore Avenue south to Marina Avenue forty-four (44) feet as measured from and on each side of existing centerline.

(Prior gen. code § 8-82.217; based on § 1, Ord. No. 67-53; Ord. No. 2010-71, § 114, 12-21-10)

17.100.760 West Sunset Boulevard.

From Hesperian Boulevard to Garden Avenue, thirty (30) feet as measured from and on each side of the existing centerline.

(Prior gen. code § 8-82.23; based on § 2, Ord. No. 363 N.S.; Ord. No. 2010-71, § 114, 12-21-10)

17.100.770 Western Boulevard.

A. Southwesterly side from Hampton Road to the city of Hayward boundary line, forty-four (44) feet as measured southeasterly from the existing northeasterly right-of-way line.

(Prior gen. code § 8-82.26; based on § 2, Ord. No. 291 N.S.)

B. Northeasterly side, from Hampton Road to the city of Hayward boundary line, forty-four (44) feet as measured northeasterly from the existing southwesterly right-of-way line.

(Prior gen. code § 8-82.27; based on § 2, Ord. No. 291 N.S.; Ord. No. 2010-71, § 114, 12-21-10)

17.100.780 Wilbeam Avenue.

From Castro Valley Boulevard to Norbridge Avenue, thirty (30) feet as measured from and on each side of the existing centerline.

(Prior gen. code § 8-82.28; based on § 2, Ord. No. 414 N.S.; Ord. No. 2010-71, § 114, 12-21-10)

17.100.790 Willow Avenue.

From Meekland Avenue to Western Boulevard, thirty (30) feet as measured from and on each side of the existing centerline.

(Prior gen. code § 8-82.29; based on § 2, Ord. No. 291 N.S.; Ord. No. 2010-71, § 114, 12-21-10)

17.100.800 Windfeldt Road.

From East Avenue to Second Street, thirty (30) feet as measured from and on each side of the existing centerline.

(Prior gen. code § 8-82.30; based on § 2, Ord. No. 212 N.S.; Ord. No. 2010-71, § 114, 12-21-10)

## Chapter 17.102 SPECIAL BUILDING LINES

**Sections:**

17.102.010 Purpose.

For the purpose of measuring yard dimensions and determining building lines as provided in this chapter there are the special building lines enumerated in this article.

(Prior gen. code § 8-84.0; based on § 28, Ord. No. 420; Ord. No. 2010-71, § 115, 12-21-10)

17.102.020 162nd Avenue.

From East 14th Street to Foothill Boulevard, fifty (50) feet as measured from and on the existing centerline.

(Prior gen. code § 8-84.57; based on § 3, Ord. No. 291 N.S. and § 3, Ord. No. 517 N.S.; Ord. No. 2010-71, § 115, 12-21-10)

17.102.030 166th Avenue.

From East 14th Street to Los Banos Street, fifty (50) feet as measured from and on each side of the existing centerline.

(Prior gen. code § 8-84-58; based on § 3, Ord. No. 291 N.S.; Ord. No. 2010-71, § 115, 12-21-10)

17.102.040 168th Avenue.

From East 14th Street to Los Banos Street, fifty (50) feet as measured from and on each side of the existing centerline.

(Prior gen. code § 8-84.59; based on § 3, Ord. No. 291 N.S.; Ord. No. 2010-71, § 115, 12-21-10)

17.102.050 A Street.

From the city limits of Hayward easterly to Knox Street, sixty (60) feet as measured from and on each side of the existing centerline.

(Prior gen. code § 8-84.2; based on § 3, Ord. No. 554 N.S.; Ord. No. 2010-71, § 115, 12-21-10)

17.102.060 Anita Avenue.

From Castro Valley Boulevard to Somerset Avenue, forty-five (45) feet as measured from and on each side of the existing centerline.

(Prior gen. code § 8-84.3; based on § 2, Ord. No. 577 N.S.; Ord. No. 2010-71, § 115, 12-21-10)

17.102.070 Ashland Avenue.

A. From East Lewelling Boulevard to the Union Pacific, formerly the Western Pacific, Railroad right-of-way, sixty (60) feet measured from and on each side of the existing centerline.

(Prior gen. code § 8-84.5; based on § 3, Ord. No. 433 N.S.)

B. From the Union Pacific, formerly the Western Pacific, Railroad right-of-way to Delano Street, sixty-four (64) feet as measured westerly from the existing centerline, and fifty-six (56) feet as measured easterly from the existing centerline.

(Prior gen. code § 8-84.6; based on § 3, Ord. No. 291 N.S.)

C. From Delano Street to East 14th Street, fifty-seven (57) feet measured westerly from the existing centerline, and sixty-three (63) feet as measured easterly from the existing centerline.

(Prior gen. code § 8-84.4; based on § 3, Ord. No. 291 N.S.; amended by § 7, Ord. No. 70-34; Ord. No. 2010-71, § 115, 12-21-10)

17.102.080 Bond Street.

From Foothill Road to Main Street, fifty (50) feet as measured from and on each side of the existing centerline.

(Prior gen. code § 8-84.9; based on § 3, Ord. No. 172 N.S.; Ord. No. 2010-71, § 115, 12-21-10)

17.102.090 Byron-Bethany Road.

On the southwesterly side, seventy (70) feet westerly from the existing westerly right-of-way line, from the Contra Costa County Line to the San Joaquin County Line.

(Prior gen. code § 8-84.9B; based on § 3, Ord. No. 67-42; Ord. No. 2010-71, § 115, 12-21-10)

17.102.100 Calaveras Road.

From Mission Road to the county line dividing Alameda County and Santa Clara County, fifty (50) feet as measured from and on each side of the existing centerline.

(Prior gen. code § 8-84.10; based on § 3, Ord. No. 172 N. S.; Ord. No. 2010-71, § 115, 12-21-10)

17.102.110 Castlewood Drive.

From Foothill Road to Pleasanton-Sunol Road, seventy (70) feet as measured from and on each side of the existing centerline.

(Prior gen. code § 8-84.11; based on § 3, Ord. No. 172 N.S.; Ord. No. 2010-71, § 115, 12-21-10)

17.102.120 Center Street.

A. From the Boundary line of the city of Hayward to Grove Way, sixty (60) feet and on each side of the existing centerline.

(Prior gen. code § 8-84.14; based on § 2, Ord. No. 414 N.S.)

B. From Castro Valley Boulevard to James Avenue, fifty (50) feet from and on each side of the existing centerline.

(Prior gen. code § 8-84.13; based on § 3, Ord. No. 493 N.S.)

C. Twenty (20) foot setback from Center Street, Eden Township, between its northerly terminus and James Street.

(Prior gen. code § 8-85.36; based on Ord. No. 420; amended by § 19, Ord. No. 567; amended by § 3, Ord. No. 493 N.S.; Ord. No. 2010-71, § 115, 12-21-10)

17.102.130 Crow Canyon Road.

A. From East Castro Valley Boulevard to Manter Road one hundred (100) feet as measured from and on each side of the existing centerline.

(Prior gen. code § 8-84.15; based on § 3, Ord. No. 295 N.S.; amended by § 1, Ord. No. 80-22)

B. From the east side of the Greenridge Road intersection to Norris Canyon Road, one hundred (100) feet as measured from and on each side of the existing centerline.

(Prior gen. code § 8-84.151)

C. From a point 0.975 miles north of the intersection of Norris Canyon Road to the county line dividing Alameda County and Contra Costa County, one hundred (100) feet as measured from and on each side of the existing centerline.

(Prior gen. code § 8-84.152; based on § 2, Ord. No. 80-22; Ord. No. 2010-71, § 115, 12-21-10)

17.102.140 Cull Canyon Road.

From Crow Canyon Road to the northwesterly terminus eighty-three (83) feet as measured from and on each side of the existing centerline.

(Prior gen. code § 8-84.16; based on § 3, Ord. No. 295 N.S.; Ord. No. 2010-71, § 115, 12-21-10)

17.102.150 D Street.

From where city limits of Hayward crosses D Street to Fairview Avenue, sixty (60) feet on each side of existing centerline.

(Prior gen. code § 8-85.41; based on § 1, Ord. No. 101B N.S.; Ord. No. 2010-71, § 115, 12-21-10)

17.102.160 East Lewelling Boulevard.

A. From the Union Pacific, formerly the Southern Pacific, Railroad right-of-way to the Union Pacific, formerly the Western Pacific, Railroad right-of-way, twenty (20) feet from and in addition to those future width lines hereinabove established.

(Prior gen. code § 8-84.20; based on § 2, Ord. No. 426 N.S.)

B. From the Union Pacific, formerly the Western Pacific, Railroad right-of-way to the easterly line of Mission Boulevard, sixty (60) feet as measured from and on each side of the existing centerline.

(Prior gen. code § 8-84.21; based on § 3, Ord. No. 291 N.S.; Ord. No. 2010-71, § 115, 12-21-10)

17.102.170 Eden Canyon Road.

From East Castro Valley Boulevard to the northeasterly terminus, eighty (80) feet as measured from and on each side of the existing centerline.

(Prior gen. code § 8-84.24; based on § 3, Ord. No. 295 N.S.; Ord. No. 2010-71, § 115, 12-21-10)

17.102.180 Fairview Avenue.

From D Street to Hayward Boulevard, fifty (50) feet from and on each side of existing centerline.

(Prior gen. code § 8-85.40; based on § 1, Ord. No. 101B N.S.; Ord. No. 2010-71, § 115, 12-21-10)

17.102.190 Foothill Road.

A. From Dublin Canyon Road to Verona Road, seventy (70) feet as measured from and on each side of the existing centerline.

(Prior gen. code § 8-84.25; based on § 3, Ord. No. 172 N.S.)

B. From Verona Road to Kilkare Road, fifty (50) feet as measured from and on each side of the existing centerline.

(Prior gen. code § 8-84.26; based on § 3, Ord. No. 172 N.S.; Ord. No. 2010-71, § 115, 12-21-10)

17.102.200 Garin Avenue.

From the easterly boundary line of the city of Hayward to its easterly terminus, fifty-four (54) feet as measured from and on each side of the existing centerline.

(Prior gen. code § 8-84.27; based on § 2, Ord. No. 544 N.S.; Ord. No. 2010-71, § 115, 12-21-10)

17.102.210 Grant Avenue.

A. From Via Alamitos to Lorenzo Avenue, twenty (20) feet as measured northwesterly from the existing northwesterly right-of-way line and one hundred six (106) feet as measured southeasterly from the existing northwesterly right-of-way line.

(Prior gen. code § 8-84.28; based on § 3, Ord. No. 299 N.S.)

B. From Lorenzo Avenue to Channel Street, twenty (20) feet as measured northwesterly from the existing northwesterly right-of-way line and ninety-eight (98) feet as measured southeasterly from the existing northwesterly right-of-way line.

(Prior gen. code § 8-84.29; based on § 3, Ord. No. 299 N.S.)

C. From the Union Pacific, formerly the Southern Pacific, Railroad right-of-way, southwesterly to the end of County Road, sixty-seven (67) feet as measured northwesterly from the existing centerline and fifty-nine (59) feet as measured southeasterly from the existing centerline.

(Prior gen. code § 8-84.30; based on § 3, Ord. No. 299 N.S.; Ord. No. 2010-71, § 115, 12-21-10)

17.102.220 Grant Line Road.

From the existing northerly right-of-way boundary of Interstate 580 north and east to the Alameda County-San Joaquin County Boundary seventy-five (75) feet as measured from and on each side of existing centerline.

(Prior gen. code § 8-84.304; based on § 2, Ord. No. 67-40; Ord. No. 2010-71, § 115, 12-21-10)

17.102.230 Greenville Road.

From Tesla Road northerly to a point approximately nine hundred (900) feet southerly of the Union Pacific, formerly the Western Pacific, Railroad right-of-way, seventy (70) feet as measured from and on each side of the existing centerline.

(Prior gen. code § 8-84.31; based on § 2, Ord. No. 603 N.S.; Ord. No. 2010-71, § 115, 12-21-10)

17.102.240 Grove Way.

A. From the city of Hayward to a point approximately one hundred twenty (120) feet northeasterly of Oak Street, fifty (50) feet as measured from and on each side of the existing centerline.

(Prior gen. code § 8-84.32; based on § 3, Ord. No. 291 N.S.)

B. Twenty (20) foot setback from Grove Way, Eden Township, between the city of Hayward and Redwood Road.

(Prior gen. code § 8-85.35; based on Ord. No. 420; amended by § 19, Ord. No. 567)

C. From Redwood Road easterly to Center Street, sixty (60) feet as measured on each side of the existing centerline.

(Prior gen. code § 8-85.16; based on § 2, Ord. No. 343 N.S.)

D. Twenty (20) foot setback from Grove Way, Eden Township, between Center Street and East Castro Valley Boulevard.

(Prior gen. code § 8-85.31; based on Ord. No. 420; amended by § 19, Ord. No. 567; amended by § 3, Ord. No. 554 N.S.; amended by § 2, Ord. No. 905 N.S.; Ord. No. 2010-71, § 115, 12-21-10)

17.102.250 Hampton Road.

From Meekland Avenue to Mission Boulevard, fifty (50) feet as measured from and on each side of the existing centerline.

(Prior gen. code § 8-84.33; based on § 3, Ord. No. 291 N.S.; Ord. No. 2010-71, § 115, 12-21-10)

17.102.260 Haviland Avenue.

From Medford Avenue to Willow Avenue, fifty (50) feet as measured from and on each side of the existing centerline.

(Prior gen. code § 8-84.34; based on § 3, Ord. No. 291 N.S.; Ord. No. 2010-71, § 115, 12-21-10)

17.102.270 Heyer Avenue.

Twenty (20) foot setback from Heyer Avenue, Eden Township, between Center Street and Redwood Road.

(Prior gen. code § 8-85.37; based on Ord. No. 420; amended by § 19, Ord. No. 567; Ord. No. 2010-71, § 115, 12-21-10)

17.102.280 Jensen Road.

From East Castro Valley Boulevard to the northeasterly terminus, sixty (60) feet as measured from and on each side of the existing centerline.

(Prior gen. code § 8-84.37; based on § 3, Ord. No. 295 N.S.; Ord. No. 2010-71, § 115, 12-21-10)

17.102.290 Kelly Street.

From where City Limit of Hayward crosses Kelly Street to Maud Avenue, fifty-four (54) feet from and on each side of the existing centerline.

(Prior gen. code § 8-85.39; based on § 1, Ord. No. 101B N.S.; Ord. No. 2010-71, § 115, 12-21-10)

17.102.300 Kilkare Road.

From Foothill Road to the northwesterly terminus, forty-five (45) feet as measured from and on each side of the existing centerline.

(Prior gen. code § 8-84.39; based on § 3, Ord. No. 172 N.S.; Ord. No. 2010-71, § 115, 12-21-10)

17.102.310 Lake Chabot Road.

A. From Castro Valley Boulevard northerly to the northwesterly line of Lot 1 of Block 6 of said Tract 1674, twenty (20) feet from and on each side of the existing right-of-way lines.

(Prior gen. code § 8-85.27; based on § 3, Ord. No. 313 N.S.; amended by § 13, Ord. No. 70-34)

B. From the most westerly corner of Tract 1674 to a point approximately three thousand seven hundred (3,700) feet northwesterly therefrom, seventy-six (76) feet as measured northeasterly and fifty (50) feet as measured southwesterly from the centerline of the existing sixty (60) foot right-of-way.

(Prior gen. code § 8-84.40; based on § 3, Ord. No. 240 N.S.)

C. From a point approximately three thousand seven hundred (3,700) feet northwesterly of the most westerly corner of Tract 1674 to the boundary of the city of San Leandro, seventy-six (76) feet as measured southwesterly and fifty (50) feet as measured northeasterly from the centerline of the existing sixty (60) foot right-of-way.

(Prior gen. code § 8-84.41; based on § 3, Ord. No. 240 N.S.; amended by § 10, Ord. No. 70-34; Ord. No. 2010-71, § 115, 12-21-10)

17.102.320 Las Positas Road.

From North Livermore Avenue, easterly to First Street, fifty (50) feet as measured from and on each side of the existing centerline.

(Prior gen. code § 8-85.21; based on § 2, Ord. No. 697 N.S.; Ord. No. 2010-71, § 115, 12-21-10)

17.102.330 Laurel Avenue.

From Meekland Avenue to the city of Hayward boundary line, fifty (50) feet as measured from and on each side of the exiting centerline.

(Prior gen. code § 8-84.42; based on § 3, Ord. No. 291 N.S.; Ord. No. 2010-71, § 115, 12-21-10)

17.102.340 Lewelling Boulevard.

From Interstate 880 to the Union Pacific, formerly the Southern Pacific, Railroad right-of-way, twenty (20) feet from and in addition to those future width lines hereinabove established.

(Prior gen. code § 8-84.43; based on § 2, Ord. No. 426 N.S.; Ord. No. 2010-71, § 115, 12-21-10)

17.102.350 Lorenzo Avenue.

From Grant Avenue to its northerly terminus, forty-five (45) feet as measured from and on each side of the existing centerline.

(Prior gen. code 8-84.44; based on § 3, Ord. No. 167 N.S.; Ord. No. 2010-71, § 115, 12-21-10)

17.102.360 Los Banos Street.

From 165th Avenue to 169th Avenue, fifty (50) feet as measured from and on each side of the existing centerline.

(Prior gen. code § 8-84.45; based on § 31 Ord. No. 291 N.S.; Ord. No. 2010-71, § 115, 12-21-10)

17.102.370 Marcella Street.

From Mono Avenue to 162nd Avenue, fifty (50) feet as measured from and on each side of the existing centerline.

(Prior gen. code § 8-84.46; based on § 3, Ord. No. 291 N.S.; Ord. No. 2010-71, § 115, 12-21-10)

17.102.380 Martin Avenue.

From Mohr Avenue to the northerly terminus fifty (50) feet as measured from and on each side of the existing centerline.

(Prior gen. code § 8-84.47; based on § 3, Ord. No. 172 N.S.; Ord. No. 2010-71, § 115, 12-21-10)

17.102.390 Mateo Street.

From Mono Avenue to 162nd Avenue, fifty (50) feet as measured from and on the existing centerline.

(Prior gen. code § 8-84.48; based on § 3, Ord. No. 291 N.S.; Ord. No. 2010-71, § 115, 12-21-10)

17.102.400 Mattox Road.

A. From East 14th Street to Foothill Boulevard, fifty (50) feet as measured from and on the existing centerline.

(Prior gen. code § 8-84.49; based on § 3, Ord. No. 291 N.S.)

B. Southeasterly side, from Foothill Boulevard, to Oak Street, fifty (50) feet as measured southeasterly from the existing centerline.

(Prior gen. code § 8-84.50; based on § 3, Ord. No. 291 N.S.; Ord. No. 2010-71, § 115, 12-21-10)

17.102.410 Maubert Avenue.

From Tanager Avenue to 163rd Avenue, fifty (50) feet as measured from and on each side of the existing centerline.

(Prior gen. code § 8-84.51; based on § 3, Ord. No. 291 N.S. and § 3, Ord. No. 554 N.S.; Ord. No. 2010-71, § 115, 12-21-10)

17.102.420 Maud Avenue.

From Kelly Street to D Street, sixty (60) feet from and on each side of the existing centerline.

(Prior gen. code § 8-85.38; based on § 1, Ord. No. 101B N.S.; Ord. No. 2010-71, § 115, 12-21-10)

17.102.430 Medford Avenue.

From Meekland Avenue to Mission Boulevard fifty (50) feet as measured from and on each side of the existing centerline.

(Prior gen. code § 8-84.52; based on § 31 Ord. No. 291 N.S.; Ord. No. 2010-71, § 115, 12-21-10)

17.102.440 Meekland Avenue.

A. From East Lewelling Boulevard to San Lorenzo Creek, fifty-two (52) feet as measured from and on each side of the existing centerline.

(Prior gen. code § 8-85.50; based on § 1, Ord. No. 68-76)

B. From San Lorenzo Creek to A Street, fifty-four (54) feet as measured from and on each side of the existing centerline.

(Prior gen. code § 8-84.53; based on § 3, Ord. No. 291 N.S.; Ord. No. 2010-71, § 115, 12-21-10)

17.102.450 Mono Avenue.

From Maubert Avenue to Mateo Street, fifty (50) feet as measured from and on each side of the existing centerline.

(Prior gen. code § 8-84.55; based on § 3, Ord. No. 291 N.S.; Ord. No. 2010-71, § 115, 12-21-10)

17.102.460 Norris Canyon Road.

From Crow Canyon Road to the Alameda-Contra Costa County Line, eighty-three (83) feet as measured from and on each side of the existing centerline.

(Prior gen. code § 8-84.56; based on § 3, Ord. No. 295 N.S.; Ord. No. 2010-71, § 115, 12-21-10)

17.102.470 North Livermore Avenue.

From Portola Avenue, northerly to Manning Road, sixty (60) feet as measured from and on each side of the existing centerline.

(Prior gen. code § 8-85.20; based on § 2, Ord. No. 697 N.S.; Ord. No. 2010-71, § 115, 12-21-10)

17.102.480 Pinehurst Road.

From Redwood Road to the Alameda-Contra Costa County Line, eighty-three (83) feet as measured from and on each side of the existing centerline.

(Prior gen. code § 8-84.61; based on § 3, Ord. No. 295 N.S.; Ord. No. 2010-71, § 115, 12-21-10)

17.102.490 Poplar Avenue.

From Meekland Avenue to Princeton Street, fifty (50) feet as measured from and on each side of the existing centerline.

(Prior gen. code § 8-84.62; based on § 3, Ord. No. 291 N.S.; Ord. No. 2010-71, § 115, 12-21-10)

17.102.500 Princeton Street.

From Willow Avenue to A Street, fifty (50) feet as measured from and on each side of the existing centerline.

(Prior gen. code § 8-84.63; based on § 3, Ord. No. 291 N.S.; Ord. No. 2010-71, § 115, 12-21-10)

17.102.510 Redwood Road.

A. From Knox Street to Grove Way, sixty (60) feet as measured from and on each side of the existing centerline.

(Prior gen. code § 8-84.64; based on § 3, Ord. No. 554 N.S.)

B. From Grove Way to Interstate 580, thirty (30) feet as measured easterly from the existing right-of-way line.

(Prior gen. code § 8-85.23 (part); based on § 2, Ord. No. 905 N.S.)

C. From Interstate 580 to Castro Valley Boulevard, thirty (30) feet as measured westerly from the existing right-of-way line.

(Prior gen. code § 8-85.23 (part); based on § 2, Ord. No. 905 N.S.)

D. From Castro Valley Boulevard to a point five hundred (500) feet northerly of Proctor Road sixty (60) feet as measured from and on each side of the existing centerline.

(Prior gen. code § 8-84.67; based on § 2, Ord. No. 381 N.S.; amended by § 11, Ord. No. 70-34)

E. From a point five hundred (500) feet northerly of Proctor Road, northwesterly to the boundary line of the city of Oakland, eighty-three (83) feet from and on each side of the existing centerline.

(Prior gen. code § 8-84.70; based on § 3, Ord. No. 295 N.S.; Ord. No. 2010-71, § 115, 12-21-10)

17.102.520 Regent Way.

From Ehle Street to John Street, forty-five (45) feet as measured from and on each side of the existing centerline.

(Prior gen. code § 8-84.71; based on § 3, Ord. No. 388 N.S.; Ord. No. 2010-71, § 115, 12-21-10)

17.102.530 San Carlos Avenue.

From Park Way to Stanton Avenue, seven and one-half feet south of the right-of-way line and seven and one-half feet north of the right-of-way line.

(Prior gen. code § 8-85.51; based on § 1, Ord. No. 70-24; Ord. No. 2010-71, § 115, 12-21-10)

17.102.540 San Miguel Avenue.

From Castro Valley Boulevard to Somerset Avenue fifty (50) feet from and on each side of the existing centerline.

(Prior gen. code § 8-85.14; based on § 2, Ord. No. 745 N.S.; Ord. No. 2010-71, § 115, 12-21-10)

17.102.550 Santa Maria Avenue.

From Castro Valley Boulevard to Somerset Avenue forty-eight (48) feet from and on either side of the existing centerline.

(Prior gen. code § 8-84.75; based on § 2, Ord. No. 957 N.S.; Ord. No. 2010-71, § 115, 12-21-10)

17.102.560 Seven Hills Road.

A. Twenty (20) foot setback from that portion of Seven Hills Road, Eden Township, between Lake Chabot Road and Redwood Road.

(Prior gen. code § 8-85.33; based on Ord. No. 420; amended by § 19, Ord. No. 567)

B. Twenty (20) foot setback from that portion of Seven Hills Road, Eden Township, between Brickell Way and the Castro Valley Creek.

(Prior gen. code § 8-85.34; based on Ord. No. 420; amended by § 19, Ord. No. 567; Ord. No. 2010-71, § 115, 12-21-10)

17.102.570 Smalley Avenue.

From Meekland Avenue to the city of Hayward boundary line, fifty (50) feet as measured from and on each side of the existing centerline.

(Prior gen. code § 8-84.78; based on § 3, Ord. No. 291 N.S.; Ord. No. 2010-71, § 115, 12-21-10)

17.102.580 Somerset Avenue.

From 168th Avenue to Redwood Road, fifty (50) feet as measured from and on each side of the existing centerline.

(Prior gen. code § 8-84.79; based on § 3, Ord. No. 521 N.S.; Ord. No. 2010-71, § 115, 12-21-10)

17.102.590 South Livermore Avenue.

From the boundary line of the city of Livermore to Tesla Road, seventy (70) feet as measured from and on each side of the existing centerline.

(Prior gen. code § 8-84.80; based on § 2, Ord. No. 444 N.S.; Ord. No. 2010-71, § 115, 12-21-10)

17.102.600 Stanley Boulevard.

A. From the boundary line of the city of Pleasanton to the Union Pacific, formerly the Southern Pacific, Railroad right-of-way, sixty (60) feet as measured from and on each side of the existing centerline.

(Prior gen. code § 8-84.82; based on § 3, Ord. No. 172 N.S.)

B. From the Union Pacific, formerly the Southern Pacific, Railroad right-of-way to Isabel Avenue, eighty-three (83) feet measured southeasterly from the existing centerline and fifty-three (53) feet measured northwesterly from the existing centerline.

(Prior gen. code § 8-84.83; based on § 3, Ord. No. 172 N.S.; amended by § 2, Ord. No. 376 N.S.; Ord. No. 2010-71, § 115, 12-21-10)

17.102.610 Stanton Avenue.

A. From Castro Valley Boulevard to Somerset Avenue, fifty-four (54) feet as measured from and on each side of the existing centerline.

(Prior gen. code § 8-84.84; based on § 3, Ord. No. 364 N.S.)

B. Twenty (20) foot setback from Stanton Avenue, Eden Township, between Crest Avenue and Somerset Avenue.

(Prior gen. code § 8-85.32; based on Ord. No. 420; amended by § 19, Ord. No. 567; amended by § 3, Ord. No. 364 N.S.; Ord. No. 2010-71, § 115, 12-21-10)

17.102.620 Sunnyslope Avenue.

From East Castro Valley Boulevard to the northeasterly terminus, sixty (60) feet from and on each side of the existing centerline.

(Prior gen. code § 8-84.85; based on § 3, Ord. No. 295 N.S.; Ord. No. 2010-71, § 115, 12-21-10)

17.102.630 Tanager Avenue.

From Liberty Street to Maubert Avenue, fifty (50) feet as measured from and on each side of the existing centerline.

(Prior gen. code § 8-84.86; based on § 3, Ord. No. 291 N.S.; Ord. No. 2010-71, § 115, 12-21-10)

17.102.640 Tesla Road.

A. From South Livermore Avenue to South Vasco Road, seventy (70) feet as measured from and on each side of the existing centerline.

(Prior gen code § 8-84.88; based on § 2, Ord. No. 444 N.S.)

B. From South Vasco Road to Greenville Road sixty (60) feet as measured from and on each side of the existing centerline.

(Prior gen. code § 8-84.89; based on § 2, Ord. No. 444 N.S.; Ord. No. 2010-71, § 115, 12-21-10)

17.102.650 Vallecitos Road.

Commencing from a point on the southern boundary of the Bernal portion of the Rancho el Valle de San Jose at the corner common to Plots 37 and 38 of said Rancho, in an easterly direction a distance of approximately seven thousand three hundred ninety-one (7,391) feet, two hundred (200) feet as measured northerly from and perpendicular to the existing centerline.

(Prior gen. code § 8-85.0; based on § 3, Ord. No. 172 N.S.; Ord. No. 2010-71, § 115, 12-21-10)

17.102.660 Vallejo Street.

From Sunset Boulevard to the northerly terminus, fifty (50) feet as measured from and on each side of the existing centerline.

(Prior gen. code § 8-85.1; based on § 3, Ord. No. 507 N.S.; Ord. No. 2010-71, § 115, 12-21-10)

17.102.670 Wente Street.

From South Livermore Avenue south to Marina Avenue sixty-four (64) feet as measured from and on each side of existing centerline.

(Prior gen. code § 8-85.47; based on § 4, Ord. No. 68-69; Ord. No. 2010-71, § 115, 12-21-10)

17.102.680 Western Boulevard.

A. Southwesterly side, from Hampton Road to the city of Hayward boundary line, sixty-four (64) feet as measured southwesterly from the existing northeasterly right-of-way line

(Prior gen. code § 8-85.11; based on § 3, Ord. No. 291 N.S.)

B. Northeasterly side, from Hampton Road to the city of Hayward boundary line, sixty-four (64) feet as measured northeasterly from the existing southwesterly right-of-way line

(Prior gen. code § 8-85.12; based on § 3, Ord. No. 291 N.S.; Ord. No. 2010-71, § 115, 12-21-10)

17.102.690 Willow Avenue.

From Meekland Avenue to Western Boulevard, fifty (50) feet as measured from and on each side of the existing centerline.

(Prior gen. code § 8-85.13; based on § 3, Ord. No. 291 N.S.; Ord. No. 2010-71, § 115, 12-21-10)

## Chapter 17.104 SCENIC ROUTE CORRIDORS[[10]](#footnote-10)

Sections:

17.104.010 Redwood Road.

There are hereby adopted scenic route corridors for Redwood Road from San Lorenzo Creek to Camino Alta Mira, as shown on the maps comprising Exhibit A to Ordinance No. 72-77 and the attached descriptions.

(Ord. No. 2010-71, § 116, 12-21-10)

17.104.020 Redwood Road corridor widths, west side, south to north (distances are from right-of-way).

A. Between Hayward city limits and Grove Way: Right-of-way.

B. Between Grove Way and one hundred eighty (180) feet south of Lessley Street: Varies from two hundred fifteen (215) feet at north right-of-way of Grove Way to one hundred (100) feet at one hundred eighty (180) feet south of Lessley Street (follows rear property line of fronting property — eight parcels).

C. Between one hundred eighty (180) feet south of Lessley Street and Redwood Court: Right-of-way.

D. Between Redwood Court and Castro Valley Boulevard: One hundred forty (140) feet.

E. Between Castro Valley Boulevard and four hundred eighty (480) feet north of Castro Valley Boulevard: Four hundred twenty (420) feet.

F. Between four hundred eighty (480) feet north of Castro Valley Boulevard and Mabel Avenue: Right-of-way.

G. Between Mabel Avenue and Wilson Avenue: Varies from two hundred (200) feet to two hundred ten (210) feet (follows rear property lines of parcels fronting on Redwood Road—five parcels); narrows to one hundred (100) feet to rear property line of parcel at southwest corner of Wilson Avenue and Redwood Road.

H. Between Wilson Avenue and opposite south right-of-way of Emily Court: Right-of-way.

I. Between Emily Court and Hillside Drive: Varies from one hundred ten (110) feet to one hundred twenty-five (125) feet (follows rear property lines of fronting parcels).

J. Between Hillside Drive and Buti Park Drive: Varies from seventy-eight (78) feet to one hundred seven (107) feet (follows rear property lines of fronting parcels).

K. Between Buti Park Drive and three hundred fifty (350) feet north of Proctor Road: One hundred ten (110) feet.

L. Between three hundred fifty (350) feet north of Proctor Road and Willow Park Golf Course: Varies from one hundred ninety-four (194) feet to two hundred ninety (290) feet (follows rear property lines of fronting parcels).

(Ord. No. 2010-71, § 116, 12-21-10)

17.104.030 Redwood Road corridor widths, east side, south to north (distances are from right-of-way).

A. Between Hayward City Limits and nine hundred seventy (970) feet north of Fourth Street: Corridor follows center line of San Lorenzo Creek.

B. Between nine hundred seventy (970) feet north of Fourth Street and Grove Way: Right-of-way.

C. Between Grove Way and one hundred ten (110) feet south of Lessley Street: Varies from two hundred (200) feet at northeast right-of-way of Grove Way to one hundred thirty (130) feet at one hundred ten (110) feet south of Lessley Street (follows rear property lines of fronting property).

D. Between one hundred ten (110) feet south of Lessley Street to Emily Court: Right-of-way.

E. Between Emily Court and Audrey Drive: One hundred (100) feet.

F. Between Audrey Drive and Seaview Drive: Seventy-five (75) feet (follows rear property lines).

G. Between Seaview Drive and Proctor Road: One hundred (100) feet.

H. Between Proctor Road and one hundred (100) feet south of Foxboro Drive: Sixty-eight (68) feet.

I. Between one hundred (100) feet south of Foxboro Drive and Foxboro Drive: One hundred one (101) feet.

J. Between north right-of-way of Foxboro Drive to Camino Alta Mira: One hundred two (102) feet.

(Ord. No. 2010-71, § 116, 12-21-10)

17.104.040 I-238.

There are hereby adopted scenic route corridors for I-238 between the I-580 interchange and I-880 interchange, as shown on the maps comprising Exhibit A to Ordinance No. 72-77 and the attached descriptions.

(Ord. No. 2010-71, § 116, 12-21-10)

17.104.050 I-238 corridor widths, south side, east to west (distances are from route right-of-way).

A. Between I-580 interchange and I-880 interchange: Right-of-way.

(Ord. No. 2010-71, § 116, 12-21-10)

17.104.060 I-238 corridor widths, north side, east to west (distances are from route right-of-way).

A. Between I-580 Interchange and Kent Avenue: Right-at-way.

B. Between Kent Avenue and five hundred sixty (560) feet west of Kent Avenue: Follows south right-of-way of Lynn Court, varies from four hundred twenty (420) feet at Lynn Court to three hundred (300) feet at five hundred sixty (560) feet west of Kent Avenue.

C. Between five hundred sixty (560) feet west of Kent Avenue and I-880 interchange: Right-of-way.

(Ord. No. 2010-71, § 116, 12-21-10)

17.104.070 I-580.

There are hereby adopted scenic route corridors for I-580 from 149th Avenue to I-238, as shown on the maps comprising Exhibit A to Ordinance No. 72-77 and the attached descriptions.

(Ord. No. 2010-71, § 116, 12-21-10)

17.104.080 I-580 corridor widths, east side, south to north (distances are from route right-of-way).

A. Between Route 238 interchange and west Ehle Street right-of-way: Sixty (60) feet.

B. Between southwest corner of Ehle Street right-of-way and northwest corner of Ehle Street right-of-way: Varies eighty (80) feet at southwest corner to three hundred thirty (330) feet at northwest corner (follows west right-of-way of Ehle Street).

C. Between northwest corner of Ehle Street right-of-way to north Miramonte Avenue right-of-way: Three hundred thirty (330) feet.

D. Between Miramonte Avenue northwest right-of-way and Saratoga Street southwest right-of-way: Varies from seven hundred thirty (730) to seven hundred twenty (720) feet.

E. Between Saratoga Street southwest corner and Saratoga Street northwest corner: Follows west right-of-way of Saratoga Street.

F. Between Saratoga Street northwest corner to Strang Avenue southwest corner: Follows west right-of-way of Saratoga Street.

G. Between Strang Avenue southwest corner and Carolyn Street northwest corner: Follows south right-of-way of Strang Avenue.

H. Between Carolyn Street northwest corner and Fairmont Drive: Follows Foothill Boulevard west right-of-way.

I. Between Fairmont Drive south right-of-way and 1-580: Two hundred (200) feet.

J. Between Fairmont Drive south right-of-way and San Leandro City Limits: 1-580 right-of-way.

(Ord. No. 2010-71, § 116, 12-21-10)

17.104.090 I-580 corridor widths, west side, south to north (distances are from route right-of-way).

A. Between I-238 north right-of-way and Los Banos Street southeast right-of-way: Two hundred sixty-five (265) feet.

B. Between Los Banos Street east right-of-way to 165th Avenue south right-of-way: East right-of-way of Los Banos Street.

C. Between Los Banos Street northeast right-at-way and Maubert Avenue southeast right-of-way: Varies from four hundred seventy (470) feet at Los Banos Street and 165th Avenue to four hundred (400) feet at Maubert Avenue (connects east right-of-way of Los Banos Street with east right-of-way of Maubert Avenue).

D. Between Maubert Avenue South corner and 162nd Avenue: East right-of-way of Maubert Avenue (varies four hundred (400) feet at Maubert Avenue south corner to three hundred forty (340) feet at 162nd Avenue).

E. Between 162nd Avenue and Liberty Avenue to three hundred thirty (330) feet south of Fairmont Drive: East right-of-way of Liberty Avenue.

F. Between three hundred thirty (330) feet south of Fairmont Drive and Freedom Avenue southeast corner: Seventy (70) feet.

G. Between Freedom Avenue southeast corner to San Leandro City Limits: East right-of-way of Freedom Avenue.

(Ord. No. 2010-71, § 116, 12-21-10)

## Chapter 17.106 DENSITY BONUS

**Sections:**

17.106.010 Title.

This chapter shall be called the density bonus ordinance of the County of Alameda.

(Ord. No. 2012-58, § 26, 4-10-12)

17.106.020 Purpose.

This chapter establishes policies which facilitate the development of affordable housing for very low and lower income households and senior households within the unincorporated area of Alameda County, through the provision of a density bonus, and additional financial incentives if necessary for affordability, to applicants who agree to meet the requirements established by this chapter.

(Ord. No. 2012-58, § 26, 4-10-12)

17.106.030 Definitions.

For the purposes of this chapter, certain words and phrases shall be interpreted as set forth in this section unless it is apparent from the context that a different meaning is intended:

"Affordable housing agreement" means the agreement made between the applicant and the county governing the regulation and monitoring of the affordable units.

"Amenities" means interior amenities including, but not limited to, fireplaces, garbage disposals, dishwashers, cabinets and storage space and bathrooms in excess of one.

"Applicant" means any person, firm, partnership, association, joint venture, corporation, or any entity or combination of entities which seeks a density bonus or incentives or both under this chapter.

"Base units" means the number of units that would be allowed under the general plan land use designation and zoning ordinance for the subject site before calculation of the density bonus.

"Child care facility" means a facility, other than a day care home, licensed by the State of California to provide non-medical care to children under eighteen (18) years of age in need of personal services, supervision or assistance on less than a 24-hour basis.

"Density bonus" means an increase in density over the otherwise maximum allowable residential density under the applicable zoning ordinance and general plan land use designation taking into account all applicable limitations.

"Density bonus unit" means a residential dwelling unit authorized as a result of the granting of a density bonus.

"Household" means one person living alone or two or more persons sharing a residential dwelling.

"Housing development" means a project providing residential units including, without limitation, a subdivision, a planned unit development, multifamily dwellings, or condominium project. Housing developments consist of development of residential units or creation of unimproved residential lots and also include either a project to substantially rehabilitate and convert an existing commercial building to residential use or the substantial rehabilitation of an existing multifamily dwelling, where the result of the rehabilitation would be a net increase in available residential units.

"Incentive" may include any of the following:

1. Approval of a mixed-use development if commercial, office, industrial, or other land uses will help to offset the costs of the housing development. A mixed-use development will be approved only if the commercial, office, industrial, or other land uses are compatible with the surrounding land uses, the county general plan, and applicable specific plans;

2. Government-assisted financing, including, but not limited to, mortgage revenue bonds issued by the county;

3. A reduction in site development standards, but only if the overall quality of the development is not lessened. All developments must also meet any design guidelines codified by the county at a future date;

4. Other incentives proposed by the developer or the county which result in identifiable cost reductions, including but not limited to:

a. Waiver or reduction of certain county fees applicable to restricted units in a housing development,

b. Reduction of interior amenities,

c. Priority processing of a housing development which provides restricted units. Upon certification that the application is complete and eligible for priority processing, the housing development will be reviewed by the planning director in advance of all nonpriority items. The housing development review will be completed and a recommendation will be made by the planning director whether to approve the housing development within one hundred twenty (120) days of receipt of the completed application. The planning director may give written approval to extend the one hundred twenty (120) day period.

"Lower income household" means a household whose gross income is eighty (80) percent or less of the Alameda County median income adjusted for household size, computed pursuant to California Health and Safety Code Section 50079.5; if the Health and Safety Code definition is amended, this definition shall be deemed to be amended to the same effect.

"Maximum allowable residential density" means the density allowed under the general plan, or if a range of density is permitted, means the maximum allowable density for the specific zoning range applicable to the project. Maximum allowable residential density takes into account limitations to density pursuant to general plan policies and zoning ordinance regulations.

"Median income" means the median income for Alameda County, published by the United States Department of Housing and Urban Development.

"Moderate income household" means a household, with an annual income which does not exceed the United States Department of Housing and Urban Development annual determination for moderate income households with incomes of one hundred twenty (120) percent of the median income, adjusted for household size.

"Qualifying unit" means a dwelling or dwellings designated for occupancy by very low, low, or moderate income households, within a housing development, which make the housing development eligible for a density bonus.

"Resale controls" means a resale restriction placed on restricted units by which the price of such units and/or the age or income of the purchaser will be restricted to ensure affordability and occupancy by very low or lower income households or senior households.

"Restricted unit" means a residential dwelling unit to be sold or rented at a price or rent affordable to a very low, lower, or moderate income household, or sold or rented to a senior household.

"Senior citizen housing development" means a housing community governed by a common set of rules, regulations or restrictions, consisting of at least thirty-five (35) dwelling units reserved for senior citizen households as further described in California Civil Code Sections 51.3 and 51.12.

"Senior household" means as established by California Civil Code Section 51.3, a household in which at least one member is at least sixty-two (62) years of age.

"Term of affordability" means the time during which restricted units in a housing development must remain as restricted units.

"Unit type" means a dwelling unit with a defined floor area and a designated number of bedrooms.

"Very low income household" means a household whose gross income is fifty (50) percent or less of the Alameda County median income adjusted for household size, computed pursuant to California Health and Safety Code Section 50079.5.

(Ord. No. 2012-58, § 26, 4-10-12)

17.106.040 Density bonus qualifications.

In order to qualify for a density bonus and one or more incentives under this chapter, a housing development must consist of five or more dwelling units and meet one or more of the following criteria:

A. Agrees to construct and maintain at least five percent of the base units for very low income households;

B. Agrees to construct and maintain at least ten (10) percent of the base units for lower income households;

C. Agrees to construct and maintain at least ten (10) percent of the base units in a condominium project or planned development project dedicated to moderate income households, provided that all units in the development are offered to the public for purchase;

D. Agrees to construct and maintain a senior citizen housing development;

E. Converts an existing apartment or multifamily dwelling to a condominium development as described in Section 17.106.050(I) (Density bonus—Density bonus calculations).

(Ord. No. 2012-58, § 26, 4-10-12)

17.106.050 Density bonus calculations.

A. In accordance with state law, the granting of a density bonus or an incentive(s) shall not be interpreted, in and of itself, to require a general plan amendment, specific plan amendment, rezone, or other discretionary approval.

B. An applicant must choose a density bonus from only one applicable affordability category of this chapter and may not combine categories, with the exception of a child care facility or land donation. The child care facility or land donation may be combined with an affordable housing development for an additional density bonus up to a combined maximum of thirty-five (35) percent.

C. Any density bonus and/or concession/incentive awarded shall apply only to the housing development for which it was granted.

D. In determining the number of density bonus units to be granted pursuant to Section 17.106.040 (Density bonus qualifications), the maximum residential density for the site shall be multiplied by 0.20 for subsections A, B, and D of that section and 0.05 for subsection C of that section, unless a lesser number is selected by the developer.

1. For each one percent increase above ten percent in the percentage of units affordable to lower income households, the density bonus shall be increased by 1.5 percent up to a maximum of thirty-five (35) percent.

2. For each one percent increase above five percent in the percentage of units affordable to very low income households, the density bonus shall be increased by 2.5 percent up to a maximum of thirty-five (35) percent.

3. For each one percent increase above ten (10) percent of the percentage of units affordable to moderate income households, the density bonus shall be increased by one percent up to a maximum of thirty-five (35) percent.

4. For a senior housing development that provides one hundred (100) percent of its units available to senior households, the density bonus shall be twenty (20) percent.

E. When calculating the number of permitted density bonus units, any calculations resulting in fractional units shall be rounded to the next larger integer.

F. The density bonus units shall not be included when determining the number of qualifying units required for a density bonus. When calculating the required number of qualifying units, any calculations resulting in fractional units shall be rounded to the next larger integer.

G. The developer may request a lesser density bonus than the project is entitled to, but no reduction will be permitted in the number of required qualifying units pursuant to Section 17.106.040 (Density bonus qualifications) above. Regardless of the number of qualifying units, no housing development may be entitled to a density bonus of more than thirty-five percent.

H. The following table summarizes this information:

**Density Bonus Summary Table**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Income Group | Minimum %  Qualifying Units | Bonus Granted | Additional Bonus for Each 1%  Increase in  Qualifying Units | % Qualifying Units Required for  Maximum  35% Bonus |
| Very Low Income | 5% | 20% | 2.5% | 11% |
| Low Income | 10% | 20% | 1.5% | 20% |
| Moderate Income (Condo or PD only) | 10% | 5% | 1% | 40% |
| Senior Citizen Housing Development | 100% | 20% | — | — |

I. An applicant for an apartment conversion to a condominium project that provides at least thirty-three (33) percent of the total units of the proposed condominium project to persons and families of low or moderate income, or fifteen (15) percent of the total units of the project to lower income households, and agrees to pay for the reasonable necessary administrative costs incurred by the county, qualify for a twenty-five (25) percent density bonus or other incentives of equivalent financial value. An applicant shall be ineligible for a density bonus or other incentives if the apartments proposed for conversion constitute a housing development for which a density bonus or other incentives were previously granted under the provisions of this chapter.

(Ord. No. 2012-58, § 26, 4-10-12)

17.106.060 Density bonus—Eligibility and application requirements for incentives.

A. A housing development qualifying for a density bonus is entitled to at least one incentive in addition to the density bonus. Incentives are available for qualifying housing developments as follows:

1. One incentive or concession for projects that include at least ten (10) percent of the total units for lower income households, at least five (5) percent for very low income households, or at least ten (10) percent for persons and families of moderate income in a condominium or planned development.

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

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

B. The appropriate authority for the housing development shall grant the incentive unless the appropriate authority makes a written finding, based upon substantial evidence, of any of the following:

1. That the incentive is not necessary in order to provide for affordable housing costs; or

2. The concession or incentive would have a specific adverse impact, as defined in California Health & Safety Code Section 65589.5, upon public health and safety or the physical environment or on any real property that is listed in the California Register of Historical Resources and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to very low, lower and moderate income households.

C. In accordance with Government Code Section 65915 (p), an applicant qualifying for a density bonus may request, inclusive of handicapped and guest parking, the following parking ratios:

1. Zero to one bedrooms: One onsite parking space.

2. Two to three bedrooms: Two onsite parking spaces.

3. Four or more bedrooms: Two and one-half parking spaces.

These standards may be applied in addition to any other incentives for which the housing development qualifies as specified in this section. If the total number of parking spaces for the development is other than a whole number, the number shall be rounded up to the next whole number. Off-street parking spaces provided pursuant to this paragraph may be arranged in tandem and may be uncovered.

(Ord. No. 2012-58, § 26, 4-10-12)

17.106.070 Qualifications for restricted units.

A. The applicant shall execute an affordable housing agreement with Alameda County, which shall be recorded and shall run with the land.

B. The affordable housing agreement shall describe household types, number, location, size and construction scheduling of restricted units and any other information required by the county to determine the applicant's compliance with the conditions.

C. Restricted units shall be constructed concurrently with or prior to the construction of nonrestricted units, shall be dispersed throughout the housing development, and shall include all unit types represented in the housing development and shall be in the same proportions as nonrestricted unit types.

(Ord. No. 2012-58, § 26, 4-10-12)

17.106.080 Term of affordability.

The applicant shall agree to, and the county shall ensure, the continued availability of the qualifying units and other incentives for a period of at least thirty (30) years, or a longer period of time if required by the construction or mortgage financing assistance program, mortgage insurance program, or rental subsidy program.

(Ord. No. 2012-58, § 26, 4-10-12)

17.106.090 Requirements for rental housing developments.

A. All restricted units shall be occupied by the household type specified in the affordable housing agreement.

B. The applicant shall be responsible for obtaining and verifying information with respect to the qualifications of prospective and current tenants, including, but not limited to, information relating to tenants' incomes, and eligibility, in a form satisfactory to the planning director. The applicant shall maintain a list of qualified applicants for the duration of the program and shall allow the planning director to inspect such information upon reasonable notice. The applicant may contract with another entity to perform these functions subject to the approval of the planning director.

C. The applicant shall submit reports annually certifying that the restricted units are occupied by the household types specified in the affordable housing agreement. The annual reports shall include the number of persons and income for each household in the restricted units.

D. If the affordable housing agreement is violated, the applicant shall pay to the county as liquidated damages the maximum sum of five thousand dollars ($5,000.00) for each restricted unit that is in violation of the affordable housing agreement. This amount may be required for each month of violation. Any unpaid liquidated damages may be recorded as a notice of violation of the affordable housing agreement against the title of the property. In addition to the liquidated damages, if a very low income, moderate income or lower income household in a restricted unit is charged a rent that exceeds the rent specified in the affordable housing agreement, the applicant must pay to the tenant the difference in the rent charged and the allowable rent for the months that the tenant was overcharged. If a restricted unit is rented to a household with an income exceeding that specified in the affordable housing agreement, in lieu of the liquidated damages mentioned above, the first vacant nonrestricted unit must be made a restricted unit and rented to a household that qualifies under the affordable housing agreement.

(Ord. No. 2012-58, § 26, 4-10-12)

17.106.100 Requirements for owner-occupied housing.

A. The home buyer shall verify on a form provided by the planning director that the restricted unit being purchased is for use as the buyer's principal residence and that the buyer is either a moderate income household, lower income household, very low income household or a senior household. If the restricted unit ceases to function as the owner's principal residence, it shall be sold according to the requirements of the resale controls. If evidence is presented to the planning director that the owner is unable to continuously occupy the restricted unit because of illness or incapacity, the planning director may approve rental of the restricted unit to a senior, very low income, lower income, or moderate income household.

B. The resale controls will place limits on the resale price of a restricted unit and on the income of the new buyer. The resale price of a restricted unit will be limited to the original price of the restricted unit, plus a factor of appreciation equal to the annual increase in the median income, plus the appraised value, at time of sale, of any documented capital improvements. In addition, when an owner sells a restricted unit, the sale must be to a moderate income household, very low income household, lower income household, or senior household.

C. Resale controls shall be recorded as part of the declaration of covenants, conditions, and restrictions on the restricted unit. The resale controls will remain in effect for the term of affordability.

D. The following transfers of title or any interest therein are not subject to the provisions of this section, provided, however, that the resale controls shall continue to run with the land following such transfers: Transfers by gift, devise, or intestate succession to the owner's spouse or children, and transfers of title to a spouse as part of a dissolution of marriage proceeding or in conjunction with marriage.

(Ord. No. 2012-58, § 26, 4-10-12)

17.106.110 Application procedure.

A. An applicant may submit to the planning director a preliminary proposal for a housing development pursuant to this chapter prior to the submittal of any formal housing development application. The planning director shall, within ninety (90) days of receiving a preliminary proposal, provide the applicant a written preliminary evaluation of the housing development.

B. In addition to the county's usual development requirements, formal application for a housing development under this chapter shall include the following information:

1. A written statement specifying the desired density increase, incentive requested, and the number, type, location, size and construction schedule of all dwelling units;

2. If necessary for the planning director to evaluate the financial need for additional incentives, the applicant shall submit a report that contains housing development costs and revenues, including but not limited to land, construction, and financing costs, and revenues from restricted units, unrestricted units, and density bonus units. Such other information as the planning director needs to evaluate the housing development may be requested by the planning director. The planning director may retain a consultant to review the financial report. The cost of the consultant shall be borne by the applicant; and

3. Any other information requested by the planning director to implement this chapter.

C. Housing developments that meet the requirements set forth in Section 17.106.040 (Density bonus qualifications) above shall qualify for a density bonus and at least one incentive, unless the planning director adopts a written finding that the incentive is not required to achieve the economic feasibility of the restricted units. The planning director may also provide an incentive in place of a density bonus that is of equivalent value to the density bonus. Such incentive shall be calculated in a manner determined by the planning director.

(Ord. No. 2012-58, § 26, 4-10-12)

17.106.120 Density bonus—Child care facilities.

A. When an applicant proposes a housing development that is eligible for a density bonus under this chapter and includes a child care facility on the premises or adjacent to the housing development, the applicant shall receive an additional density bonus that is in an amount of square feet of residential space that is equal to the square footage of the child care facility; or the applicant may receive another incentive that contributes significantly to the economic feasibility of the construction of the child care facility, provided that, in both cases, the following conditions are incorporated in the conditions of approval for the housing development:

1. The child care facility shall remain in operation for a period of time that is as long as or longer than the period of time during which the restricted units are required to remain affordable pursuant to the terms of the affordable housing agreement executed between the county and the developer.

2. Attendance of children at the child care facility shall have an equal or greater percentage of children from very low, low, and moderate income households than the percentage of affordable units in the housing development.

B. The county may deny the request for a density bonus or incentive for a child care facility if the county finds, based upon substantial evidence, that the community has adequate child care facilities without the facilities being considered as part of the subject housing development.

(Ord. No. 2012-58, § 26, 4-10-12)

17.106.130 Density bonus—Donation of land.

A. When an applicant for a tentative subdivision map, parcel map or other residential development donates land to the county, the applicant shall be entitled to a density bonus above the maximum allowable residential density, up to a maximum of thirty-five (35) percent depending on the amount of land donated. The amount of density bonus shall be based upon the number of permittable units consistent with Section 17.106.050(H). This increase shall be in addition to any increase in density permitted by this chapter up to a maximum combined density increase of thirty-five (35) percent. A density bonus for donation of land shall only be considered if all of the following conditions are met:

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

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

3. The transferred land is at least one acre in size or of sufficient size to permit development of at least forty (40) units, has the appropriate general plan designation, is appropriately zoned for development as affordable housing, and is, or will be, served by adequate public facilities and infrastructure (such as waste water treatment facilities and public transit). The transferred land shall have appropriate zoning and development standards to make the development of the affordable units feasible. No later than the date of approval of the final subdivision map, parcel map, or of the residential development, the transferred land shall have all of the permits and approvals, other than building permits, necessary for the development of the very low income units on the transferred land, except that the county may subject the proposed development to subsequent design review if the design is not reviewed by the County prior to the time of transfer.

4. The transferred land and the units constructed on said land shall be subject to a deed restriction ensuring continued affordability of the units for a period of at least thirty (30) years and subject to restrictions consistent with California Government Code Section 65915 (c)(1) and (2), as may be periodically amended.

5. The land is transferred to the county or to a housing developer approved by the county.

6. The transferred land shall be within the boundary of the proposed development or, if the county determines appropriate, be located within the same general plan area as the proposed development.

(Ord. No. 2012-58, § 26, 4-10-12)

17.106.140 Administration and fees.

A. At the discretion of the planning director, the county may contract with another entity to administer the rental and sales provisions of this chapter.

B. The planning director shall establish the amount of fees to be charged to applicants for administration of this chapter at the cost of staff time attributable to such administration. These fees may be waived or reduced as specified in Section 17.106.030 (Definitions) under subsection (4)(a) of the definition of "incentive."

C. The planning director shall be responsible for monitoring the resale of restricted units.

D. The planning director shall adopt regulations and forms necessary to implement and interpret the provisions of this chapter.

(Ord. No. 2012-58, § 26, 4-10-12)

1. Ord. No. 2022-58, § 2, adopted December 6, 2022, repealed the former Chapter 15.08, §§ 15.08.010—15.08.440, and § 6, of Ord. No. 2022-58, enacted a new Chapter 15.08 as set out herein. The former Chapter 15.08 pertained to similar subject matter and derived from Ord. No. 2019-59, adopted November 26, 2019. [↑](#footnote-ref-1)
2. Ord. No. 2022-58, § 2, adopted December 6, 2022, repealed the former Chapter 15.12, §§ 15.12.010—15.12.040, and § 6, of Ord. No. 2022-58, enacted a new Chapter 15.12 as set out herein. The former Chapter 15.08 pertained to similar subject matter and derived from Ord. No. 2019-59, adopted November 26, 2019. [↑](#footnote-ref-2)
3. Ord. No. 2022-58, § 2, adopted December 6, 2022, repealed the former Chapter 15.08, §§ 15.16.010—15.16.040, and § 6, of Ord. No. 2022-58, enacted a new Chapter 15.16 as set out herein. The former Chapter 15.08 pertained to similar subject matter and derived from Ord. No. 2019-59, adopted November 26, 2019. [↑](#footnote-ref-3)
4. Ord. No. 2018-32, § B, adopted June 5, 2018, repealed the former Chapter 15.18, §§ 15.18.010—15.18.100, and enacted a new Chapter 15.18 as set out herein. The former Chapter 15.18 pertained to onsite wastewater treatment systems and individual/small water systems and derived from Ord. No. 2007-11; Ord. No. 2007-22 and Ord. No. 2008-56, adopted December 16, 2008. [↑](#footnote-ref-4)
5. Ord. No. 2022-58, § 2, adopted December 6, 2022, repealed the former Chapter 15.08, §§ 15.20.010—15.20.100, and § 6, of Ord. No. 2022-58, enacted a new Chapter 15.20 as set out herein. The former Chapter 15.08 pertained to similar subject matter and derived from Ord. No. 2019-59, adopted November 26, 2019. [↑](#footnote-ref-5)
6. Ord. No. 2022-58, § 2, adopted December 6, 2022, repealed the former Chapter 15.08, §§ 15.24.010—15.24.100, and § 6, of Ord. No. 2022-58, enacted a new Chapter 15.08 as set out herein. The former Chapter 15.08 pertained to similar subject matter and derived from Ord. No. 2019-59, adopted November 26, 2019. [↑](#footnote-ref-6)
7. Editor's note(s)—Ord. No. 2018-53, § 2, adopted October 2, 2018, repealed the former Chapter 15.40, §§ 15.40.010—15.40.260, and enacted a new Chapter 15.40 as set out herein. The former Chapter 15.40 pertained to similar subject matter and derived from Ord. No. 2004-86. [↑](#footnote-ref-7)
8. Ord. No. 2017-13, § 2(Pt. 2), adopted April 25, 2017, repealed Article V, §§ 17.30.120 and 17.30.130, which pertained to combining CSU Districts and derived from prior gen. code §§ 8-44.10.1, 8-44.10.2 and Ord. No. 2002-60. [↑](#footnote-ref-8)
9. Ord. No. 2010-71, § 108, renamed Chapter 17.59, from abatement of procedures to abatement procedures. [↑](#footnote-ref-9)
10. Editor's note(s)—Based on Ordinance No. 77-27. [↑](#footnote-ref-10)