CHAPTER 4 - TRAFFIC

Article 1. Definitions*

Sec. 4-4.101 Vehicle Code and Chapter Definitions.

(a) *Vehicle Code Definitions.* Whenever any words or phrases used in this chapter are not defined in this chapter but are defined in the Vehicle Code of the State (referred to in this chapter as Vehicle Code), such definitions are incorporated in this chapter and shall be deemed to apply to such words and phrases used in this chapter as though set forth in full.

(b) *Chapter Definitions.* The words and phrases defined in this article, when used in this chapter, shall, for the purposes of this chapter, have the meanings respectively ascribed to them in this article.

(§1, Ord. 452)

Sec. 4-4.102 Freight Carrier.

"Freight carrier" shall mean a common carrier engaged in the ordinary transportation of goods and distinguished from express delivery by lower rates, deferred dispatch, extra charges for delivery and pick up, or larger volume minimum. Upon application, any carrier meeting this definition may be issued a freight carrier permit by the City Council for the purposes of Section 4-4.1102(a)(1). The fee for such permit shall be established by resolution of the City Council.

(§ 1, Ord. 833, eff. October 8, 1988)

Sec. 4-4.103 Holiday.

"Holiday" shall mean the first day of January, the twelfth day of February, the twenty-second day of February, the thirtieth day of May, the fourth day of July, the first Monday in September, the ninth day of September, the twelfth day

*Editor's Note: Section 1 of Ord. No. 833 redesignated Sections 4-4.102—4-4.110 as Sections 4-4.103—4-4.111.

of October, the eleventh day of November, the twenty-fifth day of December, and Thanksgiving Day. If the first day of January, twelfth day of February, twenty-second day of February, thirtieth day of May, fourth day of July, ninth day of September, twelfth day of October, eleventh day of November, or twenty-fifth day of December falls upon a Sunday, the Monday following shall be a holiday.

(§2, Ord. 452)

Sec. 4-4.104 Loading Zone.

"Loading zone" shall mean the space adjacent to a curb reserved for the exclusive use of vehicles during the loading or unloading of passengers or materials.

(§3, Ord. 452)

Sec. 4-4.105 Official Time Standard.

Whenever certain hours are named in this chapter, such hours shall mean standard time or daylight saving time as may be in current use in the City.

(§4, Ord. 452)

Sec. 4-4.106 Park.

"Park" shall mean to stand or leave standing any vehicle, whether occupied or not, otherwise than temporarily for the purpose of, and while actually engaged in, loading or unloading passengers or materials.

(§5, Ord. 452)

Sec. 4-4.107 Passenger Loading Zone.

"Passenger loading zone" shall mean the space adjacent to a curb reserved for the exclusive use of vehicles during the loading or unloading of passengers.

(§6, Ord. 452)

Sec. 4-4.108 Pedestrian.

"Pedestrian" shall mean any person afoot. (§7, Ord. 152)

Sec. 4-4.109 Police Officer.

"Police officer" shall mean every officer of the Police Department or an officer authorized to direct or regulate traffic or to make arrests for violations of traffic

regulations.

(§9, Ord. 452)

Sec. 4-4.110 Safe Place.

"Safe place" shall include, but not be limited to any publicly or privately owned garage, parking lot, or other storage space or impoundment area the manager, owner or proprietor of which agrees to accept and act as bailor for vehicles impounded pursuant to Article 17 of this Title 4.

(§1, Ord. 783, eff. November 13, 1985; §1, Ord. 790, eff. March 5, 1986)

Sec. 4-4.111 Stop: Stop or Stand.

(a) *Stop.* "Stop", when required, shall mean complete cessation of movement.

(b) *Stop or Stand.* "Stop or stand", when prohibited, shall mean any stopping or standing of a vehicle, whether occupied or not except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or official traffic control device.

(§10, Ord. 452; §1, Ord. 783, eff. November 13, 1985)

Sec. 4-4.112 Trailer.

"Trailer" shall mean a vehicle without motive power, designed to be drawn by a motor vehicle and to be used for carrying persons and/or property.

(§1, Ord. 1010-02, eff. October 17, 2002)

Article 2. Traffic Administration

Sec. 4-4.201 Traffic Division Established.

There is hereby established in the Police Department a Traffic Division which shall be under the control of an officer of police appointed by, and directly responsible to, the Chief of Police.

(§30, Ord. 452)

Sec. 4-4.202 Traffic Division: Duties.

It shall be the duty of the Traffic Division, with such aid as may be rendered by other members of the Police Department, to enforce the street traffic regulations of the City and all the vehicle laws of the State applicable to street traffic in the City, to make arrests for traffic violations, to investigate traffic accidents, to cooperate with the Traffic Engineer and other officers of the City in the administration of the traffic laws and in developing ways and means to improve traffic conditions, and to carry out those duties specially imposed upon the Traffic Division by the provisions of this chapter and the traffic laws of the City.

(§31, Ord. 452)

Sec. 4-4.203 Traffic Accident Studies.

Whenever the accidents at a particular location become numerous, the Traffic Division shall cooperate with the Traffic Engineer in conducting studies of such accidents and determining remedial measures.

(§32, Ord. 452)

Sec. 4-4.204 Traffic Accident Reports.

The Traffic Division shall maintain a suitable system of filing traffic accident reports. Accident reports, or cards referring to them, shall be filed alphabetically by location. Such reports shall be available for the use and information of the Traffic Engineer.

(§33, Ord. 452)

Sec. 4-4.205 Annual Traffic Safety Reports.

The Traffic Division shall annually prepare a traffic report which shall be filed with the Council. Such report shall contain information on traffic matters in the City as follows:

(a) The number of traffic accidents, the number of persons killed, the number of persons injured, and other pertinent traffic accident data;

(b) The number of traffic accidents investigated and other pertinent data on the safety activities of the police; and

(c) The plans and recommendations of the Traffic Division for future traffic safety activities.

(§34, Ord. 452)

Sec. 4-4.206 Traffic Committee—Appointment.

A Traffic Committee is hereby established to serve as the Traffic Engineer. The Traffic Committee shall be appointed by the City Manager and shall consist of the City Manager and a representative from each of the following departments: Police, Public Works, Code Enforcement, and Planning. All references in this article to Traffic Engineer shall mean and refer to the Traffic Committee.

(§35, Ord. 452; §2, Ord. 833, eff. October 8, 1988)

Sec. 4-4.207 Traffic Engineer: Duties.

The Traffic Engineer shall exercise the powers and duties as provided in this chapter and in the traffic laws of the City. Whenever the Traffic Engineer is required or authorized to place or maintain official traffic control devices or signals, he may cause such devices or signals to be placed or maintained.

It shall be the general duty of the Traffic Engineer to determine the installation and proper timing and maintenance of traffic control devices and signals, to conduct engineering analyses of traffic accidents and devise remedial measures, to conduct engineering and traffic investigations of traffic conditions and cooperate with other City officials in the development of ways and means to improve traffic conditions, and to carry out the additional powers and duties imposed by laws of the City.

Power and authority are hereby delegated to the Traffic Engineer to determine, in his best judgment, what streets, or portions thereof, shall be closed to automobile traffic or on which streets, or portions thereof, traffic should be controlled. He may exercise his authority so as to control such traffic or close such streets, or portions thereof, to automobile traffic at times throughout the year as in his best judgment seems best for the protection of the health, safety, and general welfare of the citizens of the City.

(§§35 and 36, Ord. 452)

Article 3. Enforcement and Obedience to Traffic Regulations

Sec. 4-4.301 Authority of Police and Fire Department Officials.

(a) It shall be the duty of the officers of the Police Department, or such officers as are assigned by the Chief of Police, to enforce all street traffic laws of the City and all vehicle laws of the State applicable to street traffic in the City.

(b) Officers of the Police Department, or such officers as are assigned by the Chief of Police, are hereby authorized to direct all traffic by voice, hand, or other signal in conformance with traffic laws; provided, however, in the event of a fire or other emergency, or to expedite traffic, or to safeguard pedestrians, officers of the Police Department may direct traffic as conditions may require notwithstanding the provisions of the traffic laws.

(c) Officers of the Fire Department, when at the scene of a fire or when protecting the personnel or equipment of the Fire Department, may direct or assist police officers in directing traffic.

(§50, Ord. 452)

Sec. 4-4.302 Required Obedience to Traffic Laws.

It shall be a misdemeanor for any person to do any act forbidden, or to fail to perform any act required by the provisions of this chapter unless otherwise provided for in this Code or by law. Violations of the provisions of this Code pertaining to stopping, standing and parking violations shall be subject to civil penalties as set forth in this Code or as provided for by resolution of the City Council from time to time.

(§51, Ord. 452; §3, Ord. 899-93, eff. September 2, 1993)

Sec. 4-4.303 Obedience to Police and Fire Department Officials.

No person shall willfully fail or refuse to comply with any lawful order of a police officer or Fire Department official when directing traffic.

(§52, Ord. 452)

Sec. 4-4.304 Obedience by Persons Riding Bicycles, Riding or Driving Animals, Skating or Skateboarding.

Every person riding a bicycle, riding or driving an animal or skating or skateboarding upon public rights-of-way shall be granted all of the rights, and shall be subject to all of the duties applicable to the driver of a vehicle by the provisions of this chapter, except those provisions which by their very nature can have no application.

(§53, Ord. 452; as amended by §3, Ord. 927-96, eff. June 20, 1996)

Sec. 4-4.305 Persons Other Than Officials Shall Not Direct Traffic.

No person, other than an officer of the Police Department or a person deputized by the Chief of Police or a person authorized by law, shall direct, or attempt to direct, traffic by voice, hand, or other signal, except that persons may operate, when and as provided in this chapter, any mechanical push-button signal erected by order of the Traffic Engineer.

(§54, Ord. 452)

Sec. 4-4.306 Public Employees to Obey Traffic Laws.

The provisions of this chapter shall apply to the driver of any vehicle owned by, or used in the service of, the United States government, the State, and any County or City. It shall be unlawful for any such driver to violate any of the provisions of this chapter except as otherwise permitted in this chapter or by the Vehicle Code.

(§55, Ord. 452)

Sec. 4-4.307 Exemptions to Certain Vehicles.

(a) The provisions of this chapter regulating the operation, parking, and standing of vehicles shall not apply to any vehicle of the Police or Fire Department, any public ambulance, any public utility vehicle, or any private ambulance, which public utility vehicle or private ambulance has qualified as an authorized emergency vehicle, when any vehicle mentioned in this section is operated in the manner specified in the Vehicle Code in response to an emergency call.

(b) The provisions of subsection (a) of this section shall not protect the driver of any such vehicle from the consequences of his willful disregard of the safety of others.

(c) The provisions of this chapter regulating the parking or standing of vehicles shall not apply to any vehicle of a City department or public utility while necessarily in use for construction or repair work, or to any vehicle owned by the United States while in use for the collection, transportation, or delivery of United States mail.

(§56, Ord. 452)

Article 4. Traffic Control Devices

Sec. 4-4.401 Authority to Install.

(a) The Traffic Engineer shall have the power and duty to place and maintain, or cause to be placed and maintained, official traffic control devices when and as required by the traffic laws of the City to make effective the provisions of such laws.

(b) Whenever the Vehicle Code requires, for the effectiveness of any provision thereof, that traffic control devices be installed to give notice to the public of the application of such law, the Traffic Engineer is hereby authorized to install, or cause to be installed, the necessary devices subject to any limitations or restrictions set forth in the laws applicable thereto.

(c) The Traffic Engineer may also place and maintain, or cause to be placed and maintained, such additional traffic control devices as he may deem necessary to regulate traffic or to guide or warn traffic, but he shall make such determination only upon the basis of traffic engineering principles and traffic investigations and in accordance with such standards, limitations, and rules as may be set forth in the traffic laws of the City or as may be determined by ordinance or resolution of the Council.

(§60, Ord. 452)

Sec. 4-4.402 Signs Required.

No provision of the Vehicle Code or of this chapter for which signs are required shall be enforced against an alleged violator unless appropriate signs are in place, and sufficiently legible to be seen by an ordinarily observant person, giving notice of such provisions of the traffic laws.

(§61, Ord. 452)

Sec. 4-4.403 Obedience.

The driver of any vehicle shall obey the instructions of any official traffic control device applicable thereto placed in accordance with the traffic laws of the City, unless otherwise directed by a police officer, subject to the exceptions granted the driver of an authorized emergency vehicle when responding to emergency calls.

(§62, Ord. 452)

Sec. 4-4.404 Authority to Remove, Relocate, and Discontinue.

The Traffic Engineer is hereby authorized to remove, relocate, or discontinue the operation of any traffic control device not specifically required by State law or the provisions of this chapter whenever he shall determine in any particular case that the conditions which warranted or required the installation no longer exist or obtain.

(§66, Ord. 452)

Sec. 4-4.405 Hours of Operation.

The traffic Engineer shall determine the hours and days during which any traffic control device shall be in operation or be in effect except in those cases where such hours or days are specified in this chapter.

(§67, Ord. 452)

Sec. 4-4.406 Installation of Traffic Signals.

(a) The Traffic Engineer is hereby directed to install and maintain official traffic signals at those intersections and other places where traffic conditions are such as to require that the flow of traffic be alternately interrupted and released in order to prevent or relieve traffic congestion or to protect life or property from exceptional hazard.

(b) The Traffic Engineer shall ascertain and determine the locations where such signals are required by resort to field observations, traffic counts, and other traffic information as may be pertinent, and his determinations therefrom shall be made in accordance with those traffic engineering and safety standards and instructions set forth in the Planning Manual of Instruction, Part 8, "Traffic", issued by the Division of Highways of the Department of Public Works of the State.

(c) Whenever the Traffic Engineer installs and maintains an official traffic signal at any intersection, he shall likewise erect and maintain at such intersection street name signs visible to the principal flow of traffic unless such street name signs have previously been placed and are maintained at any such intersection.

(§63, Ord. 452)

Sec. 4-4.407 Lane Markings.

The Traffic Engineer is hereby authorized to mark center lines and lane lines upon the surface of the roadways to indicate the course to be traveled by vehicles and may place signs temporarily designating lanes to be used by traffic moving in a particular direction, regardless of the center line of the highway.

(§64, Ord. 452)

Sec. 4-4.408 Distinctive Roadway Markings.

The Traffic Engineer is hereby authorized to place and maintain distinctive roadway markings, as described in the Vehicle Code, on those streets or parts of streets where the volume of traffic, or the vertical or other curvature of the roadway, renders it hazardous to drive on the left side of such markings or signs and markings. Such markings or signs and markings shall have the same effect as similar markings placed by the Department of Public Works of the State pursuant to the provisions of the Vehicle Code.

(§65, Ord. 452)

Article 5. Turning Movements

Sec. 4-4.501 Authority to Place and Obedience to Turning Markers and Multiple Lanes.

(a) The Traffic Engineer is hereby authorized to place markers, buttons, or signs within or adjacent to intersections indicating the course to be traveled by vehicles turning at such intersections, and the Traffic Engineer is hereby authorized to allocate and indicate more than one lane of traffic from which drivers of vehicles may make right or left turns, and the course to be traveled as so indicated may conform to, or be other than, as prescribed by law or ordinance.

(b) When authorized markers, buttons, or other indications are placed within an intersection indicating the course to be traveled by vehicles turning thereat, no driver of a vehicle shall disobey the directions of such indications.

(§70, Ord. 452)

Sec. 4-4.502 Authority to Place Restricted Turn Signs.

The Traffic Engineer is hereby authorized to determine those intersections at which drivers of vehicles shall not make a right, left, or U turn and shall place proper signs at such intersections. The making of such turns may be prohibited between certain hours of any day and permitted at other hours, in which event the same shall be plainly indicated on the signs, or they may be removed when such turns are permitted.

(§71, Ord. 452)

Sec. 4-4.503 Obedience to No-Turn Signs.

Whenever authorized signs are erected indicating that no right, left, or U turn is permitted, no driver of a vehicle shall disobey the directions of any such sign.

(§72, Ord. 452)

Sec. 4-4.504 Signal-Controlled Intersections: Right Turns.

The Traffic Engineer is hereby authorized to determine those intersections within any business or residence district at which drivers of vehicles shall not make a right turn against a red or Stop signal and shall erect proper signs giving notice of such prohibition. No driver of a vehicle shall disobey the directions of any such sign.

(§73, Ord. 452)

Article 6. One-Way Streets and Alleys

Sec. 4-4.601 Signs.

Whenever any ordinance or resolution of the City designates any one-way street or alley, the Traffic Engineer shall place and maintain signs giving notice thereof, and no such regulations shall be effective unless such signs are in place. Signs indicating the direction of lawful traffic movement shall be placed at every intersection where movement of traffic in the opposite direction is prohibited.

(§80, Ord. 452)

Article 7. Special Stops Required

Sec. 4-4.701 Stop Signs.

Whenever any ordinance or resolution of the City designates and describes any street, or portion thereof, as a through street or any intersection at which vehicles are required to stop at one or more entrances thereto, the Traffic Engineer shall erect and maintain stop signs on each and every street intersecting such through street, or portion thereof, so designated and at those entrances of other intersections where a stop is required. Every such sign shall conform with, and shall be placed as provided in, Section 471 of the Vehicle Code.

(§90, Ord. 452)

Sec. 4-4.702 Through Streets: Stop Intersections.

(a) *Through Streets.* Those streets and parts of streets described in Section 44.1502 of this chapter are hereby declared to be through streets for the purposes of this section.

(b) *Stop Intersections*. The provisions of this section shall apply at one or more entrances to the intersections as such entrances and intersections are described in Section 44.1503 of this chapter.

(§91, Ord. 452)

Sec. 4-4.703 Emerging from Alleys, Driveways, and Buildings.

The driver of a vehicle emerging from an alley, driveway, or building shall stop such vehicle immediately prior to driving onto a sidewalk or into the sidewalk area extending across any alleyway.
(§92, Ord. 452)

Article 8. Miscellaneous Driving Rules

Sec. 4-4.801 Driving Through Funeral Processions.

No driver of a vehicle shall drive between vehicles comprising a funeral procession while such vehicles are in motion and when the vehicles in such processions are conspicuously so designated.

(§100, Ord. 452)

Sec. 4-4.802 Clinging to Moving Vehicles.

Any person riding upon any bicycle, motorcycle, coaster, roller skates, or any toy vehicle shall not attach the same or himself to any moving vehicle upon any roadway.

(§101, Ord. 452)

Sec. 4-4.803 Driving on Sidewalks.

The driver of a vehicle shall not drive within any sidewalk area or any parkway except at a permanent or temporary driveway.

(§102, Ord. 452)

Sec. 4-4.804 Driving on New or Freshly-Painted Pavement.

No person shall ride or drive any animal or any vehicle over or across any newly-made pavement or freshly-painted marking in any street when a barrier or sign is in place warning persons not to drive over or across such pavement or marking, or when a sign is in place stating that the street, or any portion thereof, is closed.

(§103, Ord. 452)

Sec. 4-4.805 Limited Access Roadways.

No person shall drive a vehicle onto or from any limited access roadway except at such entrances and exits as are established by public authority.

(§104, Ord. 452)

Sec. 4-4.806 Minimum Speed Limit.

There is hereby established a maximum speed limit of twenty (20) miles per hour on all streets under the City's jurisdiction.

(§2, Ord. 655, eff. February 1, 1979)

Article 9. Pedestrians

Sec. 4-4.901 Authority to Establish Crosswalks.

(a) The Traffic Engineer is hereby authorized to establish and maintain crosswalks and to designate them by appropriate devices or painted signs upon the surface of the roadway.

(b) The Traffic Engineer may place signs at or adjacent to an intersection in respect to any crosswalk directing that pedestrians shall not cross except in the crosswalk so indicated.

(§110, Ord. 452)

Sec. 4-4.902 Crossing at Right Angles.

No pedestrian shall cross a roadway at any place other than by a route at right angles to the curb or by the shortest route to the opposite curb except in a marked crosswalk.

(§111, Ord. 452)

Sec. 4-4.903 Standing in Roadways.

No person shall stand in any roadway other than in a safety zone or in a crosswalk if such action interferes with the lawful movement of traffic. The provisions of this section shall not apply to any public officer or employee or employee of a public utility when necessarily upon a street in the line of duty.

(§112, Ord. 452)

Article 10. Stopping, Standing, and Parking

Sec. 4-4.1001 Application of Provisions.

The provisions of this chapter prohibiting the stopping, standing, or parking of a vehicle shall apply at all times or at those times specified in this chapter except:

(a) When it is necessary to stop a vehicle to avoid a conflict with other traffic; or

(b) In compliance with the directions of a police officer or official traffic control device; or

(c) To authorized emergency vehicles.

(§120, Ord. 452, as amended by §1, Ord. 552, eff. May 31, 1972)

Sec. 4-4.1002 Parking on Private Property.

No person shall park a vehicle in a private driveway or on private property without the direct or implied consent of the owner or person in lawful possession of such driveway or property.

(§121, Ord. 452)

Sec. 4-4.1003 Standing in Parkways.

No person shall stop, stand, or park a vehicle within any parkway.

(§122, Ord. 452)

Sec. 4-4.1004 Use of Streets for Storage of Vehicles and Trailers.

(a) No person who owns or has possession, custody, or control of any vehicle shall park such vehicle upon any street or alley for more than a consecutive period of seventy-two (72) hours.

(b) No person who owns or has possession, custody, or control of a trailer shall park such trailer upon any street or alley except while loading or unloading property thereto or therefrom or pursuant to a permit issued under Section 4-9.101 et seq. Such permits shall be issuable by the City Manager as minor encroachment permits.

(c) In the event a vehicle is parked or left standing upon a street or alley in excess of a consecutive period of seventy-two (72) hours, or a trailer is parked upon a street or alley in violation of subsection (b) above, any peace officer or any regularly employed and salaried employee, who is engaged in directing traffic or enforcing parking laws and regulations of the City may remove such vehicle from the street in the manner and subject to the requirements of the Vehicle Code.

(§123, Ord. 452; §2, Ord. 1010-02, eff. October 17, 2002)

Sec. 4-4.1005 Parking Adjacent to Schools.

(a) The Traffic Engineer is hereby authorized to erect signs indicating no parking upon that side of any street adjacent to any school property when such parking would, in his opinion, interfere with traffic or create a hazardous situation.

(b) When official signs are erected indicating no parking upon that side of a street adjacent to any school property, no person shall park a vehicle in any such designated place.

(§124, Ord. 452)

Sec. 4-4.1006 Stopping, Standing, and Parking in Roadways.

No person shall stop, park, or leave standing any vehicle, whether attended or unattended, upon any roadway when it is practicable to stop, park, or leave the vehicle off such portion of the roadway, but in every event an unobstructed width of the roadway opposite a standing vehicle shall be left for the free passage of other vehicles, and a clear view of the stopped vehicle shall be available from a distance of two hundred (200') feet in each direction upon the highway.

The provisions of this section shall not apply to the driver of any vehicle which is disabled in such a manner and to such extent that it is impossible to avoid stopping and temporarily leaving the disabled vehicle on the roadway.

(§126, Ord. 452)

Sec. 4-4.1007 Emergency Traffic Congestion.

(a) Whenever the Traffic Engineer shall determine that an emergency traffic congestion is likely to result from the holding of public or private assemblages, gatherings, or functions, or for other reasons, the Traffic Engineer shall have power and authority to order temporary signs to be erected or posted indicating that the operation, parking, or standing of vehicles is prohibited on such streets and alleys as the Traffic Engineer shall direct during the time such temporary signs are in place. Such signs shall remain in place only during the existence of such emergency, and the Traffic Engineer shall cause such signs to be removed promptly thereafter.

(b) When signs authorized by the provisions of this section are in place giving notice thereof, no person shall operate, park, or stand any vehicle contrary to the directions and provisions of such signs.

(§127, Ord. 452)

Article 11. Establishment of Loading, Parking, and Standing Zones: Curb Markings*

Sec. 4-4.1101 Authority to Establish.

(a) The Traffic Engineer is authorized to determine and mark loading zones and passenger loading zones as follows:

(1) At any place in the business district; and

(2) Elsewhere in front of any hall or place used for the purpose of public assembly.

a. In no event shall more than one-half (1/2) of the total curb length in any block be reserved for loading zone purposes.

(b) The Traffic Engineer is authorized, subject to the provisions and limitations of this chapter, to place, and, when necessary to the safe and orderly movement of traffic, shall place curb markings to indicate parking or standing regulations.

(c) Where no curb exists, markings may be painted upon the most appropriate surface, or a sign may be placed thereon in place of or in addition to the marker.

(§ 140, Ord. 452, as amended by §2, Ord. 552, eff. May 31, 1972)

Sec. 4-4.1102 Curb Markings.

(a) (1) No stopping, standing or parking at any time except as permitted by the California Vehicle Code shall be designated by red paint upon the entire curb surface. Notwithstanding the foregoing prohibition of stopping, standing or parking in a red curb zone, the City Council hereby finds and determines that freight carriers provide vital services to business enterprises within the City on a daily basis and that the loading zones in the City are inadequate to facilitate the unloading of freight. Accordingly, freight carriers holding a permit issued by the City Council may stop and drop off freight in red zones within a commercial district, except freight carriers shall not:

(i) Stop within fifteen (15') feet of a fire hydrant;

(ii) Stop within a fire lane;

(iii) Stop within fifteen (15') feet of an intersection; and,

(iv) Block any handicapped pedestrian walkway, alley, parking entrance, driveway or crosswalk;

(3) Loading zones shall be designated by yellow paint upon the entire curb surface. No person shall stop, stand or park a vehicle in a loading zone at any time between 7:00 a.m. and 6:00 p.m. on Monday through Saturday for any purpose other than the loading or unloading of passengers or materials. The foregoing limitation shall not apply on Sundays. The Traffic Engineer shall designate the maximum time limits applicable to each loading zone within the City. Such time limits shall be stated on the curb surface of each loading zone in prominent black lettering of not less than four (4") inches in height and one (1") inch in width.

(4) Passenger loading zones shall be designated by white paint upon the entire curb surface. No person shall stop, stand, or park a vehicle in a passenger loading zone for any purpose other than the loading or unloading of passengers or for the purpose of depositing mail in an adjacent mail box. The Traffic Engineer shall designate the maximum time limits applicable to each passenger loading zone within the City. Such time limits shall be stated on the curb surface of each passenger loading zone in black lettering of not less than four (4") inches in height and one (1") inch in width. Such restrictions shall apply between 7:00 a.m. and 6:00 p.m. of any day; provided, however, when such zone is in front of a hotel or in front of a mail box, the restrictions shall apply at all times.

(5) Short term parking zones shall be designated by green paint upon the entire curb surface. The Traffic Engineer shall designate the maximum time limits applicable to each short term parking zone within the City not to exceed one (1) hour. The time limit for each such short-term parking zone shall be displayed in white lettering of not less than four (4") inches in height and one (1") inch in width. Such short-term time limits shall not be effective until signs have been erected by the Traffic Engineer giving notice thereof. No person shall stand or park a vehicle in excess of the designated time limit between the hours of 7:00 a.m. and 6:00 p.m. of any day in front of any curb which has been so designated.

(6) A taxicab stand shall be designated by white paint upon the entire curb surface and marked "Taxi" in black lettering of not less than four (4") inches in height and one (1") inch in width. It shall be unlawful for the operator of any vehicle other than a taxicab or automobile for hire to stop, stand or park such vehicle in such taxicab stand.

(7) Autoette and motorcycle parking zones shall be established by the Traffic Engineer and shall be designated by white lines on the surface of the roadway and by black lettering on the curb surface of not less than four (4") inches in height and one (1") inch in width or by posting of signs giving notice of such autoette and parking zones.

(b) Except as otherwise authorized by this article, when the Traffic Engineer has caused such curb markings to be placed, no person shall stop, stand or park a vehicle adjacent to any such legible curb marking in violation of any of the provisions of this section.

(1) Building service contractors that provide electrical, plumbing, appliance/refrigeration or fire safety related services that have a current business license permit for such business, may apply for and be issued a permit, which permit when displayed shall enable the vehicle to remain in any parking area other than a red zone, fire lane or handicapped zone but only for so long as the service work is being performed in the downtown area. As used herein, the downtown area shall mean the area bounded by Clarissa to the east, Beacon to the south and Metropole to west.

a. Permits granting similar privileges that were issued prior to the enactment of this section shall remain valid for a period of one year. After such date, the Vehicle Clerk may issue such permits on a form approved by the City Manager, which permit shall be valid for a period of one year provided such service contractor continues to be in the service business. Appeals regarding the issuance of permits shall be made to the City Manager and subject to an appeal fee set by resolution of the City Council. The City Council shall set a fee for processing of the permit application by resolution. Parking in violation of the terms and conditions of the permit shall be subject to the following penalties:

First offense:	Written warning
Second offense:	$100. fine
Third offense:	Maximum of $250. fine and/or suspension or revocation

Penalties shall be administered by the Vehicle Hearing Officer and may be made based upon written submission by the Code Enforcement Officer and the permittee.

(§141, Ord. 452, as amended by Ord. 494, eff. May 6, 1967; and §3, Ord. 552, eff. May 31, 1972; §3, Ord. 833, eff. October 6, 1988; §2, Ord. 1052-07, eff. May 17, 2007; §2, Ord. 1069-08, eff. June 19, 2008; §1, Ord. 1074-08, eff. September 18, 2008)

Sec. 4-4.1103 Effect of Permission to Load or Unload.

(a) The permission granted by the provisions of this article to stop or stand a vehicle for purposes of loading or unloading materials shall apply only to vehicles used for commercial purposes and to freight carriers and shall not extend beyond the time necessary therefor and in no event more than the time designated at the loading zone.

(b) The loading or unloading of materials shall apply only to commercial deliveries and to the delivery or pickup of packages containing commercial goods.

(§l42, Ord. 452; §3, Ord. 833, eff. October 6, 1988; §2, Ord. 1074-08, eff. September 18, 2008)

Sec. 4-4.1104 Reserved.

Editor's Note: Former Section 4-4.1104, Standing for Loading and Unloading Only, previously codified herein and containing portions of Ordinance Nos. 452 and 552, was repealed in its entirety by Ordinance No. 1074-08.

Sec. 4-4.1105 Standing in Passenger Loading Zones.

No person shall stop, stand, or park a vehicle in any passenger loading zone for any purpose other than the loading or unloading of passengers for such time as is specified in subsection (3) of subsection (a) of Section 4-4.1102 of this article.

(§144, Ord. 452, as amended by §5, Ord. 552, eff. May 31, 1972)

Sec. 4-4.1106 Standing in Alleys.

No person shall stop, stand, or park a vehicle in any alley for any purpose other than the loading or unloading of passengers or materials.

(§145, Ord. 452)

Article 12. Stopping, Standing, and Parking Restricted or Prohibited on Certain Streets

Sec. 4-4.1201 Prohibited Parking Areas.

The Council, by resolution, is hereby authorized to determine upon what streets the parking of vehicles is prohibited provided appropriate signs are placed and maintained to give notice thereof.

The Traffic Engineer shall appropriately sign or mark, and when so signed or marked, it shall be unlawful for any person to stop, stand, or park a vehicle at:

(a) Any place established by resolution of the Council as a no-parking area; and

(b) Any place where the Traffic Engineer determines that it is necessary in order to eliminate unusual traffic hazards.

(§151, Ord. 452, as amended by §3, Ord. 512, eff. September 12, 1968)

Sec. 4-4.1202 Parking Space Markings.

The Traffic Engineer is hereby authorized to install and maintain parking space markings to indicate parking spaces adjacent to curbings where authorized parking shall be permitted.

Sec. 4-4.1203 Micro-Cars Prohibited from Parking in Angled Parking Spaces.

No SmartForTwo, Scion or micro-car as defined in this Code that is wider than sixty-one (61") inches may be parked in any Angled Parking Space within the City or in any designated full-sized space. "Angled Parking Space" means any designated and marked parking stall that is designed and installed at other than a right-angle to a curb, street, sidewalk or building, or parallel to a roadway.

(§ 4, Ord. U-1151-16, eff. December 20, 2016)

When such parking space markings are placed in the highway, subject to other and more restrictive limitations, no vehicle shall be stopped, left standing, or parked other than within a single space unless the size or shape of such vehicle makes such compliance impossible.

(§153, Ord. 452)

Article 13. Private Streets and Roads

Sec. 4-4.1301 Designated.

The Council hereby finds and determines that the following are privately owned and maintained streets and roads in the City, which streets and roads are generally held open for the use of the public for purposes of vehicular traffic and which so connect with highways within the City that the public cannot determine that such privately owned and maintained streets and roads are not highways:

(a) *Bird Park Road.* From the southerly line of Falls Canyon Road to the southwesterly boundary line of the City;

(b) *Chimes Road.* From Hogs Back to the easterly prolongation of the northerly line of Lot 1, Block 24, Town of Avalon;

(c) *Country Club Drive.* From the southwesterly line of Tremont Street to the southerly line of East Whittley Avenue;

(d) *El Monte Road.* From the northwesterly line of Las Lomas Avenue to the southwesterly line of Hogs Back Road;

(e) *Hogs Back Road.* From the westerly line of Chimes Road to the Hogs Back;

(f) *Mt. Ada Road.* From the southeasterly line of Clemente Avenue to the southeasterly boundary line of the City;

(g) *Pebbly Beach Road.* From a point approximately five hundred seventy-five (575') feet northeasterly from the northwesterly corner of Lot 95, Block 15, of the Official Map of the City to the southeasterly boundary line of the City;

(h) *St. Catherine Way.* From the westerly prolongation of the northerly line of Lot 7, Block 26, Town of Avalon to the beginning of Hamilton Beach Road at the St. Catherine Hotel;

(i) *Tremont Street.* From the northwesterly line of Sumner Avenue to the north westerly line of Metropole Avenue;

(j) *Upper Falls Canyon Road.* From the southerly line of Country Club Drive to a point approximately four hundred (400') feet northwesterly of the City's warehouse;

(k) *Hamilton Cove Development.* Beginning at the gated entrance to the Hamilton Cove Development, to and including all interior streets therefrom;

(l) *Pebbly Beach Road*. Beginning at the gated entrance near the Cabrillo Mole and extending to its junction with Mount Ada Road;

(m) *Wrigley Terrace Road.* From its junction with Pebbly Beach Road to its terminus at Clemente Street;

(n) *Bird Park Road*.

(o) *Quail Canyon Road*.

(p) *Pebbly Beach Village Road*. From its junction with Pebbly Beach Road to its terminus, to and including all interior streets therefrom;

(q) *Eucalyptus Garden Apartment Development*. From its junction with Eucalyptus Avenue, to and including all interior roadways and parking areas therefrom;

(r) *Tremont Apartment Development.* From its junction with Tremont Avenue, to and including all interior roadways and parking areas therefrom;

(s) *Beacon Street*. From its junction with the Canyon Terrace and Sol Vista condominium complexes, to and including all interior roadways and parking areas therefrom;

(t) *Country Club Road.* From its junction with Tremont Avenue to its terminus, to and including all interior roadways and parking areas therefrom;

(u) *Fair View Terrace Development*. From its junction with Country Club Road, to and including all interior roadways and parking areas therefrom.

(§1, Ord. 448, as amended by Ord. 496, eff. September 16, 1967; §2, Ord. 913-95, eff. February 2, 1995; §1, Ord. 963-99, eff. June 3, 1999)

Sec. 4-4.1302 Applicability of Traffic Laws.

Pursuant to the provisions of Section 21107.5 of the Vehicle Code, the Council hereby declares that the provisions of the Vehicle Code and of the laws of the City relating to public traffic regulation and control now or hereafter enacted pursuant to the Vehicle Code shall apply to each and all of the privately owned and maintained streets and roads set forth in Section 4-4.1301 of this article unless there is posted on any such road by the owner thereof the notice provided for in Section 4-4.1305 of this article.

(§2, Ord. 448)

Sec. 4-4.1303 Enforcement of Traffic Laws.

The Council further declares that so long as any of such privately owned and maintained streets and roads are not so posted, the City shall provide traffic law enforcement on such streets and roads, and each and all of the same shall be subject to the provisions of the Vehicle Code and of the laws of the City relating to public traffic regulation and control now or hereafter enacted pursuant to the Vehicle Code.

(§3, Ord. 448)

Sec. 4-4.1304 Responsibility, Liability, and Maintenance.

It is further declared by the Council that nothing contained in this article shall be deemed to constitute an acceptance of any of such privately owned and maintained streets and roads for public use, nor shall the City be deemed to assume any responsibility or liability for the maintenance or care of any of such privately owned and maintained streets and roads.

(§4, Ord. 448)

Sec. 4-4.1305 Exceptions to Provisions.

The provisions of this article shall not apply to any such privately owned and maintained road if and so long as the owner thereof shall post and maintain thereon, at or near the connecting point thereof with a public street or highway, a notice of such size, shape, and color as to be readily legible during the daylight hours from a distance of one hundred (100') feet. Such notice shall state that the road is privately owned and maintained and that it is not subject to public traffic regulation and control.

(§5, Ord. 448)

Article 14. Streets Closed to Traffic

Sec. 4-4.1401 Designated.

The Council hereby finds and determines that it is dangerous to the public welfare to use, or to permit to be used, Eucalyptus Avenue between the southwesterly line of Beacon Street and the northeasterly line of Tremont Street, for the general traffic, passage, or use of vehicles thereon or thereover, such street having a width of twenty-five and one-half (25 1/2') feet between curbs and ten (l0') feet of such width being occupied by an ornamental parking along the center of the roadway, and being closely built along each side thereof with summer cottages, and having a large amount of pedestrian traffic, especially during the summer season.

(§ 1, Ord. 137)

Sec. 4-4.1402 Use of Streets by Vehicles: Permit Required.

It shall be unlawful for any person to ride, drive, or propel, or cause to be ridden, driven, or propelled any vehicle in, along, or upon said portion of Eucalyptus Avenue unless the Superintendent of Streets shall have issued a special permit therefor upon application. Such permit shall permit the holder thereof to go upon said portion of Eucalyptus Avenue at a time to be specified in such permit for the express purpose, to be therein stated, of delivering or hauling household goods or other heavy freight or for some stated purpose other than ordinary use.

(§2, Ord. 137)

Sec. 4-4.1403 Signs and Barriers.

The Superintendent of Streets is hereby authorized and directed to place signs at each end of said portion of Eucalyptus Avenue, which signs shall refer to the provisions of this article, and he shall also cause suitable movable barriers or posts to be installed across each end of the roadway of said portion of Eucalyptus Avenue. It shall be unlawful for any person to remove any of such barriers or posts without first having obtained permission to go upon such portion of such street as provided in Section 44.1402 of this article.

(§3, Ord. 137)

Sec. 4-4.1404 Limited Use Streets: Designated.

The Council hereby finds that the public interest and welfare require that, except as otherwise provided in Sections 44.1405 and 4-4.1406 of this article, the following designated streets be closed for the general traffic, passage, or use of vehicles thereon or thereover:

(a) Crescent Avenue from, at, or near its intersection with Metropole Avenue to its intersection with Clarissa Avenue; and

(b) Sumner Avenue from its intersection with Crescent Avenue approximately one hundred forty (140') feet to its intersection with Calle Del Paseo.

(c) Catalina Avenue from its intersection with Crescent Avenue approximately one hundred and forty (140') feet to its intersection with Calle Del Paseo.

(§1, Ord. 509, eff. June 6, 1968; §1, Ord. 956-98, eff. September 3, 1998)

Sec. 4-4.1405 Limited Use Barriers and Signs.

(a) The Traffic Engineer is hereby authorized and directed to cause to be placed suitable signs and movable barriers or posts at the ends of such portions of the roadways designated in Section 4-4.14-4 of this article. It shall be unlawful for any person to remove any of such signs, barriers, or posts without permission first obtained from the Traffic Engineer or his designated agent.

(b) When the Traffic Engineer shall determine that the public welfare requires vehicular traffic along and upon the streets or roadways designated in Section 44.14-4 of this article, he is hereby authorized to allow such traffic, either by special permit or by removal of the restrictive signs and barriers provided for in this section.

(§1, Ord. 509, eff. June 6, 1968)

Sec. 4-4.1406 Limited Use Street; Vehicles Prohibited;

Exceptions. It shall be unlawful for any person to ride, drive, or propel, or cause to be ridden, driven, or propelled, along or upon any portions of the streets, pedestrian malls, or roadways designated in Section 4-4.14-4 of this article, any vehicle, including, but not limited to, bicycles, roller skates, coasters, pushmobiles, motorpeds, or similar contrivances, except as follows:

(a) Autoettes bearing a state or city issued "Handicapped" permit may travel on limited use streets solely for the purpose of conducting business at establishments along limited use streets which cannot otherwise be accessed by the person to whom such permit was issued, provided that a route is used which results in the least distance traveled on such limited use streets and provided that the vehicle remains only as long as necessary for the person to conduct business at such establishment;

(b) Freight delivery vehicles bearing commercial freight permits may travel through and park on Catalina (on the southeast side only) and on Sumner before 11:00 a.m. for the purpose of loading and unloading freight;

(c) Service vehicles which bear a special permit and properly indicate the address where service is being performed may travel along and park on Catalina (on the southeast side only), Sumner and Crescent for the purpose of servicing establishments located on such limited use streets provided that the service vehicle remains thereat only so long as necessary to complete the service.

Limited exceptions to the restrictions stated above may be granted by the Fire Department or the Sheriff's Department in their sole discretion.

(§1, Ord. 509, eff. June 6, 1968; as amended by §2, Ord. 559, eff. July 19, 1972; §2, Ord. 956-98, eff. September 3, 1998)

Sec. 4-4.1407 Leaks from Vehicles.

It shall be unlawful for any person in charge of any vehicle which is otherwise permitted to travel upon a limited use street pursuant to subsections (b) and (c) of Section 4-4.1406 to stand or park on such limited use street unless cardboard, carpeting or similar material has been placed beneath the vehicle so as to prevent oil and other fluids from reaching the surface of the limited use street. Violations of this section shall be punishable as an infraction; provided, however, that a third or greater violation shall be punishable as a misdemeanor.

(§3, Ord. 956-98, eff. September 3, 1998)

Sec. 4-4.1408 Street Closures.

Whenever a menace to the public health or safety is created or likely to be created by impending flood, storm, fire, earth movement, explosion accident or other means, a sworn member of the Sheriff's Department and any full-time employee of the Los Angeles County Fire Department, the Los Angeles County Health Department, the Avalon Fire Department, the Avalon Harbor Department or the Avalon Public Works Department while acting in the performance of his or her official duties, may close the area where the risk to public health or safety exists or is impending for the duration thereof to any and all persons not authorized to enter or remain within the closed area by means of ropes, markers, or guards.

(§1, Ord. 1030-05, eff. May 5, 2005)

Sec. 4-4.1408.1 Reserved.

Former Section 4-4.1408.1, Limited Access to Pebbly Beach Road, previously codified herein and containing portions of Ordinance Nos. 1042-06U, 1043-06U, and 1044-06, was repealed in its entirety by Ordinance No. 1115-12.

Sec. 4-4.1409 Sheriff's Authority.

The Sheriff's Department may close to any and all unauthorized persons the immediate area surrounding any emergency field command post or any other command post activated for the purpose of abating any calamity or other emergency, including but not limited to those listed in Section 4-4.1408, and a riot or civil disturbance, whether or not the field command post or other command post is located near the actual calamity.

(§1, Ord. 1030-05, eff. May 5, 2005)

Sec. 4-4.1410 Penalties.

Any unauthorized person who willfully and knowingly enters an area closed pursuant to Sections 4-4.1408 or 4-4.1409 and who willfully remains within the area after receiving notice to evacuate, whether that notice is given verbally or passively by the posting of a sign or marker, shall be guilty of a misdemeanor. Verbal notice may be given by any full-time public safety employee listed in Section 4-4.1408, any reserve member of those agencies, the Avalon Code Enforcement Officer, or any duly appointed volunteer of these agencies, so long as the person giving notice has been properly dispatched to the emergency and is working under the direction of a full-time public safety officer.

(§1, Ord. 1030-05, eff. May 5, 2005)

Sec. 4-4.1411 Exemption.

Nothing in Sections 4-4.1408 and 4-4.1409 shall prevent a duly authorized representative of any news service, newspaper, radio or television station or network from entering areas closed pursuant to such sections.

(§1, Ord. 1030-05, eff. May 5, 2005)

Article 15. Schedules of Designated Streets

Sec. 4-4.1501 One-Way Streets.

In accordance with the provisions of Section 4-4.601 of this chapter, and when properly signposted, traffic shall move only in the direction indicated upon the following streets:

(a) On East Whittley Avenue in a northeasterly direction from Lot No. 10 to West Whittley Avenue; and

(b) On Metropole Avenue in a northeasterly direction from the southwest end of Metropole Avenue to Beacon Street.

(§160, Ord. 452; amended by §1, Ord. 729, eff. October 5, 1982; §1, Ord. 767, eff. July 16, 1984)

Sec. 4-4.1502 Through Streets.

In accordance with the provisions of subsection (a) of Section 4-4.702 of this chapter, and when signs are erected giving notice thereof, drivers of vehicles shall stop at the entrance or entrances to those intersections described as follows:

(a) Marilla at Crescent;

(b) West Whitney at Crescent;

(c) Sumner at Crescent;

(d) Catalina at Crescent;

(e) Clarissa at Crescent;

(f) Beacon at Metropole;

(g) Sumner at Beacon;

(h) Catalina at Beacon;

(i) Descanso at Beacon;

(j) Clanssa at Beacon;

(k) Clemente at Beacon;

(l) Catalina at Tremont;

(m) Descanso at Tremont;

(n) Clanssa at Tremont;

(o) Wrigley Road Terrace at Clemente;

(p) Descanso at Third Street;

(q) Falls Canyon at Bird Park Road;

(r) Country Club at East Whittley;

(s) East Whittley at Whittley (both ends);

(t) Hiawatha at Marilla;

(u) Vieudelou at Marilla;

(v) Third Street at Clarissa;

(w) Pebbly Beach Road at Crescent:

(x) Upper Terrace at Wrigley Road;

(y) Middle Terrace at Wrigley Road:

(z) Lower Terrace at Canyon Terrace;

(aa) Wrigley Road Terrace at Wrigley Road; and

(ab) Crescent Avenue at St. Catherine Way.

(§161, Ord. 452)

Sec. 4-4.1S03 Stop Intersections.

In accordance with the provisions of subsection (b) of Section 4-4.702 of Article 7 of this chapter, and when signs are erected giving notice thereof, drivers of vehicles shall stop at the entrance or entrances to those intersections described as follows:

(a) Metropole and Crescent;

(b) Sumner and Trernont;

(c) Tremont and Eucalyptus;

(d) Tremont and Country Club Road;

(e) Tremont and Bird Park Road; and

(f) Falls Canyon Road at the school crosswalk.

(§162, Ord. 452)

Sec. 4-4.1504 Prohibited Parking.

(§164, Ord. 452; repealed by §2, Ord. 512, eff. September 12, 1968)

Article 16. Through Truck Routes

Sec. 4-4.1601 Motor Truck Defined.

For the purposes of this article, "motor truck" shall mean any motor vehicle having an unladen weight of six thousand (6,000) pounds or more.

(§1, Ord. 506, eff. May 4, 1968)

Sec. 4-4.1602 Application.

Nothing contained in this article shall apply to motor vehicles having an unladen weight of less than six thousand (6,000) pounds or to motor vehicles designed, used, or maintained primarily for the transportation of passengers.

(§1, Ord. 506, eff. May 4, 1968)

Sec. 4-4.1603 Deviation from Routes.

Nothing contained in this article shall be deemed to prohibit the operator of any motor truck traversing any of the through truck routes set forth in this article from leaving such routes for the purpose of loading or unloading his vehicle at a point off such routes; provided, however, such deviation for the purpose of such loading

or unloading shall be made over a route which keeps at a minimum the distance traveled off the truck route involved.

(§1, Ord. 506, eff. May 4, 1968)

Sec. 4-4.1604 Erection of Signs.

The Traffic Engineer shall cause to be erected appropriate signs along each of the truck routes described in this article on the effective date of the provisions of this article (May 4,1968).

(§ 1, Ord. 506, eff. May 4, 1968)

Sec. 4-4.1605 Through Truck Route No. 1.

For motor truck traffic entering the City over either Pebbly Beach Road or at or near the intersection of Tremont and Sumner Avenue, the following through truck route is hereby established: Pebbly Beach Road to its intersection with Crescent Avenue; Crescent Avenue to its intersection with Clarissa Avenue; Clarissa Avenue to its intersection with Beacon Street; Beacon Street to its intersection with Sumner Avenue; and Sumner Avenue to its intersection with Tremont Street.

It shall be unlawful for any operator of a motor truck entering the City as set forth in this section and making a trip through the City to operate such motor truck over any other route than that set forth in this section for such operation.

(§1, Ord. 506, eff. May 4, 1968)

Sec. 4-4.1606 Through Truck Route No. 2.

For motor truck traffic entering the City over Vieudelou Avenue, the following through truck route is hereby established: Vieudelou Avenue to its intersection with Marilla Avenue; Marilla Avenue to its intersection with Crescent Avenue; Crescent Avenue to its intersection with Metropole Avenue; Metropole Avenue to its intersection with Beacon Street; Beacon Street to its intersection with Clarissa Avenue; Clarissa Avenue to its intersection with Crescent Avenue; and Crescent Avenue to its intersection with Pebbly Beach Road.

It shall be unlawful for any operator of a motor truck entering the City over Vieudelou Avenue and making a trip through the City to operate such motor truck over any other route than that set forth in this section for such operation.

(§1, Ord. 506, eff. May 4, 1968)

Sec. 4-4.1607 Compliance Required.

Except as otherwise provided in Section 4-4.1602 of this article, when any such truck traffic routes are designated by appropriate signs, the operator of any vehicle having an unladen weight of six thousand (6,000) pounds or more shall travel on such routes or route and none other (whether or not making a trip through the City) except when necessary to traverse another street or streets to a destination for the purpose of loading or unloading, but then only by such deviation from the nearest truck route as is reasonably necessary.

(§1, Ord. 506, eff. May 4, 1968)

Article 17. Registration of Vehicles

Editor's Note: Article 17 was amended in its entirety by Ordinance No. 813, effective October 15, 1987; Article 17 was again amended in its entirety by Ordinance No. 843, effective May 18, 1989. Article 17 was further amended in its entirety by Ordinance No. 862-91, effective March 7, 1991. Article 17 was further, amended in its entirety by Ordinance No. 91795, effective April 20, 1995.

Sec. 4-4.1701 Findings.

The Council hereby determines that there are special problems existing in the City relating to the size and nature of the streets and the characteristics and nature of the City itself and, in view of these special problems, the Council hereby determines that special rules regulating the size, number, noise, speed, and classes of vehicles used, permitted, or operated on the streets under its jurisdiction are necessary. In furtherance thereof, and in order to provide and maintain accurate and complete records and information upon which appropriate rules and regulations may be determined, the provisions of this article are enacted.

Sec. 4-4.1702 Permit Required.

No automobile, truck, motorcycle or autoette or horse drawn carriage shall be operated or parked on any public right-of-way within the City or on any privately owned property where the City has made these regulations applicable to such privately owned property at the request of the owner thereof by designation thereof in Avalon Municipal Code Section 4-4.1301, unless a vehicle permit has been obtained therefor in accordance with administrative procedures adopted by the provisions of this article. All permits must be renewed annually and shall expire twelve (12) months after date of issuance or renewal.

(§1, Ord. 962-99, eff. June 3, 2000)

Sec. 4-4.1703 Types of Vehicle Permits.

(a) *Resident Vehicle Permits.*

(1) Resident vehicle permits may be granted to any resident of Santa Catalina Island, for an automobile or truck to be used for personal and

commercial activities of the permittee. No more than one (1) resident vehicle permit shall be issued per household except that resident vehicle permits issued prior to April 18, 1989 may continue to be renewed by the holders thereof provided that residency is consistently maintained or, in the case of a nonresident, ownership of real property in the City of Avalon is maintained without interruption.

(2) Resident vehicle permits issued to vehicles used exclusively for commercial purposes shall permanently expire on January 31, 1990 and shall no longer be eligible for renewal. Upon application therefor, and before April 1, 1990, such vehicles shall be issued commercial vehicle permits without the necessity of a hearing as would ordinarily be required under Section 4-4.1703(b), except that after the initial one (1) year effective term of such permits, all of the requirements of Section 4-4.1703(b) shall be satisfied as a prerequisite of reissuance of the permits.

(b) *Commercial Vehicle Permits.* Commercial vehicle permits may be granted to any person, organization, partnership, trust or corporation for use in connection with a commercial enterprise located within the City limits or within three (3) miles of the City limits, as follows:

(1) The following findings must be made in an affirmative manner:

a. The commercial vehicle for which a commercial vehicle permit is requested is necessary to the proper functioning of the commercial enterprise.

b. The commercial enterprise has no other vehicle or source of transportation that can reasonably satisfy its transportation requirements, including resident vehicles and commercial autoettes.

c. That the weight, size and nature of the vehicle meets the specific needs of the applicant as presented to the City and is compatible with the size and nature of the streets of the City and with respect to the characteristics and nature of an urbanized area consisting of narrow, steeply graded streets, significant pedestrian activity and a lack of parking spaces.

d. The commercial enterprise is a significant source of income to the applicant and not a side business or hobby, or the Hearing Officer determines that shared use of the vehicle by two (2) or more businesses owned by the permittee is consistent with the purposes and goals of this chapter, or the vehicle is to be used on a full-time basis or exclusive basis for a business venture or ventures by the permittee.

(2) An applicant for a commercial vehicle permit shall hold a City of Avalon Business License at all times the vehicle permit is in effect.

(3) A commercial vehicle permit shall be valid for a period of one (1) year only and at the expiration of said period, a new commercial vehicle permit may be issued only if all of the findings set forth in paragraph (1) hereof are made.

(4) The Hearing Officer or City Council may add conditions to any permit to assure that the applicant complies with the purposes and intent of this article and the regulations adopted pursuant thereto.

(5) The permittee of a commercial vehicle with commercial permits shall have overnight off-street parking for the commercial vehicle and shall not be parked on any public street or right-of-way between the hours of 7:00 p.m. and 6:00 a.m. unless the commercial vehicle is otherwise authorized to be so parked pursuant to the provisions of this title.

(6) Business entities or individuals whose activities are governed by Chapter 11 and Chapter 14 of Title 5 of this Code shall register all vehicles used in connection with such activities in accordance with this subsection.

(7) Non-commercial institutional uses or entities may be issued a commercial vehicle permit pursuant to the provisions of this subsection but need not hold a city business license.

(8) A commercial vehicle permit credit shall be issued to any person, organization, partnership, trust or corporation (i) for each valid commercial permit it surrenders to the City; or (ii) for each instance its name comes to the top of the commercial waiting list and it declines to apply for a commercial vehicle permit. The credit may be redeemed for a commercial vehicle permit at any time and without reference to the commercial vehicle waiting list by the holder on application therefor if the holder meets all of the criteria set forth in subsection (b)(1), subdivisions a. through d. and has remained active and annually renewed its Avalon business license since the credit issued. In the event that the credit holder fails to annually renew the business license, the credit shall automatically expire upon the expiration of the business license. Retroactive renewal of the business license shall not reactivate or reinstate the expired credit. The Vehicle Clerk, on written request, shall retroactively apply this provision to the period from May 15, 1989 to the effective date of this ordinance and issue a credit where he determines that a credit would have been due during that time period to a presently existing person or entity under these provisions.

(9) A restricted commercial vehicle permit credit shall be issued to any person, organization, partnership, trust or corporation which removes from service a passenger vehicle capable of transporting fifty (50) or more persons which vehicle is used to provide sightseeing tours on Catalina Island. The credit shall be for the number of passenger seats of the vehicle removed from service. The credit may be redeemed for a commercial vehicle permit for a vehicle used for sightseeing tours which holds an equal or lesser number of seats as those credited, at any time and without reference to the commercial vehicle waiting list by the holder on application therefor, if the holder meets all the criteria set forth in subsection (b)(1), subdivisions a. through d. and the holder has remained active and annually renewed its Avalon business license since the credit issued. The holder will continue to be credited for any remaining seats. In the event that the credit holder fails to annually renew the business license, the credit shall automatically expire upon the expiration of the business license. Retroactive renewal of the business license shall not reactivate or reinstate the expired credit.

(c) *Commercial Autoette Permits.* One (1) commercial autoette permit may be granted to any person, organization, partnership, trust or corporation for use in connection with a commercial enterprise located within the City limits or within three (3) miles of the City limits, without being subject to a waiting period, as follows:

(1) The following findings must be made in an affirmative manner:

a. The commercial autoette for which a permit is requested is necessary to the proper functioning of the commercial enterprise.

b. The commercial enterprise has no other vehicle, autoette or other source of transportation that can reasonably satisfy its transportation requirements, including resident vehicles and autoettes.

c. That the autoette measures no more than one hundred twenty (120") inches in length including the front and rear bumpers.

d. The commercial enterprise is a significant source of income to the applicant and not a side business or hobby, or the Hearing Officer determines that shared use of the autoette by two (2) or more businesses owned by the permittee is consistent with the purposes and goals of this chapter, or the autoette is to be used on a full-time basis or an exclusive basis for a business venture or ventures by the permittee.

(2) An applicant for a commercial autoette permit shall hold a City of Avalon Business License at all times the permit is in effect.

(3) A commercial autoette permit shall be valid for a period of one (1) year only and at the expiration of said period a new commercial autoette permit may be issued only on timely application therefor and after all of the findings set forth in subsection (c)(1) and (2) are made.

(4) The Hearing Officer or City Council may add conditions to the permit to assure that the applicant complies with the purposes and intent of this article and the regulations adopted pursuant thereto.

(5) Commercial autoettes permitted under this subsection (c) shall be provided by the permittee with overnight off-street parking and shall not be parked on any public street or right-of-way between the hours of 12:00 a.m. and 6:00 p.m.

(6) Noncommercial institutional uses or entities may be issued a commercial autoette permit pursuant to the provisions of this paragraph but need not hold a City business license.

(d) *Temporary Vehicle Permits.*

(1) A temporary vehicle permit may be granted to an applicant who demonstrates:

a. All of the following:

(i) A vehicle is needed within the City on a temporary basis for a specific project;

(ii) The applicant does not intend for the vehicle to remain parked on public streets, ways or alleys in the City on a permanent basis;

(iii) No other permitted vehicle or source of transportation can reasonably satisfy applicant's transportation requirements;

(v) If the vehicle exceeds the length and/or width limitations set forth in Section 4-4.1705, that the weight, length, width and nature of the vehicle is necessary for the proposed use, that a smaller vehicle cannot satisfy the applicant's transportation requirements and that the vehicle will not have a deleterious impact on traffic congestion, traffic safety, parking, and the City Manager or Vehicle Hearing Office makes such findings;

(vi) The applicant possesses a valid Avalon business license and has paid applicable fees.

b. The Hearing Officer has denied the renewal of any permit under which the vehicle had been permitted in the City and an appeal to the City Council is pending; or

c. An existing permit has expired and the permittee is awaiting a hearing date for renewal; or

d. The permitted vehicle is removed from City streets for repair and a temporary replacement is needed while repairs are being made to the permitted vehicle; or

e. The permitted vehicle is experimental and terms and conditions are imposed requiring its operation and removal;

f. The applicant has submitted an application to California State Department of Motor Vehicles for a handicapped parking permit, which temporary permit shall entitle the permittee to utilize handicapped parking privileges while waiting action thereon. The City shall utilize a special sticker to signify that the holder thereof is entitled to utilize handicapped parking privileges and shall specify an expiration date not more than thirty (30) days after the issuance date.

g. The applicant is a nonresident owner of real property improved with a residential unit(s) which is not used for transient rentals. The temporary permit may be issued only to a nonresident owner who is occupying such property and who would otherwise be required to comply with the provisions of subsection (g)(2) of this section 4-4.1703 regarding overnight parking on public streets and rights-of-way. Temporary permits issued pursuant to this subsection shall be for such period of time as determined by the City Council and shall be conditioned upon use of such autoette only by the permittee.

h. The applicant owns and operates a business located in the Pebbly Beach area and the closure of Pebbly Beach Road to pedestrians, most autoettes and motorcycles has resulted in a financial hardship, including but not limited to employee staffing, the ability to attract customers or transportation of materials and equipment, the applicant proposes to use the vehicle to transport employees, customers, equipment and materials to and from the business. As a condition of the permit, the permit issued pursuant to this subsection shall cease to be effective upon the reopening of Pebbly Beach Road to all autoettes and the vehicle shall be removed from Catalina Island within fifteen (15) days thereof unless the business operator is otherwise qualified for a permit for the vehicle. In addition, the temporarily permitted vehicle shall only be used for commercial purposes.

i. Temporary vehicle permits issued pursuant to this section to local contractors and businesses shall be subject to the following additional conditions:

(i) The vehicle may only be parked on City streets, alleys or public ways during permitted building hours and days;

(ii) The vehicle may only be used for the specific project or job described in a written application and no personal use is permitted;

(iii) The vehicle cannot be used in the interior unless the specific project or job requires interior travel as described in a written application;

(iv) The vehicle must be parked at the applicant's business or warehouse location overnight when not temporarily permitted. Parking at an off-street residential location does not satisfy this condition.

(v) When in use, the vehicle must display a uniquely colored, laminated permit issued by the City bearing the job location and dates of validity.

(vii) Payment of applicable fees.

(2) Except for permits pursuant to (d)(1)h., the City Manager or his designee is authorized to issue temporary vehicle permits, effective for a time period as determined to be appropriate by the City Manager, but in no event for more than one (1) month. The City Manager may issue no more than three (3) temporary permits to any one (1) applicant or for any one (1) vehicle during any twelve (12) month period. The foregoing limitations shall not apply to temporary permits issued pursuant to subsection 4-4.1703(d)(1)g. to allow overnight parking on public streets and rights-of-way by nonresident property owners.

(3) Except with regard to temporary permits issued pursuant to subsection (d)(1)h. which remain effective until Pebbly Beach Road is reopened, the Hearing Officer is authorized to issue a Temporary Vehicle Permit for a maximum period of six (6) months, or in the case of a Temporary Vehicle Permit pursuant to subsection (d)(1)e, for a maximum period of twelve (12) months. Any such permit may be renewed upon the officer making the findings set forth in subsection (d)(1)a. above.

(4) All vehicles with temporary vehicle permits shall be provided by the permittee with overnight off-street parking and shall not be parked on any public street or right-of-way between the hours of midnight and 6:00 a.m., unless otherwise provided in the permit.

(5) The vehicle shall be used only for the purposes for which the permit is issued. Conditions may be attached to the permit to assure that the applicant complies with the purposes and intent of this article and the regulations adopted pursuant thereto.

(6) The Hearing Officer shall have the authority to impose a fine for violations of the conditions and terms of a temporary permit, up to a maximum of One Hundred and no/100ths ($100.00) Dollars for the first violation; Two Hundred and no/100ths ($200.00) Dollars for the second violation; and Three Hundred and no/100ths ($300.00) Dollars for the third violation. In the case of temporary permits issued pursuant to (d)(1), the Vehicle Hearing Office shall have authority to permanently bar an applicant from receiving future temporary permits. Hearings on whether to impose such fines or permanently bar an applicant from receiving future temporary permits shall be conducted in the manner set forth herein for hearings.

(e) Public Service/Public Health and Safety Vehicle Permits.

(1) Public service vehicle permits may be granted by the Hearing officer for any vehicle owned and operated by the City, the County of Los Angeles, the State or Federal government; by electric, gas, water, or telephone companies certified by the California Public Utilities Commission, or by a religious institution that owns real property in the City of Avalon, provided the applicant demonstrates that the vehicle meets specific needs of the institution which cannot be met through another vehicle or source of transportation.

(2) Public health and safety vehicle permits may be granted to a private business for vehicles owned by such business if the Hearing Officer decides, based upon recommendation of any city or Los Angeles County agency, that such vehicle is reasonably necessary in order to protect the public health and safety, and no other vehicle is reasonably available to fulfill such need. The Vehicle Clerk may grant a public health and safety vehicle permit to a private individual employed by the Long Beach Unified School District as a bus driver for a vehicle that is used by such person primarily for the purpose of traveling to the Isthmus to provide such driving services.

(3) In granting such permits, the Hearing Officer shall determine whether an autoette will be sufficient to fulfill the public service/public health use, in which case the Hearing Officer shall so limit the permit. Even if the Hearing Officer determines that a full-sized vehicle is necessary, if the proposed vehicle to be permitted is oversized, the provisions of Section 4-4.1705 shall apply.

(4) Except as provided herein, Public Service/Public Health and Safety permits shall be valid for a period of one (1) year only and may be renewed at the end of the period only if all of the findings set forth in subsections (1) and (2) are satisfied. The foregoing shall not apply to City or County law enforcement, fire and emergency service vehicles which are owned by and registered to the public agency. Permits issued prior to the effective date of this ordinance must be renewed on or before November 1, 2005.

(5) In granting such permits, the Hearing Officer may impose such terms and conditions as appear appropriate to reduce the impact of the additional permitted vehicle, including but not limited to setting specific class, length, parking and other limitations or restrictions. Except as provided herein, vehicles permitted under this paragraph shall not be parked on any public street or right-of-way between the hours of 7:00 p.m. and 6:00 a.m. unless such vehicle is parked so as to be immediately available to on-call city or county law enforcement, fire, and emergency services personnel, on-call persons employed by electric, gas, water or telephone companies certified by the California Public Utilities Commission, or on-call hospital personnel. The Vehicle Hearing Officer shall direct the Vehicle Clerk when to utilize special permits to identify a vehicle bearing a public service permit which may not be parked on public streets between the hours of 7:00 p.m. and 6:00 a.m.

(f) *Commercial Rental Autoette Permits.* Business entities or individuals whose activities are governed by Chapter 11 and Chapter 14 of Title 5 of this Code shall register all autoettes used in connection with such activities and comply with subsections in accordance with this paragraph (c)(2), (4) and (5). Autoette permits may be granted for rental purposes to any person in possession of a valid permit under Section 5-11.03, which permits shall continue to be effective until canceled by the holder thereof.

(g) *Autoette Permits.*

(1) Per Dwelling Unit. One (1), and only (1), autoette permit may be granted per dwelling unit as defined in this chapter. The permit shall be issued only where the dwelling unit is located within the City limits and only to a person who actually occupies or resides in the dwelling unit. An owner of a dwelling unit shall not be entitled to personally use an autoette permit issued for such unit unless the owner actually occupies or resides in the unit. Autoette permits may be requested by owners of hotels for transient occupants pursuant to Avalon Municipal Code Section 5-11.03. In the event more than one (1) autoette permit has been issued in connection with a dwelling unit to an occupant as of April 4, 1989, all but one (1) of such permits shall not be eligible for renewal upon their normal date of expiration in 1993. An autoette permit that has previously been issued to an owner of a dwelling unit who does not actually occupy or reside in the subject dwelling unit is eligible for renewal if proof of dedicated off-street parking for the autoette is provided. Such autoette permits may also be transferred to a person who actually occupies or resides in the dwelling unit. If proof of dedicated off-street parking is not provided during the five-year expiration period, such autoette permit held by a non-occupant or nonresident owner shall expire five (5) years from the date when renewal is sought and proof of off-street parking has not been provided. A hardship exception may be granted if the following criteria is met by a non-occupant or nonresident owner: A) The autoette is needed regularly and the need cannot be met by other means of transporation or by parking the autoette remotely; B) No off-street parking space is available for the vehicle on the dwelling unit's premises or within a reasonable distance of the dwelling unit; C) The dwelling unit's garage or other parking space has not been converted to or placed in other use without City permission; and D) Another vehicle regularly

parked on the dwelling unit premises cannot be displaced without equivalent hardship.

(2) Per Vessel Used as Principal Place of Residence. One (1), and only one (1) autoette permit may be granted per vessel, to a person who has established residency in Avalon by making the vessel his principal place of residence for at least nine (9) months, six (6) of which have been while moored in the Avalon Harbor, and moored or anchored for the other three (3) months within the adjacent waters from Long Point to Jew Fish Point, and who thereafter maintains the boat as his principal place of residence, moored within Avalon Harbor for at least six (6) months of each year and within one (1) mile of Catalina Island for the balance of the year. The applicant shall submit sufficient documentation to establish residency as set forth in Section 4-4.1714(c).

(3) Autoette permits may be granted to a homeowners' association or similar nonprofit association pursuant to a condition of approval of a development project as a means of mitigating traffic and parking impacts created by the project. The association shall pool the permits for use by members of the association, who shall not be eligible to obtain individual autoette permits.

(4) Persons owning real property improved with a residential unit(s) who are nonresidents of Avalon at the time of application for an autoette permit and who acquired such real property on or after September 2, 1988, shall not be permitted to park such autoette on any public street or right-of-way between the hours of 2:00 a.m. and 6:00 a.m. except as permitted by a valid temporary permit issued pursuant to subsection (d)(1)g. of this Section 4-4.1703 or except where the permittee holds a valid handicapped parking permit issued by the California Department of Motor Vehicles.

(5) Autoette permits may be granted for rental or commercial purposes to any person in possession of a valid permit under Sections 5-11.03 and 4-4.1703(b) of this Code.

(6) Resident vehicle permits may be used in lieu of an autoette permit upon compliance with the City's registration procedures.

(7) For purposes of paragraph (1), "household" is defined in Section 4-4.1714(d) and "dwelling unit" shall have the same definition as set forth in Section 9-3.604 of Title 9, Chapter 3, Article 6.

(8) All permits issued pursuant to paragraphs (1) and (2) shall expire on April 1 of each year and the permittee shall be required to demonstrate compliance with the requirements of this Title in order to renew same.

(h) *Vintage Vehicle Permits*. One vintage vehicle permit may be granted to any resident of the City and to any person who resides in a residence within three (3) miles of the boundaries of the City in exchange for a resident vehicle permit(s) upon proof of ownership of one or more vehicles which are each more than thirty (30) years old. The permit shall allow the permittee to use one such vehicle at a time and such permit shall be transferable to any vintage vehicle owned by the permittee. As a condition of the permit, the permittee shall provide overnight off-street parking for all vintage vehicles.

(i) *Horse-Drawn Vehicle Permits*. A horse-drawn vehicle permit may be issued by the City Council on a showing by the applicant that the operation of the vehicle will not adversely impact traffic, health and safety. The City Council may limit the number of such permits, and may condition any permit issued to mitigate the impacts of operation, including but not limited to designating the streets on which the vehicle may be operated and the times and days of operation permitted.

(§1, Ord. 823U; §1, Ord. 824; §1, Ord. 827U; §1, Ord. 830, eff. September 15, 1988; §1, Ord. 853, eff. January 4, 1990; §1, Ord. 857, eff. June 14, 1990; §§1, 2, Ord. 907-94, eff. August 4, 1994; §§3—12, 22, Ord. 926-96, eff. March 7, 1996; §§2, 5, 6, Ord. 962-99, eff. June 3, 1999; § 1, Ord. 971-99, eff. November 4, 1999; §1, Ord. 984-00, eff. September 14, 2000; §§1, 2, Ord. 985-00, eff. September 14, 2000; Ord. 1008-02, eff. October 17, 2002; Ord. 1012-03, eff. May 15, 2003; §1, Ord. 1033-05, eff. October 6, 2005; §1, Ord. 1035-05, eff. December 30, 2005; §1, Ord. 1040-06, eff. June 1, 2006; §2, Ord. 1049-07, eff. March 22, 2007; §1, Ord. 1063-07, eff. December 6, 2007; §2, Ord. 1068-08, eff. April 17, 2008; §§1,2, Ord. 1081-08, eff. December 4, 2008; Ord. U-1112-12, eff. March 20, 2012; §2, Ord. 1117-13, eff. May 2, 2013)

Sec. 4-4.1703.5 Types of Permits Issued to Persons and Entities.

(a) *Interior Resident Vehicle Permits*. An interior resident permit may be granted to the owner of any vehicle provided the owner resides in and the vehicle is permanently registered and garaged at an address more than three (3) miles outside of the City's jurisdiction and on Santa Catalina Island. The permit shall expire automatically should the vehicle or owner no longer meet these requirements. Except as provided in paragraph (1) below, no more than two (2) interior resident permits shall be issued per household. The maximum of two (2) interior permits shall include those issued prior to April 18, 1989. While in the City, no vehicle bearing an interior resident vehicle permit shall be parked on any public street or public right-of-way between the hours of midnight and 6:00 a.m. Overnight parking of the vehicle within City limits, whether on public or private property, on more than an occasional basis, shall be grounds for revocation of such permit, unless the permit holder demonstrates good cause therefor. As used herein, good cause means unusual circumstances, such as family illness or similar circumstance, requiring a member of the permit holder's household to remain within City limits for not more than three (3) consecutive days.

(1) Notwithstanding the two (2) permit limit, the Vehicle Hearing Officer may issue additional interior resident vehicles to persons within the same household, provided the applicant and the vehicle otherwise meet the requirements of subsection (a) above, and the applicant demonstrates the following:

a. The transportation needs of the household cannot reasonably be met with the existing permitted or unpermitted vehicles;

b. Parking impacts of the additional vehicle(s) while in the City of Avalon are mitigated by appropriate conditions.

Any permits issued pursuant to this subsection (a)(1) shall be subject to annual renewal hearings to determine whether the foregoing requirements continue to be met.

(b) *Interior Commercial Vehicle Permits*. An interior commercial permit may be granted to any person, organization, partnership, trust or corporation whose primary commercial or institutional activities are conducted at an address on Santa Catalina Island outside of and more than three (3) miles from the City of Avalon limits for use in connection with a commercial enterprise or institutional activity for any vehicle permanently garaged at an address on Santa Catalina Island, as follows:

(1) The following findings must be made in an affirmative manner: The applicant must make a sufficient showing that the interior commercial vehicle permit or permits requested are necessary to the proper functioning of the commercial enterprise and that no other vehicle owned or available to the applicant will satisfy the needs of the applicant's enterprise.

(2) The permit must be displayed and visible when the vehicle is within the City limits.

(3) An interior commercial vehicle permit shall be valid for a period of one (1) year only and at the expiration of said period, may be renewed only if the findings set forth in paragraph (1) hereof are made. Except as set forth in subparagraph (i) below, new permits shall be issued only when an existing permit is revoked or is not renewed by the holder thereof.

(i) Application may be made and the Vehicle Hearing Officer may issue an interior commercial vehicle permit without reference to the waiting list only upon affirmative finding of all of the following:

(A) The equipment and other real or personal property used in the applicant's commercial enterprise(s) are physically located at least four (4) miles outside of the City of Avalon's jurisdictional limits;

(B) The sole source of income to the applicant from businesses located on Santa Catalina Island, excluding rents, is from a business located at least four (4) miles outside of the City of Avalon's jurisdictional limits and the vehicle is necessary to the functioning of the business for reasons other than transportation of the applicant to the business location;

(C) The applicant shall not be entitled to any other full-sized vehicle permits or a commercial autoette permit, except that the applicant may be considered for a second interior commercial vehicle permit at such time that the applicant's name appears at the top of the Interior Commercial Vehicle waiting list and the Vehicle Hearing Officer makes the affirmative findings set forth in (b)(1) above.

(D) The applicant provides proof of the ability to comply with paragraph (b)(5) below.

(4) The Hearing Officer or City Council may add conditions to any permit to assure that the applicant complies with the purposes and intent of this article and the regulations adopted pursuant thereto.

(5) All vehicles bearing an interior commercial vehicle permit shall have overnight off-street parking and shall not be parked on any public street or right-of-way between the hours of 7:00 p.m. and 6:00 a.m. unless the commercial vehicle is otherwise authorized to be so parked pursuant to the provisions of this title.

(6) Non-commercial institutional uses or entities may be issued an interior commercial vehicle permit pursuant to the provisions of subsection (b) of this section.

(7) Resident vehicle permits, interior resident permits and commercial vehicle permits issued to commercial vehicles which qualify for an interior commercial vehicle permit may be exchanged for an interior commercial vehicle permit during the 1991 registration period. Upon application therefor, and before April 1, 1991, such vehicles shall be issued interior commercial vehicle permits without the necessity of a hearing as would ordinarily be required under this paragraph, except that after the initial one (l)-year effective term of such permits, all of the applicable requirements of this paragraph shall be satisfied as a prerequisite of reissuance of the permits.

(§7, Ord. 962-99, eff. June 3, 1999; §1, Ord. 1005-02, eff. April 18, 2002; §2. Ord. 1027-04, eff. November 18, 2004; §1, Ord. 1050-07, eff. March 22, 2007)

Sec. 4-4.1704 Maximum Number.

(a) *Resident Vehicle Permits.* Except as provided herein, a new resident vehicle permit shall be issued only upon the expiration, nonrenewal or revocation of two (2) such permits. A resident vehicle permit that otherwise would have expired or been nonrenewed as a result of the death of the permittee that is or may be transferred to a child of the permittee if the child establishes residency within one year as provided in Section 4-4.1707(a)(2) shall be included and treated as if the permit was expired. However, in no event shall the total number of resident vehicle permits issued and outstanding exceed a maximum established by resolution of the City Council.

(b) *Commercial Vehicle Permits.* Commercial vehicle permits shall be issued only upon the expiration (including late fee period), surrender, nonrenewal or revocation of one of the same such permits, or upon the redemption of a permit for credit issued pursuant to the provisions of Section 4-4.1703(b)(8).

(c) *Interior Resident Vehicle Permits.* The number of interior resident vehicle permits issued and outstanding shall not exceed the maximum established by resolution of the City Council.

(d) *Interior Commercial Vehicle Permits.* Except as set forth in Section 4-4.1703.5(b)(3)(i), a new interior commercial vehicle permit shall be issued only upon the expiration, nonrenewal or revocation of one of the same such permits.

(e) Reserved. (§ 5, Ord. U-1151-16, eff. December 20, 2016; § 3, Ord. U-1152-17, eff. January 25, 2017; § 3, Ord. 1154-17)

(§12, Ord. 926-96, eff. March 7, 1996; §3, Ord. 1027-04, eff. November 18, 2004; §1, Ord. 1082-08, eff. December 18, 2008; § 5, Ord. U-1151-16, eff. December 20, 2016; § 3, Ord. U-1152-17, eff. January 25, 2017; § 3, Ord. 1154-17)

Sec. 4-4.1705 Maximum Length and Width.

Except as otherwise set forth below or unless the applicant demonstrates and the Hearing Officer finds, for non-autoette permits only, that (1) the weight, length, width and nature of a vehicle is necessary for the proposed use, (2) a smaller vehicle cannot satisfy the applicant's transportation requirements, and (3) the vehicle will not have a deleterious impact on traffic congestion, traffic safety, parking, and noise, no vehicle permit for any vehicle authorized by Section 4-4.1703 shall be issued nor transferred pursuant to Section 4-4.1707, unless the vehicle satisfies the following size limitations:

(a) No full-sized vehicle shall exceed two hundred (200") inches in length, including front and rear bumpers or eighty (80") inches in width as measured from the widest part of the vehicle, including but not limited to, mirrors and door handles;

(b) Except as specified in subsection (1) and (2) below, an autoette permit shall not be issued for any vehicle that exceeds fifty-five (55") inches in width, as measured from the widest part of the autoette.

(1) An autoette permit may be issued to an otherwise qualified person for an electric-powered autoette that meets the definition of "Low-Speed

Vehicle/Neighborhood Electric Vehicle" as defined in either California Vehicle Code section 385.5 or 49 CFR 571.500 as it existed on January 1, 2010, provided such vehicle is registered with the California Department of Motor Vehicles, has a length of one hundred thirty-eight (138") inches or less, including front and rear bumpers, and a width of sixty-seven (67") inches or less, as measured from the widest part of the vehicle, but not including mirrors or door handles."

(2) An autoette permit may be issued to an otherwise qualified person for a SmartForTwo, Scion or "micro-cars" provided such vehicle is registered as a motor vehicle with the California Department of Motor Vehicles and has a width of sixty-seven (67") inches or less, as measured from the widest part of the vehicle, but not including mirrors or door handles and a length no greater than one hundred twenty point one (120.1") inches.

The foregoing shall not apply to any full-sized vehicle that exceeds the maximum length or width for which a resident vehicle permit (blue sticker) was issued as of January 1, 1989, and shall not prevent renewal of such permits provided that the vehicle remains in the ownership and possession of the permit holder of record as of that date; nor shall it apply to any full-sized vehicle or autoette which exceeds the maximum width for which a vehicle permit was issued prior to June 1, 1999, and shall not prevent renewal of such permits provided that the vehicle remains in the ownership and possession of the permit holder of record as of that date.

All measurements specified above shall be based on the vehicle as originally equipped by the manufacturer pursuant to the requirements of California Vehicle Code §28001. No vehicle that exceeds the length limitation specified above for which a resident vehicle permit or autoette permit, as applicable, was first issued after April 18, 1989 shall be parked on public streets between the hours of midnight and 6:00 a.m. No vehicle that exceeds the width limitation specified above for which a residence vehicle permit or autoette permit, as applicable, was first issued after June 5, 1999, shall be parked on public streets between the hours of midnight and 6:00 a.m.

(§2, Ord. 853, eff. January 4, 1990; as amended by §14, Ord. 926-96, eff. March 7, 1996; §4, Ord. 962-99, eff. June 3, 1999; §1, Ord. 983-00 eff. September 14, 2000; §1, Ord. 986-00, eff. October 19, 2000; Ord. 1007-02, eff. October 17, 2002; §1, Ord. 1067-08, eff. April 3, 2008; §1, Ord. 1096-10, eff. July 1, 2010; § 2, Ord. U-1151-16, eff. December 20, 2016)

Sec. 4-4.1705.1 Replacement of Vehicles.

The holder of a valid vehicle permit may replace the vehicle with a vehicle in the same category, provided that the replacement vehicle is within the size limits established by Section 4-4.1705(a). An oversized vehicle that has been issued an oversized vehicle permit may not be replaced by a larger vehicle. No exceptions to this oversized vehicle rule may be made by the Vehicle Clerk, the Vehicle Hearing Officer, or any other person.

(§ 3, Ord. U-1151-16, eff. December 20, 2016; § 2, Ord. U-1152-17, eff. January 25, 2017; § 2, Ord. 1154-17)

Sec. 4-4.1706 Hearings.

Applications for the issuance, renewal, transfers or modification of permits or commercial vehicle credits shall be submitted to a Vehicle Clerk, who shall be designated by the City Manager. Proceedings to review applications for vehicle permits and all other proceedings, except as otherwise provided, shall be conducted by a Hearing Officer appointed by the City Council. The Hearing Officer, and where applicable, the Vehicle Clerk, shall have the authority to act upon the issuance, renewal, transfer, modify cation and revocation of vehicle permits, commercial vehicle credits and imposition of fines pursuant to the standards and criteria set forth in this article and pursuant to the procedures adopted by resolution of the City Council. Any decision of the Vehicle Clerk may be appealed to the Hearing Officer, and any decision of the Hearing Officer may be appealed to the City Council pursuant to Chapter 4 of Title 1 of the Avalon Municipal Code, except a decision as to whether a hearing is required, which decision may be appealed to the City Manager who may decide such appeal on written statements only.

(§15, Ord. 926-96, eff. March 7, 1996)

Sec. 4-4.1707 Transfer of Permits.

As used in subsections (a), (c), (d) and (g), "transfer" means use of the permitted vehicle by anyone other than persons residing in the permit holder's household on more than a temporary or occasional basis. As used in subsections (b), (c) (if the temporary permit is issued to for a commercial purpose), (f) and (i), "transfer" means use of the permitted vehicle by persons employed by the commercial enterprise to which the permit was issued for purposes which are not related to the commercial enterprise on more than a temporary or occasional basis, or the use of the permitted vehicle by persons who are not employed by the commercial enterprise or who are not members of the permittee's household.

(a) *Resident Vehicle Permits.* No resident vehicle permit issued under Section 44.1703 (a) shall be transferred or assigned from the permittee to any other person or from the vehicle to which it is issued to any other vehicle, except where the transfer complies with all requirements applicable to the issuance of such a permit, except as provided below, including but not limited to Section 4-4.1703(a)(1):

(1) The permit is transferred from a vehicle removed from the City or otherwise permitted under this chapter to another vehicle owned by the same person, except that under no circumstances shall the permit be transferred to a vehicle in excess of the size limitation of Section 4-4.1705 unless the findings of that section are satisfied; or

(2) The permit is transferred by operation of law or judicial decree (a) upon the death of the permittee to the permittee's surviving spouse or a child of the deceased aged sixteen (16) years or older who is a resident of Avalon at the time of the decedent's death or who establishes such residency within one (1) year of the decedent's death; or (b) on dissolution of marriage to one of the spouses, provided the spouse to whom the permit is transferred is a resident at the time of transfer, or, if the permit was issued prior to April 18, 1989, the spouse is the owner of real property in the City. In cases where more than one (1) child is qualified to receive a transfer under this provision but there is no will or other instrument specifying to which child the transfer will be made, and the children cannot decide between themselves, then the issue will be decided by a coin toss or other method of chance.

(3) The permit was issued prior to April 18, 1989 and is transferred to an adult child of the permittee who is not living with the permittee, and who is a resident at the time of transfer of the resident vehicle permit.

(4) The permit is transferred by will or other devise to his or her birth or adoptive parent, by an adult child who predeceases the parent, provided the parent is a resident at the time of death of the child. Where more than one (1) parent is qualified to receive a transfer under this provision but the parents live in separate households and the child does not specify in a will to which parent the transfer will be made, and the parents cannot decide between themselves, then the issue will be decided by a coin toss or other method of chance.

(b) *Commercial Vehicle Permits and Credits.* Commercial vehicle permits and credits shall not be transferred or assigned, except:

(1) Upon the sale or transfer of a commercial enterprise, or a portion of a multiple commercial enterprise which constitutes a separate and complete business subject to meeting the criteria contained in Section 4-4.1703(b);

or

(2) From one vehicle to another in ownership or lawful possession of the same permittee, as long as the vehicle from which the permit is transferred is removed from the City or otherwise permitted under this chapter, the new vehicle is used for the same business as the vehicle from which the permit is transferred, and the new vehicle is not in excess of the size limitation of Section 4-4.1705, unless the findings of that section are satisfied.

Transfers or assignments pursuant to paragraph (b)(l) hereunder require a hearing pursuant to Section 4-4.1703(b) prior to the transfer of the permit; transfers or assignments pursuant to paragraphs (a)(l), (2) and (3) and (b)(2) do not require a hearing except as otherwise required under Section 4-4.1705, except that the Vehicle Clerk may request documentation or other proof of qualification prior to a transfer under those sections.

(c) *Temporary Vehicle Permits.* No temporary vehicle permit shall be transferred or assigned.

(d) *Autoette Permits.* Autoette permits shall not be assigned or transferred except:

(1) From one autoette to another in ownership or lawful possession of the same permittee, as long as the autoette from which the permit is transferred is removed from the City or otherwise permitted under this chapter, and the new autoette is not in excess of the size limitations of Section 4-4.1705, or if the permit is issued and used pursuant to the conditions of approval of a development agreement project pursuant to Section 4-4.1703(f). Notwithstanding Section 5-11.03, the owner of a rental unit in a residential dwelling who is otherwise entitled to the permit may grant use of the autoette without separate charge to any occupant of the rental unit during the rental period, in which event the owner shall be responsible for ensuring compliance with all state insurance requirements applicable to such use. No person shall arrange or participate in the use of an autoette by the renter of one household where the permit for the autoette was issued to a different household, except that this shall not prohibit a permittee or assignee from allowing temporary use of the permitted vehicle by friends or family members.

Transfers or assignments hereunder do not require a hearing except as otherwise required under Section 4-4.1705.

(e) *Intentionally Omitted.*

(f) *Interior Commercial Vehicle Permits.* Interior commercial vehicle permits may be temporarily transferred to other interior residents and other entities and persons which operate interior commercial business and institutions as determined by the holder of the permit.

(i) Interior commercial permits shall not be assigned, except upon the sale or transfer of a commercial enterprise, subject to meeting the criteria contained in Section 4-4.1703.5(b) (1).

(g) *Vintage Vehicle Permits.* Vintage vehicle permits shall be transferable by the permittee only to other vintage vehicles owned by the permittee. The permittee shall provide a list of all vintage vehicles owned at the time of permit issuance.

(h) *Horse-Drawn Vehicle Permits.* Horse-drawn vehicle permits are not transferable.

(i) *Commercial Autoette Permits.* No commercial autoette permit shall be transferred or assigned.

(j) *Public Service Permits.* Public service permits issued pursuant to Section 4-4.1703(e) shall not be transferred or assigned except:

(1) From one vehicle to another in ownership or lawful possession of the same permittee, as long as the vehicle from which the permit is transferred is removed from the City or otherwise permitted under this chapter, the new vehicle is used for the same activities as the vehicle from which the permit is transferred, and the new vehicle is not in excess of the size limitations of Section 4-4.1705, unless the findings of that section are satisfied.

Transfers or assignments hereunder do not require a hearing except as otherwise required under Section 4-4.1705.

(§§17—20, Ord. 926-96, eff. March 7, 1996; §8, Ord. 962-99, eff. June 3, 1999; §§2, 3, Ord. 983-00, eff. September 14, 2000; §1, Ord. 1032-05, eff. July 21, 2005; §2, Ord. 1050-07, eff. March 22, 2007; §§1,2, Ord. 1079-08, eff. December 4, 2008)

Sec. 4-4.1708 Revocation of Permits.

The Hearing Officer, and the Council on appeal therefrom, have the power to revoke or suspend any vehicle permit granted pursuant to provisions of this article upon determining that:

(a) The permit holder has violated any provision of this chapter or any conditions of permit approval.

(b) The permit holder, following the issuance of the permit, has either been convicted of, entered a plea of nolo contendere to, or failed to appear before the appropriate court with respect to a violation of this chapter.

(c) The permit holder of any resident vehicle permit, interior resident vehicle permit or autoette permit ceases to satisfy the residency or property ownership requirements contained in this chapter.

(d) The vehicle is parked in an inoperable condition for a continuous thirty (30) day period on a public street.

Prior to any such revocation or suspension the Hearing Officer, and the Council on appeal therefrom, shall give the permit holder or his authorized representative an opportunity to present facts in opposition thereto. Upon any revocation, the vehicle shall be removed from the City within thirty (30) days.

(§3, Ord. 853, eff. January 4, 1990)

Sec. 4-4.1709 Modification of Conditions.

After a vehicle permit has been granted or renewed under this article, any conditions which may have been imposed upon the permit holder may be modified by the Hearing Officer upon application of the permit holder. Any such modifications may be made upon the officer's determination that:

(a) The permit holder has demonstrated a necessity for the modifications.

(b) The modifications will not be detrimental to the public health, safety and welfare.

(c) The modifications are not contrary to the original intent of the initial approval.

Sec. 4-4.1710 Permit Affixing Regulations.

No person, firm or corporation shall affix a vehicle permit issued pursuant to this article to any vehicle other than the vehicle for which the permit was issued, except as permitted according to this article, nor shall any person, firm or corporation affix to any vehicle a permit not properly issued pursuant to this article.

Sec. 4-4.1711 Penalty: General Provisions.

Except as provided in Section 4-4.1703(c)(6), a violation of any of the provisions of this article shall be a misdemeanor and shall be punishable by a fine of not more than Five Hundred and no/l00ths ($500.00) Dollars and/or imprisonment for a period not exceeding six (6) months.

Sec. 4-4.1712 Penalty: Alternative Provisions.

An operable vehicle which is found on a City street without a current bona fide City vehicle permit shall be subject to citation, impoundment, towing to, and storage in the nearest available safe place, or shall be immobilized by a wheel lock. All costs incurred in impounding, towing, or immobilizing a vehicle shall be borne by the vehicle owner. The subsequent disposition of such a vehicle shall be determined as follows:

(a) If such a vehicle is currently legally registered in any State in the United States, the City shall ascertain the owner's address and notify same by certified mail with return receipt requested or by United States Postal Service Certificate of Mailing, that the vehicle is in violation of the City's permit requirements and has been impounded or immobilized for such offense. The notice shall further inform the owner that he shall have fifteen (15) days from receipt of the notice to secure a permit from the City and that if no such permit is timely secured that the vehicle shall be shipped to the port of San Pedro and thereafter towed to and stored in the nearest available safe place. The owner or owner's authorized representative shall be able to resecure possession of such vehicle upon payment to its bailor for all costs incurred in towing, immobilizing, caring for, shipping and storing the vehicle. If the owner or owner's authorized representative does not so resecure possession within thirty (30) days the vehicle shall be disposed of pursuant to Civil Code Section 3068.1 et seq.

(b) If such a vehicle is not currently registered in any State of the United States, it shall be kept in a safe place for thirty (30) days and, if not claimed by such time, shall be deemed an abandoned vehicle and disposed of pursuant to California Vehicle Code Sections 222851 et seq. If the owner or owner's agent does not claim the vehicle within thirty (30) days, the vehicle shall be shipped to the port of San Pedro and thereafter towed to and stored in the nearest safe place. The owner or owner's authorized representative shall be able to resecure possession of the vehicle upon payment to its bailor for all costs incurred in towing, immobilizing, caring for, shipping and storing the vehicle. If the owner or owner's authorized representative does not so resecure possession within thirty (30) days the vehicle shall be disposed of pursuant to Civil Code Section 3068.1 et seq.

(§2, Ord. 1145-15, eff. December 17, 2015)

Sec. 4-4.1713 Vehicle Noise.

(a) *Prohibited Installations and Noise Limits.* It shall be unlawful for any person to own or operate an autoette which has a speaker or speakers or other sound amplification device mounted, fixed or secured and directs or points the sound away from the occupants or toward the outside of the autoette. Except as provided herein, it shall be unlawful for any person to operate an automobile, truck, motorcycle or autoette on any street or public right-of-way, or on any private street or right-of-way designated in Section 4-4.1301, and within the City limits, if the operation of said automobile, truck, motorcycle or autoette generates a sound level which is unreasonably loud, offensive, or excessive to a person with normal hearing sensitivity. A sound level which exceeds the following measurements shall be conclusive proof of an unreasonable sound level under this section: (1) Any motor vehicle with a manufacturer's gross vehicle weight rating of six thousand (6,000) pounds or more and any combination of vehicles towed by such motor vehicle - 82 dB; (2) Any motorcycle other than a motor driven cycle - 77 dB; (3) Any other motor vehicle and any combination of vehicles towed by such motor vehicle - 74 dB.

Measurement of decibels levels shall be made pursuant to the testing procedures set forth in subsection (b) herein.

(b) *Testing Procedure.*

(1) Instrumentation. Noise levels shall be measured by a sound level meter which meets ANSI S1.4 Type 1-IEC 651 or ANSI S1.4 Type 2-IEC651 requirements of the American National Standard Specifications for Sound Level Meters and which has been calibrated with an accuracy of + or - 0.5 dB within the time period recommended by the manufacturer.

(2) Test Site; Local Conditions. Measurement shall be made after the vehicle travels for a distance of at least twenty (20') feet and is at a constant speed of between fifteen (15) and twenty (20) m.p.h. in an open space which consists of a reasonably flat area made of concrete, asphalt, or other hard material having a high acoustical reflectivity. Ambient noise levels at the measuring site during such testing shall be at least 15 dB less than the maximum measurement permitted hereunder for the vehicle to be tested.

(3) Measurement. At least one measurement shall be made. Additional measurements may be taken if the vehicle to be tested is not driven at constant speeds or for the distance specified above. The measurement shall be made by holding the instrument at waist level, directed at the vehicle as it passes and from a distance of twenty-five (25') feet from the vehicle.

(4) Statement of Results. A test report shall be made which includes all relevant details regarding the testing, including identification of the vehicle tested, the type of vehicle, a description of abnormal conditions, the location of the test site, ground conditions and weather conditions,

measurement instrumentation, location and orientation of the instrument, sound level determined by the test(s), and the background sound level at each measuring point.

(c) *Violations*. Violations of this section shall be punishable as an infraction. All violations shall be subject to a correction notice in accordance with the provisions of Vehicle Code section 40610. A first violation shall be subject to a Fifty and no/100ths ($50.00) Dollar fine; a second violation within one (1) year shall be subject to a Seventy-Five and no/100ths ($75.00) Dollar fine; each additional violation within one (1) year shall be subject to a One Hundred Fifty and no/100ths ($150.00) Dollar fine. In addition, no vehicle permit may be issued for an autoette which contains sound amplification installations in violation of this section.

(§2, Ord. 977-00, eff. April 6, 2000; §§1, 2, Ord. 1053-07, eff. June 14, 2007)

Sec. 4-4.1714 Definitions.

The following words and phrases shall have the following meanings when used in this article:

(a) "Autoette" shall mean any of the following: (1) a motor vehicle having three (3) or more wheels in contact with the ground, an unladen weight of no more than one thousand eight hundred (1,800) pounds and an overall length of no greater than one hundred twenty (120") inches including the front and back bumpers, without regard to classification or designation of such vehicle by the Department of Motor Vehicles, but shall not include any motor vehicle that is an "all-terrain vehicle" as defined in California Vehicle Code § 111 or (2) a vehicle that qualifies for an autoette permit pursuant to the exceptions set forth in Section 4-4.1705. Holders as of February 1, 2007 of a residential autoette permit issued for use of a motor vehicle which falls within the definition of "all-terrain vehicle" as set forth in California Vehicle Code § 111 shall be entitled to renew the permit provided such vehicle is and continues to be registered with the Department of Motor Vehicles for use on public streets; however, these permits shall not be transferable, and purchasers or assignees of the vehicle shall have no right or entitlement to a residential autoette permit for the all-terrain vehicle. The method of measurement of autoettes shall be performed by the Vehicle Clerk in accordance with polices adopted by the City Council. The provisions of Section 4-4.1705 regulating the width of autoettes shall also apply. Autoettes which exceed the length limitation specified herein that were permitted by the City prior to November 7, 1995 shall be exempt from the length limitations set forth herein. The exemptions shall apply to the autoette, regardless of ownership transfers. Vehicles classified as motorcycles by the Department of Motor Vehicles which would be classified as " autoettes" hereunder but were issued a permit by the City prior to February 1, 2000, including a temporary permit pursuant to Section 4-4.1703(d), shall be subject to the definitions and rules for "autoettes" upon the transfer of ownership of the vehicles.

(b) "Resident" shall mean any person who maintains a principal place of residence within the boundaries specified in any provision under this article and who lives in such residence on more than a temporary, occasional or transient basis. Any person who spends in the aggregate more than nine (9) months of any twelve (12) month period within the boundaries specified in any provision under this article shall be presumed to be a resident thereof. However, this presumption may be overcome by proof that the person is within the boundaries specified in this article only for a temporary, transient, or occasional purpose even though the length of time during which the person is within the specified boundaries is greater than nine (9) months.

(c) "Principal place of residence" shall mean the place where a person resides when not called elsewhere for labor or some other temporary or special purpose and to which one returns and remains. When a person is called elsewhere for labor or some other temporary or special purpose, no one other than persons residing at the permit holder's principal place of residence shall use the permitted vehicle. Violations of this provision shall result in revocation of the permit pursuant to the procedures specified herein.

(1) The following are evidence of principal residency:

a. Voter registration at the residence address;

b. Homeowner or renter tax exemption or homestead declaration taken at the residence address;

(2) The following are further evidence of principal residency in the City:

a. Full-time employment in the City or its immediate environs (in the case of Resident Vehicle Permits);

b. Attendance of minor dependents at a primary or secondary school in the City; and,

c. Declaration of residence in the City on tax returns or other official documents necessary to obtain a license, benefit or other privilege.

(d) "Household" shall mean all persons residing in a dwelling unit.

(e) "Ownership of property" shall mean a recorded interest in real property that consists of title, whether legal or equitable, held solely or jointly with others.

(§2, Ord. 857, eff. June 14, 1990; §2, Ord. 894-U-93, eff. March 23, 1993; §2, Ord. 895-93, eff. May 6, 1993; §20, Ord. 926-96, eff. March 7, 1996; §3, Ord. 962-99, eff. June 3, 1999; §1, Ord. 976-00, eff. March 17, 2000; §1, Ord. 982-00, eff. August 10, 2000; §1, Ord. 990-01, eff. February 1, 2001; §2, Ord. 1055-07, eff. April 19, 2007; §2, Ord. 1096-10, eff. July 1, 2010)

Sec. 4-4.1715 Administration.

The City Council shall adopt, by resolution, administrative procedures for the implementation and administration of this article and may amend said resolution from time to time. Said resolution may set fees for the issuance, renewal and transfer of permits pursuant to this article. The fees imposed shall be used to offset the costs of administering the vehicle permit program and to mitigate the City's traffic and parking problems.

Article 18. Limitation of Vehicles

(Sections 4-4.1801 through 4-4.1812, as added by Ordinance No. 573, effective September 5, 1973, as amended by Ordinance Nos. 582, effective March 6, 1974, and 594, effective November 28, 1974, repealed by Section 2, Ordinance No. 629, effective April 6, 1977)

Article 19. Golf Carts*

* **Editor's Note:** Article 19, "Golf Carts" has been amended in its entirety by §§ 1—5, Ordinance No. 820-U, eff. December 31, 1987.

Sec. 4-4.1901 Electric Golf Cart Recharging Devices.

It shall be a misdemeanor for any person to store, use or place any wiring, cords or other electrical devices across any public street or sidewalk in connection with the recharging of an electric powered vehicle.

(§2, Ord. 917-95, eff. April 20, 1995)

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*The title of Article 11, formerly entitled "Loading and Unloading Zones," amended by Section 2, Ordinance No. 552, effective May 31, 1972.

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CHAPTER 5 - WEAPONS

Sec. 4-5.101 Permit Required to Fire Weapons.

It shall be unlawful for any person to discharge or use any gun, pistol, rifle, air gun, spring gun, or any other BB device, catapult, sling, or other device for projecting stones, slugs and shot, including metallic and non-metallic BB's and pellets, unless a valid permit providing for such discharge has been issued pursuant to this chapter and is in effect and the discharge complies with the terms and conditions thereof, or such person is otherwise permitted to discharge a weapon under the laws of the State of California, including, but not limited to, peace officers. Under no circumstances shall a permit be issued for discharges within the area marked on the map as shown below.*
(§2, Ord. 13; §1, Ord. 937-96, eff. November 4, 1996; §1, Ord. 1048-06, eff. January 4, 2007)

Sec. 4-5.102 Permitting Procedures.

(a) *Application.* Every person seeking permission to fire a weapon in the City shall submit a completed application form to the City Manager containing such information as required by rules and regulations adopted by resolution of the City Council from time to time. In addition, the applicant shall submit with the application:

(1) Written authorization from the property owner where the weapon is to be used.

(2) Evidence that the permittee and the property owner where the weapon is to be used have general liability insurance for the period during which the weapon is to be used that provides not less than Five Hundred Thousand and no/100ths ($500,000.00) Dollars coverage for personal and property damage, and naming the City of Avalon as an additional insured or similar security in a form and of a type acceptable to the City Attorney.

(3) A copy of a valid Fish and Game Department Permit.

(4) Payment of One Hundred Fifty and no/100ths ($150.00) Dollars to cover the City's costs for notifying property owners and residents as provided for herein.

(b) *Standards for Permit Issuance.* The City Manager, or the City Council on appeal, shall apply the following criteria in determining whether to approve, conditionally approve or deny the permit application:

(1) The efficacy, cost and relative safety of available alternative methods for achieving the purpose for which the permit is requested.

(2) The extent to which the proposed weapon discharge presents a threat to safety, including, but not limited to: (a) the proximity of the shooting location to places where persons or flammable materials may be; (b) the range and accuracy of the weapon and type of ammunition to be used; (c) the experience of the permittee with the weapon and the conditions under which the weapon will be used; (d) prior weapons permit compliance; and (e) visibility factors. A member of City staff or the Sheriff's Department shall make a site visit with the permittee to assess the location for safety hazards.

(3) Means by which the permit may be conditioned so as to lessen identifiable safety hazards.

(c) *Conditions of Approval.* The City Council may promulgate by resolution a list of conditions it deems necessary or appropriate for this purpose. The City Manager, or the City Council on appeal, may impose additional reasonable conditions on the permit that are designed to lessen safety hazards.

(d) *Term of Permit.* Weapons permits shall be valid for a maximum period of six (6) months or such shorter term as the City Manager or City Council on appeal may deem appropriate. Permits may be renewed in accordance with the procedures applicable to issuance of same.

(e) *Revocation of Permits.* The City Manager may set a hearing on five (5) days notice to the applicant and shall have the authority to revoke or suspend any permit upon determining that the permittee has violated the terms and conditions thereof. Such revocation or suspension may be appealed to the City Council in accordance with the procedure set forth in subsection (f) below.

(f) *Notification of Determination and Appeals.* Not later than five (5) working days after submission of a complete application, the City Manager shall send the applicant by mail written notice of action on the permit, including a list of all conditions, if granted, or a brief statement of the reasons for denial. If the application is granted, the City Manager shall send notice of the grant of any permit and the time within which an appeal may be filed to all property owners within three hundred fifty (350) yards of the location where the weapon is to be discharged. The grant of a permit shall not be final and cannot be acted on until such appeal period has passed. The City Manager's decision may be appealed in writing by the permittee, the affected property owner or any other interested person no later than fifteen (15) days after the date upon which the notification to the applicant or property owner is mailed. If an appeal is filed from the denial of a permit by the applicant, then the City shall notify all property owners within three hundred fifty (350) yards of the location where the weapon is to be discharged of the filing of the appeal and the date set for hearing thereon.
(§1, Ord. 678, eff. June 30, 1980; §1, Ord. 937-96, eff. November 14, 1996)

***Editor's Note:** The map referred to herein may be found on file in the office of the City Clerk.

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CHAPTER 6 - SPECIAL EVENTS

Prior ordinance history includes portions of Ordinance No. 674, 706, 953 and 1041.

Sec. 4-6.01 Intent.

The intent of this chapter is to provide a regulatory framework for permitting special events. The use of City streets or other City-owned or controlled property by large groups causes wear and tear on turf, park equipment and facilities, and requires City staff time to provide support services such as traffic control. Such uses also subject neighboring residents and businesses to noise and traffic. As such, the purpose of this chapter is to ensure that special events are conducted so as not to violate any other ordinance or regulation of the City or cause detrimental effects to surrounding properties and the community. It is also the intent of the City to protect the rights of the people to engage in expressive activities on City property and to regulate the time, place and manner of these activities in a reasonably and minimally restrictive fashion.
(§1, Ord. 1105-11, eff. March 31, 2011)

Sec. 4-6.02 Definitions.

(a) "Expressive activity" shall mean conduct, the sole and principal object of which is the expression, dissemination or communication by verbal, visual, literary or auditory means of opinion, views or ideas. Expressive activity includes, but is not limited to, public oratory and the distribution of literature.

(b) "Parade" shall mean a parade, procession, march, pageant, review, ceremony or exhibition which is conducted in, on, upon or along any portion of any public street, sidewalk or other property owned or controlled by the City, so as to impede, obstruct, impair or interfere with the free use of such public street, sidewalk or other public property of the City. Parades shall be considered special events for purposes of this chapter, and shall be classified according to the categories of special events listed in subsection (c).

(c) "Special event" shall mean any temporary event, as further described herein, not exceeding thirty (30) days, whether indoors or outdoors, or on improved or unimproved public or private property, which is inconsistent with the permanent use to which the property may legally be put, or the occupancy levels permitted thereon. "Special event" shall also refer to (i) any activity that may result in the closure of any public streets; (ii) any activities which may temporarily require the installation of materials or devices using building, electrical, mechanical, plumbing, flammable or similar materials; and (iii) short-term events such as any show, circus, concert, festival, carnival, dance open to the public, exhibition, lecture, auction, rave, boxing match, wrestling match, walk-a-thon, marathon run, cycling event, sporting event, permitted film production event, farmers' market, pumpkin patch, outdoor sales (including, but not limited to, vehicle sales) or any combination thereof, which members of the public are invited for free or admitted for a fee. All special events shall be classified under one of the following categories:

(1) "Major special events" shall mean those events for which participation by two hundred (200) or more persons is expected and/or which will result in the closure of a City roadway, street, right-of-way, or highway, or the occupancy of more than fifty (50%) percent of a City park, for more than eight (8) hours. Examples of major special events include carnivals, parades, festivals, car races, marathon events, and street fairs.

(2) "Minor special events" shall mean those events for which participation by less than two hundred (200) persons is expected, and/or which will result in the closure of a City roadway, street, right-of-way, or highway for less than eight (8) hours, or the occupancy of (i) more than fifty (50%) percent of a City park for less than eight (8) hours, or (ii) less than fifty (50%) percent of a City park for more than eight (8) hours. Examples of minor special events include 5K/10K races, organized bicycle rides, boxing matches, block parties, and grand openings.

(3) "Miscellaneous special events" means those events which fit within the special event definition but are neither major special events nor minor special events as defined herein.

(d) "Special event permit" shall mean a permit issued pursuant to this chapter.
(§1, Ord. 1105-11, eff. March 31, 2011)

Sec. 4-6.03 Permit Required.

(a) Except as provided by this Code or pursuant to the terms of a permit, lease or contract which has been specifically authorized by the City Council, no person shall conduct or cause to be conducted, participate or engage in, hold, manage, permit or allow another to conduct a special event, in, on or upon any City street, sidewalk, alley, park, way, public place, public property or public right-of-way which is owned or controlled by the City without first having obtained a written permit from the City Manager, or, as provided by this chapter, from the City Council.

(b) The City Manager is authorized to issue permits for special events pursuant to the procedures established in this chapter.

(c) No permits issued under the provisions of this chapter shall be transferable or movable to another location or another applicant.

(d) Issuance of a special event permit pursuant to this chapter does not obligate or require the City to provide City services, equipment or personnel in support of an event, although the City may provide such services, equipment or personnel if they are reasonably available and the event organizer makes provisions to reimburse the City for the cost thereof, or the City may provide such services, equipment or personnel at no charge if there is a public purpose to be furthered in doing so.
(§1, Ord. 1105-11, eff. March 31, 2011)

Sec. 4-6.04 Exempt Events and Activities.

(a) The following activities are exempt from the special event permit requirement:

(1) Funeral processions by a licensed mortuary or funeral home;

(2) Activities conducted by a governmental agency acting within the scope of its authority;

(3) Events which take place entirely on private property and which do not directly or indirectly impede, obstruct, impair or interfere with the free use of any public street, sidewalk or other public property of the City;

(4) Events which take place on streets, sidewalks or other public rights-of-way owned or controlled by the City but which do not meet the definitions of a parade or special event, including, but not limited to, lawful picketing, provided that all applicable traffic regulations, laws or controls are complied with;

(5) Spontaneous parades, assemblies or demonstrations involving expressive activity and which are occasioned by news or affairs coming into public knowledge within five (5) days of such parade, assembly or demonstration, provided that the organizers thereof give written notice to the City Manager at least twenty four (24) hours prior to such parade or assembly. Such written notice shall contain all of the following information:

a. The name, address and telephone number of the person or persons seeking to conduct the parade or assembly. This person or these persons shall be considered a permittee for the purposes of this section;

b. The name, address and telephone number of the headquarters of the organization, if any, and of the organizer or responsible head of such organization by whom or on whose behalf the parade or assembly is proposed to be conducted;

c. The name, address and telephone number of the person who will chair the parade or assembly and who will be responsible for its conduct;

d. The location and date of the proposed parade or assembly, including the assembly area, disbanding area, and the route to be traveled;

e. An estimate of the approximate number of persons who will be participating in the parade or assembly and an estimate of the approximate number of persons who will be observing the parade or assembly;

f. The time at which the parade or assembly will start and conclude;

g. The type of security or other arrangements that will be provided to assure that participants are properly directed.

(b) The City Manager may impose reasonable time, place and manner restrictions on spontaneous parades, assemblies or demonstrations governed by this section whether or not such activities are governed by the permit requirements set forth in this chapter.

(c) The City Manager may deny permission to conduct a spontaneous parade, assembly or demonstration if the City Manager makes a finding requiring denial pursuant to Section 4-6.07. Such finding by the City Manager shall be made no later than six (6) hours before the scheduled start time for the event. If the City Manager makes a finding pursuant to Section 4-6.07, the City Manager shall immediately provide notice of the denial, including the reason or reasons for the denial, by telephone to the permittee and shall also provide written notice of the denial including the reason for the denial. In lieu of denial, the City Manager may propose to the applicant an alternative time, route, venue or manner of conducting the activity which alternative would be acceptable to the City and which would obviate any finding made pursuant to Section 4-6.07.
(§1, Ord. 1105-11, eff. March 31, 2011)

Sec. 4-6.05 Permit Application; Filing and Fees.

(a) Applications for permits to conduct parades and special events shall be completed in writing on a form provided by the City and shall be filed with the City Manager and, unless an exception is made by the City Council upon a written request, the following periods still govern the time for filing an application for a special event permit.

(1) Major special events. Applications shall be filed no more than thirteen (13) months and not less than sixty (60) working days prior to the opening date of the event.

(2) Minor special events. Applications shall be filed no more than nine (9) months and not less than thirty (30) working days prior to the opening date of the event.

(3) Miscellaneous special events. Applications shall be filed no more than six (6) months and not less than seven (7) working days prior to the event.

(4) Notwithstanding the application deadlines described above, an application for a special event permit by a person engaging in expressive activity, as defined in this chapter, for which a permit is required pursuant to this Chapter, shall be filed not less than four (4) working days prior to the event. If an applicant for a special event permit involving expressive activity desires to ensure the opportunity for an appeal to the City Council pursuant to Section 4-6.11, the application shall be filed with the City Manager not less than thirty (30) calendar days prior to the proposed event. Failure to file the application at least thirty (30) days prior to the proposed activity shall be deemed a waiver of the right of appeal to the City Council in connection with the permit application.

(b) In the event an application is not filed within the required time, as specified herein, the applicant shall have the opportunity to demonstrate that the circumstances giving rise to the proposed special event did not reasonably allow the applicant to file for a permit within the time prescribed and that imposition of the time limitation would unreasonably restrict the right of free speech or assembly. If such demonstration is made, and the City Manager makes none of the findings set forth in Section 4-6.07 of this chapter, he or she shall issue a permit despite the lack of advance prior notice. In lieu of or in addition to this opportunity, the applicant may request a waiver of the timely filing requirement by the City Council at its next regular meeting, or at a special meeting which may be called prior thereto by the City Council to consider such matter. The City Council may waive the requirement if it finds that unusual or unforeseen circumstances justify the waiver.

(c) (1) Only one (1) major special event and one (1) minor special event permit may be obtained every week for any particular event site, unless the City Manager determines that granting additional permits will not cause an excessive burden on the City or nearby residents, businesses, and facilities. This subsection, shall not apply however, to an event involving an exercise of free speech rights.

(2) In the case where two (2) identical or similar events, whether major, minor, or miscellaneous, have applied for special event permits for events to be held within twelve (12) weeks of one another, the City Manager will have the discretion to grant or deny one of the permit applications using the criteria in Section 4-6.08(a).

(3) In the case where one (1) major, minor, or miscellaneous event has already been permitted, or has traditionally been held on a certain day or time of year, and additional similar or identical events apply for special event permits for events to be held within twelve (12) weeks of such event, the City Manager will have discretion, using the criteria set forth in Section 4-6.08(a) to grant or deny such permit.

(d) Except as otherwise provided by this Code or other applicable law, rule or regulation, or by the terms of a permit, license, lease or contract which has been specifically authorized by the City Council, each permit applicant shall submit a nonrefundable permit application fee, in an amount as established by resolution of the City Council, for the use of City streets or other City-owned or controlled property pursuant to this chapter. The applicant shall obtain all required permits and pay all fees required under this chapter and any other permits and fees required under this Code.

(e) Any indigent, natural person who cannot apply for a permit because of an inability arising from such indigence to pay the application fee shall not be required to pay the fee. Application for indigent status shall be made at the time the permit application is filed and shall be accompanied by such relevant information and documentation as may be reasonably necessary to verify such status.
(§1, Ord. 1105-11, eff. March 31, 2011; §1, Ord. 1101-11, eff. November 3, 2011)

Sec. 4-6.06 Permit Application; Required Information.

(a) In order that adequate arrangements may be made for the proper policing of the special event, the application for all permits required herein shall contain the following information:

(1) The name, address and telephone number of the person requesting the permit. If the special event is proposed to be conducted for, on behalf of, or by an organization, the name, address and telephone number of the headquarters of the organization, and of the authorized head of such organization;

(2) The name, address and telephone number of the person who will be responsible for management of the special event;

(3) The purpose of the special event;

(4) The date when the special event is to occur;

(5) The hours of the special event;

(6) Description of any sound amplification equipment which will be used at the event;

(7) Such other information relating to the special event as the City Manager may require.

(b) If the special event is a parade, the following information is also required:

(1) The approximate number of persons who will participate in the parade, and the number and kind of vehicles and animals which will constitute the parade and the route of the parade;

(2) The location of the assembly area of the parade;

(3) The location of the dispersal area of the parade;

(4) The plans for the assembly and dispersal of the parade including the times thereof;

(5) A statement as to whether the parade will occupy all or only a portion of the streets proposed to be traversed;

(6) A description of any fees to be charged to participants or spectators in connection with the special event.
(§1, Ord. 1105-11, eff. March 31, 2011)

Sec. 4-6.07 Permit Issuance or Denial.

(a) Completed applications for a permit authorizing a major special event or a minor special event shall be denied, approved, or conditionally approved by the City Manager within twenty (20) days after the City Manager determines that the application is complete. Completed applications for a permit authorizing a miscellaneous special event shall be denied, approved, or conditionally approved in writing by the City Manager within four (4) business days after the City Manager determines that the application is complete. Completed applications for a permit involving expressive activity as defined in this chapter shall be denied, approved, or conditionally approved in writing by the City Manager within two (2) business days after the City Manager determines that the application is complete. If the application is denied, the written notice of such denial shall set forth the reasons for the denial.

(b) In the case of expressive activity, the City Manager shall promptly attempt to notify the applicant orally of the approval or denial of a permit, and provide written notification to the applicant as soon as it is reasonably practical to do so. Such notice shall provide detailed facts and reasons for any denial or conditional approval. The City Manager shall consult with the City Attorney before denying or conditionally approving a permit involving expressive activity (including all activities wherein the applicant claims or contends that the proposed event involves expressive activity) as that term is defined in this chapter.

(c) The City Manager shall issue a permit, conditioned upon the applicant's written agreement to comply with any and all terms of this chapter and any conditions imposed on the issuance of the permit, unless he or she finds that:

(1) The information contained in the application is false or intentionally misleading, the applicant failed to remit fees and deposits, or failed to provide an indemnification agreement if required, or failed to provide supplemental application information after having been notified;

(2) The temporary use of the City's rights-of-way or property will endanger public health welfare or safety for the reasons set forth herein, and reasonable adjustment to street and property maintenance, or police, fire or ambulance protection would not alleviate such danger;

(3) An application received prior in time has been approved for the same time and place or so close as to exceed the ability of the City to provide police and other services for both uses, events or activities;

(4) The time, route or size of the proposed use, event or activity will disrupt the surrounding neighborhood or community beyond practical solution;

(5) The proposed use, event or activity will be located in or upon a premises, building or structure, which is hazardous to the health or safety of the employees or patrons of the premises, business, activity or event, or the general public, under the standards established by the City's Building or Fire Codes, or other applicable codes, as set forth in Title 8 of this Code;

(6) The proposed use, event or activity will require the diversion of public safety or other City employees from their normal duties, so as to unreasonably reduce adequate levels of service or municipal functions to any other portion of the City;

(7) The preparation for or the conduct of the proposed use, event or activity will unduly impede, obstruct or interfere with the City's ability to perform municipal functions or furnish City services in the vicinity of the event area;

(8) The proposed use, event or activity is in conflict with other applicable provisions of Federal, State and/or local laws;

(9) The ability of persons to enter and exit residential or business properties impacted by the event will be unreasonably impaired considering factors such as the duration, size and scope of the event; or

(10) The applicant has violated significant condition(s) of a previous license issued for the same or similar event within the prior thirty-six (36) months. The City shall notify the applicant in writing of any such violations within sixty (60) days of the violation.
(§1, Ord. 1105-11, eff. March 31, 2011)

Sec. 4-6.08 Considerations.

When determining whether or not a special events permit shall be issued pursuant to this chapter, particularly in the event that two (2) applications have been filed for the same date or week, the City Manager shall take the following into consideration:

(a) When two (2) or more special event permits are requested for similar or identical events to be held within twelve (12) weeks of one another, whether the requests are made simultaneously or not, the City Manager will make a determination as to whether both events will receive permits, or whether only one (1) permit shall be issued, using the following criteria:

(1) The tax status of the organizations submitting the applications with not-for-profit organizations receiving preference over for-profit organizations;

(2) The charitable purpose or nature of the proposed event or activity with preference for events benefiting charities directly serving City residents;

(3) The recurrent nature of the proposed events or activities, and, particularly, the history of the proposed events or activities and past in involvement of the applicants;

(4) The benefits to local business and the City, including consideration of the taxes and fees to be generated by the events;

(5) Which special event permit application was received first and whether other special events have already been permitted for the same day or week;

(6) Whether the special events requested are compatible with one another;

(7) The likelihood of both events being successful;

(8) Whether the benefits of holding both events outweigh any drawbacks or inconveniences to the community of holding both events;

(9) The amount of time between the proposed event dates;

(10) The history of the events in the community, if any;

(11) The predicted positive impact on businesses, charities, and nonprofits within the community from both events, and any detrimental impacts from the events.

(b) The charitable purpose or nature of the proposed event or activity with special consideration for events benefiting charities directly serving City residents; and

(c) The recurrent nature of the proposed event or activity, and, particularly, the history of the proposed event or activity and past involvement of the applicant.

(d) The benefits to local business, the community and City, including considerations of taxes and fees to be generated by the event.

(e) Which complete request was first received and whether another special event has already been permitted for that week or day.

(f) Whether the special events requested are compatible with each other.
(§1, Ord. 1105-11, eff. March 31, 2011; §1, 1110-11, eff. November 3, 2011)

Sec. 4-6.09 Standards and Conditions.

The City Manager may condition the issuance of a license by imposing reasonable restrictions on the time, place and manner of conducting the event as are necessary or appropriate to protect persons and property, and to control traffic, provided that such restrictions shall not unreasonably interfere with the right of free speech. Such conditions may include, but are not limited to, the following:

(a) Alteration of the staffing for, or the date, time, route or location of the event;

(b) Conditions concerning accommodation of pedestrian or vehicular traffic, including restricting the event to only a portion of a street;

(c) Requirements for provision of first aid and sanitary facilities, including the presence of emergency medical services personnel;

(d) Requirements for use of event monitors and providing notice of permit conditions to participants;

(e) Approval of any proposed private security forces;

(f) Restrictions on the number and type of participants, vehicles, animals or structures at the event;

(g) Compliance with animal protection ordinances and laws;

(h) Requirements for use and provision of garbage containers, cleanup and restoration of City property;

(i) Restrictions on the time and use of amplified sound;

(j) Permit applications for block parties may be conditioned on notice and approval by at least fifty (50%) percent of the residents on the affected street(s);

(k) The manner by which alcohol sales and service, if any, shall be conducted at the event;

(l) A cleaning deposit for the event, including the use of structures, display or use of animals, operation of water stations, food distribution or sales, beverage distribution or sales, and/or sale of other goods and services;

(m) The inspection and approval by City personnel of stages, booths, floats, structures, vehicles or equipment to be used or operated in the event to ensure that such structures or vehicles are safely constructed and can be safely operated, and conform to the requirements of all applicable codes; and

(n) Compliance with any relevant ordinance or law, including obtaining any legally required permit or license.
(§1, Ord. 1105-11, eff. March 31, 2011)

Sec. 4-6.10 Insurance and Indemnification.

(a) The applicant shall obtain, furnish proof of, and maintain a policy of insurance. Such policy must fulfill the requirements of Section 1-6.01 of this Code.

(b) Any permit issued pursuant to this chapter shall require the permit holder to defend, protect, indemnify and hold harmless the City and its officers, employees and agents from any and all claims, causes of action, penalties, damages, expenses (including reasonable attorneys' fees), loss or liability, of any kind or nature whatsoever, arising out of or resulting from any willful or negligent acts or omissions of the applicant, its officers, agents, employees, or any other participants in the event or activity, made in connection with the permitted event or activity.

(c) If any City property is destroyed or damaged by reason of the permittee's use, event or activity, the permittee shall reimburse the City for the actual replacement or repair cost of the destroyed property.
(§1, Ord. 1105-11, eff. March 31, 2011)

Sec. 4-6.11 Appeals.

Any person aggrieved by the issuance, denial or revocation of a permit pursuant to this chapter may appeal such decision by filing a written notice of such appeal with the City Clerk within ten (10) business days of the decision of the City Manager giving rise to said appeal. Such appeal shall set forth the specific facts upon which the appeal is being made. The appeal procedure shall be as set forth in Section 1-4.01 of this Code with the appellant's understanding that any appeal taken pursuant to this section and Section 1-4.01 may necessitate the postponement or delay of the activity for which the permit is sought.
(§1, Ord. 1105-11, eff. March 31, 2011)

Sec. 4-6.12 Contents of Issued Permit.

(a) A special event permit issued pursuant to this chapter shall contain the information provided by the applicant and shall impose reasonable time, place and manner conditions to ensure that the special event will not pose a traffic or safety hazard or unreasonably interfere with fire or police protection services. The conditions imposed shall be in conformity with the requirements of this chapter and shall provide only for such modification of the applicant's proposed event as is necessary to achieve compliance with this chapter.

(b) Each parade permit shall state the following additional information:

(1) Date and starting time;

(2) Minimum and maximum speed;

(3) Maximum interval of space to be maintained between units of the parade;

(4) The portions of the streets to be traversed that may be occupied by the parade;

(5) The maximum length of the parade in miles or fractions thereof;

(6) Such other information and conditions as the City Manager shall find necessary for the enforcement of this chapter.
(§1, Ord. 1105-11, eff. March 31, 2011)

Sec. 4-6.13 Distribution of the Permit.

Upon issuance of any special event permit pursuant to this chapter, the City Manager shall cause a copy of the issued permit to be sent to the following individuals:

(a) The City Manager;

(b) The City Attorney;

(c) The Fire Chief; and

(d) The Director of Public Works.
(§1, Ord. 1105-11, eff. March 31, 2011)

Sec. 4-6.14 Permittee Duties.

A permittee under this chapter shall comply with all permit directions and conditions and all applicable State, Federal and local laws and ordinances.
(§1, Ord. 1105-11, eff. March 31, 2011)

Sec. 4-6.15 Permit Possession.

The special event chairman or other person responsible for the special event shall carry the permit upon his or her person during and throughout the conduct of the special event.
(§1, Ord. 1105-11, eff. March 31, 2011)

Sec. 4-6.16 Penalties.

Any person violating any of the provisions of this chapter shall be guilty of a misdemeanor.
(§1, Ord. 1105-11, eff. March 31, 2011)

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CHAPTER 7 - PARAMEDIC SERVICE FEES

Sec. 4-7.01 Fees.

The City Council of the City of Avalon is hereby authorized by resolution to establish and charge paramedic service fees for services in the amount sufficient to reimburse the City for costs reasonably borne by the City in providing paramedic services to the community. Such fees shall be in amount not to exceed the actual cost of operation, maintenance and repair, overhead, and a reserve for capital expenditures.
(§1, Ord. 683, eff. September 3, 1980)

Sec. 4-7.02 Paramedic Services.

A fee shall be established by the City pursuant to Section 4-7.01 for paramedic services. Such fee shall be due and payable by any person or persons requesting and/or receiving paramedic services requiring transportation by ambulance to a hospital or medical evacuation.
(§1, Ord. 683, eff. September 3, 1980)

Sec. 4-7.03 Fees Due.

The fee charged by the City for providing paramedic services shall be due and payable within thirty (30) days of billing therefor.
(§1, Ord. 683, eff. September 3, 1980)

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CHAPTER 8 - ATHLETIC ACTIVITIES PROHIBITED IN CERTAIN AREAS

Sec. 4-8.01 Athletic Activities Prohibited.

No person may eject, throw or launch into flight any aerodynamically designed disc, a specific example of which is known as "frisbee," or use any ball, including but not limited to, footballs, volleyballs, and softballs, or any bat, boomerang, or any other aerodynamically designed disc, or any athletic device, which is thrown, batted, kicked or rolled, or conduct or participate in any sport or game within the scope of this section, upon prior warning by the enforcing agency. A warning may be issued by the enforcing agency when the number of persons in an area are such as to render the above-described athletic activities unsafe, as determined by the enforcing agency. This section applies to activities in the area of the City described as North, South and Middle Beaches, and along Crescent Avenue from, at, or near its intersection with Metropole Avenue to its intersection with Clarissa Avenue.
(§1, Ord. 693, eff. November 13, 1980; §2, Ord. 868-91, eff. October 31, 1991)

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CHAPTER 9 - ENCROACHMENTS OF STREETS, ALLEYS, RIGHTS-OF-WAY AND OTHER PUBLIC PROPERTY

Article 1. Encroachment Permits

Sec. 4-9.101 Permit Required for Encroachment of Public Property.

No person or entity, unless exempted under the provisions of Section 4-9.102, shall encroach, obstruct, or cause any encroachment to be placed upon, in, under or over any public street, alley, sidewalk, parkway, or other public property without a permit issued under the provisions of this chapter. As used herein, an encroachment shall mean any material object, regardless of whether it is affixed to or touching the ground, which is in whole or part on, over or under a portion of a public street, alley or other public property.
(§3, Ord. 869-91, eff. December 19, 1991; §1, Ord. 1075-08, eff. October 2, 2008)

Sec. 4-9.102 Exceptions.

The following shall be exempt from the provisions of Section 4-9.101:

(a) Newsracks for which a permit has been issued under Article 2 of Title 4, Chapter 9.

(b) Public utilities which have an existing easement for utility service.

(c) Minor temporary obstructions consisting of a movable ladder and similar equipment used by an owner or tenant of residential or commercial property to perform maintenance activities, provided the maintenance activity will be performed in three (3) hours or less. The exemption does not include construction activities.

(d) On Eucalyptus Avenue only, minor temporary obstructions consisting of tables, chairs, barbeque grills and similar items used for social gatherings which meet all of the following requirements:

(1) The social gathering is limited to the area in front of a house lawfully owned or occupied by the person sponsoring the gathering and the placement of the above-listed items extends across no more than one-third (1/3) of the width of the paved area;

(2) The use of Eualyptus Avenue for the social gathering ends by 10:00 p.m. on the same day it begins; and

(3) The homeowner lists the City as an additional insured under its homeowner liability insurance and provide a certificate of same to City prior to the social gathering;

(e) On all streets in the City, use of the public street in front of the house or building lawfully occupied or owned by the user and immediately adjacent to the sidewalk for placement and use of a movable barbeque grill, provided the barbeque grill is removed no later than 9:00 p.m. or darkness, whichever comes first, unless it is still generating heat, in which case it may be permitted to remain longer provided a person at least eighteen (18) years or more stands within three (3') feet of the grill at all times until it is removed, and in no event shall the grill be removed later than 10:00 p.m. of the day of use.
(§3, Ord. 869-91, eff. December 19, 1991; §2, Ord. 1075-08, eff. October 2, 2008)

Sec. 4-9.103 Permit Application.

An application for a permit shall be filed with the City Manager and shall comply with the following requirements:

(a) Completion of a permit application on the form designated by the City and signed by the applicant;

(b) Filing of plans and specifications as required by regulations adopted by the City Manager or his designee;

(c) Payment of the permit fee prescribed by City Council resolution.

(d) Posting of any security bond and/or insurance as required by Section 4-9.108 or 4-2.205, as applicable.
(§3, Ord. 869-91, eff. December 19, 1991)

Sec. 4-9.104 Permitting Authority of City Manager.

The City Manager shall have the authority to act upon and issue permits under the criteria set forth in Section 4-9.106 for minor encroachments for objects or materials, including but not limited to ornamentation, flower containers, lighting and other minor encroachments.
(§3, Ord. 869-91, eff. December 19, 1991)

Sec. 4-9.105 Permits Requiring City Council Approval.

City Council approval, upon recommendation of the City Manager, under the criteria set forth in Section 4-9.106, shall be required for the following types of encroachments:

(a) Encroachments for any permanent structure above, on or beneath the surface.

(b) Encroachment upon any public street which closes the street to public use, or which substantially interferes with public use of the street, except parades for which a permit is issued under the provisions of this Code.

(c) Any other type of encroachment other than temporary construction activity which does not constitute a minor encroachment.

(d) Permits under the criteria set forth in Section 4-9.202 and 4-9.203 with respect to newspaper dispensing devices.
(§3, Ord. 869-91, eff. December 19, 1991)

Sec. 4-9.106 Criteria for Approval or Denial of Permit.

Encroachment permits may be granted if each of the following criteria are met:

(a) The encroachment use is necessary or desirable;

(b) The encroachment use does not create a substantial adverse impact on persons or property; and

(c) The encroachment use does not adversely affect the public health, welfare and safety.
(§3, Ord. 869-91, eff. December 19, 1991)

Sec. 4-9.107 Conditions Imposed on Permit.

As a condition of issuance of any permit issued under this chapter, the permittee shall execute a recordable covenant running with the land, in a form approved by the City Attorney, surrendering possession of the encroachment structure, releasing the City from all claims in the event the City determines to widen or improve the street, alley, parkway, or other public place where the encroachment is situated, and agreeing to indemnify and to hold the City harmless from all liability and dam-ages and from all costs of suit, including attorneys' fees, arising from the encroachment. In addition, such conditions may be imposed on any permit as deemed necessary to protect the City, persons, property, or the public health, safety and welfare.
(§3, Ord. 869-91, eff. December 19, 1991)

Sec. 4-9.108 Bonding and Insurance.

Upon issuance of a permit under this chapter, the permittee shall post and at all times while the permit is in effect, maintain a security bond and insurance as required by the provisions of this chapter.

(a) The amount of the bond shall be designated by the approving authority at the time of approval of the permit, and shall be in an amount sufficient for the removal of the encroachment in the event the permittee fails to comply with the conditions of the encroachment permit. The bond requirement may be waived where it is determined that any injury to the City from the existence of the encroachment is minimal. Any security bond required may be cash, or cash equivalent security approved by the City Attorney and the City Manager, or a bond in a form approved by the City Attorney.

(b) The amount of insurance shall be designated by the approving authority at the time of approval of the permit, and shall be in an amount which is determined to be sufficient to adequately protect the City, persons and property for injuries or damages which may be caused by the encroachment. The insurance requirement may be waived where risk is deemed to be minimal, and the encroachment has aesthetic value to the City.
(§3, Ord. 869-91, eff. December 19, 1991)

Sec. 4-9.109 Term of Encroachment Permit.

The term of an encroachment permit issued pursuant to Section 4-9.104 shall not exceed five (5) years and shall be revocable upon thirty (30) days written notice to the permittee. Newspaper dispensing racks shall be renewed upon request by the permittee to the City Manager, upon a finding by the City Manager that the criteria set forth in Section 4-9.202 are met.

The term of an encroachment permit issued under Section 4-9.105 shall be determined by the City Council at the time of approval of the permit.
(§3, Ord. 869-91, eff. December 19, 1991)

Sec. 4-9.110 Failure to Remove Encroachment.

Upon failure of the permittee to remove an encroachment upon expiration thereof or upon failure to comply with the terms of the encroachment permit, the City may remove or cause the removal of the encroachment, or take such other action as reasonably necessary. The permittee shall be liable for all costs incurred by the City for such action. Prior to removal of the encroachment by the City, the City shall give notice to the permittee and, upon written request by the permittee within fifteen (15) days of such notice, a hearing will be held before the City Manager to determine whether the City will remove the encroachment.
(§3, Ord. 869-91, eff. December 19, 1991)

Sec. 4-9.111 Appeal to City Council.

The permit applicant, or any person adversely affected by the decision of the City Manager in granting or denying a permit under Section 4-9.104 may appeal to the City Council in accordance with the provisions of Chapter 4, Title 1 of this Code.
(§3, Ord. 869-91, eff. December 19, 1991)

Sec. 4-9.112 Rules and Regulations.

The City Manager is authorized and empowered to issue rules and regulations for implementation of the provisions of this chapter, and upon issuance all persons shall comply with such rules and regulations.
(§3, Ord. 869-91, eff. December 19, 1991)

Sec. 4-9.113 Trespass on City Property.

It shall be unlawful for any per-son to enter upon any portion of City property, whether within a building or outdoors, where there is a sign posted prohibiting entry by members of the public, unless such person is accompanied by a City officer or employee. No person shall open, enter or review the contents of any documents or material located in any file cabinet, drawer, desk drawer, shelf or table located in any City building without the permission in the presence of a City employee.
(§1, Ord. 785, eff. November 20, 1985; §2, Ord. 869-91, eff. December 19, 1991)

Article 2. Newspaper Dispensing Devices

Sec. 4-9.201 Permit Required.

No person or entity shall place, affix, erect, construct, or maintain a newspaper dispensing device upon any public right-of-way without first obtaining a permit in accordance with the provisions of this article.
(§4, Ord. 869-91, eff. December 19, 1991)

Sec. 4-9.202 Submission of Application.

An application for a permit shall be filed with the City. In addition to the application requirements of Section 4-9.103, any application for a newspaper dispensing device for a location which presently does not have such devices in the immediate vicinity shall be accompanied by a statement indicating whether the abutting property owners oppose or do not oppose the encroachment.

(§4, Ord. 869-91, eff. December 19, 1991)

Sec. 4-9.203 Criteria for Approval or Denial of Permit.

In place of the provisions of Section 4-9.106, the City Council shall approve the permit unless one of the following findings is made:

(a) The applicant has made a material misrepresentation on the application;

(b) The newspaper dispensing device does not comply with the provisions of this article;

(c) The proposed location of the newspaper dispensing device creates a substantial obstruction or hazard to vehicular or pedestrian traffic; or

(d) The proposed location of the newspaper dispensing device substantially interferes with other uses in the immediate vicinity, or creates a substantial oversaturation of news-paper dispensing devices in the immediate vicinity.
(§4, Ord. 869-91, eff. December 19, 1991)

Sec. 4-9.204 Newspaper Dispensing Device Requirements.

Newspaper dispensing devices shall comply with each of the following requirements:

(a) Devices shall be mounted or utilize a modular pedestal sufficient to provide a stable base.

(b) Panels and modular pedestals shall be kept clean and shall be painted, where appropriate. Painted portions of the device shall be in colors consistent with the surroundings.

(c) No advertising shall be placed on the newspaper dispensing device except the name of the newspaper dispensed may be placed on rack but such advertisement shall not ex-tend beyond the parameters of the rack.

(d) The name, address and telephone number of a responsible person who can be contacted at any time shall be displayed on the hood in a manner which is readily visible and legible by a prospective customer.

(e) The device shall be maintained in good working order at all times, and shall be painted and refurbished as necessary to create and maintain a clean appearance.
(§4, Ord. 869-91, eff. December 19, 1991)

Sec. 4-9.205 Insurance.

Upon issuance of the permit and at all times the permit is in effect, the permittee shall provide and maintain public liability insurance covering permittee's operations in an amount not less than Fifty Thousand and no/100ths ($50,000.00) Dollars combined single limit for bodily injury and/or property damage. In addition, the permittee shall agree to indemnify and to hold the City harmless from all liability and damages and from all costs of suit, including attorneys' fees, arising from the encroachment.
(§4, Ord. 869-91, eff. December 19, 1991)

Sec. 4-9.206 Revocation and Removal.

Any newspaper dispensing device permit issued pursuant to this chapter shall be revoked and the device removed upon notice and hearing by the City Council. Revocation of the permit shall be based upon a finding of one of the following circumstances:

(a) The device substantially interferes with the use of the street, sidewalk or right-of-way by the general public;

(b) The device creates a substantial hazard or other condition detrimental to the public safety and welfare;

(c) The device constitutes a public nuisance;

(d) The permittee has violated a condition of the permit;

(e) The device has fallen into disuse for a period of seven (7) days or more.
(§4, Ord. 869-91, eff. December 19, 1991)

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CHAPTER 10 - BICYCLES ON PUBLIC PROPERTY

Sec. 4-10.01 Standing or Parking of Bicycles on Public Property.

The City Manager is hereby authorized and directed to post and maintain appropriate signs indicating that parking of bicycles is limited or prohibited in any public place, or at any bicycle rack owned or controlled by the City, during such hours, or on such days, or for such length of time, as is necessary for the safety of the public or the reasonable use or enjoyment by the public of the facilities. Whenever such authorized signs are in place, giving notice thereon that parking is limited or prohibited during such hours or on such days as are indicated on the signs, it shall be unlawful for any person to park any bicycle at any time during such hours or on such days, or for any length of time prohibited as indicated by such signs.
(§1, Ord. 864-91, eff. May 16, 1991)

Sec. 4-10.02 Removal of Bicycles from Public Property.

A seven (7) day notice of intent to remove may be attached to any bicycle which is parked at a public facility on which a sign has been posted by the City for three or more consecutive days beyond the length of time permitted. The notice shall be mailed, by registered mail, to the last registered owner of the bicycle, unless the bicycle is unregistered or is in such condition that identification numbers are not available to determine ownership. In addition, a copy of the notice will be attached to the bicycle.

If the bicycle is not removed within seven (7) days of the mailing and/or posting of the notice of intent to remove, the City may remove and store the bicycle as provided in Section 4-1.07. Neither the City nor a contractor thereof shall be liable for damage caused to a bicycle or a part thereof, or to any security device connected to the public property and securing the bicycle, by removal pursuant to this section.
(§1, Ord. 864-91, eff. May 16, 1991)

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CHAPTER 11 - ABATEMENT OF NUISANCES

Sec. 4-11.101 Definitions.

As used in this chapter:

(a) "Building" or "structure" shall mean and include, in addition to any building or structure on such property, fences, walls, drainage courses and any other device included within the legal boundaries of the property under consideration.

(b) "Owner" shall mean any person(s) shown as the property owner on the latest available equalized property tax assessment roll.

(c) "Property" shall mean and include all land, buildings, and structures situated within the boundaries determined by the legal description of the property under consideration.
(§2, Ord. 915-95, eff. March 23, 1995)

Sec. 4-11.102 Declaration of a Public Nuisance.

(a) A public nuisance is created by every building or structure which:

(1) Has become dilapidated, dangerous or at risk of collapse resulting from decay, damage, faulty construction or arrangement, fire, wind, earthquake, flood, old age or neglect;

(2) Is a breeding place for rodents or vermin;

(3) Is likely to shelter vagrants;

(4) Has been abandoned, partially destroyed, boarded up, or permitted to remain unreasonably in a state of partial construction;

(5) Allows easy access into a vacant structure through any doorway, window, or other opening because of the failure to close and secure by lock, and fails to protect against such entry without the use of substantial force;

(6) Is unsafe;

(7) Has exterior materials which are substantially deteriorated; or

(8) Has graffiti or other words, letter, drawings or symbols which remain on the exterior of any building or structure and which are visible from a public street, for thirty (30) days or more and for which a sign permit has not been issued.

(b) A public nuisance is created by any condition or use of a building, structure or property which is detrimental to the property of others. This includes, but is not limited to:

(1) Violation of any condition of a conditional use permit;

(2) Overgrown vegetation which is likely to harbor rodents or vermin or which obstructs the necessary view of drivers on public streets or private driveways;

(3) Any use of property which creates a noxious smell or creates conditions dangerous to public health, safety or welfare, adjoining properties, property owners or property values;

(4) Attractive nuisances dangerous to children and visible from a public street, including but not limited to, abandoned, broken or neglected equipment, machinery, refrigerators and freezers;

(5) Blockages or interferences with flood channels and other drainage controls.

(c) A public nuisance is created by any building, structure or property that is in violation of any provision of the Avalon Municipal Code or the statutes of the State of California.

(d) A public nuisance is created by the utilization of a garage or other parking area in such a way as to substantially prohibit or interfere with the use of the area for parking of a vehicle where the area was designated for parking in plans approved by the City or the City conditionally approved permit(s) based upon the provision of the off-street parking.

(e) The City Council may define by ordinance any particular condition constituting a nuisance in addition to the matters identified above.
(§2, Ord. 915-95, eff. March 23, 1995)

Sec. 4-11.103 Duty of Property Owners and Possessors.

Every person who shall own or be in possession of any property within the boundaries of the City of Avalon shall, at his or her own expense, maintain said property free from any nuisance.
(§2, Ord. 915-95, eff. March 23, 1995)

Sec. 4-11.104 Notice to Abate Nuisance.

Whenever the City Manager or his designee determines that a nuisance exists upon any property within the boundaries of the City of Avalon, the City Manager shall notify in writing the owner or person in possession of said property to abate the nuisance within a reasonable period of time, but in no event less than thirty (30) days from the date of the notice with the exception of a nuisance consisting of graffiti in which case ten (10) days notice shall be sufficient notice to abate. The notice shall be given by registered or certified mail, addressed to the owner or person in possession at his last known address.
(§2, Ord. 915-95, eff. March 23, 1995; §2, Ord. 1072-08, eff. July 31, 2008)

Sec. 4-11.105 Contents of Notice.

The notice shall describe the nature of the nuisance and shall state that if the nuisance is not abated or good faith efforts toward abatement have not been made to the satisfaction of the City Manager within the period allowed in the notice for voluntary abatement, a hearing shall be held before the City Council to hear any protest of the owner, possessor or other interested person. The notice shall specify the time, date and place for the hearing, which shall be set for the regular meeting of the Council next following the expiration of the period specified in the notice.
(§2, Ord. 915-95, eff. March 23, 1995)

Sec. 4-11.106 Hearing and Decision.

If the nuisance is not abated or, as determined by the City Manager, good faith efforts toward abatement have not been made within the time set forth in Section 4-11.104, the City Council shall conduct a hearing at the time and place fixed in the notice at which evidence may be submitted by interested persons. Upon consideration of the evidence, the Council may declare the condition to constitute a public nuisance and order the abatement thereof. The decision of the City Council shall be final. The City Clerk shall notify the owners and possessors of the subject property of the decision of the City Council by certified or registered mail to the last known address.
(§2, Ord. 915-95, eff. March 23, 1995)

Sec. 4-11.107 Abatement by City; Notice of Charge.

Upon the failure, neglect or refusal by a person notified pursuant to Section 4-11.105 to abate a nuisance within the period specified in the notice, and a determination by the Council declaring the nuisance and ordering the abatement of the public nuisance, the City Manager or his designee shall have the authority to cause the abatement of the nuisance and to arrange with and authorize private persons or City employees to accomplish the abatement. The City Council is authorized to pay for the abatement. A warrant shall be obtained prior to abating the nuisance where required by law. On completion of the abatement, the City Council shall notify, in writing, the owner or possessor of the cost of the abatement, in the same manner as required by Section 4-11.104. The notice shall also offer the property owner the opportunity to appear before the Council to protest the cost amount. A protest must be filed with the City Clerk within fifteen (15) days from the date on the notice of cost.
(§2, Ord. 915-95, eff. March 23, 1995)

Sec. 4-11.108 Lien.

If the total cost of the abatement of the nuisance by the City is not paid to the City in full within fifteen (15) days after the date of the notice of cost, or within ten (10) days after the Council has heard a protest from the property owner, if any, and has confirmed the final cost, the City Clerk shall record, in the Office of the County Recorder, a statement of the total balance due to the City, a legal description of the property involved, and the name of the owner or possessor concerned. From the date of such recording, the balance due will constitute a lien on the property. The lien will continue in full force and effect until the entire amount due, together with interest at the maximum legal rate accruing from the date of the completion of the abatement, is paid in full.
(§2, Ord. 915-95, eff. March 23, 1995)

Sec. 4-11.109 Charges to Be Billed on Tax Bill.

The City may also, in accordance with the provisions of the laws of the State of California, cause the amount due to the City together with interest at the maximum legal rate accruing from the date of the completion of the abatement, to be charged to the owners of the property on the next regular tax bill. All laws of the State of California applicable to the levy, collection and enforcement of City taxes and County taxes are hereby made applicable to the collection of these charges.
(§2, Ord. 915-95, eff. March 23, 1995)

Sec. 4-11.110 Court Action.

The City Council may bring appropriate action, in a court of competent jurisdiction, to collect any amounts due by reason of the abatement of a nuisance by the City and to foreclose any existing liens for such amounts. The City may also bring appropriate civil and criminal actions for abatement of any nuisance existing within the City pursuant to any other provision of law.
(§2, Ord. 915-95, eff. March 23, 1995)

Sec. 4-11.111 Summary Abatement.

The City Council may cause a nuisance to be summarily abated if the City Manager determines that the nuisance creates an emergency condition involving an immediate threat to the physical safety of a person or persons or creates an immediate threat of substantial property damage. Prior to abating the nuisance, the City Manager shall attempt to notify the owner or possessor of the property involved in the nuisance and request him to immediately abate the nuisance. On request of the owner or possessor, the City Manager shall hold a hearing on the need for summary abatement but such hearing shall be held without unreasonable delay, taking into account the circumstances of the emergency condition. If, in the sole discretion of the City Manager, the owner or possessor of the property containing the nuisance which creates an emergency condition fails to take immediate and meaningful steps to abate the nuisance, the City may abate the nuisance and charge the costs of abatement to the owner or possessor. The City shall notify in writing the owner or possessor of the property of the cost of abatement in accordance with Section 4-11.107. The provisions of Section 4-11.108, 4-11.109 and 4-11.110 shall be applicable to the cost of the summary abatement.
(§2, Ord. 915-95, eff. March 23, 1995)

Sec. 4-11.112 Abatement of Substandard Housing Conditions.

The procedures set forth in the Uniform Housing Code for the abatement of substandard housing conditions shall apply to the abatement of such conditions. However, where such conditions or other conditions of the property constitute a nuisance under the provisions of this chapter, the City may concurrently use the abatement procedures in this chapter.
(§2, Ord. 915-95, eff. March 23, 1995)

Sec. 4-11.113 Demolition.

No building found to be a public nuisance shall be ordered demolished unless the City Council finds that the owner has been afforded a reasonable opportunity to determine whether repair is feasible, and failed to make such determination, or having made the determination that repair is feasible, has substantially failed to abate the condition in accordance with a reasonable and feasible schedule for expeditious repair approved by the City Manager.
(§2, Ord. 915-95, eff. March 23, 1995)

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CHAPTER 12 - TOBACCO REGULATIONS

Sec. 4-12.101 Definitions.

As used in this chapter:

(a) "Advertising display sign" shall mean a sign, billboard, poster, free-standing sign, balloon, pennant or banner that is temporarily or permanently placed on or affixed to the ground, the sidewalk, a pole or post, a fence, or a building, or is displayed in the window or doors of a commercial establishment, and that is used to advertise or promote products. A person while wearing a shirt with tobacco product advertising or a tattoo on a person shall not be considered an advertising display sign.

(b) "City Manager" shall mean the City Manager for the City of Avalon or his or her designee.

(c) "Mobile billboard" shall mean any sign, placard, billboard, or other advertisement display upon or affixed to a vehicle which display is used to advertise a tobacco product, when the supporting vehicle or trailer is parked within a public right-of-way or on private property and visible to the public for a duration of time and in a manner which clearly indicates that the sign is for advertising tobacco products. For the purpose of this chapter, a mobile billboard shall not include any advertisements on the side of a van, truck, or other vehicle which is primarily used for the transportation of goods or products and not parked within a public right-of-way or a private property and not visible to the public for a duration of time and in a manner which clearly indicates that the sign is for advertising tobacco products.

(d) "Person" shall mean any individual, firm, partnership, cooperative association, private corporation, personal representative, receiver, trustee, assignee or other legal entity.

(e) "Promote" or "promotion" shall mean a display of any logo, brand name, character, graphics, colors, designs, or recognizable color or pattern of colors, or any other indicia or product identification with, or similar to, or identifiable with, those used for any particular brand of tobacco product.

(f) "Publicly visible location" shall mean any outdoor location that is visible from any street, sidewalk, or other public thoroughfare, or any location inside a commercial establishment immediately adjacent to a window or door where such location is visible from any street, sidewalk, or other public thoroughfare.

(g) "Tobacco product" shall mean any substance containing tobacco.
(§1, Ord. 989-00, eff. January 11, 2001)

Sec. 4-12.102 Restriction on Advertising Tobacco Products.

No person shall place or maintain, or cause or allow to be placed or maintained, in any manner, any advertising or promotion of cigarettes or tobacco products on an advertising display sign in a publicly visible location within one thousand six hundred (1600') feet of the perimeter of an elementary or secondary school, public playground or playground area in a public park (e.g., a public park with equipment such as swings and seesaws, baseball diamonds or basketball courts).
(§1, Ord. 989-00, eff. January 11, 2001)

Sec. 4-12.103 Exceptions.

The restrictions contained in Section 4-12.102 of this chapter shall not apply to advertising or promotions for tobacco products:

(a) Located inside a commercial establishment unless such advertising display sign or promotion is attached to, affixed to, leaning against, or otherwise in contact with any window or door in such a manner that is visible from the street, sidewalk or other public thoroughfare;

(b) On vehicles, other than mobile billboards;

(c) On any sign located inside or immediately outside a commercial establishment if the sign provides notice that the establishment sells tobacco products, so long as the sign does not promote any brand of tobacco product;

(d) On tobacco product packaging.
(§1, Ord. 989-00, eff. January 11, 2001)

Sec. 4-12.104 Distribution of Promotional Items to Minors.

No person may market, license, distribute, sell, or cause to be marketed, licensed, distributed or sold any item or service to a minor, which bears the brand name, alone or in conjunction with, any other word, logo, symbol, motto, selling message, recognizable color or pattern of color, or any other indicia or product identification identical with, or similar to, or identifiable with, those used for any brand of tobacco product.
(§1, Ord. 989-00, eff. January 11, 2001)

Sec. 4-12.105 Prohibition of Product Dispensing and Promotion on Public Property.

No person shall sell, give away, offer or dispense any tobacco product, paraphernalia, item or service which bears the brand name, alone or in conjunction with, any other word, logo, symbol, motto, selling message, recognizable color or pattern of color, or any other indicia or product identification identical with, or similar to, or identifiable with, those used for any brand of tobacco product as part of an event or activity which takes place on public property within the City.
(§1, Ord. 989-00, eff. January 11, 2001)

Sec. 4-12.106 Violations.

(a) The City Manager shall investigate after receipt of a written complaint submitted by any private citizen or City officer or employee concerning any advertising or promotion prohibited by this chapter. The City Manager may serve a written ten (10) day notice upon the person responsible for the alleged advertising display sign or promotion or self-service display prohibited by this chapter. The written notice shall require the person to whom it is sent to either correct the violation within ten (10) day period or submit, in writing, a response to the claim of violation. The City Manager shall review any written response and shall determine whether or not the issue is a violation. This determination shall be in writing and a copy of the determination shall be sent to the person making the written complaint and to the person who is alleged to have engaged in the violation.

(b) Failure to correct specified violations may result in enforcement by any remedy provided by this Code. If two (2) violation notices, whether the violation involves the same or different displays or promotions, have been served on the same person within a thirty (30) day period, an enforcement action may be initiated against that person without the serving of another notice, if the violation occurs within ninety (90) days of the serving of the second notice.

(c) Each separate display of tobacco advertising or promotion prohibited by this chapter shall be considered a separate violation.

(d) For purposes of determining liability of persons, firms or corporations, controlling franchises or business operations in multiple locations, each individual franchise or business location shall be deemed a separate entity.
(§1, Ord. 989-00, eff. January 11, 2001)

Sec. 4-12.107 Intent as to Additional Legal Restrictions and Remedies.

Nothing in this chapter is intended to alter the obligations or restrictions which apply to any person under any other law governing signs, billboards, tobacco advertising or any other matter covered by this chapter. The remedies set forth in this chapter are not exclusive. If any action prohibited by this chapter is also unlawful under any other law, the penalties and remedies under such other law may be pursued in addition to those provided in this chapter.
(§1, Ord. 989-00, eff. January 11, 2001)

Sec. 4-12.108 Disclaimer.

By prohibiting the advertising or promotion of tobacco products in outdoor or publicly visible locations and prohibiting the distribution of tobacco-related promotional items and tobacco products, the City of Avalon is only protecting the general welfare. It is not assuming nor is it imposing on its officers and employees, an obligation for which it may be liable in money damages to any person who claims that such breach proximately caused injury.
(§1, Ord. 989-00, eff. January 11, 2001)

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CHAPTER 13 - AIRCRAFT LANDINGS AND LIFT-OFFS

Sec. 4-13.101 Landings and Take-Offs of Aircraft within City Limits.

No helicopter or other aircraft shall land or take off from any location within the City limits except in areas zoned "Light Industrial" and only after submission to the City Manager of proof in writing of the property owner's approval of such use. The City Manager may approve temporary helistops in any zoning district of the City for a period not to exceed five (5) days for use in connection with major movie and film projects or construction sites if he determines that such helistops will not interfere with the health, safety, and welfare of persons owning property in the surrounding area and he may attach appropriate conditions to such approval. This section shall not apply to activities of any Federal, State, County or City agency.
(§3, Ord. 998-01, eff. June 9, 2001)

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CHAPTER 14 - SIDEWALK MAINTENANCE

Sec. 4-14.01 Intent.

California Streets and Highway Code Sections 5600 et seq. provide that owners of lots or portions of lots fronting on any portion of a public street, when that street or place is improved or if and when the area between the property line of the adjacent property and the street line is maintained as a park or parking strip, shall maintain the sidewalk in such condition that it will not endanger persons or property or interfere with the public convenience in the use of those works or areas.

To promote the public health, safety and general welfare, the Council finds it necessary to enact this chapter, which may be referred to collectively as the Sidewalk Maintenance Ordinance.
(§1, Ord. 1080-08, eff. December 4, 2008)

Sec. 4-14.02 Definitions.

For the purpose of this Chapter, the following words and phrases shall have the meanings set forth below. Unless in direct conflict with terms defined herein, other words and phrases shall be interpreted as defined in the Streets and Highways Code:

"Director of Public Works" shall mean the Director of Public Works or his or her designee.

"Driveway approach" shall mean the concrete structure located in the public right-of-way between the public street and a driveway or parking area on private property.

"Planting strip" shall mean the area of the street lying between the curbline and the street line or edge of right-of-way along any street; including the sidewalk.

"Property owner" shall mean without limitation, the fee owner of real property and the person or persons in possession of the real property.

"Sidewalk" shall mean any area provided for the use of pedestrians, including planting areas, driveway approaches or parking strips, between the public vehicular roadway and the edge of right-of-way bordering adjacent private property.

"Street tree" shall mean any woody perennial plant having a single main axis or stem achieving ten (10') feet or more in height, growing within a street right-of-way; planted within a street right-of-way and/or designated planting easement.
(§1, Ord. 1080-08, eff. December 4, 2008)

Sec. 4-14.03 Owners of Frontage Responsible for Repair of Conditions They Cause.

It shall be the duty of the property owner(s) of lots or portions of lots adjacent to any portion of a public street, avenue, alley, lane, court or place to repair the sidewalks and sidewalk area, including any parking strip or driveway approach, when any act or failure to act on the part of the property owner renders such adjacent public area in an unsafe and dangerous condition. The property owner has the primary and exclusive duty to fund and perform such repair and maintenance, whether or not the City has notified the property owner of the need for such repairs or maintenance or has performed similar repairs or maintenance in the past.
(§1, Ord. 1080-08, eff. December 4, 2008)

Sec. 4-14.04 Notice to Property Owner.

When any portion of a sidewalk or driveway approach is not in good repair and condition as a result of the act or failure to act on the part of the property owner in connection with a condition on his property affecting the adjacent sidewalk or driveway approach, and the Director of Public Works has knowledge thereof, he will notify the adjacent property owner to repair it. Notice shall be written and given by mailing, either by letter or postal card, to the property owner's last known address, as it appears on the last assessment rolls of the County of Los Angeles. This section does not create a mandatory duty.
(§1, Ord. 1080-08, eff. December 4, 2008)

Sec. 4-14.05 Contents of Notice.

The notice shall direct the property owner to repair the sidewalk and remove the condition causing the need for repair and specify what work is required to be done, how the work is to be done, and what materials shall be used in such repair, and shall further specify that, if the property owner chooses not to repair the sidewalk after ninety (90) days notice, the Director of Public Works may schedule such repair to be made at property owner's expense and obtain a lien against the property if the property owner fails to reimburse the City for repair costs.
(§1, Ord. 1080-08, eff. December 4, 2008)

Sec. 4-14.06 Director of Public Works to Repair if Owner Fails to Do So.

If the repair is not commenced and prosecuted to completion as required by the notice, or the property owner has not otherwise given assurances that the repair will be completed within a reasonable period of time, the Director of Public Works may repair said sidewalk. The cost of such repair shall be an obligation to the City owed by the adjacent property owner. If the property owner fails to reimburse City for the costs of repair within sixty (60) days of completion of the repairs, the City shall obtain a lien on the adjacent property.
(§1, Ord. 1080-08, eff. December 4, 2008)

Sec. 4-14.07 Notice of Cost and Claim of Lien.

Upon completion of the repair, the Director of Public Works will ascertain the repair cost and apportion it, if the area repaired is adjacent to more than one lot of land and provide to the Finance Director a detailed report regarding the cost of repair. The Finance Director will notify the property owner by mail of the repair and demand payment to the City within sixty (60) days of completion of the repairs. The property owner shall be obligated to the City in the amount of the cost of repair. If the property owner fails to reimburse the City's repair cost, the City shall obtain a lien for such cost of repair upon any such lot of land.
(§1, Ord. 1080-08, eff. December 4, 2008)

Sec. 4-14.08 Appeals Process.

The notice of cost shall allow the property owner to appeal the determination as to the responsible property owner(s) (if more than one property owner was assessed for the same repair project) and/or the amount owed. The request to appeal the claim must be in writing and filed within ten (10) calendar days of the date of the Finance Director's notice to the Property Owner of the cost of repair. The appeal shall designate with particularity the decision, action or determination appealed from and the remedy or relief sought by way of the appeal. The appeal shall be filed with the City Clerk, who shall set the hearing for the next regularly scheduled

meeting of the City Council. At the hearing, Council shall receive all evidence offered by the property owner and City staff. At the conclusion of the hearing, the Council shall make its findings. If the Council finds that the initial decision, action or determination that is appealed from is consistent with the provisions and policies of this chapter and is not otherwise injurious to the public health, safety or welfare, then the appeal shall be denied. If it finds that the initial decision, action or determination is either inconsistent with the provisions and policies of this chapter or is otherwise injurious to the public health, safety or welfare, or that the costs were not computed accurately, then the Council may sustain the appeal and in its decision grant any remedy or relief sought by the property owner, or such other relief as it deems appropriate, that is consistent with the provisions and policies of this chapter. The decision of the Council shall be final.
(§1, Ord. 1080-08, eff. December 4, 2008)

Sec. 4-14.09 Collection by Finance Department.

In the event the cost of repair to the sidewalk is not paid after a 60-day notice of cost, and an appeal has not been filed or has been denied, or a contractual agreement has not been executed providing for payment of the cost of repair in accordance with the City's payment plan policy, the Director shall transmit to the Finance Department a statement of each such unpaid cost of repair. The Finance Department shall endeavor diligently to collect the same on behalf of the City any and all amounts paid or collected shall replenish the revolving fund as provided in this chapter.
(§1, Ord. 1080-08, eff. December 4, 2008)

Sec. 4-14.10 Recording of Lien.

After the 60-day delinquent period, the Finance Director will place a lien on the adjacent property.
(§1, Ord. 1080-08, eff. December 4, 2008)

Sec. 4-14.11 Release of Lien.

On payment of the amount owed, the Finance Director shall request that the County Recorder remove the lien.
(§1, Ord. 1080-08, eff. December 4, 2008)

Sec. 4-14.12 Removal or Planting of Street Tree.

If the property owner wishes to remove or plant a street tree in connection with the sidewalk repairs, he or she must first obtain approval from the Public Works Director regarding the appropriateness of removal and/or replacement.
(§1, Ord. 1080-08, eff. December 4, 2008)

Sec. 4-14.13 Sidewalk Improvement—Permit Required.

Before constructing, repairing, or replacing the sidewalk in front of a lot or lots adjacent to a public street, avenue, alley, lane, court, or place, the owner of said lot or lots shall obtain an encroachment permit pursuant to Section 4-9.101. The encroachment permit fee shall be waived. However, security or a certificate of insurance will be required.
(§1, Ord. 1080-08, eff. December 4, 2008)

Sec. 4-14.14 Sidewalk Improvement Unlawful Without Permit.

It shall be unlawful for any person, firm, or corporation to construct, repair, or replace any sidewalk within the City, without first obtaining an encroachment permit as approved by the Director of Public Works.
(§1, Ord. 1080-08, eff. December 4, 2008)

Sec. 4-14.15 Liability for Unsafe Conditions and Injury to Public.

The property owner required by Section 4-14.03 to repair the sidewalk area shall owe a duty to members of the public to keep and maintain the sidewalk area in a safe and nondangerous condition. If, as a result of the failure of any property owner to maintain the sidewalk area in a safe and nondangerous condition as required by Section 4-14.03, any person suffers injury or damage to person or property, the property owner shall be liable to such person for the resulting damages or injury and shall be required to defend and indemnify the City against any claim or action relating thereto.
(§1, Ord. 1080-08, eff. December 4, 2008)

Sec. 4-14.16 Revolving Fund.

A fund shall be provided to cover initially the cost of making sidewalk repairs as provided under Section 4-14.06, or in cases where the property owner wishes to have the City make the repairs. The revolving fund will be replenished by appropriation and by all moneys paid or collected from sidewalk repairs, repairs in unaccepted public rights-of-way, and from liens.
(§1, Ord. 1080-08, eff. December 4, 2008)

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CHAPTER 15 - STREET PERFORMERS

Sec. 4-15.101 Purpose.

The City Council finds that the existence in the City of street performers provides a public amenity that enhances the character of the City and seeks to encourage such performances in a manner consistent with the overall public interest. The City Council also recognizes that street performers seek to and do draw crowds to their performance. This can create serious safety problems by impacting the ability of pedestrians to move safely on sidewalks and through cross walks and impeding the response time of safety personnel. It can also impact access to and egress from businesses. Cognizant that street performers are engaged in First Amendment activities, this chapter imposes reasonable time, place, and manner restrictions on street performers to the extent necessary to ensure the safety of performers, their audience, and the general public and to prevent unreasonable interference with residents' enjoyment of peace and quiet in their homes or the ability of businesses to operate and conduct their business.
(§1, Ord. 1083-09, eff. April 16, 2009)

Sec. 4-15.102 Definitions.

For purposes of this chapter, the following words or phrases shall have the following meanings:

(a) "Charge" shall mean to require someone to pay a fee or to set, negotiate or establish a fee for a performance. Seeking voluntary contributions through passing around a hat, leaving open an instrument case or other receptacle, or soliciting donations after a performance is not a charge.

(b) "Handcrafts" shall mean objects made either by hand or with the help of devices used to shape or produce the objects through such methods as weaving, carving, stitching, sewing, lacing, and beading including, but not limited to, objects such as jewelry, pottery, silver work, leather goods, and trinkets. Handcrafts are not likely to communicate a message, idea, or concept to others, are often produced with limited variation, and often have functional utility apart from any communicative value they might have. As used herein, handcrafts do not include visual art.

(c) "Performer" shall mean an individual who performs in a public area, for the purpose of providing public entertainment.

(d) "Performance Areas." The following Performance Areas, attached as Exhibit A, (Exhibit A may be found at the end of this section) have been designated as the areas in which performers may perform and are generally described below:

(1) Pebbly Beach/Cabrillo Mole Parkway Performance Area. The grassy areas between the walkway and the sidewalk, from the western end of Float 5, and the eastern edge of the Veteran's Memorial Park/Garden.

(2) South Beach Performance Area. The one sixteen (16) square foot area located the second gap in the serpentine wall, or the fourth gap in the serpentine wall in front of the large square planter or the last gap in the serpentine wall before entering the Clarissa/Crescent intersection. One (1) location within the arc of the curved bench facing the 600 block of Crescent, adjacent to South Beach and one (1) location in the corner by the low wall and planter area above the Avalon Canyon storm channel outlet.

(3) Center Performance Area. A half circle area six (6') feet wide, midway between Catalina Avenue and Sumner Avenue in front of the large square planter across from the Rose Building at 417 Crescent.

(4) Bank Performance Area. The area containing four roughly six (6') foot diameter locations bordered by the centerline of Crescent Avenue, the southeast face of the taxi building, the seawall and the edge of the patio for the restaurant in the Old Terminal Building along Crescent Avenue and the outer edge of the circle of pavers that surround the Wrigley Fountain at the intersection of Crescent Avenue and Sumner Avenue.

(5) North Beach Performance Area. The ten (10') foot square area bordered by the Harbor railing, the north side of Antonio's outside patio, the south edge of the round planter, not to extend away from the Harbor railing past the corner of Antonio's patio or the edge of the round planter.

(e) "Public areas" shall mean sidewalks, parkways, playgrounds and all other public spaces located in the City.
(§1, Ord. 1083-09, eff. April 16, 2009; §§2,3, Ord. 1113-12, eff. June 14, 2012)

Exhibit A for Section 4-15.102(d)

Sec. 4-15.103 Rules and Regulations.

(a) Notwithstanding any other provision of this Code, but subject also to Sections 4-15.104 and 4-15.105, no performer may perform:

(1) Within ten (10') feet of any trolley stop or any designated taxi drop off/pick-up area;

(2) Within ten (10') feet of any street corner or a marked pedestrian crosswalk;

(3) Within ten (10') feet of the outer edge of any entrance of any business, including, but not limited to, doors; vestibules; driveways; outdoor dining area entries; and emergency exits, during the hours that any business on the premises is open to the public or to persons having or conducting lawful business within those premises.

(b) A person must obtain a performance permit pursuant to Section 4-15.104 if any of the following conditions apply:

(1) The performer intends to perform with any prop, equipment, instrument, or other item.

(2) The performer has performed in the past and has drawn a crowd of sufficient size such that the crowd could potentially pose a safety hazard or be considered a public nuisance. A safety hazard or public nuisance includes, but is not limited to, crowds potentially blocking ingress and egress from businesses and residences, crowds preventing other pedestrians or safety personnel from traveling easily on sidewalks, or crowds creating noise that could disturb the quiet enjoyment of nearby residents and business owners.

(3) An unpermitted performer has been told by law enforcement, fire officials, or code enforcement officials that any and all future performances will require a permit due to the size and/or nature of the crowds such a performer has drawn, because such crowds could potentially pose a safety hazard or be considered a public nuisance as described in Section 4-15.103(b)(2).

(c) A performer and the performer's equipment may not block or obstruct the free and safe movement of pedestrians. If a sufficient crowd gathers to

observe a performer such that the passage of the public through a public area is blocked or obstructed, a code enforcement officer, police officer or fire official may disperse the portion of the crowd that is blocking or obstructing the passage of the public. If a performer cannot conduct a performance in a location without blocking or obstructing the passage of the public, a code enforcement officer, police officer or fire official may cause the performer to leave the location or require that the performer relocate his/her equipment, but shall not prevent the performer from occupying another location in compliance with this chapter.

(d) A performer who performs for a charge shall obtain a business license and be subject to all applicable provisions of Title 3. A performer who performs without charge shall not be required to obtain a business license pursuant to Title 3.

(e) No performer shall construct, erect, or maintain any stage, platform, or similar structure for use during any performance unless the stage or platform:

(1) Is integral to the performance and the performance only takes place on the stage;

(2) Does not exceed four (4') feet by four feet and one-quarter (4' 1/4") inch in height;

(3) Is removed from the public way when the performer is not performing;

(4) Has beveled edges.

(f) No performer shall use any knife, sword, torch, flame, axe, saw, or other object that can cause serious bodily injury to any person, or engage in any activity, including but not limited to, acrobatics, tumbling, or cycling, that can cause serious bodily injury to any person.

(g) No performer shall use any generator, wet cell battery with removable fill caps, or connect or maintain an electrical cord to an adjacent building or to a City power source.

(h) No performer shall utilize any speaker, microphone or mechanical amplification device.

(i) No performer shall litter his or her performance site.

(j) No performer shall utilize or prevent the public from utilizing any public benches, waste receptacles, or other street furniture during the performance.

(k) No minor under the age of sixteen (16) can perform unless the minor is at all times accompanied by a responsible adult eighteen (18) years of age or older, has obtained an entertainment work permit issued by the Department of Industrial Relations of the State of California and maintains the permit in his/her possession at the time of the performance.

(1) No performer shall place any object on a public sidewalk which causes less than a four-foot contiguous sidewalk width being kept clear for pedestrian passage.

(m) No performer shall perform with more instruments, props, equipment, or other items than the performer can reasonably transport or remove at one time.

(n) No performer shall place his/her instruments, props, equipment, or other items on a public sidewalk, public street, or public right-of-way for more than one (1) hour without performing in accordance with the provisions of this chapter.

(o) No performer shall leave his/her instruments, props, equipment, merchandise, or other items unattended.

(p) No performer shall perform in contravention of the allowable noise levels established by Title 5, Chapter 13 of this Code.

(q) No performer shall block or obstruct a curb cut.

(r) No performer shall perform outside designated Performance Areas.

(s) No performer shall move more than six (6') feet in any direction while performing.
(§1, Ord. 1083-09, eff. April 16, 2009; §4, Ord. 1113-12, eff. June 14, 2012)

Sec. 4-15.104 Performance Permit.

(a) If required by the Municipal Code, to receive a performance permit, a person must complete and file with the City a performance permit application on a form approved by the City. The applicant must provide the following information:

(1) The applicant's name;

(2) The applicant's address;

(3) Proof of the identity of the applicant. This identification must contain a photograph of the applicant. Acceptable forms of identifications shall include, but not be limited to, a driver's license, student identification card, or passport;

(4) A detailed description of the nature of the act to be performed;

(5) A detailed description of any instrument(s) or prop(s) which will be used by the performer(s);

(6) A minor under the age of sixteen (16) shall provide a copy of an entertainment work permit issued to the minor by the Department of Industrial Relations of the State of California and shall identify the responsible adult(s) who will be with the minor at all times that the minor is performing;

(b) The performance permit will be issued annually commencing on January 1st of each calendar year;

(c) Upon receipt of a written application for a performance permit, a performance permit shall be approved within three business days of the filing of a fully completed application, unless one of the following findings is made:

(1) The applicant has knowingly made a false, misleading, or fraudulent statement of fact to the City in the application process;

(2) The application does not contain the information required by this chapter;

(3) The applicant has not satisfied the requirements of this chapter.

(d) In addition to requiring compliance with all provisions of this chapter, the City may condition the approval of a performance permit on the applicant's compliance with other provisions of the City's Municipal Code which are applicable to the performance.

(e) The City may revoke or suspend a performance permit upon the commission of the second violation either of this chapter or of permit conditions within a six-month period. In any such case, the permit holder shall have the right to appeal from a decision of the City to revoke or suspend any permit in accordance with Title 1, Chapter 4. A performer's permit may be suspended for up to four (4) months. If the performance permit of any performer is suspended, no new permit shall be issued during the period of suspension. Any revocation of a performer's permit shall be for six (6) months unless the performer previously had a performance permit revoked and the new violations of this chapter or permit conditions relate to public safety, in which case, the permit shall be revoked for twelve (12) months. No new permit shall be issued during a revocation period. The City shall establish administrative guidelines to assist in the implementation of this section.

(f) No application for a performance permit or the renewal thereof shall be accepted unless the application is accompanied by a payment of a nonrefundable, non-prorated annual fee in an amount to be set by resolution adopted by the City Council.

(g) The performance permit shall include a photograph of the performer, shall not be assignable or transferable, and shall contain the permit number of the applicant and the year in which the permit expires. Each performer in a group shall obtain his/her own separate performance permit.

(h) A replacement performance permit may be obtained upon payment of a nonrefundable fee in an amount to be set by resolution adopted by the City Council.

(i) A performer shall allow inspection of the permit by any code enforcement officer, police or fire official upon request.

(j) The City Council may by resolution adjust the noise limitations established in this chapter during public holidays.

(k) When an applicant requests a performance permit application, the City shall also give the applicant a document which summarizes the rules and regulations concerning street performances in the City. This document may be, but is not required to be, a copy of this chapter.
(§1, Ord. 1083-09, eff. April 16, 2009; §5, Ord. 1113-12, eff. June 14, 2012)

Sec. 4-15.105 Special Regulations for Performance Areas.

In addition to the requirements of Sections 4-15.103 and 4-15.104, no performer shall perform in any Performance Area outside of an enclosed building in violation of the following requirements:

(a) Except as provided in subsection (q) of Section 4-15.103, no performer shall perform except during the following time periods:

(1) 10:00 a.m. to 9:00 p.m. daily.

(b) No performer shall perform within sixty (60') feet of any special event authorized by the City.

(c) No performance shall:

(1) Perform in any Performance Area for more than two (2) hours in any six (6) hour period. The time required to set up and to remove any instruments, props, equipment, or other items shall be considered part of the performance for purposes of this subdivision and subdivision (2) of this subsection (c).

(2) Perform within fifty (50') feet of another street performer.
(§1, Ord. 1083-09, eff. April 16, 2009; §6, Ord. No. 1113-12, eff. June 14, 2012)

Sec. 4-15.106 Assignment of Performance Locations.

A lottery or voucher system may be implemented to allocate performance locations and ensure that all performers participating therein have a fair and equal opportunity to perform or obtain preferred performance locations. Administrative guidelines may be established to specify additional requirements, including the conduct and timing of the lottery or voucher system, the maximum time period and location in advance of the lottery or voucher distribution that the performers can line up, and the duration of the permit, consistent with the provisions of this chapter and any other relevant provisions of the Municipal Code.
(§1, Ord. 1083-09, eff. April 16, 2009)

Sec. 4-15.107 Penalties.

(a) Any performer in violation of any provision of this chapter, or who is causing or potentially causing a safety hazard or public nuisance because of the size or type of crowd his or her performance is attracting, may be required by law enforcement, fire officials, or code enforcement staff, to present his or her performance permit and/or I.D.

(b) Except as provided in subsection (c) of this section, any person violating this chapter shall be guilty of an infraction, which shall be punishable by a fine of not less than One Hundred ($100.00) Dollars, but not exceeding Two Hundred Fifty ($250.00) Dollars per violation.

(c) Any person performing without a performance permit as required by Section 4-15.103 shall be guilty of an infraction which shall be punishable by a fine not exceeding Two Hundred Fifty ($250.00) Dollars, or following three (3) infractions within a twelve-month period, the City prosecutor, in his or her discretion, may charge a violation as a misdemeanor, which shall be punishable by a fine not exceeding One Thousand ($1,000.00) Dollars per violation, or by imprisonment in the County Jail for a period not exceeding six (6) months, or by both such fine and imprisonment.
(§1, Ord. 1083-09, eff. April 16, 2009; §7, Ord. No. 1113-12, eff. June 14, 2012)

Sec. 4-15.108 Exemptions.

This chapter shall not apply to:

(a) Activities approved under a film permit.

(b) Any approved participant in any special event authorized by the City Council.

(§1, Ord. 1083-09, eff. April 16, 2009)

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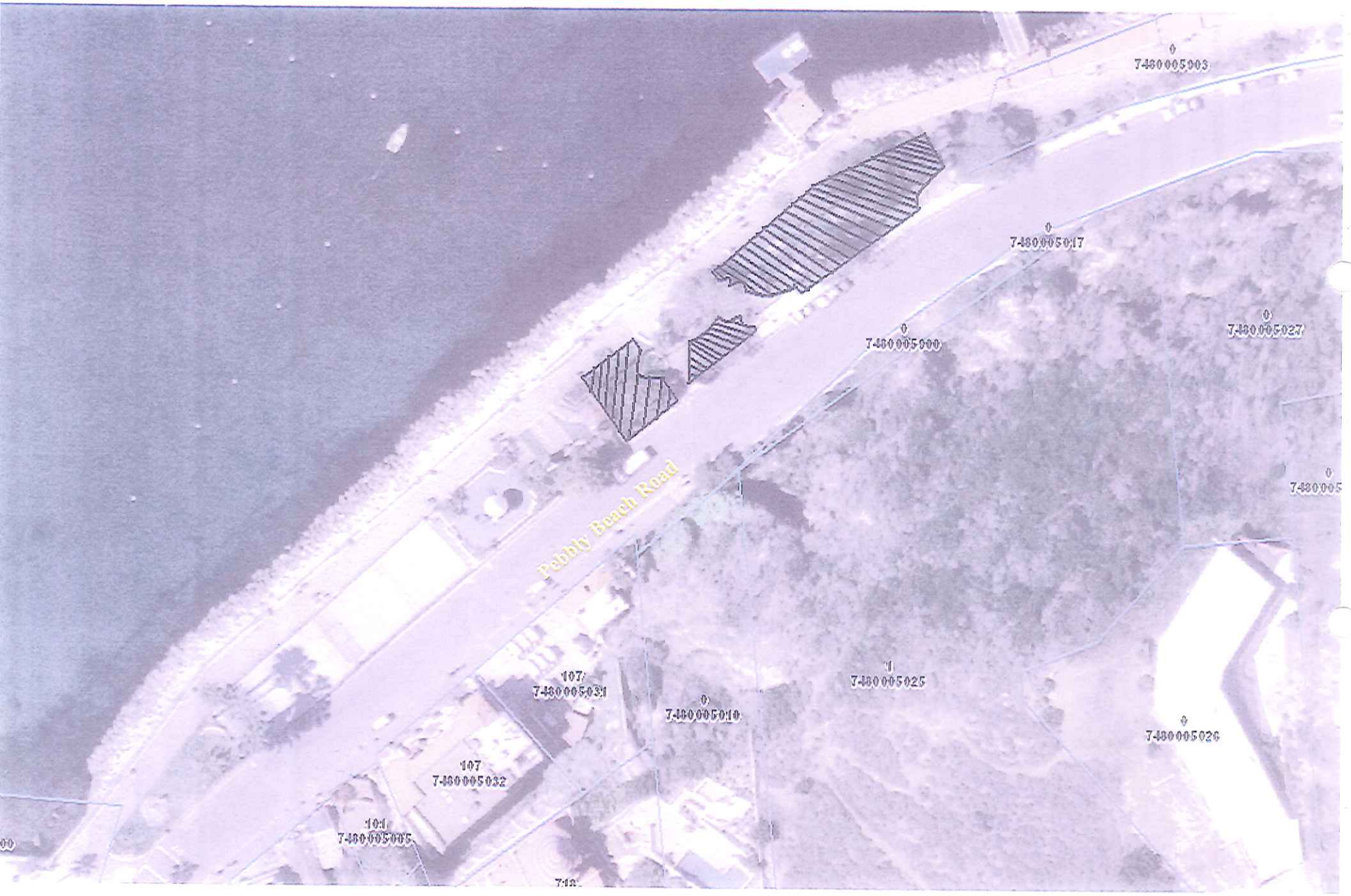
Pebbly Beach Road



outh Beach Performance Area

Center Performance Area

Bank Performance Area

Whittley Avenue
Crescent Avenue
Metropole Avenue

CHAPTER 1 - ADVERTISING MATTER

Sec. 5-1.01 Posting on Public Property.

(a) It shall be unlawful for any person to paint, tack, paste or otherwise place, or cause or permit to be painted, tacked, pasted, or otherwise placed, any advertisement, notice, card, announcement, or any printed or written matter of any kind (hereinafter called "sign") upon any tree, shrub, pole, post, curb, sidewalk, or structure situated in any public street, avenue, or other public place in the City without first obtaining a permit from the City Manager. This section shall not apply to official signs posted by governmental agencies.

Applications for posting must be made in writing and shall contain the following information:

(1) The name, home address, home telephone number and business ad-dress and telephone number of the applicant.

(2) The number of signs to be posted and at what location or locations.

(3) A description of the size, design and construction of the sign and the method of posting.

(4) The time period during which the sign is to be posted.

(5) A statement by the applicant agreeing to comply with all of the terms of this section.

(b) The City Manager shall grant a permit for such posting within three (3) days of receipt of an application therefor upon making the following findings and subject to the following conditions:

(1) The sign will not interfere with the normal functioning of the public object on which it is proposed to be placed.

(2) The sign will not interfere with or obstruct the view of any public or official sign or notice.

(3) The sign will not interfere with any traffic control device.

(4) The sign will not create a vehicular or pedestrian traffic hazard by obscuring visibility and line of sight, creating confusion, obstructing free movement of pedestrians or in any other manner.

(5) The sign, except for banners strung across public rights-of-way, will not be posted on any tree, shrub or other living object.

(6) The sign will not be posted in any residentially zoned area.

(7) The sign, except for banners strung across public rights-of-way, shall not exceed two (2) square feet in area and shall be of such design and construction as will not detach from the pole or structure under normal conditions.

(8) The sign shall be posted no more than forty-two (42) days (six (6) weeks) preceding the event it is advertising, and shall be removed no more than three (3) days after the event it is advertising. The permit shall contain a statement to this effect which must be signed by the applicant.

(9) The sign shall be posted in such manner and at such location or locations or as approved by the permit.

(10) Banners strung across public rights-of-way shall only be erected by City forces and shall be restricted to the advertisement of nonpolitical community events.

In the event that the City Manager declines to issue a sign permit, the applicant may, by filing a written appeal with the City Manager, appeal the decision to the City Council and such appeal shall be heard at the next following regularly scheduled City Council meeting.

(c) It is the intention of the City Council that each separate provision of this section shall be deemed independent of all other provisions herein, and it is further the intention of the City Council that if any provision of this section is declared invalid, other provisions thereof shall remain valid and enforceable.
(§1, Ord. 34; §§1, 2, Ord. 759, eff. May 15, 1984; §1, Ord. 1085-09, eff. June 18, 2009)

Sec. 5-1.02 Distribution.

It shall be unlawful for any person to place, throw, or deposit, or cause or direct to be placed, thrown, or deposited, any newspaper, handbill, or other printed matter, or any loose papers or rubbish of any kind, upon or adjacent to any public street, alley, or public place in the City in such manner that the same is afterwards blown into or upon any public street, alley, or public place, or blown into or upon any premises or vacant lot other than the premises upon which they were so placed, or in such manner that the same becomes scattered about any public street, alley, or public place of the City.
(§2, Ord. 34)

Sec. 5-1.03 Distribution of Printed Matter.

It shall be unlawful for any person to distribute any printed matter on any public street or in any public place except in accordance with the provisions of Title 5, Chapter 9.
(§1, Ord. 702, eff. July 6, 1981; as amended by §2, Ord. 933-96, eff. September 19, 1996)

Sec. 5-1.04 Community Events — Ticket Sales.

Upon receipt of a writ-ten application therefor, the City Manager may authorize the sale of tickets by any person, group or organization for any community event, involving more than one thousand (1,000) individuals, which is open to the public generally from a single temporary location on Crescent Avenue, in an area of Wrigley Plaza Stage, upon a finding that such activity will not unduly obstruct pedestrian traffic or otherwise be detrimental to the public health, safety and welfare and subject to any conditions determined by the Manager to be necessary or reasonable. The City Manager may limit the number of days in advance of any activity that tickets may be sold on Crescent Avenue for any event permitted by this section.

Such group, person or organization must provide proof of insurance as set forth in Section 1-6.01, Title 1, Chapter 6, of the Avalon Municipal Code.
(§1, Ord. 769, eff. September 4, 1984)

CHAPTER 1 - ADVERTISING MATTER

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CHAPTER 2 - GRAFFITI PROHIBITION, PREVENTION AND REMOVAL*

Sec. 5-2.01 Sale and Purchase of Aerosol Cans Containing Paint or Other Liquid Substance.

(a) It shall be unlawful for any person to sell, exchange, give or loan, or cause or permit to be sold, exchanged, given or loaned, any pressurized can containing any substance commonly known as paint, dye or other liquid substance capable of defacing property to anyone under the age of eighteen (18) years unless such person is accompanied by his or her parent or legal guardian. It shall be unlawful for anyone under the age of eighteen (18) years to purchase any pressurized can containing paint or dye unless accompanied by his or her parent or legal guardian.

(b) Any business or establishment which offers aerosol paint containers for sale to the public shall keep, store, display and maintain the containers in a place that is locked and secure or otherwise made unavailable to the public except upon request and under the super-vision of a representative of such business or establishment.
(§3, Ord. 870-92-U, eff. February 4, 1992; §3, Ord. 871-92, eff. March 19, 1992)

Sec. 5-2.02 Possession of Aerosol Cans Containing Paint.

It shall be unlawful for any person to have in his or her possession any pressurized can containing any substance commonly known as paint, dye or other liquid substance capable of defacing property while on or in any public place or building, including a highway, street or alley except where such person is traveling in a vehicle, unless such aerosol can is sealed or completely enclosed in a sealed container. This section shall not apply to authorized employees of a public agency or those persons authorized by contract with a public agency.
(§3, Ord. 870-92-U, eff. February 4, 1992; §3, Ord. 871-92, eff. March 19, 1992)

Sec. 5-2.03 Use of City Funds to Remove Graffiti.

(a) *Authorization.* The City Council may authorize and appropriate money from the General Fund to be used to remove graffiti, defined as any form of unauthorized painting, writing, or inscription regardless of the content or nature of the material used, from public or privately owned structures or property located in the City of Avalon. The funds authorized by this section shall be used only for the removal of the graffiti and not for the painting or repair of a more extensive area. The City shall obtain the permission of the owner or person in possession of private property prior to removing graffiti from private property.

(b) *Findings Required.* The City may remove graffiti from public or private property only upon a finding by the City Manager that the graffiti is obnoxious and after permission for removal is secured from the owner of the property.
(§3, Ord. 870-92-U, eff. February 4, 1992; §3, Ord. 871-92, eff. March 19, 1992)

Sec. 5-2.04 Misdemeanor.

Violation of the provisions of this chapter shall be a misdemeanor, punishable by fine or imprisonment or both as set out in Title 1.
(§3, Ord. 870-92-U, eff. February 4, 1992; §3, Ord. 871-92, eff. March 19, 1992)

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*__Editor's Note:__ Former Sections 5-2.01 through 5-2.13 pertaining to amusement ma-chines, adopted by §§1—13, Ord. 271, was rescinded by §1, Ord. 723, eff. August 31, 1982.

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CHAPTER 4 - GAMBLING

Sec. 5-4.01 Gambling Unlawful.

It shall be unlawful for any person, either as owner, lessee, agent, employee, or otherwise, to play at any game whatsoever in the City for money, property, or any article of value; provided, however, nothing shall be deemed to be included in the provisions of this section that is included in, or will conflict with, any of the provisions of Part 1, Title 9, Chapter 10, of the Penal Code of the State.
(§1, Ord. 46)

Sec. 5-4.02 Permitting Gambling Unlawful.

It shall be unlawful for any person to permit any game, the playing of which is prohibited by Section 5-4.01 of this chapter, to be played, conducted, dealt, or carried on in any house or room owned or rented by such person in whole or in part or under his control; provided, however, nothing shall be deemed to be included in the provisions of this section that is included in, or will conflict with, any of the provisions of Part 1, Title 9, Chapter 10, of the Penal Code of the State.
(§2, Ord. 46)

Sec. 5-4.03 Visiting Gambling Places Unlawful.

It shall be unlawful for any person to visit or remain in any room or place in the City where any game prohibited by the provisions of this chapter is being carried on.
(§3, Ord. 46)

Sec. 5-4.04 Gambling Machines Prohibited.

(a) It shall be unlawful for any person, either as owner, lessee, agent, employee, or otherwise, to operate, keep, maintain, rent, use, or conduct within the City any machine, contrivance, or device upon which money is staked or hazarded upon chance or upon which money is paid, deposited, or played upon chance, or upon the result of the action of which money or any other article or thing of value is staked, bet, hazarded, won, lost, furnished, delivered, or given away upon chance.

(b) It shall be unlawful for any person, either as owner, lessee, agent, employee, or otherwise, to operate, keep, maintain, rent, use, or conduct within the City any machine, contrivance, appliance, or mechanical device upon the result of the action of which money or any other valuable thing is staked, hazarded, furnished, delivered, or given away, or by means of the method of using or playing which, or as a result of the operation of which, any merchandise, money, representative, or article of value, check, or token, redeemable in or ex-changeable for money or any other thing of value, is won, lost, furnished, delivered, or given away when the result of the action or operation of such machine, contrivance, appliance, or mechanical device is dependent upon hazard or chance.
(§§4 and 5, Ord. 46)

Sec. 5-4.05 Accepting Considerations for Gambling Privileges Un-lawful.

It shall be unlawful for any person, either as owner, manager, employee, or otherwise, directly or indirectly to accept, take, or receive any money, ticket, thing, or representative of a value from any person for the privilege of participating in or playing or betting at or against any game, scheme, device, or contrivance mentioned in this chapter, or for admittance to any room, apartment, or place where such game, scheme, contrivance, or device is set up, played, prepared, or carried on.
(§6, Ord. 46)

Sec. 5-4.06 Unlawful Acts.

It shall be unlawful for any person to participate in, play, or bet at or against any game, scheme, contrivance, or device prohibited by the pro-visions of this chapter.
(§7, Ord. 46)

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CHAPTER 5 - LITTERING

Sec. 5-5.01 Unlawful.

It shall be unlawful for any person to throw, place, or deposit upon any public or private street, sidewalk, or alley, or upon any park or other public place in the City, any glass, glassware, crockery, bottle, cup, container, plate, or other vessel made of glass, glassware, or crockery, or any rubbish, garbage, cigars, cigarettes, food, pa-per, paper wrappings, cardboard, cans, receptacles, or any other similar material or litter.
(§5, Ord. 404)

Sec. 5-5.02 Littering from Vehicles.

It shall be unlawful for any person, while a driver or a passenger of any vehicle, to throw or deposit upon any public or private street, sidewalk, alley, or other public place in the City any rubbish, garbage, cigars, cigarettes, food, paper, paper wrappings, cardboard, cans, bottles, receptacles, or any other similar matter or litter.
(§4, Ord. 404)

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CHAPTER 6 - MINORS[*]

Sec. 5-6.01 Definitions.

For the purposes of this chapter, certain words and phrases used herein are defined as follows:

(a) "Minor child" shall mean any person less than eighteen (18) years of age.

(b) "Adult" shall mean any competent person over eighteen (18) years of age.

(c) "Parent" shall mean any person over eighteen (18) years of age who is the natural or adopted parent, relative, or guardian of a minor child.

(d) "Guardian" shall mean: (1) a person who, under court order, is the guardian of the person of a minor; or (2) a public or private agency with whom a minor has been placed by a court; or (3) a person who is at least eighteen (18) years of age and authorized by a parent or guardian to have the care and custody of a minor.

(e) "Occupancy" shall include, but not be limited to, the presence within any room in a hotel which is required to hold a business license permit from the City.

(f) "Hotel" shall mean any hotel or apartment house which holds, or is required to hold, a business license permit from the City.

(g) "Room" shall mean and include any rental unit, hotel room, apartment, or any type of hotel accommodation.

(h) "Emergency" shall mean an unforeseen circumstance or circumstances or a situation that calls for immediate action to prevent serious bodily injury or loss of life. "Emergency" includes, but is not limited to, a fire, a natural disaster, an automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life.

(i) "Errand" shall mean a trip to carry a message or do a definite thing.

(j) "Public place" shall mean any out-of-doors area to which the public or a substantial group of the public has access, including but not limited to streets, highways, sidewalks, alleys, parks, playgrounds, or other public grounds, and the out-of-doors common areas of establishments, including but not limited to entryways and parking lots.

(k) "Remain" shall mean to linger or stay or fail to leave a public place when requested to do so by a police officer or the person in control of the public place.
(§1, Ord. 1016-03, eff. September 4, 2003)

Sec. 5-6.02 Nighttime Restrictions on Minors.

(a) It shall be unlawful for any minor to be or remain in or upon any public street, highway, park, vacant lot or other public place between the following hours: from September 15 through June 15, Sundays through Thursdays–10:00 p.m. and 5:00 a.m. of the following day; from September 15 through June 15, Fridays and Saturdays–11:00 p.m. and 5:00 a.m. of the following day; and from June 26 through September 14, any day–11:00 p.m. and 5:00 a.m. of the following day. This section shall not apply when:

(1) The minor is accompanied by his parent or parents, legal guardian, or responsible person who is over the age of eighteen (18) and approved by the minor's parent or legal guardian, or by his or her spouse who is eighteen (18) years of age or older;

(2) The minor is engaged in an errand directed by his parent or parents, legal guardian, or other person having the legal care or custody of the minor, or by his or her spouse who is eighteen (18) years of age or older;

(3) The minor is going to or coming directly from their place of gainful employment or volunteer activity, a school, community group, or church sponsored meeting or event, a supervised recreational activity, or a medical facility for treatment. This exception shall also apply if the minor is in a public place during curfew hours in the course of his employment, provided the minor carries a written statement from the employer attesting to the place and hours of employment;

(4) The minor is coming directly home from a public meeting, or a place of public entertainment, such as a movie, play, or sporting event. This exception will apply for one-half (1/2) hour after the completion of the event, but in no case beyond either 11:00 p.m. (when the restriction begins at 10:00 p.m. for that particular day) or midnight (when the restriction begins at 11:00 p.m. for that particular day).

(5) The minor is responding to or acting pursuant to an emergency;

(6) The minor is exercising rights protected by the United States Constitution;

(7) The minor is emancipated in accordance with the California Family Code or other applicable law.
(§1, Ord. 1016-03, eff. September 4, 2003; §§1,2, Ord. 1076-08, eff. October 16, 2008; §1, Ord. 1086-09, eff. November 5, 2009)

Sec. 5-6.03 Daytime Restrictions on Minors.

(a) It shall be unlawful for any minor who is subject to compulsory education or compulsory continuing education to be absent from school and found in a public place. This section shall not apply when:

(1) The minor has in his or her possession a written excuse from the minor's parent, as defined, which excuse provides a reasonable explanation, as determined by the court, for the minor's absence from school;

(2) The minor is accompanied by his or her parent or legal guardian;

(3) The minor is upon an emergency errand directed by his or her parent or legal guardian;

(4) The minor is going to or returning directly from a medical appointment;

(5) The minor has permission to leave school grounds and has in his or her possession a valid, school-issued off-campus permit or other written permission from the principal or a teacher;

(6) The minor is going to or directly returning from a school-approved or school-supervised activity, meeting or event;

(7) The presence of the minor is connected with or required by a school-approved or school-related business, trade, profession or occupation in which the minor is lawfully engaged.

(8) The minor is exercising rights protected by the United States Constitution.
(§1, Ord. 1016-03, eff. September 4, 2003)

Sec. 5-6.04 Enforcement.

(a) Before taking any enforcement action under this chapter, a police officer shall ask the apparent offender's age and reason for being in the public place. The officer shall not issue a citation unless the officer reasonably believes that an offense has occurred and that, based on any response and other circumstances, no exception under Section 5-6.02 or 5-6.03, as applicable, is present.
(§1, Ord. 1016-03, eff. September 4, 2003)

Sec. 5-6.05 Penalties for Violations of Sections 5-6.02 and 5-6.03.

(a) Each violation of the provisions of Section 5-6.02 and 5-6.03 shall constitute a separate offense and shall be an infraction.

(b) Any minor violating any of the provisions of this chapter shall be subject to the following penalties:

(1) A first offense shall be punishable by a fine to be determined by the court but not to exceed One Hundred and no/100ths ($100.00) Dollars or the performance of equivalent hours of community service;

(2) A second offense within twelve (12) months shall be punishable by a fine to be determined by the court but not to exceed One Hundred Fifty and no/100ths ($150.00) Dollars or the performance of equivalent hours of community service;

(3) A third offense within twelve (12) months shall be punishable by a fine to be determined by the court but not to exceed Two Hundred Fifty and no/100ths ($250.00) Dollars or the performance of equivalent hours of community service;

(4) Four (4) or more offenses within twelve (12) months shall be punishable as determined to be appropriate by the court as provided by Welfare and Institutions Code section 258.
(§1, Ord. 1016-03, eff. September 4, 2003)

Sec. 5-6.06 Responsibility of Parents.

It shall be unlawful for any parent or guardian having the legal care, custody, or control of any minor child who shall allow or permit such minor child to violate the provisions of Section 5-6.02 or 5-6.03 of this chapter.
(§1, Ord. 1016-03, eff. September 4, 2003)

Sec. 5-6.07 Penalties for Parents.

(a) Each violation of the provisions of Section 5-6.06 shall constitute a separate offense and shall be an infraction.

(b) A parent or guardian violating any of the provisions of this chapter shall be subject to the following penalties:

(1) Upon the third offense within a twelve (12) month period by the minor, the parent or guardian(s)' violation shall be punishable by a fine to be determined by the court but not to exceed One Hundred and no/100ths ($100.00) Dollars or the performance of equivalent hours of community service;

(2) Upon the fourth offense within a twelve (12) month period by the minor, the parent or guardian(s)' violation shall be punishable by a fine to be determined by the court but not to exceed One Hundred Fifty and no/100ths ($150.00) Dollars or the performance of equivalent hours of community service and/or attendance at a parenting class approved by the court;

(3) Upon a fifth and subsequent offenses within a twelve (12) month period by the minor, the parent or guardian(s)' violation shall be punishable by a fine to be determined by the court but not to exceed Two Hundred Fifty and no/100ths ($250.00) Dollars or the performance of equivalent hours of community service and/or attendance at a parenting class approved by the court.
(§1, Ord. 1016-03, eff. September 4, 2003)

Sec. 5-6.08 Reserved.

Sec. 5-6.09 Occupancy of Room by Minor Child.

(a) It shall be unlawful for any hotel owner, operator, or employee or owner of or agent for a transient rental unit to permit the occupancy of any room or unit by a minor child unless such minor child is accompanied:

(1) By his parent;

(2) By the parent of another person;

(3) By a member of the school faculty when the stay is by reason of a school sponsored activity;

(4) By an adult member of an established organization or club which is sponsoring the trip;

(5) By his or her spouse over eighteen (18) years of age.
(§1, Ord. 1016-03, eff. September 4, 2003)

*Chapter 6 consisting of sections 5-6.01 through 5-6.07, codified from Ordinance Nos. 280 and 432, as amended by Ordinance Nos. 463 and 470, repealed by implication by Section 1, Ordinance No. 530, effective June 3, 1970.

CHAPTER 6 - MINORS*

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CHAPTER 7 - OBSTRUCTING STREETS AND SIDEWALKS

Sec. 5-7.01 Placing Merchandise on Streets and Sidewalks.

It shall be unlawful for any person to place, or cause to be placed, or to leave or to permit to be or re-main upon any public street, sidewalk, alley, or other public place in the City any goods, wares, merchandise, boxes, barrels, handcarts, benches, seats, or any article or substance which shall obstruct the passage thereof.
(§1, Ord. 85)

Sec. 5-7.02 Packing and Unpacking Merchandise on Streets and Sidewalks.

It shall be unlawful for any person to pack or unpack, or to cause or permit to be packed or unpacked, any goods, wares, or merchandise in or upon any public street or sidewalk in the City.
(§3, Ord. 85)

Sec. 5-7.03 Exceptions from Provisions.

The provisions of Section 5-7.01 of this chapter shall not apply to:

(a) Goods or merchandise in actual process of receipt, delivery, or removal;

(b) Building materials for use in work being actually carried on and for which permission has been obtained from the Council or Superintendent of Streets; and

(c) Any public necessity or convenience for which express permission has been obtained from the Council.
(§2, Ord. 85)

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CHAPTER 8 - CAMPING*

Sec. 5-8.01 Definition.

For the purposes of this chapter, "camp" shall mean a place where one or more people are temporarily lodged either out of doors or in shelters such as tents or other makeshift shelters.
(§1, Ord. 681, eff. August 6, 1980)

Sec. 5-8.02 Camping Prohibited.

It shall be unlawful for any person to camp or to erect or maintain tents or other temporary shelters or occupy the same at any place within the City limits.
(§1, Ord. 681, eff. August 6, 1980)

Sec. 5-8.03 Exceptions from Provisions.

The provisions of Section 5-8.02 of this chapter shall not apply to:

(a) Camping within camp grounds designated and approved by the City;

(b) Camping on private property containing cooking and sanitary facilities by the owner thereof or members of such owner's immediate family for no more than two (2) consecutive nights.
(§1, Ord. 681, eff. August 6, 1980)

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*__Note:__ Chapter 8 which was formerly titled Registration of Certain Employees, was repealed by §1, Ordinance 481, effective March 6, 1965.

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CHAPTER 9 - SOLICITATIONS[*]

Sec. 5-9.01 Definitions.

(a) "Solicit" and "solicitation" shall mean the request, directly or indirectly, whether oral or written, for money, credit, property, financial assistance or other things of value; the local distribution, circulation, posting or publishing of any handbill, written advertisement or other publication; and the sale or promotion of any goods, services, or other tangible items conducted door to door in any place of public accommodation, in any place of business open to the public generally, on the City streets and sidewalks, in the public parks, on the public beaches or in any public place.

(b) "Charitable" shall mean and include the words patriotic, philanthropic social services, welfare, benevolent, educational, religious, civic or fraternal, either actual or purported;

(c) "Contributions" shall mean and include the words alms, food, clothing, money, property, subscription or pledge, and also donations under the guise of loans of money or property;

(d) "Person" shall mean any individual, firm, copartnership, corporation, company, association, joint stock association, church religious sect, religious denomination, society, organization, or league and shall include any trustee, receiver, assignee, agent, or other similar representative thereof; and

(e) "City Manager" shall mean that person whose duties and responsibilities are described in Section 2-2.307 of this Code and any person designated in writing by the City Manager as the City Manager's representative.
(§1, Ord. 718, eff. May 3, 1982; as amended by §4, Ord. 933-96, eff. September 19, 1996)

Sec. 5-9.02 Charitable Solicitations - Permit Required.

No person shall solicit contributions for any charitable purpose within the City without having obtained a permit from the City Manager authorizing such solicitation; provided, that when a permit has been issued to any person defined in Section 5-9.01, other than an individual, the individual agents and solicitors for such person shall not be required to obtain individual permits.
(§1, Ord. 718, eff. May 3, 1982)

Sec. 5-9.03 Exemptions.

The provisions of this chapter shall not apply to solicitations made upon premises owned or occupied by the organization on whose behalf such solicitation is made; nor to solicitation for the relief of specific individuals specified by name at the time of the solicitation, where the solicitor represents in each case that the entire amount collected, without any deduction whatever, shall be turned over to the named beneficiary, nor shall it be applicable to any corporation or unincorporated association soliciting contributions solely from persons who are members thereof at the time of such solicitation.
(§1, Ord. 718, eff. May 3, 1982)

Sec. 5-9.04 Application for Permit.

(a) An application for a permit to solicit shall be made to the City Manager upon forms prescribed by him. The application shall be sworn to or affirmed and filed with the City Manager at least ten (10) days prior to the time at which the permit applied for shall become effective; provided, however, that the City Manager may for good cause shown allow the filing of an application less than ten (10) days prior to the effective date of the permit applied for. The City Manager shall either grant or deny the requested permit within ten (10) days of the date the application is made. In the event the City Manager fails to act within the time prescribed herein, the permit shall be deemed granted.

(b) The application herein required shall contain the following information:

(1) The name, home address, home telephone number, business address, and business telephone number of the person applying for the permit;

(2) If the applicant is not an individual, the applicant's correct legal name, taxpayer identification number (if applicable), address of its principal office and the names and addresses, social security numbers and telephone numbers of the applicant's principal officers and executives;

(3) The purpose for which the solicitation is to be made, the total amount of funds proposed to be raised thereby, and the use or disposition to be made of any receipts therefrom;

(4) The name, address, telephone number and social security number of the person or persons who will be in direct charge of conducting the solicitation, and the names of all fund raisers connected to or to be connected with the proposed solicitation;

(5) An outline of the method or methods to be used in conducting the solicitations;

(6) The time when such solicitations will be made, giving the preferred dates and hours of day for the commencement and termination of the solicitation;

(7) A full statement of the character and extent of charitable or religious work being done by the applicant within the City;

(8) A statement to the effect that if a permit is granted, it will not be used or represented in any way as an endorsement by the City or by any department or officer thereof;

(9) A financial statement signed by a certified public accountant for the last preceding fiscal year of any funds collected for charitable purposes by the applicant, giving the amount of money raised and the cost of raising it and the financial distribution;

(10) The amount of any wages, fees, commissions, expenses, or other compensation to be expended in connection with the proposed solicitation, and to whom paid;

(11) Such other pertinent information found to be necessary by the City Manager to adequately enforce the terms of this chapter; and

(12) If, while any application is pending, or during the term of any permit granted thereon, there is any change in fact, policy or method that would alter the in-formation given in the application, the applicant shall notify the City Manager in writing thereof within twenty-four (24) hours after such change.

(§1, Ord. 718, eff. May 3, 1982)

Sec. 5-9.05 Investigation.

The City Manager shall examine all applications filed under Section 5-9.05. The applicant shall make available for inspection all of the applicant's financial books, records, and papers at and reasonable time before the application is granted, during the time a permit is in effect, or after a permit has expired. The City Manager may inspect such financial books, records, and papers solely for determining the truth of the information contained in the application or the truth of any representation made by the permit holder with regard to any solicitation conducted under this chapter.
(§1, Ord. 718, eff. May 3, 1982)

Sec. 5-9.06 Issuance of Permit.

The City Manager must issue the permit unless any of the following have been demonstrated:

(a) That any statement made in the application is factually incorrect;

(b) That the solicitation is not made for the charitable cause described in the application;

(c) That the applicant has not complied with the provisions of this chapter.
(§1, Ord. 718, eff. May 3, 1982)

Sec. 5-9.07 Renewal by the City Manager.

Upon the expiration of any permit and if requested in writing so to do, the City Manager must renew the permit within ten (10) days of such request if the factual information upon which the original application was granted remains unchanged and that no violation of this chapter has been committed. The City Manager may require a new application subject to the provisions of this chapter.
(§1, Ord. 718, eff. May 3, 1982)

Sec. 5-9.08 Form of Permit.

Permits issued under this chapter shall bear the name and address of the person to whom the permit is issued, the number of the permit, the date issued, the dates within which the permit holder may solicit and a statement that the permit does not constitute an endorsement by the City or by any of its departments, officers or employees of the purpose of or of the person conducting the solicitation and a brief written statement describing by approximate percentage the disbursement of all funds solicited under the permit. All permits must be signed by the City Manager.
(§1, Ord. 718, eff. May 3, 1982)

Sec. 5-9.09 Term of Permits.

All permits issued under this chapter shall be valid for a period of thirty (30) days unless renewed, revoked or suspended pursuant to the provisions of this chapter. Upon good cause shown, the City Manager may issue a permit which may be valid for more than thirty (30) days, but in no event shall a permit be valid for more than six (6) months.
(§1, Ord. 718, eff. May 3, 1982)

Sec. 5-9.10 Permit Non-Transferable.

Any permit issued under this chapter shall not be transferable, or assignable.
(§1, Ord. 718, eff. May 3, 1982)

Sec. 5-9.11 Identification Card.

All persons to whom permits have been issued hereunder shall furnish an identification card to their agents and solicitors which card is required to be in the possession of agents and solicitors and presented when soliciting. Identification cards shall include the permit number, the name and address of the permittee, a statement describing permittees charitable purpose and activity, the signature of permittees chief executive officer, the name and signature of the solicitor to whom card is issued and the specific period of time during which solicitation is authorized.

No person shall solicit any contributions unless he or she exhibits an identification card of a form approved by the City Manager and reads it to the person solicited or presents it to the person solicited for perusal, allowing sufficient time to read it, before accepting any contribution so solicited.
(§1, Ord. 718, eff. May 3, 1982)

Sec. 5-9.12 Denial of Permits.

In the event the City Manager denies a permit to any applicant, the City Manager within two (2) business days thereof, shall either send by registered mail or give the applicant written notice in person, of the denial, stating with specificity the reasons for such denial.
(§1, Ord. 718, eff. May 3, 1982)

Sec. 5-9.13 Revocation of Permits.

Whenever it shall be shown that any person to whom a permit has been issued under this chapter has violated any of the provisions thereof, or that any promoter agent, or solicitor of a permit holder has misrepresented the purpose of the solicitation, the City Manager shall immediately suspend the permit, and within two (2) business days thereof, shall either send by registered mail, or give the permit holder written notice in person, of the revocation or suspension, stating with specificity the reasons for the suspension or revocation. The City Manager shall report such suspension or revocation to the City Council at the next regular meeting of that body following his action.
(§1, Ord. 718, eff. May 3, 1982)

Sec. 5-9.14 Appeals from Action of City Manager.

If an applicant or permit holder is aggrieved by any action to deny, suspend or revoke a permit by the City Manager, such applicant or permit holder may appeal to the City Council by filing with the City Clerk a statement addressed to the City Council setting forth the facts and circumstances regarding the action by the City Manager. The City Clerk shall set a time and place for hearing the appeal and notify the applicant or permit holder. The City Council at its next regular meeting held not more than thirty (30) days from the date on which the appeal shall have been filed with the City Clerk, shall hear the applicant or permit holder, the City

Manager and all relevant evidence and shall determine the merits of the appeal and render a decision thereon within three (3) business days of the hearing.

In the event the City Council affirms the decision of the City Manager to deny, revoke or suspend any permit under this chapter, the City Council, within two (2) business days thereof shall either send by registered mail or give the aggrieved applicant or permit holder written notice in person of the City Council's action, stating with specificity the reasons for their decision. The action of the City Council shall be final and appealable to the Superior Court of the State of California pursuant to Code of Civil Procedure Section 1094.5.

The right to appeal to the City Council from the denial, suspension or revocation of any permit granted under this chapter shall terminate upon the expiration of fifteen (15) days following written notice of the City Manager's action.
(§1, Ord. 718, eff. May 3, 1982)

Sec. 5-9.15 Notice of Suspension or Revocation.

The Chief of Police shall be notified forthwith by the City Manager of the suspension or revocation of any permit issued under this chapter.
(§1, Ord. 718, eff. May 3, 1982)

Sec. 5-9.16 Books and Records.

No person shall solicit any contributions for any charitable purpose without maintaining a system of accounting whereby all donations to it and all disbursements are entered upon the official books or records of such person's treasurer or other financial officer.
(§1, Ord. 718, eff. May 3, 1982)

Sec. 5-9.17 Report Required for Permit Holder.

It shall be the duty of all persons issued permits under this chapter to furnish to the City Manager within ninety (90) days after the expiration of the permit, a report and financial statement showing the amount raised by the solicitation, the amount expended in collecting such funds, including a report of the wages, fee, commissions, and expenses paid to any person in connection with such solicitation, and the disposition of the balance of the funds collected by the solicitation. The permit holder may be required by the City Manager to make available for inspection all financial books, records and papers whereby the accuracy of the report may be verified.
(§1, Ord. 718, eff. May 3, 1982)

Sec. 5-9.18 Manner of Solicitation.

(a) No person shall make any charitable solicitation without a permit;

(b) No person shall allow any person under sixteen (16) years of age to solicit;

(c) No person shall solicit at any dwelling, including but not limited to a house, apartment, or condominium where there is a sign indicating "No Solicitations", "Do Not Disturb", or any other indication that the occupants do not wish to be solicited or in any other way have their privacy disturbed;

(d) No person shall touch, come into physical contact with, or affix any object to the person of any contributor or member of the public, without first receiving express permission from the contributor or member of the public to do so;

(e) No person to whom a permit has been granted under this chapter nor any of the agents or solicitors of such person, shall persistently and importunately request any donation from any member of the public after such member of the public expresses his desire not to make a donation;

(f) No person shall intentionally and deliberately obstruct the free movement of any person on any street, sidewalk or other public place or in any place open to the public generally while engaging in solicitations;

(g) No person to whom a permit has been granted under this chapter, nor any of the agents or solicitors of such person, shall solicit from a captive audience. "Captive audience" shall be defined as purposefully stationary persons such as persons in lines or seated in public areas;

(h) No person shall threaten any injury or damage to any person who declines to be solicited;

(i) No person shall accept food stamps as a contribution; and

(j) No person shall misrepresent his or her physical or mental health while soliciting.

(k) No person shall solicit from any member of the public within one hundred (100') feet of any portion of the Cabrillo Mole to the point where the pedestrian-only portion of Crescent Street begins at Clarissa Street nor within ten (10') feet of any boat ramp, float, wharf, or stair or other accessway used by persons to embark or disembark from boats or ships (whichever is the greater distance), except for persons operating businesses thereon, and then only from the interior of the place of the business.
(§1, Ord. 718, eff. May 3, 1982; as amended by §§5—8, Ord. 933-96, eff. September 19, 1996)

Sec. 5-9.19 Time of Solicitation.

It shall be unlawful for any person to go upon private residential premises after sunset or earlier than 8:00 a.m. for the purpose of solicitation, unless such person has been requested or invited to do so by the owner or occupant of said premises. This section shall not be interpreted to grant any person permission to enter upon private property.
(§1, Ord. 718, eff. May 3, 1982)

Sec. 5-9.20 Written Receipts Required.

Any person receiving money or anything having a value of Five and no/100ths ($5.00) Dollars or more from any contributor under a solicitation made pursuant to a permit granted under this chapter shall give to the contributor a written receipt signed by the solicitor showing plainly the name and permit number of the person under whose permit the solicitation is conducted, the date, and the amount received. Provided, however, that this section shall not apply to any contributions collected by means of a closed box or receptacle used in solicitation with the written approval of the City Manager, where it is impractical to determine the amount of each contribution.
(§1, Ord. 718, eff. May 3, 1982)

Sec. 5-9.21 Fraudulent Misrepresentation.

(a) No person shall directly or indirectly solicit contributions for any person by misrepresentation of his name, occupation, financial conditions, social condition, residence or principal place of business and no person shall make or cause to be made any misstatement of fact, deception, or fraudulent misrepresentation in connection with any solicitation of any contribution for any person in the City, or in any application or report filed under this chapter;

(b) No charitable organization or professional fund raiser soliciting contributions shall use a name, symbol, or statement so closely related or similar to that used by another charitable organization or governmental agency that the use thereof would tend to confuse or mislead the public; and

(c) Nor shall a charitable organization or professional fund raiser solicit funds by the use of statements or material that would indicate that such funds were being raised for an organization or agency from which organization or agency explicit permission for the raising of such funds has not been received in accordance with other provisions of this chapter.
(§1, Ord. 718, eff. May 3, 1982)

Sec. 5-9.22 Authority of City Manager.

Nothing in this chapter shall be construed as granting to the City Manager, or to any other person, the authority to grant, deny, revoke, renew or suspend any permit by reason of his disapproval of or agreement with the philosophy, opinion, or beliefs of the applicant, permit holder or the person such applicant or permit holder represents, or for any other reasons not specifically provided for in this chapter.
(§1, Ord. 718, eff. May 3, 1982)

Sec. 5-9.23 Penalties.

Any person as hereinbefore defined, or any agent, servant, employee or officer thereof violating any of the provisions of this chapter, or who aids or abets in the procuring of a violation of any provision, part or portion of this chapter, or who files or causes to be filed an application for a permit containing fraudulent misrepresentations or false statements of fact, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not more than Five Hundred and no/100ths ($500.00) Dollars for each offense, or undergo imprisonment for not more than six (6) months, or both. Each violation shall be deemed a separate offense, and shall be punishable as such.
(§1, Ord. 718, eff. May 3, 1982)

Sec. 5-9.24 Severability.

It is the intention of the City Council that each separate provision of this chapter shall be deemed independent of all other provisions herein and it is further the intention of the City Council that if any provision of this chapter is declared invalid, other provisions thereof shall remain valid and enforceable.
(§1, Ord. 718, eff. May 3, 1982)

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*Former Chapter 9, Soliciting, established and amended by Ord. 111, Ord. 237; repealed by Ord. 516, reenacted by Ord. 517; amended in its entirety by Ord. 718, eff. May 3, 1982. Ordinance No. 933-96, Section 3, eff. September 19, 1996 amended the title of Chapter 9.

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CHAPTER 10 - UNSIGHTLY PROPERTY

Sec. 5-10.01 Unlawful.

No person who owns or has the charge or management of any real property in the City shall permit any part of such property to become or remain so unsightly as to substantially detract from the appearance of the immediate neighborhood.
(§1, Ord. 460)

CHAPTER 10 - UNSIGHTLY PROPERTY
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CHAPTER 11 - VEHICLE AND BOAT RENTALS

Sec. 5-11.01 Purpose.

Special problems exist in the City with respect to the size and nature of its streets and with respect to the unique characteristics and inherent nature of the City itself. In view of these problems, and to minimize deleterious impacts on vehicle and boat traffic congestion, safety, noise and pollution, this chapter is enacted to provide rules and regulations for the operation of businesses in the City which rent or lease vehicles and boats to any person.
(§2, Ord. 701, eff. July 6, 1981)

Sec. 5-11.02 Definitions.

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

(a) "Vehicle" shall mean and include any tram, cart, automobile, motorcycle, moped, boat, vessel or any other motor or battery powered device or instrumentality used for transportation on land or in water which is rented or leased to any person.
(§2, Ord. 701, eff. July 6, 1981)

Sec. 5-11.03 Permit Required.

A permit shall be required of any person or entity in the business of renting or leasing vehicles without providing a driver to any person in the City. A permit shall be required of the operator of any hotel who provides or makes available the temporary use of an autoette along with or as an integrated part of the purchase of lodging to transient occupants of the hotel, except that such hotel operator need not comply with Sections 5-11.08 through 5-11.012 because autoettes are not being made available for rent or lease to the general public. For purposes of this section, a hotel shall be defined as set forth in Section 3-3.402(a) of the Avalon Municipal Code.
(§2, Ord. 701, eff. July 6, 1981; §2, Ord. 827U, eff. June 8, 1988; Ord. U-1112-12, eff. March 20, 2012; §3, Ord. 1117-13, eff. May 2, 2013)

Sec. 5-11.04 Permit Application.

Any person applying for a permit under Section 5-11.03 shall first apply for a permit by making written application to the Council. Such application shall be in the form and shall contain such information as is prescribed by the City Manager and shall be accompanied by an application fee prescribed by resolution of the Council.
(§2, Ord. 701, eff. July 6, 1981; Ord. U-1112-12, eff. March 20, 2012; §4, Ord. No. 1117-13, eff. May 2, 2013)

Sec. 5-11.05 Permit: Hearing.

The Council shall consider and decide upon the application within sixty (60) days of filing of an application unless said time is extended by agreement of the applicant. Prior to making its decision, the Council shall give the applicant or his authorized representative an opportunity to present facts in favor of the application.
(§2, Ord. 701, eff. July 6, 1981)

Sec. 5-11.06 Permit: Decision.

The Council may grant a permit if it is able to make affirmative findings based on the following criteria:

(a) The applicant has presented facts demonstrating a need for the proposed rental or leasing business in the City for residents and visitors, or for a hotel in the City, facts demonstrating why the hotel or its transient occupants need such autoettes.

(b) In view of the size and nature of the streets of the City and the character of the City itself, the proposed business or provision of autoette(s) to hotel transient occupants will not have a deleterious impact on the public health, safety and welfare.

(c) The vehicles/autoettes associated with the business or hotel will not have a deleterious impact on traffic or parking congestion, traffic safety, noise and air pollution.

(d) The proposed business or provision of autoette(s) to hotel transient occupants will be conducted in a manner which will not be detrimental to the public health, safety and welfare.

Any approval may be subject to such conditions as will assure that the proposed business or provision of auotette(s) to hotel transient occupants will be conducted in accordance with the public health, safety and welfare and will not be a detriment to City visitors or residents. Such conditions may include a limitation on the number and type of vehicles/autoettes which may be used in conjunction with the business or hotel, or conditions pertaining to the parking of such vehicles/autoettes.
(§2, Ord. 701, eff. July 6, 1981; Ord. U-1112-12, eff. March 20, 2012; §5, Ord. 1117-13, eff. May 2, 2013)

Sec. 5-11.07 Insurance.

Prior to issuance of a permit, the applicant shall procure a policy of liability insurance from a company authorized to do business in the State of California, which policy shall designate the City as additional insured and protect it against any and all claims and liabilities for death, injury, loss or damage to person or property arising out of or in any manner related to applicants' operations and vehicles involved therein. Such policy of insurance shall contain not less than the following limits of liability:

Bodily Injury: Five Hundred Thousand ($500,000.00) Dollars for death or bodily injury or loss sustained by any one person in any one accident; and One Million ($1,000,000.00) Dollars for death, bodily injury or loss sustained by more than one person in any one incident; and

Property Damage: Two Hundred Fifty Thousand ($250,000.00) Dollars for loss occasioned by damage or injury to property in any one incident.

Combined Limits: A combined single limit policy with aggregate limits in the amount of One Million ($1,000,000.00) Dollars will be considered equivalent to the required minimum limits. Prior to issuance of a permit, applicant shall deliver said policy of insurance, or a certified photostatic copy thereof, to the City Attorney for approval by him as to form and sufficiency, and the permit shall not be issued until such insurance policy is so delivered and so approved. When such policy has been so approved, it shall be filed in the office of the City Clerk of City. Said policy shall name the City as an additional insured and not be subject to cancellation without thirty (30) days prior written notice to the City.
(§2, Ord. 701, eff. July 6, 1981)

Sec. 5-11.08 Rental Charges: Posting.

No person shall conduct or operate a vehicle or bicycle rental business without installing and maintaining plainly visible to all who come to his place of business a

sign showing the prices to be charged therefor.
(§2, Ord. 701, eff. July 6, 1981)

Sec. 5-11.09 Charging in Excess of Posted Charges.

Such rental operator shall not charge or collect any fee for the rental of any such vehicle or bicycle at a rate in excess of the rate posted.
(§2, Ord. 701, eff. July 6, 1981)

Sec. 5-11.010 Changing Posted Charges.

Any posted schedule of fees may be changed prior to the opening of any rental business at the beginning of the business day. Changes of posted rates shall not be made during the course of any business day while the business is open for business.
(§2, Ord. 701, eff. July 6, 1981)

Sec. 5-11.011 Issuance of Receipts for Charges.

A receipt showing the time the rental period started and ended, together with the charges collected for the use of such equipment, shall be given by the operator to the renter upon the request of the renter.
(§2, Ord. 701, eff. July 6, 1981)

Sec. 5-11.012 Charges to be on Hourly and/or Daily Basis.

Rates shall be on an hourly and/or daily basis and charges shall be computed and prorated for any time not divisible into even hours.
(§2, Ord. 701, eff. July 6, 1981)

Sec. 5-11.013 Revocation.

The Council shall have the power to revoke or suspend any permit granted pursuant to the provisions of this chapter upon determination that:

(a) The permit holder has violated the provisions of this chapter or of any other applicable laws, statutes, ordinances or regulations.

(b) The permit holder has violated any conditions of approval.

(c) The permit holder has conducted his business in a manner detrimental to the public health, safety and welfare.

Prior to any such revocation, the Council shall give the permit holder or his authorized representative an opportunity to present facts in opposition to revocation.

Sec. 5-11.014 Permits: Duration.

Any permit issued pursuant to this chapter shall expire one year from the date of issuance. Prior to expiration, the permit holder may apply for renewal, upon which application the Council shall review the conduct of the business in relation to the criteria set forth in Section 5-11.06 and any conditions to which the permit is subject. The Council may renew the permit upon making an affirmative finding that said criteria and conditions have been satisfied during the previous year.
(§2, Ord. 701, eff. July 6, 1981)

Sec. 5-11.015 Permit: Modification of Conditions.

After a permit has been granted or renewed, any conditions which may have been imposed upon the permit holder may be modified by the Council upon application of the permit holder. Any such modifications may be made upon the Council's determination that:

(a) The permit holder has demonstrated a necessity for the modifications.

(b) The modifications will not be detrimental to the public health, safety and welfare.

(c) The modifications are not contrary to the original intent of the initial approval.
(§2, Ord. 701, eff. July 6, 1981)

Sec. 5-11.016 Compliance with Code.

Any person holding a permit under this chapter shall also be in compliance with Section 3-1.204 and with Article 17 of Title 4 of the Avalon Municipal Code. A business license under Section 3-1.204 for conduct of the business of renting and leasing vehicles shall not be issued unless an applicant first obtains a permit under this chapter.
(§2, Ord. 701, eff. July 6, 1981)

Sec. 5-11.017 Non-Transferability.

No permit issued under this chapter shall be transferable without express consent of the Council, pursuant to this ordinance.
(§2, Ord. 701, eff. July 6, 1981)

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CHAPTER 12 - ALCOHOLIC BEVERAGES

Sec. 5-12.01 Alcoholic Beverages Defined.

For the purposes of this chapter, "alcoholic beverage" shall have the same meaning as such term is defined in the Alcoholic Beverage Control Act of the State, which is hereby referred to and made a part of this chapter for the purpose of such definition.
(§1, Ord. 483, eff. May 20, 1965)

Sec. 5-12.02 Consumption and Possession With Intent to Consume.

(a) *Prohibition.* Except as provided in subsection (b) herein, no person shall drink any alcoholic beverage or possess an open alcoholic beverage container with intent to consume same: (1) on any public street or sidewalk, in any public building, or in any public recreational area; (2) while on private property open to public view without the express permission of the owner, his agent, or the person in lawful possession thereof. This section shall not be deemed to make punishable any act or acts which are prohibited by any law of the State of California.

(b) Nothwithstanding subsection (a), alcohol may be lawfully consumed by persons of legal age as follows:

(1) Within ten (10') feet of the fencing surrounding the Joe Machado Ballpark during adult recreational programs. However, where the adult recreational program involves any event requiring a permit from the Avalon Community Recreation Department, all conditions of the permit relating to the sale and/or consumption of alcohol shall apply;

(2) At other parks owned or controlled by the City of Avalon during adult recreational programs only, provided (a) the event has received a permit from the Avalon Community Recreation Department allowing for the sale and/or consumption of alcohol; (b) the event organizers comply with all conditions of the permit relating to the sale and/or consumption of alcohol, including but not limited to, the possession of a valid license or permit issued by the California Alcohol and Beverage Control Commission; and (c) the organizers provide for a fenced or gated in area and alcoholic beverages are consumed only within such area.
(§1, Ord. 483, eff. May 20,1965, as amended by §1, Emergency Ord. 636, eff. July 18, 1977; reenacted by §I, Ord. 639, eff. August 31, 1977; amended by §1, Ord. 916-95, eff. April 20, 1995; §1, Ord. 969-99, eff. October 7, 1999)

Sec. 5-12.03 Reserved.[*]

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[*] **Editor's Note:** Former Section 15-12.03, Intoxication, previously codified herein and containing portions of Ordinance No. 483 was repealed in its entirety by Section 2, Ordinance No. 916-95, effective April 20, 1995.

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CHAPTER 13 - NOISE[*]

Sec. 5-13.01 Prohibition of Noises Detrimental to the Public Welfare.

Unnecessary and excessive noises which are offensive to the senses, injurious to the health, or an interference with or obstruction to the free use of property are detrimental to the public health, welfare, safety, and comfort of the City and, in the public interest, must be systematically proscribed. Such noises, when arising from any source subject to the City's police power, are hereby declared to be public nuisances and are hereby prohibited. Prohibited noises shall include, but are not limited to, the noises which result from the acts specifically proscribed by the provisions of this chapter, all of which acts are hereby declared to constitute public nuisances, except when such acts constitute emergency work, as defined in subsection (b) of Section 5-13.02 of this chapter.
(§1, Ord. 623, eff. January 19, 1977)

Sec. 5-13.02 Definition of Terms.

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

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

(b) "Emergency work" shall mean work necessary to restore property to a safe condition following a public calamity, or work required to protect persons or property from an imminent exposure to danger, or work by private or public utilities when restoring utility services.

(c) "Person" shall mean a person, firm, association, copartnership, joint venture, corporation, or any entity, public or private in nature.

(d) "Motor vehicle" shall include, but not be limited to, motorcycles.

(e) "Sound level" (noise level) in decibels is sound measured using the A weighting network of a sound level meter. Slow response of the sound level meter needle shall be used except where the sound is impulsive or rapidly varying in nature, in which case fast response shall be used.

(f) "Sound level meter" shall mean an instrument, including a microphone, an amplifier, an output meter, and frequency weighting networks, for the measurement of sound levels which satisfies the pertinent requirements in American National Standards Institute's Specification Sl. 4-1971, or the most recent revision thereof, for type S-2A general purpose sound level meters.

(g) "Sound amplifying equipment" shall mean any machine or device for the amplification of the human voice, music, or any other sound.

The definitions of technical terms not defined in this section shall be obtained from the American National Standards Institute's Acoustical Terminology S1-1-1971, or the most recent revision thereof.
(§1, Ord. 623, eff. January 19, 1977)

Sec. 5-13.03 Sound Amplifying Equipment, Television Sets, Musical Instruments and Similar Devices: Use Restricted in Residential Zones.

It shall be unlawful for any person within any residential zone of the City to use or operate or cause to be used or operated any radio receiving set, musical instrument, sound amplifying equipment, television set, or other machine or device which produces or reproduces sound between the hours of 10:00 p.m. and 8:00 a.m. in such a manner as to be plainly audible at a distance of fifty (50') feet from the location of the machine or device.
(§1, Ord. 623, eff. January 19, 1977; §1, Ord. 988-00, eff. November 2, 2000)

Sec. 5-13.04 Schools, Hospitals, and Churches: Noise Limited in Vicinity.

It shall be unlawful for any person to create any noise on any street, sidewalk, or public place adjacent to any school, institution of learning, or church while the same is in use or adjacent to any hospital at any time, which noise unreasonably interferes with the workings of such institution or which disturbs or unduly annoys patients in a hospital, provided conspicuous signs are displayed on such street, sidewalk, or public place indicating the presence of a school, church, or hospital.
(§1, Ord. 623, eff. January 19, 1977)

Sec. 5-13.05 Construction of Buildings and Projects.

It shall be unlawful for any person within a radius of five hundred (500') feet of any residential zone or of a hotel or motel, to operate equipment or perform any outside construction or repair work on buildings, structures, or projects, or to operate any pile driver, power shovel, pneumatic hammer, derrick, power hoist, or any other construction-type device, or to cause to permit such construction operations, between the hours of 7:00 p.m. and 8:00 a.m., or at any time on a Sunday, except when such acts constitute emergency work as defined in subsection (b) of Section 5-13.02 of this chapter.
(§1, Ord. 623, eff. January 19, 1977; §1, Ord. 890-92, eff. December 17, 1992)

Sec. 5-13.06 Vehicle Repairs.

It shall be unlawful for any person within a residential zone or within three hundred (300') feet therefrom to repair, rebuild, or test any motor vehicle between the hours of 10:00 p.m. and 8:00 a.m. in such a manner as to create sound levels above sixty (60) decibels measured within one hundred (100') feet from the source of the noise, except when such activity constitutes emergency work as defined in sub-section (b) of Section 5-13.02 of this chapter.
(§1, Ord. 623, eff. January 19, 1977)

Sec. 5-13.07 Sound Amplifying Equipment and Musical Instruments: Use Restricted in all Zones and on Specified Beach Areas.

It shall be unlawful for any person in any zone of the City to use or operate or cause to be used or operated any radio receiving set, musical instrument, sound amplifying equipment, television set, or other machine or device which produces or reproduces sound in such a manner as to create sound levels above sixty (60) decibels as measured at a minimum distance of one hundred and fifty (150') feet from the location of the noise source.

It shall be unlawful for any person to use or operate any radio or other sound amplifying device without ear plugs, headphone or similar personal listening device in that beach area of the City of Avalon between the Pleasure Pier at Catalina Avenue easterly to the junction of Crescent Avenue and Pebbly Beach, commonly known as South Beach and at the City-owned property southerly of the junction of Crescent Avenue and Pebbly Beach Road, commonly known as the Cabrillo Mole and Cabrillo Crescent Park, except when specifically authorized by the City or broadcast by the City.
(§1, Ord. 623, eff. January 19, 1977, as amended by §1, Ord. 703, eff. August 3, 1981; §1, Ord. 749U, eff. August 3, 1983; §1, Ord. 751, eff. September 15, 1983;

§1, Ord. 970-99, eff. November 4, 1999; Ord. 988-00, eff. November 2, 2000)

Sec. 5-13.07.1 Disturbing the Peace.

It shall be unlawful for any person wilfully, maliciously, intentionally or unnecessarily, to disturb the peace and quiet of another or of any neighborhood or family or religious congregation or other assembly by loud or unreasonable noise.
(§1, Ord. 658, eff. February 20, 1979)

Sec. 5-13.08 Violations: Misdemeanors.

Any person violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined in an amount not exceeding Five Hundred and no/100ths ($500.00) Dollars, or be imprisoned in the City or County Jail for a period not exceeding six (6) months, or by both such fine and imprisonment. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such.
(§1, Ord. 623, eff. January 19, 1977)

Sec. 5-13.09 Violations: Nuisances: Abatement: Injunctions.

Any violation of the provisions of this chapter shall constitute a public nuisance and shall be subject to summary abatement by a restraining order or injunction issued by a court of competent jurisdiction. The cost of such abatement shall be a lien against the property on which the nuisance is maintained and a personal obligation against the owner of such property.
(§1, Ord. 623, eff. January 19, 1977)

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*Sections 5-13.01 through 5-13.03, as added by Ordinance No. 531, effective June 3, 1970, amended in their entirety by Section 1, Ordinance No. 623, effective January 19, 1977.

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CHAPTER 14 - PUBLIC TRANSPORTATION*

Sec. 5-14.01 Definitions.

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

(a) "Taxicab" shall mean every vehicle which is used for the transportation of passengers for compensation when such compensation is determined and indicated by the mechanical calculations of a taximeter as defined in subsection (f) of this section.

(b) "Vehicle" collectively shall mean and include any taxicab, tram, cart, automobile, bus, moped, motorcycle, or any other motor powered vehicle used for any purpose, including rental or leasing to any person.

(c) "Owner" shall mean every person or entity having the title or the possessory right to any vehicle required by the provisions of this chapter to obtain a permit.

(d) "Driver" or "operator" shall mean and include every person driving or operating a vehicle in service.

(e) "Compensation" shall mean anything of value paid to, accepted, or received by the driver, operator, or owner of any vehicle in exchange for the rental of such vehicle or the transportation of persons, whether paid upon solicitation, demand, under contract, or voluntarily or intended as a gratuity or donation, including the payment of anything of value for other goods or services, when such payment entitles the person making such payment to the use of, or transportation in, any vehicle.

(f) "Public transportation" shall mean the operation of any vehicle which trans-ports passengers over City streets for the purpose of providing and making available to the general public an alternative to the use of private vehicles, including but not limited to taxis, trams, buses, limousines, and courtesy vans which provide transportation as an integrated part of a hotel, or a sea, air or land transportation operation.

(g) "Taximeter" shall mean a mechanical instrument or device by which the charge for the hire of a taxicab is mechanically calculated, either for travel or waiting time, or distance, or both, and upon which such charge is plainly registered by means of figures indicating dollars and cents.
(§1, Ord. 628, eff. April 6, 1977, as amended by §3, Ord. 701, eff. July 6, 1981; and §1, Ord. 697, eff. May 4, 1981; §1, Ord. 737)

Sec. 5-14.02 Permit Required.

No person shall operate or cause to be operated within the City any vehicle for the purpose of providing public transportation without first obtaining a public transportation permit. All vehicles used under and pursuant to such permit shall be otherwise qualified for permitting in accordance with the requirements of Article 17 of Title 4, Chapter 4 of this Code. Transportation permits shall be valid for a period of three (3) years only and may be renewed for an subsequent three (3) year period only if all of the findings set forth in Section 4-14.1703(b)(1) and (2).

The permit requirement provided for in this section shall not be applicable to:

(a) Vehicles owned or operated by a public agency;

(b) Vehicles used in conjunction with a vehicle rental or leasing business for which a permit is required by Chapter 11 of this title;

(c) Vehicles which only transport freight or baggage.
(§1, Ord. 628, eff. April 6, 1977, as amended by §4, Ord. 701, eff. July 6, 1981; §2, Ord. 737; §1, Ord. 1077-08, eff. November 6, 2008)

Sec. 5-14.03 Charter Vehicles.

Anyone receiving a permit pursuant to the provisions of this chapter may also provide charter service with prior written permission from the City Manager. In granting such approval, the City Manager shall be guided by whether such charters would interfere with the operator's existing business, the availability of other services, and other similar considerations. Any vehicle used for charter purposes, including but not limited to fixed rate touring services, shall have posted thereon at such times as charter services are being provided, a placard or sign setting forth the name and type of service being provided.
(§1, Ord. 628, eff. April 6, 1977, as amended by §1, Ord. 764, eff. July 2, 1984)

Sec. 5-14.04 Permits: Applications: Requirements.*

(a) Any person desiring a permit or to renew a permit to operate a vehicle covered by the provisions of this chapter shall file a written application therefor with the Council. Such application shall:

(1) Be verified by oath of the applicant;

(2) Set forth the name, age, and address of the applicant, or, if a corporation, its name, date, place of incorporation, the address of its principal place of business, and the names of all its officers, together with their respective ages and addresses;

(3) State the trade name under which the applicant proposes to operate;

(4) Contain full information pertaining to (1) the extent, character, and manner in which such proposed operations are to be conducted; (2) the type, model, capacity, and condition of the vehicle(s) proposed to be operated and (3) the route or locations where the vehicle(s) is proposed to be operated for the purpose of transporting passengers;

(5) Contain an agreement by the applicant to hold harmless, defend, and indemnify the City; and

(6) Contain such other or additional information as the City may require.

(b) The Council may grant a permit upon the proposed terms or upon terms other than those proposed. The Council shall make the initial permit grant, and the Vehicle Clerk may thereafter renew a permit if he is able to make affirmative findings based on the criteria set forth below. If the Vehicle Clerk is unable to make the affirmative findings, he shall so advise the permit holder and set a hearing date before the Vehicle Hearing Officer, whose decision on the renewal shall be appealable to the City Council in accordance with the procedures set forth in Title 1, Chapter 4.:

(1) The applicant has presented facts demonstrating a necessity for the requested vehicle(s).

(2) The requested vehicle(s) is appropriate for the intended use and necessary, for the proper functioning of the applicant's enterprise;

(3) The requested vehicle(s) will not have a deleterious impact on traffic congestion, traffic safety, noise or air pollution;

(4) In view of the size and nature of the streets of the City and the character of the City itself, the requested vehicle(s) will not have a deleterious impact on the public health, safety, and welfare;

(5) There is no more suitable alternative vehicle than the vehicle(s) requested by the applicant that can satisfy its requirements.

(6) In the case of renewal only, the requested vehicle has been used and continues to be used in accordance with the terms and conditions of the permit.
(§1, Ord. 628, eff. April 6, 1977, as amended by §2, Ord. 697, eff. May 4, 1981; §1, Ord. 1077-08, eff. November 6, 2008)

***Editor's Note:** Transportation permits issued prior to the date of adoption of this section shall be subject to expiration on February 15, 2009. The Vehicle Clerk shall give at least thirty (30) days' written notice to holders of transportation permits issued prior to the date of adoption of the requirement to apply for renewal of the transportation permit and the forms and procedures applicable thereto.

Sec. 5-14.05 Rates: Posting.

Rates shall be posted in such a manner as to be easily visible to the customer.
(§1, Ord. 628, eff. April 6, 1977)

Sec. 5-14.06 Changes in Rates.

Rates may be changed only after two (2) weeks' public notice in The Catalina Islander.
(§1, Ord. 628, eff. April 6, 1977)

Sec. 5-14.07 Discrimination of Rates Prohibited.

No holder of a permit, or any agent or employee thereof, or any driver or operator of any vehicle covered by the provisions of this chapter shall charge for any amount of compensation other than the rates or fares posted.
(§1, Ord. 628, eff. April 6, 1977)

Sec. 5-14.08 Licenses: Fees.

Each permit shall entitle the holder thereof to obtain a license to engage in the business described in the permit upon the payment of the fees required by the licensing provisions of this Code provided the holder of such permit complies with all the other applicable provisions of law, including the provisions of this Code.
(§1, Ord. 628, eff. April 6, 1977)

Sec. 5-14.09 Revocation and Suspension of Permits: Notices: Hearings.

The Council shall have the power to suspend or revoke any permit granted pursuant to the provisions of this chapter when the Council determines that any of the provisions of this chapter have been violated, that the holder of any such permit has failed to comply with the terms of such permit or of this chapter pertaining to the extent, character, or quality of the service, or that a driver or operator has been convicted of violating any law involving the operation of a vehicle while under the influence of intoxicating liquor or narcotics or the reckless operation of or speeding in a vehicle. Before the revocation or suspension of any such permit, the holder thereof shall be entitled to a hearing before the Council and shall be notified thereof.
(§1, Ord. 678, eff. April 6, 1977)

Sec. 5-14.10 Taximeters Required: Inspections: Operation.

(a) No holder of a permit shall operate any taxicab in the City until such taxicab shall be equipped with a taximeter of a type and design which shall have been approved by the Council. It shall be the duty of the holder operating such taxicab, and of the driver thereof, to keep such taximeter operating at all times the taxicab is engaged and within such standards of accuracy as may be prescribed from time to time by the Council.

(b) Every taximeter used in the operation of a taxicab shall be subject to inspection at any time by the City or any of its agents or employees.

(c) All charges for taxicab service shall be calculated and indicated by the taxi-meter.

(d) The taximeter requirements of this section shall not apply to the provision of the following services by taxicabs:

(1) Hotel courtesy service provided pursuant to a fixed rate contract entered into in advance of commencement of such service with any hotel. At least forty-eight (48) hours prior written notice of commencement of such service shall be given to the City Manager; such notice shall be given on or before January 1 of each year thereafter. Any taxicab providing hotel courtesy service shall have posted thereon a placard identifying the hotel(s) for which such service is being provided;

(2) Fixed rate tour services, subject to compliance with the provisions of Sections 3-3.302 and 5-14.02 of this Code; and

(3) Dial-a-ride services provided pursuant to agreement with the City of Avalon.

The taximeters of any taxicabs providing the foregoing fixed rate services shall be connected with the taxi roof light in such manner as to indicate when the taximeter is operating.

The requirements of this section shall be in addition to any other requirements contained in this Code. The City Manager is hereby authorized to suspend any taxi permit upon violation of any of the foregoing requirements.
(§1, Ord. 628, eff. April 6, 1977, as amended by §1, Ord. 760, eff. May 15, 1984)

Sec. 5-14.11 Equipment: Inspections.

All vehicles operated pursuant to the provisions of this chapter shall be approved by the City before being placed in service. Such vehicles shall at all times be kept in a clean and sanitary condition and in a good state of repair and shall be subject to periodic inspections by the City. In the event the condition of any vehicle, in the opinion of the Chief of Police, shall be mechanically defective as to be un-desirable for use by the public, the City may require such vehicle to be immediately withdrawn from service, and such vehicle shall not be again placed in service until approved by the Chief of Police.
(§1, Ord. 628, eff. April 6, 1977)

Sec. 5-14.12 Public Rights-of-Way: Parking.

No operator of any vehicle, other than a taxicab, shall load or discharge passengers at any location in the public right-of-way unless such location as is specifically designated for that purpose.
(§1, Ord. 628, eff. April 6, 1977)

Sec. 5-14.13 Public Liability Insurance.

Every applicant for a permit pursuant to the provisions of this chapter, at all times during the term of such permit, shall maintain a policy of public liability insurance pursuant to Section 1-6.01 of the Avalon Municipal Code.
(§1, Ord. 628, eff. April 6, 1977, as amended by §2, Ord. 704, eff August 17, 1981)

Sec. 5-14.14 Operation of Vehicles.

No person shall operate a vehicle permitted by this chapter with more passengers than the rated seating capacity of the vehicle being operated, less one.
(§1, Ord. 628, eff. April 6, 1977)

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*Chapter 14, consisting of Article 1 entitled "Definitions", consisting of Section 5-14.101, Article 2 entitled "Permits", consisting of Sections 5-14.201 through 5-14.209, Article 3 entitled "Taxicabs", consisting of Sections 5-14.301 through 5-14.308, Article 4 entitled "Trams", consisting of Sections 5-14.401 through 5-14.403, Article 5 entitled "Buses", consisting of Section 5-14.501, Article 6 entitled "Limousines", consisting of Section 5-14.601, and Article 7 entitled "General Provisions", consisting of Sections 5-14.701 through 5-14.709, as added by Ordinance No. 567, effective February 2, 1973, as amended by Ordinance Nos. 571, effective July 4, 1973, 585, effective June 5, 1974, 590, effective September 4, 1974, and 593, effective August 19, 1974, amended in its entirety by Section 1, Ordinance No. 628, effective April 6, 1977.

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CHAPTER 15 - MOTION PICTURE, TELEVISION AND PHOTOGRAPHIC REPRODUCTION

Sec. 5-15.01 Title.

This chapter shall be known as the "Motion Picture, Television and Photographic Production Ordinance" of the City of Avalon.
(§1, Ord. 817, eff. December 3, 1987)

Sec. 5-15.02 Definitions.

For purposes of this chapter "Motion picture, television and photographic production" shall mean all activity attendant to staging or shooting (video taping or filming) commercial motion pictures, television shows, programs or commercials, and to the taking of single or multiple photographs for sale or use for a commercial purpose where the photographer sets up stationary equipment on public property or the public right-of-way in any one location for longer than five (5) consecutive minutes.
(§1, Ord. 817, eff. December 3, 1987)

Sec. 5-15.03 Permit Required.

No person shall use any public right-of-way, or any public or private property, facility or residence for the purpose of producing, taking or making any commercial motion picture, television or photographic production as de-fined in Section 5-15.02 without a permit issued pursuant to the provisions of this chapter.
(§1, Ord. 817, eff. December 3, 1987)

Sec. 5-15.04 Permit Exemptions.

The provisions of this chapter shall not apply to the following:

(a) Current news productions, which include reporters, photographers or camera-men in the employment of a newspaper, news service, broadcasting station or similar entity engaged in the broadcasting of news events; this exemption for current news productions shall include news magazine format productions as long as the production does not use or require placement of stationary equipment on public property or rights-of-way in any one location for longer than five (5) consecutive minutes.

(b) Charitable purposes, which include productions which are conducted or carried on wholly for a charitable purpose or from which no profit is derived, either directly or indirectly; provided, however, that such charitable production shall be exempt only from the provisions of Section 5-15.06.

(c) Productions which are conducted by a cable television company operating under a franchise granted by the City and which are not conducted on public property and which involve fewer than two (2) motor vehicles.
(§1, Ord. 817, eff. December 3, 1987)

Sec. 5-15.05 Permit Application.

Any person desiring a permit under the provisions of this chapter shall make application on the appropriate form provided by the City. The completed application shall be submitted at least five (5) working days prior to the date on which such person desires to conduct an activity for which a permit is required.
(§1, Ord. 817, eff. December 3, 1987)

Sec. 5-15.06 Permit Fees.

Each application shall be accompanied by a fee as established by resolution of the City Council.
(§1, Ord. 817, eff. December 3, 1987)

Sec. 5-15.07 Permit Issuance; Conditions.

The City Manager shall issue a permit as provided for in this chapter when, from a consideration of the application and from such other information as may be otherwise obtained, he/she finds that:

(a) The conduct of such activity will not unduly interfere with traffic or pedestrian movement or endanger public safety and that no streets will be completely closed to traffic for an unreasonable period of time.

(b) The conduct of such activity will not unduly interfere with normal governmental or City operations, threaten to result in damage or detriment to private or public property, or result in the City incurring costs or expenditures in either money or personnel not reimbursed in advance by the applicant.

(c) At the determination of the Fire Chief, the conduct of such activity will not constitute a fire hazard or any other type of hazard and all proper safety precautions will be taken as determined by the Fire Chief.

The decision of the City Manager to issue, conditionally issue, or not issue a permit shall be final unless appealed in writing within five (5) working days of the decision by re-questing a hearing of the City Council at the next available meeting.
(§1, Ord. 817, eff. December 3, 1987)

Sec. 5-15.08 Cost of Additional Services.

If deemed necessary by the City Manager, additional Sheriff, code enforcement, fire, and other City services shall be pro-vided for the purpose of protecting, assisting and regulating the proposed activity. The cost of providing such additional services shall be paid in advance to the City by the applicant. Any additional City services will be provided/coordinated through the City Manager or his/her designee.
(§1, Ord. 817, eff. December 3, 1987)

Sec. 5-15.09 Insurance.

The City shall require, as a condition of issuing such a permit, that the applicant furnish insurance in the amount of One Million and no/100ths ($1,000,000.00) Dollars to protect the City against claims of third persons for personal injury, wrongful death and property damage and to indemnify the City for damage to the City property arising out of the permittee's activities. An additional Five Million and no/100ths ($5,000,000.00) Dollars of such general liability insurance coverage shall be required in the event aircraft or helicopters are used in the activity. A copy of the policy will remain on file with the application. The City and its officers and employees

shall be named as additional insureds under the policy, which shall not be subject to cancellation without thirty (30) days written notice to the City. Applicant shall also submit verification that adequate Worker's Compensation insurance coverage is maintained.
(§1, Ord. 817, eff. December 3, 1987)

Sec. 5-15.10 Hold Harmless Agreement.

The applicant shall execute a hold harmless agreement as provided by the City prior to the issuance of any permit.
(§1, Ord. 817, eff. December 3, 1987)

Sec. 5-15.11 Conditions; Restrictions.

The applicant shall comply with any conditions or restrictions the City may impose as a condition to issuing a permit. No changes shall be made without first obtaining the City Manager's approval.
(§1, Ord. 817, eff. December 3, 1987)

Sec. 5-15.12 Cleanup/Restoration.

The applicant shall conduct operations in an orderly fashion with continuous attention to the storage of equipment not in use and the cleanup of trash and debris. The area used shall be cleaned of trash and debris within two (2) hours of the completion of the activity to the City's satisfaction. Applicant shall be responsible for restoring any area damaged or disrupted before leaving the site. If the site is not repaired or restored to the City's satisfaction, the City Manager shall have the necessary restoration and/or repairs performed and shall pay for such work from either a cash or surety bond which shall be posted with the City to ensure faithful performance of such restoration. Such faithful performance bond shall be filed at the time of the application in an amount of Five Hundred and no/100ths ($500.00) Dollars or in any higher amount determined by the City Manager to be reasonably required under the circumstances. The amount of the bond shall in no way limit the applicant's liability or responsibility for the cost of repairs or restoration in the event these costs exceed the bond amount.
(§1, Ord. 817, eff. December 3, 1987)

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CHAPTER 16 - REMOVAL OF ABANDONED VEHICLES

Sec. 5-16.01 Short Title.

Chapter 16 of Title 5 of the Avalon Municipal Code may be cited as "The Abandoned Vehicle Ordinance" of the City of Avalon.
(§1, Ord. 850, eff. December 7, 1989)

Sec. 5-16.02 Declaration of Policy.

In addition to and in accordance with the determination made and the authority granted by the State of California under Section 22660 of the Vehicle Code to remove abandoned, wrecked, dismantled or inoperative vehicles or parts thereof as public nuisances, the City Council hereby makes the following findings and declarations:

The accumulation and storage of abandoned, wrecked, dismantled, or inoperative vehicles or parts thereof on private or public property not including highways is hereby found to create a condition tending to reduce the value of private property, to promote blight and deterioration, to invite plundering, to create fire hazards, to constitute an attractive nuisance creating a hazard to the health and safety of minors, to create a harborage for rodents and in-sects and to be injurious to the health, safety and general welfare. Therefore, the presence of an abandoned, wrecked, dismantled or inoperative vehicle or pans thereof, on private or public property not including highways, except as expressly hereinafter permitted, is hereby declared to constitute a public nuisance which may be abated as such in accordance with the provisions of this chapter.
(§1, Ord. 850, eff. December 7, 1989)

Secs. 5-16.03 - 5-16.04 Reserved.

Part 1. General Provisions

Sec. 5-16.05 Definitions.

As used in this chapter, unless the context other-wise clearly indicates, the following words and phrases are defined as follows:

(a) "Vehicle" shall mean a device by which any person or property may be pro-pelled, moved, or drawn upon a highway except a device designed to be moved by human or animal power or used exclusively upon stationary rails or tracks.

(b) "Highway" shall mean a way or place of whatever nature, publicly maintained and open to the use of the public for purposes of vehicular travel. Highway includes street.

(c) "Public property" does not include "highway."

(d) "Owner of the land" shall mean the owner of the land on which the vehicle, or parts thereof, is located, as shown on the last equalized assessment roll.

(e) "Owner of the vehicle" shall mean the last registered owner and legal owner of record.

(f) "Abandoned" shall mean the voluntary relinquishment of possession of a vehi-cle without any intent or affirmative effort on the part of the owner thereof to reclaim it.

(g) "City Manager" shall mean the City Manager or the person designated in writ-ing by the City Manager to act on such City Manager's behalf.
(§1, Ord. 850, eff. December 7, 1989)

Sec. 5-16.06 Application of Chapter.

(a) The provisions of this chapter shall apply to abandoned, wrecked, dismantled or inoperative vehicles, or parts thereof.

(b) This chapter shall not apply to:

(1) A vehicle, or parts thereof, which is completely enclosed within a build-ing in a lawful manner where it is not visible from the street or other public or private property; or

(2) A vehicle, or parts thereof, which is stored or parked in a lawful man-ner on private property in connection with the business of a licensed dismantler, licensed vehicle dealer, a junk dealer, or when such storage or parking is necessary to the operation of a lawfully conducted business or commercial enterprise.

Nothing in this section or chapter shall authorize the maintenance of a public or private nuisance as defined under provisions of law or ordinance other than Chapter 10 (commencing with Section 22660) of Division II of the Vehicle Code and this chapter.
(§1, Ord. 850, eff. December 7, 1989)

Sec. 5-16.07 Enforcement of Chapter by City Manager.

Except as otherwise provided herein, the provisions of this chapter shall be administered and enforced by the City Manager.

(a) Upon discovering the existence of an abandoned, wrecked, dismantled, or in-operative vehicle, or parts thereof, on private property or public property within the City of Avalon, the City Manager shall have the authority to cause the abatement and removal thereof in accordance with the procedure prescribed herein.

(b) In the enforcement of this chapter, the City Manager or the person(s) desig-nated by the City Manager may enter upon private or public property to examine a vehicle or parts thereof, obtain information as to the identity of a vehicle and to remove or cause the removal of a vehicle or parts thereof declared to be a nuisance pursuant to this chapter.

(c) The City Manager shall from time to time determine and fix an amount to be assessed as administrative costs (excluding the actual cost of removal of any vehicle or parts thereof) under this chapter.
(§1, Ord. 850, eff. December 7, 1989)

Sec. 5-16.08 Misdemeanor.

It shall be unlawful and a misdemeanor for any person to abandon, park, store or leave, or permit the abandonment, parking, storing or leav-ing of any vehicle, or part thereof, which is subject to removal under the provisions of this chapter for a period in excess of ten (10) days.
(§1, Ord. 850, eff. December 7, 1989)

Part 2. Procedure for Removal of Abandoned Vehicles

Sec. 5-16.09 Reserved.

Sec. 5-16.10 Notice of Intention to Remove Vehicle.

A ten (10) day notice of intention to abate and remove the vehicle, or parts thereof, as a public nuisance shall be mailed by registered mail to the owner of the land and to the last registered and legal owner of the vehicle, unless the vehicle is in such condition that identification numbers are not available to determine ownership. The notices of intention shall be in substantially the form set out in Section 5-16.16 of this chapter. However, the ten (10) day notice of intention to abate and remove the vehicle or parts thereof shall not be required if both the property owner and the owner of the vehicle have signed releases authorizing removal and waiving further interest in the vehicle or part thereof.

The ten (10) day notice shall not be required for removal of a vehicle or part thereof which is located upon a parcel which is not improved with a residential structure and which is inoperable due to the absence of a motor, transmission, or wheels and uncapable of being towed, is valued at less than Two Hundred and no/100ths ($200.00) Dollars by a person specified in Vehicle Code Section 22855, and is determined by the City Manager to be a public nuisance presenting an immediate threat to public health or safety, provided that the property owner has signed a release authorizing removal and waiving further interest in the vehicle or part thereof. Prior to final disposition under Section 5-16.15 of such a low valued vehicle or part for which evidence of registration was recovered, the City Manager shall provide notice to the registered and legal owners of intent to dispose of the vehicle or part, and if the vehicle or part is not claimed and removed within twelve (12) days after the notice is mailed, from a location specified in Section 5-16.15, final disposition may proceed. Neither the City nor a con-tractor thereof shall be liable for damage caused to a vehicle or part thereof by removal pursuant to this paragraph.
(§1, Ord. 850, eff. December 7, 1989)

Sec. 5-16.11 Request for Public Hearing; Absence of Request.

If a request by the owner of the vehicle or the owner of the property on which the vehicle is located is received by the City Manager within ten (10) days after the mailing of the notices of intention to abate and remove, a public hearing shall be held by the City Manager on the question of abatement and removal of the vehicle or parts thereof as an abandoned, wrecked, dismantled or inoperative vehicle, and the assessment of the administrative costs and the cost of removal of the vehicle or parts thereof against the property on which it is located.

(a) If the owner of the land submits a sworn written statement denying responsibility for the presence of the vehicle on his or her land within such ten (10) day period, said statement shall be construed as a request for a hearing which does not require his or her presence.

(b) If such a request for hearing is not received within ten (10) days after mailing of the notice of intention to abate and remove, the City shall have the authority to abate and remove the vehicle or parts thereof as a public nuisance without holding a public hearing.

(c) Notice of the hearing shall be mailed, by registered mail, at least ten (10) days before the hearing to the owner of the land and to the owner of the vehicle, unless the vehicle is in such condition that identification numbers are not available to determine ownership.
(§1, Ord. 850, eff. December 7, 1989)

Sec. 5-16.12 Public Hearing; Conduct.

All hearings pursuant to this chapter shall be held before the City Manager who shall hear all facts and testimony such City Manager deems pertinent. Said facts and testimony may include testimony of the condition of the vehicle or parts thereof and the circumstances concerning its location on the private property or public property. The City Manager shall not be limited by the technical rules of evidence. The owner of the land may appear in person at the hearing or present a sworn written statement in time for consideration at the hearing, and deny responsibility for the presence of the vehicle on the land, with his or her reasons for such denial.
(§1, Ord. 850, eff. December 7, 1989)

Sec. 5-16.13 Public Hearing; Findings and Determinations.

(a) The City Manager may authorize such action as such City Manager deems appropriate under the circumstances to carry out the purpose of this chapter. The City Manager may delay the time for removal of the vehicle or parts thereof if, in the City Manager's opinion, the circumstances justify it. At the conclusion of the public hearing, the City Manager may find that a vehicle or parts thereof has been abandoned, wrecked, dismantled or is inoperative on private or public property and order the same removed from the property as a public nuisance and disposed of as hereinafter provided and determine the administrative costs and the cost of removal are to be charged against the owner of the land. The order requiring removal shall include a description of the vehicle, or parts thereof and the correct identification number and license number of the vehicle, if available.

(b) If it is determined at the hearing that the vehicle was placed on the land without the consent of the owner of the land and that the owner of the land has not subsequently acquiesced in its presence, the City Manager shall not assess the costs of administration or removal of the vehicle against the property upon which the vehicle is located or otherwise attempt to collect such costs from the owner of the land.

(c) If an interested party makes a written presentation to the City Manager but does not appear at the hearing, he or she shall be notified in writing of the decision.
(§1, Ord. 850, eff. December 7, 1989)

Sec. 5-16.14 Appeal to the City Council.

Any interested party may appeal a decision of the City Manager to the City Council by filing a written notice of appeal with the City Clerk within five (5) days after the City Manager's decision.
(§1, Ord. 850, eff. December 7, 1989)

Sec. 5-16.15 Removal of Vehicle.

(a) Five (5) days after adoption of the order declaring the vehicle or parts thereof to be a public nuisance, five (5) days from the date of mailing of notice of the decision by the City Manager if such notice is required by Section 5-16.13(c), or fifteen (15) days after action by the City Council authorizing removal following an

appeal, whichever is later, the vehicle or parts thereof may be disposed of by removal to a scrapyard or automobile dismantler's yard, or any suitable site operated by a local authority for processing of scrap.

(b) After a vehicle has been removed it shall not thereafter be reconstructed or made operable, unless it is a vehicle which qualifies for either horseless carriage license plates or historical vehicle license plates, pursuant to Vehicle Code Section 5004, in which case the vehicle may be reconstructed or made operable.

(c) When the City Council has contracted with or granted a franchise to any person or persons, such person or persons shall be authorized to enter upon private property to re-move or cause the removal of a vehicle or parts thereof declared to be a nuisance pursuant to this chapter.
(§1, Ord. 850, eff. December 7, 1989)

Sec. 5-16.16 Notice of Removal to Department of Motor Vehicles.

Within five (5) days after the date of removal of the vehicle or parts thereof, notice shall be given to the Department of Motor Vehicles identifying the vehicle or part(s) removed. At the same time there shall be transmitted to the Department of Motor Vehicles any evidence of registration including, but not limited to, the registration card, certificates of ownership and license plates.
(§1, Ord. 850, eff. December 7, 1989)

Sec. 5-16.17 Costs of Removal; Assessed Against Land.

If the administrative costs and the cost of removal are charged against the owner of land pursuant to Section 5-16.13 and are not paid within thirty (30) days of the date of the order, or the final disposition of an appeal therefrom, such costs shall be assessed against the parcel of land pursuant to Section 5-16.10 of the Government Code and shall be transmitted to the tax collector for collection.
(§1, Ord. 850, eff. December 7, 1989)

Sec. 5-16.18 Forms of Notice.

The notices of intention to abate and remove a vehicle as required in Section 5-16.10 of this chapter shall be in substantially the following forms:

NOTICE OF INTENTION TO ABATE AND REMOVE AN ABANDONED,
WRECKED, DISMANTLED, OR INOPERATIVE VEHICLE OR PARTS
THEREOF AS A PUBLIC NUISANCE

(Name and address of owner of the land)

As owner of the land located at ____, as shown on the last equalized assessment roll, you are hereby notified that the undersigned has determined that there exists upon said land an (or parts of an) abandoned, wrecked, dismantled or inoperative vehicle registered to _____, license number _____, which constitutes a public nuisance pursuant to the provisions of Chapter 16, Title 5 of the Avalon Municipal Code.

You are hereby notified to abate said nuisance by the removal of said vehicle (or said parts of a vehicle) within 10 days from the date of mailing of this notice, and upon your failure to do so the same will be abated and removed by the City of Avalon and the costs thereof, together with administrative costs, assessed to you as owner of the land on which said vehicle (or said parts of a vehicle) is located.

You are hereby notified that you may, within 10 days after the mailing of this notice of intention, request a public hearing before the City Manager and if such a request is not received by the City Manager within such 10-day period, the City Manager shall have the authority to abate and remove said vehicle (or said parts of a vehicle) as a public nuisance and assess the costs as aforesaid without a public hearing. You may submit a sworn written statement within such 10-day period denying responsibility for the presence of said vehicle (or said parts of a vehicle) on said land, with your reasons for denial, and such statement shall be construed as a request for hearing at which your presence is not required. You may appear in person at any hearing requested by you or the owner of the vehicle or, in lieu thereof, may present a sworn written statement as aforesaid in time for consideration at such hearing.

Notice Mailed _____ s/_____
(date) City Manager
City of Avalon

NOTICE OF INTENTION TO ABATE AND REMOVE AN ABANDONED,
WRECKED, DISMANTLED OR INOPERATIVE VEHICLE OR PARTS
THEREOF AS A PUBLIC NUISANCE

(Name and address of last registered and/or legal owner of record
of vehicle—notice should be given to both if different)

As last registered (and/or legal) owner of record of (description of vehicle - make, model, license, etc.), you are hereby notified that the undersigned had determined that said vehicle (or parts of a vehicle) exists as an abandoned, wrecked, dismantled or inoperative vehicle at (describe location on public or private property) and constitutes a public nuisance pursuant to the provisions of Chapter 16, Title 5 of the Avalon Municipal Code.

You are hereby notified to abate said nuisance by the removal of said vehicle (or said parts of a vehicle) within 10 days from the date of mailing of this notice of mailing.

As registered (and/or legal) owner of record of said vehicle, you are hereby notified that you may, within 10 days after the mailing of this notice of intention, request a public hearing before the City Manager and if such a request is not received by the City Manager within such 10-day period, the City Manager shall have the authority to abate and remove said vehicle (or said parts of a vehicle) without a hearing.

Notice Mailed _____ s/_____
(date) City Manager
City of Avalon
(§1, Ord. 850, eff. December 7, 1989)

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CHAPTER 17 - BINGO

Sec. 5-17.01 Definitions.

(a) "Bingo" shall mean a game of chance in which prizes are awarded on the basis of designated numbers or symbols on a card which conform to numbers or symbols selected at random.

(b) "Eligible organization" shall mean those organizations identified in Penal Code Section 326.5.
(§2, Ord. 906-94, eff. July 21, 1994)

Sec. 5-17.02 Licensing.

(a) Eligible organizations may apply to the City Council for a revocable license to conduct bingo games in the City of Avalon under the provisions of Penal Code Section 326.5 and this chapter.

(b) No person or organization shall conduct or engage in or cause to be conducted or engaged in a bingo game in the City of Avalon without first having secured a revocable license in accordance with the requirements of this chapter, nor without complying with all regulations pertaining to the operation of bingo games.

(c) Applications for a revocable license to conduct bingo games shall be filed with the Finance Director upon a form to be provided by him together with the required fee. The application shall be filed at least sixty (60) days prior to the conduct of any bingo game, contain a verification and shall specify:

(1) The name, address and telephone number of the local applicant organization, the nature of the organization, a statement that the applicant is an eligible organization and the basis therefor;

(2) The names and addresses of all officers and directors of the organization;

(3) A list of the names of all members of the organization who will operate and staff bingo games, and the date they became members of the organization;

(4) A detailed schedule of the date(s), hours, location and occupancy capacity of the location of each bingo game to be held;

(5) A detailed description of the recording system to be used by the organization to account for receipts, prizes, expenses and profits of each bingo game;

(6) The location and signatory of the special bank account required by Section 5-17.09(a);

(7) The charitable purpose(s) which the bingo proceeds will benefit;

(8) A statement that the applicant agrees to conduct bingo games in strict accordance with the provisions of this chapter;

(9) The address to which notice is to be sent or mailed, and the names of an individual, in addition to the officers and directors listed elsewhere in the application, who is authorized to accept service of process for the licensee;

(10) Signatures of the presiding officer and one other officer of the organization.

(d) Any applicant or holder of a license for bingo games shall notify the Finance Director in writing of any change in the information contained on the application within five (5) days thereof.
(§2, Ord. 906-94, eff. July 21, 1994)

Sec. 5-17.03 Fee.

Applicants for the issuance of a new license or renewal of an existing license shall pay a fee in an amount set by resolution of the City Council.
(§2, Ord. 906-94, eff. July 21, 1994; §5, Ord. 1001-01, eff. November 15, 2001)

Sec. 5-17.04 Review of Application.

Upon receipt of the license fee, the Finance Director shall transmit copies of the application form to interested City departments, including but not limited to, the Sheriff, the Health Officer, Fire Department and Building Official. Every department to which the application has been sent may request such additional information from the applicant as reasonably necessary to determine whether the license should be granted, granted with conditions or denied. Each department shall transmit to the Finance Director written recommendations regarding the application. The Finance Director will notify the applicant of any recommendation that the license should be conditioned or denied.
(§2, Ord. 906-94, eff. July 21, 1994)

Sec. 5-17.05 Hearing.

The Finance Director shall set a hearing on the application before the City Council and provide the applicant with at least ten (10) days' written notice of the hearing. The City Council may issue the license, impose such conditions as within its discretion are necessary to ensure that the bingo game will be conducted in accordance with this chapter and that the proceeds will be applied as required, or may deny the license upon a factual finding that the application contains deceptive or misleading information or the applicant has engaged in any fraudulent or criminal transaction.
(§2, Ord. 906-94, eff. July 21, 1994)

Sec. 5-17.06 Revocation of License.

Upon ten (10) days' notice to the licensee, the City Council may conduct a hearing to determine whether a license shall be revoked, suspended or new conditions imposed. The City Council may take such action upon a finding that the licensee has violated any condition of the license or any provision of this chapter.
(§2, Ord. 906-94, eff. July 21, 1994)

Sec. 5-17.07 Conduct of Bingo Games.

(a) A bingo game shall be operated, managed and staffed only by members of the licensee organization who shall wear on their outside clothing a legible identification badge indicating the name and title of the staff member. No member of the organization which operates any bingo game shall receive any profit, wage, salary or any other direct or indirect consideration from such game. Only the licensee shall operate the game, or participate in the promotion, supervision or any other phase of the bingo game.

(b) All bingo games shall be open to the public, not just to the members of the licensee organization, except that attendance shall be limited to the occupancy capacity of the room where the game is conducted. No admission fee, purchase or donation shall be required for entry to the location where the bingo game is conducted. The licensee shall not reserve seats or space for any person.

(c) No bingo game shall be conducted between the hours of midnight and 10:00 a.m. The City Council may impose additional limitations on the hours and number of days that a licensee may conduct bingo games.

(d) No person shall be allowed to participate in a bingo game unless the person is physically present at the time and place in which the game is being conducted.

(e) During the conduct of any bingo game, the licensee shall post at the public entrance in a conspicuous place the license and the costs, prizes and rules of each game to be played.

(f) A licensee shall conduct a bingo game only on property owned or leased by it and which property is used by the organization for performance of the purposes of the organization. Bingo games may be conducted only on such property or addresses stated in the application.

(g) No licensee shall issue chips or money to a patron on credit or loan (including but not limited to IOU's or checks to be held) or allow any patron to play on credit.

(h) No person under the age of eighteen (18) years of age shall be allowed to participate in any bingo game.

(i) No alcoholic beverages shall be served or consumed during the hours of operation and no person who is intoxicated shall be allowed to participate in a bingo game.

(j) No person shall interfere with, prevent or refuse to permit a sheriff or other peace officer to make an examination or inspection of any premises or any record kept by the licensee for the purpose of determining whether the licensee is complying with the provisions of this chapter and other applicable statutes and regulations.
(§2, Ord. 906-94, eff. July 21, 1994)

Sec. 5-17.08 Prizes.

The total value of prizes awarded during the conduct of any bingo games shall not exceed Two Hundred Fifty and no/100ths ($250.00) Dollars in cash or kind or both, for each separate game which is held. All monetary prizes shall be paid in the form of a check drawn on a financial institution. The licensee shall keep a record on forms provided by the sheriff, of the name, address, and telephone number and signature of the winner, and the consecutive serial number on the receipt for the prize.
(§2, Ord. 906-94, eff. July 21, 1994)

Sec. 5-17.09 Proceeds.

(a) *Use Restrictions.* Within twenty-four (24) hours, all proceeds derived from a bingo game shall be deposited in a special account and such funds shall not be commingled with any other fund or account. The proceeds derived from the operation of bingo shall be used only for charitable purposes and disbursed by check at least quarterly, except that:

(1) Proceeds may be used for prizes at authorized bingo games.

(2) A portion of the proceeds, not to exceed twenty (20%) percent of the proceeds after deduction for prizes, or Two Thousand and no/100ths ($2,000.00) Dollars per month, whichever is less, may be used for rental or property, overhead, security and administrative expenses.

(b) *Accounting.* A licensee shall keep full and accurate records of the income and expenses received and disbursed in connection with its operation, conduct, promotion, supervision and any other phase of bingo games. At least two (2) members of the licensed organization shall jointly count all bingo proceeds. The City shall have the right to examine and audit such records at any reasonable time and the licensee shall fully cooperate with the City by making such records available. The City may demand a complete detailed accounting of all income and expenditures at any time. If the licensee fails to render the accounting within the time limit set by the City, the license shall be temporarily suspended until such accounting is rendered.
(§2, Ord. 906-94, eff. July 21, 1994)

Sec. 5-17.10 Violations.

Violations of any provision of this chapter shall be a misdemeanor punishable by a fine of One Thousand and no/100ths ($1,000.00) Dollars and/or six (6) months in jail, except as otherwise stated in the Penal Code.
(§2, Ord. 906-94, eff. July 21, 1994)

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CHAPTER 18 - ILLEGAL ACTIVITIES

Sec. 5-18.01 Lookouts for Illegal Activities Prohibited.

Every person who acts as a guard or lookout for any building, public place, premises or establishment used for gambling, prostitution, controlled substances or any other form of vice or illegal act, or where alcoholic beverages are illegally kept, sold or purchased, or for any person soliciting, offering or engaging in prostitution, gambling, controlled substances sale or use, illegal sale or use of alcoholic beverages or any other form of vice or illegal act, is guilty of a misdemeanor.
(§1, Ord. 1021-04, eff. April 15, 2004)

Sec. 5-18.02 Signaling Approach of Police Prohibited.

Every person who gives any signal intended to or calculated to warn or give warning of the approach of any peace officer to any person in or about any building or premises or places mentioned in Section 5-18.01 of this chapter is guilty of a misdemeanor. It is not necessary to show that the signal was given for any person or persons known to the signaler; it is sufficient if it is given to a person in the places mentioned.
(§1, Ord. 1021-04, eff. April 15, 2004)

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CHAPTER 20 - MEDICAL MARIJUANA DISPENSARIES

Sec. 5-20.01 Definitions.

The following words and phrases shall, for the purposes of this chapter, have the meanings respectively ascribed to them by this section, as follows:

"Cultivation" shall mean any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.

"Medical marijuana dispensary" shall mean any facility or location, including any clinic, cooperative, club, business or group which dispenses, sells, provides, transports or delivers, or arranges the dispensing, sale provision, transport or delivery, of medical marijuana to any person, firm, corporation, association, club, society, or other organization or any owner, manager, proprietor, employee, volunteer, or salesperson thereof, whether such facility, location or delivery service is independent from or affiliated with any fixed facility or location in the City, where medical marijuana is made available to, distributed by, sold or supplied to one or more of the following: (1) more than a single qualified patient, (2) more than a single person with an identification card, or (3) more than a single primary caregiver. Unless otherwise regulated by ordinance or applicable law, a "medical marijuana dispensary" shall not be construed to include the following uses: (1) a clinic licensed pursuant to Chapter 1 of Division 2 of the California Health & Safety Code, (2) a health care facility licensed pursuant to Chapter 2 of Division 2 of the California Health & Safety Code, (3) a residential care facility for persons with chronic life-threatening illnesses licensed pursuant to Chapter 3.01 of Division 2 of the California Health & Safety Code, (4) a residential care facility for the elderly licensed pursuant to Chapter 3.2 of Division 2 of the California Health & Safety Code, (5) a residential hospice or home health agency licensed pursuant to Chapter 8 of Division 2 of the California Health & Safety Code, to the extent that such use strictly complies with applicable law, including but not limited to California Health & Safety Code Section 11362.5, et seq. A medical marijuana cooperative is two or more persons collectively or cooperatively cultivating, using, transporting, processing, administering, delivering or making available medical marijuana, with or without compensation. The term "medical marijuana cooperative" shall include a medical marijuana collective. All terms used in this definition of medical marijuana dispensary, including but not limited to "medical marijuana," "qualified patient," "identification card," and "primary caregiver," shall be as defined in California Health & Safety Code Section 11362.5, et seq.

"Mobile marijuana dispensary" shall mean any clinic, cooperative, club, business or group which transports or delivers, or arranges the transportation or delivery, of medical marijuana to a person, whether in furtherance of a medical marijuana dispensary or not.

"Operation" shall mean any effort to locate, operate, own, lease, supply, allow to be operated, or aid, abet or assist in the operation of a medical marijuana dispensary or a mobile marijuana dispensary.

"Person" shall mean any person, firm, corporation, association, club, society, or other organization. The term person shall include any owner, manager, proprietor, employee, volunteer or salesperson.
(§2, Ord. 1123-13, eff. September 19, 2013; §1, Ord. 1146-16, eff. February 24, 2016)

Sec. 5-20.02 Medical Marijuana Dispensary Unlawful.

Medical marijuana dispensaries, as the term is defined in this chapter, are prohibited in the City of Avalon. No person shall locate, operate, own, suffer, allow to be operated or aide, abet or assist in the operation of any medical marijuana dispensary within the City.
(§2, Ord. 1123-13, eff. September 19, 2013)

Sec. 5-20.03 Mobile Marijuana Dispensary Unlawful.

Mobile marijuana dispensaries, as the term is defined in this chapter, are prohibited in the City of Avalon. No person shall locate, operate, own, suffer, allow to be operated or aide, abet or assist in the operation of any mobile marijuana dispensary within the City.
(§2, Ord. 1123-13, eff. September 19, 2013)

Sec. 5-20.04 Marijuana Delivery Unlawful.

(a) No person shall deliver marijuana to any location within the City from a mobile marijuana dispensary, regardless of where the mobile marijuana dispensary is located, or engage in any operation for this purpose.

(b) No person shall deliver any marijuana-infused product such as tinctures, baked goods or other consumable products, to any location within the City from a mobile marijuana dispensary, regardless of where the mobile marijuana dispensary is located, or engage in any operation for this purpose.

(c) No person shall deliver any marijuana or marijuana-infused products with such delivery originating from any medical marijuana dispensary or mobile marijuana dispensary located within the City, regardless of whether the delivery destination is within the City.
(§2, Ord. 1123-13, eff. September 19, 2013)

Sec. 5-20.05 Public Nuisance Declared.

Operation of any medical marijuana dispensary or any mobile marijuana dispensary within the City in violation of the provisions of this chapter is hereby declared a public nuisance and shall be abated pursuant to all available remedies.
(§2, Ord. 1123-13, eff. September 19, 2013)

Sec. 5-20.06 Violations.

Violations of this chapter may be enforced by any applicable law. Notwithstanding any other provision of the Code, a violation of this chapter is not subject to criminal penalties. (§2, Ord. 1123-13, eff. September 19, 2013)

Sec. 5-20.07 Marijuana Cultivation.

(a) Cultivation of marijuana shall be considered a prohibited use in all zoning districts of the City. No use permit, variance, building permit, or any other entitlement or permit, whether administrative or discretionary, shall be approved or issued for the establishment of any marijuana cultivation uses as defined herein in any zoning district, and no person shall otherwise establish such businesses or operations in any zoning district.
(§2, Ord. 1146-16, eff. February 24, 2016)

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CHAPTER 1 - FOWL, DOGS, AND OTHER ANIMALS

Chapter 1 entitled "Animals and Fowl," consisting of Article 1 entitled "Licensing, Care, and Impounding," consisting of Sections 6-1.101 through 6-1.113, codified from Ordinance Nos. 11 and 381, as amended by Ordinance No. 466 and Ordinance No. 452, effective August 18, 1971, and Article 2 entitled "Vaccination of Dogs," consisting of Sections 6-1.201 through 6-1.205, codified from Ordinance No. 388, as amended by Ordinance No. 405, amended in its entirety by Section 1, Ordinance No. 609, effective October 15, 1975.

Article 1. Licensing, Care, Impounding, and Vaccinations*

Sec. 6-1.101 Animal Shelter.

There shall be provided by the City a suitable enclosure or place for the purpose of keeping and safely holding impounded, unwanted, or stray fowl, dogs, or other animals, which place shall be designated as the "Animal Shelter." The Animal Control Officer shall ensure that all such fowl, dogs, or other animals will be disposed of only by return to their owners, adoption into good homes, or humane euthanasia, as provided in this article.

(§1, Ord. 609, eff. October 15, 1975)

Sec. 6-1.102 Dog Tax and Tags.

No person shall own or have the custody or control of any dog, male or female, over the age of four (4) months within the City without at all times having upon such dog a collar or harness to which shall be securely fastened a tag as provided in this article, which tag shall be obtained from the Director of Finance inscribed with the words, "Avalon, California Dog Tag," and with the serial number of such tag, and with the year for which the tag is issued, such tag being sufficient only during the calendar year designated upon the tag.

The provisions of this section shall not apply to a person having the custody or control of a dog if such person is temporarily within the City and such dog has a current tag attached to its harness or collar from another city or county. The word "temporarily," for the purposes of this section, shall be deemed to be a period of time less than one year.

(§1, Ord. 609, eff. October 15, 1975)

Sec. 6-1.103 Dog Tax: License Period.

The license tax set forth in this article shall be due and payable on January 1 of each year, except that the license tax for dogs which become subject to the provisions of this article on or after July 1 shall be fifty (50%) percent of the described fee.

(§1, Ord. 609, eff. October 15, 1975)

Sec. 6-1.104 Dog License Fees: Vaccinations.

A license shall be issued upon the payment of a fee to be set by resolution of the City Council, and a certificate showing that such dog has been inoculated with chick embryo rabies vaccine within the last two (2) preceding years or that such dog has been inoculated with nerve tissue rabies vaccine within the last preceding year.

(§1, Ord. 609, eff. October 15, 1975; § Ord. 1001-01, eff. November 15, 2001)

Sec. 6-1.105 Dog License Tags: Use Required: Counterfeit Tags.

Any person who shall fail to attach or keep upon any dog a current license tag as provided in this article, or who shall make, have in his or her possession, or attach to or keep upon any dog any counterfeit, imitation, or altered license tag, shall be guilty of a misdemeanor. Duplicate tags shall be issued by the City to replace lost or stolen tags upon payment of a fee in an amount to be set by resolution of the City Council.

(§1, Ord. 609, eff. October 15, 1975; §7, Ord. 1001-01, eff. November 15, 2001)

Sec. 6-1.106 Dog Tax Tags: Procurement: Records.

The Director of Finance is authorized and directed to procure, for each calendar year, such quantity of tags as may be required for dogs in the City, which tags shall be plainly inscribed as set forth in this article and which shall be used only for the year inscribed upon such tags. The Director of Finance shall keep a register wherein shall be entered the name of every person to whom a dog tax tag shall have been issued, together with the serial number and year designated upon such tag, the date of issuance, the address of the applicant, and any other data deemed pertinent. Such tag shall be good only for use upon the dog described in the application.

(§1, Ord. 609, eff. October 15, 1975)

Sec. 6-1.107 Dog Tax: Penalties.

A penalty of Three and no/100ths ($3.00) Dollars shall be added to the price of any tag secured more than sixty (60) days subsequent to January 1 of each year; provided, however, no penalty shall be added for the securing of any tag secured within sixty (60) days after the date on which the dog for which the tag is secured shall become subject to the provisions of this article, nor shall any penalty be added for a tag secured within sixty (60) days after the applicant becomes the owner of the dog for which the tag is sought.

(§1, Ord. 609, eff. October 15, 1975)

Sec. 6-1.108 Dog Tax: Exemption of Certain Dog Owners.

No license fee or tax shall be required for the issuance of tags to the owner of any dog duly and properly trained to aid or assist blind persons when such dog is actually being used by a blind person for the purpose of aiding or assisting such blind person in going from place to place. The Director of Finance shall annually issue tags free of charge to the owners or persons having the custody and control of such dogs.

(§1, Ord. 609, eff. October 15, 1975)

Sec. 6-1.109 Animals at Large.

(a) *Control of Animals.* No person having the control of any fowl, dog, or other animal shall permit the same to stray, run, or be at large in or upon any public street or beach or other public place within the City or upon any private road or the premises of another without the permission of the owner of such premises. Any fowl, dog, or other animal so found at large in any such place may be impounded as provided in this article.

(b) *Penalties.* Any person who violates any provision of this section shall be deemed guilty of an infraction punishable by:

(1) A fine not exceeding Fifty ($50.00) Dollars for a first violation;

(2) A fine not exceeding One Hundred ($100.00) Dollars for a second violation within one (1) calendar year of the first violation;

(3) A fine not exceeding Two Hundred ($200.00) Dollars for each additional violation within one (1) year.

(4) Penalties for violations involving a potentially dangerous or vicious dog shall be assessed in accordance with Section 6-1.132 for each violation.

(§1, Ord. 609, eff. October 15, 1975; §1, Ord. 1025-04, eff. August 19, 2004; § 2, Ord. U-1157-17, eff. May 2, 2017)

Sec. 6-1.110 Leashes Required.

No person owning, having a proprietary interest in, harboring, or having the care, charge, control, custody, or possession of any fowl, dog, or other animal shall permit the same to be in or upon any public street, park, or other public place, except an area specifically designated by the City for such purpose, unless such fowl, dog, or other animal shall be upon a secure leash not more than six (6') feet long held continuously in the hands of a responsible person capable of controlling the same or unless such fowl, dog, or other animal shall be securely confined within an automobile; nor shall any such person permit such fowl, dog, or other animal to be in or upon any unenclosed lot or premises unless such fowl, dog, or animal shall be securely leashed upon such unenclosed lot or premises. Any such fowl, dog, or other animal so at large in any such place, or not on a leash or chain, may be impounded as provided in this article.

(§2, Ord. 1025-04, eff. August 19, 2004)

Sec. 6-1.111 Restricted Areas.

(a) *Designated.* Except as provided in subsection (b) of this section, but notwithstanding any other provisions of this article, no person having the control, charge, or custody of any fowl, dog, or other animal shall permit or allow the same to be at any time in or upon the following described areas:

(1) All public beaches within the City;

(2) Crescent Avenue at its intersection with Metropole Avenue to its intersection with Clarissa Avenue;

(3) Sumner Avenue from its intersection with Crescent Avenue to its intersection with Calle Del Paseo;

(4) Catalina Avenue from its intersection with Calle Del Paseo to its intersection with Crescent Avenue; and

(5) Cabrillo Mole and Pleasure Pier.

(b) *Exception.* The provisions of this section shall not limit or prohibit the taking of a dog or other animal across the public streets and areas designated in this section at an intersection with another street provided the bringing of such dog or other animal into such inter-section is for the immediate and necessary purpose of using public or private transportation for such dog or other animal or to take such dog or other animal into a nonrestricted area. While transporting the dog or other animal, the owner or keeper shall comply with the leash requirement set forth in Section 6-1.110 of this chapter and shall also place a muzzle or other restrictive device over the mouth of the dog or animal being transported.

(c) *Permit.* The City Manager is hereby authorized to grant a permit to allow persons to bring animals on Crescent Street for a limited period of time in connection with a special event or activity, but such permit shall be conditioned to address animal waste, noise, protection of property, pedestrian safety, and potential aggressive actions by the animals. The permit shall be subject to a fee set by resolution of the City Council.

(§1, Ord. 609, eff. October 15, 1975, as amended by §1, Ord. 615, eff. December 17, 1975; §1, Ord. 1073-08, eff. September 4, 2008; § 3, Ord. U-1157-17, eff. May 2, 2017)

Sec. 6-1.112 Rabies Control: Bites: Reports of Physicians and Victims: Treatments.

It shall be the duty of each physician to report to the Animal Control Officer any case coming to the physician's attention in which a person has been bitten by, or otherwise exposed to, an animal of a species subject to rabies, giving the full name, age, and address of the person who has been bitten. If no physician is in attendance on such case, such report shall be made by the person bitten or otherwise exposed or, in the case of a minor, by his parent or guardian. The Animal Control Officer shall order the quarantine and observation of the biting animal until it is established by the Animal Control Officer that such animal does not have symptoms of rabies.

(§1, Ord. 609, eff. October 15, 1975, as amended by §2, Ord. 615, eff. December 17, 1975)

Sec. 6-1.113 Rabies Control: Bites: Quarantine: Term.

The biting animal shall be quarantined, confined, and observed for at least fourteen (14) days (dogs and cats for ten (10) days) after the day of the infliction of the bite, with the exception that the following alternative to the ten (10) day isolation of dogs and cats shall be permitted: dogs or cats which have been isolated in strict confinement under the proper care and under the observation of a licensed veterinarian in a pound, veterinary hospital, or other adequate facility in a manner approved by the Health Officer may be released from isolation by the Health Officer after five (5) days of veterinary observation if, upon conducting a thorough physical examination on the fifth (5th) day or more after the infliction of the bite, the observing veterinarian certifies that there are no clinical signs or symptoms of any disease.

(§1, Ord. 609, eff. October 15, 1975)

Sec. 6-1.114 Rabies Control: Bites: Quarantine: Place.

Such quarantine may be made on the property of the person having the charge, custody, or control of such animal when adequate quarantine facilities are available, or, at the discretion of the Animal Control Officer, such animal may be placed under quarantine, and observation in any licensed boarding kennel.

Should the animal be relinquished by the owner to the Animal Control Officer to be disposed of upon release from quarantine, the Animal Control Officer may, at his discretion, impound such animal in an approved animal control facility.

(§1, Ord. 609, eff. October 15, 1975)

Sec. 6-1.115 Rabies Control: Bites: Reports of Owners: Inspections.

Whenever the owner or person having the charge, custody, or control of any animal shall observe or learn that such animal has bitten or otherwise exposed a human being, such owner or person having the charge, custody, or control of such animal shall report the incident at once to the Animal Control Officer and shall confine such animal in an enclosure or shall securely hold and restrain such animal by chain or other device for examination and observation by the Animal Control Officer. No owner or person having the charge, custody, or control of such animal shall fail, refuse, or neglect to allow the Animal Control Officer to make an inspection or examination of such animal for the purpose of determining whether such animal has symptoms of rabies.

(§1, Ord. 609, eff. October 15, 1975)

Sec. 6-1.116 Rabies Control: Bites: Quarantine by Owners.

No owner or person having the charge, custody, or control of any animal biting or otherwise exposing a human being shall fail, refuse, or neglect to confine in an enclosure or securely hold and restrain such animal by chain or other device upon the premises of the owner or person having the charge, custody, or control of such animal for the period of quarantine set forth in Section 6-1.113 of this article. Should such animal die while under quarantine and observation, the owner or person having the charge, custody, or control of such animal shall surrender the carcass of such animal, or such portion of the carcass, as may be demanded by the Animal Control Officer.

(§1, Ord. 609, eff. October 15, 1975)

Sec. 6-1.117 Rabies Control: Bites: Quarantine: Destruction of Animals.

It shall be unlawful for any owner or person having the charge, custody, or control of any animal that has bitten or otherwise exposed a human being or is suspected of having rabies to destroy such animal or have such animal destroyed during the quarantine period, unless permission is granted by the Animal Control Officer.

(§1, Ord. 609, eff. October 15, 1975)

Sec. 6-1.118 Rabies Control: Symptoms of Rabies: Reports.

Whenever the owner or person having the charge, custody, or control of any animal shall learn or observe that such animal has shown symptoms of rabies or has acted in a manner which would give such person or owner reason to believe that such animal has rabies, it shall be unlawful for such owner or person having the charge, custody, or control of such animal to fail, refuse, or neglect to notify the Animal Control Officer at once and to confine such animal in an en-closure; or to securely hold and restrain such animal by chain or other device until it shall be established that such animal does not have symptoms of rabies; or to fail, refuse, or neglect to allow the Animal Control Officer to inspect or examine such animal for symptoms of rabies.

(§1, Ord. 609, eff. October 15, 1975)

Sec. 6-1.119 Rabies Control: Contacts with Rabid Animals: Quarantine.

Animal contacts of a known rabid or suspected rabid animal shall be quarantined in a place and manner and for a period of time designated by the Animal Control Officer.

(§1, Ord. 609, eff. October 15, 1975)

Sec. 6-1.120 Impounding.

It shall be the duty of the Animal Control Officer to take up any fowl, dog, or other animal found upon any public property within the City in violation of any of the provisions of this article and, if the owner cannot be immediately located, to deliver such fowl, dog, or other animal to the Animal Shelter.

(§1, Ord. 609, eff. October 15, 1975)

Sec. 6-1.121 Keeping and Feeding Impounded Animals.

The Animal Control Officer shall safely keep all fowl, dogs, or other animals impounded at the Animal Shelter, and shall furnish the same with all necessary food and water, and shall give the same ordinary attention as may appear to be reasonably required for the welfare of such fowl, dogs, or other animals.

(§1, Ord. 609, eff. October 15, 1975)

Sec. 6-1.122 Impounding: Notices.

If a dog which is properly tagged and licensed is impounded, the Animal Control Officer shall at once give notice, either personally or by postcard, to the owner of such dog that the dog is impounded. If such dog is not properly tagged and licensed, or if any fowl or other animal is impounded, and the Animal Control Officer is unable to determine the owner thereof, a written notice shall be placed on the Bulletin Board at the City Hall and in the Atwater Arcade. Such notice shall contain a brief description of such fowl, dog, or other animal and shall contain a statement to the effect that if such dog is not redeemed and the license and other fees paid, if such license shall be due, or, as to any fowl or other animal, if such fowl or other animal is not redeemed and the fees thereon paid within one hundred twenty (120) hours from such notification, such fowl, dog, or other animal will be turned over to the Avalon Humane Society, Inc., for disposition per agreement entered into with the City.

(§1, Ord. 609, eff. October 15, 1975)

Sec. 6-1.123 Redemption by Owners.

The owner or person entitled to the possession of any impounded fowl, dog, or other animal shall have the right to redeem and have the possession of the same, at any time prior to the sale or other disposition thereof, upon payment to the Animal Control Officer of the costs and charges incident to the impounding, taking, and keeping thereof upon satisfactory proof of the ownership and right of possession of such fowl, dog, or other animal being made to the Animal Control Officer. As an incident to the redemption of any dog, such owner or other person shall also pay the license tax, plus any penalty, for any dog for which a license has not been issued for the current year. The person redeeming the dog shall also provide satisfactory evidence of compliance with the provisions of Section 6-1.104 of this article.

(§1, Ord. 609, eff. October 15, 1975)

Sec. 6-1.124 Impounding and Boarding Fees.

The City Council shall set by resolution from time to time the fees to be charged for impounding and boarding of animals.

(§1, Ord. 609, eff. October 15, 1975; as amended by §1, Ord. 932-96, eff. September 19, 1996)

Sec. 6-1.125 Impounding: Nonredemption.

Failure to redeem any impounded fowl, dog, or other animal in the time fixed by the provisions of this article shall not absolve the owner thereof, or the person having the control, charge, or custody thereof, of having violated any of the provisions of this article.

(§1, Ord. 609, eff. October 15, 1975)

Sec. 6-1.126 Sterilization.

No unclaimed dog or cat shall be released for adoption without being sterilized, or without a written agreement from the adopter guaranteeing that such animal will be sterilized, and without the payment of a deposit of Twenty-Five and no/100ths ($25.00) Dollars which shall be refunded upon presentation of satisfactory evidence that such sterilization has been accomplished.

(§1, Ord. 609, eff. October 15, 1975)

Sec. 6-1.127 Animal Noises Prohibited.

It shall be unlawful for any person to keep, maintain or permit on any lot, parcel of land, premises or vehicle under his control any animal including any fowl, which by sound or cry shall disturb the peace and comfort of the inhabitants and guests within the City, or in any way interfere with any person in the comfortable enjoyment of life or property. Violation of this section shall be deemed an infraction and shall be punishable as provided in Section 1-2.01(b) of the Avalon Municipal Code.

(§1, Ord. 609, eff. October 15, 1975; §1, Ord. 804, eff. May 7, 1987)

Sec. 6-1.128 Animal Care.

(a) No owner shall fail to provide his fowl, dog, or other animal with sufficient good and wholesome food and water, proper shelter and protection from the weather, veterinary care when needed to prevent suffering, and humane care and treatment.

(b) No person shall beat, cruelly ill treat, torment, overload, overwork, or other-wise abuse any fowl, dog or other animal or cause, instigate, or permit any dogfight, cock-fight, bullfight, or other combat between any fowl, dog, or other animal or between the same and humans.

(c) No owner of any fowl, dog, or other animal shall abandon the same.

(§1, Ord. 609, eff. October 15, 1975)

Sec. 6-1.129 Animal Waste Prohibited.

(a) No person shall permit an animal owned by him or while in his custody to excrete any solid waste in any public place or on any private premises not the property of such owner; provided, however no violation of this section shall occur if the owner or person having the control, charge, or custody of the offending animal promptly and voluntarily re-moves the animal waste.

(b) Any citizen who observes an animal excreting solid waste in a public place or on any private premises not the property of the animal's owner, may file a complaint on a form issued by the City with the Code Enforcement Officer. Upon receiving such a complaint the Code Enforcement Officer may cite the owner of the animal for a violation of this section.

(c) Any individual who is walking an animal on any public property or any private premises not the property of the animal's owner, shall be required to have in their possession at all times a device suitable for picking up and disposing of the animal's solid waste.

(d) Any person who violates any provision of this section shall be deemed guilty of an infraction punishable by:

(1) A fine not exceeding Fifty and no/100ths ($50.00) Dollars for a first violation within one year;

(2) A fine not exceeding One Hundred and no/100ths ($100.00) Dollars for a second violation within one year;

(3) A fine not exceeding Two Hundred and no/100ths ($200.00) Dollars for each additional violation within one year.

A person shall be deemed guilty of a separate offense for every day during which portion of which any violation of this section is committed, continued, or permitted, and shall be punishable as provided herein.

(§1, Ord. 609, eff. October 15, 1975; amended by §1, Ord. 675, eff. January 16, 1980)

Sec. 6-1.130 Potentially Dangerous Dog; Vicious Dog.

It shall be unlawful for any person to keep within the City a potentially dangerous dog or a vicious dog.

(a) "Potentially dangerous dog" means any of the following:

(1) Any dog which, when unprovoked, on two separate occasions within the prior 36-month period, engages in any behavior that requires a defensive action by any person to prevent bodily injury when the person and the dog are off the property of the owner or keeper of the dog.

(2) Any dog which, when unprovoked, bites a person causing a less severe injury than as defined in Section 31604 of the Food and Agricultural Code.

(3) Any dog which, when unprovoked, on two separate occasions within the prior 36-month period, has caused injury attacking a domestic animal off the property of the owner or keeper of the dog.

(4) Any dog that has been deemed to be a potentially dangerous dog by another public entity.

(b) "Vicious dog" means any of the following:

(1) Has bitten or caused serious injury to a person or domestic animal without provocation.

(2) Menaces or attempts to bite or attack any person without provocation.

(3) Engages in an attack which requires defensive action by any person to prevent bodily injury when such person is acting in a peaceful and lawful manner.

(4) Engages in or is found to have been trained to engage in exhibitions of fighting.

(5) Any dog that has been deemed to be a vicious dog by another public entity.

(§5, Ord. 952-98, eff. May 7, 1998; § 4; Ord. U-1157-17, eff. May 2, 2017)

Sec. 6-1.131 Dog Bites by Dogs at Large.

An owner or custodian of a dog who permits, allows or causes a dog to run, stray or be uncontrolled or at large upon a public street, sidewalk, park or other public property, or in or upon private property of another person, is guilty of a public offense punishable as set forth in Section 6-1.132 if such dog bites, attacks, causes injury to any human being or another domestic animal unless such human being provoked the attack or the other domestic animal initiated the altercation.

(§6, Ord. 952-98, eff. May 7, 1998)

Sec. 6-1.132 Violations; Limitations on Subsequent Ownership.

(a) Violations of Sections 6-1.109, 6-1.110, 6-1.111, 6-1.130, and 6-1.131 shall be punishable as an infraction or misdemeanor.

(b) Any violation of Sections 6-1.109, 6-1.110, 6-1.111, 6-1.130, and 6-1.131 involving a potentially dangerous dog shall be punished by a fine not to exceed Five Hundred ($500.00) Dollars. Any violations of Sections 6-1.109, 6-1.110, 6-1.111, 6-1.130, and 6-1.131 involving a vicious dog shall be punished by a fine not to exceed One Thousand ($1,000.00) Dollars.

(c) In addition to the foregoing, any person who has been convicted of a violation of Sections 6-1.109, 6-1.110, 6-1.111, 6-1.130, or 6-1.131, or who owns or has control of a dog which has been determined to be potentially dangerous or vicious by another public agency, a proceeding under Section 6-1.134, or by a court to be vicious in proceedings brought under Section 31621 of the Food & Agricultural Code shall be prohibited from keeping any dog within the City limits for a period of three (3) years, except that upon the written request of the person so convicted, the court may, upon a showing of good cause, set a shorter time period.

(§7, Ord. 952-98, eff. May 7, 1998; § 5, Ord. U-1157-17, eff. May 2, 2017)

Sec. 6-1.133 Liability for Injury or Damages.

(a) Any person owning, controlling or having care or custody of any animal shall be liable for any injury and for any damage caused to any public or private property caused by such animal.

(b) Any person owning, controlling or having care or custody of any animal shall take such reasonable and necessary precautions as required to protect all persons from physical harm from such animal, and to protect the private property of any other person, including, but not limited to, obedience training, muzzles and other similar means of controlling known destructive or violent tendencies of such animal.

(§7, Ord. 952-98, eff. May 7, 1998)

Sec. 6-1.134 Procedure for Declaring Dog Potentially Dangerous or Vicious.

(a) If an Animal Control Officer or a law enforcement officer has investigated and determined that there exists probable cause to believe that a dog is potentially dangerous or vicious, the Animal Control Officer or his or her immediate supervisor or the head of the local law enforcement agency, or his or her designee, may request an administrative hearing regarding the dog's disposition. The hearing shall be conducted in accordance with the procedures outlined in Section 1-9.06(b)-(l) of the Avalon Municipal Code. The hearing shall be conducted as an administrative appeal in accordance with the procedures outlined in Section 1-9.06(b)-(l) of the Avalon Municipal Code, despite the lack of an underlying citation.

(b) This section shall not restrict the City's ability to petition the Superior Court of Los Angeles County for a hearing regarding the dog's disposition in lieu of using the administrative hearing referenced above in subsection (a).

(§ 6, Ord. U-1157-17, eff. May 2, 2017)

Sec. 6-1.135 Seizure and Impoundment of Potentially Dangerous or Vicious Dog.

(a) If upon investigation it is determined by the Animal Control Officer or law enforcement officer that probable cause exists to believe the dog in question poses an immediate threat to public safety, then the Animal Control Officer or law enforcement officer may seize and impound the dog pending the hearings to be held pursuant to this article. The owner or keeper of the dog shall be liable to the City or County where the dog is impounded for the costs and expenses of keeping the dog, if the dog is later adjudicated potentially dangerous or vicious.

(b) When a dog has been impounded pursuant to subsection (a) and it is not contrary to public safety, the Animal Control Officer shall permit the animal to be confined at the owner's expense in a City approved kennel or veterinary facility.

(§ 7, Ord. U-1157-17, eff. May 2, 2017)

Sec. 6-1.136 Procedure for Destruction of Potentially Dangerous or Vicious Dogs.

(a) A dog determined to be a vicious dog may be destroyed by the Animal Control Officer when it is found, after proceedings conducted under Section 6-1.134 of this chapter, that the release of the dog would create a significant threat to the public health, safety, and welfare.

(b) If it is determined that a dog found to be vicious shall not be destroyed, the judicial authority shall impose conditions upon the ownership of the dog that protect the public health, safety, and welfare.

(c) Any enclosure that is required pursuant to subdivision (b) shall meet the requirements of Section 31605 of the Food and Agricultural Code.

(§ 8, Ord. U-1157-17, eff. May 2, 2017)

Sec. 6-1.137 Domestic Cats.

With the exception of Sections 6-1.112 through 6-1.119, and 6-1.121 through 6-1.129 of this article, the provisions of this article shall not apply to domestic cats.

(§1, Ord. 609, eff. October 15, 1975; §1, Ord. 952-98, eff. May 7, 1998; §1, Ord. 1094-10, eff. June 17, 2010)

Sec. 6-1.138 Pound Reports.

The Animal Control Officer shall make a monthly report of the number of fowl, dogs, and other animals impounded, redeemed, or otherwise disposed of, together with a record of receipts and disbursements, and file such reports with the City Manager.

(§1, Ord. 609, eff. October 15, 1975; §2, Ord. 952-98, eff. May 7, 1998)

Sec. 6-1.139 Code Enforcement Officer to Serve as Animal Control Officer.

The Animal Control Officer shall be the Code Enforcement Officer of the City.

(§1, Ord. 609, eff. October 15, 1975; §3, Ord. 952-98, eff. May 7, 1998)

Sec. 6-1.140 Deposit of Funds.

The Animal Control Officer shall deposit all funds collected by him as license taxes, impounding fees or costs, and boarding fees or otherwise with the Director of Finance at least once each week, who shall deposit such moneys in the General Fund of the City.

(§1, Ord. 609, eff. October 15, 1975; §4, Ord. 952-98, eff. May 7, 1998)

Sec. 6-1.141 Mandatory Spay and Neuter Program.

(a) The following breeds of dogs are "restricted dogs," and are subject to the mandatory spay and neutering requirements of this section:

(1) Pit bulls, including any dog that is an American Pit Bull Terrier, American Staffordshire Terrier, Staffordshire Bull Terrier, or any dog that exhibits physical characteristics which predominantly conform to the standards established by the American Kennel Club (AKC), United Kennel Club (UKC), or American Dog Breeders Association (ADBA) for any of the above breeds.

(2) Reserved.

(3) Reserved.

(b) No person may own, keep, or harbor a restricted dog in violation of this section. An owner or keeper of an unaltered restricted dog must have the dog spayed or neutered or submit written proof to the City that one of the following exceptions applies:

(1) The restricted dog is less than four (4) months of age;

(2) The restricted dog cannot be spayed or neutered without a high likelihood of suffering serious bodily harm or death, which has been confirmed in writing by a licensed veterinarian. If applicable, the writing must also state the date by which the dog may be safely spayed or neutered; or

(3) The owner or custodian has owned or taken custody of the dog within the past thirty (30) days.

(§ 9, Ord. U-1157-17, eff. May 2, 2017)

Sec. 6-1.142 Statistical Reporting Requirements.

Pursuant to Section 122331(b) of the California Health and Safety Code, the Animal Control Officer shall measure the effect of this chapter by compiling statistical information on dog bites. The information shall, at a minimum, identify dog bites by severity, the breed of the dog involved, whether the dog was altered, and whether the breed of dog was subject to the mandatory spay and neutering requirement of this chapter. The Animal Control Officer, shall submit these statistics on a quarterly basis to the State Public Health Veterinarian.

(§ 10, Ord. U-1157-17, eff. May 2, 2017)

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CHAPTER 2 - GARBAGE AND REFUSE

Article 1. Residential Accumulations and Collection

Sec. 6-2.101 Definitions.

For the purposes of this chapter, certain words and phrases used herein are defined as follows:

(a) "Contractor" shall mean any person, firm, business, or corporation with whom the City has an exclusive or non-exclusive contract pursuant to the provisions of this article for the collection and disposal of solid waste or recyclables.

(b) "Employee" shall mean all persons engaged in the operation or conduct of any solid waste or recyclable contractor business, as defined in subsection (a) of this section, whether as owner, as a member of the owner's family, partner, agent, manager, or solicitor, or any or all other persons employed or working in such business.

(c) "Green waste" shall mean all tree and plant trimmings, grass cuttings, dead plants, weeds, leaves, branches, and similar plant materials.

(d) "Health Officer" shall mean the Health Officer of the City or his or her duly authorized deputy or representative.

(e) "Occupant" shall mean every occupant or possessor of a premises in which a person lives or resides.

(f) "Owner" shall mean the record owner of a premises.

(g) "Premises" shall mean all sites of residential real property upon which solid waste or recyclables are produced or accumulates.

(h) "Receptacle" shall mean a cart, bin, bag or other container suitable for holding solid waste or recyclables.

(i) "Recyclables" shall mean those materials, including, but not limited to, newspapers, newsprint, aluminum cans, corrugated cardboard, glass or plastic bottles or containers, and metal, that may be separated on a commercially reasonable basis from solid waste and returned to the economic mainstream in the form of raw material for new, reused, or reconstituted products which meet the quality standards necessary to be used in the marketplace.

(j) "Recycling" shall mean the process of separating, collecting, sorting, cleansing, treating, reconstituting, or otherwise processing materials that are or would otherwise be disposed of in a landfill and returning them to the economic mainstream in the form of raw material for new, reused, or reconstituted products which meet the quality standards necessary to be used in the marketplace.

(k) "Scavenge" shall mean the unauthorized removal of recyclables which have been placed in a receptacle for collection.

(l) "Solid waste" shall mean all putrescible and nonputrescible solid, semisolid, and liquid wastes, including garbage, trash, refuse, rubbish, ashes, industrial wastes, demolition and construction wastes, abandoned vehicles and parts thereof, discarded home and industrial appliances, dewatered, treated, or chemically fixed sewage sludge which is not hazardous waste, manure, vegetable or animal solid or semisolid wastes, and other discarded solid and semisolid wastes, including green waste unless otherwise noted but excluding recyclables or any hazardous or other waste unsuitable for disposal in a landfill.

(m) "Truck" shall mean any truck, trailer, semitrailer, conveyance, or vehicle used to collect, hold, or transport solid waste or recyclables upon and along the streets, roads, or highways of the City.
(§§2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 13, and 14, Ord. 410; §1, Ord. 910-94, eff. October 20, 1994; §3, Ord. 1127-14, eff. April 3, 2014)

Sec. 6-2.102 Removal Limited.

No person other than the contractor or the City shall gather, collect, or remove from any premises in the City any solid waste or recyclables.
(§15, Ord. 410; §3, Exh. A, Ord. 1127-14, eff. April 3, 2014)

Sec. 6-2.103 Self-Haul of Solid Waste and Recyclables.

(a) Occupants hauling occasional loads of solid waste from their own premises to a legal point of disposal shall be excepted from the provisions of this article, provided that owners or occupants of such premises may be responsible for the payment of service fees as provided in Section 6-2.105.

(b) Notwithstanding Section 6-2.102, occupants may donate or sell any recyclables to any party of their choice prior to placing them into a receptacle for collection. However, such occupants may still be responsible for the payment of a service fee as provided in Section 6-2.105.
(§16, Ord. 410; §3, Exh. A, Ord. 1127-14, eff. April 3, 2014)

Sec. 6-2.104 Landscaping Service.

The provisions of this article shall not apply to the hauling or disposal of green waste to or at a legal point of disposal as a part of gardening or landscaping service, provided that the disposal is undertaken by the gardening or landscaping service and not a separate business directly or indirectly hired for clean-up, removal or hauling.
(§17, Ord. 410; §3, Exh. A, Ord. 1127-14, eff. April 3, 2014)

Sec. 6-2.105 Collections by Contractor Authorized.

It is hereby declared the intention of the City to provide for the collection and removal of solid waste and recyclables from premises within the City in accordance with the regulations and provisions of this article and the rules, regulations, and provisions of any resolution of the City adopted pursuant to the provisions of this article and in accordance with the conditions and terms of any contract entered into between the City and a contractor pursuant to the provisions of this article.

A service charge for the collection, hauling, and disposal of solid waste shall be collected by the contractor or City from each occupant or owner as provided by resolution of the City Council.
(§18, Ord. 410 as amended by §1, Ord. 555, eff. July 5, 1972; §3, Exh. A, Ord. 1127-14, eff. April 3, 2014)

Sec. 6-2.106 Placement for Collection.

The contractor shall collect and remove from all premises as required by any contract entered into between the City and a contractor all solid waste and recyclables which are contained in a receptacle of the type required by the provisions of this article. Such receptacle, with the lid or cover securely closed, shall be placed along the street curb in front thereof or along the alley in the rear thereof, depending upon whether the prescribed route is along the street or alley. The contractor shall also collect and remove from all such premises contracting for such collection solid waste or recyclables which, by the provisions of this article, need not be placed in a receptacle.
(§19, Ord. 410; §3, Exh. A, Ord. 1127-14, eff. April 3, 2014)

Sec. 6-2.107 Placement of Receptacles.

No person shall place, or cause to be placed, any receptacle at any place or in any manner other than as provided in this article. No person shall place, or cause to be placed, any receptacle on any sidewalk, road, street, or alley on any day other than the day or days established for collection of solid waste or recyclables on the particular route, and no person shall permit or cause such receptacle to remain there for more than twenty-four (24) hours after the receptacle has been emptied. Any receptacle placed for collection along a street shall be placed between the curbline (or edge of the roadway) and the property line as close to the curb or edge of the roadway as practicable. Any receptacle placed for collection in any alley shall be placed as close to the property as practicable and shall not be placed in a manner which would obstruct vehicular travel. No person shall place, or cause to be placed, any receptacle without a lid or cover or a lid or cover that is not securely closed, except as permitted in Section 6.2-110.
(§20, Ord. 410; §1, Ord. 955-98, eff. September 3, 1998; §3, Exh. A, Ord. 1127-14, eff. April 3, 2014)

Sec. 6-2.108 Placing of Solid Waste or Recyclables Not Produced on the Premises.

No person occupying, using, or in charge of any premises shall set out, or cause to be set out, for collection during any week solid waste or recyclables, other than solid waste or recyclables originating on the premises, for collection.
(§21, Ord. 410; §3, Exh. A, Ord. 1127-14, eff. April 3, 2014)

Sec. 6-2.109 Receptacles.

Receptacles used at premises shall be of such size, shape, and weight when filled that they may be readily lifted for emptying into the trucks of the contractor and free of all rough or jagged surfaces which may be likely to cause injury to persons lifting them. The receptacle shall have a lid or other animal proof cover. Such receptacles shall not exceed thirty (30) gallons in size or the maximum size permitted in any contract entered into between the City and a contractor. In the event that the contract entered into between the City and a contractor contains standardized receptacle sizes and specifications or requires occupants to utilize receptacles provided by the contractor, occupants shall comply with such requirements. Moreover, in the event that the contract entered into between the City and a contractor requires occupants to place solid waste, recyclables and/or green waste in separate receptacles, all persons shall only place solid waste, recyclables or green waste, as applicable, in each receptacle and shall ensure that such receptacle is properly placed for collection with the lid or cover securely closed.
(§23, Ord. 410; as amended by §2, Ord. 555, eff. July 5, 1972; §3, Exh. A, Ord. 1127-14, eff. April 3, 2014)

Sec. 6-2.110 Placement of Solid Waste; Disposal of Specified Items and Materials.

Every person having the charge or control of any premises where solid waste accumulates shall place such solid waste in a receptacle; provided, no single item placed for collection shall exceed five (5') feet in length and six (6") inches in width. Tree trimmings, brush, shrubs, or other materials susceptible to being bundled shall be securely tied in bundles not heavier than fifty (50) pounds nor more than five (5') feet in length and twenty-four (24") inches in diameter. It shall be unlawful for any person having the charge or control of any residential premises to dispose or attempt to dispose of appliances, furniture and furnishings, televisions, monitors, computer equipment and related electronics, construction materials and debris, including but not limited to concrete, plaster, asphalt, at any place or time other than directly to the landfill facility or as otherwise directed by the City or the contractor. All receptacle lids or covers shall remain closed and secured, except when one is depositing solid waste, recyclables or permissible green waste, as applicable.
(§24, Ord. 410; §2, Ord. 1017-04, eff. February 19, 2004; §3, Exh. A, Ord. 1127-14, eff. April 3, 2014)

Sec. 6-2.111 Cleaning of Receptacles.

After each emptying and before any receptacle used for solid waste or recyclables is again used, such receptacle shall be thoroughly cleaned, and all grease and adherent materials shall be removed by the occupant.
(§25, Ord. 410; §3, Exh. A, Ord. 1127-14, eff. April 3, 2014)

Sec. 6-2.112 Trucks and Equipment.

In addition to the requirements set forth in Section 6-2.113 of this article, all trucks and equipment of the contractor used in the City shall be maintained at all times in good mechanical condition. The sides and covers of such trucks shall be so constructed, used, and maintained that solid waste or recyclables will not blow, fall, or be dislodged from the truck into the streets of the City at any time. If operated pursuant to a contract with the City, such trucks shall be of the type and kind as designated by the Council by ordinance or resolution. When not in use, such trucks and equipment shall be parked or stored in an area approved by the City.
(§31, Ord. 410, as amended by §1, Ord. 614, eff. December 17, 1975; §3, Exh. A, Ord. 1127-14, eff. April 3, 2014)

Sec. 6-2.113 Truck Covers.

The bodies of all trucks transporting solid waste or recyclables along any public road, street, alley, or highway in the City shall have a minimum covering of metal or a clean tarpaulin or otherwise ensure that solid waste or recyclables remain within the truck during transport to the place of disposal.
(§30, Ord. 410; §3, Exh. A, Ord. 1127-14, eff. April 3, 2014)

Sec. 6-2.114 Cleaning of Trucks.

All trucks and equipment shall be cleaned and washed as provided for in the contract between the City and contractor.
(§34, Ord. 410; §3, Exh. A, Ord. 1127-14, eff. April 3, 2014)

Sec. 6-2.115 Debris.

The contractor shall carry on each truck a broom, shovel and such other equipment necessary to clean and pick up any debris of any sort deposited upon the streets, roads, highways, alleys, sidewalks, or private property by reason of the activity of the contractor. The contractor shall clean, pick up, haul away, and dispose of any debris left or deposited upon the streets, roads, highways, alleys, sidewalks, or private property within the City by reason of the activities of the contractor.
(§32, Ord. 410; §3, Exh. A, Ord. 1127-14, eff. April 3, 2014)

Sec. 6-2.116 Care of Receptacles by Contractor.

The contractor shall return all receptacles in an upright position to the approximate location where found by the contractor and without any unnecessary wear, tear, or damage to the receptacle.
(§33, Ord. 410; §3, Exh. A, Ord. 1127-14, eff. April 3, 2014)

Sec. 6-2.117 Prohibition Against Tampering and Scavenging.

(a) Prohibition Against Tampering with Receptacles. No person, other than the owner, occupant, their agents, or an officer or employee of the City, or the contractor and its employees, shall tamper with any receptacle, or the contents thereof, or remove the contents of any such receptacle, or remove any such receptacle from the location where the same shall have been placed by the owner thereof or his or her agent.

(b) Prohibition Against Scavenging.

(1) When recyclables have been placed in a receptacle, such recyclables shall become the property of the City or its contractor, as set forth in the parties' contract, and shall be used for recycling purposes. No person other than the employee(s) or agents of the City or contractor acting in the scope of their employment or agency shall scavenge or otherwise remove recyclables from a receptacle, or transport such materials over the public street, except that any occupant may remove recyclables which have been generated on his or her premises.

(2) No person shall appropriate or remove from any place or premises in the City, any recyclable receptacle provided by the City or the contractor for the purposes of storage and collection of recyclables. No person shall utilize any such recyclable receptacle for any purpose other than the collection and removal of recyclables by the City or the contractor.

(c) Enforcement. Any person, firm, or corporation, whether as principal, agent, employee or otherwise, violating any provision of this chapter is guilty of a misdemeanor.
(§2, Ord. 910-94, eff. October 20, 1994; §3, Exh. A, Ord. 1127-14, eff. April 3, 2014)

Sec. 6-2.118 Dress of Employees.

All employees of the contractor shall be dressed uniformly or as otherwise permitted in the contact between the City and contractor.
(§34, Ord. 410; §3, Exh. A, Ord. 1127-14, eff. April 3, 2014)

Sec. 6-2.119 Trucks, Routes, and Collection Schedule.

No solid waste or recyclable collection truck shall be operated in the City by any person unless the owner thereof has filed the following information in writing with the City:

(a) The make, year, description, and license number of all trucks used in the City;

(b) The number of trash and refuse trucks used in the City;

(c) The number of garbage trucks, if any, used in the City;

(d) The routes by streets to be followed in the City; and

(e) The days and approximate hours for service on each route in the City.
(§35, Ord. 410; §3, Exh. A, Ord. 1127-14, eff. April 3, 2014)

Sec. 6-2.120 Bond.

All rights and privileges of the contractor set forth are granted pursuant to the provisions of this article and conditioned on the contractor's having on deposit with the City Clerk at all times during the term of said contract a valid, unexpired bond, approved by the City Attorney, in cash or corporate surety, in favor of the City in the amount set forth in the contractor's contract with the City.
(§36, Ord. 410; §3, Exh. A, Ord. 1127-14, eff. April 3, 2014)

Sec. 6-2.121 Insurance.

Every contractor authorized to collect and remove solid waste and recyclables pursuant to this chapter and every individual operating for hire a collection within the City shall maintain a policy of public liability insurance pursuant to Sections 1-6.01 and 1-6.02 of the Avalon Municipal Code.
(§37; Ord. 410, as amended by §3, Ord. 704, eff. August 17, 1981; §3, Exh. A, Ord. 1127-14, eff. April 3, 2014)

Sec. 6-2.122 Collection Rates.

No person shall pay, nor shall any contractor charge, more than the rate specified for service for solid waste or recyclable collection or disposal as such rate is set forth in the contract between the City and the contractor or applicable fees adopted by the City Council of the City of Avalon.
(§39, Ord. 410; §3, Exh. A, Ord. 1127-14, eff. April 3, 2014)

Sec. 6-2.123 Solid Waste Accumulations.

No person shall cause or permit:

(a) Any animal or vegetable matter, filth, slop, stagnant water, or other waste or matter which is, or which is liable to become, putrid or offensive, or which is, or which is liable to become, a fire menace or a menace to health or safety or an attraction to rodents to accumulate at any premises for a period in excess of one calendar week, excluding combustible solid waste of salvageable value;

(b) Solid waste or recyclables other than waste identified in subsection (a) to accumulate at any premises for a period in excess of fifteen (15) days; and

(c) The burying or burning of solid waste or recyclables.
(§§26, 27, 28, Ord. 410; §3, Exh. A, Ord. 1127-14, eff. April 3, 2014)

Sec. 6-2.124 Public Nuisances: Abatement.

The accumulation of solid waste or recyclables by any person beyond the periods specified in this article or in a manner other than as specified in this article is hereby declared to be a nuisance pursuant to the provisions of Section 38771 of the Government Code of the State. The Council, pursuant to the provisions of Section 38773 of the Government Code of the State, hereby provides for the summary abatement of such nuisance at the expense of the person creating, causing, or maintaining such nuisance as follows:

(a) If the Health Officer shall make a report to the City that a certain person at a certain address is maintaining a nuisance as defined in this section, the City shall, within five (5) days, notify such person and the owner of such property in writing of the fact that he or she is conducting a nuisance as defined in this section and requiring him or her, within ten (10) days, to abate or cause such nuisance to be abated within the legal means as provided for in this article.

(b) If, at the end of such ten (10) day period, such person has not removed or caused to be abated such nuisance, the City shall have the power and authority to authorize the contractor, City employees or any City agent to enter the premises of such person and remove and abate such nuisance and charge the City for the cost of the removal and abatement of such nuisance.

(c) Thereafter, if such person shall continue to allow solid waste or recyclables to accumulate for periods beyond those specified in this section, the City shall have the power to order the contractor, City employees or any City agent to continue to enter such premises and remove and abate such nuisance, charging the City for the cost thereof.

(d) The charge or cost of the abatement of such nuisance by the City shall constitute a lien against the property occupied by the person maintaining such nuisance and a personal obligation against the owner pursuant to the provisions of Section 38773 of the Government Code of the State.
(§29, Ord. 410; §3, Exh. A, Ord. 1127-14, eff. April 3, 2014)

Sec. 6-2.125 Rules and Regulations.

The Council may make such rules not inconsistent with the provisions of this article or the contract between the City and the contractor as may be necessary, reasonable, and proper to effect the expedient, economical, and efficient collection and removal of solid waste and recyclables by the contractor.
(§22, Ord. 410; §3, Exh. A, Ord. 1127-14, eff. April 3, 2014)

Sec. 6-2.126 Breach of Contract.

In the event the contractor shall breach or fail to perform any of the terms, conditions, or provisions of this article, or of the contract, or of any resolution made pursuant to the provisions of this article, the Council may, in its discretion, pursue or use any and all legal or equitable remedies it may have by reason of such breach or failure to perform.
(§38, Ord. 410; §3, Exh. A, Ord. 1127-14, eff. April 3, 2014)

Sec. 6-2.127 Construction and Demolition Debris.

Construction and demolition debris, as defined in Section 6-2.401, shall be disposed of pursuant to the provisions of this chapter to the extent consistent with the provisions of Article 4 of this chapter. In the event of any conflict or inconsistency, the terms of Article 4 shall control.
(§3, Exh. A, Ord. 1127-14, eff. April 3, 2014)

Article 2. Commercial and Public Place Accumulations, Disposal and Collection

Editor's Note: Prior ordinance history: Ordinance Nos. 316, 357, 374, 407, 550, 555, 691, 955-08, 1017-04, 1046-06.

Sec. 6-2.201 Definitions - Commercial Solid Waste and Recyclable Collection.

For the purposes of this article, certain words and phrases used herein are defined as follows:

(a) "Business entity" shall mean any business, proprietorship, firm, partnership, person in representative or fiduciary capacity, association, venture, trust, corporation which is organized for financial gain or for profit, or nonprofit corporation or entity, including all commercial, industrial and institutional entities, and shall include any owner, agent, employee or subcontractor of such business entity.

(b) "Place of business" shall mean each structure or unit primarily used for business purposes.

(c) "Cooking oil" shall mean any and all types of oil used to cook or fry food.

(d) "Recycling Coordinator" shall mean the City employee or agent designated as such by the Council or City Manager.
(§4, Exh. B, Ord. 1127-14, eff. April 3, 2014)

Sec. 6-2.202 Commercial Solid Waste and Recyclable Collection.

All business entities shall receive commercial solid waste and recyclable collection services, and a charge therefor shall be collected at such rates as may be established by the Council. Unless otherwise provided for in this article or chapter, business entities shall receive solid waste and recyclable collection services in the same manner and subject to the same terms and conditions as residential premises as provided for in Article 1 of this chapter. In the event the City contracts with one or more contractors to provide for commercial solid waste and recyclable collection services to business entities at each place of business, the contractor, which may or may not be the same contractor(s) providing service under Article 1 of this chapter, shall provide services to business entities at each place of business in the same manner as collection services are provided to residential premises in Article 1 of this chapter. The provisions of Article 1 of this chapter shall apply to commercial solid waste and recyclable collection, generation and disposal unless otherwise provided in this article.
(§4, Exh. B, Ord. 1127-14, eff. April 3, 2014)

Sec. 6-2.203 Used Cooking Oil Receptacles.

All business entities which utilize cooking oil for cooking or frying of food shall comply with the provisions of Title 6 of this Code when disposing of such cooking oil.
(§4, Exh. B, Ord. 1127-14, eff. April 3, 2014)

Sec. 6-2.204 Disposal of Boxes.

Any business entity having any pasteboard or corrugated paper boxes shall break them up so that the material lies flat and place the materials in designated

receptacles as specified in this article.
(§4, Exh. B, Ord. 1127-14, eff. April 3, 2014)

Sec. 6-2.205 Inspection of Receptacles Authorized.

The Health Officer shall have the right to inspect all receptacles used by and the place of any business entity at any reasonable time between the hours of 6:00 a.m. and 6:00 p.m. of any day for the purpose of determining whether the provisions of this article are being complied with.
(§4, Exh. B, Ord. 1127-14, eff. April 3, 2014)

Sec. 6-2.206 Placement for Collection: Excessive Quantities.

All solid waste and recyclables shall be placed in receptacles or containers by business entities as specified in this article or permitted in the contract between the City and contractor. Any solid waste in excess of the limits set forth in the contract between the City and contractor or otherwise permitted by the City shall be considered excessive. In no event shall any such excess solid waste be placed on any street, alley, or public way awaiting removal without first having obtained permission from the City to do so.
(§4, Exh. B, Ord. 1127-14, eff. April 3, 2014)

Sec. 6-2.207 Placement and Removal of Receptacles.

No business entity shall place a receptacle outside for collection more than twelve (12) hours prior to the day of collection. No person having the control of any oil container as described in Section 6-2.203 shall place the same outside for collection except on the day of collection thereof, and only between the hours of 12:00 a.m. and 9:30 a.m. Immediately after collection, each container shall be removed from the street, alley or public way and placed on the place of business having the charge or control thereof.
(§4, Exh. B, Ord. 1127-14, eff. April 3, 2014)

Sec. 6-2.208 Collection Rates: Excessive Quantities.

If any business entity requires solid waste or recyclable collection service in quantities in excess of the facilities provided for regular routine collections, or in the event such solid waste or recyclables are not placed in proper receptacles or containers and at proper locations, an additional charge shall be made therefor at a rate as specified in a resolution of the Council, in addition to any penalties or fines which may be imposed pursuant to this article.
(§4, Exh. B, Ord. 1127-14, eff. April 3, 2014)

Sec. 6-2.209 Mandatory Disposal of Commercial Waste.

It shall be unlawful for any owner, agent, employee or subcontractor of a business entity to fail to source separate materials generated by such business entity or to otherwise fail to place such separated materials in designated receptacles as specified in this chapter.
(§4, Exh. B, Ord. 1127-14, eff. April 3, 2014)

Sec. 6-2.210 Unlawful Commingling of Waste and Unlawful Disposal of Specified Items and Materials.

It shall be unlawful for any owner, agent, employee or subcontractor of a business entity to combine designated, unsoiled recyclables with solid waste. It shall be unlawful for any owner, agent, employee or subcontractor of a business entity to dispose or attempt to dispose of appliances, furniture and furnishings, televisions, monitors, computer equipment and related electronics, construction materials and debris, including but not limited to concrete, plaster, asphalt, at any place or time other than directly to the landfill facility or as otherwise directed by the City or its contractor.
(§4, Exh. B, Ord. 1127-14, eff. April 3, 2014)

Sec. 6-2.211 Penalties for Violations.

(a) First Violation. Any business entity which fails to comply with the provisions of this article will be given written notification of a first violation.

(b) Second Violation. Any business entity which fails to comply with the provisions of this article after receipt of written notification of a first violation will receive a "Notice of Violation and Civil Penalty" in the amount of One Hundred ($100.00) Dollars. The civil penalty will be assessed and enforced.

(c) Third Violation. Any business entity which fails to comply with the provisions of this article after written notification of a second violation will receive a "Notice of Violation and Civil Penalty" in the amount of One Hundred Fifty ($150.00) Dollars. The civil penalty will be assessed and enforced.

(d) Fourth and Subsequent Violations. The civil penalty for a violation subsequent to the third violation of this article shall increase by Fifty ($50.00) Dollars for each subsequent violation. The total civil penalties assessed over a twelve (12) month period shall not exceed Two Thousand Five Hundred ($2,500.00) Dollars.

(e) Delinquent Assessments. Civil penalties shall become delinquent as of the thirtieth (30th) day from the date of the Notice of Violation. Failure to pay a civil penalty or file an appeal within thirty (30) days after notification of the violation shall result in an additional penalty of Fifty ($50.00) Dollars. The Recycling Coordinator shall enforce collection of the penalties by a civil action in the nature of debt.

(f) Appeal. The business entity upon which a civil penalty is levied shall have the right to file a written notice of appeal subject to the fees set by resolution of the City Council with the City Manager at any time prior to the date the civil penalty becomes delinquent. Upon receipt of a timely exception, the City Manager shall arrange a conference with the business entity to afford it an opportunity to present any evidence or argument it may have regarding the civil penalty. The City Manager shall have the authority to reduce the civil penalty or dismiss the violation if he concludes (1) there is insufficient evidence to demonstrate the business entity failed to comply with this article; (2) the business entity demonstrates that it was unable to comply because of circumstances beyond its control; or (3) the business entity presents other information justifying a reduction in the amount of the penalty. Within fifteen (15) days after the conference, the City Manager shall give written notice to the business entity of his decision. The decision of the City Manager shall be final and may not be appealed to the City Council. No business entity shall be held liable for failure of its tenants and/or customers to comply with the requirements of this article.

(g) Alternative Enforcement. The provisions of this section are optional and do not and shall not be construed as limiting the City's ability to enforce violations of this article pursuant to Section 6-2.117. In addition, any business entity permitting solid waste or recyclables to remain at the place of business beyond the time periods set forth in Article 1 for residential premises shall be subject to the nuisance abatement procedures provided in Section 6-2.124.
(§4, Exh. B, Ord. 1127-14, eff. April 3, 2014)

Article 3. Disposal of Hazardous Waste

Sec. 6-2.301 Definitions.

style='mso-bidi-font-weight:normal'> As used in this article, the following words and phrases shall be defined as follows:

(a) "Hazardous materials" shall mean any hazardous or toxic substance, material, or waste which is or becomes subject to regulation as such by any California state agency or the United States and includes any material or substance that is any of the following:

(1) A hazardous substance, as defined in Section 25316 of the Health and Safety Code.

(2) Hazardous material, as defined in subdivision (j) of Section 25501 of the Health and Safety Code.

(3) Acutely hazardous material, as defined in subdivision (a) of Section 25532 of the Health and Safety Code.

(4) Hazardous waste, as defined in Section 25117 of the Health and Safety Code.

(5) Extremely hazardous waste, as defined in Section 25115 of the Health and Safety Code.

(6) Petroleum.

(7) Asbestos.

(8) Designated as a hazardous substance for purposes of Section 311 of the Federal Water Pollution Control Act.

(9) Hazardous waste, as defined by subsection (5) of Section 1004 of the Federal Resource Conservation and Recovery Act of 1976.

(10) A hazardous substance, as defined by subsection (14) of Section 101 of the Federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980.

(11) A regulated substance, as defined by subsection (2) of Section 9001 of the Federal Solid Waste Disposal Act.

(b) "Certified Hazardous Waste Facility" shall mean a facility owned and operated by the City or its designee which is certified to receive and dispose of hazardous materials.

(c) "Consolidated transporter" shall mean a hazardous waste transporter registered pursuant to Health and Safety Code Section 25165 who uses the consolidated manifesting procedures set forth in Health and Safety Code Section 25160.2.

(d) "Disposal" means either of the following:

(1) The discharge, deposit, injection, dumping, spilling, leaking, or placing of any waste so that the waste or any constituent of the waste is or may be emitted into the air or discharged into or on any land or waters, including groundwaters, or may otherwise enter the environment.

(2) The abandonment of any waste.
(§3, Ord. 1017-04, eff. February 19, 2004)

Sec. 6-2.302 Disposal of Hazardous Materials.

It shall be unlawful to dispose of any hazardous material except by deposit with an authorized agent at a certified hazardous waste facility or by delivery to a consolidated transporter.
(§3, Ord. 1017-04, eff. February 19, 2004)

Sec. 6-2.303 Penalty for Violations.

Violations of any provision of this article by any person or entity, whether as principal, agent, employee or otherwise, shall be prosecuted as an infraction or a misdemeanor in the discretion of the prosecuting authority.
(§3, Ord. 1017-04, eff. February 19, 2004)

Article 4. Disposal of Construction and Demolition Debris

Sec. 6-2.401 Definitions.

As used in this article, the following words and phrases shall be defined as follows:

(a) "C&D" shall mean construction and demolition debris.

(b) "Construction and demolition debris" or "C&D debris" shall mean solid waste that is a portion of the waste stream, defined as "construction and demolition wastes" in Title 14 of California Code of Regulations, Section 17225.15, and shall mean commingled and separated materials that result from construction work, that are not hazardous, as defined in Article 3 of this chapter, and that contain minor amounts of putrescible material of less than one (1%) percent per load deposited for disposal at the City landfill or into an approved waste receptacle.

(c) "Construction materials" shall mean and include, but is not limited to, building materials, packaging, and rubble resulting from construction, remodeling, repair and demolition operations on pavements, parking lots, roads, residential and commercial buildings and other structures.

(d) "Unseparated for reuse" shall mean C&D materials which have not been cut to size and separated for reuse or disposal in accordance with the standards adopted by the City's authorized waste collector.
(§2, Ord. 1019-04, eff. March 18, 2004)

Sec. 6-2.402 Prohibition of Disposal of C&D Materials at Landfill.

The City's authorized waste collector shall adopt policies and procedures consistent with this article to prevent the disposal of C&D materials at the landfill.
(§2, Ord. 1019-04, eff. March 18, 2004)

Sec. 6-2.403 Collection and Hauling of C&D Materials.

All C&D materials generated in the City shall be either (1) separated for reuse in accordance with the standards adopted by the City's authorized waste collector, taken to the landfill site for transporting for disposal at an approved and certified mainland disposal site by the City's authorized waste collector, the charge for which shall be set by resolution of the City Council and collected by the City's authorized waste collector, or (2) directly transported by the generator, owner or contractor for disposal at an approved and certified mainland disposal site at the sole expense of the generator, owner or contractor.
(§2, Ord. 1019-04, eff. March 18, 2004; §2, Ord. 1148-16, eff. May 5, 2016)

Sec. 6-2.404 Penalty for Violations.

Violations of any provision of this article by any person or entity, whether as principal, agent, employee or otherwise, shall be prosecuted as an infraction or a misdemeanor in the discretion of the prosecuting authority.
(§2, Ord. 1019-04, eff. March 18, 2004)

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CHAPTER 3 - HEALTH CODE*

Sec. 6-3.01 Adoption of County Health Code.

Regulations governing public health matters in the City are those prescribed in the County of Los Angeles Public Health Code, which is designated as Chapters 11.02 to 11.38, inclusive, of the Los Angeles County Code, which are hereby adopted by reference and made a part of this chapter, subject to such additions, deletions and amendments set forth in Section 6-3.02 of this chapter and excluding those provisions adopted by the County of Los Angeles pursuant to Ordinance No. 97-0071. A copy of the Public Health Code shall be maintained on file in the City's Planning and Building Department offices.
(§1, Ord. 500, eff. November 18, 1967; §1, Ord. 949-98, eff. April 2, 1998)

Sec. 6-3.02 Interpretation.

The following rules shall govern the interpretation of said Health Code:

(a) Whenever the word "County", or any abbreviation thereof, appears in said Health Code, it shall be interpreted and deemed to mean the word "City".

(b) Whenever the words "Los Angeles", or any abbreviation thereof, appear in said Health Code, they shall be interpreted and deemed to mean the word "Avalon".

(c) Whenever there is a conflict between any of the provisions of said Health Code and other laws of the City heretofore or hereafter adopted relating specifically to the same subject matter, the latter shall prevail.

(d) The definition or regulation of any activity, condition, or structure in said Health Code shall not be interpreted or deemed to permit or allow the conduct of any such activity or the construction or maintenance of any such condition or structure as may be otherwise prohibited or restricted by any other laws of the City heretofore or hereafter adopted.
(§1, Ord. 500, eff. November 18, 1967)

Sec. 6-3.03 Application.

The provisions of Chapter V of Part III of said Health Code shall not apply to the City nor to any of its agencies.
(§1, Ord. 500, eff. November 18, 1967)

Secs. 6-3.04 - 6-3.08 Reserved.*

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*Sections 6-3.01 through 6-3.08, codified from Ordinance No. 461, repealed by Section 1, Ordinance No. 500, effective November 18, 1967.

***Editor's Note:** Former Sections 6-3.04 through 6-3.08 pertaining to additions, amendments and deletions to the Health Code and containing portions of Ordinance No. 500 were repealed in their entirety by Ordinance No. 949-98.

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CHAPTER 4 - HOUSE TRAILERS

Sec. 6-4.01 Definition.

"Trailer", as used in this chapter, shall mean any vehicle or structure designed and constructed in such a manner as to permit the occupancy thereof as living, sleeping, or business quarters for one or more persons and so designed that it is or may be mounted on wheels and propelled or drawn by its own or other motive power.
(§1, Ord. 346)

Sec. 6-4.02 Use.

(a) It shall be unlawful for any person to live in, occupy, use, or sleep in a trailer in the City, except that, upon an application to the Council and for good cause shown, the Council may grant special permits for such purposes for security and caretaking uses of house trailers.

(b) An application for the special permit to live in, occupy, use, or sleep in a house trailer for security and caretaking purposes shall set forth the name and address of the applicant, the special security and caretaking purpose, and the period of time for which the permit is requested, the description and size of the trailer, and the location of the proposed use and occupancy.

(c) No permit may grant the right to live in, occupy, use, or sleep in a house trailer for caretaking and security purposes for a period longer than six (6) months, but the Council may extend any such permit for successive periods, not to exceed six (6) months each, upon a showing that an unnecessary hardship would be created by a failure to so extend the permit.

(d) Any permit issued pursuant to the provisions of this section shall be nontransferable.
(§2, Ord. 346, as amended by §2, Ord. 518, eff. May 20, 1969; and §1, Ord. 587, eff. May 6, 1974)

Sec. 6-4.03 Parking.

It shall be unlawful for any person to park, stop, or stand a trailer upon any of the streets or public ways of the City.
(§3, Ord. 346)

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CHAPTER 5 - OUTDOOR RESTAURANTS

Sec. 6-5.01 Definitions.

For the purposes of this chapter, certain words and phrases used herein are defined as follows:

(a) "Outdoor restaurant" shall mean any public eating place which provides facilities for or permits the consumption of food products or beverages on any portion of the premises not within a fully enclosed building.

(b) "Fully enclosed building" shall mean a permanently located structure having a roof and four (4) walls, all of which conform to the Uniform Building Code of the County.
(§1, Ord. 450)

Sec. 6-5.02 Findings.

The Council hereby finds as follows:

(a) That outdoor restaurants exist in the City in close proximity to residences of inhabitants of the City;

(b) That restaurants which provide facilities for or permit the consumption of food or beverages outdoors attract large numbers of people who congregate and loiter about the premises;

(c) That the operation of outdoor restaurants in the nighttime hours has contributed to numerous and repeated instances of the disturbance of the peace and quiet of the vicinity in which they are located and the creation of public nuisances;

(d) That the public health, safety, and general welfare require that outdoor restaurants be regulated by the City; and

(e) That the regulations prescribed by this chapter are necessary and appropriate for the promotion of the public health, safety, and general welfare and are the least burdensome and most reasonable which can be devised to accomplish the end desired.
(§2, Ord. 450)

Sec. 6-5.03 Permit Required.

No person shall operate, or cause to be operated, or participate in the operation of any outdoor restaurant between the hours of 11:00 p.m. and 6:00 a.m. of the next succeeding day and between the hours of midnight on Friday and Saturday and 6:00 a.m. of the next succeeding day without a permit from the Council to do so. No person, having obtained such permit, shall operate an outdoor restaurant between 11:00 p.m. and 6:00 a.m. of the next succeeding day and between the hours of midnight on Friday and Saturday and 6:00 a.m. of the next succeeding day while such permit is suspended or after such permit has been revoked.
(§3, Ord. 450)

Sec. 6-5.04 Permit in Addition to Other Laws and Requirements.

The permit required by Section 6-5.03 of this chapter shall be in addition to all other requirements of the City applicable to food establishments and vendors, and nothing contained in this chapter shall be construed to relieve any applicant from fully complying therewith.
(§4, Ord. 450)

Sec. 6-5.05 Permit: Term.

Permits issued pursuant to the provisions of this chapter shall continue in full force and effect until the 31st day of December of the year in which such permit is issued unless suspended or revoked prior to such date.
(§5, Ord. 450)

Sec. 6-5.06 Permit: Non-Assignable.

Permits issued pursuant to the pro-visions of this chapter shall not be assignable to any other person.
(§6, Ord. 450)

Sec. 6-5.07 Permit: Application.

The application for a permit required by the provisions of this chapter shall be made and signed by the person intending to operate an outdoor restaurant and shall be filed with the City Clerk and contain the following information:

(a) The name and address of the applicant;

(b) The name and address of the person by whom the applicant is employed, if any;

(c) The name and address of the owner or, in the event more than one natural person is financially interested in the proposed outdoor restaurant, the names and addresses of all owners, partners, officers, and directors of the applicant;

(d) A personal description of the applicant;

(e) The nature of the business for which the permit is requested; and

(f) The proposed hours of operation.
(§7, Ord. 450)

Sec. 6-5.08 Permit: Application: Investigation: Issuance.

Upon receipt of an application for the permit required by the provisions of this chapter from an applicant not then holding a valid permit for the operation of an outdoor restaurant, the Council shall cause the Chief of Police to make an investigation of the applicant, the neighborhood and vicinity where such outdoor restaurant is, or is proposed to be, located, and the past and anticipated characteristics of the intended use of the premises involved. Within thirty (30) days after receipt of such

application the Council shall issue the permit if it finds:

(a) That the application is complete and proper in form and that all statements there-in are true and correct;

(b) That the proposed outdoor restaurant will create no apparent danger to the health and safety of the neighborhood or the City;

(c) That the conducting of the proposed outdoor restaurant at the location and during the hours applied for will not result in disturbing the peace and quiet of the neighborhood or vicinity in which such restaurant is located; and

(d) That the intended use of the premises for which the permit is sought will not conflict with any laws of the State or City.
(§8, Ord. 450)

Sec. 6-5.09 Permit: Issuance on Conditions.

If the Council finds that one or more of the requirements set forth in Section 6-5.08 of this chapter will not be satisfied in the operation of the proposed outdoor restaurant, it shall refuse to issue the permit; pro-vided, however, the Council may issue the permit upon the imposition of reasonable conditions which shall appear on the face of such permit and which conditions, if complied with by the applicant, will bring the proposed operation into compliance with all the requirements set forth in Section 6-5.08 of this chapter.
(§9, Ord. 450)

Sec. 6-5.10 Permit: Renewal.

Upon receipt of an application for the renewal of the permit required by the provisions of this chapter prior to the expiration thereof by a person then holding a valid permit which has not been suspended or revoked, the City Clerk shall issue a renewal permit for the ensuing year to the permittee named therein upon the same conditions, if any, appearing on the permit to be renewed without referring the matter to the Council. The duty enjoined upon the City Clerk by the provisions of this section shall be a ministerial duty to reissue permits which have not been revoked or suspended and which have not expired. Any application for the renewal of such permit following the expiration thereof shall be treated as an original application for a new permit.
(§10, Ord. 450)

Sec. 6-5.11 Permit: Revocation: Suspension: Hearing.

Whenever any permit shall be issued by the Council or City Clerk pursuant to the provisions of this chapter, such permit may be revoked at any time thereafter by the Council. The Council may revoke or suspend a permit at any time the Council becomes satisfied that the conduct of such business does or will in any manner endanger the public welfare, or that such business has been conducted in an illegal, improper, or disorderly manner, or that the requirements set forth in Section 6-5.08 of this chapter are not being satisfied in the operation of the outdoor restaurant. The Council may revoke or suspend permits issued for any outdoor restaurant where the proprietor or the person in charge thereof violates or permits any infraction of any law of the State or any of the provisions of this chapter. No permit for any outdoor restaurant shall be revoked or permanently suspended by the Council unless the permittee shall be adjudged guilty of a misdemeanor pursuant to the provisions of this chapter or unless at least ten (10) days' written notice of a public hearing thereon, setting forth the reasons for the public hearing, shall be first given the permittee; provided, however, any such permit may be temporarily suspended without such notice of a hearing by the Council.
(§11, Ord. 450)

Sec. 6-5.12 Serving Patrons on Streets and Sidewalks.

No owner or employee of any restaurant, lunch counter, dining room, eating house, soda fountain, ice cream parlor, candy store, curio store, drugstore, cigar stand, or any other business operated and conducted within the City shall serve any person who demands service from any public street, highway, or sidewalk while such person is standing on or occupying any public street, highway, or sidewalk in the City.
(§II, Ord. 160)

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CHAPTER 6 - WATER

Editor's Note:
Sections 6-6.01 and 6-6.02, codified from Ordinance No. 446, and Sections 6-6.03 through 6-6.09, codified from Ordinance No. 504, repealed by Section 1, Ordinance No. 507, effective April 18, 1968; Sections 6-6.01 through 6-6.10, added by Ordinance No. 507, as amended by Ordinance No. 510, effective July 20, 1968, repealed by implication by Section 1, Ordinance No. 532, effective June 17, 1970.

Sec. 6-6.01 Definitions.

The following terms, wherever used in this chapter or in resolutions of the Council adopted pursuant to the provisions of this chapter, except as otherwise specifically indicated by the context, shall have the meanings respectively set forth in this section, to wit:

(a) “City salt water system” shall mean the publicly owned property involved in the distribution of salt water within the City, including intake piping, pumps, reservoir, land, supply lines (main lines), fittings, and equipment related to such elements.

(b) "Consumer" shall mean an owner or occupant, whether private, governmental or otherwise, or a unit, building, premises, or lot, whether or not developed with structures, within the jurisdiction of the City of Avalon, and whether or not connected to the salt water system.

(c) “Private salt water lines” shall mean the privately owned piping or line connecting a building, collection of buildings such as a common interest development, or other structure or structures to the City salt water system, and includes the service connection “wye” or saddle at the supply line.

(d) "Salt water service charge" shall mean the annual flat rate charge fixed by resolution of the Council as compensation to the City for maintaining its salt water service and holding itself ready to serve.
(§1, Ord. 532, eff. June 17, 1970; §1, Ord. 1002-01, eff. November 15, 2001; Ord. 1006-02, eff. August 15, 2002; §1, Ord. 1147-16, eff. March 17, 2016)

Sec. 6-6.02 Reclaimed Water Distribution and Use Authorized.

Pursuant to California Water Code §13553.1, recycled water shall be used for flushing of toilets and urinals in all structures at such time that a delivery system for same has been developed and approved which meets the requirements of the California Water Code, Title 22 and has been approved by the State and County Department of Health and a program for proper signage and marking or color-coding of all pipes, sprinkler heads, meter boxes and other irrigation equipment to distinguish them from potable supplies and other cross-connection prevention measures has been developed and adopted.
(§1, Ord. 1031-05, eff. July 21, 2005)

Sec. 6-6.03 Bills.

Billing for salt water service shall be assessed and included in the property tax bill for the parcel served. The City shall furnish to the Board of Supervisors and the County Assessor's Office descriptions of each parcel for which such charges are to be billed, together with the amount of such charges applicable to each parcel, in sufficient time to meet the schedule established by the County for inclusion on the County general tax bill. As authorized by Government Code section 38902, the salt water service charges shall become a lien against the parcel of land to which it is charged in the same manner of County general taxes, and penalties shall be collected for the late payment of salt water service charges. The opening bill for salt water service shall be for the established annual flat rate charge for such service for all units for which a certificate of occupancy has been issued. Where service is established or modified after the first day of the fiscal year, the annual charge shall be determined on a pro rata basis. The salt water service charge shall apply to the twelve month fiscal year commencing on July 1 and shall be due in advance.
(§1, Ord. 532, eff. June 17, 1970; §2, Ord. 1002-01, eff. November 15, 2001)

Sec. 6-6.04 Judicial Action.

Each consumer, as defined in Section 6-6.01 of this chapter, shall be required to pay the rates for salt water service and fees for any connection or disconnection of such service. In addition to a tax lien, the City may collect such rates and fees in an action brought in any court having jurisdiction thereof. In any such action, the defendant shall be required to pay the costs of such action and attorneys' fees.
(§1, Ord. 532, eff. June 17, 1970; §3, Ord. 1002-01, eff. November 15, 2001)

Sec. 6-6.05 Annual Flat Rates.

The rates and compensation for salt water service charges for standby service and water furnished by the City shall be set by resolution of the City Council. The City Council may, from time to time, by resolution, set new and different rates for salt water service charges and may establish by resolution fees for installation, connection or reconnection of service, disconnection and credit deposits for new or delinquent consumers.
(§1, Ord. 532, eff. June 17, 1970; §4, Ord. 1002-01, eff. November 15, 2001)

Editor's Note: Rates established by City Ordinances include Ord. No. 1121-13, effective July 19, 2012; Ord. No. 1138-15, effective July 1, 2015; Ord. No. 1149-16, effective July 21, 2016.

Sec. 6-6.06 Authority to Enter Private Property to Enforce Provisions.

For the purposes of complying with or enforcing any of the provisions of this chapter, or for installing, testing, changing, repairing, connecting, or disconnecting, or for determining compliance with the provisions of this chapter, the Director of Finance, or any other officer or employee of any department of the City, is hereby authorized to enter upon private property any day between the hours of 8:00 a.m. and 5:00 p.m.
(§1, Ord. 532, eff. June 17, 1970)

Sec. 6-6.07 Connections and Disconnections.

All connections or disconnections of private salt water lines to or from the City salt water system shall be made by the Director of the Department of Public

Works or by some person authorized by him to perform such service. It shall be unlawful for any unauthorized person to cause, or permit to be caused, the connection or disconnection of private lines to the City system. Applications to have real property connected to or disconnected from the City salt water system shall be made in writing to the Director of Finance and shall contain an agreement by the applicant to abide by and accept all of the provisions of this chapter as a conditions governing the provision of salt water service to the applicant. The City shall charge a fee for each initial and subsequent connection or disconnection in an amount to be set by resolution of the City Council.
(§1, Ord. 532, eff. June 17, 1970; §5, Ord. 1002-01, eff. November 15, 2001)

Sec. 6-6.08 Fresh Water Connections.

It shall be unlawful for any person to cause, or permit to be caused, the connection of private salt water lines to any fresh water utilities system without first having such line disconnected from the City system by the Superintendent of Streets as provided in this chapter.
(§1, Ord. 532, eff. June 17, 1970)

Sec. 6-6.09 Salt Water Service: Installation and Maintenance Required.

(a) Any structure in the City utilizing toilets shall be equipped with a separate plumbing system piped to the toilets. Said separate plumbing system shall be installed and shall connect to the City's salt water system within one year of salt water service being available within one hundred (100') feet of the parcel on which a structure is situated or constructed.

(b) Connection to the salt water distribution system may be deferred for additional one year periods, not to exceed two (2) extensions, upon application to the City Council if the City Council makes one of the following findings:

(1) That such installation and connection to City's system within one year of service being available would result in economic hardship to applicant.

(2) That due to the geologic and topographic conditions of applicant's property, installation and connection to City's system within one year would result in undue hardship to applicant.

(3) That there are extensive structural changes required for the installation of a separate plumbing system in applicant's structure, and connection to City's system within one year of service being available would result in undue hardship to applicant.

(c) Notwithstanding any extension of time granted by the City Council, the salt water service charges shall become due and payable one year from the date salt water service is available within one hundred (100') feet from the parcel on which applicant's structure is located or will be constructed.

(d) Property Owner's Obligation. Each property owner shall, at the property owner's expense, inspect, maintain in good working order, repair, rehabilitate and replace, as necessary, the property owner’s private salt water lines in such a manner as to prevent corrosion, clogging, or failure of the lines.

(e) Private Salt Water Lines Not Part of City Salt Water System. The private salt water lines are the property of the property owner and are not part of the City salt water system. Nothing in this chapter shall be interpreted as changing the private nature of the private salt water lines or incorporating them into the City salt water system.
(§1, Ord. 588, eff. June 17, 1974, as amended by §1, Ord. 635, eff. August 4, 1977; and §1, Ord. 708, eff. September 9, 1981; §2, Ord. 1147-16; eff. March 17, 2016)

Sec. 6-6.10 Salt Water Service: Effluent Water.

At such time as effluent water has been approved for distribution to the City, the same shall be utilized in lieu of salt water for the service set forth in this chapter, and, further, at such time as structures equipped with separate salt water service piping shall be connected thereto.
(§1, Ord. 588, eff. June 17, 1974)

Sec. 6-6.11 Salt Water Service: Disconnections.

Effective July 1, 1974, all structures connected to the City salt water system shall remain connected thereto, and disconnections therefrom shall be prohibited.
(§1, Ord. 558, eff. June 17, 1974)

Sec. 6-6.12 Reimbursement for Services Provided to Harbor Area.

There is hereby established the following charges to the City of Avalon Small Craft Harbor Project Operating and Loan Repayment Fund in order to pay for the cost of providing salt water service to Harbor facilities:

$.06 per day, per mooring available for use or utilized in the waters of the City of Avalon.

$.02 per passenger landed, from cross-channel transportation boats and aircraft.

The Council may, from time to time, by resolution, set new and different charges to the City of Avalon Small Craft Harbor Project Operating and Loan Repayment Fund to reimburse the Salt Water Fund for the cost of services provided to Harbor facilities; provided, the amount and apportionment of any charges shall reasonably reflect the cost of providing sewer services to Harbor facilities.
(§2, Ord. 684, eff. September 3, 1980)

Sec. 6-6.13 Water Conservation.

Until such time that Southern California Edison or other provider of freshwater to consumers within the City of Avalon, has lifted Phase One of the Santa Catalina Island Fresh Water Rationing Plan (the "Plan") as set forth in Rule 14.1 of the tariff issued by the California Public Utilities Commission, it shall be unlawful for any person to cause or to permit to be caused, any use of freshwater supplied by such provided, as follows:

(a) The washing of streets, driveways, parking lots, patios, piers, sidewalks, tennis courts, walkways, and other hard-surfaced areas by hosing or by use of fresh water directly from faucets or other outlets, except where done by means of a bucket or container not exceeding a three (3) gallon capacity;

(b) The washing of motor vehicles, trailers, boats, golf carts, or airplanes by hosing or by use of fresh water directly from faucets or other outlets, except where done by means of a bucket or container not exceeding a three (3) gallon capacity;

(c) The use of fresh water from fire hydrants for any purpose other than fire suppression;

(d) The use of fresh water for soil compaction;

(e) Watering of outdoor landscaping and vegetation by hoses or sprinkling systems except between the hours of 7:00 a.m. to 9:00 a.m. and 5:00 p.m. to 7:00 p.m. during the period that Pacific Daylight Time is in effect, and from 6:00 a.m. to 8:00 a.m. and 4:00 p.m. to 6:00 p.m. during the period that Pacific Standard Time is in effect. Watering by use of a bucket or container not exceeding a three (3) gallon capacity is permitted at any time.

(f) The service of drinking water to a customer at any restaurant or bar or other place which serves food and/or beverages except upon request by such person. Businesses subject to this subsection shall post notice thereof in a conspicuous place, bearing language similar to the following: "In order to conserve Avalon's limited fresh water supply, water is served upon request only."

The City of Avalon shall be exempt from the provisions of Section 6-6.13, but the City Manager shall implement all reasonable measures to conserve freshwater use by the City.

A first violation of this section shall be punishable as an infraction, subject to a Fifty and no/100ths (50.00) Dollar fine. A second violation committed within twelve (12) months of the first violation, and any subsequent violations thereafter, shall be punishable as a misdemeanor.
(§2, Ord. 991-01-U, eff. January 17, 2001; §2, Ord. 993-01, eff. March 22, 2001)

Sec. 6-6.14 Salt Water System Program.

The City Manager may prepare and administratively adopt a salt water system program to provide administrative guidance on the implementation and enforcement of this chapter. The City Manager may update the salt water program administratively as needed to achieve the applicable performance standards for the City salt water system.
(§3, Ord. 1147-16, eff. March 17, 2016)

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CHAPTER 7 - SEWERS

Prior ordinance history: Ordinance Nos. 484, 485, 547, 638, 641, 665, 682, 684, 720, 807, 812, 848, 878-92, 919-95 and 1001-01.

Article 1. Generally

Sec. 6-7.101 Definitions.

Except as otherwise provided, the following terms are defined for purposes of this Chapter 7:

"Annual" shall mean the twelve (12) month period commencing July 1 of any calendar year and ending June 30 of the following calendar year.

"Authorized Inspector" shall mean the person designated by the City Manager to conduct inspections and repair for the purpose of ensuring compliance with this chapter.

"City" shall mean the City of Avalon, located in the County of Los Angeles, California.

"City Attorney" shall mean the City Attorney of the City or an authorized deputy, agent, or representative.

"City Manager" shall mean the City Manager of the City or an authorized deputy, agent, or representative.

"Floor area" shall mean the area included within the surrounding walls of a building, or portions thereof, exclusive of vent shafts and courts.

"Lot" shall mean any piece or parcel of land bounded, described, or shown upon a map, plat, or deed recorded in the office of the County Recorder or shown as a separate parcel on the last equalized assessment roll which conforms to the boundaries of such lot as shown upon such recorded map, plat, or deed or roll; provided, however, in the event any building, structure, or intended use covers more area than a lot, as defined in this subsection, "lot" shall include all such pieces or parcels of land upon which such building, structure, or intended use is wholly or partly located, together with the yards, courts, and other unoccupied spaces legally required for the building or structure.

"Owner" shall mean any person, firm, partnership, corporation, organization or anyone having legal title to or any interest in any real property, lot or parcel of land in the City.

"Peak Flow" shall mean the instantaneous maximum rate of flow of sewage being discharged to the public sanitary sewer and shall, for the purposes of this chapter, be as provided in this chapter or as determined by the City Manager.

"Person" shall mean any individual, partnership, firm, association, corporation or public agency, including the State of California and the United States of America.

"Premises" shall mean a parcel of real property or other unit, building, premises or lot whether or not connected to the City's public sewer system.

"Private Sanitary Sewer Lateral" and "Private Sewer Lateral" shall mean the privately owned sanitary sewer piping or line connecting a building or other structure to the public sewer, and includes the "wye" or saddle at the public sewer.

"Public Sanitary Sewer" and "Public Sewer" shall mean all of the publicly owned property involved in the operation of the sewage collection, treatment, and disposal system in the City, including land, sewers and appurtenances, pumping stations, and the treatment works and equipment.

"Satellite System" shall mean any privately owned property involved in the operation of sewage collection, treatment, and/or disposal, including land, sewers, pumping stations, and appurtenant facilities and equipment, which is not located within the City or presently permitted to discharge to the public sanitary sewer.

"Sewage" shall mean the spent water of the community received by the public sanitary sewer system. From the standpoint of source, it may be a combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions.

"User" shall mean an owner or occupant, whether private, governmental or otherwise, of a unit, building, premises, or lot, whether within or outside the City.
(§1, Ord. 1119-13, eff. July 4, 2013)

Secs. 6-7.102 — 6-7.200 Reserved.

Article 2. Public Sanitary Sewer

Division 1. Public Sanitary Sewer — Generally

Sec. 6-7.201 Purpose.

The purposes of this article are to (1) protect the public health, safety and welfare by establishing rules for the construction, operation, maintenance and connects to the public sanitary sewer system; (2) establish a means of providing adequate public sanitary sewers which are required for the development and redevelopment of the City; (3) establish a charge to be collected from property owners proposing to discharge to the public sanitary sewer; and (4) establish a fund in which such charges may be deposited and from which moneys will be available for the public sanitary sewer reconstruction program.

(§1, Ord. 1119-13, eff. July 4, 2013)

Sec. 6-7.202 Master Plan.

The public sanitary sewer shall be managed in accordance with a master plan adopted by the City to best serve the public health, safety and welfare. The master

plan includes, but is not limited to, the City's sewer system management plan, its system evaluation and capacity assessment plan and its sewer capital improvement program.

(§1, Ord. 1119-13, eff. July 4, 2013)

Secs. 6-7.203 — 6-7.220 Reserved.

Division 2. Connections to Public Sanitary Sewer

Sec. 6-7.221 Purpose and Intent.

The purpose of this Division is to protect the public health, safety and welfare by regulating the use, construction, alteration and repair of public sanitary sewer facilities within the City.

(§1, Ord. 1119-13, eff. July 4, 2013)

Sec. 6-7.222 Compliance with Provisions.

No person shall erect, construct, enlarge, or alter any building or structure in the City, or cause the same to be done, without first having complied with the provisions of this chapter.

(§1, Ord. 1119-13, eff. July 4, 2013)

Sec. 6-7.223 Connection to Public Sewer — Required.

(a) All plumbing which receives waste discharge from any building, structure or place of business shall be connected to a public sanitary sewer in compliance with all requirements of this chapter.

(b) No plumbing receiving waste discharge from any building, structure or place of business shall be connected to a private disposal system, such as a septic system, except as permitted in this chapter.

(§1, Ord. 1119-13, eff. July 4, 2013)

Sec. 6-7.224 Connection to Public Sewer — When Public Sewer Unavailable.

(a) The City Manager may grant a conditional waiver of the requirement to connect to a public sanitary sewer required by Section 6-7.223.

(b) A conditional waiver granted pursuant to this section shall be available only when all of the following conditions exist:

(1) No connection to the public sanitary sewer is possible;

(2) A private sewage disposal system would be adequate and safe according to the sole discretion of the City Manager; and

(3) A private sewage disposal system would not adversely effect public health, safety or welfare.

(c) A conditional waiver granted pursuant to this section shall be automatically revoked if any of the conditions above are unmet or if, in the sole discretion of the City Manager, revocation is necessary for the immediate protection of the public health, safety and welfare.

(§1, Ord. 1119-13, eff. July 4, 2013)

Sec. 6-7.225 Connection to Public Sewer — Permit Required.

A person must obtain a written permit from the City Manager and pay all fees, bonds and deposits as required by resolution before making, maintaining, or causing to be made or maintained any connection with any public sanitary sewer.

(§1, Ord. 1119-13, eff. July 4, 2013)

Sec. 6-7.226 Connection to Public Sewer — Prohibitions.

(a) No person shall make, maintain or cause to be made or maintained any connection or discharge to the public sanitary sewer, except as permitted by this chapter.

(b) No person shall make, maintain, or cause to be made or maintained at any time or in any manner any connection from a satellite sewer to any public sanitary sewer, except as permitted by this chapter.

(c) No person shall at any time make any connection of any source of storm runoff, groundwater, or source of uncontaminated water directly or indirectly to any public sanitary sewer or private sewer lateral, except as permitted by this chapter.

(d) No person shall discharge or cause to be discharged by any means any storm water, surface water, ground water, roof runoff, subsurface drainage, cooling water, or process waters to any public sanitary sewer, except as permitted by this chapter.

(§1, Ord. 1119-13, eff. July 4, 2013)

Sec. 6-7.227 Connection to Public Sewer — Sewer Connection Permit Application.

The City Manager, before issuing a permit required by Section 6-7.225, shall require a written application to be made and filed. A completed application must set forth the name, residence or business address of the person making such application and, in detail, the location, description, work to be done or facilities to be used, the legal owner of the property to be served, information sufficient to determine capacity, as set forth in this article, and any other information the City Manager deems necessary to determine whether the proposed work or use complies with the provisions of this Code, and local, State, and Federal law and regulations.

(§1, Ord. 1119-13, eff. July 4, 2013)

Sec. 6-7.228 Connection to Public Sewer — Sewer Connection Capacity Required.

The City Manager shall determine the capacity necessary in the public sanitary sewer to provide for the proper collection of sewage in the City. In the event a lot in the City is to undergo development or redevelopment and the anticipated sewage from the proposed use is found by the City Manager to exceed the capacity available in the public sewer, the building permit for such development or redevelopment shall not be issued until such time as the capacity in the public sanitary sewer is available or unless it can be made available before the building is occupied.

(§1, Ord. 1119-13, eff. July 4, 2013)

Sec. 6-7.229 Connection to Public Sewer — Determination of Capacity.

(a) The size and grade of each public sewer shall be such as to provide at all times sufficient capacity for peak flow rates of discharge. In order to establish estimates of sanitary sewage at peak flow, a permit applicant shall submit building plans and such other information as the City Manager may require.

(b) The peak flows for the various occupancies are established in the following table and shall be used as the basis for computing the discharge rates to the public sanitary sewer:

Occupancy	**Peak Daily Flow**
Apartments and single residences	600 gal/dwelling unit
Assembly areas	15 gal/person
Auditoriums	15 gal/seat
Bars and cocktail lounges	60 gal/seat
Hotels	360 gal/room
Churches	600 ga1/1,000 square feet of floor area
Laundries, automatic (public)	225 gal/machine
Industries, light (no water processes)	600 gal/1,000 square feet of floor area
Medical offices	900 ga1/1,000 square feet of floor area
Hospitals	1,500 gal/bed
Offices	600 ga1/1,000 square feet of floor area
Storage garages and warehouses	75 ga1/1,000 square feet of floor area
Restaurants	150 gal/seat
Stores, commercial and display	300 gal/1,000 square feet of floor area
Stands for the sale of lunches, ice cream, beverages, and similar items	900 ga1/1,000 square feet of floor area
Schools:	
Elementary	27 gal/capita
Other	75 gal/capita

(c) All other occupancies shall be classified by the occupancy most nearly resembled as determined by the City Manager or computed by the City Manager in accordance with the anticipated use.

(d) The daily flow to the sanitary sewer for a building containing mixed occupancies shall be determined by adding the peak flow characteristics of the various occupancies as set forth in the above table.

(e) If the daily flow from a room or building in use prior to July 1, 1979 is to undergo structural innovations, and such innovations shall not increase the peak flow as it existed from the lot immediately prior to July 1, 1979, to the sanitary sewer, the owner shall submit to the City Manager an affidavit or statement pursuant to the provisions of Section 2015.5 of the Code of Civil Procedure of the State, in duplicate, verifying the actual occupancy load prior to July 1, 1979.

(§1, Ord. 1119-13, eff. July 4, 2013)

Sec. 6-7.230 Connection to Public Sewer — Design and Construction Standards.

(a) All private sewer laterals shall comply with the City's required design and construction standards and shall meet the requirements of Article 3 of this

chapter.

(b) Design and construction standards may include, but are not limited to the following:

(1) Minimum size of private sewer lateral pipe;

(2) Type of private sewer lateral pipe;

(3) Method of connecting wet tap;

(4) Installation of clean out;

(5) Minimum depth;

(6) Minimum slope;

(7) Installation of sump pump;

(8) Encroachment permits.

(§1, Ord. 1119-13, eff. July 4, 2013)

Sec. 6-7.231 Connection to Public Sewer — Sewer Connection Permit Fees.

Before any sewer connection permit shall be issued, the applicant shall pay to the City a sewer connection fee in accordance with a schedule of fees adopted by resolution of the City Council. The applicant shall be solely responsible for the cost of all labor and materials required for the excavations, sewer connections, backfilling, paving, clean-up, and miscellaneous other work required. No connection to the public sewer shall be made until after the fees have been paid and all permits have been issued.
(§1, Ord. 1119-13, eff. July 4, 2013)

Sec. 6-7.232 Connection to Public Sewer — Sewer Connection Fees Doubled.

(a) If connection is made to the public sewer prior to securing a permit required by Section 6-7.225, and if the City determines in its sole discretion to permit the illicit connection, all applicable fees shall be in an amount that is twice the amount otherwise required.

(b) Nothing in this Section 6-7.232 limits the City's enforcement options for illicit connections or requires the issuance of an after-the-fact permit for such connections.

(§1, Ord. 1119-13, eff. July 4, 2013)

Sec. 6-7.233 Connection to Public Sewer — Sewer Connection Permit Revocation.

The City may revoke any permit issued under this article for and may disconnect from the public sewer any connection which is constructed or connected without the proper permit, or which is used in violation of this Code or any applicable law, regulation, order, or permit.

(§1, Ord. 1119-13, eff. July 4, 2013)

Sec. 6-7.234 Connection to Public Sewer — Private Sewer System Within City.

The owner or operator of any private sewer system located within the City must obtain a permit pursuant to this article and comply with any operational requirements imposed by the City before connecting to or discharging to the public sanitary sewer system at any point.

(§1, Ord. 1119-13, eff. July 4, 2013)

Sec. 6-7.235 Connection to Public Sewer — Connections Outside City.

(a) No dwelling unit or property located outside the corporate boundaries of the City shall receive public sewer services unless the City Council determines the connection to be (a) necessary or beneficial for the advancement and protection of the public health, safety or general welfare of the City and its residents, and (b) consistent with applicable policies of the general plan.

(b) If the City Council makes the findings required in subsection (a) of this section, a dwelling unit or property located outside the corporate boundaries of the City may receive public sewer services only after the owner or owner's authorized agent of such property enters into a written agreement which includes at least the following provisions:

(1) The connection shall be at the sole expense of the applicant;

(2) Installation of all sewer mains, private lateral connections and appurtenances must be completed by a licensed sewer contractor approved by the City, in accordance with City specifications, and to the satisfaction of the City Manager.

(3) The property owner, assigns, and successors in interest shall pay any applicable monthly fee or charge;

(4) The agreement may be terminated and the terms constituting default;

(5) The agreement shall be recorded and shall run with the land and be binding on all successors in interest of the contracting party;

(6) In the event the property is proposed for annexation to the City under proceedings initiated by property owner petition or otherwise, the contracting party expressly waives any right of protest to such annexation, except that such party shall have the right to be heard in any hearing in which zoning of the subject property is considered; and

(7) After annexation of the property, the contracting owner or successor in interest shall pay the annexation fees regardless of whether the annexation is initiated by property owner petition or otherwise.

(§1, Ord. 1119-13, eff. July 4, 2013)

Sec. 6-7.236 Pretreatment.

(a) The City may prohibit the discharge to the public sanitary sewer of any substance that may interfere with or pass through the City's pretreatment operations.

(b) The City may require a permit, BMPs, monitoring, recordkeeping, or other control mechanisms necessary to provide adequate pretreatment of sewage.

(§1, Ord. 1119-13, eff. July 4, 2013)

Sec. 6-7.237 Right to Enter.

(a) Whenever necessary to make an inspection, perform testing, maintenance or repairs, or whenever the City Manager has cause to believe that there exists, or potentially exists, in or on any premises any condition which constitutes a violation of this chapter, the City Manager may enter such premises at all reasonable times to inspect, test, maintain, or repair, as needed.

(b) In the event the owner or occupant refuses entry after a request to enter and inspect has been made, the City is hereby empowered to seek assistance from any court of competent jurisdiction in obtaining such entry.

(§1, Ord. 1119-13, eff. July 4, 2013)

Sec. 6-7.238 Enforcement.

(a) *Violation.* No person shall violate any provision or fail to comply with any of the requirements of this Division. Any violation or failure to comply with the requirements of this Division shall be a violation of this Code.

(b) *Enforcement.* The City may enforce any violation of the requirements of this Division in accordance with Article 5 of this chapter.

(§1, Ord. 1119-13, eff. July 4, 2013)

Secs. 6-7.239 — 6-7.250 Reserved.

Division 3. Public Sanitary Sewer Service Charges

Sec. 6-7.251 Purpose.

The purpose of this Division is to protect the public health, safety and welfare by establishing a fund for the maintenance of adequate public sanitary sewer facilities within the City.

(§1, Ord. 1119-13, eff. July 4, 2013)

Sec. 6-7.252 Charges.

Editor's Note: Rates for saltwater service fees and sewer service rates may be found in the City Offices. Rates established by City ordinances include Ord. No. 1121-13, effective July 19, 2012; Ord. No. 1138-15, effective July 1, 2015; Ord. No. 1149-16, effective July 21, 2016.

(a) An applicant for a permit pursuant to Section 6-7.227 shall declare all the information necessary to comply with the provisions of this article. At the time of issuing a permit, the applicant shall pay to the City a charge, based on the additional peak flow created by the new construction, equal to the sum of Fifty ($.50) Cents per gallon per day of additional peak flow. Charges for new subdivisions or construction which does not have an existing connection to the public sewer shall be based on peak flows without credit for any existing flow. This Section 6-7.252 does not limit the City's ability to refuse to issue a permit to connect to the public sanitary sewer system.

(b) All premises in the City shall be subject to an annual sewer service charge representing such premises' share of the burden placed on the sewer system, which amount shall be adopted by resolution or ordinance of the City Council in accordance with Article XIII D of the California Constitution. In those instances where premises are not connected to the sewer system, the annual sewer charge shall reflect the burden placed on the sewer system by users of the premises who are required to use public sanitary facilities.

(§ 3, Ord. 1158-17, eff. June 15, 2017)

(c) In the event the City has excess proceeds of taxes as defined in Article XIIIB of the California Constitution, the City Council may return a portion of the annual sewer charge as provided by Section 2 of that article. The portion of sewer charge revenue representing the amount of excess proceeds of taxes may be set aside in a special fund to be applied in the form of a credit against the sewer charges due and owing each fiscal year. The Council may, by resolution each fiscal year, establish the precise amount to be applied against the sewer charge so as to implement the return of excess proceeds to the people. In the alternative, the Council may place a measure on the City-wide ballot to adjust the City's appropriations limit as provided in Section 4 of Article XIIIB so as to use the excess proceeds for some other specified purposes.

(§1, Ord. 1119-13, eff. July 4, 2013; § 3, Ord. 1158-17, eff. June 15, 2017)

Sec. 6-7.253 Minimum Credit.

In calculating the additional peak flow, it shall be deemed that the existing peak flow is not less than three hundred (300) gallons per day per one thousand (1,000) square feet of lot area. Such credit shall not be applied more than once to the same lot except when the building has been demolished.

(§1, Ord. 1119-13, eff. July 4, 2013)

Sec. 6-7.254 Sewer Charge Fund — Deposits.

All moneys collected pursuant to the provisions of Section 6-7.252 of this Division shall be deposited with the City Treasurer and credited to the Sewer Charge Fund.

(§1, Ord. 1119-13, eff. July 4, 2013)

Sec. 6-7.255 Sewer Charge Fund — Expenditures.

Moneys deposited in the Sewer Charge Fund may be expended by the Council to accomplish any lawful purpose as set forth in Section 6-7.201 of this article and in Section 5471 of the Health and Safety Code of the State, or for such other sewer purpose as the Council may lawfully authorize. All engineering costs, mileage, overhead, and construction costs necessarily incurred in the construction of such sewers shall be charged to the Sewer Charge Fund to the extent permitted by law, and refunds may be drawn from the Sewer Charge Fund as provided in Section 6-7.256 of this Division.

(§1, Ord. 1119-13, eff. July 4, 2013)

Sec. 6-7.256 Sewer Charge Fund — Refunds.

In the event any person shall have paid the applicable sewer charge based on the additional peak flow created by the new construction as provided in this article, and no portion of the new construction shall have been commenced and the permit for such construction shall have been canceled or expired, such person shall be entitled to a refund in an amount equal to one hundred (100%) percent of the sewer charges paid by such person, minus one (1%) percent of such charge; provided, however, the amount retained shall not be less than Ten ($10.00) Dollars and no more than One Hundred ($100.00) Dollars.

(§1, Ord. 1119-13, eff. July 4, 2013)

Sec. 6-7.257 Sewer Charge Fund — Billing, Collection, Payment of Charges.

(a) The collection of the sewer service charges imposed by this Division shall be as a part of the annual County general tax bill authorized by the provisions of Section 38902 of the Government Code of the State.

(b) The City Manager shall furnish, in writing, to the Board of Supervisors of the County and to the County Auditor descriptions of each parcel for which such charges are to be billed, together with the amount of such charges applicable to each parcel, in sufficient time to meet the schedule established by the County for inclusion on the County general tax bill.

(c) As authorized by the provisions of Section 38902 of the Government Code of the State, the sewer service charges shall become a lien against the parcel of land to which it is charged in the same manner as County general taxes.

(d) As authorized by the provisions of Section 38902 of the Government Code of the State, penalties shall be collected for the late payment of sewer service charges, or the amount thereof unpaid, in the manner and at the rates applicable for the late payment, or the amount thereof unpaid, of County general taxes.

(§1, Ord. 1119-13, eff. July 4, 2013)

Sec. 6-7.258 Enforcement.

(a) *Violation.* No person shall violate any provision or fail to comply with any of the requirements of this Division. Any violation or failure to comply with the requirements of this Division shall be a violation of this Code.

(b) *Enforcement.* The City may enforce any violation of the requirements of this Division in accordance with Article 5 of this chapter.

(§1, Ord. 1119-13, eff. July 4, 2013)

Secs. 6-7.259 — 6-7.300 Reserved.

Article 3. Private Sanitary Sewer Laterals

Sec. 6-7.301 Purpose and Findings.

(a) *Purpose.* The purpose of this article is to protect the public health, safety and welfare by establishing regulations for the inspection, maintenance, repair, rehabilitation and replacement of private sewer laterals by property owners within the City.

(b) *Findings.* When not properly inspected, maintained, repaired or replaced by property owners, private sewer laterals may become blocked and result in

overflows of sewage from the private sewer laterals. Such sewage overflows negatively impact the public health, safety and welfare of both the property owner and the public by exposing them to untreated sewage. Such sewage overflows could also result in illicit discharges of sewage from private property to the public storm drains or waters of the United States or the State. Further, private sewer laterals that are not properly inspected, maintained, repaired or replaced by property owners can interfere with the operation of the public sewer system. Interference with the operation of the public sewer system may, in turn, cause sewage overflows from the public sewer system. Moreover, private sewer laterals that are not properly inspected, maintained, repaired or replaced by property owners may contain defects that result in the leakage of sewage from the private lateral to the ground water and ultimately to Avalon Beach. Therefore, the establishment of regulations for private sewer laterals is necessary to protect the public health, safety and welfare by both preventing overflows from the private laterals, interference with the operation of the public sewer system and leakage of sewage from private sewer laterals to groundwater and ultimately to Avalon Beach.

(§1, Ord. 1118-13, eff. July 4, 2013)

Sec. 6-7.302 Definitions.

As used in this article, the following terms shall have the following meanings:

"Commercial property" shall mean all types of nongovernmental commercial uses, including hospitals, hotels, motels and rooming houses, operated within the City, including such uses located on property which is zoned "C" (commercial), "SC" (special commercial), "R/R" (resort/recreation) on the City's official Zoning Map, as it may be amended from time to time.

"Common interest development" shall mean a development characterized by individual ownership of a unit or parcel coupled with the shared ownership or right to use common areas and facilities, including, but not limited to, condominium projects, community apartment projects, stock cooperatives and planned developments.

"Licensed plumber" shall mean a plumbing contractor with a valid C36 contractor's license.

(§1, Ord. 1118-13, eff. July 4, 2013)

Sec. 6-7.303 Private Sewer Lateral Inspection, Maintenance, Repair, Rehabilitation and Replacement — Required.

(a) *Property Owner's Obligation.* Each property owner shall, at the property owner's expense, inspect, maintain in good working order, repair, rehabilitate and replace, as necessary, the private sewer lateral so that it does not cause or contribute to any sewage leakage or overflow from either the private sewer lateral or the public sewer. The private sewer lateral shall be free of displaced joints, open joints, root intrusion, substantial deterioration of the line, cracks, leaks, inflow, infiltration of extraneous water, fats, oils and grease, sediment deposits or any other similar conditions, defects or obstructions likely to cause or contribute to blockage of the private sewer lateral or the public sewer.

(b) *Private Sewer Laterals Not Part of Public Sewer System.* The private sewer laterals are the property of the property owner and are not part of the public sewer. Nothing in this article shall be interpreted as changing the private nature of the private sewer laterals or incorporating them into the public sewer.

(§1, Ord. 1118-13, eff. July 4, 2013)

Sec. 6-7.304 Private Sewer Lateral Notice, Inspection and Inspection Report — Requirements.

(a) *Authorization to Issue Notice.* The City may issue a written notice that an inspection is required whenever it determines from its operation, maintenance or inspection of the public sewer, or through any other means, that a private sewer lateral is defective or otherwise in a condition that might cause leakage from or blockage in the private sewer lateral or the public sewer. Conditions that render the private sewer lateral defective or in a condition that might cause a blockage include, but are not limited to, displaced joints, open joints, root intrusion, substantial deterioration of the line, cracks, leaks, inflow, infiltration of extraneous water, fats, oils and grease, sediment deposits or any other similar conditions, defects or obstructions likely to cause or contribute to blockage of the private sewer lateral or the public sewer. The City's written notice shall set forth a reasonable time in which the inspection must occur and shall require the property owner to submit an inspection report meeting the requirements of this article to the City within a reasonable time, to be specified in the City's written notice, after completion of the inspection.

(b) *Inspection and Report Upon Notice from City.* A property owner shall cause the private sewer lateral to be inspected by a licensed plumber upon receipt of written notice from the City that an inspection is required. Such inspection must occur within the time established by the written notice for the inspection.

(c) *Inspection and Report Upon Sale of Property.* A property owner shall have the private sewer lateral inspected by a licensed plumber prior to and as a condition precedent to any sale of the property. An inspection report meeting the requirements of this article shall be prepared and submitted to the buyer, with a copy to the City, prior to any sale of the property.

(d) *Inspection and Report for Common Interest Developments and Commercial Properties.* In addition to the requirements of this section, the property owner or property owners of any common interest development or commercial property shall have the private sewer lateral inspected in accordance with the requirements of this article once every ten (10) years beginning January 1st of the year following the adoption of this article. (Article 3 was adopted June 4, 2013 by Ord. No. 1118-13) A copy of the inspection report shall be provided to the City within thirty days of the property owner's receipt of the report.

(e) *Inspection and Report for Significant Construction, Remodeling, or Change in Use.* Whenever a property owner undertakes any of the following activities, the property owner shall cause a licensed plumber to inspect the private sewer lateral:

(1) Applies for any permit or other approval needed for construction, remodeling, modification or alteration of any structure with a private sewer lateral within the City;

(2) Engages in any activities on the property that require an application for a permit to be made;

(3) Undertakes significant remodeling (remodel costs exceed Seventy-Five Thousand ($75,000.00) Dollars; or

(4) Undertakes a remodel to add a bathroom or major plumbing.

An inspection report meeting the requirements of this article shall be prepared and submitted to the City, prior to the issuance of any permit or other approval needed for construction, remodeling, modification or alteration.

(f) *Inspection and Inspection Report Standards.* All inspections and inspection reports required by this article shall be completed in accordance with the following requirements:

(1) The inspection and inspection report shall be completed by a licensed plumber.

(2) The inspection shall include, at a minimum, a video inspection of the private sewer lateral.

(3) The inspection and inspection report shall identify all of the following:

a. Displaced joints, open joints, root intrusion, substantial deterioration of the line, cracks, leaks, inflow or infiltration of extraneous water, sediment deposits or other conditions likely to cause or contribute to blockage of the private lateral or the public sewer.

b. Any connection by pipe or otherwise, that allows rainwater or groundwater to enter the private lateral or public sewer.

c. Any backwater device installed in the private sewer lateral and the condition of the backwater device.

d. All corrective actions that must be taken to maintain, repair, rehabilitate or replace the private sewer lateral and the estimated time and cost associated with such maintenance, repair, rehabilitation or replacement.

(4) The inspection report shall contain a recording of the video inspection of the private sewer lateral in a format acceptable to the City.

(§1, Ord. 1118-13, eff. July 4, 2013)

Sec. 6-7.305 Private Sewer Lateral Maintenance, Repair, Rehabilitation and Replacement — Requirements.

(a) *Maintenance, Repair, Rehabilitation and Replacement in Response to City Notice.* Based upon the inspection report required by Section 6-7.304(a) or (b), the City may provide the property owner with a written notice to maintain, repair, rehabilitate or replace the private sewer lateral by taking specified corrective actions by a date to be specified in the written notice. In establishing the date by which the work must be completed, the City may take into account the cost of the work and the risk that the private sewer lateral will leak or overflow. The property owner must cause the corrective actions specified in the written notice to be taken by a licensed plumber within the time specified in the notice and in accordance with this article. The property owner shall provide the City with written notice of completion of the corrective actions in accordance with the requirements set forth in the City's written notice.

(b) *Maintenance, Repair, Rehabilitation and Replacement Upon Sale of Property.* Based upon the inspection report required by Section 6-7.304(c), the property owner shall cause a licensed plumber to perform the corrective actions identified in the inspection report prior to the sale of the property and in accordance with the requirements of this article. The property owner shall provide the City with written notice of completion of the corrective actions prior to the sale of the property. The property owner and the buyer may agree on who will pay for the costs of the corrective work.

(c) *Maintenance, Repair, Rehabilitation and Replacement Upon Inspection of Commercial Property or Common Interest Development.* Based upon the inspection report required by Section 6-7.304(d), the property owner shall cause a licensed plumber to perform the corrective actions identified in the inspection report. The property owner shall cause the work to be completed within a reasonable time after receiving the report, but in no case later than six (6) months after receipt of the report. Upon written request, the City may grant additional time to complete the work, taking into account the cost of repairs and the risk that the private lateral will overflow. The property owner shall provide the City with written notice of completion of the corrective action within thirty (30) days of completion of the work.

(d) *Maintenance, Repair, Rehabilitation and Replacement for Significant Construction, Remodeling, or Change in Use.* Based on the inspection report required by Section 6-7.304(e), the property owner shall cause a licensed plumber to perform the corrective actions identified in the inspection report prior to final approval of a permit by the City.

(e) *Use of Best Management Practices During Maintenance, Repair, Rehabilitation and Replacement Work.* The property owner shall cause its licensed plumber to use all reasonable and feasible best management practices when performing the maintenance, repair, rehabilitation or replacement work required by this article. Such best management practices must be employed to prevent the maintenance, repair, rehabilitation or replacement work from causing or contributing to an overflow of the private sewer lateral or the public sewer, including, without limitation, preventing debris, root-balls, sediment or fats, oils and grease from being flushed into the public sewer.

(§1, Ord. 1118-13, eff. July 4, 2013)

Sec. 6-7.306 Violation and Enforcement.

(a) *Violation.* No person shall violate any provision or fail to comply with any of the requirements of this article, including any provision of the private sewer lateral program adopted pursuant to Section 6-7.307. Any violation or failure to comply with the requirements of this article shall be a violation of this Code.

(b) *Public Nuisance.* Any violation or failure to comply with the requirements of this article shall constitute a public nuisance. The City Attorney is authorized to commence necessary proceedings provided by local or State law to abate, remove and enjoin such public nuisance.

(c) *Enforcement.* The City may enforce any violation of the requirements of this article in accordance with Article 5 of this chapter.

(§1, Ord. 1118-13, eff. July 4, 2013)

Sec. 6-7.307 Private Sewer Lateral Program.

The City Manager may prepare and administratively adopt a private sewer lateral program to provide administrative guidance on the implementation and

enforcement of this article. The City Manager may update the private sewer lateral program administratively as needed to achieve the applicable performance standards for the public sewer.

(§1, Ord. 1118-13, eff. July 4, 2013)

Sec. 6-7.308 Fees.

The City may establish fees by resolution for the administration of this article.

(§1, Ord. 1118-13, eff. July 4, 2013)

Secs. 6-7.309 — 6-7.400 Reserved.

Article 4. Fats, Oils, and Grease

Sec. 6-7.401 Purpose and Intent.

(a) The purposes of this article are to:

(1) Prevent blockages and overflows from sewer lines caused by the discharge of fats, oils and grease;

(2) Reduce the adverse affects on sewage treatment operations resulting from discharges of fats, oils, and grease into the system;

(3) Specify requirements for fat, oil and grease producing facilities discharging into the public sanitary sewer; and

(4) Protect public health and the environment by minimizing public exposure to unsanitary conditions.

(b) The intent of this article is to use the police power of the City to regulate the direct and indirect discharge of waste containing fats, oils, and grease into the public sanitary sewer in a manner that complies with all applicable laws, including the Federal Clean Water Act, California Water Code, and applicable waste discharge requirements. It is the intent of this article to protect the public health, safety and welfare by establishing regulations for the disposal of grease and other insoluble waste discharges from food service establishments within the City.

(c) The City Council, in enacting this chapter, intends to provide for the maximum beneficial public use of the public sewer, to prevent blockages of that system and the accidental discharge of wastewater into the storm drain system or the Pacific Ocean, to ensure the cost of maintaining the public sewer is equitably distributed among users, to clarify grease disposal requirements for existing food service establishments, and to promote public health, safety and welfare.

(d) In the event of any conflict or inconsistency between the provisions of this article and the provisions of the Plumbing Code as adopted by this Code, the provisions of this article shall govern.

(§2, Ord. 1118-13, eff. July 4, 2013)

Sec. 6-7.402 Definitions.

As used in this article, the following terms are defined:

"Effluent" shall mean any liquid outflow from the food service establishment that is discharged to the public sanitary sewer.

"Fats, oils, and grease" or "FOG" shall mean any substance such as a vegetable or animal product that is used in, or is a by-product of, the cooking or food preparation process, and that turns or may turn viscous or solidifies with a change in temperature or other conditions.

"Food grinder" shall mean any device whose purpose is to grind food waste or food preparation by-products for the purpose of disposing it in the sewer system.

"Food service establishment" or "FSE" shall mean any food preparation establishment, restaurant, cafeteria, or any other establishment preparing food for consumption. Residences are not considered food service establishments under this definition.

"Grease control device" shall mean any grease interceptor, grease trap or other mechanism, device, or process, which attaches to, or is applied to, wastewater plumbing fixtures and lines, the purpose of which is to trap or collect or treat FOG prior to it being discharged into the public sewer system.

"Grease interceptor" shall mean a multi-compartment device that is constructed in different sizes and is generally required to be located, according to the Plumbing Code, underground between a food service establishment and the connection to the public sewer system. These devices primarily use gravity to separate FOG from the wastewater as it moves from one compartment to the next. These devices must be cleaned, maintained, and have the FOG removed and disposed of in a proper manner on regular intervals to be effective.

"Grease trap" shall mean a control device that is used to serve individual fixtures and has limited effect and should only be used in those cases where the use of a grease interceptor or other grease control device is determined to be impossible or impracticable.

"Plumbing Code" shall mean the California Plumbing Code, as adopted by reference into the Avalon Municipal Code, together with any local amendments thereto.

"Pretreatment" shall mean the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of discharging or otherwise introducing such pollutants into the public sanitary sewer. Pretreatment may be obtained through physical, chemical, or biological processes, process changes, or by other means approved by the City.

"Remodel" shall mean a physical change or operational change causing generation of the amount of FOG that exceed the current amount of FOG discharge to

the sewer system by the food service establishment in an amount that alone or collectively causes or creates a potential for sanitary sewer overflows to occur or exceeding a cost of Fifty Thousand ($50,000.00) Dollars to a food service establishment that requires a building permit, and involves any one or combination of the following: (1) under slab plumbing in the food processing area; (2) a thirty (30%) percent increase in the net public seating area; (3) a thirty (30%) percent increase in the size of the kitchen area; or (4) any change in the size or type of food preparation equipment.

(§2, Ord. 1118-13, eff. July 4, 2013)

Sec. 6-7.403 Discharge Prohibition.

(a) *General Prohibition.* No person shall discharge or cause to be discharged into the public sewer system from a food service establishment any FOG that may accumulate and/or cause or contribute to blockages in the public sewer system or at the private sewer lateral which connects the food service establishment to the public sewer system.

(b) *Food Grinders.* No person shall install food grinders in the plumbing system of new constructions of food service establishments. Furthermore, all food grinders shall be removed from all existing food service establishments within one hundred eighty (180) days of formal notification by the City that this article has become effective, except as expressly allowed by the City Manager.

(c) *Additives.* No person shall introduce any additives into a food service establishment's wastewater system for the purpose of emulsifying FOG, unless a specific written authorization from the City Manager is obtained.

(d) *Waste Cooking Oil.* No person shall dispose of waste cooking oil into drainage pipes. All waste cooking oils shall be collected and stored properly in receptacles such as barrels or drums for recycling or other acceptable methods of disposal.

(e) *Dishwasher Wastewater.* No person shall discharge wastewater from dishwashers to any grease trap or grease interceptor.

(f) *Wastewater Temperature.* No person shall discharge wastewater with temperatures in excess of 140°F to any grease control device, including grease traps and grease interceptors.

(g) *Fecal Material.* No person shall discharge wastes from toilets, urinals, wash basins, or other fixtures containing fecal materials to sewer lines intended for grease interceptor service, or vice versa.

(h) *Grease Control Device.* No person shall discharge any waste including FOG and solid materials removed from a grease control device to the sewer system. Grease removed from grease interceptors shall be wastehauled periodically as part of the operation and maintenance requirements for grease interceptors.

(§2, Ord. 1118-13, eff. July 4, 2013)

Sec. 6-7.404 Adoption of the FOG Control Program.

The City Manager may prepare and administratively adopt a fats, oils and grease (FOG) program to provide administrative guidance on the implementation and enforcement of this article. The City Manager may update the FOG program administratively as needed to achieve the applicable performance standards for the public sewer.

(§2, Ord. 1118-13, eff. July 4, 2013)

Sec. 6-7.405 Food Service Establishment — Connection Permit Required.

Every food service establishment shall obtain a permit from the City Manager prior to discharging wastewater to the public sanitary sewer, pursuant to Section 6-7.225, within one hundred eighty (180) days of receiving notice from the City that such permit is required. The connection permit issued to a FSE pursuant to this section may require pretreatment of wastewater prior to discharge, restriction of peak flow discharges, discharge of certain wastewater only to specified sewers of the City, relocation of point of discharge, prohibition of discharge to certain wastewater components, restrictions of discharge to certain hours of the day, payment of additional charges to defray increased costs of the City created by the wastewater discharge, and other conditions as may be required to effectuate the purpose and intent of this chapter. No person shall discharge wastewater in excess of the quantity or quality limitations set by any permit issued pursuant to this section and any other applicable requirements pursuant to Federal, State or local law.

(§2, Ord. 1118-13, eff. July 4, 2013)

Sec. 6-7.406 Food Service Establishment — Connection Permit Application.

In addition to the application requirements of Section 6-7.227, an FSE shall submit the following information:

(a) Name and address of applicant;

(b) Volume of wastewater to be discharged;

(c) Time of daily food preparation operations;

(d) Description of food preparation, type, number of meals served, cleanup procedures, dining room capacity, number of employees and size of kitchen; and

(e) Any other information as may be deemed necessary by the City Manager to evaluate the permit application.

The City Engineer may require additional information and an on-site inspection of the waste discharge system, treatment systems or other system relating to the waste discharge. Within thirty (30) days of the submission of an application deemed complete by the City Manager, the City shall either issue subject to certain terms and conditions or deny an FSE sewer connection permit.

(§2, Ord. 1118-13, eff. July 4, 2013)

Sec. 6-7.407 Food Service Establishment — Duration of Permit.

A permit issued pursuant to this article shall be issued for a specified time period not to exceed five (5) years. The terms and conditions of the permit may be subject to modification by the City during the term of the permit as deemed necessary by the City Engineer. The FSE shall be informed of any proposed changes in the permit at least thirty (30) days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

(§2, Ord. 1118-13, eff. July 4, 2013)

Sec. 6-7.408 Food Service Establishment — Permit Nontransferable.

A permit issued pursuant to this article shall be issued only for specific use for a specific operation. Any sale, lease, transfer or assignment of the use or operation for which the permit issued shall require a new permit. Any new or changed conditions of use or operation may also require a new permit.

(§2, Ord. 1118-13, eff. July 4, 2013)

Sec. 6-7.409 Food Service Establishment — Revocation of Permit.

The City Manager may revoke any permit issued to any FSE found to be in violation of the requirements of this chapter or for any of the following:

(a) Failing to comply with the conditions of the permit;

(b) Failing to install any required grease control device as required by the permit;

(c) Failing to comply with the reporting or pretreatment requirements or pretreatment device maintenance as required by the permit;

(d) Failing to comply with a notice of violation or a compliance schedule agreement or any other provision of this Code;

(e) Falsifying information in a permit application, making false representations or submitting false documents, reports or logs to the City Engineer;

(f) Refusing to allow inspections during normal business hours or after hours if emergency conditions exist such as an overflow or suspected overflow;

(g) Interfering with an inspection or the sampling authorized pursuant to this chapter; or

(h) Causing or contributing to sewer blockages or sewer overflows within the public sewer or failing to address the conditions leading to more than one overflow event from a private system within a twelve-month period.

(§2, Ord. 1118-13, eff. July 4, 2013)

Sec. 6-7.410 Food Service Establishment — FOG Control Program Fees.

(a) *General.* Fees identified in this article shall be established from time to time by resolution of the City Council.

(b) *Permit Fee.* Permit fees shall be collected in conjunction with the issuance of the permit.

(c) *Inspection Fee.* A fee based on the specified frequency of inspection as outlined in the FOG control program shall be collected at the time of permit issuance.

(d) *Reinspection Fee.* A reinspection fee may be collected for additional inspections required to determine whether specified corrective actions for noted violations of this chapter have been implemented and if additional improvements are required.

(§2, Ord. 1118-13, eff. July 4, 2013)

Sec. 6-7.411 Maintenance Reports.

Food service establishments shall maintain records of grease control device cleaning, maintenance and grease removal and report on such maintenance to the City as requested. The City Engineer may require the FSE to provide results of periodic measurements of its discharge which may include chemical analysis of oil and grease content.

(§2, Ord. 1118-13, eff. July 4, 2013)

Sec. 6-7.412 Grease Interceptor — Required.

(a) *Generally.* Food service establishments are required to install, operate and maintain an approved type and adequately sized grease interceptor necessary to maintain compliance with the objectives of this article. The grease interceptor shall be adequate to separate and remove FOG contained in wastewater discharges from food service establishments prior to discharge to the sewer system. Fixtures, equipment, and drain lines located in the food preparation and clean up areas of food service establishments that are sources of FOG discharges, including but not limited to three-compartment sinks, scullery (preparation) sinks, floor drains, mop sinks along a cook line, prewash sinks at dishwashing stations, shall be connected to the grease interceptor.

(b) *Plan Review.*

(1) Applicants or users are required to submit copies of detailed facility proposed grease interceptors, pretreatment facilities, spill containment facilities, and operating procedures, prepared by a licensed and registered professional engineer, together with a fee established by resolution of the City Council, to the City. Facility plans shall also include site plans, floor plans, mechanical and plumbing plans, and details to show all wastewater plumbing, spill containment, and appurtenances by size, location, and elevation. The review of the plans and procedures shall in no way relieve the user of the responsibility of modifying the facilities or discharge, and to meet the requirements of this article or any requirements of other regulatory agencies.

(2) The design, location and procedures for operation and maintenance of a required grease interceptor shall be approved by the City Manager. Such approval shall be obtained prior to the user's connection of the facility to the public wastewater system.

(3) No food service establishment or other identified user shall be constructed except according to plans and specifications approved by the City Manager.

(4) Approved plans and specifications shall not be changed or altered without written approval by the City Manager.

(c) Compliance with this section shall be established as follows:

(1) New Construction of Food Service Establishments. New construction of food service establishments shall include and install grease interceptors prior to commencing discharges of wastewater to the sewer system.

(2) Existing Food Service Establishments.

a. For existing food service establishments, the requirement to install and to properly operate and maintain a grease interceptor may be conditionally stayed, that is, delayed in its implementation, on written approval from the City Manager for up to three (3) years after the effective date of this article (July 4, 2013). The City Manager may also issue additional stays, as appropriate, and variances or waivers as set forth in Section 6-7.405.

b. Existing food service establishments that have reasonable potential to adversely impact the sewer system or have sewer laterals connected to hot spots, as determined by the Program Manager, shall install grease interceptors within one hundred eighty (180) days of formal notice from the Program Manager to install such a grease interceptor.

c. Existing food service establishments undergoing remodeling or a change in operations as defined in Section 6-7.402 of this article, or food service establishments that change ownership, shall install a grease interceptor.

(§2, Ord. 1118-13, eff. July 4, 2013)

Sec. 6-7.413 Grease Interceptor — Variance or Waiver.

(a) *Variance from Grease Interceptor Requirements.* A variance from the grease interceptor requirements to allow alternative pretreatment technology that is, at least, equally effective in controlling the FOG discharge in lieu of a grease interceptor may be granted to food service establishments demonstrating that it is impossible or impracticable to install, operate or maintain a grease interceptor. The City Manager's determination to grant or revoke a variance will be based on, but not limited to, evaluation of the following conditions:

(1) There is no adequate space for installation and/or maintenance of a grease interceptor.

(2) There is no adequate slope for gravity flow between kitchen plumbing fixtures and the grease interceptor and/or between the grease interceptor and the private collection lines or the public sewer.

(3) The food service establishment can justify that the alternative pretreatment technology is equivalent or better than a grease interceptor in controlling its FOG discharge. In addition, the food service establishment must be able to demonstrate, after installation of the proposed alternative pretreatment, its effectiveness to control FOG discharge through downstream visual monitoring of the sewer system, for at least three (3) months, at its own expense. A variance may be granted if the results show no visible accumulation of FOG in its lateral and/or tributary downstream sewer lines.

(b) *Conditional Waiver from Installation of Grease Interceptor.* A conditional waiver from installation of a grease interceptor may be granted for food service establishments that have been determined to have negligible FOG discharge and insignificant impact to the sewer system. The City Manager's determination to grant or revoke a conditional waiver shall be based on, but not limited to, evaluation of the following conditions:

(1) Quantity of FOG discharge as measured or as indicated by the size of food service establishment based on seating capacity, number of meals served, menu, water usage, amount of on-site consumption of prepared food and other conditions that may reasonably be shown to contribute to FOG discharges.

(2) Adequacy of implementation of Best Management Practices and compliance history.

(3) Sewer size, grade, condition based on visual information, FOG deposition in the sewer by the food service establishment, and history of maintenance and sewage spills in the receiving sewer system.

(4) Changes in operations that significantly affect FOG discharge.

(5) Any other condition deemed reasonably related to the generation of FOG discharges by the City Manager.

(c) *Application for Waiver or Variance of Requirement for Grease Interceptor.* A food service establishment may submit an application and fee in an amount established by resolution of the City Council, for waiver or variance from the grease interceptor requirement to the City Manager. The food service establishment bears the burden of demonstrating, to the City Manager's reasonable satisfaction, that the installation of a grease interceptor is not feasible or applicable. Upon determination by the Program Manager that reasons are sufficient to justify a variance or waiver, the permit will be issued or revised to include the variance or waiver and relieve the food service establishment from the requirement.

(d) *Revocation of Waiver or Variance.* A waiver or variance may be revoked at any time when any term or condition for its issuance is not satisfied or if

the conditions on which the waiver was based change so that the justification for the waiver or variance no longer exist.

(§2, Ord. 1118-13, eff. July 4, 2013)

Sec. 6-7.414 Grease Interceptor — Design and Maintenance Standards — Generally.

(a) The installation of a proper grease interceptor shall be the responsibility of the person who applies for the connection and the person whose operations cause or contribute to the necessity for a grease interceptor.

(b) Grease interceptors shall be installed, utilized, and properly maintained for continuous and efficient operation at all times and at the expense of the user.

(c) The City Manager shall approve the type, capacity and construction of all grease interceptors in writing prior to installation.

(d) A common grease interceptor shared by multiple businesses may be utilized only if specifically authorized by the City Manager and upon evidence of legal operating and maintenance agreements between the involved property owners.

(e) Grease interceptors no longer in use shall be abandoned in accordance with the Plumbing Code.

(§2, Ord. 1118-13, eff. July 4, 2013)

Sec. 6-7.415 Grease Interceptor — Design and Maintenance Standards – Design Provisions.

(a) Grease interceptors for food service establishments shall be sized and designed in compliance with the Plumbing Code, unless otherwise specified herein.

(b) Other factors that may influence the design include, but shall not be limited to, the following:

(1) The type of facility (such as a restaurant, bakery, food processing factory, etc.);

(2) The volume of the user's business or operation (such as number of meals served, number of seats, hours of operation, etc.);

(3) The peak flow of process wastewater discharged to the collection system;

(4) Size and nature of facilities (including kitchen facilities) based on size, type, number of fixtures, and type of processing or cooking equipment used;

(5) The type of service provided or operation undertaken (such as dine-in meal service versus carry-out meal service);

(6) The type of foods or other materials used in cooking, processing or manufacturing operations conducted within the facility;

(7) The overall potential for grease-laden discharges;

(8) The existence of devices, procedures or processes designed to minimize the amount of fats, oil or grease from entering the collection system;

(9) The location of the facility, if it is located in a known problem area;

(10) Any prior problems with the facility, such as blockages, violations, etc.

(c) All grease interceptors shall be certified by the International Association of Plumbing and Mechanical Officers, or another listing agency approved by the City Manager, and be installed according to the Plumbing Code.

(d) All grease interceptors shall include an effluent sample box of a type and size approved by the City Manager.

(e) Inspection by the City Manager, or an authorized inspector, of installed grease interceptors and piping prior to backfilling is required. Piping shall meet the requirements of the Plumbing Code.

(f) Grease interceptors shall have a sanitary tee located inside the sample box on the discharge side of the sample box.

(g) Grease interceptors shall have a cleanout installed after the sample box on the private lateral and at intervals required by the Plumbing Code.

(h) All manholes and sample boxes are to be installed a minimum of one-half (1/2") inch above the finished grade with a concrete collar a minimum of eighteen (18") inches around the manhole and sample box lids.

(§2, Ord. 1118-13, eff. July 4, 2013)

Sec. 6-7.416 Grease Interceptor — Design and Maintenance Standards — Maintenance Provisions.

(a) Any user who is required by the City Manager or this article to install or operate a grease interceptor shall be required to adequately maintain the grease interceptor at the user's expense, so that the grease interceptor is in proper working order at all times. Maintenance shall include the complete removal of all contents, including floating materials, wastewater, sludge and solids. Decanting or discharging of removed waste back into the grease interceptor from which the waste was removed or into any other grease interceptor, for the purpose of reducing the volume to be hauled is prohibited.

(b) Grease interceptors shall be cleaned out completely by a permitted waste hauler as necessary to assure that the grease interceptor will operate as designed at all times or as otherwise specified by the City Manager.

(c) A maintenance log indicating each pumping of a grease interceptor for the previous twelve (12) months and any other pertinent information shall be maintained by each food service establishment. This log shall include, but not be limited to, date, time, amount pumped, hauler, and disposal site, and the

log shall be kept in a conspicuous location for inspection by the City Manager or the authorized inspector during normal business hours.

(d) All users must sign a waste manifest form before having a waste load transported by a permitted hauler. The user shall also keep copies of the manifest form for a period of at least three (3) years, and make all manifest records available for inspection by the City Manager during normal business hours.

(e) All waste removed from a grease interceptor must be disposed at a facility permitted by the County of Los Angeles or applicable regulatory agencies to receive such waste. The pumpage shall not be returned to the public sewer system or manhole, any private wastewater system or storm drains.

(f) All grease interceptors shall be located as to be readily and easily accessible for cleaning, inspection and removal of intercepted waste.

(g) Any fixture connected to a grease interceptor shall have a nonremovable, secured food strainer of such integrity to withstand daily operational usage.

(§2, Ord. 1118-13, eff. July 4, 2013)

Sec. 6-7.417 Grease Trap — Required.

(a) The City may require food service establishments to install grease traps in the waste line leading from drains, sink, and other fixtures or equipment where grease may be introduced into the sewer system in quantities that can cause blockage.

(b) Sizing and installation of grease traps shall conform to the Plumbing Code.

(c) Grease traps shall be maintained in efficient operating conditions by removing accumulated grease on a daily basis.

(d) Grease traps shall be maintained free of all food residues and any FOG waste removed during the cleaning and scraping process.

(e) Grease traps shall be inspected periodically to check for leaking seams and pipes, and for effective operation of the baffles and flow regulating device. Grease traps and their baffles shall be maintained free of all caked-on FOG and waste. Removable baffles shall be removed and cleaned during the maintenance process.

(f) Dishwashers and food waste disposal units shall not be connected to or discharged into any grease trap.

(§2, Ord. 1118-13, eff. July 4, 2013)

Sec. 6-7.418 Best Management Practices — Required.

(a) *Generally.* All food services establishments shall implement Best Management Practices in their operations to minimize the discharge of FOG to the sewer system. This may include kitchen practices and employee training that are essential in minimizing FOG discharge. At a minimum, best management practices shall include the requirements of this section.

(b) *Drain Screens.*

(1) Drain screens shall be installed on all drainage pipes in food preparation areas for existing food service establishments within one (1) year after the effective date of this chapter (July 4, 2013).

(2) Within one (1) year after the effective date of this chapter, drain screens shall be installed on all drainage pipes in food preparation areas for all new food service establishments deemed by the City Manager to generate grease.

(c) *Waste Cooking Oil.*

(1) All waste cooking oil shall be collected and stored properly in recycling barrels or drums. Such recycling barrels or drums shall be maintained appropriately to ensure they do no leak.

(2) Licensed haulers or an approved recycling facility must be used to dispose of waste cooking oil.

(d) *Food Waste.* All food waste shall be placed in enclosed plastic bags and disposed of directly into the trash or garbage, and not in sinks.

(e) *Employee Training.*

(1) Employees of the food service establishment shall be trained within one (1) year after the effective date of this chapter, and twice each calendar year thereafter, on the following subjects:

a. How to "dry wipe" pots, pans, dishware and work areas before washing to remove grease;

b. How to properly dispose of food waste and solids in enclosed plastic bags prior to disposal in trash bins or containers to prevent leaking and odors;

c. The location and use of absorption products to clean under fryer baskets and other locations where grease may be spilled or dripped;

d. How to properly dispose of grease or oils from cooking equipment into a grease barrel or drum without spilling.

(2) Training shall be documented and employee signatures retained indicating each employee's attendance and understanding of the practices.

(3) Training records shall be available for review at any reasonable time by an authorized inspector.

(f) *Maintenance of Kitchen Exhaust Filters.* Kitchen exhaust filters shall be cleaned as frequently as necessary to be maintained in good operating condition, but in no event less than one time per month.

(g) *Kitchen Signage.* All Best Management Practices shall be posted conspicuously in the food preparation and dishwashing areas at all times.

(§2, Ord. 1118-13, eff. July 4, 2013)

Sec. 6-7.419 Monitoring and Inspection Requirements.

(a) The City may require a food service establishment to construct and maintain in proper operating condition at the food service establishment's sole expense, monitoring facilities and practices.

(b) The City may require a food service establishment to inspect and sample wastewater discharges of any food service establishment to ascertain whether the intent of this article is being met.

(c) The City may require the food service establishment to submit waste analysis plans, contingency plans, and meet other necessary requirements to ensure proper operation and maintenance of the grease control device or grease interceptor and compliance with this article.

(d) No food service establishment shall increase the use of water or in any other manner attempt to dilute a discharge as a partial or complete substitute for treatment to achieve compliance with this article and any order.

(§2, Ord. 1118-13, eff. July 4, 2013)

Sec. 6-7.420 Right of Entry.

(a) The City is hereby authorized to enter the premises of any food service establishment at all times during normal business hours, for purposes of inspecting the food service establishment's grease control devices or grease interceptor, reviewing the manifests, receipts and invoices relating to the cleaning, maintenance and inspection of the grease control devices or grease interceptor and otherwise determining whether the requirements of this article are being met. The City may require the food service establishment to provide immediate, clear, safe and uninterrupted access to the food service establishment's monitoring and metering facilities.

(b) No person shall interfere with the City's ready access to all parts of a food service establishment's premises.

(§2, Ord. 1118-13, eff. July 4, 2013)

Sec. 6-7.421 Enforcement.

(a) *Violation.* No person shall violate any provision or fail to comply with any of the requirements of this article. Any violation or failure to comply with the requirements of this article shall be a violation of this Code.

(b) *Public Nuisance.* Any violation or failure to comply with the requirements of this article shall constitute a public nuisance. The City Attorney is authorized to commence necessary proceedings provided by local or State law to abate, remove and enjoin such public nuisance.

(c) *Enforcement.* The City may enforce any violation of the requirements of this article in accordance with Article 5 of this chapter.

(§2, Ord. 1118-13, eff. July 4, 2013)

Secs. 6-7.422 — 6-7.500 Reserved.

Article 5. Enforcement

Sec. 6-7.501 Enforcement — Generally.

In addition to any remedies provided in this Code or available under any applicable law, the City may take any enforcement action or combination of enforcement actions provided in this article against any person who violates any provision of this chapter.

(§1, Ord. 1119-13, eff. July 4, 2013)

Sec. 6-7.502 Enforcement — Administrative Remedies.

(a) *Notice of Violation.* The Authorized Inspector may deliver to the owner or occupant of any property, or to any person who violates any provision of this chapter, a Notice of Violation. The Notice of Violation shall be delivered in accordance with Section 6-7.507.

(1) The Notice of Violation shall identify the provision(s) of this chapter or the applicable permit which has been violated. The Notice of Violation shall state that continued noncompliance may result in additional enforcement actions against the owner, occupant and/or person.

(2) The Notice of Violation shall state a compliance date that must be met by the owner, occupant and/or person; provided, however, that the compliance date may not exceed ninety (90) days unless the Authorized Inspector extends the compliance deadline an additional ninety (90) days where good cause exists for the extension. Uncontrolled threats to public health, safety and welfare shall be abated immediately and in no case longer than thirty (30) days.

(b) *Administrative Compliance Orders.* Separate from, in addition to, or in combination with, a Notice of Violation or Cease and Desist Order, the Authorized Inspector may issue an Administrative Compliance Order against the owner and/or occupant of any public or private property and/or any other person responsible for a violation of this chapter. Issuance of a Notice of Violation or Cease and Desist Order is not a prerequisite to the issuance of an Administrative Compliance Order.

(c) *Cease and Desist Orders.* The Authorized Inspector may issue a Cease and Desist Order directing the owner or occupant, or other person in charge of day-to-day operations of any public or private property and/or any other person responsible for a violation of this chapter to:

(1) Immediately discontinue any violation of this chapter;

(2) Immediately remedy any source or cause of a continuing violation of this chapter;

(3) Clean up any area affected by the violation.

(d) *Monetary Penalty.*

(1) In addition to, or in combination with a Notice of Violation, Administrative Compliance Order or Cease and Desist Order, the City Manager or the Authorized Inspector may issue a civil penalty for violations of this chapter. The Notice of Violation, Administrative Compliance Order, or Cease and Desist Order to which the penalty will attach shall allege the act(s) or failure(s) to act that constitute violations of this chapter and shall set forth the penalty for the violation. The City Manager or the Authorized Inspector may impose the following monetary penalties, in addition to other appropriate corrective action requirements:

a. An amount that shall not exceed One Hundred ($100.00) Dollars for each day a person fails or refuses to provide the City with any report or information required by this chapter.

b. An amount that shall not exceed Two Hundred ($200.00) Dollars for each day a person fails or refuses to timely comply with a Notice of Violation or Cease and Desist Order or fails or refuses to remedy any source of a continuing violation as required by the City Manager or this chapter.

c. An amount that shall not exceed One Thousand ($1,000.00) Dollars per day for each day on which a person violates Sections 6-7.223, 6-7.225, 6-7.226, 6-7.403, 6-7.404 or 6-7.409 of this chapter.

(2) The amount of any penalties imposed under this section which have remained delinquent for a period of sixty (60) days may become a special assessment against the real property of the person violating this chapter.

(3) The assessment may be collected at the same time and in the same manner as ordinary municipal taxes are collected, and shall be subject to the same penalties and the same procedure and sale in case of delinquency as provided for ordinary municipal taxes. All laws applicable to the levy, collection and enforcement of municipal taxes shall be applicable to the special assessment.

(4) If the identity of the owner of the real property can be determined, the City shall make its best effort to provide notice of the special assessment to the owner by certified mail at the time of imposing the assessment. Such notice will specify that the property may be sold after three (3) years by the Tax Collector for unpaid delinquent assessments. The Tax Collector's power of sale shall not be affected by the failure of the property owner to receive notice. Assessment of administrative fines as provided hereunder does not preclude assessment of other costs of abatement of any nuisance against the same property at a later date.

(5) If any real property against which the special assessment relates has been transferred or conveyed to a bona fide purchaser for value, or if a lien of a bona fide encumbrancer for value has been created and attaches thereon, prior to the date on which the first installment of the taxes would become delinquent, then the cost of abatement shall not result in a lien against the real property but instead shall be transferred to the unsecured roll for collection.

(6) A sale of vacant residential developed property for which the payment of a special assessment imposed pursuant to this chapter is delinquent may be conducted, subject to the requirements applicable to the sale of property pursuant to Section 3691 of the Revenue and Taxation Code.

(7) Notices or instruments relating to the special assessment shall be entitled to recordation.

(e) *Recovery of Costs.* The Authorized Inspector may deliver to the owner or occupant of any property, any permittee or any other person who becomes subject to a Notice of Violation or other administrative order, an invoice for costs documenting any and all costs incurred by the City in cleaning up a site, remedying a violation, and issuing the Notice of Violation or other administrative order and directing payment to the City. An invoice for costs shall be delivered in accordance with Section 6-7.507 of this chapter. An invoice for costs shall be immediately due and payable to the City for the actual costs incurred by the City in issuing and enforcing any notice or order. If any owner or occupant, permittee or any other person subject to an invoice for costs fails to either pay the invoice for costs or successfully appeal the invoice for costs in accordance with Section 6-7.508, then the City Attorney may institute collection proceedings.

(f) Unless timely appealed, an administrative compliance order shall be effective and final as of the date it is issued by the City Manager.

(§1, Ord. 1119-13, eff. July 4, 2013)

Sec. 6-7.503 Enforcement — Civil Remedies.

(a) *Nuisance.* Any condition in violation of the prohibitions of this chapter shall constitute a threat to the public health, safety and welfare, and is declared and deemed a nuisance pursuant to Government Code section 38771.

(1) City Abatement. In the event the owner of property, the operator of a facility, a permittee or any other person fails to comply with any provision of a compliance schedule issued to such owner, operator, permittee or person pursuant to this chapter, the Authorized Inspector may request the City Attorney to obtain an abatement warrant or other appropriate judicial authorization to enter the property, abate the condition and restore the area. Any costs incurred by the City in obtaining and carrying out an abatement warrant or other judicial authorization may be recovered pursuant to Section 6-7.502(e).

a. Court order to enjoin or abate. At the request of the City Manager, the City Attorney may seek a court order to enjoin and/or abate the nuisance.

b. Notice to owner and occupant. Prior to seeking any court order to enjoin or abate a nuisance or threatened nuisance, the City Manager shall provide notice of the proposed injunction or abatement to the owner and occupant, if any, of the property where the nuisance or threatened nuisance is occurring.

(2) Emergency Abatement. In the event the nuisance constitutes an imminent danger to public safety or the environment, the Authorized Inspector may enter the property from which the nuisance emanates, abate the nuisance and restore any property affected by the nuisance. To the extent

reasonably practicable, informal notice shall be provided to the owner or occupant prior to abatement. If necessary to protect the public safety or the environment, abatement may proceed without prior notice to or consent from the owner or occupant thereof and without judicial warrant.

(3) Reimbursement of Costs. All costs incurred by the City in responding to any nuisance, all administrative expenses and all other expenses recoverable under State law, shall be recoverable from the person(s) creating, causing, committing, permitting or maintaining the nuisance.

(4) Nuisance Lien. All costs shall become a lien against the property from which the nuisance emanated and a personal obligation against the owner thereof in accordance with Government Code sections 38773.1 and 38773.5. The owner of record of the property subject to any lien shall be given notice of the lien prior to recording as required by Government Code section 38773.1. At the direction of the City Manager, the City Attorney is authorized to collect nuisance abatement costs or enforce a nuisance lien in an action brought for a money judgment or by delivery to the County Assessor of a special assessment against the property in accord with the conditions and requirements of Government Code section 38773.5.

(b) *Injunction.* At the request of City Manager, the City Attorney may cause the filing in a court of competent jurisdiction, of a civil action seeking an injunction against any threatened or continuing noncompliance with the provisions of this chapter.

(c) *Order for Reimbursement.* Any temporary, preliminary or permanent injunction issued pursuant hereto may include an order for reimbursement to the City of all costs incurred in enforcing this chapter, including costs of inspection, investigation and monitoring, the costs of abatement undertaken at the expense of the City, costs relating to restoration of the environment and all other expenses as authorized by law.

(d) *Damages.* The City Manager may cause the City Attorney to file an action for civil damages in a court of competent jurisdiction seeking recovery of (i) all costs incurred in enforcement of this Chapter, including, but not limited to, costs relating to investigation, sampling, monitoring, inspection, administrative expenses, all other expenses as authorized by law, and consequential damages, (ii) all costs incurred in mitigating harm to the environment or reducing the threat to human health, and (iii) damages for irreparable harm to the environment.

(e) *Damages from Trespass or Nuisance on Public Land.* The City Attorney is authorized to file actions for civil damages resulting from any trespass or nuisance occurring on public land or other property from any violation of this chapter where the same has caused damage, contamination or harm to the environment, public property or equipment.

(§1, Ord. 1119-13, eff. July 4, 2013)

Sec. 6-7.504 Enforcement — Criminal Remedies.

(a) *Infractions.* Any person who may otherwise be charged with a misdemeanor under this chapter may be charged, at the discretion of the City Attorney, with an infraction punishable by a fine of not more than One Hundred ($100.00) Dollars for a first violation, Two Hundred ($200.00) Dollars for a second violation, and a fine not exceeding Five Hundred ($500.00) Dollars for each additional violation occurring within one (1) year.

(b) *Misdemeanors.* Any person who violates any provision of this chapter, undertakes to conceal any violation of this chapter, continues any violation of this chapter after notice thereof, or violates the terms, conditions and requirements of any permit issued pursuant to this chapter, shall be guilty of a misdemeanor punishable by a fine of not more than One Thousand ($1,000.00) Dollars or by imprisonment for a period of not more than six (6) months, or both.

(§1, Ord. 1119-13, eff. July 4, 2013)

Sec. 6-7.505 Enforcement — Nonexclusive Remedies.

Each and every remedy available for the enforcement of this chapter shall be nonexclusive and it is within the discretion of the Authorized Inspector or City Attorney to seek cumulative remedies, except that multiple monetary fines or penalties shall not be available for any single violation of this chapter.

(§1, Ord. 1119-13, eff. July 4, 2013)

Sec. 6-7.506 Enforcement — Consecutive Violations.

Each day in which a violation occurs and each separate failure to comply with either a separate provision of this chapter, an Administrative Compliance Order, a Cease and Desist Order or a permit issued pursuant to this chapter, shall constitute a separate violation of this chapter punishable by fines or sentences issued in accordance herewith.

(§1, Ord. 1119-13, eff. July 4, 2013)

Sec. 6-7.507 Notices.

(a) *Delivery of Notice.* Any Notice of Violation, Administrative Compliance Order, Cease and Desist Order or Invoice of Costs to be delivered pursuant to the requirements of this chapter shall be subject to the following:

(1) The notice shall state that the recipient has a right to appeal the matter as set forth in Section 6-7.508 of this chapter.

(2) Delivery shall be deemed complete upon personal service to the recipient, deposit in the U.S. mail, postage prepaid for first class delivery, by facsimile service with confirmation of receipt, or by any other means permitted by law.

(3) Where the recipient of notice is the owner of the property, the address for notice shall be the address from the most recently issued equalized assessment roll for the property or as otherwise appears in the current records of the City.

(4) Where the owner or occupant of any property cannot be located after the reasonable efforts of the City Manager or Authorized Inspector, a Notice of Violation or Cease and Desist Order shall be deemed delivered after posting on the property for a period of five (5) business days.

(§1, Ord. 1119-13, eff. July 4, 2013)

Sec. 6-7.508 Appeals.

Any person subject to a Notice of Violation, Administrative Compliance Order, or Cease and Desist Order aggrieved by the issuance of an order may appeal from the issuance thereof to a hearing officer in accordance with the appeal procedures set forth in Chapter 4 of Title 1 of this Code, except that any such appeal shall be filed within fifteen (15) days of the date of service of the Notice of Violation, Cease and Desist Order or Administrative Compliance Order by the Authorized Inspector upon the appealing party. A person subject to an order to remedy a condition which poses an immediate threat to the public health, safety or welfare shall comply with that order during the pendency of any appeal. To the extent that any provision of this section conflicts with the provisions of Chapter 4 of Title 1 of this Code, the provisions contained in Chapter 4 of Title 1 shall control.

(§1, Ord. 1119-13, eff. July 4, 2013)

Sec. 6-7.509 Judicial Review.

The provisions of Sections 1094.5 and 1094.6 of the Code of Civil Procedure set forth the procedure for judicial review of any act taken pursuant to this chapter. Parties seeking judicial review of any action taken pursuant to this chapter shall file such action within ninety (90) days of the occurrence of the event for which review is sought.

(§1, Ord. 1119-13, eff. July 4, 2013)

Sec. 6-7.510 Severability.

(a) If any section, subsection, subdivision, paragraph, sentence, clause or phrase added by this chapter, or any part thereof, is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this chapter or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof irrespective of the fact that any or more subsections, subdivisions, paragraphs, sentences, clauses or phrases are declared unconstitutional, invalid or ineffective.

(b) If any provision of this chapter or the application of the chapter to any circumstance is held invalid, the remainder of the chapter or the application of the chapter to other persons or circumstances shall not be affected.

(§1, Ord. 1119-13, eff. July 4, 2013)

Secs. 6-7.511 — 6-7.600 Reserved.

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CHAPTER 8 - CITY RESPONSIBILITY FOR CHAPTER 6.95 OF THE HEALTH AND SAFETY CODE, HAZARDOUS MATERIALS RELEASE RESPONSE PLANS AND INVENTORY

Sec. 6-8.101 Preamble.

Chapter 6.95 of the California Health and Safety Code (commencing with Section 25500 thereof) establishes a statutory scheme for requiring businesses and local jurisdictions to devise and implement plans to provide a base of information about location, type, quantity and the health risk of hazardous materials handled, used, stored, or disposed of in the state, and to prevent or mitigate the damage to the health and safety of persons and the environment from the release or threatened release of such materials into the work place and environment; and the Health and Safety Code 25502 (b) allows a city, by ordinance, to assume responsibility for the implementation of Chapter 6.95 and thereafter have exclusive jurisdiction within its boundaries with respect to such implementation.
(Preamble, Ord. 801, eff. February 6, 1987)

Sec. 6-8.102 Responsibility.

The City hereby assumes responsibility for implementing the provisions of Chapter 6.95 of the California Health and Safety Code.
(§1, Ord. 801, eff. February 6, 1987)

Sec. 6-8.103 Enforcement.

The Fire Department is hereby designated as the administering agency responsible for administering and enforcing the provisions of Chapter 6.95 within jurisdictional limits of the City.
(§2, Ord. 801, eff. February 6, 1987)

Sec. 6-8.104 Consultation and Coordination.

The Fire Department shall give notice to the County of Los Angeles Fire Department, Hazardous Materials Section, of the adoption of this chapter and shall consult with, and coordinate its activities with the County Fire Department to avoid duplicating efforts or any misunderstandings regarding the areas, duties and responsibility of each administering agency.
(§3, Ord. 801, eff. February 6, 1987)

Sec. 6-8.105 Immediate Notice.

The Fire Department shall further give immediate notice to the State Office of Emergency Services of the adoption of this chapter.
(§4, Ord. 801, eff. February 6, 1987)

Sec. 6-8.106 Fees.

The fees to be collected from each business required to submit a business plan pursuant to such Chapter 6.95 shall be established by resolution of the City Council.
(§5, Ord. 801, eff. February 6, 1987)

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CHAPTER 9 FLOODPLAIN MANAGEMENT

Article 1. Statutory Authorization, Findings of Fact, Purpose and Methods

Prior ordinance history: Ordinance No. 947-97.

Sec. 6-9.101 Statutory Authorization.

The Legislature of the State of California has in Government Code Sections 65302, 65560, and 65800 conferred upon local governments the authority to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the City Council of the City of Avalon does hereby adopt the following floodplain management regulations.
(Ord. 1120-13, eff. July 4, 2013)

Sec. 6-9.102 Findings of Fact and Statement of Purpose.

(a) The flood hazard areas of the City of Avalon are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

(b) These flood losses are caused by uses that are inadequately elevated, floodproofed, or protected from flood damage. The cumulative effect of obstructions in areas of special flood hazards which increase flood heights and velocities also contributes to flood losses.

(c) It is the purpose of this chapter to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by legally enforceable regulations applied uniformly throughout the community to all publicly and privately owned land within flood prone, mudslide (i.e. mudflow) or flood related erosion areas. These regulations are designed to:

(1) Protect human life and health;

(2) Minimize expenditure of public money for costly flood control projects;

(3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

(4) Minimize prolonged business interruptions;

(5) Minimize damage to public facilities and utilities such as water and gas mains; electric, telephone and sewer lines; and streets and bridges located in areas of special flood hazard;

(6) Help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future blighted areas caused by flood damage;

(7) Ensure that potential buyers are notified that property is in an area of special flood hazard; and

(8) Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.
(Ord. 1120-13, eff. July 4, 2013)

Sec. 6-9.103 Methods of Reducing Flood Losses.

In order to accomplish its purposes, this chapter includes regulations to:

(a) Restrict or prohibit uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or flood heights or velocities;

(b) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

(c) Control the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel floodwaters;

(d) Control filling, grading, dredging, and other development which may increase flood damage;

(e) Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards in other areas.
(Ord. 1120-13, eff. July 4, 2013)

Article 2. Definitions

Prior ordinance history: Ordinance Nos. 947-97 and 1011-03.

Sec. 6-9.201 Definitions.

Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

"A zone" - see "Special flood hazard area."

"Accessory structure" shall mean a structure that is either:

a. Solely for the parking of no more than two (2) cars; or

b. A small, low-cost shed for limited storage, less than one hundred fifty (150) square feet and One Thousand Five Hundred ($1,500.00) Dollars in value.

"Accessory use" shall mean a use which is incidental and subordinate to the principal use of the parcel of land on which it is located.

"Alluvial fan" shall mean a geomorphologic feature characterized by a cone or fan-shaped deposit of boulders, gravel, and fine sediments that have been eroded from mountain slopes, transported by flood flows, and then deposited on the valley floors, and which is subject to flash flooding, high velocity flows, debris flows, erosion, sediment movement and deposition, and channel migration.

"Apex" shall mean a point on an alluvial fan or similar landform below which the flow path of the major stream that formed the fan becomes unpredictable and alluvial fan flooding can occur.

"Appeal" shall mean a request for a review of the Floodplain Administrator's interpretation of any provision of this chapter.

"Area of shallow flooding" shall mean a designated AO or AH Zone on the Flood Insurance Rate Map (FIRM). The base flood depths range from one (1') to three (3') feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

"Area of special flood-related erosion hazard" shall mean the land within a community which is most likely to be subject to severe flood-related erosion losses. The area may be designated as Zone E on the Flood Insurance Rate Map (FIRM).

"Area of special flood hazard" - See "Special flood hazard area."

"Area of special mudslide (i.e., mudflow) hazard" shall mean the area subject to severe mudslides (i.e., mudflows). The area is designated as Zone M on the Flood Insurance Rate Map (FIRM).

"Base flood" shall mean a flood which has a one (1%) percent chance of being equaled or exceeded in any given year (also called the "100-year flood"). Base flood is the term used throughout this chapter.

"Base flood elevation" (BFE) shall mean the elevation shown on the Flood Insurance Rate Map for Zones AE, AH, A1-30, VE and V1-V30 that indicates the water surface elevation resulting from a flood that has a one (1%) percent or greater chance of being equaled or exceeded in any given year.

"Basement" shall mean any area of the building having its floor subgrade - i.e., below ground level - on all sides.

"Breakaway walls" shall mean any type of walls, whether solid or lattice, and whether constructed of concrete, masonry, wood, metal, plastic or any other suitable building material which is not part of the structural support of the building and which is designed to break away under abnormally high tides or wave action without causing any damage to the structural integrity of the building on which they are used or any buildings to which they might be carried by floodwaters. A breakaway wall shall have a safe design loading resistance of not less than ten (10) and no more than twenty (20) pounds per square foot. Use of breakaway walls must be certified by a registered engineer or architect and shall meet the following conditions:

(a) Breakaway wall collapse shall result from a water load less than that which would occur during the base flood; and

(b) The elevated portion of the building shall not incur any structural damage due to the effects of wind and water loads acting simultaneously in the event of the base flood.

"Building" - see "Structure."

"Coastal high hazard area" shall mean an area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. It is an area subject to high velocity waters, including coastal and tidal inundation or tsunamis. The area is designated on a Flood Insurance Rate Map (FIRM) as Zone V1-V30, VE, or V.

"Development" shall mean any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

"Encroachment" shall mean the advance or infringement of uses, plant growth, fill, excavation, buildings, permanent structures or development into a floodplain which may impede or alter the flow capacity of a floodplain.

"Existing manufactured home park or subdivision" shall mean a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of this chapter.

"Expansion to an existing manufactured home park or subdivision" shall mean the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

"Flood, flooding, or floodwater" shall mean:

(a) A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters; the unusual and rapid accumulation or runoff of surface waters from any source; and/or mudslides (i.e., mudflows); and

(b) The condition resulting from flood-related erosion.

"Flood Boundary and Floodway Map (FBFM)" shall mean the official map on which the Federal Emergency Management Agency or Federal Insurance Administration has delineated both the areas of special flood hazards and the floodway.

"Flood Insurance Rate Map (FIRM)" shall mean the official map on which the Federal Emergency Management Agency or Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

"Flood Insurance Study" shall mean the official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Insurance Rate

Map, the Flood Boundary and Floodway Map, and the water surface elevation of the base flood.

"Floodplain or flood-prone area" shall mean any land area susceptible to being inundated by water from any source - see "Flooding."

"Floodplain Administrator" shall mean the Planning Director or other community official designated by title to administer and enforce the floodplain management regulations.

"Floodplain management" shall mean the operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including but not limited to emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

"Floodplain management regulations" shall mean this chapter and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as grading and erosion control) and other application of police power which control development in flood-prone areas. This term describes Federal, State or local regulations in any combination thereof which provide standards for preventing and reducing flood loss and damage.

"Floodproofing" shall mean any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents. For guidelines on dry and wet floodproofing, see FEMA Technical Bulletins TB 1-93, TB 3-93, and TB 7-93.

"Flood-related erosion" shall mean the collapse or subsidence of land along the shore of a lake or other body of water as a result of undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding.

"Flood-related erosion area" or "flood-related erosion prone area" shall mean a land area adjoining the shore of a lake or other body of water, which due to the composition of the shoreline or bank and high water levels or wind-driven currents, is likely to suffer flood-related erosion damage.

"Flood-related erosion area management" shall mean the operation of an overall program of corrective and preventive measures for reducing flood-related erosion damage, including but not limited to emergency preparedness plans, flood-related erosion control works, and floodplain management regulations.

"Floodway" shall mean the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1') foot. Also referred to as "regulatory floodway."

"Floodway fringe" shall mean that area of the floodplain on either side of the "regulatory floodway" where encroachment may be permitted.

"Fraud and victimization" as related to Article 6 of this chapter, shall mean that the variance granted must not cause fraud on or victimization of the public. In examining this requirement, the City Council will consider the fact that every newly constructed building adds to government responsibilities and remains a part of the community for fifty (50) to one-hundred (100) years. Buildings that are permitted to be constructed below the base flood elevation are subject during all those years to increased risk of damage from floods, while future owners of the property and the community as a whole are subject to all the costs, inconvenience, danger, and suffering that those increased flood damages bring. In addition, future owners may purchase the property, unaware that it is subject to potential flood damage, and can be insured only at very high flood insurance rates.

"Functionally dependent use" shall mean a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, and does not include long-term storage or related manufacturing facilities.

"Governing body" shall mean the local governing unit, i.e. County or municipality, that is empowered to adopt and implement regulations to provide for the public health, safety and general welfare of its citizenry.

"Hardship" as related to Article 6 of this chapter shall mean the exceptional hardship that would result from a failure to grant the requested variance. The City Council requires that the variance be exceptional, unusual, and peculiar to the property involved. Mere economic or financial hardship alone is not exceptional. Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the disapproval of one's neighbors likewise cannot, as a rule, qualify as an exceptional hardship. All of these problems can be resolved through other means without granting a variance, even if the alternative is more expensive, or requires the property owner to build elsewhere or put the parcel to a different use than originally intended.

"Highest adjacent grade" shall mean the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

"Historic structure" shall mean any structure that is:

(a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

(b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

(c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or

(d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program as determined by the Secretary of the Interior or directly by the Secretary of the Interior in states without approved programs.

"Levee" shall mean a manmade structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control or divert the flow of water so as to provide protection from temporary flooding.

"Levee system" shall mean a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accord with sound engineering practices.

"Lowest floor" shall mean the lowest floor of the lowest enclosed area, including basement (see "Basement" definition).

(a) An unfinished or flood resistant enclosure below the lowest floor that is usable solely for parking of vehicles, building access or storage in an

area other than a basement area, is not considered a building's lowest floor provided it conforms to applicable non-elevation design requirements, including, but not limited to:

(1) The flood openings standard in Section 6-9.501(c)(3);

(2) The anchoring standards in Section 6-9.501(a);

(3) The construction materials and methods standards in Section 6-9.501(b); and

(4) The standards for utilities in Section 6-9.502.

(b) For residential structures, all subgrade enclosed areas are prohibited as they are considered to be basements (see "Basement" definition). This prohibition includes below-grade garages and storage areas.

"Manufactured home" shall mean a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle."

"Manufactured home park or subdivision" shall mean a parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.

"Market value" shall be determined by estimating the cost to replace the structure in new condition and adjusting that cost figure by the amount of depreciation which has accrued since the structure was constructed.

(a) The cost of replacement of the structure shall be based on a square foot cost factor determined by reference to a building cost estimating guide recognized by the building construction industry.

(b) The amount of depreciation shall be determined by taking into account the age and physical deterioration of the structure and functional obsolescence as approved by the Floodplain Administrator, but shall not include economic or other forms of external obsolescence.

Use of replacement costs or accrued depreciation factors different from those contained in recognized building cost estimating guides may be considered only if such factors are included in a report prepared by an independent professional appraiser and supported by a written explanation of the differences.

"Mean sea level" shall mean, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD) of 1988, or other datum, to which base flood elevations shown on the City of Avalon's Flood Insurance Rate Map are referenced.

"Mudslide" shall mean a condition where there is a river, flow or inundation of liquid mud down a hillside, usually as a result of a dual condition of loss of brush cover and the subsequent accumulation of water on the ground, preceded by a period of unusually heavy or sustained rain.

"Mudslide (i.e., mudflow) prone area" shall mean an area with land surfaces and slopes of unconsolidated material where the history, geology, and climate indicate a potential for mudflow.

"New construction," for floodplain management purposes, shall mean structures for which the "start of construction" commenced on or after the effective date of these regulations, and includes any subsequent improvements to such structures.

"New manufactured home park or subdivision" shall mean a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of these regulations.

"Obstruction" shall mean, but is not limited to, any dam, wall, wharf, embankment, levee, dike, pile, abutment, protection, excavation, channelization, bridge, conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, structure, vegetation or other material in, along, across or projecting into any watercourse which may alter, impede, retard or change the direction and/or velocity of the flow of water, or due to its location, its propensity to snare or collect debris carried by the flow of water, or its likelihood of being carried downstream.

"One hundred-year flood" or "100-year flood" - see "Base flood."

"Primary frontal dune" shall mean a continuous or nearly continuous mound or ridge of sand with relatively steep seaward and landward slopes immediately landward and adjacent to the beach and subject to erosion and overtopping from high tides and waves during major coastal storms. The inland limit of the primary frontal dune occurs at the point where there is a distinct change from a relatively mild slope.

"Program deficiency" shall mean a defect in a community's floodplain management regulations or administrative procedures that impairs effective implementation of those floodplain management regulations.

"Public safety and nuisance" as related to Article 6 of this chapter, shall mean that the granting of a variance must not result in anything which is injurious to the safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

"Recreational vehicle" shall mean a vehicle which is:

(a) Built on a single chassis;

(b) Four hundred (400) square feet or less when measured at the largest horizontal projection;

(c) Designed to be self-propelled or permanently towable by a light-duty truck; and

(d) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

"Regulatory floodway" shall mean the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1') foot.

"Remedy a violation" shall mean to bring the structure or other development into compliance with State or local floodplain management regulations, or if this is not possible, to reduce the impacts of its noncompliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of the chapter or otherwise deterring future similar violations, or reducing State or Federal financial exposure with regard to the structure or other development.

"Riverine" shall mean relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

"Sand dunes" shall mean naturally occurring accumulations of sand in ridges or mounds landward of the beach.

"Sheet flow area" - see "Area of shallow flooding."

"Special flood hazard area (SFHA)" shall mean an area in the floodplain subject to a one (1%) percent or greater chance of flooding in any given year. It is shown on an FHBM or FIRM as Zone A, AO, Al -A30, AE, A99, AH, V1-V30, VE or V.

"Start of construction" includes substantial improvement and other proposed new development and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within one hundred eighty (180) days from the date of the permit. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

"Structure" shall mean a walled and roofed building that is principally above ground; this includes a gas or liquid storage tank or a manufactured home.

"Substantial damage" shall mean

(a) Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty (50%) percent of the market value of the structure before the damage occurred; or

(b) Flood-related damages sustained by a structure on two (2) separate occasions during a 10-year period for which the cost of repairs at the time of each such event, on the average, equals or exceeds twenty-five (25%) percent of the market value of the structure before the damage occurred. This is also known as "repetitive loss."

"Substantial improvement" shall mean any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty (50%) percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either:

(a) Any project for improvement of a structure to correct existing violations or State or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or

(b) Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

"V zone" - see "Coastal high hazard area."

"Variance" shall mean a grant of relief from the requirements of this chapter which permits construction in a manner that would otherwise be prohibited by this chapter.

"Violation" shall mean the failure of a structure or other development to be fully compliant with this chapter. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this chapter is presumed to be in violation until such time as that documentation is provided.

"Water surface elevation" shall mean the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD) of 1988, or other datum, of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

"Watercourse" shall mean a lake, river, creek, stream, wash, arroyo, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.
(Ord. 1120-13, eff. July 4, 2013)

Article 3. General Provisions

Prior ordinance history: Ordinance No. 947-97.

Sec. 6-9.301 Lands to Which This Chapter Applies.

This chapter shall apply to all areas of special flood hazards within the jurisdiction of the City of Avalon.
(Ord. 1120-13, eff. July 4, 2013)

Sec. 6-9.302 Basis for Establishing the Areas of Special Flood Hazard.

The areas of special flood hazard identified by the Federal Emergency Management Agency (FEMA) in the "Flood Insurance Study (FIS) for the City of Avalon" dated November 1, 1985, with accompanying Flood Insurance Rate Maps (FIRM's) and Flood Boundary and Floodway Maps (FBFM's), and all subsequent amendments and/or revisions, are hereby adopted by reference and declared to be a part of this chapter. This FIS and attendant mapping is the minimum area of applicability of this chapter and may be supplemented by studies for other areas which allow implementation of this chapter and which are recommended to the City Council by the Floodplain Administrator. The study, FIRM's and FBFM's are on file at the Avalon Planning and Building Department.
(Ord. 1120-13, eff. July 4, 2013)

Sec. 6-9.303 Compliance.

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this chapter and other applicable regulations. Violation of the requirements (including violations of conditions and safeguards) shall constitute a misdemeanor. Nothing herein shall prevent the City Council from taking such lawful action as is necessary to prevent or remedy any violation.
(Ord. 1120-13, eff. July 4, 2013)

Sec. 6-9.304 Abrogation and Greater Restrictions.

This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter and another chapter, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.
(Ord. 1120-13, eff. July 4, 2013)

Sec. 6-9.305 Interpretation.

In the interpretation and application of this chapter, all provisions shall be:

(a) Considered as minimum requirements;

(b) Liberally construed in favor of the governing body; and

(c) Deemed neither to limit nor repeal any other powers granted under State statutes.
(Ord. 1120-13, eff. July 4, 2013)

Sec. 6-9.306 Warning and Disclaimer of Liability.

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This chapter does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the City of Avalon, any officer or employee thereof, the State of California, or the Federal Emergency Management Agency, for any flood damages that result from reliance on this chapter or any administrative decision lawfully made hereunder.
(Ord. 1120-13, eff. July 4, 2013)

Sec. 6-9.307 Severability.

This chapter and the various parts thereof are hereby declared to be severable. Should any section of this chapter be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the chapter as a whole, or any portion thereof other than the section so declared to be unconstitutional or invalid.
(Ord. 1120-13, eff. July 4, 2013)

Article 4. Administration

Prior ordinance history: Ordinance Nos. 947-97 and 1011-03.

Sec. 6-9.401 Designation of the Floodplain Administrator.

The Director of Planning is hereby appointed to administer, implement, and enforce this chapter by granting or denying development permits in accord with its provisions.
(Ord. 1120-13, eff. July 4, 2013)

Sec. 6-9.402 Duties and Responsibilities of the Floodplain Administrator.

The duties and responsibilities of the Floodplain Administrator shall include, but not be limited to the following:

(a) *Permit Review*. Review all development permits to determine:

(1) Permit requirements of this chapter have been satisfied, including determination of substantial improvement and substantial damage of existing structures;

(2) All other required State and Federal permits have been obtained;

(3) The site is reasonably safe from flooding;

(4) The proposed development does not adversely affect the carrying capacity of areas where base flood elevations have been determined but a floodway has not been designated. This means that the cumulative effect of the proposed development when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood more than one (1') foot at any point within the City of Avalon; and

(5) All Letters of Map Revision (LOMR's) for flood control projects are approved prior to the issuance of building permits. Building permits must not be issued based on Conditional Letters of Map Revision (CLOMR's). Approved CLOMR's allow construction of the proposed flood control project and land preparation as specified in the "start of construction" definition.

(6) The cumulative value of the proposed development within the last five (5) years.

(b) *Development of Substantial Improvement and Substantial Damage Procedures.*

(1) Using FEMA publication FEMA 213, "Answers to Questions About Substantially Damaged Buildings," develop detailed procedures for identifying and administering requirements for substantial improvement and substantial damage, to include defining "market value."

(2) Assure procedures are coordinated with other departments/divisions and implemented by community staff.

(c) *Review, Use and Development of Other Base Flood Data.* When base flood elevation data has not been provided in accordance with Section 6-9.302, the Floodplain Administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a Federal or State agency, or other source, in order to administer Article 5.

NOTE: A base flood elevation may be obtained using one of two methods from the FEMA publication, FEMA 265, "Managing Floodplain Development in Approximate Zone A Areas — A Guide for Obtaining and Developing Base (100-year) Flood Elevations" dated July 1995.

(d) *Notification of Other Agencies.*

(1) Alteration or relocation of a watercourse:

a. Notify adjacent communities and the California Department of Water Resources prior to alteration or relocation;

b. Submit evidence of such notification to the Federal Emergency Management Agency; and

c. Assure that the flood carrying capacity within the altered or relocated portion of said watercourse is maintained.

(2) Base flood elevation changes due to physical alterations:

a. Within six (6) months of information becoming available or project completion, whichever comes first, the Floodplain Administrator shall submit or assure that the permit applicant submits technical or scientific data to FEMA for a Letter of Map Revision (LOMR).

b. All LOMR's for flood control projects are approved prior to the issuance of building permits. Building permits must not be issued based on Conditional Letters of Map Revision (CLOMR's). Approved CLOMR's allow construction of the proposed flood control project and land preparation as specified in the "start of construction" definition.

Such submissions are necessary so that upon confirmation of those physical changes affecting flooding conditions, risk premium rates and floodplain management requirements are based on current data.

(3) Changes in corporate boundaries:

Notify FEMA in writing whenever the corporate boundaries have been modified by annexation or other means and include a copy of a map of the community clearly delineating the new corporate limits.

(e) *Documentation of Floodplain Development.* Obtain and maintain for public inspection and make available as needed the following:

(1) Certification required by Section 6-9.501(c)(1) and Section 6-9.504 (lowest floor elevations);

(2) Certification required by Section 6-9.501(c)(2) (elevation or floodproofing of nonresidential structures);

(3) Certification required by Section 6-9.501(c)(3) (wet floodproofing standard);

(4) Certification of elevation required by Section 6-9.503(a)(3) (subdivisions and other proposed development standards);

(5) Certification required by Section 6-9.506(b) (floodway encroachments);

(6) Information required by Section 6-9.507(f) (coastal construction standards); and

(7) Maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its biennial report submitted to the Federal Emergency Management Agency.

(f) *Map Determination.* Make interpretations where needed, as to the exact location of the boundaries of the areas of special flood hazard, where there appears to be a conflict between a mapped boundary and actual field conditions. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Section 6-9.404.

(g) *Remedial Action.* Take action to remedy violations of this chapter as specified in Section 6-9.303.

(h) *Biennial Report.* Complete and submit Biennial Report to FEMA.

(i) *Planning.* Assure community's General Plan is consistent with floodplain management objectives herein.
(Ord. 1120-13, eff. July 4, 2013)

Sec. 6-9.403 Development Permit.

A development permit shall be obtained before any construction or other development, including manufactured homes, within any area of special flood hazard established in Section 6-9.302. Application for a development permit shall be made on forms furnished by the City of Avalon. If the cumulative cost of improvements over a five-year period equals or exceeds fifty (50%) percent of the market value of the structure before the start of construction of the improvement, the structure must meet current floodplain management standards. The applicant shall provide the following minimum information:

(a) Plans in duplicate, drawn to scale, showing:

(1) Location, dimensions, and elevation of the area in question, existing or proposed structures, storage of materials and equipment and their location;

(2) Proposed locations of water supply, sanitary sewer, and other utilities;

(3) Grading information showing existing and proposed contours, any proposed fill, and drainage facilities;

(4) Location of the regulatory floodway when applicable;

(5) Base flood elevation information as specified in Sections 6-9.302 or 6-9.402(c);

(6) Proposed elevation in relation to mean sea level, of the lowest floor (including basement) of all structures; and

(7) Proposed elevation in relation to mean sea level to which any nonresidential structure will be floodproofed, as required in Section 6-9.501(c)(2) of this chapter and detailed in FEMA Technical Bulletin TB 3-93.

(b) Certification from a registered civil engineer or architect that the nonresidential floodproofed building meets the floodproofing criteria in Section 6-9.501(c)(2).

(c) For a crawl-space foundation, location and total net area of foundation openings as required in Section 6-9.501(c)(3) of this chapter and detailed in FEMA Technical Bulletins 1-93 and 7-93.

(d) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

(e) All appropriate certifications listed in Section 6-9.402(e) of this chapter.
(Ord. 1120-13, eff. July 4, 2013)

Sec. 6-9.404 Appeals.

The City Council of the City of Avalon shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of this chapter.
(Ord. 1120-13, eff. July 4, 2013)

Article 5. Provisions for Flood Hazard Reduction

Prior ordinance history: Ordinance Nos. 947-97 and 1011-03.

Sec. 6-9.501 Standards of Construction.

In all areas of special flood hazards the following standards are required:

(a) *Anchoring.* All new construction and substantial improvements of structures, including manufactured homes, shall be adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

(b) *Construction Materials and Methods.* All new construction and substantial improvements of structures, including manufactured homes, shall be constructed:

(1) With flood resistant materials, and utility equipment resistant to flood damage for areas below the base flood elevation;

(2) Using methods and practices that minimize flood damage;

(3) With electrical, heating, ventilation, plumbing and air-conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding; and

(4) Within Zones AH or AO, so that there are adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures.

(c) *Elevation and Floodproofing.*

(1) Residential Construction. All new construction or substantial improvements of residential structures shall have the lowest floor, including basement:

a. In AE, AH, Al-30 Zones, elevated to or above the base flood elevation.

b. In an AO zone, elevated above the highest adjacent grade to a height equal to or exceeding the depth number specified in feet on the FIRM, or elevated at least two (2') feet above the highest adjacent grade if no depth number is specified.

c. In an A Zone, without BFE's specified on the FIRM [unnumbered A Zone], elevated to or above the base flood elevation; as determined under Section 6-9.402(c).

Upon the completion of the structure, the elevation of the lowest floor, including basement, shall be certified by a registered civil engineer or licensed land surveyor, and verified by the community building inspector to be properly elevated. Such certification and verification shall be provided to the Floodplain Administrator.

(2) Nonresidential Construction. All new construction or substantial improvements of nonresidential structures shall either be elevated to conform with Section 6-9.501(c)(1) or:

a. Be floodproofed, together with attendant utility and sanitary facilities, below the elevation recommended under Section 6-9.501(c)(1), so that the structure is watertight with walls substantially impermeable to the passage of water;

b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and

c. Be certified by a registered civil engineer or architect that the standards of Sections 6-9.501(c)(2) a. and b. are satisfied. Such certification shall be provided to the Floodplain Administrator.

(3) Flood Openings. All new construction and substantial improvements of structures with fully enclosed areas below the lowest floor (excluding basements) that are usable solely for parking of vehicles, building access or storage, and which are subject to flooding, shall be designed to automatically

equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwater. Designs for meeting this requirement must meet the following minimum criteria:

a. For non-engineered openings:

1. Have a minimum of two (2) openings on different sides having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding;

2. The bottom of all openings shall be no higher than one (1') foot above grade;

3. Openings may be equipped with screens, louvers, valves or other coverings or devices provided that they permit the automatic entry and exit of floodwater; and

4. Buildings with more than one (1) enclosed area must have openings on exterior walls for each area to allow floodwater to directly enter; or

b. Be certified by a registered civil engineer or architect.

(4) Manufactured Homes.

a. See Section 6-9.504.

(5) Garages and Low-Cost Accessory Structures.

a. Attached garages.

1. A garage attached to a residential structure, constructed with the garage floor slab below the BFE, must be designed to allow for the automatic entry of floodwaters. See Section 6-9.501(c)(3). Areas of the garage below the BFE must be constructed with flood resistant materials. See Section 6-9.501(b).

2. A garage attached to a nonresidential structure must meet the above requirements or be dry floodproofed. For guidance on below grade parking areas, see FEMA Technical Bulletin TB-6.

b. Detached garages and accessory structures.

1. "Accessory structures" used solely for parking (2 car detached garages or smaller) or limited storage (small, low-cost sheds), as defined in Article 2, may be constructed such that its floor is below the base flood elevation (BFE), provided the structure is designed and constructed in accordance with the following requirements:

(i) Use of the accessory structure must be limited to parking or limited storage;

(ii) The portions of the accessory structure located below the BFE must be built using flood-resistant materials;

(iii) The accessory structure must be adequately anchored to prevent flotation, collapse and lateral movement;

(iv) Any mechanical and utility equipment in the accessory structure must be elevated or floodproofed to or above the BFE;

(v) The accessory structure must comply with floodplain encroachment provisions in Section 6-9.506; and

(vi) The accessory structure must be designed to allow for the automatic entry of floodwaters in accordance with Section 6-9.501(c)(3).

2. Detached garages and accessory structures not meeting the above standards must be constructed in accordance with all applicable standards in Section 6-9.501.

(Ord. 1120-13, eff. July 4, 2013)

Sec. 6-9.502 Standards for Utilities.

(a) All new and replacement water supply and sanitary sewage systems shall be designed to minimize or eliminate:

(1) Infiltration of floodwaters into the systems; and

(2) Discharge from the systems into floodwaters.

(b) On-site waste disposal systems shall be located to avoid impairment to them, or contamination from them during flooding.

(Ord. 1120-13, eff. July 4, 2013)

Sec. 6-9.503 Standards for Subdivisions and Other Proposed Development.

(a) All new subdivisions proposals and other proposed development, including proposals for manufactured home parks and subdivisions, greater than 50 lots or 5 acres, whichever is the lesser, shall:

(1) Identify the Special Flood Hazard Areas (SFHA) and Base Flood Elevations (BFE).

(2) Identify the elevations of lowest floors of all proposed structures and pads on the final plans.

(3) If the site is filled above the base flood elevation, the following as-built information for each structure shall be certified by a registered civil engineer or licensed land surveyor and provided as part of an application for a Letter of Map Revision based on Fill (LOMR-F) to the Floodplain Administrator:

a. Lowest floor elevation.

b. Pad elevation.

c. Lowest adjacent grade.

(b) All subdivision proposals and other proposed development shall be consistent with the need to minimize flood damage.

(c) All subdivision proposals and other proposed development shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.

(d) All subdivisions and other proposed development shall provide adequate drainage to reduce exposure to flood hazards.
(Ord. 1120-13, eff. July 4, 2013)

Sec. 6-9.504 Standards for Manufactured Homes.

(a) All manufactured homes that are placed or substantially improved, on sites located: (1) outside of a manufactured home park or subdivision; (2) in a new manufactured home park or subdivision; (3) in an expansion to an existing manufactured home park or subdivision; or (4) in an existing manufactured home park or subdivision upon which a manufactured home has incurred "substantial damage" as the result of a flood, shall:

(1) Within Zones Al-30, AH, and AE on the community's Flood Insurance Rate Map, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to or above the base flood elevation and be securely fastened to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

(2) Within Zones V1-30, V, and VE on the community's Flood Insurance Rate Map, meet the requirements of Section 6-9.507.

(b) All manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within Zones Al-30, AH, AE, V1-30, V, and VE on the community's Flood Insurance Rate Map that are not subject to the provisions of Section 6-9.504(a) will be securely fastened to an adequately anchored foundation system to resist flotation, collapse, and lateral movement, and be elevated so that either the:

(1) Lowest floor of the manufactured home is at or above the base flood elevation; or

(2) Manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than thirty-six (36) inches in height above grade.

Upon the completion of the structure, the elevation of the lowest floor including basement shall be certified by a registered civil engineer or licensed land surveyor, and verified by the community Building Inspector to be properly elevated. Such certification and verification shall be provided to the Floodplain Administrator.
(Ord. 1120-13, eff. July 4, 2013)

Sec. 6-9.505 Standards for Recreational Vehicles.

(a) All recreational vehicles placed in Zones A1-30, AH, AE, V1-30 and VE will either:

(1) Be on the site for fewer than one hundred eighty (180) consecutive days; or

(2) Be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or

(3) Meet the permit requirements of Section 6-9.403 of this chapter and the elevation and anchoring requirements for manufactured homes in Section 6-9.504.

(b) Recreational vehicles placed on sites within Zones V1-30, V, and VE on the community's Flood Insurance Rate Map will meet the requirements of Section 6-9.505(a) and Section 6-9.507.
(Ord. 1120-13, eff. July 4, 2013)

Sec. 6-9.506 Floodways.

Since floodways are an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

(a) Until a regulatory floodway is adopted, no new construction, substantial development, or other development (including fill) shall be permitted within Zones A1-30 and AE, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within the City of Avalon.

(b) Within an adopted regulatory floodway, the City of Avalon shall prohibit encroachments, including fill, new construction, substantial improvements, and other development, unless certification by a registered civil engineer is provided demonstrating that the proposed encroachment shall not result in any increase in flood levels during the occurrence of the base flood discharge.

(c) If Sections 6-9.506(a) and (b) are satisfied, all new construction, substantial improvement, and other proposed new development shall comply with all other applicable flood hazard reduction provisions of Article 5.
(Ord. 1120-13, eff. July 4, 2013)

Sec. 6-9.507 Coastal High Hazard Areas.

Within coastal high hazard areas, Zones V, V1-30, and VE, as established under Section 6-9.302, the following standards shall apply:

(a) All new residential and nonresidential construction, including substantial improvement/damage, shall be elevated on adequately anchored pilings or columns and securely anchored to such pilings or columns so that the bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated to or above the base flood level. The pile or column foundation and structure attached thereto is anchored to resist flotation, collapse, and lateral movement due to the effects of wind and water loads acting simultaneously on all building components. Water loading values used shall be those associated with the base flood. Wind loading values used shall be those required by applicable State or local building standards.

(b) All new construction and other development shall be located on the landward side of the reach of mean high tide.

(c) All new construction and substantial improvement shall have the space below the lowest floor free of obstructions or constructed with breakaway walls as defined in Article 2 of this chapter. Such enclosed space shall not be used for human habitation and will be usable solely for parking of vehicles, building access or storage.

(d) Fill shall not be used for structural support of buildings.

(e) Manmade alteration of sand dunes which would increase potential flood damage is prohibited.

(f) The Floodplain Administrator shall obtain and maintain the following records:

(1) Certification by a registered engineer or architect that a proposed structure complies with Section 6-9.507(a); and

(2) The elevation (in relation to mean sea level) of the bottom of the lowest horizontal structural member of the lowest floor (excluding pilings or columns) of all new and substantially improved structures, and whether such structures contain a basement.
(Ord. 1120-13, eff. July 4, 2013)

Sec. 6-9.508 Mudslide (i.e., Mudflow) Prone Areas.

(a) The Floodplain Administrator shall review permits for proposed construction of other development to determine if it is proposed within a mudslide area.

(b) Permits shall be reviewed to determine that the proposed site and improvement will be reasonably safe from mudslide hazards. Factors to be considered in making this determination include, but are not limited to:

(1) The type and quality of soils;

(2) Evidence of ground water or surface water problems;

(3) Depth and quality of any fill;

(4) Overall slope of the site; and

(5) Weight that any proposed development will impose on the slope.

(c) Within areas which may have mudslide hazards, the Floodplain Administrator shall require:

(1) A site investigation and further review by persons qualified in geology and soils engineering;

(2) The proposed grading, excavation, new construction, and substantial improvement be adequately designed and protected against mudslide damages;

(3) The proposed grading, excavations, new construction, and substantial improvement not aggravate the existing hazard by creating either on-site or off-site disturbances; and

(4) Drainage, planting, watering, and maintenance not endanger slope stability.
(Ord. 1120-13, eff. July 4, 2013)

Sec. 6-9.509 Flood-Related Erosion-Prone Area.

(a) The Floodplain Administrator shall require permits for proposed construction and other development within all flood-related erosion-prone areas known to the community.

(b) Permit applications shall be reviewed to determine whether the proposed site alterations and improvements will be reasonably safe from flood-related erosion, and will not cause flood-related erosion hazards or otherwise aggravate the existing hazard.

(c) If a proposed improvement is found to be in the path of flood-related erosion or would increase the erosion hazard, such improvement shall be relocated or adequate protective measures shall be taken to avoid aggravating the existing erosion hazard.

(d) Within Zone E on the Flood Insurance Rate Map, a setback is required for all new development from the ocean, lake, bay, riverfront or other body of water to create a safety buffer consisting of a natural vegetative or contour strip. This buffer shall be designated according to the flood-related erosion hazard and erosion rate, in relation to the anticipated "useful life" of structures, and depending upon the geologic, hydrologic, topographic, and climatic characteristics of the land. The buffer may be used for suitable open space purposes, such as for agricultural, forestry, outdoor recreation and wildlife habitat areas, landscape-related stormwater management practices, and for other activities using temporary and portable structures only.
(Ord. 1120-13, eff. July 4, 2013; §1, Ord. 1143-15, eff. December 17, 2015)

Article 6. Variance Procedure

Prior ordinance history: Ordinance No. 947-97.

Sec. 6-9.601 Nature of Variances.

The issuance of a variance is for floodplain management purposes only. Insurance premium rates are determined by statute according to actuarial risk and will not be modified by the granting of a variance.

The variance criteria set forth in this section of the chapter are based on the general principle of zoning law that variances pertain to a piece of property and are not personal in nature. A variance may be granted for a parcel of property with physical characteristics so unusual that complying with the requirements of this chapter would create an exceptional hardship to the applicant or the surrounding property owners. The characteristics must be unique to the property and not be shared by

adjacent parcels. The unique characteristic must pertain to the land itself, not to the structure, its inhabitants, or the property owners.

It is the duty of the City Council to help protect its citizens from flooding. This need is so compelling and the implications of the cost of insuring a structure built below flood level are so serious that variances from the flood elevation or from other requirements in the flood ordinance are quite rare. The long term goal of preventing and reducing flood loss and damage can only be met if variances are strictly limited. Therefore, the variance guidelines provided in this chapter are more detailed and contain multiple provisions that must be met before a variance can be properly granted. The criteria are designed to screen out those situations in which alternatives other than a variance are more appropriate.
(Ord. 1120-13, eff. July 4, 2013)

Sec. 6-9.602 Conditions for Variances.

(a) Generally, variances may be issued for new construction, substantial improvement, and other proposed new development to be erected on a lot of one-half (1/2) acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing that the procedures of Articles 4 and 5 of this chapter have been fully considered. As the lot size increases beyond one-half (1/2) acre, the technical justification required for issuing the variance increases.

(b) Variances may be issued for the repair or rehabilitation of "historic structures" (as defined in Article 2 of this chapter) upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as an historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

(c) Variances shall not be issued within any mapped regulatory floodway if any increase in flood levels during the base flood discharge would result.

(d) Variances shall only be issued upon a determination that the variance is the "minimum necessary" considering the flood hazard, to afford relief. "Minimum necessary" means to afford relief with a minimum of deviation from the requirements of this chapter. For example, in the case of variances to an elevation requirement, this means the City Council need not grant permission for the applicant to build at grade, or even to whatever elevation the applicant proposes, but only to that elevation which the City Council believes will both provide relief and preserve the integrity of the local ordinance.

(e) Any applicant to whom a variance is granted shall be given written notice over the signature of a community official that:

(1) The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as Twenty-Five ($25.00) Dollars for One Hundred ($100.00) Dollars of insurance coverage, and

(2) Such construction below the base flood level increases risks to life and property. It is recommended that a copy of the notice shall be recorded by the Floodplain Administrator in the Office of the County of Los Angeles Recorder and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land.

(f) The Floodplain Administrator will maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its biennial report submitted to the Federal Emergency Management Agency.
(Ord. 1120-13, eff. July 4, 2013)

Sec. 6-9.603 Appeal Board.

(a) In passing upon requests for variances, the City Council shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter, and the:

(1) Danger that materials may be swept onto other lands to the injury of others;

(2) Danger of life and property due to flooding or erosion damage;

(3) Susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the existing individual owner and future owners of the property;

(4) Importance of the services provided by the proposed facility to the community;

(5) Necessity to the facility of a waterfront location, where applicable;

(6) Availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;

(7) Compatibility of the proposed use with existing and anticipated development;

(8) Relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

(9) Safety of access to the property in time of flood for ordinary and emergency vehicles;

(10) Expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site; and

(11) Costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water system, and streets and bridges.

(b) Variances shall only be issued upon a:

(1) Showing of good and sufficient cause;

(2) Determination that failure to grant the variance would result in exceptional "hardship" to the applicant; and

(3) Determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, create a nuisance (see "Public safety and nuisance"), cause "fraud and victimization" of the public, or conflict with existing local laws or ordinances.

(c) Variances may be issued for new construction, substantial improvement, and other proposed new development necessary for the conduct of a functionally dependent use provided that the provisions of Sections 6-9.603(a) through (d) are satisfied and that the structure or other development is protected by

methods that minimize flood damages during the base flood and does not result in additional threats to public safety and does not create a public nuisance.

(d) Upon consideration of the factors of Section 6-9.602(a) and the purposes of this chapter, the City Council may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.
(Ord. 1120-13, eff. July 4, 2013)

Article 7. Placing Obstructions Prohibited

Sec. 6-9.701 Placing Obstructions, Refuse and Contaminating Substances in Storm Drains and Channels Prohibited.

(a) It is unlawful for any person, firm or corporation, to place or cause to be placed in the channel, bed, or on the bank of any stream, wash or arroyo or in any storm drain in the City of Avalon or within the floodplain of any stream, wash or arroyo if a floodway has not been adopted, any cans, receptacles, bottles, papers, food, animal or vegetable matter, rubbish, trash, garbage or any decaying or putrid matter, material or substance which might decay, or any refuse, rubbish, or other matter that may pollute or contaminate the flow of the waters in such stream, wash, arroyo, storm drain, floodway or floodplain, or that may catch or collect debris carried by such waters, or that may be carried downstream by such waters to the damage and detriment of either private or public property within or adjacent to said stream, wash, arroyo, storm drain, floodway or floodplain, nor shall any materials, either solid or liquid, be placed in said stream, wash, arroyo, storm drain, floodplain or flood control channel, that will deteriorate the quality of the water flowing therein.

(b) As used herein, "floodplain" means the lowlands adjoining natural water-courses which will be covered by water during flood events.
(§1, Ord. 831U, eff. August 16, 1988; renumbered by §12, Ord. 947-97, eff. December 18, 1997)

Article 8. Provision of Food for Wild Birds

Sec. 6-9.801 Feeding of Wild Birds Prohibited.

It shall be unlawful for any person to provide, leave or throw food to or for any wild bird within one hundred (100) yards of any ocean waters, except as permitted by the Department of Fish and Game, or within fifty (50) yards of any private or publicly owned storm drain channel or other conveyance, whether natural or man-made, through which water flows. As used herein, wild birds includes, but is not limited to, birds which are not regularly kept as private domestic pets on privately owned property.
(§2, Ord. 967-99, eff. September 2, 1999)

Sec. 6-9.802 Penalties.

Violations of Section 6-9.801 shall be punishable as an infraction for a first offense. A second violation committed within twelve (12) months of the first violation, and any subsequent violations thereafter, shall be punishable as a misdemeanor.
(§2, Ord. 967-99, eff. September 2, 1999)

Sec. 6-9.803 Violations: Nuisances Subject to Abatement and Injunction.

In addition to or instead of the penalties prescribed above, any violation of the provisions of this article shall constitute a public nuisance and may be abated by restraining order or injunction issued by a court of competent jurisdiction. The City shall be entitled to collect all costs, including attorney's fees, of such abatement from the violator in any such action.
(§2, Ord. 967-99, eff. September 2, 1999)

Article 9. Buffering of Channels

Sec. 6-9.901 Removal and Replacement of Channel Vegetation.

(a) It is unlawful for any person, firm or corporation, to remove vegetation in the channel, bed, on the bank, or within a buffer of twenty-five (25) feet of any stream, wash, arroyo, or channel without written approval from the City.

(b) City approval of vegetation removal within the channel, bed, bank, or buffer of a stream, wash, arroyo, or channel shall be evaluated on minimizing impacts to these resources in the following order of preference:

(1) Avoiding the impact altogether by not removing the vegetation.

(2) Minimizing impacts by limiting the degree or magnitude of the vegetation removal.

(c) Where avoidance cannot occur, mitigation shall be performed in accordance with the following (in order of priority):

(1) Mitigating the impact by repairing, rehabilitating, or restoring the affected environment;

(2) Compensating for the impact by replacing the vegetation in other areas of the channel, bed, bank or buffer.
(§2, Ord. 1143-15, eff. December 17, 2015)

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CHAPTER 10 - MISCELLANEOUS PROVISIONS

Sec. 6-10.101. Urination and Defecation on Public Property.

It shall be unlawful for any person within the City of Avalon or any harbor or waterway under the control or jurisdiction of the City of Avalon to urinate or defecate upon or from any public street, waterway, highway, road, alley, park, playground, pier, wharf or other public place, public building, or vacant lots, except in a restroom or other enclosed facility designed for the sanitary disposal of human waste.
(§1, Ord. 965-99, eff. August 19, 1999)

Sec. 6-10.102. Urination and Defecation on Private Property.

It shall be unlawful for any person within the City of Avalon to enter or remain on private property for the purpose of urinating or defecating, except with the permission of the owner or lawful occupant of such property and then only if such urinating or defecating is done in a restroom or other enclosed facility designed for the sanitary disposal of human waste.
(§1, Ord. 965-99, eff. August 19, 1999)

Sec. 6-10.103. Violations and Penalties.

Violations of Section 6-10.101 and 6-10.102 shall be deemed an infraction, punishable pursuant to Title 1, Section 1-2.01(b).
(§1, Ord. 965-99, eff. August 19, 1999)

Sec. 6-10.104. Additional Penalties.

Where a violation of Section 6-10.101 or 6-10.102 occurs from a vessel, in addition to the penalties set forth in Section 6-10.103, the vessel from which the violation occurred shall be subject to expulsion from the Avalon Harbor for a period of one (1) year. The procedures set forth in Title 10, Section 10-2.503(i) shall apply for purposes of enforcing this chapter, except that evidence of dye in the waters of Avalon Harbor shall not be required.
(§1, Ord. 965-99, eff. August 19, 1999)

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CHAPTER 11 - REGULATION OF SMOKING

Sec. 6-11.101 Definitions.

The following words and phrases, as used in this chapter or in any other applicable law regulating smoking, shall have the following meanings:

(a) *Smoke or Smoking*. The carrying or holding of a lighted pipe, cigar, cigarette, e-cigarette, vaporizer, any other lighted smoking product or equipment used to burn any tobacco products, weed, plant, or any other combustible substance, or any other non-combustible technology used for a similar purpose. Smoking includes emitting or exhaling the fumes of any pipe, cigar, cigarette, e-cigarette, vaporizer, any other lighted smoking equipment used for burning any tobacco product, weed, plant, or any other combustible substance, or any other non-combustible technology used for a similar purpose.

(b) *Service Area*. A place where people use or wait for services provided by a government entity, such as waiting areas for public transportation.
(§1, Ord. 1045-06, eff. December 7, 2006; §1, Ord. 1140-15, eff. August 6, 2015)

Sec. 6-11.102 Prohibitions.

(a) *Smoking in Specific Locations*. It shall be unlawful to smoke in the following places:

(1) Elevators, except those located in a privately owned residence;

(2) Any public beach along Crescent Avenue;

(3) On the Pleasure Pier, except smoking shall be permitted in the area bordered by the County of Los Angeles Lifeguard Office and the foot of the Pier;

(4) Any outdoor public service area; and

(5) Inside any public building (as that term is defined in Government Code Section 7596) or within twenty (20') feet of any entrance, exit or window of a public building.

(b) *Disposal of Smoking Waste*. No person shall dispose of any cigarette, cigar or tobacco, or any part of a cigarette or cigar, except in a waste disposal container.

(c) *Enforcement and Penalties*.

(1) Infraction. A violation of this section is an infraction and shall be punished as follows:

(i) A fine not exceeding Twenty-Five and no/100ths ($25.00) Dollars for a first violation;

(ii) A fine not exceeding Fifty and no/100ths ($50.00) Dollars for a second violation within one (1) year;

(iii) A fine not exceeding One Hundred and no/100ths ($100.00) Dollars for a third violation within one (1) year.

(2) Nonexclusive Remedies and Penalties. Punishment under this section shall not preclude punishment pursuant to Health & Safety Code Section 13002, Penal Code Section 374.4, or any other law proscribing the act of littering. Nothing in this section shall preclude any person from seeking any other remedies, penalties or procedures provided by law.
(§1, Ord. 1045-06, eff. December 7, 2006)

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CHAPTER 12 - WATER EFFICIENT LANDSCAPE REGULATIONS

Sec. 6-12.01 References to Water Efficient Landscape Regulations.

All references to this chapter shall include Sections 6-12.02 through 6-6.12.10, as appropriate. The following special regulations and minimum requirements shall apply to landscape projects.
(§2, Ord. 1090-09, eff. December 31, 2009)

Sec. 6-12.02 Definitions.

Except where the context of such words or phrases clearly indicates a different meaning or construction, the following words, terms, and phrases, whenever used in this chapter or in resolutions of the Council adopted pursuant to the provisions of this chapter, shall have the meanings ascribed to them in this section.

"Applied water" shall mean the portion of water supplied by the irrigation system to the landscape.

"Association" shall mean a nonprofit corporation or unincorporated association created for the purpose of managing a common interest development.

"Certificate of Completion" shall mean the certificate required to be completed and submitted to the City certifying that the landscape project has complied with the provisions of the water efficient landscape regulations contained in this Chapter 12 and the Guidelines.

"Common interest development" shall mean a community apartment project, condominium project, planned development, and stock cooperative, pursuant to California Civil Code section 1351.

"Ecological restoration project" shall mean a project where the site is intentionally altered to establish a defined, indigenous, historic ecosystem.

"Enforcement officer" shall mean any employee or agent of the City authorized to enforce the provisions of the Municipal Code as designated in writing by the City.

"Estimated Applied Water Use" shall mean the average annual total amount of water estimated to be necessary to keep plants in a healthy state, calculated as provided in the Guidelines. It is based on the reference evapotranspiration rate, the size of the landscaped area, plant water use factors, and the relative irrigation efficiency of the irrigation system.

"ET adjustment factor or ETAF" shall mean the factor that is equal to the plant factor divided by the irrigation efficiency factor for a landscape project, as described in the Guidelines. The ETAF is calculated in the context of local reference evapotranspiration, using site-specific plant factors and irrigation efficiency factors that influence the amount of water that needs to be applied to the specific landscaped area. A combined plant mix with a site-wide average plant factor of 0.5 (indicating a moderate water need) and average irrigation efficiency of 0.71 produces an ET adjustment factor of (0.7) = (0.5/0.71), which is the standard of water use efficiency generally required by this Chapter 12 and the Guidelines, except that the ETAF for a special landscaped area shall not exceed 1.0.

"Guidelines" shall mean the Guidelines for Implementation of the City of Avalon Water Efficient Landscape Regulations, which describe procedures, calculations, and requirements for landscape projects subject to this Chapter 12.

"Hardscape" shall mean any durable material or feature (pervious and impervious) installed in or around a landscaped area, such as pavements or walls. Pools and other water features are considered part of the landscaped area and not considered hardscape for purposes of this Chapter 12.

"Homeowner installed" shall mean any landscaping either installed by a private individual for a single-family residence or installed by a landscape professional hired by a homeowner. A homeowner, for purposes of this Chapter 12, is a person who occupies the dwelling he or she owns or rents. This definition excludes speculative homes, which are not owner-occupied dwellings and which are subject under Section 6-12.04(a)(2) to the requirements applicable to developer-installed single-family and multi-family residential landscape projects.

"Hydrozone" shall mean a portion of the landscaped area having plants with similar water needs and typically irrigated by one valve/controller station. A hydrozone may be irrigated or nonirrigated.

"Impervious" shall mean any surface or natural material that does not allow for the passage of water through the material and into the underlying soil.

"Irrigation efficiency" shall mean 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 12 is 0.71.
Greater irrigation efficiency can be expected from well designed and maintained systems.

"Landscaped area" shall mean all the planting areas, turf areas, and water features in a landscape design plan subject to the Maximum Applied Water Allowance and Estimated Applied Water Use calculations. The landscaped area does not include footprints of buildings or structures, sidewalks, driveways, parking lots, decks, patios, gravel or stone walks, other pervious or impervious hardscape, and other nonirrigated areas designated for nondevelopment (e.g., open spaces and existing native vegetation).

"Landscape Documentation Package" shall mean the package of documents that a project applicant is required to submit to the City for review and approval of landscape projects, as described in the Guidelines.

"Landscape professional" shall mean a licensed landscape architect, licensed landscape professional, or any other person authorized to design a landscape pursuant to Sections 5500.1, 5615, 5641, 5641.1, 5641.2, 5641.3, 5641.4, 5641.5, 5641.6, 6701, 7027.5 of the California Business and Professions Code, Section 832.27 of Title 16 of the California Code of Regulations, and Section 6721 of the California Food and Agriculture Code.

"Landscape project" shall mean the total area of landscape in a project, as provided in the definition of "landscaped area," meeting the requirements under Section 6-12.04(a).

"Local agency" shall mean a city or county, including a charter city or charter county, that is authorized by the City to implement, administer, and/or enforce any of the provisions of this Chapter 12 on behalf of the City. The local agency may be responsible for the enforcement or delegation of enforcement of this Chapter 12, including, but not limited to, design review, plan check, issuance of permits, and inspection of a landscape project.

"Local water purveyor" shall mean any entity, including a public agency, City, County, or private water company that provides retail water service within the City.

"Maximum Applied Water Allowance or MAWA" shall mean the upper limit of annual applied water for the established landscaped area as specified in Section 2.2 of the Guidelines. It is based upon the area's reference evapotranspiration, the ET adjustment factor, and the size of the landscaped area. The Estimated Applied Water Use shall not exceed the Maximum Applied Water Allowance.

"Mined-land reclamation projects" shall mean any surface mining operation with a reclamation plan approved in accordance with the Surface Mining and Reclamation Act of 1975.

"Model ordinance" shall mean the Model Water Efficient Landscape Ordinance adopted by the California Department of Water Resources in accordance with California Government Code section 65591 et seq.

"New construction" shall mean a new building with landscaping or a landscape-dominated project, such as a park, playground, playing field, or greenbelt or other new landscape, which may or may not have an associated building or structure.

"Permit" shall mean an authorizing document issued by local agencies for new construction or a rehabilitation project.

"Pervious" shall mean any surface or material that allows the passage of water through the material and into the underlying soil.

"Plant factor or plant water use factor" shall mean a factor, when multiplied by ETo, that estimates the amount of water needed by plants. For purposes of this Chapter 12, 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 12 are derived from the Department of Water Resources 2000 publication "Water Use Classification of Landscape Species."

"Project applicant" shall mean the person submitting a Landscape Documentation Package pursuant to Section 2.1 of the Guidelines, to request a permit, plan check, or design review from the City for the installation of landscape.

"Recycled water or reclaimed water" shall mean treated or recycled waste water of a quality suitable for nonpotable uses such as landscape irrigation and water features, and which is not intended for human consumption.

"Reference evapotranspiration or ETo" shall mean a standard measurement of environmental parameters which affect the water use of plants. ETo is given expressed in inches per day, month, or year as represented in Appendix B of the Guidelines, and is an estimate of the evapotranspiration of a large field of four-to seven-inch (4"–7") tall, cool-season grass that is well watered. Reference evapotranspiration is used as the basis of determining the Maximum Applied Water Allowances.

"Rehabilitation project" shall mean a landscape project that results in the substantial removal and replacement of, and/or modifications to, existing landscaping and meets the requirements under Section 6-12.04(a)(3) and (5).

"Special landscaped area" shall mean an area of landscape dedicated solely to edible plants such as orchards and vegetable gardens, areas irrigated with recycled water, water features using recycled water, and areas dedicated to active play such as parks, sports fields, golf courses, and areas where turf provides a playing surface.

"Turf" shall mean a ground cover surface of mowed grass. Annual bluegrass, Kentucky bluegrass, Perennial ryegrass, Red fescue, and Tall fescue are cool-season grasses. Bermuda grass, Kikuyu grass, Seashore Paspalum, St. Augustine grass, Zoysia grass, and Buffalo grass are warm-season grasses.

"Valve" shall mean a device used to control the flow of water in an irrigation system.

"Water feature" shall mean a design element where water is artificially supplied and where open water performs an aesthetic or recreational function. Water features include artificial ponds, lakes, waterfalls, fountains, artificial streams, spas, and swimming pools. The surface area of water features is included in the high water use hydrozone of the landscaped area. Constructed wetlands used for on-site wastewater treatment, habitat protection or storm-water best management practices that are not irrigated and used solely for landscaped area Constructed wetlands used for on-site wastewater treatment, habitat protection or storm-water 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" shall mean the time of day irrigation is allowed pursuant to any applicable City, regional, State, or local water purveyor water conservation or drought response laws, rules, policies, or regulations.
(§1, Ord. 1090-09, eff. December 31, 2009)

Sec. 6-12.03 Purpose and Intent.

(a) The purpose of this chapter is to promote the conservation and efficient use of water and to prevent the waste of this valuable resource.

(b) The intent of this chapter is to establish alternative regulations that are at least as effective as the Model Ordinance.
(§1, Ord. 1090-09, eff. December 31, 2009)

Sec. 6-12.04 Applicability of Water Efficient Landscape Regulations.

(a) The water efficient landscape regulations set forth in this Chapter 12 shall apply to the following landscape projects:

(1) New construction projects by public agencies or private developers of nonresidential projects which have a proposed landscaped area equal to or greater than two thousand five hundred (2,500) square feet. and are otherwise subject to:

a. A discretionary approval of a landscape plan, or

b. A ministerial permit for a landscape or water feature.

(2) New construction projects by private developers, associations, or property managers of residential projects which have a proposed landscaped area equal to or greater than two thousand five hundred (2,500) square feet, and are otherwise subject to:

a. A discretionary approval of a landscape plan, or

b. A ministerial permit for a landscape or water feature.

(3) Landscape rehabilitation projects by public agencies, private developers, associations, or property managers of residential or nonresidential projects which:

a. Have a proposed landscaped area equal to or greater than two thousand five hundred (2,500) square feet.

b. Propose to rehabilitate fifty (50%) percent or more of the existing landscaped area.

c. Will be completed within one (1) year, and

d. Are otherwise subject to:

1. A discretionary approval of a landscape plan, or

2. A ministerial permit for a landscape or water feature.

(4) Homeowner installed landscape for new construction of single-family or multiple-family residential property. which have a proposed landscaped area equal to or greater than five thousand (5,000) square feet, and are otherwise subject to:

a. A discretionary approval of a landscape plan, or

b. A ministerial permit for a landscape or water feature.

(5) Homeowner installed landscape rehabilitation projects for single-family or multiple-family residential property, which:

a. Have a proposed landscaped area equal to or great than five thousand (5,000) square feet.

b. Propose to rehabilitate fifty (50%) percent or more of the existing landscaped area.

c. Will be completed within one (1) year, and

d. Are otherwise subject to:

1. A discretionary approval of a landscape plan, or

2. A ministerial permit for a landscape or water feature.

(b) Chapter 12 does not apply to:

(1) Registered local, State, or Federal historical sites;

(2) Ecological restoration projects that do not require a permanent irrigation;

(3) Mined-land reclamation projects that do not require a permanent irrigation system;

(4) Plant collections, as part of botanical gardens and arboretums open to the public;

(5) Cemeteries; and

(6) Any other new landscape installation project and landscape rehabilitation project not listed in Section 6-12.04(a).

(c) Reserved.

(d) A landscape design plan for projects in fire-prone areas and fuel modification zones shall comply with any applicable fire safety requirements. When conflicts between the provisions of Section 9.146.110 and fire safety design elements exist, the fire safety requirements shall have priority.
(§1, Ord. 1090-09, eff. December 31, 2009)

Sec. 6-12.05 Implementation Procedures.

(a) Prior to the issuance of any permits, a Landscape Documentation Package shall be submitted to the City for review and approval of all landscape projects subject to the provisions of this Chapter 12. Any Landscape Documentation Package submitted to the City shall comply with the provisions of the Guidelines.

(b) The Landscape Documentation Package shall include a certification by a landscape professional appropriately licensed in the State stating that the landscape design and water use calculations have been prepared by or under the supervision of such licensed landscape professional and are certified to be in compliance with the provisions of this Chapter 12 and the Guidelines.

(c) Landscape and irrigation plans shall be submitted to the City for review and approval with appropriate water use calculations as set forth in the Guidelines.

(d) Water use calculations shall be consistent with calculations contained in the Guidelines.

(e) Verification of compliance of the landscape installation with the approved plans shall be obtained through a Certificate of Completion as provided in the Guidelines, and where applicable, in conjunction with a certificate of use and occupancy or permit final process.
(§1, Ord. 1090-09, eff. December 31, 2009)

Sec. 6-12.06 Landscape Water Use Standards.

(a) For new landscape installation or rehabilitated landscape projects subject to Section 6-12.04(a), the Estimated Applied Water Use allowed for the landscaped area shall not exceed the MAWA calculated using an ET adjustment factor of 0.7, except for special landscaped areas where the MAWA is calculated using an ET adjustment factor of 1.0; or the design of the landscaped area shall otherwise be shown to be equivalently water-efficient in a manner acceptable to the City; as provided in the Guidelines.

(b) Irrigation of all landscaped areas shall be conducted in a manner conforming to the rules, regulations, and requirements, including any established watering windows, and shall be subject to the penalties and incentives for water conservation and water waste prevention as determined and implemented by the applicable local water purveyors or as mutually agreed by the local water purveyors and the City.

(c) All irrigation controllers installed on or after January 1, 2012, within the City shall be smart controllers.

(d) Landscape-related stormwater management practices shall be designed in accordance with the following:

(1) Facility Sizing. Bioretention facilities shall be designed to manage stormwater from the drainage management area. Sizing shall be in accordance with the City's stormwater permit and as codified elsewhere in the Avalon Municipal Code.

(2) Plant Selection. Plants used in bioretention facilities shall be selected for tolerance to both periodic inundation, as well as prolonged dry periods. Plants shall be non-invasive and should be native to the region whenever possible. A list of suitable plant species is on file with the City of Avalon Department of Planning and Building Development. Plants shall be selected according to the surface grade and the incidence of periodic surface water inundation. Plants selected for Zone A should tolerate periodic surface water inundation as well as seasonal dry periods. Plants selected for Zone B should tolerate the planting on side slopes and surface water runoff.

(3) Hydrozone Grouping and Irrigation. Installed plants within rain gardens and other bioretention facilities shall be grouped into hydrozones based on similar water usage. During plant establishment, temporary irrigation shall use separate valves for each hydrozone. All irrigation shall be removed or disconnected from the bioretention facility at the end of plant establishment.

(4) Planter Edge and Curb Design. Bioretention facilities are intended to receive and treat stormwater runoff. Edge treatments shall be designed not to impede sheet flow from surrounding areas. See standard design details contained in the City of Avalon Standard Drawings.

(5) Mulching. Mulch application, quantity, and composition for bioretention facilities shall be as specified in the design details contained in the City of Avalon Standard Drawings.

(§1, Ord. 1090-09, eff. December 31, 2009; §3, Ord. 1143-15, eff. December 17, 2015)

Sec. 6-12.07 Enforcement and Administration.

(a) The City Manager is authorized to administer and enforce the provisions of this Chapter 12 and the Guidelines. Any City authorized personnel or enforcement officers ma exercise an enforcement powers as set forth in the Municipal Code.

(b) The City may delegate to, or enter into a contract with, a local agency or other person to implement and administer any of the provisions of this Chapter 12 on behalf of the City.

(§1, Ord. 1090-09, eff. December 31, 2009)

Sec. 6-12.08 Guidelines for Implementation of the Water Efficient Landscape Regulations.*

The City shall adopt Guidelines for the implementation of this Chapter 12. Such Guidelines may be amended from time to time by resolution of the City Council. Notwithstanding the forgoing, the City Manager may establish any forms or other related documents to administer compliance with the Guidelines as he or she deems appropriate and in furtherance of this Chapter 12.

(§1, Ord. 1090-09, eff. December 31, 2009)

***Editor's Note:** The Guidelines referred to in this chapter, may be found on file in the office of the City Clerk.

Sec. 6-12.09 Recovery of Costs.

(a) The City Manager or his or her designee shall serve an invoice for costs upon the person or responsible person who is subject to a notice of violation, a cease and desist order, or an administrative compliance order. An invoice for costs shall be immediately due and payable to the City. If any person or responsible person fails to either pay the invoice for costs or appeal successfully the invoice for costs in accordance with this Chapter 12, then the City may institute collection proceedings. The invoice for costs may include reasonable attorneys' fees.

(b) The City shall impose any other penalties or regulatory fees, as fixed from time to time by resolution of the City Council, for a violation or enforcement of this Chapter 12.

(c) In addition to the costs which may be recovered pursuant to the Municipal Code, and in order to recover the costs of the water efficient landscape regulatory program set forth in this Chapter 12, the City Council may, from time to time, fix and impose by resolution fees and charges. The fees and charges may include, but are not limited to, fees and charges for:

(1) Any visits of an enforcement officer, or other City staff or authorized representative of the City for time incurred for inspections of property;

(2) Any monitoring, inspection, and surveillance procedures pertaining to enforcement of this Chapter 12;

(3) Enforcing compliance with any term or provision of this Chapter 12;

(4) Any other necessary and appropriate fees and charges to recover the cost of providing the City's water efficient landscape regulatory program.

(§1, Ord. 1090-09, eff. December 31, 2009)

Sec. 6-12.10 Conflicting Provisions.

If provisions of this Chapter 12 are in conflict with each other, other provisions of the Municipal Code, the City's general plan, any City adopted specific plan or master plan, any resolution or ordinance of the City, or any State law or regulation, the more restrictive provisions shall apply.

(§1, Ord. 1090-09, eff. December 31, 2009)

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CHAPTER 13 WATER QUALITY CONTROL

Sec. 6-13.101 Purpose and Intent.

This chapter implements the Federal Water Pollution Control Act (the "Clean Water Act" or "CWA"), 33 U.S.C. Sections 1251 - 1387, and the California Water Code by prohibiting the discharge of any pollutant to navigable waters of the United States from a point source unless the discharge is authorized by a permit issued pursuant to the National Pollutant Discharge Elimination System ("NPDES") required by CWA Section 402, 33 U.S.C. Section 1342 or the Water Code, and effectively prohibits non-stormwater discharges into the municipal separate storm sewer system ("MS4"). This chapter shall be construed to assure consistency with the requirements of the Clean Water Act, its implementing regulations, and Porter-Cologne Water Quality Control Act, and any permit issued under the Acts.
(§2, Ord. 1119-13, eff. July 4, 2013)

Sec. 6-13.102 Definitions.

For the purposes of this chapter, the following words and phrases shall have the meanings ascribed to them by this chapter. Words and phrases not ascribed a meaning by this chapter shall have the meanings ascribed by the regulations implementing the National Pollutant Discharge Elimination System, Clean Water Act Section 402, and Division 7 of the California Water Code, as they may be amended from time to time, if defined therein, and if not, to the definitions in any applicable permit issued by the California Water Resources Control Board or the California Regional Water Quality Control Board, Los Angeles Region, as appropriate, as such permits may be amended from time to time.

"Best Management Practices or BMPs" shall mean schedules of activities, prohibitions of practices, general good house keeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

"City" shall mean the City of Avalon, located in the County of Los Angeles, California.

"City Attorney" shall mean the City Attorney of the City or an authorized deputy, agent, or representative.

"City Manager" shall mean the City Manager of the City or an authorized deputy, agent, or representative.

"Director" shall mean the person designated by the City Manager to administer this chapter and conduct inspections for the purpose of ensuring compliance with this chapter or an authorized deputy, agent, or representative.

"Illegal discharge" shall mean any direct or indirect non-stormwater discharge to the storm drain system, except as exempted in this chapter.

"Illicit connection" shall mean any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system, including but not limited to any conveyance which allows non-stormwater discharge, including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency. Illicit connection also means any drain or conveyance connected to the storm drain system which has not been documented in approved plans, maps, or equivalent records.

"Incidental runoff" shall mean unintended amounts (volume) of runoff, such as unintended, minimal over-spray from sprinklers that escapes the area of intended use. Water leaving an intended use area is not considered incidental if it is part of the facility design, if it is due to excessive application, if it is due to intentional overflow or other application, or if it is due to negligence.

"MS4 or municipal separate storm sewer system" shall mean the publicly-owned facilities by which stormwater is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.

"NPDES" shall mean National Pollution Discharge Elimination System.

"Person" shall mean any individual, partnership, firm, association, corporation or public agency, including the State of California and the United States of America.

"Pollutant" shall mean anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes solvents, oil, automotive fluids, non-hazardous liquid and solid wastes, yard wastes, refuse, rubbish, garbage, litter, discarded or abandoned objects, ordnances, floatables, pesticides, herbicides, fertilizers, hazardous substances and wastes, sewage, fecal coliform and pathogens, dissolved and particulate metals, animal wastes, construction wastes, noxious or offensive matter of any kind.

"Regulated project" shall mean projects that create and/or replace five thousand (5,000) square feet or more of impervious surface. Regulated projects include new and redevelopment projects on public or private land under the planning and permitting authority of the City. Regulated projects do not include detached single-family home projects that are not part of a larger plan of development, interior remodels, routine maintenance or repair such as exterior wall surface replacement and pavement resurfacing within the existing footprint, or linear utility projects ("LUP"), unless the LUP has a discrete location with five thousand (5,000) square feet or more of new contiguous impervious surface.

"Stormwater" shall mean runoff from storm events, snow melt runoff and surface runoff and drainage related to precipitation events.

"Wastewater" shall mean any water or other liquid other than uncontaminated stormwater, discharged from a facility.
(§2, Ord. 1119-13, eff. July 4, 2013)

Sec. 6-13.103 Discharges Prohibited.

(a) No person shall:

(1) Discharge non-stormwater to the City's MS4 except in compliance with the requirements of this chapter and in compliance with any separate individual or general NPDES permit;

(2) Cause, allow or facilitate any prohibited discharge;

(3) Discharge any material into the MS4, or any water body within the City's jurisdiction that may cause, or threaten to cause a condition of pollution, contamination, or nuisance within the meaning of California Water Code Section 13050;

(4) Discharge to Areas of Special Biological Significance except in compliance with all applicable NPDES permits, waivers, orders and other regulatory controls;

(5) Discharge of any nonincidental runoff; or

(6) Discharge non-stormwater, including without limitation, non-stormwater used for pier, boat or surface washing, to Avalon Bay.

(b) The following discharges shall not constitute prohibited discharges unless determined by the City Manager to be a significant source of pollutants, pose a threat to water quality standards, or discharge to an Area of Special Biological Significance, or otherwise meet the requirements of Section 6-13.103(c):

(1) Water line flushing;

(2) Diverted streamflows;

(3) Rising groundwater, where groundwater seepage is not otherwise regulated by a separate NPDES permit;

(4) Uncontaminated groundwater infiltration to the City's MS4;

(5) Uncontaminated pumped groundwater provided such discharges are compliant with all applicable permit requirements, including enrollment in any applicable NPDES Permit or Waste Discharge Requirement from the Los Angeles Regional Water Quality Control Board;

(6) Discharges from potable water sources, except when used for surface washing and discharge directly or indirectly into Avalon Bay;

(7) Gravity flow from foundation drains, footing drains and crawl space pumps, when groundwater seepage is not otherwise regulated by a separate NPDES permit or provided such discharges are compliant with all applicable permit requirements, including enrollment in any applicable NPDES Permit or Waste Discharge Requirement from the Los Angeles Regional Water Quality Control Board;

(8) Air-conditioning condensation, when not otherwise regulated by a separate NPDES permit;

(9) Natural springs;

(10) Flows from riparian habitats and wetlands;

(11) Discharges composed entirely of stormwater;

(12) Discharges subject to regulation under current EPA, State Water Resources Control Board, or Regional Water Quality Control Board issued NPDES permits, State General Permits, or other waivers, permits or approvals granted by an appropriate government agency;

(13) Discharges from emergency firefighting activities unless identified as a significant source of pollutants to waters of the United States;

(14) Discharges of dechlorinated water from swimming pools, when not otherwise regulated by a separate NPDES permit;

(15) Individual residential car washing.

(c) Notwithstanding the conditional exemptions provided in Section 6-13.103(b), if the Director, independently or at the direction of the Regional Board, determines that a conditionally exempt discharge is a significant source of pollutants, threatens water quality standards, causes or significantly contributes to a violation of any receiving water limitation, results in the conveyance of significant quantities of pollutants to surface waters, or is otherwise a danger to public health or safety, the Director may prohibit, limit, or direct the control of such discharge and may take any enforcement option available under this chapter.
(§2, Ord. 1119-13, eff. July 4, 2013)

Sec. 6-13.104 Connections Prohibited.

(a) No person shall:

(1) Construct, maintain, operate and utilize any illicit connection to the City's MS4.

(2) Act, cause, permit or suffer any agent, employee, or independent contractor, to construct, maintain, operate or utilize any illicit connection.
(§2, Ord. 1119-13, eff. July 4, 2013)

Sec. 6-13.105 Control of Runoff Required — Generally.

(a) Every person within the City shall control incidental runoff by taking the following actions:

(1) Detecting and correcting leaks within seventy-two (72) hours of learning of the leak.

(2) Properly design and aim sprinkler heads.

(3) Cease watering during precipitation events.

(4) Properly manage ponds containing recycled water such that no discharge occurs in violation of any applicable permit, State or local law or regulation.

(5) Any actions necessary to prevent the discharge of non-stormwater runoff to the MS4 or to the waters of the State or United States.

(b) *Waste Disposal.*

(1) Except when deposited into containers or in lawfully established dumping areas, no person shall throw, deposit, leave, maintain, keep or permit to be thrown, deposited, placed, left or maintained any refuse, rubbish, garbage or other discarded or abandoned objects, articles and accumulations, including but not limited to dirt, green waste and animal waste, in or upon any street, alley, sidewalk, storm drain, inlet, catch basin, conduit, or other drainage structures, business place or upon any public or private lot of land in the City, so that the same may cause or contribute to pollution.

(2) Each person responsible for any real property adjacent to a paved sidewalk shall maintain said sidewalk free of dirt or litter. Sweepings from sidewalk shall not be swept or otherwise made or allowed to go into the gutter or roadway, but shall be disposed of in receptacles maintained on such real property as required for garbage disposal.

(3) Each person responsible for pets shall promptly pick up animal waste deposited in public areas and properly dispose of it in a trash receptacle.
(§2, Ord. 1119-13, eff. July 4, 2013)

Sec. 6-13.106 Control of Runoff Required — Construction Projects.

(a) *Plan Review*. Prior to and as a condition of issuing a grading permit, or building permit by the City, the appropriate department shall review the project plans and impose terms, conditions and requirements on the project to ensure compliance with this chapter and any applicable permit. If the project will be approved without application for a grading permit, or building permit, the appropriate department shall review the project plans and impose terms, conditions and requirements on the project prior to the issuance of a discretionary land use approval or, at the City's discretion, prior to recordation of a subdivision map.

(b) Every project that disturbs one (1) acre or more of soil or disturbs less than one (1) acre but is part of a larger common plan of development or sale is subject to the State Construction General Permit (CGP) and shall comply with all provisions of such permit. Proof of compliance with the CGP is required prior to obtaining a grading or building permit.

(c) *Erosion and Sediment Control Plan*. Each operator or person responsible for the day to day operations of construction activity within the City, regardless of size, shall prepare and submit an erosion and sediment control plan prior to and as a condition of issuing a grading or building permit. The erosion and sediment control plan shall, at a minimum, appropriate site-specific construction site BMPs, the rationale used for selecting or rejecting BMPs, a quantification of expected soil loss from the BMPs, a list of applicable permits, and evidence that permits have been obtained. No construction activity shall commence before the construction site operator receives written approval of the erosion and sediment control plan from the Director or City Manager.

(d) *Permit Coverage*. Prior to and as a condition of issuing construction or grading permit, a construction site operator shall demonstrate existing coverage under applicable permits, including but not limited to the State Water Board's Construction General Permit, State Water Board 401 Water Quality Certification, United States Army Corp 404 permit, and California Department of Fish and Game 1600 agreement. The City may require documentation demonstrating coverage by and compliance with any applicable permit, including copies of any notice of intent, stormwater pollution prevention plans, inspection reports, monitoring results, and other information deemed necessary to assess compliance with this chapter or any permit.

(e) *BMPs*. The Director may require, as a condition to such permit, the implementation of BMPs to ensure that the discharge of pollutants from the site will be effectively prohibited and will not cause or contribute to an exceedance of water quality standards. Each construction site shall implement such BMPs to ensure that discharges of pollutants are effectively prohibited and will not cause or contribute to an exceedance of water quality standards. All construction and grading activities shall comply with applicable laws, including all applicable City ordinances and the City's NPDES Permit regulating discharges into and from the MS4.

(f) *Cost Recovery*. The City shall be reimbursed by the project applicant for all costs and expenses incurred by the City in the review of project plans. The City may elect to require a deposit of estimated costs and expenses, and the actual costs and expenses shall be deducted from the deposit, and the balance, if any, refunded to the project applicant.
(§2, Ord. 1119-13, eff. July 4, 2013)

Sec. 6-13.107 Control of Runoff Required — Industrial and Commercial Facilities.

(a) No person shall operate or cause to be operated any industrial or commercial facility without first obtaining any required NPDES stormwater permit. The City may require documentation demonstrating coverage by and compliance with any applicable permit, including copies of any notice of intent, stormwater pollution prevention plans, inspection reports, monitoring results, and other information deemed necessary to assess compliance with this chapter or any permit.

(b) On receipt of written notice from the City, the owner or operator of any industrial or commercial facility or source of stormwater shall select, install, implement and maintain BMPs consistent with the CASQA Industrial/Commercial BMP Handbook or equivalent. BMPs must be designed to implement the requirements of this chapter and any applicable permit.

(c) The Director may require the responsible person for any industrial or commercial facility to enter into an agreement for the operation and maintenance of any structural control measures and to record such agreement with the County Recorder's office. The signature of the owner of the property or any successive owner shall be sufficient for the recording of these terms, conditions and requirements and a signature on behalf of the City shall not be required for recordation.
(§2, Ord. 1119-13, eff. July 4, 2013)

Sec. 6-13.108 Control of Runoff Required — New Development and Redevelopment.

(a) All new development and redevelopment within the City shall be undertaken in accordance with the best management practices for pollution prevention, the City's NPDES Permit for discharges into and from its MS4, and any other conditions, requirements and water quality management plans adopted by the City.

(1) Regulated projects must implement measures, as the City may require, for site design, source control, runoff reduction, stormwater treatment, baseline hydromodification, low impact development, operations and maintenance verification of stormwater treatment, and baseline hydromodification management structural control.

(2) Regulated projects with the following pollutant-generating activities and sources shall also implement permanent and operation source control measures, as required by the City. These source control measures shall be selected and designed consistent with CASQA's Stormwater Best Management Practice Handbook for New Development and Redevelopment, or equivalent manual:

a. Accidental spills or leaks

b. Interior floor drains

c. Parking/storage areas and maintenance

d. Indoor and structural pest control

e. Landscape/outdoor pesticide use

f. Pools, spas, ponds, decorative fountains, and other water features

g. Restaurants, grocery stores, and other food service operations

h. Refuse areas

i. Industrial processes

j. Outdoor storage of equipment or materials

k. Vehicle and equipment cleaning

1. Vehicle and equipment repair and maintenance

m. Fuel dispensing areas

n. Loading docks

o. Fire sprinkler test water

p. Drain or wash water from boiler drain lines, condensate drain lines, rooftop equipment, drainage sumps, and other sources

q. Unauthorized non-stormwater discharges

r. Building and grounds maintenance

s. Any other activity designated by the Director.

(b) The owner of a new development or redevelopment project, or upon transfer of the property, its successors and assigns, shall implement and adhere to the terms, conditions and requirements imposed pursuant to Section 6-13.108(a) on a new development or redevelopment project. Failure by the owner of the property or its successors or assigns, to implement and adhere to the terms, conditions and requirements imposed pursuant to Section 6-13.108(a) shall constitute a violation of this chapter.

(c) The Director may require the responsible person for any new or redevelopment project to enter into an agreement for the operation and maintenance of any structural control measures and to record such agreement with the County Recorder's office. The signature of the owner of the property or any successive owner shall be sufficient for the recording of these terms, conditions and requirements and a signature on behalf of the City shall not be required for recordation.
(§2, Ord. 1119-13, eff. July 4, 2013)

Sec. 6-13.109 Monitoring and Spill Reporting Required.

(a) The City Manager may require by written notice of requirement that any person engaged in any activities or owning or operating any facility which may cause or contribute to stormwater pollution, illegal discharges, or non-stormwater discharges to the storm drain system or waters of the United States, to undertake at no cost to the City sampling, monitoring and analysis and to furnish reports to the City as deemed necessary to determine compliance with this chapter.

(b) Notwithstanding any other requirement of law, any known or suspected release of materials, pollutants or waste, which may result in pollutants or non-stormwater discharges entering stormwater, the MS4 or waters of the State or United States, shall be reported immediately in the following manner by any person in charge of a premises or responsible for the premises' emergency response:

(1) The release of a hazardous material or hazardous waste shall be immediately reported to emergency services by emergency dispatch services (911).

(2) The release of a nonhazardous waste shall be reported as follows:

a. To the Director and to the 24-hour stormwater hotline by telephone no later than 5:00 p.m. on the same business day.

b. If the release occurs after 5:00 p.m. on a weekday, on a weekend or holiday, to the 24-hour stormwater hotline on the same day and to the Director by telephone on the next business day.

c. A written notification of the release shall also be made to the Director within five (5) business days of the release. A copy of the written notice shall be retained at the premises for at least three (3) years.

(3) In addition to the above requirements, a release of any hazardous materials or substances, sewage, oil, or petroleum to any waters of the State, or discharged or deposited where it is or probably will be discharged in or on any waters of the State, shall be reported to the State Office of Emergency Services, as required by Sections 13271 and 13272 of California Water Code.
(§2, Ord. 1119-13, eff. July 4, 2013)

Sec. 6-13.110 BMP Authorized and Required.

Each owner, operator, or person in charge of day to day activities of any construction site, new or redevelopment project, industrial or commercial facility, or of any other site, activity, operation, or facility that may discharge any pollutant to the MS4 shall minimize the discharge of pollutants to the MS4 through the installation, implementation and maintenance of BMPs consistent with the California Storm Water Quality Association's Best Management Practices Handbook, or equivalent, as required by the Director or City Manager. Properties with a high potential threat of discharge may be required to implement a monitoring program that meets standards as determined necessary by the City.
(§2, Ord. 1119-13, eff. July 4, 2013)

Sec. 6-13.111 Right to Inspect and Collection Information.

(a) *Right to Inspect.* The Director shall have the authority to make an inspection to enforce the provisions of this chapter and to ascertain whether the

purposes of this chapter are being met.

(b) *Entry to Inspect.* The Director may enter both public and private property to investigate the source or potential source of any discharge of a pollutant to any public street, inlet, gutter, storm drain or the MS4 located within the jurisdiction of the City.

(c) *Compliance Assessments.* The Director may inspect property for the purpose of verifying compliance with this chapter.

(d) *Portable Equipment.* For purposes of verifying compliance with this chapter, the Director may inspect any vehicle, truck, trailer, tank truck or other mobile equipment.

(e) *Records Review.* Maintenance records must be kept on site and remain available for inspection. Failure to keep records on site and available for inspection shall constitute a violation of this chapter. The Director may inspect all records of the owner or person in charge of the day-to-day activities of private property relating to chemicals or processes presently or previously occurring on site, including material and/or chemical inventories, facilities maps or schematics and diagrams, material safety data sheets, hazardous waste manifests, business plans, pollution prevention plans, State general permits, stormwater pollution prevention plans, monitoring program plans and any other record(s) relating to illicit connections, prohibited discharges, a legal nonconforming connection or any other source of discharge or potential discharge of pollutants to the MS4.

(f) *Sample and Test.* The Director may inspect, sample and test any area runoff, soils area (including groundwater testing), process discharge, materials within any waste storage area (including any contained contents) and/or treatment system discharge for the purpose of determining the potential for the discharge of pollutants to the stormwater drainage system. The Director may investigate the integrity of all storm drain and sanitary sewer systems, any legal nonconforming connection or other pipelines on the private property using appropriate tests, including, but not limited to, smoke and dye tests or video surveys. The Director may take photographs or videotapes, make measurements or drawings and create any other record reasonably necessary to document conditions on the property.

(g) *Monitoring.* The Director may erect and maintain monitoring devices for the purpose of measuring any discharge or potential source of discharge to the MS4.

(h) *Data Collection.* The Director may require information deemed necessary to assess compliance with this chapter or any NPDES permit.

(i) *Response Plans.* The Director may, together with the City Attorney, develop and implement an Enforcement Response Plan setting forth enforcement procedures and actions to address repeat and continuing violations of this chapter and a Spill Response Plan setting forth the procedures, roles and responsibilities for investigating, cleaning up and reporting spills.

(j) *Cost Recovery.* If an inspection pursuant to this section results in an enforcement action, the City may issue an invoice of costs and recover in an enforcement action its reasonable inspection costs.
(§2, Ord. 1119-13, eff. July 4, 2013)

Sec. 6-13.112 Enforcement — Violations.

(a) A civil or administrative violation of Section 6-13.103 or Section 6-13.104 shall occur irrespective of the negligence or intent of the violator to construct, maintain, operate or utilize an illicit connection or to cause, allow or facilitate any prohibited discharge.

(b) The City Manager may, in addition to any other remedies provided in this Code or available under applicable law, take enforcement action against violators of this chapter through any combination of the administrative enforcement options set forth below.
(§2, Ord. 1119-13, eff. July 4, 2013)

Sec. 6-13.113 Enforcement — Administrative Remedies.

(a) *Notice of Violation.* The Director may deliver to the owner or occupant of any property, or to any person responsible for an illicit connection or prohibited discharge, a Notice of Violation. The Notice of Violation shall be delivered in accordance with Section 6-13.118 of this chapter.

(1) The Notice of Violation shall identify the provision(s) of this chapter or the applicable permit which has been violated. The Notice of Violation shall state that continued noncompliance may result in additional enforcement actions against the owner, occupant and/or person.

(2) The Notice of Violation shall state a compliance date that must be met by the owner, occupant and/or person; provided, however, that the compliance date may not exceed ninety (90) days unless the Director extends the compliance deadline an additional ninety (90) days where good cause exists for the extension. Uncontrolled sources of pollutants shall be abated immediately and in no case longer than thirty (30) days.

(b) *Administrative Compliance Orders.* Separate from, in addition to, or in combination with a Notice of Violation or Cease and Desist Order, the Director may issue an Administrative Compliance Order against the owner and/or occupant of any public or private property and/or any other person responsible for a violation of this chapter. Issuance of a Notice of Violation or Cease and Desist Order is not a prerequisite to the issuance of an Administrative Compliance Order.

(c) *Cease and Desist Orders.* The Director may issue a Cease and Desist Order directing the owner or occupant, or other person in charge of day-to-day operations of any public or private property and/or any other person responsible for a violation of this chapter to immediately or by a specified day or time:

(1) Immediately discontinue any illicit connection, or illicit discharge to the MS4;

(2) Immediately contain or divert any flow of non-stormwater off the property, where the flow is occurring in violation of any provision of this chapter;

(3) Immediately discontinue any other violation of this chapter;

(4) Clean up the area affected by the violation;

(5) Implement BMPs and take other actions necessary to comply with the requirements of this chapter.

(d) *Monetary Penalty.*

(1) In addition to, or in combination with a Notice of Violation, Administrative Compliance Order or Cease and Desist Order, the City Manager or the Director may issue a civil penalty for violations of this chapter. The Notice of Violation, Administrative Compliance Order, or Cease and Desist Order to which the penalty will attach shall allege the act(s) or failure(s) to act that constitute violations of this chapter and shall set forth the penalty for the violation. The

City Manager or the Director may impose the following monetary penalties, in addition to other appropriate corrective action requirements:

a. An amount that shall not exceed One Hundred ($100.00) Dollars for each day a person fails or refuses to provide the City with any report or information required by this chapter;

b. An amount that shall not exceed Two Hundred ($200.00) Dollars for each day a person fails or refuses to timely comply with a Notice of Violation or Cease and Desist Order or fails or refuses to remedy any source of a continuing violation as required by the City Manager or this chapter.

c. An amount that shall not exceed One Thousand ($1,000.00) Dollars per day for each day on which a person violates Sections 6-13.103 or 6-13.104 of this chapter.

(2) The amount of any penalties imposed under this section which have remained delinquent for a period of sixty (60) days may become a special assessment against the real property of the person violating this chapter.

(3) The assessment may be collected at the same time and in the same manner as ordinary municipal taxes are collected, and shall be subject to the same penalties and the same procedure and sale in case of delinquency as provided for ordinary municipal taxes. All laws applicable to the levy, collection and enforcement of municipal taxes shall be applicable to the special assessment.

(4) If the identity of the owner of the real property can be determined, the City shall make its best effort to provide notice of the special assessment to the owner by certified mail at the time of imposing the assessment. Such notice will specify that the property may be sold after three (3) years by the Tax Collector for unpaid delinquent assessments. The Tax Collector's power of sale shall not be affected by the failure of the property owner to receive notice. Assessment of administrative fines as provided hereunder does not preclude assessment of other costs of abatement of any nuisance against the same property at a later date.

(5) If any real property against which the special assessment relates has been transferred or conveyed to a bona fide purchaser for value, or if a lien of a bona fide encumbrancer for value has been created and attaches thereon, prior to the date on which the first installment of the taxes would become delinquent, then the cost of abatement shall not result in a lien against the real property but instead shall be transferred to the unsecured roll for collection.

(6) A sale of vacant residential developed property for which the payment of a special assessment imposed pursuant to this chapter is delinquent may be conducted, subject to the requirements applicable to the sale of property pursuant to Section 3691 of the Revenue and Taxation Code.

(7) Notices or instruments relating to the special assessment shall be entitled to recordation.

(e) *City's Performance of Work.* The Director may enter property to perform abatement activities or conduct clean up work in the event abatement or clean up activities ordered pursuant to this chapter are not conducted within by the established deadline. In the event a violation of this chapter constitutes an imminent danger to public safety or the environment, the Director may enter the property from which the violation emanates, conduct abatement activities and restore any property affected by the violation. To the extent reasonably practicable, informal notice shall be provided to the owner or occupant prior to abatement. If necessary to protect the public safety or the environment, abatement may proceed without prior notice to or consent from the owner or occupant thereof and without judicial warrant.

(f) *Recovery of Costs.* The Director may deliver to the owner or occupant of any property, any permittee or any other person who becomes subject to a Notice of Violation or other administrative order or to abatement or clean up activities by the City, an invoice for costs documenting any and all costs incurred by the City in cleaning up a site and issuing the Notice of Violation or other administrative order and directing payment to the City. An invoice for costs shall be delivered in accordance with Section 6-13.118 of this chapter. An invoice for costs shall be immediately due and payable to the City for the actual costs incurred by the City in issuing and enforcing any notice or order. If any owner or occupant, permittee or any other person subject to an invoice for costs fails to either pay the invoice for costs or successfully appeal the invoice for costs in accordance with Section 6-13.119 then the City Attorney may institute collection proceedings.

(g) Unless timely appealed, an administrative compliance order shall be effective and final as of the date it is issued by the City Manager.
(§2, Ord. 1119-13, eff. July 4, 2013)

Sec. 6-13.114 Enforcement — Civil Remedies.

(a) *Nuisance.* Any condition in violation of the prohibitions of this chapter, including, but not limited to, the maintenance or use of any illicit connection or the occurrence of any prohibited discharge, shall constitute a threat to the public health, safety and welfare, and is declared and deemed a nuisance pursuant to Government Code section 38771.

(1) City Abatement. In the event the owner of property, the operator of a facility, a permittee or any other person fails to comply with any provision of a compliance schedule issued to such owner, operator, permittee or person pursuant to this chapter, the Director may request the City Attorney to obtain an abatement warrant or other appropriate judicial authorization to enter the property, abate the condition and restore the area. Any costs incurred by the City in obtaining and carrying out an abatement warrant or other judicial authorization may be recovered pursuant to Section 6-13.113(e).

a. Court order to enjoin or abate. At the request of the City Manager, the City Attorney may seek a court order to enjoin and/or abate the nuisance.

b. Notice to owner and occupant. Prior to seeking any court order to enjoin or abate a nuisance or threatened nuisance, the City Manager authorized designee shall provide notice of the proposed injunction or abatement to the owner and occupant, if any, of the property where the nuisance or threatened nuisance is occurring.

(2) Emergency Abatement. In the event the nuisance constitutes an imminent danger to public safety or the environment, the Director may enter the property from which the nuisance emanates, abate the nuisance and restore any property affected by the nuisance. To the extent reasonably practicable, informal notice shall be provided to the owner or occupant prior to abatement. If necessary to protect the public safety or the environment, abatement may proceed without prior notice to or consent from the owner or occupant thereof and without judicial warrant.

(3) Reimbursement of Costs. All costs incurred by the City in responding to any nuisance, all administrative expenses and all other expenses recoverable under State law, shall be recoverable from the person(s) creating, causing, committing, permitting or maintaining the nuisance.

(4) Nuisance Lien. All costs shall become a lien against the property from which the nuisance emanated and a personal obligation against the owner thereof in accordance with Government Code sections 38773.1 and 38773.5. The owner of record of the property subject to any lien shall be given notice of the lien prior to recording as required by Government Code section 38773.1. At the direction of the City Manager, the City Attorney is authorized to collect

nuisance abatement costs or enforce a nuisance lien in an action brought for a money judgment or by delivery to the County Assessor of a special assessment against the property in accord with the conditions and requirements of Government Code section 38773.5.

(b) *Injunction.* At the request of City Manager, the City Attorney may cause the filing in a court of competent jurisdiction, of a civil action seeking an injunction against any threatened or continuing noncompliance with the provisions of this chapter.

(c) *Order for Reimbursement.* Any temporary, preliminary or permanent injunction issued pursuant hereto may include an order for reimbursement to the City of all costs incurred in enforcing this chapter, including costs of inspection, investigation and monitoring, the costs of abatement undertaken at the expense of the City, costs relating to restoration of the environment and all other expenses as authorized by law.

(d) *Damages.* The City Manager may cause the City Attorney to file an action for civil damages in a court of competent jurisdiction seeking recovery of (i) all costs incurred in enforcement of this chapter, including, but not limited to, costs relating to investigation, sampling, monitoring, inspection, administrative expenses, all other expenses as authorized by law, and consequential damages, (ii) all costs incurred in mitigating harm to the environment or reducing the threat to human health, and (iii) damages for irreparable harm to the environment.

(e) *Damages from Trespass or Nuisance on Public Land.* The City Attorney is authorized to file actions for civil damages resulting from any trespass or nuisance occurring on public land or to the MS4 from any violation of this chapter where the same has caused damage, contamination or harm to the environment, public property or the MS4.
(§2, Ord. 1119-13, eff. July 4, 2013)

Sec. 6-13.115 Enforcement — Criminal Remedies.

(a) *Infractions.* Any person who may otherwise be charged with a misdemeanor under this chapter may be charged, at the discretion of the City Attorney, with an infraction punishable by a fine of not more than One Hundred ($100.00) Dollars for a first violation, Two Hundred ($200.00) Dollars for a second violation, and a fine not exceeding Five Hundred ($500.00) Dollars for each additional violation occurring within one (1) year.

(b) *Misdemeanors.* Any person who negligently or knowingly violates any provision of this chapter, undertakes to conceal any violation of this chapter, continues any violation of this chapter after notice thereof, or violates the terms, conditions and requirements of any permit issued pursuant to this chapter, shall be guilty of a misdemeanor punishable by a fine of not more than One Thousand ($1,000.00) Dollars or by imprisonment for a period of not more than six (6) months, or both.
(§2, Ord. 1119-13, eff. July 4, 2013)

Sec. 6-13.116 Enforcement — Nonexclusive Remedies.

Each and every remedy available for the enforcement of this chapter shall be nonexclusive and it is within the discretion of the Director or City Attorney to seek cumulative remedies, except that multiple monetary fines or penalties shall not be available for any single violation of this chapter.
(§2, Ord. 1119-13, eff. July 4, 2013)

Sec. 6-13.117 Enforcement — Consecutive Violations.

Each day in which a violation occurs and each separate failure to comply with either a separate provision of this chapter, an Administrative Compliance Order, a Cease and Desist Order or a permit issued pursuant to this chapter, shall constitute a separate violation of this chapter punishable by fines or sentences issued in accordance herewith.
(§2, Ord. 1119-13, eff. July 4, 2013)

Sec. 6-13.118 Notices.

(a) *Delivery of Notice.* Any Notice of Violation, Administrative Compliance Order, Cease and Desist Order or Invoice of Costs to be delivered pursuant to the requirements of this chapter shall be subject to the following:

(1) The notice shall state that the recipient has a right to appeal the matter as set forth in Section 6-13.119 of this chapter.

(2) Delivery shall be deemed complete upon personal service to the recipient, deposit in the U.S. mail, postage prepaid for first class delivery, facsimile service with confirmation of receipt, or by any other means permitted by law.

(3) Where the recipient of notice is the owner of the property, the address for notice shall be the address from the most recently issued equalized assessment roll for the property or as otherwise appears in the current records of the City.

(4) Where the owner or occupant of any property cannot be located after the reasonable efforts of the Director, a Notice of Violation or Cease and Desist Order shall be deemed delivered after posting on the property for a period of five (5) business days.
(§2, Ord. 1119-13, eff. July 4, 2013)

Sec. 6-13.119 Appeals.

Any person subject to a Notice of Violation, Administrative Compliance Order, or Cease and Desist Order aggrieved by the issuance of an order may appeal from the issuance thereof to a hearing officer in accordance with the appeal procedures set forth in Chapter 4 of Title 1 of this Code except that any such appeal shall be filed within fifteen (15) days of the date of service of the Notice of Violation, Cease and Desist Order or Administrative Compliance Order by the Director upon the appealing party. A person subject to an order to remedy a condition which poses an immediate threat to the public health, safety or welfare shall comply with that order during the pendency of any appeal. To the extent that any provision of this section conflicts with the provisions of Chapter 4 of Title 1 of this Code, the provisions contained in Chapter 4 of Title 1 shall control.
(§2, Ord. 1119-13, eff. July 4, 2013)

Sec. 6-13.120 Judicial Review.

The provisions of Sections 1094.5 and 1094.6 of the Code of Civil Procedure set forth the procedure for judicial review of any act taken pursuant to this chapter. Parties seeking judicial review of any action taken pursuant to this chapter shall file such action within ninety (90) days of the occurrence of the event for which review is sought.
(§2, Ord. 1119-13, eff. July 4, 2013)

Sec. 6-13.121 Severability.

(a) If any section, subsection, subdivision, paragraph, sentence, clause or phrase added by this chapter, or any part thereof, is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this chapter or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof irrespective of the fact that any or more subsections, subdivisions, paragraphs, sentences, clauses or phrases are declared unconstitutional, invalid or ineffective.

(b) If any provision of this chapter or the application of the chapter to any circumstance is held invalid, the remainder of the chapter or the application of the chapter to other persons or circumstances shall not be affected.
(§2, Ord. 1119-13, eff. July 4, 2013)

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CHAPTER 14 - ENVIRONMENTALLY ACCEPTABLE FOOD PACKAGING

Sec. 6-14.101 Purpose.

The purpose of this chapter is to prohibit the use of polystyrene food service ware, as set forth herein in order to protect the health and welfare of Avalon citizens and promote environmentally sustainable practices in the City.

(§ 2, Ord. 1159-17, eff. July 20, 2017)

Sec. 6-14.102 Definitions.

Unless otherwise expressly stated, whenever used in this chapter, the following terms shall have the meanings set forth below:

"City contractor" shall mean any person that enters into an agreement with the City to furnish products or services to or for the City.

"City facility" shall mean any building, structure, property, park, open space, or vehicle owned or leased by the City, its agents, agencies, or departments.

"City-Sponsored Event" shall mean any event, activity or meeting organized or sponsored, in whole or in part, by the City or any department of the City.

"Disposable Food Service Ware" or *"Disposables"* shall mean single-use, disposable products used for serving or transporting prepared food, including but not limited to plates, bowls, trays, wrappers or wrapping, platters, cartons, condiment containers, cups or drink ware, or any other container in or on which prepared foods are placed or packaged for consumption. This definition excludes single-use disposable straws, plastic carry-out bags, cup lids, and utensils.

"Food Provider" shall mean any person or place that provides or sells prepared food within the City to the general public to be consumed on the premises or for take-away consumption. Food provider includes but is not limited to (1) a grocery store, supermarket, restaurant, drive-thru, café, coffee shop, snack shop, public food market, farmers' market, convenience store, or similar fixed place where prepared food is available for sale on the premises or for take-away consumption, and (2) any mobile store, food vendor, caterer, food truck, vending machine, or similar mobile outlet. Food provider also includes any organization, group or individual that regularly provides prepared food to its members or the general public as a part of its activities or services.

"Person" shall mean any person, business, corporation, or event organizer or promoter; public, non-profit or private entity, agency, or institution; partnership, association or other organization or group, however organized.

"Polystyrene" shall mean a thermoplastic petrochemical material utilizing the styrene monomer, including but not limited to polystyrene foam or expanded polystyrene, processed by any number of techniques, including but not limited to fusion of polymer spheres (expandable bead polystyrene), injection molding, foam molding, or extrusion-blow molding (extruded foam polystyrene), and clear or solid polystyrene (oriented polystyrene). The Recycle Code for polystyrene is "6" or "PS," either alone or in combination with other letters. This definition applies to all polystyrene food service ware, regardless of whether it exhibits a Recycle Code.

"Polystyrene food service ware" shall mean disposable food service ware that contains or utilizes polystyrene.

"Prepared food" shall mean any food or beverage that is (1) ready to consume without any further food preparation, alteration or repackaging; and (2) prepared, provided, sold or served by a food provider using any cooking, packaging or food preparation technique. Prepared food may be eaten either on or off the food provider's premises. Prepared food does not include (1) any raw uncooked meat, poultry, fish or eggs, unless provided for consumption without further food preparation, and (2) fresh produce provided for consumption without food preparation or repackaging, including fruits, vegetables, and herbs, sold by grocery stores, supermarkets, food markets, farmers' markets and other food vendors.

"Recycle Code" shall mean a resin identification code placed on plastics to identify the material composition for separation of different types of plastics for recycling.

(§ 2, Ord. 1159-17, eff. July 20, 2017)

Sec. 6-14.103 Requirements.

On and after January 1, 2018:

(a) No food provider shall distribute or sell prepared food in any polystyrene food service ware at any location within the City.

(b) Food providers that distribute prepared food in disposable food service ware shall (1) distribute only disposables that exhibit a Recycle Code other than No. 6 or PS, and (2) maintain documentation about the composition of the disposable food service ware. Documentation may include information from the supplier, manufacturer, or bulk packaging for the disposables, and any other relevant information demonstrating that the disposable material is not polystyrene.

(c) No person shall distribute or sell prepared food in any polystyrene food service ware at City facilities that have been rented, leased or are otherwise being used with permission of the City. This subsection is limited to use of City facilities for which a person has entered into an agreement with the City to rent, lease or otherwise occupy a City facility. All facility rental agreements for any City facility shall include a provision requiring contracting parties to assume responsibility for preventing the utilization and/or distribution of polystyrene food services ware while using City facilities. The facility rental agreement shall indicate that a violating contractor's security deposit will be forfeited if the City Manager or his/her designee determines that polystyrene food services ware was used in violation of the rental agreement.

(d) No person shall use or distribute polystyrene food service ware at City-sponsored events, City-managed concessions and City meetings open to the public. This subsection shall apply to the function organizers, agents of the organizers, City contractors, food providers, and any other person that enters into an agreement with one or more of the function sponsors to sell or distribute prepared food or otherwise provide a service related to the function.

(e) The City, its departments, and its City contractors, agents and employees acting in their official capacity, shall not purchase or acquire polystyrene food services ware, or distribute it for public use.

(f) All food providers required by the Code to have a business license shall certify compliance with this chapter on their annual business license renewal

application.

(g) The City encourages all businesses located within or outside the City limits to avoid using all polystyrene foam packaging.

(§ 2, Ord. 1159-17, eff. July 20, 2017)

Sec. 6-14.104 Exemptions.

(a) The following are exempt from the provisions of this chapter:

(1) Food prepared or packaged outside of the City, provided such food is not altered, packaged or repackaged within the City limits.

(2) Food provided by the Long Beach Unified School District under its official food service program.

(3) Coolers and ice chests made of polystyrene intended for reuse.

(4) Food brought by individuals for personal consumption to City facilities, including but not limited to City parks and the beach, provided the City facility is being used for individual recreation or similar purposes and such facility use is not part of a larger organized event that is otherwise affiliated with the City of Avalon.

(b) Food providers that are obligated to purchase or have purchased polystyrene food service ware under a contract that was entered into by the food provider within the year prior to the operative date of this chapter are exempt from the provisions of the chapter for six (6) months following the operative date of this chapter.

(c) The City Manager or his/her designee may exempt any person from the requirements of Section 6-14.103 following the operative date of this chapter, as follows:

(1) A request for an exemption shall be filed in writing with the City Manager or his/her designee and shall include documentation of the reason for the claimed exemption and any other information necessary for the City to make its decision. The City may require the applicant to provide additional information as necessary to make the required determination.

(2) The City Manager or his/her designee may approve the exemption for a maximum of one (1) year, with or without conditions, upon finding that compliance would create an undue hardship. Undue hardship shall be construed to include but not limited to situations where:

a. There is no reasonable alternative to polystyrene food service ware for reasons that are unique to the applicant; or

b. Compliance with the requirements of this chapter would deprive a person of a legally protected right. The exemption may be extended for additional terms of up to one (1) year each, upon a showing of the continuation of the legal right.

(3) The City Manager's written decision on the exemption is effective within ten (10) days of the decision. Decisions of the City Manager may be appealed by the person applying for the exemption to the City Council. Appeals shall be filed in writing with the City Clerk within ten (10) days of the decision and shall be accompanied by a fee set by resolution of the City Council. Notice of hearing shall be given to the applicant at least ten (10) days prior to the hearing. The City Council shall make its decision within sixty (60) days of receiving the appeal.

(§ 2, Ord. 1159-17, eff. July 20, 2017)

Sec. 6-14.105 Penalties.

(a) Any person convicted of a violation of this chapter is guilty of an infraction, which is punishable pursuant to the penalty provisions set forth as follows:

(1) First Offense: a written warning notice will be given with thirty (30) days to comply;

(2) Second Offense: within a six (6) month period shall be subject to a fine not exceeding One Hundred ($100.00) Dollars;

(3) Third Offense: within a one (1) year period from the second offense shall be subject to a fine not exceeding Two Hundred ($200.00) Dollars;

(4) Subsequent Offenses: occurring within one (1) year from the second offense or ongoing offenses shall be subject to a fine(s) not exceeding Five Hundred ($500.00) Dollars for each additional violation within one (1) year of any prior violation.

(b) The penalties provided herein are in addition to all other remedies authorized by law and the enumeration of certain penalties shall not preclude the application of other remedies or penalties not herein enumerated.

(§ 2, Ord. 1159-17, eff. July 20, 2017)

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CHAPTER 1 - DATUM PLANE

Sec. 7-1.01 Established.

The sea level is hereby declared to be the datum plane or base line of the City for the purpose of establishing and designating the official grades of streets, alleys, avenues, and sewers, and for any other public work within the City, and for measuring all elevations or surface points therein.
(§1, Ord. 15)

Sec. 7-1.02 Bench Mark Established.

The official bench mark or datum monument within the City shall be the top of that certain pipe with the cap driven flush with the surface of the cement sidewalk at the point of intersection of the southerly line of Crescent Avenue and a line twenty-one (21') feet northerly, and parallel with the center line of Metro-pole Avenue. The official bench mark has an elevation eleven and three-tenths (11.3') feet above sea level.
(§2, Ord. 15)

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CHAPTER 2 - EXCAVATIONS

Sec. 7-2.01 Permits Required.

It shall be unlawful for any person to make, or cause or permit to be made, any excavation in or under the surface of any public street, alley, sidewalk, or other public place within the City, or to erect any telegraph, telephone, electric light, or other pole in any such public street or public place within the City, without first obtaining a permit in writing from the Director of Public Works and paying a fee or making a deposit as governed by Section 7-2.03 to cover the costs of inspections and restoring such public street, alley, sidewalk, or other public place to its original condition. Such fee or deposit shall also cover any estimated City administrative costs and expenses in connection therewith.
(§1, Ord. 88; as amended by §1, Ord. 860-90, eff. November 15, 1990; §2, Ord. 1142-15, eff. August 20, 2015)

Sec. 7-2.02 Applications for Permits.

Written application to excavate in any public street, alley, right-of-way or public place in the City shall be made to the Director of Public Works and shall set forth the name and residence or business address of the applicant, a detailed statement of the location and area of each excavation intended to be made and the purpose thereof. The applicant shall pay a fee for the processing of the permit application in an amount to be set by resolution of the City Council.
(§2, Ord. 88 as amended by §1, Ord. 860-90, eff. November 15, 1990; §8, Ord. 1001-01, eff. November 15, 2001)

Sec. 7-2.03 Fee or Deposit Required.

Each applicant shall be required to pay to the Director of Public Works a deposit to guarantee restoration of the street, alley, right-of-way or public place to be excavated to as good or better a condition as it was in prior to the excavation. Such sum shall be set by the Director of Public Works based upon the reasonable estimate of such restoration costs or as determined annually by City Council resolution. The Director of Public Works may permit a general deposit to be paid by any person intending to make a series of excavations in any public street, alley, right-of-way or other public place in an amount sufficient to guarantee the restoration thereof.

In the event that the excavation is performed by a public utility, the applicant may pay a fee to allow the City to complete the restoration process. The fee will be based upon the actual cost of restoration. In the alternative, the public utility applicant may deposit with the Director of Public Works an amount to cover the costs of restoration of the street, alley, right-of-way, or public place to be excavated to as good and perfect a condition as prior to the excavation should the public utility elect to undertake the restoration instead of allowing the City to complete restoration. The retention and return of such deposit shall be governed by the terms of Section 7-2.07.
(§2, Ord. 88, as amended by §1, Ord. 627, eff. March 24, 1977; §1, Ord. 860-90, eff. November 15, 1990; §9, Ord. 1001-01, eff. November 15, 2001; §3, Ord. 1142-15, eff. August 20, 2015)

Sec. 7-2.04 Permit Conditions.

The permit shall specify the name of the person to whom the permit is issued, the street, alley, or other public place and the particular part thereof to be excavated, the extent of such excavation, and the time within which the excavation shall be made and the street restored to its former condition.

The permit shall also contain a plan drawn on a scale of no less than one (1") inch equal to ten (10') feet showing the location of the excavation, dimensions of the trench to be dug and all public improvements within the vicinity of the trench. The permit shall also contain the proposed starting and end dates of the excavation work.

No such permit shall be transferable.
(§§2 and 3, Ord. 88; as amended by §3, Ord. 860-90, eff. November 15, 1990; §4, Ord. 1142-15, eff. August 20, 2015)

Sec. 7-2.05 Emergency Repairs.

In the event of a break or leak in any water or gas pipe, or in the event of any other emergency, immediate repairs may be made, in which event a permit shall be taken out, as required by the provisions of this chapter, within seventy-two (72) hours after the making of such repairs.
(§2, Ord. 88; as amended by §4, Ord. 860-90, eff. November 15, 1990)

Sec. 7-2.06 Performance of the Work.

The work for which such excavation is made shall be prosecuted with due diligence and so as not to obstruct the street and travel thereon more than is actually required to perform the work. In the event the work is not completed within the time specified in the permit, or within the time to which the permit may be extended by the City Manager, or is prosecuted so as to obstruct the street or travel thereon unnecessarily, or in the event such street, alley, or public place is not restored to its former condition within the time fixed in the permit, the Director of Public Works shall notify the person to whom the permit was issued that the terms of such permit have not been complied with and demand compliance with such terms within five (5) days after the service of such notice. If the work is not completed to the satisfaction of the Director of Public Works, the Director of Public Works may do such work as may be necessary to repair such excavation and restore the street or other public place or part thereof excavated to as good condition as the same was in before such excavation was made. The City shall deduct the cost of repairs from the deposit or require the applicant to pay any additional fees to cover the repairs.
(§3, Ord. 88, as amended by §2, Ord. 627, eff. March 24, 1977; §§1, 5, Ord. 860-90, eff. November 15, 1990; §5, Ord. 1142-15, eff. August 20, 2015)

Sec. 7-2.07 Guarantee of the Work: Correction of Defects.

The person by whom any excavation shall be made in any public street, alley, or other public place shall guarantee the work of refilling and the restoration for a period of one (1) year after completion of such excavation against all defects in workmanship or materials. In the event that the excavation is undertaken by a public utility who elects to make a deposit under Section 7-2.03, the deposit shall be retained for the longer of: (i) one (1) year after such excavation is complete, or (ii) if repairs are necessary and performed, six (6) months after the repairs are completed.

Whenever within such one (1) year warranty period any part of the work or place needs repairs, the Director of Public Works shall serve on the person by whom the excavation was made a written notice stating the repairs necessary and requiring such repairs to be made within five (5) days after the service of such notice.

The City may proceed to do such work after five (5) days' notice in the event the repairs are not done to the satisfaction of the Director of Public Works. The Director of Public Works shall deduct the cost of any work done or repairs made by the City from any and all deposits then on hand. The balance of any deposit shall be returned to the depositor after the expiration of the aforementioned six (6) months from the completion of the repairs of all excavation by such depositor or after the completion of the same by the Director of Public Works assuming no further repairs are needed, whichever is longer.
(§4, Ord. 88; as amended by §1, 6, Ord. 860-90, eff. November 15, 1990; §6, Ord. 1142-15, eff. August 20, 2015)

Sec. 7-2.08 Barriers and Lights.

It shall be the duty of every person making any excavation in any public street, alley, or other public place to place and maintain barriers at each end of such excavation and at such places as may be necessary along the excavation to prevent accidents and to place and maintain lights at each end of such excavation, and at distances of not more than fifty (50') feet along the line thereof, from sunset of each day to sunrise of the next day until such excavation is entirely refilled. It shall be unlawful for any person to fail, neglect, or refuse to comply with the requirements of this section.
(§7, Ord. 88)

Sec. 7-2.09 Removal of Soil and Gravel from Public Places.

It shall be unlawful for any person to make, or cause or permit to be made, any excavation in any public street, alley, or other public place for the purpose of removing soil or gravel therefrom or to remove, or to cause or permit to be removed therefrom, any soil or gravel without first obtaining a permit in writing from the Council so to do.
(§6, Ord. 88)

Sec. 7-2.10 Duty to Maintain Sidewalks and Parkways.

It shall be un-lawful for any owner, occupant, or person having the control or care of any lot or premises fronting upon any public street, lane, or alley in the City to fail, neglect, or refuse to keep the sidewalk immediately in front of such property and the space between the curb line and the property line of such property free from weeds and other vegetation growing thereon, except such vegetation as may be planted for purposes of ornamentation, or to fail, neglect, or refuse to keep the same free from dirt, filth, garbage, or rubbish other than the natural soil of the same, or to keep such sidewalk and space free from all holes or obstructions dangerous to life and limb, except holes or excavations caused or made by any person, firm, or corporation having a franchise for the erection of poles, the laying of pipes, and work of a similar nature.
(§8, Ord. 88)

Sec. 7-2.11 Street Repair Deposit Fund.

The Director of Public Works shall deposit in the City treasury all moneys received pursuant to the provisions of this chapter in a special fund which shall be kept by the City Treasurer and designated "Street Repair Deposit Fund". The cost of any work done or repairs made by the Director of Public Works pursuant to the provisions of this chapter shall be paid upon demands audited and paid in the same manner as other demands against the City are audited and paid, and the allowance of such demands by the Council shall be final and conclusive as to the cost thereof. All moneys refunded pursuant to the provisions of this chapter shall be paid upon demands audited and paid in the same manner as other demands against the City are audited and paid.
(§5, Ord. 88; as amended by §§1, 6, Ord. 860-90, eff. November 15, 1990)

Sec. 7-2.12 Absence of Director of Public Works: Performance of Duties.

In the event of the absence or inability to act of the Director of Public Works, the City Manager may issue permits in accordance with the provisions of this chapter and be vested with all the powers of the Director of Public Works pursuant to the provisions of this chapter during the period of his absence or inability to act.
(§2, Ord. 88, as amended by §3, Ord. 627, eff. March 24, 1977; §1, Ord. 860-90, eff. November 15, 1990)

Sec. 7-2.13 Compaction and Restoration Standards.

The work shall be performed in compliance with the City's Standard Details for Backfill and AC Replacement for Utility Installations.

It shall be the responsibility of the permittee to perform all excavation and backfill work at their sole expense.
(§4, Ord. 627, eff. March 24, 1977; §§1, 7, Ord. 860-90, eff. November 15, 1990; §7, Ord. 1142-15, eff. August 20, 2015)

Sec. 7-2.14 Inspections: Costs.

During the refilling of excavations and/or the restoration of improvements pursuant to the provisions of this chapter, the City reserves the right to require a full-time inspector. The cost of such inspector shall be borne by the permittee.
(§4, Ord. 627, eff. March 24, 1977)

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CHAPTER 3 - OVERHEAD UTILITIES CONVERSION

Sec. 7-3.01 Definitions.

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

(a) "Commission" shall mean the Public Utilities Commission of the State.

(b) "Underground Utility District" or "District" shall mean that area in the City within which poles, overhead wires, and associated overhead structures are prohibited as such area is described in a resolution adopted pursuant to the provisions of Section 7-3.04 of this chapter.

(c) "Person" shall mean and include individuals, firms, corporations, partnerships, and their agents and employees.

(d) "Poles, overhead wires, and associated overhead structures" shall mean poles, towers, supports, wires, conductors, guys, stubs, platforms, crossarms, braces, transformers, insulators, cutouts, switches, communication circuits, appliances, attachments, and appurtenances located aboveground within a District and used or useful in supplying electric, communication, or similar or associated service.

(e) "Utility" shall include all persons or entities supplying electric, communication, or similar or associated service by means of electrical materials or devices.
(§1, Ord. 514, eff. December 7, 1968)

Sec. 7-3.02 Public Hearings by Council.

The Council may from time to time call public hearings to ascertain whether the public necessity, health, safety, or welfare requires the removal of poles, overhead wires, and associated overhead structures within designated areas of the City and the underground installation of wires and facilities for supplying electric, communication, or similar or associated service. The City Clerk shall notify all affected property owners, as shown on the last equalized assessment roll, and utilities concerned by mail of the time and place of such hearings at least ten (10) days prior to the date thereof. Each such hearing shall be open to the public and may be continued from time to time. At each such hearing all persons interested shall be given an opportunity to be heard. The decision of the Council shall be final and conclusive.
(§1, Ord. 514, eff. December 7, 1968)

Sec. 7-3.03 Report by City Manager.

Prior to holding such public hearing the City Manager shall consult all affected utilities and shall prepare a report for submission at such hearing containing, among other information, the extent of such utilities' participation and estimates of the total costs to the City and affected property owners. Such report shall also contain an estimate of the time required to complete such underground installation and removal of overhead facilities.
(§1, Ord. 514, eff. December 7, 1968)

Sec. 7-3.04 Council May Designate Underground Utility Districts by Resolution.

If, after any such public hearing, the Council finds that the public necessity, health, safety, or welfare requires such removal and such underground installation within a designated area, the Council shall, by resolution, declare such designated area an Underground Utility District and order such removal and underground installation. Such resolution shall include a description of the area comprising such district and shall fix the time within which such removal and underground installation shall be accomplished and within which affected property owners shall be ready to receive underground service. A reasonable time shall be allowed for such removal and underground installation, having due regard for the availability of labor, materials, and equipment necessary for such removal and for the installation of such underground facilities as may be occasioned thereby.
(§1, Ord. 514, eff. December 7, 1968)

Sec. 7-3.05 Unlawful Acts.

Whenever the Council creates an Underground Utility District and orders the removal of poles, overhead wires, and associated overhead structures therein as provided in Section 7-3.04 of this chapter, it shall be unlawful for any person or utility to erect, construct, place, keep, maintain, continue, employ, or operate poles, overhead wires, and associated overhead structures in the District after the date when such overhead facilities are required to be removed by such resolution, except as such overhead facilities may be required to furnish service to an owner or occupant of property prior to the performance by such owner or occupant of the underground work necessary for such owner or occupant to continue to receive utility service as provided in Section 7-3.10 of this chapter, and for such reasonable time required to remove such activities after such work has been performed, and except as otherwise provided in this chapter.
(§1, Ord. 514, eff. December 7, 1968)

Sec. 7-3.06 Exceptions: Emergencies or Unusual Circumstances.

Notwithstanding the provisions of this chapter, overhead facilities may be installed and maintained for a period, not to exceed thirty (30) days, without authority of the Council in order to provide emergency service. The Council may grant special permission, on such terms as the Council may deem appropriate, in cases of unusual circumstances, without discrimination as to any person or utility to erect, construct, install, maintain, use, or operate poles, overhead wires, and associated overhead structures.
(§1, Ord. 514, eff. December 7, 1968)

Sec. 7-3.07 Other Exceptions.

The provisions of this chapter and any resolution adopted pursuant to the provisions of Section 7-3.04 of this chapter shall, unless otherwise provided in such resolution, not apply to the following types of facilities:

(a) Any municipal facilities or equipment installed under the supervision and to the satisfaction of the City Engineer;

(b) Poles or electroliers used exclusively for street lighting;

(c) Overhead wires (exclusive of supporting structures) crossing any portion of a District within which overhead wires have been prohibited, or connecting to buildings on the perimeter of a District, where such wires originate in an area from which poles, overhead wires, and associated overhead structures are not prohibited;

(d) Poles, overhead wires, and associated overhead structures used for the transmission of electric energy at nominal voltages in excess of thirty-four

thousand five hundred (34,500) volts;

(e) Overhead wires attached to the exterior surface of a building by means of a bracket or other fixture and extending from one location on the building to another location on the same building or to an adjacent building without crossing any public street;

(f) Antennae, associated equipment, and supporting structures used by a utility for furnishing communication services;

(g) Equipment appurtenant to underground facilities, such as surface-mounted transformers, pedestal-mounted terminal boxes and meter cabinets, and concealed ducts; and

(h) Temporary poles, overhead wires, and associated overhead structures used or to be used in conjunction with construction projects.
(§1, Ord. 514, eff. December 7, 1968)

Sec. 7-3.08 Notices to Property Owners and Utility Companies.

Within ten (10) days after the effective date of a resolution adopted pursuant to the provisions of Section 7-3.04 of this chapter, the City Clerk shall notify all affected utilities and all persons owning real property within the District thereby created of the adoption of the resolution. The City Clerk shall further notify such affected property owners of the necessity that, if they or any person occupying such property desire to continue to receive electric, communication, or similar or associated service, they or such occupant shall provide all necessary facility changes on their premises so as to receive such service from the lines of the supplying utility or utilities at a new location subject to the applicable rules, regulations, and tariffs of the respective utility or utilities on file with the Commission.

Notification by the City Clerk shall be made by mailing a copy of the resolution adopted pursuant to the provisions of Section 7-3.04 of this chapter, together with a copy of the provisions of this chapter, to affected property owners as such are shown on the last equalized assessment roll and to the affected utilities.
(§1, Ord. 514, eff. December 7, 1968)

Sec. 7-3.09 Responsibility of Utility Companies.

If underground construction is necessary to provide utility service within a District created by any resolution adopted pursuant to the provisions of Section 7-3.04 of this chapter, the supplying utility shall furnish that portion of the conduits, conductors, and associated equipment required to be furnished by it under its applicable rules, regulations, and tariffs on file with the Commission.
(§1, Ord. 514, eff. December 7, 1968)

Sec. 7-3.10 Responsibility of Property Owners.

(a) Every person owning, operating, occupying, or renting a building or structure within a District shall construct and provide that portion of the service connection on his property between the facilities referred to in Section 7-3.09 of this chapter and the termination facility on or within such building or structure being served, all in accordance with the applicable rules, regulations, and tariffs of the respective utility or utilities on file with the Commission.

(b) In the event any person owning, operating, leasing, occupying, or renting such property does not comply with the provisions of subsection (a) of this section within the time provided for in the resolution enacted pursuant to the provisions of Section 7-3.04 of this chapter, the City Manager shall cause to be posted written notice on the property being served and thirty (30) days thereafter may authorize the disconnection and removal of any and all overhead service wires and associated facilities supplying utility service to such property.
(§1, Ord. 514, eff. December 7, 1968)

Sec. 7-3.11 Responsibility of City.

The City shall remove at its own expense all City-owned equipment from all poles required to be removed hereunder in ample time to enable the owner or user of such poles to remove the same within the time specified in the resolution enacted pursuant to the provisions of Section 7-3.04 of this chapter.
(§1, Ord. 514, eff. December 7, 1968)

Sec. 7-3.12 Extension of Time.

In the event any act required by the provisions of this chapter or by a resolution adopted pursuant to the provisions of Section 7-3.04 of this chapter cannot be performed within the time provided on account of shortage of materials, war, restraint by public authorities, strikes, labor disturbances, civil disobedience, or any other circumstances beyond the control of the actor, then the time within which such act shall be accomplished shall be extended for a period equivalent to the time of such limitation.
(§1, Ord. 514, eff. December 7, 1968)

Sec. 7-3.13 Penalty.

It shall be unlawful for any person to violate any pro-vision or to fail to comply with any of the requirements of this chapter. Any person violating any provision of this chapter or failing to comply with any of its requirements shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine not exceeding Five Hundred and no/100ths ($500.00) Dollars or by imprisonment not exceeding six (6) months, or by both such fine and imprisonment.

Each such person shall be deemed guilty of a separate offense for each day during any portion of which any violation of any of the provisions of this chapter is committed, continued, or permitted by such person and shall be punishable therefor as provided for in this chapter.
(§1, Ord. 514, eff. December 7, 1968)

Sec. 7-3.14 Constitutionality.

If any section, subsection, sentence, clause, or phrase of this chapter is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this chapter. The Council hereby declares that it would have adopted the provisions of this chapter, and each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.
(§1, Ord. 514, eff. December 7, 1968)

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CHAPTER 4 - ABANDONED UTILITY FACILITIES

Sec. 7-4.01 Definitions.

For the purposes of this chapter, unless otherwise apparent from the context, the following words and phrases shall have the meaning set forth below:

(a) "Underground equipment" shall mean pipes, wires, conduits, and similar equipment installed underground for supplying gas, oil, electricity, water, saltwater, communications, or similar or associated services.

(b) "Person" shall mean and include individuals, firms, corporations, partnerships, and their agents and employees.

(c) "Utility" shall mean and include all persons or entities supplying gas, oil, electricity, water, saltwater, communications, or similar or associated services.
(§2, Ord. 981-00, eff. August 10, 2000)

Sec. 7-4.02 Notice of Abandonment.

Any person who owns, operates or manages a utility which provides utility services within the City of Avalon who intends to abandon underground equipment within the City of Avalon shall give written notice of such intent to the City at the time of abandonment of such underground equipment. The notice shall include a detailed description, including the length and width of the underground equipment and a statement as to whether any hazardous materials are contained therein, a map depicting the location of the equipment to be abandoned, and the name, telephone and address of the person to be contacted in the event the City proposes to construct public facilities which require the removal of the abandoned underground equipment.
(§2, Ord. 981-00, eff. August 10, 2000)

Sec. 7-4.03 Exceptions.

The provisions of this chapter shall not apply to any municipal facilities or equipment installed under the supervision of the City.
(§2, Ord. 981-00, eff. August 10, 2000)

Sec. 7-4.04 Penalties.

Any person who fails to comply with the notice requirement contained in Section 7-4.02 shall be guilty of a misdemeanor.
(§2, Ord. 981-00, eff. August 10, 2000)

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CHAPTER 1 - BUILDING CODE

Editor's Note: Prior ordinance history includes, Ordinance Nos. 454, 480, 487, 492, 505, 524, 556, 605, 644, 646, 710, 725, 744, 777, 818, 826, 852-U, 861, 874-92, 884-U-92; 922-95, 946-97, 1055-07, 1066-08, 1103-10 and 1128-14.

Sec. 8-1.01 Adoption of Building Code.

The California Building Code, 2016 Edition ("CBC"), shall be the City's Building Code for the erection, construction, enlargement, alteration, repair, movement, removal, demolition, occupancy, equipment, use, height, area, and maintenance of all buildings and other structures in the City, except as modified herein. The Building Code shall be on file in the City's Planning Department.

(§ 3, Ord. 1155-17, eff. March 23, 2017)

Sec. 8-1.02 Administrative Provisions.

The provisions of Part 1 of the CBC are hereby adopted as the administrative provisions for all of the State building standards adopted in Title 8 of the Avalon Municipal Code, and shall be the administrative, organizations, and enforcement rules and regulations for the technical codes set forth in Title 8, and shall be kept on file in the City's Planning Department.

(§ 3, Ord. 1155-17, eff. March 23, 2017)

Sec. 8-1.03 Building Official/Department.

The Building Official shall be appointed by the City Manager, or by the City Council if an independent contractor. The Building Official and his or her authorized representatives that enforce the codes set forth in this Title may be employees of the City or independent contractors.

(§ 3, Ord. 1155-17, eff. March 23, 2017)

Sec. 8-1.04 Penalties.

Any person, entity, firm, or corporation violating any of the provisions of the Building Codes as set forth in this Title shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punishable by a fine not to exceed one thousand dollars ($1,000), or by imprisonment in the County Jail for a period not to exceed six (6) months, or by both such fine and imprisonment. Each separate day or any portion thereof during which any violation of the Building Codes occurs or continues shall be deemed to constitute a separate offense, and upon conviction thereof shall be punishable as herein provided.

(§ 3, Ord. 1155-17, eff. March 23, 2017)

Sec. 8-1.05 Work Commencing Before Permit Issuance.

CBC Section 109.4 – Work Commencing Before Permit Issuance is hereby amended to read as follows:

"Any person who commences work on a building, structure, electrical, gas, mechanical or plumbing system before obtaining the necessary permits shall be subject to a penalty equal to double the permit fees. In addition, when required by the Building Official, a special investigation shall be performed at a cost established by separate resolution."

(§ 3, Ord. 1155-17, eff. March 23, 2017)

Sec. 8-1.06 Refunds.

CBC Section 109.6 Refunds is hereby amended to read as follows:

"The Building Official or Planning Director may authorize refunding of any fee paid hereunder which was erroneously paid or collected.

The Building Official or Planning Director may authorize refunding of not more than eighty (80%) percent of the permit fee when no work has been done under a permit issued in accordance with this Code.

The Building Official or Planning Director may authorize refunding of not more than eighty (80%) percent of the plan review fee when an application for a permit for which a plan review fee has been paid is withdrawn or canceled before the plan is reviewed.

The Building Official or Planning Director shall not authorize refunding of any fee paid except on written application filed by the original permittee not later than ninety (90) days after the date of fee payment."

(§ 3, Ord. 1155-17, eff. March 23, 2017)

Sec. 8-1.07 Automatic Fire Sprinkler Systems.

CBC Section 903.2 is hereby amended to read as follows:

"Where required, automatic fire sprinklers shall be provided as follows:

(a) Notwithstanding any provision in Section 903.2 of the CBC and Section 903.2 of the California Fire Code, approved automatic fire sprinklers shall be installed and maintained in accordance with the National Fire Protection Association's ("NFPA") Standard 13 throughout all new buildings as set forth herein.

(b) All buildings and structures constructed after the effective date of this Ordinance No. 1155-17, regardless of when permitted or approved, shall be provided with an automatic sprinkler system installed in accordance with the applicable standards of the NFPA, of the rules and regulations of the State Fire Marshal and of this Code. In addition, an automatic sprinkler system shall be installed throughout an entire building or structure upon (1) the rehabilitation, remodeling or reconstruction of twenty-five percent (25%) or more of the gross square footage of an existing commercial or multiple unit

residential building or structure, whether done at one time or through successive projects approved at any time after the effective date of this Ordinance; (2) the rehabilitation, remodeling or reconstruction of fifty percent (50%) or more of the gross square footage of an existing single family dwelling, whether done at one time or through successive projects approved at any time after the effective date of this Ordinance, except where the cost of the rehabilitation, remodeling or reconstruction is $10,000 or less as determined by the Building Official using City-approved construction cost estimates; and (3) upon a change in the use of any building or structure, except in the case of a change in the use of a single family residence to use as a family day care home, in which case the provisions of Health & Safety Code section 1596 et seq. shall apply. Where a property owner constructs changes to an existing building without first obtaining permits for such work and no readily available, reliable source of information exists to verify whether the unpermitted work triggers the provisions of this Section, a rebuttable presumption that the installation of fire sprinklers is required under this Section shall arise. The property owner may request a hearing before the Building Official, whose decision shall be appealable to the City Manager, for the purpose of rebutting the presumption. The City Council shall promulgate rules and regulations by resolution setting forth examples and guidance for the application of this ordinance."

(§ 3, Ord. 1155-17, eff. March 23, 2017)

Sec. 8-1.08 Minimum Roof Covering.

Table 1505.1 is hereby amended to read as follows:

"TABLE 1505.1[a] MINIMUM ROOF COVERING CLASSIFICATIONS TYPES OF CONSTRUCTION								
IA	IB	IIA	IIB	IIIA	IIIB	IV	VA	VB
B	B	B	B	B	B	B	B	B
For SI: 1 foot = 304.8 mm, 1 square foot = 0.0929 m^2. a. Unless otherwise required in accordance with Chapter 7A."								

Sec. 8-1.09 Roof Coverings – Fire Retardant Coverings Required.

CBC Section 1505.1.3 is hereby amended to read as follows:

"1505.1.3 Roof Coverings Within All Other Areas.

(a) The entire roof covering of every existing structure where more than fifty percent (50%) of the total roof area is replaced within any one (1) year period, the entire roof covering of every new structure, and any roof covering applied in the alteration, repair or replacement of the roof of every existing structure, shall be a fire-retardant roof covering that is at least Class B.

(b) Section 1505.5 is amended by the deletion of the entire section.

(c) Section 1505.7 is amended by the deletion of the entire section."

(§ 3, Ord. 1155-17, eff. March 23, 2017)

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CHAPTER 2 - FIRE ZONES

Sec. 8-2.01 Adoption of California Building Code Chapter 7A.

Except as provided in this chapter, Chapter 7A of the California Building Code shall be adopted as part of the City's Building Code for the erection, construction, enlargement, alteration, repair, moving, removal, conversion, demolition, occupancy, equipment, use, height, area, and maintenance of buildings and other structures in the City. Chapter 7A of the California Building Code is adopted by reference pursuant to Section 50022.1 et seq. of the California Government Code. Except as otherwise provided by this chapter of the Municipal Code, all erection, construction, enlargement, alteration, repair, moving, removal, conversion, demolition, occupancy, equipment, use, height, area, and maintenance of buildings and other structures within the City shall be in conformance therewith. A copy of the Chapter 7A of the California Building Code shall be on file in the office of the Building Official for public inspection and is adopted with the same force and effect as though set out herein in full. (§2, Ord. 1124-13, eff. November 14, 2013)

Editor's Note: The Very High Fire Hazard Severity Zone (VHFHSZ) Map adopted by Ordinance No. 1124-13 §1, may be found on file in the City Offices.

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CHAPTER 3 - BUILDING NUMBERING

Sec. 8-3.01 Map Adopted.

That certain map entitled "House Numbering Map of the City of Avalon", prepared by the City Engineer and filed with the City Clerk on August 1, 1919, is hereby adopted and approved as the house numbering map of the City, and all houses, buildings, and premises in the City shall be numbered in accordance therewith.
(§1, Ord. 94)

Sec. 8-3.02 Duty to Number Buildings.

It shall be the duty of all persons owning or having the possession or control of any buildings, houses or premises in the City to place, or cause to be placed, thereon the appropriate number therefor in accordance with the house numbering map. Such number shall be displayed in a conspicuous place, visible from the public right-of-way. Effective May 1, 1988, all buildings, houses, or premises in the City not displaying a number shall be required to display such number in figures not less than four (4") inches in height and with sufficient color contrast so as to be visible from a distance of twenty (20') feet. If such buildings, houses, or premises are located on an alley, the street address shall also be displayed on the rear of such structures. Notwithstanding the foregoing, all buildings, houses or premises fronting on Crescent shall be exempt from these premises.
(§2, Ord. 94; §1, Ord. 825, eff. April 14, 1988)

Sec. 8-3.03 City Clerk to Furnish Numbers.

It shall be the duty of the City Clerk to furnish upon request the appropriate number for any house, building, or premises in the City in accordance with the house numbering map. Such number shall be furnished on a form supplied by the City Clerk and shall contain a description of such house, building, or premises sufficient to identify the location thereof on the house numbering map.
(§3, Ord. 94)

Sec. 8-3.04 Violations of Provisions.

It shall be unlawful for any person to place, or cause to be placed, or to permit or allow to remain on any building, house, or premises belonging to such person or in his possession or control any number other than the appropriate number designated therefor on the house numbering map.
(§3, Ord. 94)

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CHAPTER 4 - CALIFORNIA ELECTRICAL CODE

Editor's Note: Prior ordinance history includes Ordinance Nos. 455, 488, 525 and 537, 562, 606, 644, 646, 671, 756, 852-U, 873-92, 1057-07, 1066-08, 1103-10 and 1128-14)

Sec. 8-4.01 Electrical Code Adopted.

The California Electrical Code, 2016 Edition is hereby adopted except as modified herein. Said Code shall be kept on file in the Planning Department.

(§ 3, Ord. 1155-17, eff. March 23, 2017)

Sec. 8-4.02 Penalties.

Any person, firm or corporation violating any of the provisions of the Electrical Code as set forth in this Title shall be guilty of a misdemeanor and, upon conviction thereof, shall be punishable by a fine not to exceed one thousand dollars ($1,000) or by imprisonment in the County Jail for a period not to exceed six (6) months, or by both such fine and imprisonment. Each separate day or any portion thereof during which any violation of the Electrical Code occurs or continues shall be deemed to constitute a separate offense, and upon conviction thereof shall be punishable as herein provided.

(§ 3, Ord. 1155-17, eff. March 23, 2017)

Sec. 8-4.03 Work Commencing Before Permit Issuance.

Any person who commences work on a building, structure, electrical, gas, mechanical or plumbing system before obtaining the necessary permits shall be subject to a penalty equal to double the permit fees. In addition, when required by the Building Official, a special investigation shall be performed at a cost established by separate resolution.

(§ 3, Ord. 1155-17, eff. March 23, 2017)

Sec. 8-4.04. Refunds.

The Building Official or Planning Director may authorize refunding of any fee paid hereunder which was erroneously paid or collected.

The Building Official or Planning Director may authorize refunding of not more than eighty percent (80%) of the permit fee when no work has been done under a permit issued in accordance with this Code.

The Building Official or Planning Director may authorize refunding of not more than eighty percent (80%) of the plan review fee when an application for a permit for which a plan review fee has been paid is withdrawn or canceled before the plan is reviewed.

The Building Official or Planning Director shall not authorize refunding of any fee paid except on written application filed by the original permittee not later than ninety (90) days after the date of fee payment.

(§ 3, Ord. 1155-17, eff. March 23, 2017)

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CHAPTER 5 - PLUMBING CODE

Editor's Note: Prior ordinance history includes Ordinance Nos. 456, 489, 526 and 538, 558, 607, 644, 646, 710, 826 and 852-U, 875-92, 922-95, 1058-07, 1066-08, 1103-10, 1128-14.

Sec. 8-5.01 Plumbing Code Adopted.

The California Plumbing Code, 2016 Edition ("CPC") is hereby adopted as the Plumbing Code for the City regulating the erection, installation, alteration, repair, relocation, replacement, maintenance or use of plumbing systems with the City. Said Code shall be on file in the Planning Department.

(§ 3, Ord. 1155-17, eff. March 23, 2017)

Sec. 8-5.02 Penalties.

CPC Section 106.3 Penalties is hereby amended to read as follows:

"Any person, firm or corporation violating any of the provisions of the Plumbing Code as set forth in this Title shall be guilty of a misdemeanor and, upon conviction thereof, shall be punishable by a fine not to exceed one thousand dollars ($1,000) or by imprisonment in the County Jail for a period not to exceed six (6) months, or by both such fine and imprisonment. Each separate day or any portion thereof during which any violation of the Plumbing Code occurs or continues shall be deemed to constitute a separate offense, and upon conviction thereof shall be punishable as herein provided."

(§ 3, Ord. 1155-17, eff. March 23, 2017)

Sec. 8-5.03 Investigation Fees: Work Without a Permit.

Any person who commences work on a building, structure, electrical, gas, mechanical or plumbing system before obtaining the necessary permits shall be subject to a penalty equal to double the permit fees. In addition, when required by the Building Official, a special investigation shall be performed at a cost established by separate resolution.

(§ 3, Ord. 1155-17, eff. March 23, 2017)

Sec. 8-5.04 Fee Refunds.

CPC Section 104.5.3 Fee Refunds is hereby amended to read as follows:

"The Building Official or Planning Director may authorize refunding of any fee paid hereunder which was erroneously paid or collected.

The Building Official or Planning Director may authorize refunding of not more than eighty percent (80%) of the permit fee when no work has been done under a permit issued in accordance with this Code.

The Building Official or Planning Director may authorize refunding of not more than eighty percent (80%) of the plan review fee when an application for a permit for which a plan review fee has been paid is withdrawn or canceled before the plan is reviewed.

The Building Official or Planning Director shall not authorize refunding of any fee paid except on written application filed by the original permittee not later than ninety (90) days after the date of fee payment."

(§ 3, Ord. 1155-17, eff. March 23, 2017)

Sec. 8-5.05 Salt Water Service Required.

(a) Any structure in the City utilizing toilets shall be equipped with a separate plumbing system piped to the toilets. Said separate plumbing system shall be installed and shall connect to the City's salt water system within one (1) year of salt water services being available within one hundred (100') feet of the parcel on which a structure is situated or constructed.

(b) Connection to the salt water distribution system may be deferred for additional one (1) year periods, not to exceed two (2) extensions, upon application to the City Council if the City Council makes one of the following findings:

(1) That such installation and connection to the City's system within one (1) year of service being available would result in economic hardship to applicant.

(2) That due to the geologic and topographic conditions of applicant's property, installation and connection to the City's system within one (1) year would result in undue hardship to applicant.

(3) That there are extensive structural changes required for the installation of a separate plumbing system in applicant's structure, and connection to City's system within one (1) year of services being available would result in undue hardship to applicant.

(c) Notwithstanding any extension of time granted by the City Council, the salt water service charges shall become due and payable one (1) year from the date salt water services are available within one hundred (100') feet from the parcel on which applicant's structure is located or will be constructed.

(§ 3, Ord. 1155-17, eff. March 23, 2017)

Sec. 8-5.06 Salt Water Service Effluent Water.

At such time as effluent water has been approved for distribution to the City, the same shall be utilized in lieu of salt water for the service set forth in this chapter,

and, further, at such time as structures equipped with separate salt water service piping shall be connected thereto.

(§ 3, Ord. 1155-17, eff. March 23, 2017)

Sec. 8-5.07 Salt Water Service Disconnections.

Effective July 1, 1974, all structures connected to the City salt water system shall remain connected thereto, and disconnections therefrom shall be prohibited.

(§ 3, Ord. 1155-17, eff. March 23, 2017)

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CHAPTER 6 - SMALL RESIDENTIAL ROOFTOP SOLAR SYSTEMS

Sec. 8-6.01 Applicability and Purpose.

This chapter applies to the permitting of all small residential rooftop solar energy systems in the City. The purpose of this chapter is to create an expedited, streamlined solar permitting process that complies with the Solar Rights Act, as amended by AB 2188 (Chapter 521, Statutes 2014), to achieve timely and cost-effective installations of small residential rooftop solar energy systems. This chapter encourages the use of small residential rooftop solar energy systems by removing unreasonable barriers, minimizing costs to property owners and the City, and expanding the ability of property owners to install small residential rooftop solar energy systems. This chapter allows the City to achieve these goals while protecting the public health and safety.
(§1, Ord. 1141-15, eff. August 20, 2015)

Sec. 8-6.02 Definitions.

The definitions set forth below shall be applicable to the provisions in this chapter.

"Electronic submittal" shall mean the utilization of one or more of the following:

(1) Email;

(2) The Internet;

(3) Facsimile.

"Official" shall mean the Building Official of the City.

"Small residential rooftop solar energy system" shall mean a solar energy system which meets all of the following:

(1) Is no larger than 10 kilowatts alternating current nameplate rating or 30 kilowatts thermal;

(2) Conforms to all applicable State fire, structural, electrical, and other building codes as adopted or amended by the City, and all State and City health and safety standards;

(3) Conforms to all applicable safety and performance standards established by the California Electrical Code, the Institute of Electrical and Electronics Engineers, and accredited testing laboratories such as Underwriters Laboratories and, where applicable, rules of the Public Utilities Commission regarding safety and reliability;

(4) Is installed on a single or duplex family dwelling;

(5) The panel or module array does not exceed the maximum legal building height as defined by the City.

"Solar energy system" has the meaning set forth in paragraph (1) and (2) of subdivision (a) of Section 801.5 of the Civil Code, as such section or subdivision may be amended, renumbered, or redesignated from time to time.

"Specific, adverse impact" shall mean 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.
(§1, Ord. 1141-15, eff. August 20, 2015)

Sec. 8-6.03 Small Residential Rooftop Solar System Requirements.

(a) A solar energy system that qualifies as a small residential rooftop solar energy system, as defined in this chapter, shall be processed in accordance with the terms of this chapter.

(b) A small residential rooftop solar energy system shall meet applicable health and safety standards and requirements imposed by the State and the City, local fire department or district.

(c) The Official shall, prior to September 30, 2015, adopt an administrative, nondiscretionary expedited review process for small residential rooftop solar energy systems, which shall include standard plan(s) and checklist(s). The checklist(s) shall set forth all requirements with which small residential rooftop solar energy systems must comply with to be eligible for expedited review.

(d) The small residential rooftop solar system permit process, standard plan(s), and checklist(s) shall substantially conform to recommendations for expedited permitting, including the checklist and standard plans contained in the most current version of the California Solar Permitting Guidebook adopted by the Governor's Office of Planning and Research.
(§1, Ord. 1141-15, eff. August 20, 2015)

Sec. 8-6.04 Applicant Obligations.

(a) Prior to submitting an application, the applicant shall be responsible to:

(1) Verify, to the applicant's reasonable satisfaction, through the use of standard engineering evaluation techniques that the support structure for the small residential rooftop solar energy system is stable and adequate to transfer all wind, seismic, and dead and live loads associated with the system to the building foundation; and

(2) At the applicant's cost, verify to the applicant's reasonable satisfaction, using standard electrical inspection techniques that the existing electrical system including existing line, load, ground and bonding wiring as well as main panel and subpanel sizes are adequately sized, based on the existing electrical system's current use, to carry all new photovoltaic electrical loads.

(§1, Ord. 1141-15, eff. August 20, 2015)

Sec. 8-6.05 Electronic Processing.

(a) All documents required for the submission of an expedited small residential rooftop solar energy system application shall be made available on a publicly accessible City website.

(b) Electronic submittal of the required permit application and documents by electronic means shall be made available to all small residential rooftop solar energy system permit applicants. The City's website shall specify the permitted method of electronic document submission.

(c) An applicant's electronic signature shall be accepted on all forms, applications, and other documents in lieu of a wet signature.

(§1, Ord. 1141-15, eff. August 20, 2015)

Sec. 8-6.06 Application Review.

(a) An application that City staff determines satisfies the information requirements contained in the City's checklist(s) for expedited small residential rooftop solar system processing, including complete supporting documents, shall be deemed complete.

(b) If an application is deemed incomplete, a written correction notice detailing all deficiencies in the application and any additional information or documentation required to be eligible for expedited permit issuance shall be sent to the applicant for resubmission.

(c) After City staff deems an application complete, City staff shall review the application to determine whether the application meets local, State, and Federal health and safety requirements.

(d) Unless the Official determines a use permit is warranted, City staff shall issue a building permit or other nondiscretionary permit within a reasonable period of time after receipt of a complete application that meets the requirements of the approved checklist, standard plan and this chapter.

(e) The Official may require an applicant to apply for a use permit if the Official finds, based on substantial evidence, that the solar energy system could have a specific, adverse impact upon the public health and safety. Such decision may be appealed to the Planning Commission.

(f) The City shall not condition approval of an application on the approval of an association, as defined in Section 4080 of the Civil Code.

(§1, Ord. 1141-15, eff. August 20, 2015)

Sec. 8-6.07 Use Permit.

(a) If a use permit is required, the Official may deny an application for the use permit if the Official makes written findings based upon substantive evidence in the record that the proposed installation would have a specific, adverse impact upon public health or safety and there is no feasible method to satisfactorily mitigate or avoid, as defined, the adverse impact. Such findings shall include the basis for the rejection of the potential feasible alternative for preventing the adverse impact. Such decision may be appealed to the Planning Commission.

(b) Any condition imposed on an application shall be designed to mitigate the specific, adverse impact upon health and safety at the lowest possible cost.

(c) "A feasible method to satisfactorily mitigate or avoid the specific, adverse impact" includes, but is not limited to, any cost-effective method, condition, or mitigation imposed by the City on another similarly situated application in a prior successful application for a permit. The City shall use its best efforts to ensure that the selected method, condition, or mitigation does not significantly increase the cost of the system or decrease its efficiency or specified performance in excess of the following:

(1) For Water Heater Systems or Solar Swimming Pool Heating Systems: an amount exceeding ten (10%) percent of the cost of the system, but in no case more than one thousand ($1,000.00) dollars, or decreasing the efficiency of the solar energy system by an amount exceeding ten (10%) percent, as originally specified and proposed.

(2) For Photovoltaic Systems: an amount not to exceed one thousand ($1,000.00) dollars over the system cost as originally specified and proposed, or a decrease in system efficiency of an amount exceeding ten (10%) percent as originally specified and proposed.

(§1, Ord. 1141-15, eff. August 20, 2015)

Sec. 8-6.08 Inspections.

(a) Only one inspection shall be required and performed by the Building Department for small residential rooftop solar energy systems eligible for expedited review.

(b) The inspection shall be done in a timely manner.

(c) If a small residential rooftop solar energy system fails inspection, a subsequent inspection is authorized but need not conform to the requirements of this chapter.

(§1, Ord. 1141-15, eff. August 20, 2015)

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CHAPTER 7 - CALIFORNIA MECHANICAL CODE

Editor's Note: Prior ordinance history includes Ordinance Nos. 527 and 539, 557, 608, 644, 646, 826 and 852-U, 876-92, 885U-92, 887-92, 992-95, 1056-07, 1066-08, 1103-10, 1128-14.

Sec. 8-7.01 California Mechanical Code Adopted.

The California Mechanical Code, 2016 Edition ("CMC") is hereby adopted and shall regulate and control the design construction, installation, quality of materials, location, operation and maintenance of the heating, ventilating, cooling, refrigeration systems, incinerators and other miscellaneous heat producing appliances. Said Code shall be on file in the Planning and Building Department.

(§ 3, Ord. 1155-17, eff. March 23, 2017)

Sec. 8-7.02 Penalties.

Any person, firm or corporation violating any of the provisions of the Mechanical Code as set forth in this Title shall be guilty of a misdemeanor and, upon conviction thereof, shall be punishable by a fine not to exceed one thousand dollars ($1,000) or by imprisonment in the County Jail for a period not to exceed six (6) months, or by both such fine and imprisonment. Each separate day or any portion thereof during which any violation of the Mechanical Code occurs or continues shall be deemed to constitute a separate offense, and, upon conviction thereof, shall be punishable as herein provided.

(§ 3, Ord. 1155-17, eff. March 23, 2017)

Sec. 8-7.03 Investigation Fees – Work Without a Permit.

CMC Section 104.5.2 Investigation Fees – Work Without a Permit is hereby amended to read as follows:

"Any person who commences work on a building, structure, electrical, gas, mechanical or plumbing system before obtaining the necessary permits shall be subject to a penalty equal to double the permit fees. In addition, when required by the Building Official, a special investigation shall be performed at a cost established by separate resolution."

(§ 3, Ord. 1155-17, eff. March 23, 2017)

Sec. 8-7.04 Fee Refunds.

CMC Section 104.5.3 Refund is hereby amended to read as follows:

"The Building Official or Planning Director may authorize refunding of any fee paid hereunder which was erroneously paid or collected.

The Building Official or Planning Director may authorize refunding of not more than eighty (80%) percent of the permit fee when no work has been done under a permit issued in accordance with this Code.

The Building Official or Planning Director may authorize refunding of not more than eighty percent (80%) of the plan review fee when an application for a permit for which a plan review fee has been paid is withdrawn or canceled before the plan is reviewed.

The Building Official or Planning Director shall not authorize refunding of any fee paid except on written application filed by the original permittee not later than ninety (90) days after the date of fee payment."

(§ 3, Ord. 1155-17, eff. March 23, 2017)

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CHAPTER 8 - RESIDENTIAL CODE

Editor's Note: Former Chapter 8, Uniform Housing Code, previously codified herein and containing portions of Ordinance No. 889-92 was repealed in its entirety by Ordinance No. 1103-10 and replaced by Residential Code which contained Ordinance Nos. 1103-10, 1128-14.

Sec. 8-8.01 Adoption of Residential Code.

The California Residential Code, 2016 Edition ("CRC") is hereby adopted as the Residential Code for the City with Appendix H and shall apply to those residential structures set forth therein. A copy of said Code shall be kept on file with the Planning and Building Department.

This shall be the City's Residential Building Code for the erection, construction, enlargement, alteration, repair, moving, removal, demolition, occupancy, equipment, use, height, area and maintenance of all residential buildings in the City, except as modified herein.

(§ 3, Ord. 1155-17, eff. March 23, 2017)

Sec. 8-8.02 Refunds.

CRC Section R108.5 Refunds is hereby amended to read as follows:

"The Building Official or Planning Director may authorize refunding of any fee paid hereunder which was erroneously paid or collected.

The Building Official or Planning Director may authorize refunding of not more than eighty percent (80%) of the permit fee when no work has been done under a permit issued in accordance with this Code.

The Building Official or Planning Director may authorize refunding of not more than eighty percent (80%) of the plan review fee when an application for a permit for which a plan review fee has been paid is withdrawn or canceled before the plan is reviewed.

The Building Official or Planning Director shall not authorize refunding of any fee paid except on written application filed by the original permittee not later than ninety (90) days after the date of fee payment."

(§ 3, Ord. 1155-17, eff. March 23, 2017)

Sec. 8-8.03 Penalties.

CRC Section R108.6 Work Commencing Before Permit Issuance is hereby amended to read as follows:

"Any person who commences work on a building, structure, electrical, gas, mechanical or plumbing system before obtaining the necessary permits shall be subject to double the permit fees as a penalty. In addition, when required by the Building Official, a special investigation shall be performed at a cost established by separate ordinance."

(§ 3, Ord. 1155-17, eff. March 23, 2017)

Sec. 8-8.04 Climatic and Geographic Design.

Table R301.2(1) is revised to read as follows:

"Table R301.2(1)
Climatic and Geographic Design Criteria

GROUND SNOW LOAD			SEISMIC DESIGN CATEGORY	SUBJECT TO DAMAGE FROM			WINTER DESIGN TEMP	ICE BARRIER UNDERLAY-MENT REQUIRED	FLOOD HAZARDS	AIR FREEZING INDEX	MEAN ANNUAL TEMP
	(mph)	Topo-graphic effects		Weather-ing	Frost line Depth						

For SI: 1 pound per square foot = 0.0479 kPa, 1 mile per hour = 0.447 m/s

a. Weathering may require a higher strength concrete or grade of masonry than necessary to satisfy the structural requirements of this code. The weathering column shall be filled in with the weathering index (i.e., "negligible," "moderate" or "severe") for concrete as determined from the Weathering Probability Map [Figure R301.2(3)]. The grade of masonry units shall be determined from ASTM C 34, C 55, C 62, C 73, C 90, C 129, C 145, C 216 or C 652.

b. The frost line depth may require deeper footings than indicated in Figure R403.1(1). The jurisdiction shall fill in the frost line depth column with the minimum depth of footing below finish grade.

c. The jurisdiction shall fill in this part of the table to indicate the need for protection depending on whether there has been a history of local subterranean termite damage.

d. The jurisdiction shall fill in this part of the table with the wind speed from the basic wind speed map [Figure R301.2(4)]. Wind exposure

category shall be determined on a site-specific basis in accordance with Section R301.2.1.4.

e. Temperatures shall be permitted to reflect local climates or local weather experience as determined by the building official.

f. The jurisdiction shall fill in this part of the table with the seismic design category determined from Section R301.2.2.1.

g. The jurisdiction shall fill in this part of the table with (a) the date of the jurisdiction's entry into the National Flood Insurance Program (date of adoption of the first code or ordinance for management of flood hazard areas), (b) the date(s) of the Flood Insurance Study and (c) the panel numbers and dates of all currently effective FIRMs and FBFMs or other flood hazard map adopted by the authority having jurisdiction, as amended.

h. In accordance with Sections R905.2.7.1, R905.4.3.1, R905.5.3.1, R905.6.3.1, R905.7.3.1 and R905.8.3.1, where there has been a history of local damage from the effects of ice damming, the jurisdiction shall fill in this part of the table with "YES." Otherwise, the jurisdiction shall fill in this part of the table with "NO."

i. The jurisdiction shall fill in this part of the table with the 100-year return period air freezing index (BF-days) from Figure R403.3(2) or from the 100-year (99%) value on the National Climatic Data Center data table "Air Freezing Index – USA Method (Base 32°)" at www.ncdc.noaa.gov/fpsf.html.

j. The jurisdiction shall fill this part of the table with the mean annual temperature from the National Climatic Data Center data table "Air Freezing Index – USA Method (Base 32°)" at www.ncdc.noaa.gov/fpsf.html.

k. In accordance with Section R301.2.1.5, where there is local historical data documenting structural damage to buildings due to topographic wind speed-up effects, the jurisdiction shall fill in this part of the table with "YES." Otherwise, the jurisdiction shall indicate "NO" in this part of the table."

(§ 3, Ord. 1155-17, eff. March 23, 2017)

Sec. 8-8.05 Automatic Fire Sprinkler Systems.

The exceptions to Section R313.1 and R313.2 are deleted. The following will be added to R313.1 and R313.2:

"Any existing building shall retrofit with automatic fire sprinklers installed and maintained in accordance with N.F.P.A., 1' Standard 13 throughout when ≥ fifty percent (50%) of a structure's square footage is substantially remodeled, whether done at one time or through successive projects approved at any time after the effective date of this Ordinance No. 1155-17."

(§ 3, Ord. 1155-17, eff. March 23, 2017)

Sec. 8-8.06 Preliminary Soils Report.

As required by Chapter 4 of the CRC, CRC Section R401.5 is added to CRC Chapter 4 to read as follows:

"The Building Official may require a geologic or geotechnical report or both, in accordance with the 2016 California Residential Code Section R401.4. This section shall include any new residential construction or additions to existing structures. As part of this evaluation, the Building Official shall require a site visit to determine the need for a geologic or geotechnical report or both. A fee shall be collected for each site visit.

A geologic report shall be prepared by a Certified Engineering Geologist licensed by the State of California. A geotechnical report shall be prepared by a registered Civil Engineer versed in soils engineering and qualified to perform this work. When both a geotechnical and geologic report are required, the two reports shall be coordinated before submission to the Building Official. The Building Official, at his or her discretion, shall obtain any technical support necessary to approve the report. Submitted reports shall contain a finding regarding the safety of the site from any variety of geologic hazard and a finding regarding the effect the proposed improvements, grading and/or construction and use of the site will have on the stability of the site and/or property outside the site. Any recommendation or action presented in the approved reports along with any conditions of approval shall be incorporated into the construction of site improvements. A fee shall be collected for the cost of review of the reports and any required addendums."

(§ 3, Ord. 1155-17, eff. March 23, 2017)

Sec. 8-8.07 Fully Grouted Stem Walls.

CRC Section R403.1.3.2 is modified by deleting the exception for masonry stem walls and will read as follows:

"In Seismic Design Categories D_0, D_1, and D_2, masonry stem walls without solid grout and vertical reinforcing are not permitted."

(§ 3, Ord. 1155-17, eff. March 23, 2017)

Sec. 8-8.08 Roofing Covering Materials.

CRC Section R902.1 is amended by revising it to allow only class A or B roofs as follows:

"R902.1 Roofing Covering Materials.

Roofs shall be covered with materials as set forth in Section R904 and R905. A minimum Class A or B roofing shall be installed in areas designated by this section. Classes A or B roofing required by this section to be listed shall be tested in accordance with UL 790 or ADTM E108.

Exceptions:

(a) Class A roof assemblies include those with coverings of brick, masonry and exposed concrete roof deck.

(b) Class A roof assemblies also include ferrous or copper shingles or sheets, metal sheets and shingles, clay or concrete roof tile, or slate installed on noncombustible decks."

(§ 3, Ord. 1155-17, eff. March 23, 2017)

Sec. 8-8.09 Roof Covering Within All Other Areas.

CRC Section R902.1.3 is amended by revising it to require a minimum Class B roof as follows:

"R902.1.3 Roof coverings within all other areas.

The entire roof covering of every existing structure where more than fifty percent (50%) of the total roof area is replaced within any one (1) year period, the entire roof covering of every new structure, and any roof covering applied in the alteration, repair or replacement of the roof of every existing structure, shall be a fire-retardant roof covering that is at least Class B."

(§ 3, Ord. 1155-17, eff. March 23, 2017)

Sec. 8-8.10 Fire-Retardant-Treated Shingles and Shakes.

CRC Section R902.2, first paragraph is amended by revising it to allow only Class A or Class B treated wood roofs as follows:

"R902.2 Fire-retardant-treated shingles and shakes.

Fire-retardant-treated wood shakes and shingles are wood shakes and shingles complying with UBC Standard 15-3 or 15-4 which are impregnated by the full-cell vacuum-pressure process with fire-retardant chemicals, and which have been qualified by UBC Standard 15-2 for use of Class A or B roofs."

(§ 3, Ord. 1155-17, eff. March 23, 2017)

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CHAPTER 9 - UNDERGROUNDING OF UTILITIES

Sec. 8-9.01 New Construction.

Effective January 15, 1973, all electrical, telephone, Community Antenna Television System (CATV), and similar service wires or cables which provide direct service to new buildings and structures shall be installed under-ground.
(§1, Ord. 565, eff. January 3, 1973)

Sec. 8-9.02 Existing Buildings.

(§1, Ord. 565, eff. January 3, 1973; repealed by §1, Ord. 657, eff. March 7, 1979)

Sec. 8-9.03 Responsibility for Compliance.

The developer and the owner shall be jointly and severally responsible for complying with the requirements of this chapter and shall make the necessary arrangements with the utility companies for the installation of such facilities.
(§1, Ord. 565, eff. January 3, 1973)

Sec. 8-9.04 Appurtenances.

For the purposes of this chapter, appurtenances and associated equipment, such as, but not limited to, surface-mounted transformers, pedestal mounted terminal boxes and meter cabinets, and concealed ducts in an underground system may be placed aboveground if permitted by and in accordance with the rules of the Public Utilities Commission of the State.
(§1, Ord. 565, eff. January 3, 1973)

Sec. 8-9.05 Risers.

Risers on poles and buildings shall be permitted and shall be provided by the developer or owner on the pole which services such property.
(§1, Ord. 565, eff. January 3, 1973)

Sec. 8-9.06 Waivers.

(§1, Ord. 565, eff. January 3, 1973; repealed by §1, Ord. 657, eff. February 20, 1979)

Sec. 8-9.07 Exemptions.

The provisions of this chapter shall not apply to utility lines which do not provide service to the area being developed.
(§1, Ord. 565, eff. January 3, 1973)

Sec. 8-9.08 Inconsistencies.

Any provision of this Code, or appendices thereto, or any other law of the City inconsistent with the provisions of this chapter to the ex-tent of such inconsistencies, and no further, are hereby repealed.
(§1, Ord. 565, eff. January 3, 1973)

Sec. 8-9.09 Validity.

If any section, subsection, sentence, clause, or phrase of this chapter is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this chapter.
(§1, Ord. 565, eff. January 3, 1973)

Sec. 8-9.10 Violations: Penalties.

Any person violating any of the provisions of this chapter shall be guilty of a misdemeanor and, upon conviction thereof, shall be subject to a fine not exceeding Five Hundred and no/100ths ($500.00) Dollars or six (6) months' imprisonment in the County Jail, or by both such fine and imprisonment in the discretion of the court.
(§1, Ord. 565, eff. January 3, 1973)

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CHAPTER 1 - PLANNING COMMISSION

Sec. 9-1.01 Created: Membership.

A Planning Commission is hereby created which shall consist of seven (7) members and one (1) alternate. Only those persons who are physically present in the City of Avalon or within two (2) miles of the City limits at least nine (9) months of each calendar year (excluding special circumstances such as extended personal or family illness, temporary absences necessitated by the proposed appointee's employment, military service, and similar situations) or who owns or serves in a management position in an Avalon-based business. The members shall be appointed by the Mayor with the approval of the Council. The tenure of any member of the Planning Commission shall be terminable at any time by the Mayor upon the affirmative vote of a majority of the entire Council.
(§1, Ord. 402, as amended by §1, Ord. 711U, eff. December 7, 1981; §1, Ord. 712, eff. December 21, 1981; §1, Ord. 734, eff. March 4, 1983; §1, Ord. 747, eff. August 4, 1983; §1, Ord. 765, eff. July 2, 1984; §3, Ord. 1070-08, eff. July 3, 2008; §3, Ord. 1133-14, eff. November 20, 2014)

Sec. 9-1.02 Terms of Office.

Planning Commission terms of office shall be for a period of four (4) years; provided however, a commissioner whose term has expired shall continue to hold office until a successor is appointed. If a vacancy shall occur otherwise than by expiration of term, it shall be filled by appointment for the unexpired portion of the term, unless the unexpired portion of the term is three (3) or fewer months in which case the City Council may, but shall not be required, to appoint a successor to serve the remaining term. Member shall at all times be classified so that the terms of three (3) members shall expire at the same time and the terms of the other four (4) members expire two (2) years thereafter so as to maintain staggered terms. The Alternate Planning Commissioner term of office shall be for a period of two (2) years.
(§2, Ord. 402, as amended by §1, Ord. 734, eff. March 4, 1983; §1, Ord. 747, eff. August 4, 1983; §2, Ord. 1070-08, eff. July 3, 2008; §3, Ord. 1133-14, eff. November 20, 2014)

Sec. 9-1.03 Officers of the Commission.

The members of the Planning Commission bi-annually shall select (1) of its members as Chairperson and one (1) of its members as Vice Chairperson subject to the conditions below. The selections should occur bi-annually in election years at the first Planning Commission following the seating of newly appointed Commissioners. Planning Commission members may serve as Chairperson for two (2) terms for a total of four (4) years maximum. Upon expiration of four (4) consecutive years served, the Vice Chairperson of the Planning Commission shall become Chairperson and a new Chairperson who has not been the prior Chairperson shall be selected by the Planning Commission. If the Vice Chairperson of the prior Commission is not on the newly constituted Commission, the Commission shall elect a new Chairperson and new Vice Chairperson. If the Vice Chairperson declines the appointment as Chairperson, the Commission may select any Commission member as the Chairperson and may also appoint any person as Vice Chairperson. The term limit of the current Chairperson or one elected upon passage of this section, shall expire after the Commission is seated after the 2018 City Council elections.

a. The Chairperson of the Commission shall call the meetings to order at the appointed time, shall appoint all committees, subject to the approval of the Commission, shall have all the powers and duties of the presiding officer as described in "Rosenberg's Rule of Order: Simple Parliamentary Procedure of the 21st Century, and shall perform such other duties as may from time to time be prescribed by the Commission.

b. The Vice Chairperson of the Commission shall have all the powers and perform all the duties of the Chairperson in the case of absence or inability of the Chairperson to act. The Vice Chairperson shall perform such other duties as may from time to time be proscribed by the Commission or the Chairperson.
(§ 3, Ord. 1133-14, eff. November 20, 2014)

Sec. 9-1.04 Quorum.

For the purpose of transacting business, a quorum of the Planning Commission shall consist of four (4) of the seven (7) members. An alternate member shall be counted as a full voting member for purposes of filling any vacancy created by the absence or conflict of interest of a regular Commissioner. (§ 3, Ord. 1133-14, eff. November 20, 2014)

Sec. 9-1.05 Absence from Meetings.

Notwithstanding any other provisions of this Code, any Commissioner or alternate who is absent from any three (3) regular meetings of said Planning Commission within any six (6) month period, unless such absence is due to special circumstances such as extended personal or family illness, temporary absences necessitated by the proposed appointee's employment, military service, and similar situations, shall thereby automatically forfeit his or her position as a member of said Planning Commission. The Chair of the Planning Commission or Planning Director shall thereupon promptly notify the City Council and any such person so ceasing to be a commissioner, of the fact of such vacancy. The vacancy shall be filled as provided in Section 9-1.01 of this chapter.
(§1, Ord. 734, eff. March 4, 1983; §1, Ord. 1071-08, eff. July 31, 2008; § 3, Ord. 1133-14, eff. November 20, 2014)

Sec. 9-1.06 Powers and Duties.

The Planning Commission shall be governed in all respects and perform the duties prescribed by applicable State and local laws.
(§3, Ord. 402, as amended by §1, Ord. 734, eff. March 4, 1983; §3, Ord. 1133-14, eff. November 20, 2014)

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CHAPTER 2 - SUBDIVISIONS

Sec. 9-2.01 Adoption of Los Angeles County Subdivision Provisions.

Subject to the amendments, deletions, and additions set forth in this chapter, that certain subdivision ordinance providing regulations for the division and mapping of land pursuant to the provisions of the Government Code of the State, known and designated as the Los Angeles County Subdivision Ordinance No. 4478, as amended and in effect on April 7, 1975, three (3) copies of which are on file in the office of the City Clerk for public inspection, is hereby adopted as though set forth in this chapter in full. Such ordinance shall be and become the Subdivision Ordinance of the City.
(§1, Ord. 462, as amended by §1, Ord. 602, eff. July 4, 1975)

Sec. 9-2.02 Definitions.

Wherever any of the following names or terms are used in said Subdivision Ordinance, each such name or term shall be deemed and construed to have the meaning ascribed to it in this section as follows:

(a) "County of Los Angeles" shall mean the City.

(b) "Board of Supervisors" shall mean the Council of the City.

(c) "Regional Planning Commission" shall mean the Planning Commission of the City.

(d) "County Engineer" shall mean the City Engineer of the City.

(e) "County Health Officer" shall mean the Health Officer of the City.

(f) "Road Commissioner" shall mean the Superintendent of Streets of the City.
(§2, Ord. 462, as amended by §1, Ord. 602, eff. July 4, 1975; and §1, Ord. 617, eff. December 31, 1975)

Sec. 9-2.03 Amendments: Section 31.

Section 31 of said Subdivision Ordinance is hereby amended to read as follows:

Section 31. Personnel. A Subdivision Committee may be appointed by the chairman of the Planning Commission, with the approval of the Commission, to act in an advisory capacity to the Planning Commission. The Subdivision Committee shall consist of the following members or their duly authorized representatives:

(a) The Chairman of the Planning Commission;

(b) The City Engineer;

(c) The Superintendent of Streets; and

(d) The City Health Officer.
(§2 B, Ord. 462, as amended by §1, Ord. 602, eff. July 4, 1975)

Sec. 9-2.04 Amendments: Section 32.

Section 32 of said Subdivision Ordinance is hereby amended to read as follows:

Section 32. Time of meetings. The Subdivision Committee shall meet regularly at a time to be determined and publicly announced by its chairman.
(§2 B, Ord. 462, as amended by §1, Ord. 602, eff. July 4, 1975)

Sec. 9-2.05 Amendments: Section 89.

Section 89 of said Subdivision Ordinance is hereby amended to read as follows:

Section 89. Fees. At the time of filing a tentative map the subdivider shall pay a filing fee as follows:

Minor Land Divisions (up to 4 parcels):

No. of parcels	1	2	3	4
Fee	$58	$66	$74	$82

Revised tentative map fee = one-quarter of the above schedule

Subdivisions (5 or more parcels):

$50 plus $8 for each of the first 25 lots;
plus $6 for each of the next 25 lots;
plus $2 for each of the next 50 lots;
plus $1 for each additional lot in excess of 100 lots;
plus any costs required to be expended by the City in order to process or effect the minor land division or subdivision.
(§2 C, Ord. 462, as amended by §1, Ord. 602, eff. July 4, 1975)

Sec. 9-2.06 Additions: Sections 15.7 and 15.8 and Article XIII.

Notwithstanding the provisions of Section 9-2.01, the Subdivision Ordinance is amended by adding Sections 15.7 and 15.8 and Article XIII to read:

Sec. 15.7. Major Lot Line Adjustments. A lot line adjustment pursuant to Section 66412(d) of the Subdivision Map Act that exceeds the limitation for minor lot line adjustments as herein defined.

Sec. 15.8. Minor Lot Line Adjustments. A lot line adjustment pursuant to Section 66412(d) of the Subdivision Map Act where the land, in total, taken from one parcel and added to an adjacent parcel, does not exceed twenty (20) percent of the gross area of the parcel from which it is taken and where the same number of parcels as originally existed are the resultant.

ARTICLE XIII. LOT LINE ADJUSTMENTS

Sec. 401. Major Lot Line Adjustments: Notwithstanding any other provisions of this ordinance, the Planning Commission may approve Major Lot Line Adjustments as herein defined provided that:

(a) Each parcel involved in the adjustment is a parcel approved under the procedures of this ordinance or any former ordinance regulating the design and improvement of subdivisions;

(b) The Planning Commission finds:

(1) That because no significant change in access, lot configuration or orientation of structures or utilities to lot lines is proposed, the adjustment will not result in any significant burden on public services or materially affect the proper rights of any adjacent owners;

(2) That the parcels to be adjusted are eligible for unconditional certificates of compliance under the provisions of the Subdivision Map Act and this ordinance; and

(3) That the adjusted parcel configurations are in accord with established neighborhood lot design patterns and not violative of any statute, ordinance, regulation or good planning practice.

(c) If any of the parcels to be adjusted are improved with a primary structure, the applicant shall provide evidence to the satisfaction of the City Engineer that the changes in parcel lines will not violate any ordinances or regulations controlling such structures.

The applicant for a major lot line adjustment shall supply to the City such complete forms and documentation as the City deems necessary to review and act upon the request. If the adjustment is approved, the applicant shall cause to be filed for record a parcel map pursuant to the applicable provision of this ordinance and the Subdivision Map Act and to the satisfaction of the City Engineer.

The applicant may appeal any decision of the Planning Commission on a major lot line adjustment to the City Council. All appeals shall be submitted and acted upon in the manner prescribed in Section 66452.2 of the Government Code.

The fees for a major lot line adjustment shall be established by resolution of the City Council.

Sec. 402. Minor Lot Line Adjustments: Notwithstanding any other provisions of this ordinance, the Planning Commission may approve Minor Lot Line Adjustments as herein defined, provided that:

(a) Each parcel involved in the adjustment is one of the following:

(1) A parcel improved with a primary structure;

(2) A parcel approved under the procedures of this ordinance or any former ordinance regulating the design and improvement of subdivisions;

(3) All or any portion of a former utility or public right-of-way;

(b) The Planning Commission finds:

(1) That because no significant change in access, lot configuration or orientation of structures or utilities to lot lines is proposed, the adjustment will not result in any burden on public services or materially affect the property rights of any adjacent owners;

(2) That the parcels to be adjusted are eligible for unconditional certificates of compliance under the provisions of the Subdivision Map Act and this ordinance; and

(3) That the adjusted parcel configurations are in accord with established neighborhood lot design patterns and not violative of any statute, ordinance, regulation or good planning practice.

(c) If any of the parcels to be adjusted are improved with a primary structure, the applicant shall provide evidence to the satisfaction of the City Engineer that the changes in parcel lines will not violate any ordinances or regulations controlling such structures.

The applicant for a minor lot line adjustment shall supply to the City such completed forms and documentation as the City deems necessary to review and act upon the request. If the adjustment is approved, the applicant shall cause to be filed for record a certificate of compliances containing the descriptions of the parcels as they will exist after adjustment pursuant to the applicable provisions of this ordinance, the Subdivision Map Act and to the satisfaction of the City Engineer.

The applicant may appeal any decision of the Planning Commission minor lot line adjustments to the City Council. All appeals shall be submitted and acted upon in the manner prescribed in Section 66452.5 of the Government Code.

The fees for a minor lot line adjustment shall be established by resolution of the City Council.
(§1, Ord. 713-U, eff. December 21, 1982, as amended by §1, Ord. 714, January 4, 1982)

Sec. 9-2.07 Violations of Provisions.

Violations of the provisions of this chapter, which violations are not also prohibited by the Subdivision Map Act or by any other State statute, shall be a misdemeanor.
(§3, Ord. 462, as amended by §1, Ord. 602, eff. July 4, 1975; and §1, Ord. 713-U, eff. December 21, 1981)

Sec. 9-2.08 Addition: Article XIV.

Notwithstanding the provisions of Section 9-2.01, the Subdivision Ordinance is amended by adding Article XIV thereto to read:

ARTICLE XIV. VESTING TENTATIVE MAPS

Sec. 350. Purpose and Intent. The purpose of this article is to establish procedures for the implementation of Chapter 4.5 (commencing with Section 66498.1) of Division 2 of Title 7 of the Government Code of the State of California which provides for the approval of vesting tentative maps. Except as otherwise specifically provided by this article, the provisions of this chapter shall apply to the filing, processing and review of vesting tentative maps as said term is defined by Section 66424.5 of the Government Code and Section 352 of this article.

Sec. 351. Consistency Requirement. The approval of a vesting tentative map shall be consistent with the General Plan, any applicable specific plan, the Zoning Ordinance, and any other applicable provision of this Code in effect at the time provided by Section 358(a) of this article.

Sec. 352. Definition of Vesting Tentative Map. A "vesting tentative map" shall mean a tentative map for a residential subdivision, as defined in this chapter, that shall have printed conspicuously on its face the words "Vesting Tentative Map" at the time it is filed in accordance with Section 353 of this article, and is thereafter processed in accordance with the provisions of this article and the Subdivision Map Act.

Sec. 353. Application.

(a) This article shall apply only to residential subdivisions. Whenever a provision of the Subdivision Map Act or this chapter requires the filing of a tentative map or tentative parcel map for a residential subdivision, a vesting tentative map may instead be filed, in accordance with the provisions of this article.

(b) If a subdivider does not seek the rights conferred by Chapter 4.5 of Division 2 of Title 7 of the Government Code and this article, the filing of a vesting tentative map shall not be a prerequisite to any approval for any proposed subdivision, permit for construction, or work preparatory to construction.

Sec. 354. Filing and Processing. A vesting tentative map shall be filed in the same form, have the same contents, and provide the same information and shall be processed in the same manner as set forth in this chapter for a tentative map except as hereinafter provided:

(a) At the time a vesting tentative map is filed it shall have printed conspicuously on its face the words "Vesting Tentative Map. "

(b) The application for a vesting tentative map shall describe the manner in which the subdivision is proposed to be developed, including but not limited to the height, size and location of all buildings and other improvements.

(c) A vesting tentative map shall not be accepted for filing unless all other discretionary land use approvals required for the proposed development have been obtained or applications therefor are filed concurrently with such map.

(d) Whenever a subdivider files a vesting tentative map for a subdivision whose intended development is inconsistent with the Zoning Ordinance in existence at the time of filing, such inconsistency shall be noted on the map.

Sec. 355. Fees. Upon filing a vesting tentative map, the subdivider shall pay the fees required for the filing and processing of a tentative map.

Sec. 356. Condition Precedent to Approval. A vesting tentative map shall not be approved unless all other discretionary land use approvals required for the proposed development have been obtained.

Sec. 357. Expiration. The approval or conditional approval of a vesting tentative map shall expire at the end of the same time period, and shall be subject to the same extensions, established by this chapter for the expiration of the approval or conditional approval of a tentative map.

Sec. 358. Vested Rights Created by Approval of Vesting Tentative Map.

(a) Subject to the time limits established by paragraph (c) of this section, the approval or conditional approval of a vesting tentative map shall confer a vested right to proceed with development in substantial compliance with the ordinances, policies, and standards described in Government Code Section 66474.2. If Section 66474.2 of the Government Code is repealed, however, the approval or conditional approval of a vesting tentative map shall confer a vested right to proceed with development in substantial compliance with the ordinances, policies, and standards in effect at the time the vesting tentative map is approved or conditionally approved subject to the time limits established by paragraph (c) of this section.

(b) Notwithstanding paragraph (a) of this section, a permit, approval, extension, or entitlement may be made conditional or denied even though such action may be contrary to the ordinances, policies, and standards described in paragraph (a) if any of the following are determined:

(1) A failure to do so would place the residents of the subdivision or the immediate community, or both, in a condition dangerous to their health or safety, or both.

(2) The condition or denial is required in order to comply with state or federal law.

(c) The rights referred to in paragraph (a) of this section shall expire if a final map is not approved prior to the expiration of the vesting tentative map as provided in Section 357 of this article. If the final map is timely approved, such rights shall exist for the following periods of time:

(1) An initial time period of one year after the recording of the final map. Where several final maps are recorded on various phases of a project covered by a single vesting tentative map, this initial time period shall begin for each phase when the final map for that phase is recorded.

(2) The initial time period set forth in subparagraph (1) above shall be automatically extended by any time used for processing a complete application for a grading permit if such processing exceeds thirty days from the date a complete application is filed.

(3) The subdivider may apply to the Planning Commission for a one year extension at any time before the expiration of the initial time period set forth in subparagraph (c)(1) of this section. If the extension is denied, the subdivider may appeal that denial to the City Council within fifteen days thereafter.

(4) If the subdivider submits a complete application for a building permit during the periods of time specified in subparagraphs (1)—(3) above, the rights referred to herein shall continue to exist until the expiration of such permit, or any extension thereof.

Sec. 359. Amendment to Vesting Tentative Map. Any time prior to the expiration of a vesting tentative map, the subdivide, or his or her assignee, may apply for an amendment to such map. A public hearing shall be held by the Planning Commission on any amendment involving a substantial modification to the subject subdivision or development related thereto. The decision by the Planning Commission on the requested amendment shall be appealable to the City Council in the manner provided by Section 6.1 of this article.

Sec. 360. Applications Inconsistent with Established Policies. Notwithstanding any provision of this article, a property owner or his or her designee may seek approvals or permits for development which depart from the ordinances, policies, and standards described in Section 358(a), and the City may grant such approvals or issue such permits to the extent that the departures are authorized under applicable law.

Sec. 361. Subsequent Permits, Licenses. and Other Entitlements for Use. The provisions of this article shall not be construed to prevent the City from conditionally approving or denying any permit, license or other entitlement for use which is applied for by the subdivider after the approval of a vesting tentative map provided such conditional approval or denial is made in accordance with the ordinances, policies and standards described in Section 358(a) of this article.
(§1, Ord. 786, eff. December, 1985)

Sec. 9-2.09 Consistency with Hazardous Waste Management Plan.

Tentative tract map, parcel map and other subdivision approvals under this chapter shall be consistent with the portions of the County of Los Angeles Hazardous Waste Management Plan (App. November 30, 1989) relating to siting and siting criteria for hazardous waste facilities.
(§3, Ord. 858, eff. August 9, 1990)

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CHAPTER 3 - GENERAL PROVISIONS

Article 1. Introductory Provisions

Sec. 9-3.101 Authority for This Title.

This title is adopted pursuant to Section 7 of Article XI of the Constitution of the State of California, and in compliance with the requirements of the Planning Law, Title 7, of the Government Code.
(Ord. 672)

Sec. 9-3.102 Short Title.

This title shall be known as the "Zoning Ordinance."
(Ord. 672)

Sec. 9-3.103 Purpose.

It is the purpose of this title to encourage, classify, designate, regulate, restrict, and segregate the highest and best location and use of buildings, structures, and land to serve the needs of residences, commerce, industry, and other purposes in appropriate places; to regulate and limit the height, number of stories and size of buildings and other structures, hereafter designed, erected or altered; to regulate and determine the size of yards and other open spaces; to regulate and limit the density of population; to facilitate adequate provisions for community utilities, such as transportation, water, sewage, schools, parks and other public requirements; to lessen congestion on streets, to promote the public health, safety, welfare and general prosperity with the aim of preserving a wholesome, serviceable and attractive community. This title shall also assist the implementation of the City's General Plan and other precise plans.
(Ord. 672)

Sec. 9-3.104 Prohibition.

A person shall not use any premises in any zone except as hereafter specifically permitted in this title and subject to all the regulations and conditions enumerated in this title.
(Ord. 672)

Article 2. Scope

Sec. 9-3.201 Minimum Requirements of This Title.

In interpreting and applying the provisions of this title the Planning Commission and/or City Council shall be held to the minimum requirements for the promotion of the public health, safety, comfort, convenience, and general welfare.
(Ord. 672)

Sec. 9-3.202 Replacement of Other Ordinances.

The provisions of this title shall not be deemed or construed to repeal, amend, modify, alter or change any other ordinance or any part thereof not specifically repealed, amended, modified, altered or changed herein, except in such particulars or matters as this title is more restrictive than such other ordinance, or part thereof, and that in all particulars wherein this title shall remain in full force and effect.
(Ord. 672)

Sec. 9-3.203 Reference to Any Portion of This Title.

Whenever reference is made to any portion of this title, or of any other law or ordinance, the reference applies to all amendments and additions now or hereafter made.
(Ord. 672)

Sec. 9-3.204 Compliance with Other Ordinances and Laws.

Nothing in this title shall be construed to authorize the use of any lot or parcel of land in violation of this title or any other applicable statute, ordinance or regulation.
(Ord. 672)

Sec. 9-3.205 Severability of Any Portion of This Title.

If any provisions or portion of any provision of this title, or the application thereof to any person or circumstances, is held invalid the remainder of the title and the application of such provision to other persons or circumstances shall not be affected thereby.
(Ord. 672)

Sec. 9-3.206 Continuation of Previously Granted Ordinances.

All exceptions heretofore granted pursuant to the provisions of Ordinance No. 286, as amended, shall be deemed to exist hereafter as variance pursuant to Chapter 8, Article 4 (Variances and Conditional Use Permits), and shall be subject to all the conditions and provisions governing such variances upon the effective date of this title.
(Ord. 672)

Sec. 9-3.207 Continuation of Previously Granted Permits.

All uses authorized by permit, license or other approval heretofore lawfully existing under Ordinance No. 286, as amended, shall continue in effect until revoked or terminated and shall be continued under this title and shall be subject to all conditions governing such permit, license or approval.
(Ord. 672, as amended by §1, Ord. 741, eff. July 7, 1983)

Sec. 9-3.208 Continuation of Existing Nonconforming Uses.

Any use established or conducted, or any building or improvement lawfully existing as a non-conforming use prior to the effective date of this title pursuant to Ordinance No. 286, as amended, shall be deemed to be continued under this title except as noted in Chapter 8, Article 7.
(Ord. 672)

Sec. 9-3.209 Lawfully Established Uses Made Nonconforming Because of Changes in Standards of Development.

A use which is not in violation of any provisions of this title and is a nonconforming use only because it does not meet the requirements of the standards of development may be changed or expanded as provided in Article 7, Chapter 8, (nonconforming uses) subject to all other provisions of this title or any other ordinance or law.
(Ord. 672)

Sec. 9-3.210 Procedure Regarding Pending Proceedings.

When prior to the effective date of this title and pursuant to Ordinance No. 286, as amended, an action has been taken under any of the following conditions, such action shall be deemed to have been taken pursuant to the provisions of this title and shall be processed, insofar as possible, in accordance with the provisions of this title: (1) an application has been filed; (2) the Com-mission has determined on its own initiative to hold a meeting.
(Ord. 672)

Sec. 9-3.211 License Approval Continued.

The rights given by the permit, license or other approval under any ordinance repealed by this title shall continue in effect, except that exercise of such rights shall be subject to the provisions of this title which are not inconsistent therewith.
(Ord. 672, as amended by §2, Ord. 741, eff. July 7, 1983)

Sec. 9-3.212 Violations of Previous Ordinance.

Any use established or conducted, or any building or improvement existing, in violation of Ordinance No. 286, as amended, upon the effective date of this title, shall not be deemed to have acquired the status of a nonconforming use by reason of the adoption of this title, or any provisions thereof. To the extent that such use, building or improvement was a violation of Ordinance No. 286, as amended, or any other ordinance, statute or law, or is in violation of this title, it shall be deemed a continuing violation.
(Ord. 672)

Sec. 9-3.213 Conviction of Crime Continued.

Any conviction for a crime under any ordinance which is repealed by this title, which crime is continued as a public offense by this title, constitutes a conviction under such repealed ordinance.
(Ord. 672)

Sec. 9-3.214 Repeals.

Ordinance No. 286, as amended.
(Ord. 672)

Article 3. Declaration of Authority

Sec. 9-3.301 Administration and Enforcement.

The Planning Commission is hereby vested with the duty of administrating and the power to enforce this title.
(Ord. 672)

Sec. 9-3.302 Regulation of Power or Duty by the Commission.

Whenever by ordinance an administrative power is granted to or an administrative duty imposed upon the Commission, the Commission may authorize or instruct its representative to exercise such administrative power, or perform such administrative duty. The Commission shall exercise all such powers and perform all such duties as instructed by the City Council.
(Ord. 672)

Sec. 9-3.303 Assumption of Power or Duty of Peace Officer.

Whenever a power is granted to, or a duty imposed upon a public officer by this title, the power may be exercised or the duty may be performed by the commission, a deputy of the public officer, or a person authorized, pursuant to law or ordinance, by said officer, unless this title provides otherwise.
(Ord. 672)

Article 4. Terminology

Sec. 9-3.401 Gender.

When consistent with the context, words in the masculine gender include the feminine and neuter genders.
(Ord. 672)

Sec. 9-3.402 May.

May is permissive.
(Ord. 672)

Sec. 9-3.403 Oath.

Oath includes affirmation.
(Ord. 672)

Sec. 9-3.404 Plural.

When consistent with the context, words in the plural include the singular.
(Ord. 672)

Sec. 9-3.405 Shall.

Shall is mandatory.
(Ord. 672)

Sec. 9-3.406 Singular.

When consistent with the context, words in the singular number shall include the plural.
(Ord. 672)

Sec. 9-3.407 Tenses.

When consistent with the context, words used in the present tense include the past and future tenses, and words in the future tense include the present tense.
(Ord. 672)

Article 5. Reserved

Article 6. Definitions

For the purpose of carrying out the intent of this title, the words, phrases, and terms included herein shall be deemed to have the meaning ascribed to them in this article.

Sec. 9-3.601 "A" Definitions.

"Abutting" shall mean two (2) or more lots or parcels of land sharing a common boundary line.

"Access" shall mean the place or way by which pedestrians and vehicles shall have safe, adequate, and suitable ingress or egress to a property or use as required by this Code.

"Accessory building" shall mean a building or part of building not exceeding twelve (12') feet in height, the use of which is incidental to that of the main building, structure, or use on the same lot. Where an accessory building is a part of, or joined to, the main building, such accessory building shall be counted as part of the main building.

"Adjacent" shall mean two (2) or more lots or parcels of land separated by a street or alley or recorded easement or otherwise in close proximity.

"Advertising structures" shall have the same meaning as sign.

"Advisory Agency" shall mean both the Planning Commission and the Director of Planning, having authority to approve, conditionally approve, or disapprove tentative and parcel maps and tentative tract maps as delegated by this Code (Division of Land).

"Alley" shall mean public or private way, at the rear or side of property permanently reserved as a means of secondary access to abutting property.

"Animal clinic" shall mean the same as "veterinary clinic".

"Apartment" shall mean a room or suite of two (2) or more rooms in a multiple dwelling occupied or suitable for occupancy as a residence for one family; not transient in nature.

"Apartment development" shall mean five (5) or more apartment units on one site.

"Area, gross" shall mean the total area of a parcel or lot, including any proposed public highways, streets, or alleys or other public sites.

"Area, net" shall mean the area of a parcel or lot, excluding any proposed public highways, streets or alleys, or other public sites.

"Automobile service and repair" shall mean the repair, replacing of, or adding of, parts to motor vehicles and electric carts.

"Automobile service station" shall mean an area which provides for the servicing of motor vehicles, including tube and tire repairs, battery charging, storage of merchandise and supplies related to the servicing of motor vehicles, sale of gasoline and lubricants, automobile washing and grease racks, but excluding body and fender work, painting, repair and rebuilding of electrochemical batteries or other work of a similar nature.

"Average slope" for lots, shall be determined by adding the degree of slope of both lot lines running from the top of the lot to the bottom and dividing by two (2).

"Average slope" for acreage, shall be determined by dividing the project area into one-quarter (1/4) acre quadrants and computing the average slope in lots above. Each quadrant will thus be designated for its own average slope.

In any case, average slope shall be computed on the natural grade, prior to any construction activities.
(Ord. 672)

Sec. 9-3.602 "B" Definitions.

"Base district" shall mean the base zoning designation established by the City Development Code, including any combined districts established by the Code.

"Basement" shall mean a space wholly or partly underground, and having more than one-half (1/2) of its height, measuring from its floor to its ceiling, below the average adjoining grade; if the finished floor level directly above a basement is more than five (5') feet above grade at any point, such basement shall be considered a story. A basement shall not be occupied for sleeping purposes, except by a conditional use permit.

"Bedroom" shall mean the following:

(a) For existing construction, developments and structures, "bedroom" shall mean a room which meets all of the following specifications: has a minimum square footage of seventy (70) square feet; has a minimum ceiling height of seven feet, six (7'6") inches; has at least one (1) window meeting the egress requirements of the Building Code currently adopted by the City; does not have a connecting door to a garage; and has a smoke detector.

(b) For any future new development, or for the remodeling or reconstruction of an existing bedroom, "bedroom" shall mean a room which meets all of the following specifications: has a minimum square footage of seventy (70) square feet; has a minimum ceiling height of seven feet six (7'6") inches; has at least one (1) window meeting the egress requirements of the Building Code currently adopted by the City; has a closet containing a rod and shelf; does not have a connecting door to a garage; and has heat and a smoke detector.

If an addition does not meet all of the above requirements, the room may not legally function as a bedroom and thus would not require a water allocation.

"Buildable area" shall mean the ground areas designed or proposed to be occupied by all buildings and structures on a lot.

"Building" shall mean any fixed structure consisting of wall(s) and roof built and maintained for the support, shelter or enclosure of persons, animals, chattels or property of any kind.

"Building frontage" shall mean those building elevations which face upon a public street or parking area between such building and said street.

"Building, main" shall mean a building within which is conducted the principal use permitted on the lot, as provided by this Code.
(Ord. 672; §1, Ord. 1101-10, eff. January 6, 2011)

Sec. 9-3.603 "C" Definitions.

"Canopy" shall mean a structural, ornamental roof-like appendage, freestanding or attached to a building, which extends over public or private walkways, driveways, etc.

"Carport" shall mean a permanent roofed structure with not more than two (2) enclosed sides used or intended to be used for automobile/electric car shelter and shelter.

"Cellar" shall have the same meaning as "basement".

"Cemetery" shall mean land used or intended to be used for the burial or interment of the dead and dedicated for cemetery purposes. Cemetery includes columbaria crematories, and mausoleums, and may include mortuaries, and chapels when operated in conjunction with and within the boundary of such cemetery.

"Center line" shall mean a line established by the City Engineer and designed as "Center Line," "Proposed Center Line," "Adopted Center Line," or "Construction Center Line," on a series of maps entitled, "County Surveyor Filed Maps" on file in the office of the County Engineer. For the purposes of this title, where two (2) or more such designations are shown on and in said series of maps for such line, the line labeled "Proposed Center Line" is deemed to be the official center line. Where the County Surveyor Filed Maps do not show one (1) or more of the designations listed above, then for purposes of determining the applicable building height under Title 9, all measurements to be made from the "center line" shall be made from the center of the existing driven way.

"City" shall mean the City of Avalon.

"City Council" shall mean the City Council of the City of Avalon.

"City Manager" shall mean the City Manager of the City of Avalon.

"Cleared areas" shall mean land areas where vegetation has been removed to the extent that native soil is disturbed.

"Club, country" shall mean a facility organized and operated for social and food vending purposes and possessing outdoor recreational facilities such as golf courses, tennis courts, or swimming pools.

"Club, private" shall mean any building or premises used by an association of per-sons, whether incorporated or unincorporated, organized for some common purpose, but not including a group organized solely or primarily to render a service customarily carried on as a commercial enterprise.

"Cluster development" shall mean the planning and developing of land so that houses are grouped or clustered together, leaving the remaining land undivided for common use. The zoning district development standards, such as lot area and dimensions, setbacks, outdoor living area, shall not apply, but the overall density allowed will remain the same.

"Code" shall mean a Code of the City of Avalon.

"Commission" shall mean the Planning Commission of the City of Avalon.

"Common wall" shall mean any structure or device forming a physical barrier between two (2) or more dwelling units or between a dwelling unit and a public or quasi-public space (laundry rooms, recreation rooms, garages, etc.). Construction of a common wall shall be of one of the following types: (a) Cavity Wall - two (2) standard construction, parallel walls separated by a two (2") inch air space as per current Uniform Building Laws; (b) Staggered Stud - a wall in which studs are staggered, so that each stud makes contact with only one wall surface, as per current Uniform Building Laws.

"Conditional use permit" shall mean a permit issued by the Commission to engage in an activity allowed by this chapter after obtaining said permit. Said permit may contain special mitigating requirements as a condition of approval, and shall only be granted after the completion of a public hearing held in accordance with applicable State law.

"Condominium" shall refer to the ownership of single units in a multi-unit project with common elements.

"Congregate housing project" shall mean a residential condominium, community apartment house, or stock cooperative project, as the case may be.

"Convalescent home" shall mean the same as "hospital".

"County" shall mean the County of Los Angeles.

"Court" shall mean the open, unoccupied space, bounded on two (2) or more sides by the walls of a building. An inner court entirely enclosed within the exterior walls of a building.

"Cut" shall mean an excavation of the earth.
(Ord. 672, as amended by §3, Ord. 741, eff. July 7, 1983; §1, Ord. 774, eff. December 17, 1984; §1, Ord. 775, eff. January 21, 1985; §1, Ord. 863-91, eff. April 18, 1991)

Sec. 9-3.604 "D" Definitions.

"Day nursery" or "day care center" shall mean any family residence, non-institutional in character, providing non-resident day care for not more than four (4) children under sixteen (16) years of age and approved by the Planning Commission and granted a conditional use permit.

"Dedicated land" shall mean land deeded to the City and legally accepted as such for public use.

"Density" shall mean the number of dwelling units that may be constructed per acre or per square foot of lot area.

"Design" shall mean: (a) street alignment, grades and widths; (b) drainage and sanitary facilities, including alignments and grades thereof; (c) location and size of all required easements and rights-of-way; (d) fire roads and breakways; (e) lot size and configuration; (f) traffic access; (g) grading; (h) land to be dedicated for park or recreational purposes; and (i) such other specific requirements in the plan and configuration of the entire subdivision as may be necessary or convenient to insure conformity to or specific plan implementation of the General Plan.

"Detached living quarters" shall mean the same as "guest house".

"Developed site" shall mean the ground area of a building, together with all the open space required by this title. A building site may encompass more than one (1) lot.

"Domestic animal" shall mean an animal which is commonly maintained in residence with humans.

"Dormitory" shall mean a building or buildings consisting of rental rooms with a centralized kitchen facility shared by the tenants. Bathrooms may be private or common.

"Driveway" shall mean a paved access to required off-street parking facility, having not less than ten (10') feet in paved width and not encumbered by any properties to a height of not less than eight (8') feet above the ground.

"Dwelling, multiple family" shall mean a building designed or used exclusively for occupancy by three (3) or more families and containing three (3) or more dwelling units.

"Dwelling, single family" shall mean a building designed or used exclusively for occupancy by one (1) family and containing one (1) dwelling unit.

"Dwelling, two family" shall mean a building designed or used exclusively for occupancy by two (2) families and containing two (2) dwelling units.

"Dwelling units" shall mean one (1) or more habitable rooms which are intended or de-signed to be occupied by one (1) family with facilities for living and the cooking and/or preparation of food.
(Ord. 672)

Sec. 9-3.605 "E" Definitions.

"Educational institutions" shall mean public and other non-profit institutions con-ducting regular academic instruction at preschool, kindergarten, elementary, secondary schools and non-profit research institutions. Such institutions must either (a) offer general academic instruction equivalent to the standards prescribed by the State Board of Education; or (b) con-duct research. This definition does not include schools, academies or institutes, incorporated or otherwise which operate for a profit, nor does it include commercial or trade schools.

"Emergency work" shall mean work made necessary to restore property to a safe condition required to protect persons or property from an imminent exposure to danger, or work by private or public utilities when restoring utility service.

"Engineering geologist" shall mean a person who is trained in the application of geo-logical data and principles of engineering problems dealing with naturally occurring rock and soil for the purpose of assuring that geological factors are adequately considered in engineering practice.

"Excavation" shall mean any act by which earth, sand, gravel, rock, or any other similar material is cut into, dug, quarried, uncovered, removed, displaced, relocated, or bull-dozed, and shall include the conditions resulting therefrom.
(Ord. 672)

Sec. 9-3.606 "F" Definitions.

"Family" shall mean any number of persons living together in a room or rooms comprising a single dwelling unit and related by blood, marriage or adoption, or bearing the generic character of a family unit as a relatively permanent single household, including servants and other live-in employees, who reside therein as though members of the family. Any group of persons not related by blood, marriage or adoption but inhabiting a dwelling unit, shall for the purpose of this chapter be considered to constitute one family if a bona fide single household, including servants and other live-in employees, contained in such group.

"Fence" shall mean any structural device forming a physical barrier which is so constructed that not less than ninety (90%) percent of the vertical surface is open to permit the transmission of light, air and vision through said surface in a horizontal plane. This shall include wire mesh, steel mesh, chain link, louvered glass, stade, and other similar materials. Planting shall be regulated to maintain the required open areas in said fence structure. (For board or other solid barriers, see "wall".)

"Fill" shall mean any act by which earth, sand, gravel, rock or any other similar material is deposited, placed, pulled or transported by man, and shall include the conditions resulting therefrom.

"Final Map" shall mean a map prepared in accordance with the provisions of this title and designed to be placed on record in the Office of the County Recorder.

"Flag lot" shall mean a lot in the approximate configuration of an "L", with the leg or pole functioning primarily as an access way to the main body of the lot. In no case may the pole portion be less than fifteen (15') feet in width, except that if the pole directly abuts a pole of an abutting lot, the minimum width may be ten (10') feet

per lot.

"Floor area" shall mean the sum of the gross areas of all interior space unless specifically excluded from this definition of the several floors of a building, measured from the interior wall surfaces, including (1) stairwells; (2) carports, porches, and balconies where there is a full roof over the feature and greater than forty-five (45%) percent enclosure on three (3) sides, including glass enclosures; (3) basements and attics where the ceiling height is seven (7') feet or greater or otherwise qualify as a story; and (4) enclosed garages, but excluding from the calculation that area within an enclosed garage equal to the dimensions of an autoette or full-sized vehicle parking space, as appropriate under the planning approvals.

"Foster family" shall mean a family and up to six (6) children cared for as foster children, or up to six (6) mentally disordered or otherwise handicapped persons, provided in such case the total number of persons living in the dwelling unit does not exceed eight (8) persons, and further providing that the keeping of the persons is licensed by the State of California as a full-time foster care home, family care home, or group home.

"Frontage" shall mean that portion of a parcel of property which abuts a public or approved private street.
(Ord. 672, as amended by §4, Ord. 741, eff. July 7, 1983; §1, Ord. 1984-09, eff. June 4, 2009)

Sec. 9-3.607 "G" Definitions.

"Garage, private" shall mean a completely enclosed, detached accessory building, or a portion of a main building on the same lot as a dwelling for the housing of vehicles of the occupants of the dwelling.

"Garage, public" shall mean any garage other than a private garage.

"General Plan" shall mean the adopted General Plan of the City of Avalon, including elements, amendments and additions.

"Grading" shall mean excavation or fill or any combination thereof, and shall include the conditions resulting from any excavation or fill.

"Guest house" shall mean an accessory building with living accommodations for guests. Said building shall not be rented, and shall have no kitchen, except by a conditional use permit.

"Guest ranch" shall mean any property operated as a ranch which offers guest rooms or cottages for rent or hire and which has outdoor recreational facilities such as horseback riding, swimming, hiking, tennis, or golf.
(Ord. 672)

Sec. 9-3.608 "H" Definitions.

"Hedge" shall mean shrubbery or trees planted and maintained in such a manner as to create a physical barrier.

"Height, building" shall mean the vertical distance from the lot's natural surface to the highest point of the building.

"Highway, major" shall mean a major highway shown as such on the Circulation Element of the General Plan of the City of Avalon.

"Highway, secondary" shall mean a secondary highway shown as such on the Circulation Element of the General Plan of the City of Avalon.

"Hillside lot" shall mean any lot which has an average slope of more than fifteen (15°) degrees but less than forty (40°) degrees.

"Home occupation" shall mean any business, employment or service function pursued for gain that is conducted within a dwelling unit by one or more resident family members where no retail business is conducted and no sign, merchandise, or other articles are displayed for advertising purposes and no more than two (2) assistants are employed.

"Hospital" shall mean any institution, place, building, or agency licensed by the Department of Public Health or Mental Hygiene of the State of California, which maintains and operates organized facilities for the diagnosis, care, and treatment of human illness, including convalescence, and care during and after pregnancy. Hospital includes sanitarium, convalescent home and nursing home.

"Hotel, motel" shall mean one or more buildings containing guest rooms with each room or set of rooms having a separate entrance, leading directly from a common area.

"Hotel/resort development" shall mean any project which proposes living units that will be used exclusively by transients. Any unit so proposed may contain kitchen facilities with conditional use permit procedures.
(Ord. 672; §1, Ord. 851, eff. January 4, 1990)

Sec. 9-3.609 "I" Definitions.

"Infilling" shall mean any project which creates four (4) or fewer additional residential units.
(Ord. 672)

Sec. 9-3.610 "J" Definitions.

Reserved.
(Ord. 672)

Sec. 9-3.611 "K" Definitions.

"Kitchen" shall mean any space within a building designed, intended to be used for the cooking or the preparation of food.
(Ord. 672)

Sec. 9-3.612 "L" Definitions.

"Land coverage" shall mean a man-made structure, improvement or covering that pre-vents seventy-five (75%) percent of the normal precipitation from directly reaching the surface of the land underlying the structure, improvements or covering. Such structures, improvements or coverings include roofs.

"Landscaping" shall mean the planting and continued maintenance of ornamental plant material.

"Large domestic animals" shall mean: (a) horses, which term includes all equine; (b) cows, which term includes all bovine; (c) goats, which term includes all bovine. Any female with her offsprings, and/or recently born young of the same species whom she is nursing, shall be considered as one animal until weaned.

"Loading space" shall mean an off-street space or berth on the same lot with a main building or contiguous to a group of buildings, for the temporary parking of commercial vehicles while loading or unloading, and which has access from a street, alley or other permanent means of ingress or egress.

"Lot" shall mean:

(a) A parcel of real property with a separate and distinct number or other designation shown on a plat recorded in the Office of the County Recorder; and/or

(b) A parcel of real property delineated on an approved record of survey, lot split, or subparceling map as filed in the Office of the County Recorder or the Department of Planning, and abutting at least one public street, private easements; and/or

(c) A parcel of real property containing not less area than required by the district in which it is located, abutting at least one public street and held under separate ownership from adjacent property prior to the effective date of this Code.

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

"Lot depth" shall mean the horizontal distance between the front and the rear lot lines, measured in the mean direction of the side lot lines.

"Lot, interior" shall mean a lot other than a corner lot.

"Lot line, front" shall mean a line separating an interior lot from a street or a line separating the narrower street frontage of a corner lot from the street.

"Lot line, rear" shall mean a lot line which is opposite and most distant from the front lot line. For a triangular or goreshaped lot, the rear lot line shall mean a line ten (10') feet in length within the lot which is parallel to the chord of a curved front lot line, and at the maxi-mum distance from the front lot line.

"Lot line, side" shall mean any lot boundary line which is not a front lot line or a rear lot line.

"Lot, through" shall mean a lot having a frontage on two (2) dedicated streets, not including a corner or reversed corner lot. The Director shall determine which frontage or frontages shall be considered as the "lot front" or "lot frontages" for purposes of compliance with yard and setback provisions of this Code.

"Lot width" shall mean the horizontal distance between the side lot lines, measured at right angles to the lot depth at a point midway between the front and rear lot lines.
(Ord. 672)

Sec. 9-3.613 "M" Definitions.

"Managing agency or agent" shall mean a person, firm or agency representing the owner of a transient rental property, or a person, firm or agency owning more than one (1) property which is used for transient rental, and includes a person or entity which is both an owner and a "managing agent" of the same property.

"Maximum building line" shall mean an imaginary line drawn from the maximum building height permitted at the furthest corner of the lowest point of the building through the point at which the maximum height at the upper lot line is set by this Code, as demonstrated in Appendix C.

Editor's Note: Appendix C is located at the end of Chapter 5, Title 9.

"Mechanical equipment" shall mean any heating, cooling, venting, or similar equipment or appurtenance servicing a structure.

"Medical clinic" shall mean any facility providing physical, dental, or mental health service, and medical or surgical care of the sick or injured, but shall not include in-patient or overnight accommodations. Medical clinic includes health center, health clinic, and doctors' offices.

“Minor renovation” shall mean any project that is a temporary use of land or structures that is a permitted use in the zone and has a specific duration not to exceed 30 days, or any project that meets all of the following requirements:

(a) The project only requires approval of a site plan and does not require a variance, conditional use permit, coastal development permit, zoning or general plan amendment, or other permit, entitlement, or approval necessitating Planning Commission or City Council review;

(b) The project does not create an additional bedroom or kitchen;

(c) The project does involve the expansion of the exterior walls of any structure resulting in an addition of seventy (70) sq. ft. or more;

(d) The project does not remodel, renovate or reconstruct more than twenty-five (25%) percent of the floor area of any commercial or multi-unit residential structure;

(e) The project does not remodel, renovate or reconstruct more than fifty (50%) percent of the floor area of any single family residential structure;

(f) The project does not create a fence that is higher than six (6’) feet, higher than forty-two (42”) inches on a corner lot along the adjacent street, or inside a setback;

(g) The project does not create a new structure where none previously existed;

(h) The project does not alter more than twenty (20%) percent of any side or roof of any structure;

(i) The project does not create a deck, balcony or overhang which requires a variance and/or encroachment permit;

(j) No minor renovation project has been approved or conditionally approved for the site that is the subject of the application within the twelve

(12) months immediately preceding the application;

(k) The project either has no potential for resulting in physical change in the environment, directly or indirectly, and is not a project for purposes of the California Environmental Quality Act ("CEQA"), or is otherwise exempt or excepted from CEQA and does not require a negative declaration, mitigated negative declaration, or environmental impact report; and

(l) The project does not create or increase any nonconforming condition or use.

(§ 3, Ord. 1150-16, eff. January 5, 2017)

"Mobile home park" shall mean any area or tract of land where space is rented or sold to owners or users of mobile homes or mobile coaches.

"Motel" shall have the same meaning as "hotel."

"Motor vehicle" shall mean a self-propelled device by which any person or property may be propelled, moved, or drawn upon a street, excepting a device moved by human power or used exclusively upon stationary rails or tracks.

(Ord. 672; §1, Ord. 851, eff. January 4, 1990; §2, Ord. 1003-01, eff. December 20, 2001; § 3, Ord. 1150-16, eff. January 5, 2017)

Sec. 9-3.614 "N" Definitions.

"Nonconforming" shall apply to lots, uses, and structures which were legal under the previous Code, but do not meet the standards of this Code.

"Nonconforming structure" shall mean any structure or improvement that was lawfully established and in compliance with all applicable ordinances and laws at the time this title or any amendment thereto became effective, but which, due to the application of this title or any amendment thereto, no longer complies with all of the applicable regulations and standards of the zone in which the structure or improvement is located.

"Nonconforming use" shall mean any use of land or property that was lawfully established and in compliance with all applicable ordinances and laws at the time this title or any amendment thereto became effective, but which, due to the application of this title or any amendment thereto, no longer complies with all of the applicable regulations and standards of the zone in which the use is located.

"Nursery school" shall mean public or private educational facilities for pre-school children.
(Ord. 672)

Sec. 9-3.615 "O" Definitions.

"Off-site improvements" shall mean the installation or construction of facilities outside the boundaries of a private parcel or lot, such as street paving, curbs and gutters, sidewalks, street trees, street lights, street signs, sewers, utilities, and drainage structures.

"Open space" shall mean any space or area that is open and unobstructed from the ground upward, except for permitted encroachments, and is not used for private streets, driveways, parking or loading.

"Owner" shall mean the individual, firm, association, syndicate, partnership, or corporation having sufficient property interest in a portion of land, and while used herein in the masculine gender and singular number, it shall be deemed to mean the feminine and neuter gender and plural number whenever required.
(Ord. 672)

Sec. 9-3.616 "P" Definitions.

"Parcel" shall mean an area of contiguous land owned by a person(s).

"Parcel, existing" shall mean any parcel as it existed and was defined by boundaries at the effective date of the Development Code.

"Parcel map" shall mean a map prepared and submitted for any subdivision creating four (4) parcels or less and for those subdivisions containing five (5) or more parcels under those conditions contained in Chapter 2.

"Parcel of record" shall mean an area of land shown as a separately bounded area on a recorded subdivision plat or deed, or a number of contiguous areas of land owned by a person, all of which are shown as separately bounded areas on a recorded subdivision plat or deed.

"Parking area, private" shall mean an open area, other than a street, used for the parking of automotive vehicles.

"Parking area, public" shall mean an area, other than a private parking area or street, used for the parking of vehicles and available for renumeration.

"Parking space" shall mean a space exclusive of driveways, ramps, columns, loading areas, or work areas, within a building or open parking area for the parking of one automobile.

"Passive recreation" shall mean outdoor recreation activities that are non-structured in nature (picnicking, sightseeing, nature study areas, etc.).

"Patio" shall mean any recreation area projection not in excess of six (6") inches above the approved grade. Any other recreation area projection in excess of six (6") inches above the approved grade is a deck or balcony, and may not encroach into required setbacks without obtaining a variance.

"Person" shall mean a person, firm, association, co-partnership, joint venture, corporation, or any entity, public or private in nature, other than the City of Avalon.

"Pervious surface" shall mean any structure, improvement or surface which allows at least seventy-five (75%) percent of the normal precipitation to reach the ground surface under-lying it. (Antonym: impervious surface)

"Planned development" shall mean the planning, construction or implementation and operation of any use of structure, or a combination of uses and structures, on a single parcel of land based on a comprehensive and complete design or plan treating the entire complex of land structures and uses as a single project.

"Planning Director." The City Manager shall serve as the Planning Director unless a Director is otherwise designated by action of the City Council.

"Pool, swimming or ornamental" shall mean any body of water measuring more than eighteen (18") inches deep at its deepest point, whether above or below the surface of the ground. Said pool shall not be located in any required front or street side yard.
(Ord. 672)

Sec. 9-3.617 "Q" Definitions.

Reserved.
(Ord. 672)

Sec. 9-3.618 "R" Definitions.

"Recorder" shall mean the Recorder of the County of Los Angeles.

"Residence" shall mean a building or portion thereof designed or used for human habitation.

"Residential community apartment house" shall mean a residential complex in which an undivided interest in the land, either in fee simple or a term of years, is coupled with the right of exclusive occupancy in an apartment located therein.

"Residential condominium" shall mean an estate in real property consisting of an un-divided interest in common in a portion of a parcel of real property together with a separate interest in space in a residential complex located on such real property. A residential con-dominium may include, in addition, a separate interest in other portions of such real property. Such estate may, with respect to the duration of its enjoyment, be either: (i) an estate of inheritance or perpetual estate; (ii) an estate for life; or (iii) an estate for years, such as a leasehold or a subleasehold.

"Residential stock cooperative" shall mean a residential complex which is owned, or to be owned, by a corporation ("cooperative housing corporation") which is formed or availed of primarily for the purpose of holding title to, either in fee simple or for a term of years, improved real property, if all or substantially all of the shareholders of such corporation receive a right of exclusive occupancy in a portion of the real property, title to which is held by the corporation, which right of occupancy is transferable only concurrently with the transfer of the share or shares of stock or memberships in the corporation held by the person having such right of occupancy.

"Residential tract development" shall mean any project of five (5) additional units or greater.

"Rest home" shall mean a home offering or providing lodging, meals, nursing, dietary, or other personal services to convalescents, invalids, or aged persons, but does not include surgery or the care of persons with contagious or communicable diseases. "Rest home" includes convalescent home and home for the aged.

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

"Room" shall mean an unsubdivided portion of the interior of a dwelling unit, excluding bathrooms, closets, hallways, and service porches.

"Room, guest" shall mean one room which does not contain cooking facilities and is designed, used or intended to be used as temporary sleeping accommodations for any person.

"Rooming house" shall mean a lodging house or other building or structure maintained, advertised, or held out to the public as a place where sleeping or rooming accommodations are furnished to the whole, or any part, of the public whether with or without meals.

"Row house" shall mean a residence which shares a common side wall or walls with another residence.
(Ord. 672, as amended by §2, Ord. 775, eff. January 21, 1985)

Sec. 9-3.619 "S" Definitions.

"Service station" shall mean the same as "automobile service station".

"Setback" shall mean the minimum horizontal distance between the lot line and the structure line, or a line parallel to the lot line if there is no structure.

"Shopping district" shall mean a collection of individual stores standing on separate lot/parcels along street frontage or clustered in a contiguous area, with or without off-street parking.

"Sign" shall mean any physical form of visual communication which is intended to be viewed from public areas, which is temporarily or permanently affixed to a building or stationary object. Any structures or building appurtenances which are or were at one time used for such visual communication and which do not have any other legitimate function are also hereby defined as signs. In addition, the definition of a sign shall include all parts, portions, units, and materials composing same, together with the illumination, frame, background, structure and support and anchorage therefor. This definition applies to interior window signs and flashing lights, but does not apply to the display of merchandise in the interior of a premises provided such displayed merchandise is available for sale or substantially similar to merchandise available for purchase but not displayed.

(a) "Announcement sign" shall mean a sign intended to direct attention to the nature of construction on the premises.

(b) "Banner" shall mean a sign generally made of flexible material, usually cloth, paper, or plastic, temporary in nature.

(c) "Billboard and outdoor advertising sign" shall mean a sign usually designed for use with changing advertising copy, and which is normally used for the advertisement of goods produced or services rendered at locations other than the premises on which the sign is located.

(d) "Contractor's sign" shall mean a sign stating the names of those individuals or firms directly connected with the construction project. Said sign may include the name of the city in which their business is located and emergency telephone numbers.

(e) "Directional sign" shall mean a sign erected for the purpose of informing the viewer of the approximate route, direction, or location of a given goal, not including advertising.

(f) "Flags and pennants" shall mean devices generally made of flexible materials, usually cloth, paper, or plastic, and displayed on strings. They may or may not contain any copy and are primarily intended to draw attention; temporary in nature.

(g) "Flashing sign" shall mean a sign which contains or is illuminated by lights which are intermittently on and off, change in intensity, or which create the

illusion of flashing in any manner.

(h) "Freestanding sign" shall mean a sign standing on the ground, not attached to a building. Signs mounted flat on legitimate walls or legitimate architectural extensions (such as wing walls, pergolas, etc.) will not be considered freestanding.

(i) "Illuminated sign" shall mean a sign in which a source of light is used in order to make readable the message. This definition shall include internally and externally lighted signs, reflectorized, glowing, or radiating signs.

(j) "Moving or rotating sign" shall mean a sign or device designed to attract attention by visual means through the movement or semblance of movement of the whole or any part of the sign, including rotation, special lighting, or wind actuated devices.

(k) "Off-premises sign" shall mean a sign identifying a business or product at some location other than the property where the sign is displayed.

(l) "On-premises sign" shall mean a sign located on same parcel with the business or product being identified or advertised.

(m) "Permanent identification" shall mean a sign which directs attention to a principal business, profession, industry, or building located on the premises upon which the sign is displayed.

(n) "Placed" or "displaced" shall include erected, constructed, posted, painted, printed, tacked, glued, carved, or otherwise fastened, fixed or made visible in any manner whatsoever. This shall include changing the copy or color on existing signs, but shall not include maintenance and repainting of existing copy in the same color.

(o) "Product advertising" shall mean a sign or portion of a sign which directs attention to accessory or secondary products or services sold on the premises by specific name, brandname, trademark, or logo; temporary in nature.

(p) "Promotional sign" shall mean a sign intended to direct attention to a special event or product; temporary in nature.

(q) "Sign area" shall mean the surface space within a single contiguous perimeter containing words, letters, figures or symbols, together with any frame, material or color forming an integral part of the display, but excluding support structures, face of building, and incidental parts not drawing attention to the subject matter.

(r) "Sign height, maximum" shall mean the distance of the average surface grade immediately surrounding the base of the sign to the top of its highest element, including any structural element.

(s) "Sign height, minimum" shall mean the distance of the average surface grade immediately surrounding the base of the sign to the bottom of its lowest element, including any structural element.

(t) "Sign structure" shall mean a structure which supports or is capable of supporting any sign. A sign structure may be a single pole or may or may not be an integral part of the building.

(u) "Temporary sign" shall mean a sign constructed of paper, cloth, canvas, vinyl, or other similar lightweight material, with or without frames, including painted windows (except for lettering of the name of the business, its location or owners).

(v) "Under-canopy sign" shall mean a lighted sign attached to the underside of a canopy projecting over public or private sidewalks or rights-of-way.

(w) "Window sign" shall mean a sign painted, attached, glued, or otherwise affixed to or near a window and designed to be viewed from adjoining streets.

"Single room occupancy facility" shall mean a facility providing six or more dwelling units where each unit has a minimum floor area of one hundred ninety (190) square feet. These dwelling units may have kitchen or bathroom facilities and shall be offered on a monthly basis or longer. (§1, Ord. 1136-15, eff. April 16, 2015)

"Site" shall mean a lot or parcel of land or a series of lots or parcels of land joined together under one ownership.

"Site plan" shall mean a plan, prepared to scale, showing accurately and with complete dimensions, all of the uses proposed for a specific parcel of land. The data contained on said plan shall include information on all buildings, structures, signs (whether on or separated from the main buildings) landscaping, walls and fences, parking, access, vehicular circulation, loading and lighting. In addition thereto, the site plan shall include such other data as may be necessary to clearly define the intended use of the subject property, and other such information as may be required by the Commission.

"Soils engineer" shall mean a civil engineer licensed by the State and experienced in soil mechanics and slope stabilities whose qualifications shall be acceptable to the City Engineer.

"Stable, commercial" shall mean a stable for horses to be let, hired, or used on a commercial basis.

"Stable, private" shall mean a stable for horses to be used by the owners thereof.

"Story" shall mean a space in a building between the surface of any floor and the surface of the floor next above, or if there be no floor above, then the space between such floor and the ceiling or roof above.

"Steep hillside lot" shall mean any lot which has an average slope of forty (40°) degrees or greater.

"Street" shall mean a public thoroughfare or right-of-way dedicated, deeded or condemned for use as such, other than an alley, which affords the principal means of access to abutting property, including avenue, place, way, drive, lane, road, and other thoroughfare except as excluded in this Code.

"Street, private" shall mean any land not dedicated as a public street over which a private easement for road purposes has been recorded and used or intended to be used for ingress to or egress from a lot or lots which may or may not have frontage on a public street.

"Structural alteration" shall mean any change in or alteration to the structure of a building involving a bearing wall, column, beam or girder, floor or ceiling joints, roof rafters, roof diaphragms, foundations, piles, retaining walls, or similar components.

"Structure" shall mean anything constructed or built, any edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner, which requires location on the ground or is attached to something having a location on the ground.

"Subdivision" shall mean the division of any improved or unimproved land, shown on the latest equalized County Assessment Roll as a unit or as contiguous units, for the purpose of sale, lease, or financing, whether considered as contiguous units even if it is separated by roads, services, utility easement, or railroad rights-of-way.

"Subdivision" includes a condominium project, as defined in Section 1350 of the Civil Code or a community apartment project, as defined in Section 1350 of the Civil Code, or a community apartment project, as defined in Section 11004 of the Business and Professions Code.

The conveyance of land to a government agency, public entity, or public utility could not be considered a division of land for purposes of computing the number of parcels.

"Supervised grading" shall mean grading done under the supervision of a Soils Engineer.
(Ord. 672, as amended by §5, Ord. 741, eff. July 7, 1983; §2, Ord. 774, eff. December 17, 1984; §1, Ord. 851, eff. January 4, 1990; §§3, 4, Ord. 948-97, eff. January 1, 1998; §1, Ord. 1136-15, eff. April 16, 2015)

Sec. 9-3.620 "T" Definitions.

"Temporary" shall mean a use of land or structures not intended to be of permanent duration and having a specific time period.

"Tentative map" shall mean a map made for the purpose of showing the design of a proposed subdivision and need not be based on an accurate or detailed final survey of the property.
(Ord. 672)

Sec. 9-3.621 "U" Definitions.

"Use" shall mean the purpose for which land or a building is arranged, designed, or intended, or for which either land or building is or may be occupied or maintained; and shall mean any human activity involving the changing of topography of the land, erection of buildings, or structures, the creation of land coverage, subdivision of land, the construction of drainage ways or conduits, removal or destruction of rare or endangered species of vegetation or wildlife, the transmission of storm or waste water and any other similar activity; or the maintenance of any activity upon land.
(Ord. 672)

Sec. 9-3.622 "V" Definitions.

"Variance" shall mean a modification of a literal provision of this title, granted by an administrative or quasi-judicial act in accordance with the provisions of this title.

"Vegetation" shall mean any living plant organism, such as grasses, chapparal, brush, shrubs, trees.

"Veterinary clinic" shall mean a facility in which animals no larger than the largest breed of dog receives medical or surgical treatment, clipping, bathing, or similar services. No overnight boarding of animals is permitted, other than those requiring emergency treatment or those recovering from surgery or anesthetic.
(Ord. 672)

Sec. 9-3.623 "W" Definitions.

"Wall" shall mean any structure or device forming a physical barrier, which is so constructed that ten (10%) percent or more of the vertical surface is closed and prevents the pas-sage of light. air, and vision through said surface in a horizontal plane. This shall include concrete, concrete block, wood, or other materials that are solid and are so assembled as to form a solid barrier.
(Ord. 672)

Sec. 9-3.624 "X" Definitions.

Reserved.
(Ord. 672)

Sec. 9-3.625 "Y" Definitions.

"Yard" shall mean any open space on the same lot with a building or a dwelling group, which open space is unoccupied and unobstructed from the ground upward to the sky, except for the projections and/or accessory buildings for structures permitted by this Code.

"Yard, front" shall mean a space between the front yard setback line and the front lot line, street easement, and extending the full width of the lot.

"Yard, rear" shall mean a space between the rear yard setback line and the rear lot line, extending the full width of the lot.

"Yard, side" shall mean a space extending from the front yard, or from the front line where no front yard is required by this Code, to the rear yard, or rear lot line, between a side lot line and the side yard setback line. Interior side yard shall mean a side yard not abutting a street. Street side yard shall mean a side yard abutting a street.
(Ord. 672)

Sec. 9-3.626 "Z" Definitions.

Reserved.
(Ord. 672)

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CHAPTER 4 - ESTABLISHMENT OF ZONES

Article 1. Designation of Zones

Sec. 9-4.101 List of Zones.

(a) LD Low Density Residential and Low Intensity Recreational.

(b) MD Multiple Residential - Medium Density.

(c) HD Multiple Residential - High Density.

(d) L/M Low and Moderate Cost Rental Housing.

(e) R/R Resort/Recreation.

(f) C Commercial.

(g) SC Special Commercial.

(h) P Public.

(i) CE Cemetery.

(Ord. 672; §2, Ord. 840, eff. April 6, 1989)

Article 2. Maps

Sec. 9-4.201 Zoning Maps.

The Zoning Maps of the City of Avalon heretofore existing as a part of Ordinance No. 286, as amended, are hereby repealed. The Zoning Map attached to this title and labeled as, "Exhibit "X" Zoning Districts," is hereby adopted by reference.

(Ord. 672)

Article 3. Boundaries

Sec. 9-4.301 Uncertainty of Boundaries.

Where uncertainty exists as to boundaries of any zone shown upon a Zoning Map, or any part thereof, the following provisions shall apply:

(a) Where boundaries are indicated as approximately following lot lines or the center line of streets or alleys, such lines shall be construed to be such boundaries.

(b) In the case of unsubdivided property, where a zone boundary divides a lot, the location of such boundaries, unless said boundary is indicated by dimensions or legal description, shall be determined by use of the scale appearing on said Zoning Map.

(c) Where a public street, or alley, or any portion thereof is officially vacated or abandoned, the area comprising such vacated street or alley shall acquire the zone classification of the property to which it reverts.

(d) Areas in dedicated streets or alleys, shall be deemed to be unclassified and in the case of streets or alleys permitted to be used only for purposes lawfully allowed.

(Ord. 672)

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CHAPTER 5 - RESIDENTIAL ZONES

Article 1. Residential Zones

Sec. 9-5.101 Designation of Residential Zones.

(a) LD Low Density Residential and Low Intensity Recreational.

(b) MD Multiple Residential - Medium Density.

(c) HD Multiple Residential - High Density.

(d) L/M Low and Moderate Income Housing.
(Ord. 672)

Sec. 9-5.102 Intent and Purpose.

The residential zones are established to provide residential districts of varying population densities that are compatible within each category for the purpose of family living permitted therein, and including the necessary appurtenant and accessory facilities and uses associated with such living areas.
(Ord. 672)

Sec. 9-5.103 Inclusionary Requirements.

Any residential tract development of greater than four (4) units developed in LD, MD and HD zones shall be subject to the low and moderate income housing requirements of Chapter 11.
(Ord. 672)

Article 2. (LD) Low Density Residential and Low Intensity Recreation

Sec. 9-5.201 Intent and Purpose.

The intent of the LD zone is to provide a framework to guide and control the development of the sloping, undeveloped areas surrounding the urbanized areas of Avalon. Currently, the land is very sparsely developed with residential structures. There is a high degree of public interest in this area because of the visual quality that these perimeter slopes contribute to the overall ambience of the City. Thus, regulation is intended to minimize grading and landform alteration.

In reviewing and approving site plans and tract maps for the development of the area, the City Planning Commission shall be guided by the goals and policies of the General Plan, and the General Development and Use Standards specified herein. The Commission shall not permit variance from those standards unless it finds that such variance meets the intent of the original standards.

Finally, it is intended that the LD zone will lead to the creation of an area exhibiting the following characteristics:

(a) Residential uses of various densities.

(b) Low intensity recreational uses which will increase available recreational opportunities to the public.
(Ord. 672)

Sec. 9-5.202 Principal Uses Permitted.

(a) Detached residential structures on slopes under thirty (30°) degrees.

(b) Outdoor recreation including, but not limited to, parks and other areas of passive recreational usage, trails, and other suitable corridors open to the public and areas for the preservation of outstanding scenic, geologic, historical and cultural value.

(c) The preservation of natural resources, including, but not limited to, areas required for preservation of plant and animal life.
(Ord. 672)

Sec. 9-5.203 Accessory Uses Permitted.

Premises in the LD zone may be used for accessory uses provided such uses are established on the same lot or parcel of land and are incidental to and do not substantially alter the character of any permitted principal use, including, but not limited to:

(a) Accessory buildings or structures, including private garages.

(b) Domestic animals, not to exceed three (3) over three (3) months old.
(Ord. 672)

Sec. 9-5.204 Uses by Conditional Use Permit.

Premises in the LD zone may be used for the following purposes provided a conditional use permit has first been obtained, pursuant to the provisions of this chapter.

(a) Detached dwelling units on slopes thirty (30°) degrees and over.

(b) Clustered or attached dwelling units, including congregate housing projects.

(c) Churches on slopes under fifty (50°) degrees.
(Ord. 672, as amended by §3, Ord. 775, eff. January 21, 1985; §1, Ord. 1060-07, eff. October 4, 2007)

Sec. 9-5.205 Standards of Development.

Premises in the LD zone shall be subject to the development standards prescribed in this section and those standards contained in Chapter 7 (General Standards of Development).

(a) *Maximum Permitted Density.*

(1) Ten (10) dwelling units per acre for slopes under thirty (30°) degrees.

(2) Five (5) dwelling units per acre for slopes from thirty (30°) degrees to fifty (50°) degrees.

(3) One dwelling unit per acre for slopes fifty (50°) degrees or more.

(4) Clustered developments up to ten (10) dwelling units per acre for slopes under thirty (30°) degrees.

(5) Density transfer can be permitted to a maximum density of twenty (20) units per acre under a conditional use permit provided it does not exceed overall density of ten (10) units per acre.

(b) *Minimum Permitted Lot Area.* Single family detached dwelling units - each lot or parcel of land created after the adoption of this title shall have a minimum lot size of four thousand four hundred (4,400) square feet. These minimum lots shall be multiplied by two (2) for lots with slopes of thirty (30°) degrees to fifty (50°) degrees, and by ten (10) for lots with slopes of more than fifty (50°) degrees.

Single family attached - no minimum, however, no more than thirty (30) residential building lots per acre will be allowed, provided that overall project density does not exceed ten (10) dwelling units per acre for slopes under thirty (30°) degrees.

(c) *Minimum Permitted Lot Width.* Single family detached dwelling units - each lot or parcel created after adoption of this title shall have a minimum width of fifty (50') feet.

(1) Single family attached dwelling units - no minimum.

(2) Other uses - to be determined by the Commission.

(d) *Minimum Required Setbacks.*

(1) A seventy-five (75') foot setback from the center line of major Zoning Districts Map. The distance shall follow the natural grade. This is not to exclude the locating, where necessary, of roads for public safety, utility, or service uses provided such are sited, landscaped, and maintained in a manner consistent with preserving the scenic value of these ridgelines.

(2) Front, Side and Rear Setbacks - Ten (10') feet. Where the lower property line of a hillside or a steep hillside lot is adjacent to a public street, there shall be a maximum height of fourteen (14') feet from the lot's surface (as measured from the center line of the nearest adjacent street and extending as a vertical plane to the lot's existing surface as of January 1, 1990), along a distance equal to one-eighth (1/8) the length of the lot plus the setback required for the zone (as measured through the center line of the lot back from the street side setback).

(e) *Building Bulk.*

(1) Maximum Permitted Height.

(i) For lots of fourteen (14°) degrees average slope or less: No portion of the building may exceed a height greater than twenty-eight (28') feet above the lot's natural surface and shall not be more than two (2) stories;

(ii) For hillside lots, as defined: No portion of the building may exceed a height greater than fourteen (14') feet above the upper lot line and thirty-two (32') feet on any part of the lot's natural surface, and shall not be more than three (3) stories.

(iii) For steep hillside lots, as defined: No portion of the building may exceed a height greater than fourteen (14') feet above the upper lot line and forty (40') feet above any part of the lot's natural surface. The number of stories allowed shall be determined by the applicable Building Code requirements.

(2) Maximum permitted lot coverage.

(i) Single family detached and other uses: forty (40%) percent of gross lot area.

(ii) Single family attached: forty (40%) percent of gross lot area.

(3) Maximum permitted floor area.

(i) Single family detached and other uses: eighty (80%) percent of gross lot area - two (2) level; 120 percent of gross lot area - three (3) level.

(ii) Single family attached: eighty (80%) percent of gross tract area - two (2) level; 120 percent of gross area - three (3) level.

(f) *Off-Street Parking.* One (1) off-street parking space shall be required for each dwelling unit.

(g) *Trash Storage.*

(1) Single family detached - one (1) enclosed, off-street trash storage area shall be required for each dwelling unit.

(2) Single family attached and other uses - sufficient enclosed, off-street trash storage areas shall be required to serve the project.
(Ord. 672; §§4, 5, Ord. 852-U, eff. January 4, 1990; §3, Ord. 944-97, eff. June 6, 1997)

Article 3. (MD) Multiple Residential, Medium Density

Sec. 9-5.301 Intent and Purpose.

The MD Zone is established in order to provide for residential areas wherein two (2) family dwelling units per lot or parcel are permitted. Additional uses, necessary and incidental to residential development, are also permitted.
(Ord. 672)

Sec. 9-5.302 Principal Uses Permitted.

Premises in the MD zone may be used for the following principal uses:

(a) Single family detached units; and

(b) Two (2) family dwelling units, excluding any congregate housing projects.
(Ord. 672, as amended by §4, Ord. 775, eff. January 21, 1985)

Sec. 9-5.303 Accessory Uses Permitted.

Premises in the MD zone may be used for accessory uses provided such uses are established on the same lot or parcel of land and are incidental to and do not substantially alter the character of any permitted principal use, including, but not limited to:

(a) Accessory buildings or structures, including private garages.

(b) Domestic animals, not to exceed three (3) over three (3) months old.
(Ord. 672)

Sec. 9-5.304 Uses by Conditional Use Permit.

Premises in the MD zone may be used for the following purposes providing a conditional use permit has first been obtained:

(a) Churches;

(b) Civic or public buildings;

(c) Utility substations;

(d) Parking lots;

(e) Private recreation facilities; and

(f) Single family attached dwelling units, including cluster housing and congregate housing projects.

(g) Time-share projects.
(Ord. 672, as amended by §5, Ord. 775, eff. January 21, 1985; §2, Ord. 788, eff. February 12, 1986)

Sec. 9-5.305 Standards of Development.

Premises in this zone shall be subject to the development standards contained in this section, Chapter 7 (General Standards of Development) and, in the case of congregate housing construction or conversion, the standards of development, procedures and findings set forth in Chapter 13 of this Title.

(a) *Maximum Permitted Density*. The maximum permitted density shall be twenty (20) units per acre.

(b) *Permitted Lot Area*. Each lot or parcel created after the adoption of this title shall have a minimum size of four thousand four hundred (4,400) square feet.

When single family attached dwelling units are permitted under a conditional use permit, minimum lot size standards are not applicable.

(c) *Minimum Permitted Lot Width*. Each lot or parcel created after the adoption of this title shall have a minimum lot width of fifty (50') feet.

(d) *Minimum Required Setbacks*. The minimum required for lots of fourteen (14°) degrees average slope or less shall be ten (10') feet. Where the lower property line of a hillside or a steep hillside lot is adjacent to a public street, there shall be a maximum height of fourteen (14') feet from the lot's surface (as measured from the center line of the nearest adjacent street and extending as a vertical plane to the lot's existing surface as of January 1, 1990), along a distance equal to one-eighth (1/8) the length of the lot plus the setback required for the zone (as measured through the center line of the lot back from the street side setback).

(e) *Building Bulk*.

(1) Maximum Permitted Heights.

(i) For lots of fourteen (14°) degrees average slope or less: No portion of the building may exceed a height greater than twenty-eight (28') feet above the lot's natural surface and shall not be more than two (2) stories;

(ii) For hillside lots, as defined: No portion of the building may exceed a height greater than fourteen (14') feet above the upper lot line and thirty-two (32') feet on any part of the lot's natural surface, and shall not be more than three (3) stories;

(iii) For steep hillside lots, as defined: No portion of the building may exceed a height greater than fourteen (14') feet above the upper lot line and forty (40') feet above any part of the lot's natural surface. The number of stories allowed shall be determined by the applicable Building Code requirements.

(2) Maximum Permitted Lot Coverage: Fifty (50%) percent of gross lot area.

(3) Maximum Permitted Floor Area:

(i) Fourteen (14°) Degrees Average Slope or Less: One hundred (100%) percent of gross lot area - two (2) level; One hundred fifty

(150%) percent of gross lot area - three (3) level.

(ii) Hillside and Steep Hillside Lots: Seventy (70%) percent of gross lot area - two (2) level; One hundred twenty (120%) percent of gross lot area - three (3) level.

(f) *Off-Street Parking*. One (1) off-street parking space shall be required for each dwelling unit.

(g) *Trash Storage*.

(1) One (1) enclosed, off-street trash storage area shall be required for each lot.

(2) Single family attached and other uses - sufficient enclosed, off-street trash storage areas to serve the project.
(Ord. 672; §§6, 7, Ord. 851, eff. January 4, 1990; §1, Ord. 855-U-90, eff. April 5, 1990; §2, Ord. 935, eff. October 17, 1996; §4, Ord. 944-97, eff. June 6, 1997)

Article 4. (HD) Multiple Residential, High Density

Sec. 9-5.401 Intent and Purpose.

The HD zone is established to provide residential areas where multiple dwelling units per lot are permitted utilizing density and development standards as the variables for units permitted.
(Ord. 672)

Sec. 9-5.402 Principal Uses Permitted.

Premises in the HD zone may be utilized for the following principal uses:

(a) Multiple family dwelling units, excluding any congregate housing projects.

(b) Single family dwelling units.
(Ord. 672, as amended by §6, Ord. 775, eff. January 21, 1985)

Sec. 9-5.403 Accessory Uses Permitted.

Premises in the HD zone may be used for accessory uses provided such uses are established on the same lot or parcel of land, are incidental to, and do not substantially alter the character of any permitted principal use, including, but not limited to:

(a) Accessory buildings or structures, including private garages.

(b) Domestic animals, not to exceed three (3) over three (3) months old.
(Ord. 672)

Sec. 9-5.404 Uses by Conditional Use Permit.

(a) Churches.

(b) Civic or public buildings.

(c) Utility substations.

(d) Parking lots.

(e) Hotels, motels and boarding houses with employee housing as provided in Chapter 11.

(f) Congregate housing projects.

(g) Time-share projects.

(h) Restaurants/bar/cafes in a hotel existing prior to October 16, 2012.

(i) Single room occupancies.
(Ord. 672, as amended by §7, Ord. 775, eff. January 21, 1985; §3, Ord. 788, eff. February 12, 1986; Ord. 1116-12, eff. November 16, 2012; §4, Ord. 1136-15, eff. April 16, 2015)

Sec. 9-5.405 Standards of Development.

Except as provided in Section 9-5.406, premises in the HD Zone shall be subject to the development standards described in this section and those standards contained in Chapter 7 (General Standards of Development).

(a) *Maximum Permitted Density*. The maximum permitted density shall be forty (40) units per acre.

(b) *Minimum Permitted Lot Area*. Each lot or parcel of land created after adoption of this title shall have a minimum lot size of two thousand two hundred (2,200) square feet.

(c) *Minimum Lot Width*. Each lot or parcel of land created after adoption of this title shall have a minimum width of twenty-five (25') feet.

(d) *Minimum Required Setbacks*. Minimum required setbacks shall be three (3') feet except hillside and steep hillside lots shall have a minimum required setback of five (5') feet. When the lower property line of a hillside or a steep hillside lot is adjacent to a public street, there shall be a maximum height of fourteen (14') feet from the lot's surface (as measured from the center line of the nearest adjacent street and extending as a vertical plane to the lot's existing surface as of January 1, 1990), along a distance equal to one-eighth (1/8) the length of the lot plus the setback required for the zone (as measured through the center line of the lot back from the

street side setback).

(e) *Building Bulk.*

(1) Maximum Permitted Heights.

(i) For lots of fourteen (14°) degrees average slope or less: No portion of the building may exceed a height greater than twenty-eight (28') feet above the lot's natural surface and shall not be more than two (2) stories;

(ii) For hillside lots, as defined: No portion of the building may exceed a height greater than fourteen (14') feet above the upper lot line and thirty-two (32') feet on any part of the lot's natural surface, and shall not be more than three (3) stories;

(iii) For steep hillside lots, as defined: No portion of the building may exceed a height greater than fourteen (14') feet above the upper lot line and forty (40') feet above any part of the lot's natural surface. The number of stories allowed shall be determined by the applicable Building Code requirements.

(2) Maximum Permitted Lot Coverage: Eighty (80%) percent of the gross lot area; hillside and steep hillside lots: seventy (70%) percent of the gross lot area.

(3) Maximum Permitted Floor Area:

(i) Lots of Fourteen (14°) Degrees or Less: One hundred thirty (130%) percent - two (2) level; One hundred eighty (180%) percent - three (3) level.

(ii) Hillside and Steep Hillside Lots: One hundred (100%) percent - two (2) level; One hundred fifty (150%) percent - three (3) level.

(f) *Off-Street Parking.* One off-street parking space shall be required for each dwelling unit.

(g) *Trash Storage.* One enclosed, off-street trash storage area shall be required for each lot.
(Ord. 672; §§8, 9, Ord. 851, eff. January 4, 1990; §3, Ord. 855-U-90, eff. April 5, 1990; §2, Ord. 935-96, eff. October 17, 1996; §5, Ord. 944-97, eff. June 6, 1997; §3, Ord. 945-97, eff. October 16, 1997)

Sec. 9-5.406 Standards of Development for Designated Area in HD Zone.

Premises in the HD zone located in the area bordered by Clemente Avenue northwest of Third Street to Tremont Street, Sumner Avenue northwest of Beacon and Tremont Street (southwest side only) as shown on the map in Appendix A, on a lot which is less than two thousand two hundred (2,200) square feet shall be subject to the development standards described in this section and those standards contained in Chapter 7 (General Standards of Development).

(a) *Maximum Permitted Density.* As described in Section 9-5.405(a).

(b) *Minimum Permitted Lot Area.* To qualify under this Section 9-5.406, a lot must be less than two thousand two hundred (2,200) square feet and created prior to the adoption of this title so as to be legally nonconforming.

(c) *Minimum Lot Width.* As described in Section 9-5.405(a), unless legally non-conforming.

(d) *Minimum Required Setbacks.*

(1) Properties Which Abut an Alley. Except as provided herein, where the property abuts an alley, there shall be not less than a three (3') foot setback on one (1) side and a minimum twelve (12") inch setback on the opposite side. A zero (0') foot sideyard setback may only be allowed on the property line if the adjoining property (a) has been developed to the adjoining property line and the owner thereof agrees in a recorded document that upon demolition of the existing property it shall be reconstructed with the same zero (0') foot setback or (2) is undeveloped and the owner thereof accepts in a recorded document the proposed zero (0') foot setback and further agrees to develop his property to the property line on that side.

(2) Properties Which Do Not Abut an Alley. Where the property does not abut an alley, there shall be not less than a three (3') foot setback on one (1) side and the rear, and, except as provided herein, a minimum twelve (12") inch setback on the opposite side of the three (3') foot setback. A zero (0') foot setback on the opposite side may only be allowed if the adjoining property (a) has been developed to the adjoining property line and the owner thereof agrees in a recorded document that upon demolition of the existing property it shall be reconstructed with the same zero (0') foot setback or (b) is undeveloped and the owner thereof accepts in a recorded document the proposed zero (0') foot setback and further agrees to develop his property to the property line on that side.

(3) Sideyard Setback Standards. Notwithstanding subsections (1) and (2) above, no sideyard setback of less than three (3') feet shall be approved unless the Avalon Fire Department determines that the development as proposed will not result in increased fire hazard. In all instances where less than a three (3') foot sideyard setback is proposed, the Planning Commission shall consider the extent to which the proposed development will interfere with or affect use of the existing adjoining property and any future development of the adjacent property. The City shall cause notice to be sent to the owners of the properties to either side of the subject property whenever the proposed development includes less than a three (3') foot sideyard setback on either side, even though a variance is not required according to the provisions of the Code.

(4) Number of Stories Permitted and Limitations. Second, and third stories, if permitted by variance, shall maintain not less than a ten (10') foot setback from the front property line, excluding decks, balconies and architectural features which are designed in such a way as to limit massing.

(e) *Building Bulk.*

(1) Maximum Permitted Heights. As described in Section 9-5.405(e)(1)(i).

(2) Maximum Permitted Lot Coverage: Ninety (90%) percent of the gross lot area.

(3) Maximum Permitted Floor Area: One hundred thirty (130%) percent.

(4) Maximum Permitted Stories: Two (2). A third story may be approved by variance, provided the Planning Commission shall give due consideration to architectural features designed to limit massing.

(f) *Off-Street Parking*. One (1) autoette space if the development proposal consists of the addition of square footage equal to fifty (50%) percent or more of the square footage of the existing or previously existing structure.

(g) *Trash Storage*. As described in Section 9-5.405(g).
(§4, Ord. 945-97, eff. October 16, 1997; §§1, 2, Ord. 968-99, eff. September 2, 1999; §1, Ord. 1065-08, eff. March 6, 2008)

Article 5. (L/M) Low and Moderate Income Housing

Sec. 9-5.501 Intent and Purpose.

The L/M zone is established to provide residential areas where multiple family dwelling units can be provided to meet the housing needs of the City's low and moderate income residents.
(Ord. 672)

Sec. 9-5.502 Principal Uses Permitted.

Low and moderate income housing as defined in Chapter 11, as well as parks and mobile home parks.
(Ord. 672)

Sec. 9-5.503 Accessory Uses Permitted.

Premises in the L/M zone may be used for accessory uses provided such uses are established on the same lot or parcel of land, are incidental to, and do not substantially alter the character of any permitted use, including, but not limited to:

(a) Accessory buildings or structures, including private garages.

(b) Domestic animals, not to exceed three (3) over three (3) months old.
(Ord. 672)

Sec. 9-5.504 Uses Permitted by Conditional Use Permit.

(a) Low and moderate income housing with density bonus.

(b) Single room occupancies.
(Ord. 672; §4, Ord. 1136-15, eff. April 16, 2015)

Sec. 9-5.505 Standards of Development.

Premises in this zone shall be subject to the development standards contained in this section, Chapter 7 (General Standards of Development) and, in the case of congregate housing construction or conversion, the standards of development, procedures and findings set forth in Chapter 13 of this title.

(a) *Maximum Permitted Density*. The maximum permitted density shall be forty (40) units per acre.

(b) *Minimum Lot Area*. None.

(c) *Minimum Lot Width*. None.

(d) *Required Setbacks*. No building shall be located closer than ten (10') feet from any street or project boundary line, nor closer than six (6') feet to any other building.

(e) *Building Bulk*.

(1) Maximum Permitted Heights.

(i) For lots of ten (10°) degrees average slope or less: No portion of the building may exceed a height greater than twenty-eight (28') feet above the lot's natural surface and shall not be more than two (2) stories;

(ii) For lots of twenty (20°) degrees or greater: No portion of the building may exceed a height greater than fourteen (14') feet above the upper lot line and forty (40') feet on any part of the lot's natural surface;

(iii) For lots of eleven (11°) degrees to and including nineteen (19°) degrees average slope: measurement of the applicable height envelope may be pursuant to (i) or (ii).

(f) *Off-Street Parking*. To be determined by the Commission.

(g) *Trash Storage*. Sufficient, enclosed off-street trash storage areas shall be required to serve the project, not less than the equivalent of thirty (30) gallons per residence.

(h) *Affordable Housing Contract*. For new construction within this district (low/moderate), the provisions of this article shall be secured by a contract between the developer and the City.
(Ord. 672; §2, Ord. 935-96, eff. October 17, 1996; §6, Ord. 944-97, eff. June 6, 1997)

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CHAPTER 6 - COMMERCIAL ZONES

Article 1. Commercial Zones

Sec. 9-6.101 Designation of Commercial Zones.

As used in this title, Commercial Zones shall mean:

(a) Commercial;

(b) Special Commercial; and

(c) Resort/Recreation.

(Ord. 672)

Sec. 9-6.102 Intent and Purposes.

The Commercial Zones are established to provide areas in which business may be conducted, services rendered, public activities offered, and other such activities as are related to the function of commercial development. Residential use is permitted in a Special Commercial Zone pursuant to Section 9-6.303. Low income employees and visitor serving short-term rental housing is permitted in the Resort/Recreation Zone consistent with HD residential standards.

(Ord. 672)

Article 2. (C) Commercial

Sec. 9-6.201 Intent and Purpose.

The "C" zone is established to provide areas for the development of certain business and professional offices, services and related uses, namely such uses as can conveniently serve the public.

(Ord. 672)

Sec. 9-6.202 Principal Uses Permitted.

(a) Premises in the "C" zone may be used for the following purposes:

(1) Grocery stores

(2) Marine sales and service;

(3) Novelties, souvenirs and antiques;

(4) Barber shops and beauty parlors;

(5) Professional offices;

(6) Photographers and opticians;

(7) Pet shops;

(8) Tailors;

(9) Banks and savings and loans;

(10) Medical and dental clinics;

(11) Public buildings;

(12) Cleaning and laundry shops;

(13) Shoe repair shops;

(14) Bicycle rentals;

(15) Locksmith shops;

(16) Watch repair shops;

(17) Sign makers;

(18) Plumbing, sheet metal and electrical sales and service;

(19) Hardware stores;

(20) Clothing stores, retail; and

(21) Hotels, motels, and boarding houses having fewer than four (4) units.

(22) Emergency Shelters as provided for in Chapter 16.

(Ord. 672, as amended by §§1 and 2, Ord. 728, eff. October 5, 1982; §3, Ord. 1131-14, eff. August 14, 2014)

Sec. 9-6.203 Uses by Conditional Use Permit.

(a) Premises in the "C" zone may be used for the following purposes providing a conditional use permit has first been obtained pursuant to the provisions of this title:

(1) Hotels, motels, and boarding houses having four (4) or more rental rooms with employee housing as provided in Chapter 11.

(2) Upholstery, cabinet making;

(3) Restaurants, bars and cafes;

(4) Theaters, auditoriums, and dance halls;

(5) Public garages and auto, mini-car and golf cart rentals;

(6) Service stations;

(7) Mortuaries;

(8) Nursery schools;

(9) Body and fender shops;

(10) Arcades, amusement;

(11) Structures which contain commercial uses on ground floor and residential uses above; and

(12) Places and public assembly, churches.

(Ord. 672, as amended by §3, Ord. 728 eff. October 5, 1982)

Sec. 9-6.204 Standards of Development.

Premises in the "C" zone shall be subject to the development standards prescribed in this section and in Chapter 7 (General Standards of Development), except as noted in Article 3, Section 9-6.301.

(a) *Minimum Permitted Lot Area*. Each lot or parcel of land, created after the adoption of this title, in the "C" zone, shall have a minimum lot area of not less than two thousand (2,000) square.

(b) *Minimum Permitted Lot Width*. Each lot or parcel of land created after the adoption of this title, in the "C" zone, shall have a minimum lot width of fifty (50') feet.

(c) *Minimum Required Setbacks*. The minimum required setback shall be three (3') feet in rear; zero (0') feet on all other sides.

Note: Any time a commercial development is proposed in a lot adjacent to a residential structure, notice must be given to the residential property owner, prior to consideration of said project.

(d) *Building Bulk*.

(1) Maximum permitted height shall be: within three hundred fifty (350') feet of the high tide line - twenty-eight (28') feet; other areas - forty (40') feet, where compatible with neighboring structures.

(2) Maximum permitted lot coverage shall be eighty (80%) percent of gross lot area.

(3) Maximum permitted floor area shall be one hundred sixty (160%) percent of gross lot area - two (2) level, two hundred forty (240%) percent of gross lot area - three (3) level.

(e) *Off-Street Parking*. To be determined by the Commission.

(f) *Trash Storage*. Sufficient enclosed off-street trash storage areas shall be required to serve the use.

(Ord. 672)

Article 3. (SC) Special Commercial

Sec. 9-6.301 Intent and Purposes.

The Special Commercial area is created to provide an area in which both small scale residents and neighborhood retail and services can co-exist harmoniously. There is hereby created the following special standards for commercial areas easterly of Catalina Avenue (between Beacon and Third Streets); south side of Beacon (Catalina Avenue to Calle del Sol); and west side of Metropole (Beacon northerly to and including City Hall site).

(Ord. 672)

Sec. 9-6.302 Principal Uses.

(a) Retail sales - excluding food and beverage.

(b) Personal and professional sales.

(c) Emergency Shelters as provided for in Chapter 16.

(Ord. 672; §3, Ord. 1131-14, eff. August 14, 2014)

Sec. 9-6.303 Uses Permitted by Conditional Use Permit.

(a) Hotels, motels (subject to the standards of the "C" zone including employees housing requirements).

(b) Residential structures (subject to HD Residential Building Development Standards, including the requirements for affordable housing).

(c) Schools, churches, and public and semi-public uses.

(d) Time-share projects.
(Ord. 672; §4, Ord. 788, eff. February 12, 1986)

Sec. 9-6.304 Development Standards.

(a) *Minimum Permitted Lot Area*. Each lot or parcel of land created after the adoption of this title, in the Special "C" Zone, shall have a minimum lot area of not less than two thousand (2,000) square feet.

(b) *Minimum Permitted Lot Width*. Each lot or parcel of land, created after the adoption of this title, in the Special "C" Zone, shall have a minimum lot width of fifty (50') feet.

(c) *Minimum Required Setbacks*. The minimum required setbacks shall be three (3') feet in rear; zero (0') feet on all other sides.

Note: Any time a commercial development is proposed in a lot adjacent to a residential structure, notice must be given to the residential property owner, prior to consideration of said project.

(d) *Building Bulk*.

(1) Maximum Permitted Height: Twenty-eight (28') feet.

(2) Maximum Permitted Lot Coverage: Eighty (80%) percent of gross lot area.

(3) Maximum Permitted Floor Area: One hundred forty (140%) percent of gross lot area.

(e) *Off-Street Parking*. To be determined by the Commission.

(f) *Trash Storage*. Sufficient enclosed, off-street trash storage areas shall be required to serve the use.
(Ord. 672)

Article 4. (R/R) Resort/Recreation

Sec. 9-6.401 Intent and Purpose.

The R/R zone is established for the purpose of stimulating and allowing a variety of uses associated with the resort character of Avalon. The principal use of the R/R zone is that of resort hotel use and associated activities. As development is proposed for each planning area, a master plan will be required for each planning area, and if accepted by the Commission, will then become the standard for other development within the planning areas.
(Ord. 672)

Sec. 9-6.402 Principal Uses Permitted.

Hotels, inns and lodges with fewer than four (4) rental units with employees housing as provided in Chapter 11, as well as parks and mobile home parks.
(Ord. 672)

Sec. 9-6.403 Uses Permitted by Conditional Use Permit.

Premises in the R/R zone may be used for the following purposes, providing a conditional use permit has first been obtained pursuant to the provisions of this title.

(a) Hotels, inns and lodges of four (4) or more rental units with employee housing as provided in Chapter 11.

(b) Recreational facilities, public and private.

(c) Social and educational facilities.

(d) Visitor-serving short-term rental housing.

(e) Visitor-serving retail facilities such as travel agencies, delicatessens, newsstands, and curio shops.

(f) Restaurants, bars and cafes.

(g) Employee housing.

(h) Other uses determined by the commission, however, to be compatible with adjacent uses.

(i) Height limits may be exceeded for non-habitable accessory structures compatible with adjacent buildings.
(Ord. 672)

Sec. 9-6.404 Standards of Development.

Standards of development shall be as provided in the "C" zone except as follows:

(a) The following standards shall apply to Descanso Canyon:

Development of all new market-rate visitor-serving development within Descanso Canyon shall comply with the Access policies of the certified Land Use Plan,

specifically Policies 2, 5, 6, 7, and 9, and with the Recreation and Visitor-Serving Facilities Policies, specifically Policies 1, 7, 9, 10, and 11 (Item No. 2) contained in the Avalon Local Coastal Land Use Plan.

Maximum Building Height: Seven (7) stories;
Maximum Permitted Lot Coverage: Twenty (20%) percent of gross lot area;
Maximum Permitted Floor Area: One hundred forty (140%) percent of gross lot area;

New structures must be set back from mean high tide line at foundation of previous hotel structures or at a distance at which a seven story structure will cast no shadow on sandy beach greater than the shadow cast by the mountains, or otherwise preclude access and utilization of the sandy beach.

(b) The following standards shall apply to nine and six-tenths (9.6) acres of Sector 10 consisting of the hillside area southeast of Hamilton Cove Road in Descanso Canyon designated on the Land Use Map and Zoning Map as Resort Recreation:

Maximum Building Height: Four (4) stories above existing surface and no building will have more than two (2) unstepped stories;
Maximum Permitted Lot Coverage: Fourteen (14%) percent of gross lot area;
Maximum Permitted Floor Area: Nineteen (19%) percent of gross lot area;

(c) The following development standards shall apply to structures adjacent to mean high tide line:

(1) No new structures other than passive visitor serving view or rest areas, sidewalks, stairways, beach and boat access facilities or structures normally associated with routine shoreline maintenance or erosion control shall be permitted between the mean high tide line and the first major road directly landward of the mean high tide line, with the exception of the Cabrillo Mole and Casino Point areas, as described by a map;

(2) New construction shall minimize obstruction of views to the bay from Crescent Avenue;

(3) Structures shall be limited to one (1) story, maximum fifteen (15') feet, although roof decks may be utilized for viewing, dining, or similar open uses. No structure on roof decks shall be permitted which obstructs viewshed to the bay.
(Ord. 672; §1, Ord. 840, eff. April 6, 1989; §7, Ord. 888-92, eff. December 3, 1992; §9, Ord. 896-93, eff. June 3, 1993)

Sec. 9-6.405 Off-Street Parking.

To be determined by the Commission.
(Ord. 672)

Article 5. (P) Public

Sec. 9-6.501 Intent and Purpose.

The "P" zone is established for the purpose of creating an area in which activities vital to the public services can be located.
(Ord. 672)

Sec. 9-6.502 Principal Uses.

(a) Schools.

(b) Warehouses.

(c) Corporate yards.

(d) Hospitals.

(e) Parks.

(f) Libraries.

(g) Parking lots.

(h) Support housing.
(Ord. 672)

Sec. 9-6.503 Uses Permitted by Conditional Use Permit.

(a) Uses permitted in "C" zone.

(b) Light industrial.
(Ord. 672)

Sec. 9-6.504 Standards of Development.

As provided in "C" zone.
(Ord. 672)

Article 5A. (CE) Cemetery

Sec. 9-6.510 Intent and Purpose.

The "CE" zone is established for the purpose of creating an area suitable for cemeteries.
(§3, Ord. 840, eff. April 6, 1989)

Sec. 9-6.511 Principal Uses.

(a) Cemeteries.

(b) Morgues, mortuaries, mausoleums.
(§3, Ord. 840, eff. April 6, 1989)

Article 6. Accessory Uses Permitted in All Zones

Sec. 9-6.601 Accessory Uses.

The following accessory uses, in addition to others set forth in Chapters 5 and 6, shall be permitted in any zone:

(a) The renting or leasing of a room or rooms with or without table board in a dwelling for periods of thirty (30) or more consecutive days duration.

(b) The operation of necessary facilities and equipment in connection with schools, colleges, hospitals, utilities, and other institutions;

(c) Recreation, refreshment, and service buildings in public parks, playgrounds, and golf course; and

(d) Home occupations, offices, and studios provided no sign merchandising prod-ucts, or other material or equipment displayed for advertising purposes.

(e) A receive-only satellite dish antenna which is installed pursuant to and in compliance with Section 9-7.1002.

(f) One single shaft, omnidirectional "whip" antenna measuring no more than seven (7') feet in height and two (2") inches in diameter per lot, subject only to submission to the Planning Department of written notice of the installation and the location thereof.
(Ord. 672; §2, Ord. 802U, eff. February 3, 1987; §2, Ord. 803, eff. March 19, 1987; §2, Ord. 821, eff. February 4, 1988; §§2, 3, Ord. 940-96, eff. January 17, 1997)

Sec. 9-6.602 Conditionally Permitted Use in All Zones.

The following conditionally permitted use in addition to others set forth in Chapters 5 and 6, shall be permitted with a conditional use permit in any zone:

(a) The renting or leasing of a room or rooms with or without table board in a dwelling for periods of fewer than thirty (30) consecutive days duration.
(§3, Ord. 821, eff. February 4, 1988; §4, Ord. 940-96, eff. January 17, 1997)

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CHAPTER 7 - GENERAL STANDARDS OF DEVELOPMENT

Article 1. Development Standards

Sec. 9-7.101 Intent and Purpose.

The specific and detailed development standards included in this chapter are supplementary provisions intended to provide clarification and amplification of the provisions and standards governing development in each zone.

(Ord. 672)

Sec. 9-7.102 Conformity to Development Standards.

The development standards contained in this chapter shall govern all the uses, buildings and structures in every zone and except as otherwise provided in this title, no building, structure or use may hereafter be constructed, established, altered, enlarged, moved onto, operated, occupied, or maintained on a lot or parcel of land, unless such building, structure or use conforms to the standards of development for the zone in which it is located.

(Ord. 672)

Sec. 9-7.103 Maintenance of Required Facilities.

All physical facilities required in this title, such as buildings and structures, paving, fences, walls and landscaping, shall be kept and maintained in a neat, clean, orderly, operable and usable condition.

(Ord. 672)

Sec. 9-7.104 Nuisances.

Neither the provisions of this title nor the granting of any permit provided for in this title, authorizes or legalizes the maintenance of any public or private nuisance.

(Ord. 672)

Article 2. Minimum Lot Area

Sec. 9-7.201 Required Area.

(a) *Minimum Lot Area*. Unless otherwise provided in this article, the required area of a lot or parcel of land shall not be less than two thousand (2,000) square feet.

(b) *Area Accepted as the Required Area*. The required area of a lot or parcel of land shall be not less than the area specified by applicable zoning standards except under the following special conditions:

(1) Subdivisions. Required area shall mean the area of a lot or parcel of land shown as a part of a subdivision for purposes of sale, when recorded as a final map or on file as a Record of Survey Map approved as provided in the Subdivision Map Act or the City of Avalon Subdivision Ordinance.

(2) Free-Existing Parcels. Required area shall mean the area of a lot, or parcel of land the right of possession of which, by virtue of deed duly recorded, or by a recorded contract of sale, is vested in a person who neither owns nor has right of possession of any contiguous parcel of property; provided that the deed or contract of sale by which such right of possession was separated was recorded prior to the adop-tion, by the City Council of the City of Avalon, of this title imposing the area require-ments upon such lot or parcel.

(3) Parcels of Land Divided by Boundary Lines. Where a parcel of land, which would otherwise have been shown as one lot, is divided into two (2) or more lots because of a City boundary line, required area shall mean the total area of said parcel of land.

(Ord. 672)

Sec. 9-7.202 Corner Cut-Off Areas.

A corner lot or parcel of land subject to a street or highway easement for a corner cut-off, where the owner does not have the right to use the entire surface area of the lot or parcel of land, shall be considered to have the required area as indicated by the zoning symbol provided:

(a) The required area for said lot or parcel of land is less than one acre and the area included in the corner cut-off does not exceed five (5%) percent of the required area indicated by the zoning symbol; and

(b) The provisions of Section 9-7.201 do not apply to said lot or parcel of land.

(Ord. 672)

Sec. 9-7.203 Creation of a Lot or Parcel Having Less Than the Required Area.

Except as otherwise provided in this article, a person shall not divide any lot or parcel of land, and shall not convey any lot or parcel of land or any portion thereof, if as a result of such conveyance the area of any lot or parcel of land so reduced, or a lot or parcel of land so created, is in violation of the requirements of this article.

(Ord. 672)

Sec. 9-7.204 Required Area Reduced by Public Use.

If a lot or parcel of land has not less than the required area and after creation of such lot or parcel of land or part thereof is acquired for a public use other than for street or highway purposes, in any manner including dedication, condemnation, or purchase, and if the remainder of such lot or parcel of land has not less than eighty (80%) percent of the area indicated by the number which follows the zoning symbol, such remainder shall be considered as having the required area. If no number follows the zoning symbol, the required area shall be that designated in Section 9-7.201.

(Ord. 672)

Sec. 9-7.205 Required Area Reduced for Street or Highway Purposes.

If a lot or parcel of land has not less than the required area, as designated in Section 9-7.201, and after the creation of such lot or parcel of land a part thereof is acquired for street or highway purposes exclusively, in any manner including dedication, condemnation or purchase, and if the remainder of such lot or parcel of land has not less than seventy-five (75%) percent of the required area, the Commission, without notice of hearing, may approve a reduction of lot area to seventy-five (75%) percent of the required.

(Ord. 672)

Article 3. Lot Width

Sec. 9-7.301 Required Width.

(a) *Average Width.* Average width shall mean the average width of a portion of a lot or parcel of land which portion has been the required area, or the average width of that portion of an irregularly shaped lot or parcel of land which portion is determined by the director to be an adequate building site.

(b) *Required Width.* As used in this title, "required width" shall mean the average width of a lot, or parcel of land the right of possession of which, by virtue of a deed duly recorded, or by a recorded contract of sale, is vested in a person who neither owns nor has the right of possession of any contiguous parcel of property.

(Ord. 672)

Article 4. Yard Requirements

Sec. 9-7.401 Specialized Front Yard Requirements.

(a) *Partially Developed Blocks.* Where some lots or parcels of land in a block are improved or partially improved with buildings, each lot or parcel of land in said block shall have a front yard depth of not less than the average depth of the front yards of land adjoining on either side. A vacant lot or parcel of land, or a lot or parcel of land having more than the front yard depth required in the zone, shall be considered for this purpose as having a front yard of the required depth.

(b) *Key Lots.* The depth of the required front yard on the key lots or parcel of land shall not be less than the average depth of the required front yard of the adjoining interior lot or parcel of land and the required side yard of the adjoining reversed corner lot or parcel of land.

(Ord. 672)

Sec. 9-7.402 Specialized Side Yard Requirements.

(a) *Width.* Each interior lot or parcel of land with a lot width of fifty (50') feet or less in zones having required side yards, shall have side yards as required by the zone, but in no event shall the width of such required side yards, in a residential zone, be less than three (3') feet, unless a variance is obtained.

(b) *Corner or Reversed Corner Lots.* Corner or reversed corner lots and parcels of land shall have side yards as required by the zone.

(Ord. 672)

Sec. 9-7.403 Location of Accessory Buildings in Yards.

Notwithstanding the provisions of this subsection, any accessory building having an opening more than six (6') feet wide facing an existing or proposed alley shall be located not less than six (6') feet from the property line of said alley.

(Ord. 672)

Sec. 9-7.404 Location of Other Structures and Projections into Yards.

(a) In addition to accessory buildings permitted by Section 9-7.403 (Location of Accessory Buildings in Yards), the following structures may be erected or

projected into any required yard:

(1) Fences and walls as provided in Article 8 (Development Standards);

(2) Landscape elements, including trees, shrubs, and other plants; and

(3) Landscape-related or underground stormwater management practices.

(b) The following projections may extend into a required setback:

(1) Cornices, eaves, belt courses, sills, buttresses, or other similar architectural features (a maximum of eighteen (18") inches);

(2) Fireplace structures and bays, not wider than eight (8') feet, measured in a general direction of the wall, of which it is a part (a maximum of two (2') feet);

(3) Open and unenclosed fire escapes, patios, and door stoops;

(4) Awnings (not to exceed a fifty (50%) percent encroachment);

(5) Planting boxes or masonry planters, not to exceed a height of forty-two (42") inches;

(6) Stairways;

(7) Landscape-related or underground stormwater management practices; and

(8) No structure or part of a structure not specified above may project into required setbacks without the granting of a variance under findings consistent with State law and this title.

(Ord. 672; §4, Ord. 1143-15, eff. December 17, 2015)

Sec. 9-7.405 Distance Between Buildings.

A minimum distance of six (6') feet is required between all main residential buildings established on the same lot or parcel of land, and four (4') feet between any structures.

(Ord. 672)

Article 5. Adequate Streets

Sec. 9-7.501 Requirement.

No building or structure shall be erected or relocated, or expanded or altered in an amount exceeding twenty-five (25%) percent of the reason-able replacement value of the existing structures or improvements on said premises, and no building permit shall be issued therefor, on any lot unless one-half (1/2) of the street abutting thereon has been offered for public use and improved for the full width of said lot in accordance with City standards or such dedication and improvements has been assured to the satisfaction of the City Engineer, subject to the following limitations:

(a) The maximum area of land required to be so dedicated shall not exceed twenty-five (25%) percent of the area of any such lot and in no event shall such dedication reduce the lot below the required minimum lot sizes, widths and areas specified by this chapter, unless a variance for lots of lesser area, size or width has been granted as provided in this chapter.

(b) No such dedication may be required with respect to the portion of a lot occupied by a main building.

(c) No additional improvement shall be required on any lot where all of the following exist within the present dedication contiguous thereto and on adjoining properties on the same side of the block: complete roadway, curb, gutter, and sidewalk improvements.

(Ord. 672)

Sec. 9-7.502 Private Streets.

The provisions of this article shall not apply to lots or parcels abutting a private street or road right-of-way established by recorded document or easement, with the exception that the Review Board may, in lieu of requiring a dedication, require an offer of dedication which shall be recorded and shall not become a part of the City street system until thereafter accepted into the City street system by resolution. The City Council may waive the dedication requirements of this section where it is found and determined that there is little likelihood that the remaining private right-of-way adjacent to other lots or parcels in the area will be acquired for the public use and that the acquisition of said right-of-way in connection with the proposed improvement to any given parcel would be of no public benefit.

(Ord. 672)

Sec. 9-7.503 Dedication Standards.

Said street right-of-way shall be dedicated to and in accordance with the widths, as the same exists on the date of application for building permit. No dedication shall be required under this section unless the portion of said street to be dedicated is shown on said Master Plan of Streets and Highways or the width thereof is specified in said Master Plan of Streets and Highways.

(Ord. 672)

Sec. 9-7.504 Improvements.

Before a building or structure, subject to the provisions of this article, may be occupied or utilized, curbs, gutters, sidewalks, drainage structure and street paveout shall be constructed at the grade and location specified by the City Engineer unless there already exists within the present right-of-way, or on the property the owner has agreed to dedicate, curbs, gutters, sidewalks, or drainage structures and street paveout which are adequate and the City Engineer so finds and determines. Curb, gutter, sidewalk, drainage structures and street paveout shall be in accordance with the City standards.

(Ord. 672)

Sec. 9-7.505 Waiver.

The Planning Commission may, upon a determination of hardship by reason of unusual circumstances, other than individual financial hardship, applicable to the owner of any parcel of property subject to the provisions of this article, waive any and all of the provisions of this article.

(Ord. 672)

Sec. 9-7.506 Appeal.

Any person required to dedicate land or make improvements under the provisions of this article may appeal any determination or decision made thereunder to the City Council. Such appeal shall be in writing, and shall be accompanied by any appeal fee established or set by the City Council. The appeal shall state in clear and concise language the grounds thereof. The City Council may make such modifications in the require-ments of this article or may grant such waivers or modifications of the determinations required or made hereunder as it shall determine is required to prevent an unreasonable hardship under the facts of any case and as long as each such modification or waiver is in conformity with the general spirit and intent of this article.

(Ord. 672)

Sec. 9-7.507 Improvement and Dedication in Connection with the Granting of a Zone Change, Variance, or Conditional Use Permit.

In addition to the provisions of this article, the officer, Commission or Council granting any change of zone, conditional use permit, or variance may as a condition of the same require the dedication and/or improvement of streets rights-of-way whether or not designated on any general or specific plan of the City where the granting of such zone change, variance, or conditional use permit would otherwise be detrimental to the public peace, health and safety by reason of increased traffic congestion occasioned by the improvement of such property under such a proposed zone change, variance or conditional use permit.

(Ord. 672)

Sec. 9-7.508 Agreements to Dedicate and Improve.

In lieu of dedication, where required by this article, owner may, subject to the discretion of the officer, board, or agency authorized to accept said dedication, enter into an agreement with the City to dedicate, signed by all persons having any right, title, interest or lien in the property, or any portion thereof, to be dedicated. The signatures on such agreement shall be acknowledged and the agreement shall be prepared for recordation.

In lieu of any required improvement under this article, the officer, board or agency authorized or required to accept the same, may in its discretion enter into an agreement with the owner, secured by cash or surety bond to the approval of the City Attorney, guaranteeing the installation of said improvement.

(Ord. 672)

Sec. 9-7.509 Failure to Dedicate or Improve.

In any case where dedication or improvement is required pursuant to any provision of this article and such dedication or improvement is not made or in any motion, resolution or order or ordinance made by any board, Commission or the Council, any authority to construct any building or structure, use or occupy any land or building, or to receive or have a conditional use permit, variance or zone change granted or approved on the condition of such dedication or improvement shall terminate automatically unless the time to dedicate or improve is extended by the City Council, or improvement or dedication, as the case may be, is accomplished as follows:

In any case where dedication or improvement as required by this article is not made or installed within the time specified in an agreement made and entered into pursuant hereto, the City Engineer may forfeit any bond or security given therefor and cause said work to be per-formed remitting to the owner or person entitled, any balance remaining after deducting the cost of said work plus all engineering and overhead expenses. In the event the cost of said work, plus engineering and overhead expenses, should exceed the amount of security supplied by the owner, the owner shall pay the difference upon demand. In the event of automatic termination hereunder the owner and surety shall be advised in writing of such termination and all rights and privileges granted to the owner by reason of any such permit, motion, resolution or ordinance shall terminate.

(Ord. 672)

Sec. 9-7.510 City May Share Cost of Making Unusual Improvements.

Notwithstanding any provision of this article to the contrary, the City Council may contribute toward the cost of acquisition or making any improvement required under the provisions of this article where it determines that the application of this article to any individual will amount in a cost or detriment to that individual greatly in excess of the cost or detriment to other property owners who are required to make improvements under the provision of this article in the immediate vicinity of the said improvement.

(Ord. 672)

Sec. 9-7.511 Variance.

Any person deeming himself aggrieved may apply for a variance from any provision of this article pursuant to Chapter 8, Article 4 (Variances and Conditional Use Permits) whether he has applied for a modification or not. The provisions of Section 9-7.506 (Appeal) shall constitute additional ground for the approval of a variance from any provision of this article.

(Ord. 672)

Article 6. Off-Street Parking and Loading

Sec. 9-7.601 Limitation of Parking and Loading Facilities.

(a) *Location of Parking Facilities.* Required parking facilities as specified in this section shall be located:

(1) On the same lot or parcel of land as the use such parking facilities are intended to serve; or

(2) On a lot or parcel of land held under joint ownership provided such parking facilities are located adjoining the use or uses served.

(3) On a lot or parcel of land separated only by an alley or street from the lot or parcel of land on which the use or uses served are located provided:

(i) That said lots or parcels of land are in the same or joint owner-ship and separated only by an alley or street; and

(ii) That said lots or parcels of land would be contiguous, if not separated by said alley or street, for a distance of not more than forty (40') feet; and

(iii) That such parking facilities are in close proximity to the actual use or uses served.

(b) *Loading Facilities.* Required loading facilities shall be located on the same lot or parcel of land as the use served.

(c) *Ingress and Egress.* Required parking and loading facilities shall be provided with easily accessible and adequate ingress and egress from and to a street or alley as provided in this article.

(d) *Reduction or Encroachment.*

(1) Land within the right-of-way of a proposed street, or within the planned ultimate right-of-way on a street proposed to be widened, shall not be used to provide required parking or loading facilities.

(2) Where vehicular access to a garage, carport, or automobile storage space on the same lot or parcel of land as the residential structure to which said parking facility would be accessory, is not possible from any street or alley due to topographical or other conditions, or is so difficult to achieve that to require such access is unreasonable in the opinion of the Commission, such garage, carport or automobile storage space is not required if alternate parking facilities, approved by the Commission, are provided.

(3) Required parking or loading facilities may not be reduced or encroached upon, except on approval by the Commission under the following circumstances:

(i) Required parking and loading areas may be reduced by the amount to which an equivalent space, similarly situated and subject to the same or current standards, conditions and limitations, is provided for the use to which said facilities are appurtenant.

(ii) Where the floor area of a building is reduced, the area devoted to require parking and loading facilities based on the floor area of said building may be proportionally reduced.

(Ord. 672)

Sec. 9-7.602 Combined Parking or Loading Facilities.

(a) *For Uses on Separate Lots or Parcels of Land.* Required parking facilities may be provided collectively for two (2) or more buildings or uses located on separate lots or parcels of land, provided that the total area of such facilities does not equal less than the combined requirements for the individual uses.

(b) *For Uses with Varying Requirements Located on the Same Lot or Parcel of Land.*

(1) In the event that uses having varying parking and loading requirements are located on the same lot or parcel of land, the facilities provided, including collective parking facilities, shall equal the sum total of the requirements for the various individual uses computed separately in accordance with provisions in this article.

(2) Parking and loading facilities designated for one use may not be counted or considered as also providing required parking or loading facilities for any other use.

(Ord. 672)

Sec. 9-7.603 Ownership of the Parking Area.

Property on which required parking is established, shall be under the same ownership as the use it is intended to serve. Any joint ownership or operation resulting from the establishment of collective parking facilities as provided in Section 9-7.602 (Combined Parking or Loading Facilities), shall be construed as complying with this provision.

(Ord. 672)

Sec. 9-7.604 Required Parking Spaces.

The standards included herein indicate the spaces and facilities required for off-street parking that shall apply at the time the subject building or structure is erected or placed on the ground. These standards shall also apply when an existing building is altered or enlarged by the addition of dwelling units or guest rooms, or the use in question is intensified by the addition of floor space, seating capacity, or change of use.

(Ord. 672)

Sec. 9-7.605 Parking Requirements.

(a) *Residential Uses.* Residential uses shall be one parking space per dwelling unit.

(b) *Business General.* To be determined by the Commission.

(c) *Offices, Business and Professional.* To be determined by the Commission.

(d) *Restaurants, Cafes, Nightclubs, Bars and Other Similar Places.* To be deter-mined by the Commission.

(e) *Schools, Accredited General Curriculum Through Grade Twelve.* To be deter-mined by the Commission.

(f) *Special Uses Including Public Uses Not Elsewhere Classified.* To be deter-mined by the Commission.

(Ord. 672)

Sec. 9-7.606 Motor Vehicle Maneuvering and Parking Spaces Lay-out.

(a) *Parking Space Dimensions.* The minimum size of a parking space required for a full-sized vehicle shall be a width of eight (8') feet and a length of seventeen (17') feet. The minimum size of a parking space required for an autoette shall be a width of six (6') feet and a length of ten (10') feet.

(b) *Maneuvering Areas Adjacent to Parking Spaces.* Maneuvering areas adjacent to parking spaces shall be arranged in accordance with proper design standards adopted by the Planning Commission.

(c) *Required Driveways Other Than Maneuvering Areas.*

(1) Other Than Residential Uses. Required aisles or driveways other than maneuvering areas, to serve other than residential uses, shall have a minimum width of eight (8') feet to accommodate one way vehicular traffic, except as otherwise provided herein.

(2) Driveways for Residential Uses. Driveways, other than maneuvering areas, serving to provide vehicular access to residential uses in any zone shall conform to the following provisions:

(i) Driveways serving not more than two (2) dwelling units shall have a width of not less than eight (8') feet.

(ii) Driveways serving three (3) or more dwelling units shall have a width of not less than sixteen (16') feet. In lieu of a sixteen (16') foot drive-way, two (2) driveways of not less than eight (8') feet each may be substituted.

Where used, such driveways shall have a directional sign provided to insure one-way ingress and egress respectively.

(d) *Turn-around Areas.* Any required garage, carport or parking space situated more than one hundred (100') feet from the street or highway from which access is taken, and served by a driveway or aisle less than sixteen (16') feet in width, shall have a motor vehicle turn-around area adjacent thereto.

(e) *Modification of Maneuvering and Parking Space Layout.* The Commission may, without notice or hearing, grant a modification of the maneuvering area, parking space layout, or driveways required by this section where topographic features, subdivision plans, or other conditions, create an unnecessary hardship or unreasonable situation making it im-practical to require compliance with said requirements. All requests for modifications shall be subject to the provisions of Chapter 8, Article 2 (Site Plan Review).

(Ord. 672; §1, Ord. 934-96, eff. October 17, 1996)

Sec. 9-7.607 Development of Parking Facilities.

(a) *Paving.* All required parking spaces, maneuvering areas and any driveways used for access thereto shall be paved with:

(1) Concrete surfacing to a minimum thickness of three and five-eighths (3-5/8") inches and shall include expansion joints as necessary; or

(2) Asphalt-type surfacing compacted to a minimum thickness of one and one-half (1-1/2") inches, laid over a base of crushed rock, gravel, or other similar material compacted to a minimum thickness of three (3") inches.

(b) *Marking of Parking Spaces.* Wherever two (2) or more motor vehicles require parking spaces, each space shall be clearly marked with paint or other easily distinguishable material.

(c) *Bumperguards or Wheel Stops.* Bumper guards or wheel stops, where appro-priate, shall be provided for all required motor vehicle parking spaces except spaces estab-lished in a garage or carport.

(d) *Walls.* (Side or rear yards.) Where required parking facilities for three (3) or more motor vehicles are located on land in a commercial zone adjoining a residential zone, such parking facilities shall, except as otherwise provided herein, have a solid masonry wall, not less than five (5') feet nor more than six (6') feet in height established along the side and rear lot lines adjoining said zones except that:

(1) Where such wall is located within ten (10') feet of any street or alley and would interfere with the line of sight of the driver of a motor vehicle leaving the property on a driveway, or moving past a corner or the intersection of two (2) streets, said wall shall not exceed a height of forty-two (42") inches.

(2) Such wall shall be not less than six (6') feet in height above the surface of the adjoining property.

(e) *Landscaping.*

(1) Required parking facilities for three (3) or more motor vehicles shall, in addition, include interior landscaping to cover not less than two (2%) percent of the area devoted to outdoor parking facilities.

(2) Required landscaping shall be subject to the provisions of Chapter 7, Article 8 (Development Standards), and Chapter 8, Article 2 (Site Plan Review).

(f) *Lighting.* Lighting of outdoor parking areas shall be arranged to prevent glare or directed illumination in any adjacent residential zone.

(Ord. 672)

Sec. 9-7.608 Site Plans for Required Parking Area.

A site plan shall be submitted to the Commission pursuant to the provisions of Chapter 8, Article 2 (Site Plan Review) prior to the establishment of any required parking facilities for three (3) or more motor vehicles. Said plan shall contain a detailed parking arrangement, accurately dimensioned, showing individual parking spaces not less than eight (8') feet by seventeen (17') feet in size, aisles and driveways indicating adequate ingress and egress.

(Ord. 672)

Article 7. Signs

Sec. 9-7.701 Signs — Findings.

Due to its unique and special aesthetic and safety problems occasioned by its geographical size and location, the width and design of its streets, the number of pedestrians, and the limited availability of space for signs, the City has determined that the health, welfare, and safety of its inhabitants requires special rules and regulations to govern the size, number and classes of signs used upon property under its jurisdiction. In furtherance thereof, and in order to provide and maintain accurate and complete records and information upon which further appropriate rules and regulations may be deter-mined, the provisions of this chapter are enacted.

(Ord. 672, as amended by §1, Ord. 776, eff. March 18, 1985)

Sec. 9-7.702 Permit Required.

It shall be unlawful for any person to construct, place, erect, attach, paint on, or otherwise maintain any sign in the City of Avalon with-out a permit issued by the Planning Department except as otherwise stated in this chapter.

(Ord. 672, as amended by §1, Ord. 776, eff. March 18, 1985)

Sec. 9-7.703 Prohibited Signs.

The Planning Department shall not approve the following signs:

(a) A sign that is not generally compatible in design with the building and the space allotted;

(b) Roof signs (i.e., signs placed upon a roof), including inflatable signs;

(c) Revolving signs;

(d) Flashing, scintillating or moving signs;

(e) Signs that project or extend above the topmost point of the roof line of the building to which they are attached;

(f) Projecting signs which project more than four (4') feet out over a public right-of-way;

(g) Directly lighted signs except as otherwise provided for in this chapter;

(h) Signs, appendages or structures that endanger the safety of any person or vehicle; and

(i) Signs that are worded, phrased or depicted in such a way which are found to arouse the prurient interest or to offend the general morals of the inhabitants of the City of Avalon.

(Ord. 672, as amended by §1, Ord. 776, eff. March 18, 1985; §5, Ord. 948-97, eff. January 1, 1998)

Sec. 9-7.704 Nonconforming Signs.

The lawful use of any sign or structure which is regulated by the provisions of this chapter and was in use on October 24, 1974, may be continued, provided, the sign or structure may not be enlarged or reconstructed.

(Ord. 672, as amended by §1, Ord. 692, eff. November 13, 1980; §1, Ord. 776, eff. March 18, 1985)

Sec. 9-7.705 Application and Permit.

No sign permit shall be issued by the Planning Department until an application therefor has been filed with the Planning Department and a fee in an amount as set by resolution of the City Council has been paid to the City of Avalon. The application shall state the size of the proposed sign, material to be used, depict the planned design, the lettering to be used, the manner in which the sign shall be placed, a description of the premises where the sign is to be located, and enumerate the number, size and type of existing signs on the premises.

The Planning Department shall be furnished with a color card indicating the exact colors to be used, as well as a photo of the proposed sign location. The approximate outside shape of the proposed sign shall be superimposed over the photo to indicate the approximate location of the sign in relation to the building or property to which the sign is proposed to be affixed. The color card and photo shall he permanently filed with the Planning Department for use by the Code Enforcement Officer of the City of Avalon. A rendering may be substituted for a photo.

(Ord. 672, as amended by §1, Ord. 776, eff. March 18, 1985; §3, Res. 88-45; §6, Ord. 948-97, eff. January 1, 1998; §1, Res. 97-41)

Sec. 9-7.706 Signs — Exempt.

(a) House name signs and occupant's name plates identifying either the house or its occupants, or both, and which essentially take the place of a house number, are exempt from the provisions of this chapter. Such signs may include pictorial and decorative signs as well as words, but shall not exceed two (2) square feet in area. This exemption shall not apply to an identification sign on a house in which a business is located.

(b) Signs warning the public or identifying the location of underground communication, electric, fuel transmission lines and facilities, and signs warning public telephone service locations, are exempt from permit fee and approval as required by Section 9-7.705 of this chapter.

(c) Signs not exceeding two (2) square feet in area identifying the presence of a security system or signs identifying that the property is protected by a security business.

(Ord. 672, as amended by §1, Ord. 776, eff. March 18, 1985; §2, Ord. 1091-10, eff. April 15, 2010)

Sec. 9-7.707 Abandoned Signs.

Abandoned signs shall be removed within seven (7) days after the purpose for or use for such signs have ceased to exist.

(Ord. 672, as amended by §1, Ord. 776, eff. March 18, 1985)

Sec. 9-7.708 Expired Business License.

Permits and approvals for any sign or signs shall only continue in effect for so long as the permittee is the holder of a valid Avalon business license. The owner of the building shall remove any sign of a building within seven (7) days after such business license expires.

(Ord. 672, as amended by §1, Ord. 776, eff. March 18, 1985)

Sec. 9-7.709 Sign Approval Standards.

In approving signs the Planning Department shall be guided by the following standards:

(a) Signs should be for the sole purpose of the identification of the business or the occupants of the premises unless otherwise necessary for the business.

(b) Signs should not be located where they block the view of other existing signs.

(c) Sign competition should be avoided if the following effects are produced:

(1) Sign clutter; and

(2) Obliteration of the architectural pattern of the area.

(d) Illumination of signs shall not be so bright as to be blinding or offensive or to interfere with a complete view of other signs.

(e) Overhanging signs should not be approved whereby the street becomes nar-rower and more cluttered.

(f) Colors of a garish or iridescent nature should not be approved where the sign will interfere with the intention or purpose of other signs of a lower color.

(g) In those cases where a completed sign does not correspond to the color or design furnished to the Planning Department, the applicant must either alter the sign to comply therewith or remove the sign. In either case, the application fee shall not be refunded.

(h) Changes in location, text, or design shall constitute a new sign and a new application and approval by the Planning Department will be required.

(i) All signs shall meet the legal clearance as established by existing and future regulations for safe distance from communication and electrical circuits.

(j) Except for business signs in residential zones, signs shall not exceed an area of eight (8) square fee per face or a total area or two (2) faces not to exceed sixteen (16) square feet.

(k) Business signs in residential zones shall be limited to:

(1) Signs identifying or advertising a business located in a residence (home occupation), which shall not exceed two (2) square feet in total size; or

(2) Signs identifying or advertising a business providing a service to the property on a regular, ongoing basis. Each residential property shall only be permitted to have one (1) such sign which shall not exceed five (5") inches by seven (7") inches in size. Up to ten (10) five inch by seven (5" x 7") inch signs may be approved for each business advertising their services under this category. The property owner must approve the installation of the sign and the business being advertised must obtain a permit for the sign.

(Ord. 672, as amended by §1, Ord. 776, eff. March 18, 1985; §1, Ord. 1091-10, eff. April 15, 2010)

Sec. 9-7.710 Records.

The Planning Department shall keep a copy and permanent record of each sign permit approval. The copy shall show information sufficient to identify the sign and location.

(Ord. 672, as amended by §1, Ord. 776, eff. March 18, 1985)

Sec. 9-7.711 Sign on Public Property or Right-of-Way.

Signs on public property or rights-of-way shall be prohibited unless otherwise authorized in accordance with the provisions of Section 5-1.01.

(Ord. 672, as amended by §3, Ord. 759, eff. May 15, 1984; §1, Ord. 776, eff. March 18, 1985)

Sec. 9-7.712 Content of Signs.

Signs which do not advertise a use of the premises, the name of the licensee, or which do not advertise a product, service, interest or entertainment available on the premises, shall be prohibited unless otherwise authorized herein.

(Ord. 672, as amended by §1, Ord. 776, eff. March 18, 1985)

Sec. 9-7.713 Signs for Public Safety, Etc.

The City Manager, Superintendent of Streets, Fire Chief, Police Chief, Harbor Master, or their representatives, may authorize or approve signs without permit or approval that will be used for the purpose of promoting public safety and welfare on a permanent or temporary basis. Such signs shall include, but not be limited to, the following:

(a) Entrance;

(b) Danger;

(c) Parking;

(d) Restrictions on use of public property.

(Ord. 672, as amended by §1, Ord. 776, eff. March 18, 1985; §§7, 8, Ord. 948-97, eff. January 1, 1998)

Sec. 9-7.714 Use of Announcement Boards or Attraction Boards.

A freestanding sign known as an attraction board or announcement board, shall be considered as a separate sign and shall be treated as a separate sign and shall require separate permits and approvals by the Planning Department regardless of the statement, notices or purposes of said freestanding sign.

No more than one (1) freestanding sign shall be permitted for each business.

Freestanding signs shall only be permitted if their placement does not interfere with and is not located upon a public right-of-way.

(Ord. 672, as amended by §1, Ord. 776, eff. March 18, 1985; §9, Ord. 948-97, eff. January 1, 1998)

Sec. 9-7.715 Industrial Signs.

Industrial signs shall be required to conform to all of the provisions of this chapter and shall be aesthetically consistent with the surrounding area.

(Ord. 672, as amended by §1, Ord. 776, eff. March 18, 1985)

Sec. 9-7.716 Frontage on Two or More Streets.

A business in a building or property facing more than one right-of-way shall be allowed the authorized sign area on each street which it faces provided the total area shall not be accumulated on one right-of-way and provided no sign shall exceed the allowed area on any one right-of-way.

(Ord. 672. as amended by §1, Ord. 776, eff. March 18, 1985)

Sec. 9-7.717 Pricing of Merchandise on Display.

Where merchandise is displayed for sale and price is indicated by a sign, such pricing may be done separately by numbers or letters not to exceed one inch provided the sign is in close proximity to the merchandise for sale. Where group merchandise is displayed and priced for sale, the sign shall not exceed two (2) square feet in total size.

(Ord. 672, as amended by §1, Ord. 776, eff. March 18, 1985)

Sec. 9-7.718 Business Information Signs on Windows.

Each separate business may have lettering on or behind windows facing public view indicating titles, business associates, owners or operators involved in the use and operation of the business, subject to approval of the Planning Department. The lettering for such titles and ownership shall not exceed twelve (12") inches in width. Other descriptive lettering shall not exceed six (6") inches in width.

(Ord. 672, as amended by §1, Ord. 776, eff. March 18, 1985)

Sec. 9-7.719 Temporary Signs.

Except as otherwise provided herein, permits for temporary signs may be issued by the City Manager or Planning Director on conditions deemed appropriate for signs pertaining to civic, patriotic or special events taking place within the City or to announce the future opening of a business at the location, provided that such signs are not detrimental to the public welfare, interest or safety where the temporary sign is located. A special event is one which is not an on-going part of the nature of the business.

The City Manager or Planning Director may determine appropriate size of the temporary signs. Temporary signs shall not be self-illuminated, luminescent, or fluorescent, nor contain any substance which causes them to glow or shine. Temporary signs shall be removed within the time determined by the City Manager or Planning Director, as applicable, but in no event shall temporary signs be displayed for more than thirty (30) days and shall be removed no later than three (3) days following the end of the event except for signs announcing the future opening of a business while under construction, which may be erected once a building permit for the location is issued and which may be allowed to remain in place until construction is complete or building permits expire. Temporary signs may be made of less durable material than permanent signs. The fee for temporary signs shall be as set by resolution of the City Council.

(Ord. 672, as amended by §1, Ord. 776, eff. March 18, 1985; §10, Ord. 948-97, eff. January 1, 1998; §1, Ord. 1125-13, eff. January 16, 2014)

Sec. 9-7.720 Churches — Service Organizations.

Signs used for the public notice of churches and service organizations shall be approved by the Planning Department, subject to the availability of space. The City Manager shall determine the location of sign groupings and the same amount of space shall be allocated to each entity.

(Ord. 672, as amended by §1, Ord. 776, eff. March 18, 1985)

Sec. 9-7.721 Construction Signs.

One sign indicating the various trades, unions, or contractors shall be permitted and approved at a construction site. Such sign shall not exceed six (6) square feet and shall be removed before occupancy at the completion of work.

(Ord. 672, as amended by §1, Ord. 776, eff. March 18, 1985)

Sec. 9-7.722 Maintenance of Signs.

The owner or user of a sign permitted and approved and in use shall maintain said sign in a neat, attractive condition, and in good repair.

(Ord. 672, as amended by §1, Ord. 776, eff. March 18, 1985)

Sec. 9-7.723 "No Trespassing" — "No Dumping" Signs.

"No Trespassing", or "No Dumping" signs shall be permitted or approved for each separate parcel of property in addition to other authorized signs and shall be located in a manner consistent with this chapter.

(Ord. 672, as amended by §1, Ord. 776, eff. March 18, 1985)

Sec. 9-7.724 Direct Lighting.

Direct lighting of signs may be permitted and approved only if the light is hidden from the street or does not provide excessive glare by muting and shielding devices.

(Ord. 672, as amended by §1, Ord. 776, eff. March 18, 1985)

Sec. 9-7.725 Obstruction of Passage.

Signs shall not be constructed so as to obstruct any door, window, or fire escape of any building.

(Ord. 672, as amended by §1, Ord. 776, eff. March 18, 1985)

Sec. 9-7.726 Exemption.

Nothing contained in this chapter shall prevent the erection, construction, or maintenance of official traffic, fire, and police signs, signals, devices and markings of the State Highway Patrol, Avalon Fire Department, County of Los Angeles Fire Department, County Sheriff's Department, Avalon Street Department or other competent public authority.

(Ord. 672, as amended by §1, Ord. 776, eff. March 18, 1985)

Sec. 9-7.727 Variances.

The Planning Commission may approve variances in the application of the provisions of this chapter.

(Ord. 672, as amended by §1, Ord. 776, eff. March 18, 1985)

Sec. 9-7.728 Variance Requirements.

A variance may be granted only after proof to the Planning Commission that the same does not constitute a grant of special privilege, shall not be inconsistent with the use of surrounding properties in the immediate location and shall be granted only to overcome practical difficulties and prevent unnecessary hardship in the application of the provisions of this chapter.

(a) The granting of a variance shall not result in material damage or be detrimental to the public safety and welfare.

(b) Applications for variances shall be numbered and filed, and shall become a part of the official City Planning Department files.

(c) A separate filing fee in an amount set by resolution of the City Council shall be paid to the Planning Department for each application for a variance.

(d) Each variance application shall contain the legal description of the property involved and its use, in addition to other information required by this chapter.

(Ord. 672, as amended by §1, Ord. 776, eff. March 18, 1985; §3, Res. 88-45; §11, Ord. 948-97, eff. January 1, 1998; §2, Res. 97-41)

Sec. 9-7.729 Right of Appeal.

Any decision of the Planning Department and/or the Planning Commission under the provisions of this chapter may be appealed to the City Council in accordance with the provisions of Chapter 8, Article 6 of this Code.

(Ord. 672, as amended by §1, Ord. 776, eff. March 18, 1985)

Article 8. Fences and Landscaping

Sec. 9-7.801 Fences, Walls and Hedges.

(a) *Maximum Fence and Wall Height in Required Side and Rear Yards.*

(1) Fences and walls erected within required side or rear yards of an in-terior lot or parcel of land, or the side yard along the interior side lot line of a corner or reversed corner lot or parcel of land shall not exceed a height limit of six (6') feet except where required by this title, statute or law.

(2) Fences and walls erected within a required rear or side yard on the street side of a corner or reversed corner lot or parcel of land, shall not exceed a height of forty-two (42") inches within five (5') feet of the side lot line or a height of six (6') feet when located within a required rear or side yard, and more than five (5') feet from the side lot line.

Except as otherwise permitted in this title, fences and walls shall not exceed a height of forty-two (42") inches within the required front yard in any zone.

(b) *Hedges.* All height restrictions applying to fences or walls shall also apply to hedges planted within required yards and forming a barrier serving the same purpose as a fence or wall.

(c) *Modification of Fence, Wall, or Hedges.*

(1) Sites occupied by an agency of the Federal, State, County, or City Government; or

(2) Where required by any other ordinance, statute, law; or

(3) Where topographic features, subdivision plans, or other conditions create an unnecessary hardship or unreasonable situation making it impractical to require compliance with the fence, wall or hedge provisions.

All modifications on a lot or parcel of land shall be subject to the provisions of Chapter 8, Article 2 (Site Plan Review).

(Ord. 672)

Sec. 9-7.802 Landscaping.

In all areas subject to landscaping as required herein the landscaping shall be developed in accordance with the provisions in this article, Article 2, Chapter 8 (Site Plan Review), and where applicable, Title 6, Chapter 12 (Water Efficient Landscape Regulations).*

*Editor's Note: Guidelines for Implementation of the City of Avalon Water Efficient Landscape Ordinance adopted by the City, may be found on file in the office of the City Clerk.

(a) *Dimensions.* Three (3') feet shall be the minimum horizontal dimension of any required landscaped area, or any form of fixed planter box.

(b) *Screening.* Where plants are indicated for screening, such screening shall consist of the use of evergreen shrubs, closely spaced and maintained at substantially the specified height of any required fences, walls or hedges.

(c) *Maintenance.* Required landscaped areas and landscaping shall be maintained in a neat, clean and healthful condition. This shall include proper pruning, mowing of lawns, weeding, removal of litter, fertilizing, replacement of plants when necessary, and the regular watering of all plantings.

(d) *Irrigation of Watering.* Required landscaped areas shall be provided with a suitable, fixed and permanent method for watering or sprinkling of plants. This operating water system shall consist of piped water lines terminating in an appropriate number of sprinklers and/or hose bibs to insure a sufficient amount of water for plants within the landscaped area. Where the watering system consists of hose bibs alone, these bibs shall be located not more than one hundred (100') feet apart within the required landscaped area. Sprinklers used to satisfy the requirements of this provision shall be spaced to assure complete coverage of the required landscaped area.

(Ord. 672; §3, Ord. 1090-09, §3, eff. December 31, 2010)

Article 9. Hotel Density

Sec. 9-7.901 Minimum Room Size.

The minimum size of a hotel, motel, or boarding house unit or room shall be one hundred ninety (190) square feet, of which no less than thirty-five (35) square feet shall be devoted to a private bathroom containing at least a sink, a toilet and a shower stall.

(§1, Ord. 787, eff. January 3, 1986)

Article 10. Antennas*

*Editor's Note: Ordinance No. 940-96 renumbered former Section 9-6.602, regulating satellite dish antenna to Chapter 7 of Title 9 and creating Article 10, Antennas. Prior ordinance history include portions of Ordinance Nos. 802U, 803 and 925-96.

Sec. 9-7.1001 Definitions Applicable to Antenna Regulations.

The following words and phrases, as used in this chapter, are defined as follows:

(a) "Antenna" shall mean an accessory structure, regardless of how mounted, designed and/or used, which is capable of transmitting or receiving electro-magnetic, cellular, microwave and other signals.

(b) "Directional transmitting antenna" shall mean an antenna with vertical and horizontal support poles and extensions, including a mounting equipment.

(c) "Video programming antenna/nonrestricted" shall mean either (1) a dish antenna measuring less than thirty-nine (39") inches in diameter designed or used to receive video programming signals from direct broadcast satellites (DBS); or (2) an antenna measuring thirty-nine (39") inches or less in diameter and having a mast measuring less than twelve (12') feet, that is designed or used to receive video programming signals from multi-channel multipoint distribution systems (MMDS/wireless cable) or television broadcast stations (TVBS).

(d) "Reasonable functional use" shall mean that positioning of an antenna to permit a substantially unobstructed line-of-sight with satellites in geosynchronous orbit, or other transmitting devices, from which the antenna receives signals.

(e) "Whip antenna" shall mean a single shaft antenna, including all mounting equipment.

(§6, Ord. 940-96, eff. January 17, 1997)

Sec. 9-7.1002 Permitting Requirements and Development Standards for Specific Antennas.

The following permitting requirements and development standards shall apply to the installation of specific antennas:

(a) *Video Programming Antennas.*

(1) No Permit Required. Any person may install, use and maintain video programming antennas/nonrestricted, as defined herein, on property which such person directly owns, without the necessity of applying for a permit. Within fifteen (15) days of installation, the property owner shall notify the Planning Department, by telephone or in writing, of the installation. The property owner may, but is not required to, notify the Planning Department of a planned installation. On receipt of the notification, the Planning Director may inspect the location solely for the purpose of determining whether the proposed or actual antenna installation is or will be placed in a location that will reduce or eliminate its visibility from the street, unless the antenna is not or cannot be so placed without impacting signal quality. The Planning Department shall inform the City Building Official of the installation. The Building Official shall promulgate and make available to the public specific safety regulations for antenna installation, including but not limited to placement for fire safety, avoidance of utility lines, and grounding and installation stability requirements. Once such regulations are promulgated, the Building Official may inspect an installation solely for the purpose of determining that it complies with same. The property owner shall comply with orders issued by the Building Official concerning correction of unsafe installations.

(2) Permit Required. Any proposed installation of a video programming antenna which does not fall within the definition set forth in Section 9-7.1001(c) because of size shall require site plan approval and a height variance, if applicable.

(j) Application requirements. Where site plan approval is required, the application shall include a site plan showing the proposed installation location, property and setback lines, and other site specific information and details necessary for the City to determine compliance with the provisions of this chapter. The Planning Director and/or Commission may require supplemental information to be filed with the site plan as it deems appropriate. Where a height variance is required, the application shall include elevation drawings.

(3) Development Standards. A video programming antenna that falls outside of the definition of "video programming antenna/ nonrestricted" may be placed on private property within all land use zones of the City, subject to the following development standards:

(i) Quantity. Only one (1) receive-only dish antenna may be installed per lot, parcel, multiple-family residential complex or building, whichever interpretation results in the fewest dish antennas.

(ii) Installation requirements. Installation shall be in a location which limits visibility of the antenna from the street or neighboring properties unless the Planning Commission determines that any other location will unreasonably interfere with signal reception. The Planning Commission may require that visible antenna by painted to blend into the background against which it is mounted.

(b) *Whip Transmitting, Directional Transmitting Antennas.* The Planning Director may administratively approve the installation of (i) omni-directional "whip" transmitting antennas measuring no more than ten (10') feet in length and two (2") inches in diameter; (ii) directional transmitting antennas having support poles measuring no more than ten (10') feet in length and two (2") inches in diameter and extensions that do not exceed two (2') feet in length and two (2") inches in diameter, provided that an installation specified in subsections (i) or (ii) which exceeds applicable development standard(s) for the zone shall require a variance.

(c) *Other Transmitting Antennas.* Except as provided above, one transmitting antenna or antennas, whether dish or otherwise, may be installed per lot, parcel or on a building only within the public or low density residential zone subject to a conditional use permit, site plan approval, and variances, if any are required under the development standards applicable within the zone. In addition to providing the information and plans required by subsection (a)(2) above, the applicant for a conditional use permit shall submit microwave interference and radiation data and specifications, and all other information required to be filed with the Federal Communications Commission (FCC) in support of the required application for an FCC license and any other plans and information the City deems relevant. In addition to notice of hearing required by law, notice of a public hearing on a conditional use permit for installation of a transmitting antenna in a low density residential zone or a public zone or within three hundred (300') feet of the boundary of such zones shall be given to each property owner within a one thousand (1,000') foot radius of the antenna.

(1) In addition to the principles and standards set forth in Sections 9-8.303 and 9-8.404, the Commission shall consider the application and may, with such conditions as are deemed necessary, approve a conditional use permit for a transmitting antenna only after consideration of the following additional factors:

(i) If the applicant proposes to install the transmitting antenna in the zones specified above, the aesthetic, visual and safety impacts on developed and undeveloped parcels within a one thousand (1,000') foot radius of the site;

(ii) The availability of other, more appropriate sites, taking into account the zoning of the proposed site, including existing and reasonably foreseeable future development, the comparative advantages of the alternative site and the proposed site in terms of sound quality and signal reach, and the diligence of the applicant in identifying and qualifying for such alternative sites that would have less negative impacts than the proposed site;

(iii) The visual and aesthetic impacts of the proposed antenna installation when viewed from scenic areas of the City of Avalon, taking into account the existence of other antennas, towers and similar structures within the same view frame.

(§7, Ord. 940-96, eff. January 17, 1997)

Article 10A. Temporary Use Permits

Sec. 9-7.10A01 Temporary Use Permits.

(a) *Purpose.* The purpose of this section is to regulate land use activities of a temporary nature so as to protect the public health, safety, and welfare. The intent of these regulations is to encourage development within the City Center Area, to ensure that temporary uses will be compatible with surrounding land uses, to protect the rights of adjacent residents and land owners, to minimize any adverse effects on surrounding properties and the environment, and to ensure that the temporary use is removed in a timely manner and the site restored to its original condition.

(b) *Uses Allowed by Temporary Use Permit.* A temporary use permit may be issued for any use that is not permitted in a particular zone, but that is otherwise consistent with the general purposes of the General Plan, consistent with the health, safety, and welfare of the surrounding community, and that is of a specific and limited duration. A temporary use as which does not have a valid and current temporary use permit, and which is not otherwise a permitted use in the zone, is hereby declared to be a public nuisance, subject to the enforcement provisions of the Municipal Code and other applicable laws.

(c) *Temporary Use Permits for Construction.* In addition to the uses authorized above, the uses for which a temporary use permit may issue include, but are not limited to, the following:

(1) Construction Staging Areas, which shall mean the temporary use of property by a licensed contractor engaged in a permitted construction project for storage of construction equipment and materials, only for the duration of the construction project.

(2) Stockpiling, which shall mean the temporary storage of clean dirt, sand, gravel, or similar non-polluting materials for a limited period of time, on a property where such material is not proposed to be used for construction activities.

(3) Temporary Structures for Specific Uses and Time Periods. Such structures may include manufactured or modular buildings, trailer coaches, self-contained recreational vehicles, or similar temporary facilities for uses including the following:

a. Temporary construction offices serving active construction sites;

b. Tanks, pumps and similar structures for groundwater quality remediation; and

c. Temporary storage containers serving active construction sites only.

(d) *General Provisions.*

(1) The City Manager may approve, conditionally approve or deny a permit for a temporary use, and may establish conditions and limitations, including but not limited to hours of operation, provision of parking areas, signs, lighting, traffic circulation and access, temporary or permanent site improvements, noise control, sanitary facilities, refuse collection and disposal, fire protection, provision of utilities, and other measures necessary to minimize potential effects on properties adjacent to or in the vicinity of the proposed temporary use.

(2) The City may require a cash deposit or other security as approved by the City Attorney to defray costs related to the permit or the use, including but not limited to potential costs for the cleanup of the site by the City, in the event the applicant fails to leave the property in a presentable and satisfactory condition, or potential costs to guarantee removal and/or conversion of any temporary use.

(3) The temporary use permit shall identify its expiration date, which shall be the date that the use is reasonably expected to terminate. Upon issuance of a temporary use permit, the City Manager shall immediately notify the City Council and put notice of the issuance of the temporary use permit on the City's website. The expiration date shall not be beyond one (1) year from the date of issuance, unless good cause is shown. The City Manager may approve or conditionally approve an extension of a temporary use permit, provided that there is good cause for the extension. The City Council shall consider any issuance or extension of a temporary use permit that goes beyond two (2) years. Notwithstanding the expiration date, temporary use permits shall automatically terminate upon the abandonment or termination of the temporary use.

(4) If the temporary use permit is related to construction, then the permit shall identify the site upon which the construction is proceeding. The temporary use permit shall automatically expire within thirty (30) days of completion of construction. For purposes of this section, "completion" shall have the same meaning as in Section 8180 of the California Civil Code, as amended from time to time.

Unless otherwise specified by an approved temporary use permit, all sites for temporary uses shall be cleaned of trash, debris and any temporary structures prior to expiration of the permit.

(5) Temporary use permits shall not run with the land. A change in ownership or operator of a use or structure subject to a temporary use permit, as specified in this section, or an approved change or modification to the structure or use allowed on a parcel subject to such a permit, shall not affect the time periods established by this section which allow such temporary uses or structures.

(e) *Application Procedure.* A request for a temporary use permit shall be submitted to the Planning Department on a form provided for that purpose by the Planning Department, along with the required fee established by resolution of the City Council. The City Manager may require additional information where deemed necessary to complete the City's review and evaluation.

(f) *Approval Authority.* The reviewing authority for temporary use permits shall be the City Manager. In approving any temporary use permit application, the City Manager shall make all of the following findings:

(1) The use is consistent with the general purposes of the General Plan and this section.

(2) Appropriate measures have been taken to protect the public health, safety, and general welfare to minimize detrimental effects on adjacent properties.

(3) The operation and maintenance of the use will be conducted so as to minimize the impact on existing uses on adjoining properties and in the surrounding area.

(4) The temporary use will have adequate parking, ingress and egress, traffic circulation and access, and provisions for pedestrian safety.

(5) All structures and equipment are erected and maintained in compliance with the Municipal Code.

(6) The subject site will be restored to its original or better condition upon termination of the temporary use.

(7) The temporary use is not detrimental to the public health, safety and welfare and has specific identifiable benefits to the City of Avalon and its residents.

(g) *Appeals.* The reviewing authority's decision on a temporary use permit shall become final ten (10) days after notice of the action is given to the applicant. The applicant may appeal to the City Council by filing a notice of appeal with the City Clerk prior to the decision becoming final. The decision of the City Council shall be final.

(h) *Violations and Revocation.*

(1) The provisions of Sections 9-8.1001 and 9-8.1101 shall apply to temporary use permits issued under this section.

(2) Any temporary use permit is subject to revocation if the use is being conducted in violation of the Municipal Code, the terms and conditions of such permit or otherwise in violation of the law, or if the temporary use permit was obtained by fraud. A notice of revocation shall provide the holder of the permit with the opportunity for a hearing prior to revocation. Failure to request a hearing within the time stated in the notice of revocation shall render the revocation final. If requested, the hearing shall be before the City Manager whose decision shall be final.

(§ 4, Ord. 1156-17, eff. April 6, 2017)

Sec. 9-7.10A02 Effective Date and Termination.

This article shall become effective thirty (30) days following its adoption and shall expire two (2) years from the date of its adoption unless extended.

(§ 6, Ord. 1156-17, eff. April 6, 2017)

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CHAPTER 8 - ADMINISTRATION OF ZONING ORDINANCE

Article 1. Coastal Development Procedures

Sec. 9-8.101 Intent.

Coastal Development Procedures are established to in-sure that all public and private development in the City of Avalon is consistent with the City's certified Local Coastal Program.
(Ord. 672)

Sec. 9-8.102 Application.

In addition to any other permits or approvals required by the City, a coastal development permit shall be required prior to commencement of any development in the City, except:

(a) Development on tidelands or submerged lands, or public trust lands which re-quire a permit from the Coastal Commission;

(b) Developments determined to be excluded from the coastal permit requirements as established in Division 20, Section 30610 of the Public Resources Code, as set forth below;

(1) Improvements to existing single-family residences except those classes of development which involve a risk of adverse environment effect, defined as:

(i) Improvements to single-family structure within fifty (50') feet of the edge of a coastal bluff;

(ii) The expansion or construction of water wells or septic systems:

(iii) On property located between the sea and the first public road paralleling the sea or within thirty (30') feet of the inland extent of any beach or of the mean high tide of the sea where there is no beach, whichever is the greatest distance, improvement that would result in:

A. An increase in more than ten (10%) percent of internal floor area of an existing structure, or

B. An additional improvement of ten (10%) percent or less where an improvement to the structure has previously been undertaken pursuant to Section 9-8.102A, above;

C. The construction of an additional story (including lofts) in an existing structure;

D. Any significant non-attached structure such as garages, fences, shoreline protective works, docks, or trees.

For the purpose of this division, where there is an existing single-family residential building, the following shall be considered part of that structure:

1. All fixtures and other structures directly attached to a residence;

2. Structures on the property normally associated with single-family residence such as garages, swimming pools, fences, and storage sheds; but not including guest houses or self-contained residential units; and

3. Landscaping on the lot.

(2) Improvements to existing structures other than single-family dwellings or public works facilities except those types of improvements which involve a risk of adverse environmental effect or adversely affect public access, defined to be:

(i) Improvements to any structure on a beach, stream or seaward of the mean high tide line.

(ii) Any significant alteration of land forms, including removal or placement of vegetation, on a beach or within one hundred (100') feet of the edge of a coastal bluff or stream;

(iii) The expansion or construction of water wells or septic systems;

(iv) On property located between the sea and the first public road paralleling the sea or within three hundred (300') feet of the inland extent of any beach, whichever is the greater distance, an improvement that would result in:

A. An increase in ten (10%) percent or more of external floor area of the existing structure, or

B. An additional improvement of ten (10%) percent or less where an improvement to the structure has been previously undertaken pursuant to Section 9-8.102A, above.

C. The construction of an additional story (including lofts) in an existing structure.

(v) Any improvement to a structure which changes the intensity of use of the structure;

(vi) Any improvement made pursuant to a conversion of an existing structure from a multiple unit rental use or visitor-serving commercial use to a use involving a fee ownership or long-term leasehold including, but not limited to, a condominium conversion, stock cooperative conversion, or motel/hotel time sharing conversion.

(3) Maintenance dredging of existing navigation channels or moving dredged material from such channels to a disposal area outside the coastal zone, pursuant to a permit from the United States Army Corps of Engineers.

(4) Repair or maintenance activities that do not result in an addition to or enlargement or expansion of, the object of such repair or maintenance

activities. However, the following extraordinary methods of repair and maintenance shall require a coastal development permit because they involve a risk of substantial adverse environmental impact.

(i) Any method of repair maintenance of a seawall revetment, bluff retaining wall, breakwater, groin or similar shoreline work that involves:

A. Repair or maintenance involving substantial alteration of the foundation of the protective work including pilings and other surface or subsurface structures;

B. The placement, whether temporary or permanent, of rip-rap, artificial berms of sand or other beach materials, or any other forms of solid materials, on a beach or in coastal waters, streams, wetlands, estuaries and lakes or on a shoreline protective work;

C. The replacement of twenty (20%) percent or more of the materials of an existing structure with materials of a different kind; or

D. The presence, whether temporary or permanent, of mechanized construction equipment or construction materials on any sand area or bluff or within twenty (20') feet of coastal waters or streams.

All repair and maintenance activities governed by the above provisions shall be subject to the permit regulations promulgated pursuant to the California Coastal Act of 1976, including, but not limited to, the regulations governing administrative and emergency permits. The provisions of this section shall not be applicable to methods of repair and maintenance undertaken by the ports listed in Public Resources Code Section 30700.

(ii) The replacement of fifty (50%) percent or more of a seawall, revetment, bluff retaining wall, breakwater, groin or similar protective work under one ownership is not repair and maintenance, but instead constitutes a replacement structure requiring a coastal development permit.

(iii) Notwithstanding the above provisions, the executive director of the Coastal Commission shall have the discretion to exempt from this section ongoing routine repair and maintenance activities of local governments, State agencies, and public utilities (such as railroads) involving shoreline works protecting transportation roadways.

(iv) Pursuant to this section, the Coastal Commission may issue a permit for on-going maintenance activities for a term in excess of the two (2) year term provided by these regulations.

(5) The installation, testing, and placement in service or the replacement of any necessary utility connection between an existing service facility and any development approved pursuant to this division; provided, that the Coastal Commission may, where necessary, require reasonable conditions to mitigate any adverse impacts on coastal resources, including scenic resources.

(6) The replacement of any structure, other than a public works facility, destroyed by natural disaster. Such replacement structure shall conform to applicable existing zoning requirements, shall be for the same use as the destroyed structure, shall not exceed either the floor area, height, or bulk or the destroyed structure by more than ten (10%) percent, and shall be sited in the same location on the affected property as the destroyed structure.

As used in this subdivision, "natural disaster" means any situation in which the force or forces which destroyed the structure to be replaced were beyond the control of its owner.

(7) The construction of a single-family home or a vacant lot, provided:

(i) The construction of a single-family home on the vacant lot will not be located between the first public road and the sea or immediately adjacent to the inland extent of any beach or of the mean high tide line where there is no beach;

(ii) The vacant lot is a legal lot as of January 1, 1982 or conforms with the minimum lot size and lot use designations of the Avalon General Plan and Zoning Ordinance;

(iii) The single-family residence can be served by an adequate water supply for domestic and fire flow purposes;

(iv) The single-family residence can be served by the City's sewer system;

(v) The lot is not located within an area known to be a geologic hazard area or as a flood hazard area, or, if located within such an area has been determined by the City to be a safe site for the construction of a single-family residence;

(vi) The lot is no more than two hundred fifty (250') feet from an existing improved road adequate for use throughout the year.
(Ord. 672, as amended by §4, Ord. 728, eff. October 5, 1982)

Sec. 9-8.103 Issuance of Local Coastal Development Permits.

The following procedures shall be required for local coastal development permits prior to the issuance of such permit, provided that such permits may be considered concurrently with or subsequent to any procedures authorized by this title, or the subdivision regulations of the City.

(a) *Jurisdiction.* An application for a local coastal development permit shall be considered by the Planning Commission.

(b) *Hearing Required.* A public hearing shall be required prior to approval of a local coastal development permit.

(c) *Consolidation of Process.* The approval of a coastal development permit may be consolidated with local planning processes, including site plan review, and need not be a separate item or issue of review providing requirements pertaining to notice and findings are fulfilled.

(d) *Findings Required.* A local coastal development permit shall be granted only upon specific factual findings supporting the conclusion that:

(1) The proposed development conforms to the certified Local Coastal Plan; and

(2) For all development seaward of the nearest public highway to the shoreline, the proposed development conforms to the public access and recreation policies of Chapter 3 of the Coastal Act.

(e) *Date of Final Local Action.* The date when the appeal period on all local actions on the development has expired without a local appeal, or the date of action on the local appeal(s), provided that no action to approve shall become final without adoption of the required findings of fact, or the date when the City is notified

by the applicant that the application is approved by operation of law pursuant to Sections 65050—65957.1 of the Government Code.

(f) *Appeal of Commission Decision and Notice of Final Local Action.*

(1) An appeal of the Planning Commission action may be filed by any per-son within fifteen (15) days after mailing notice of the action to the applicant. Any appeal shall be submitted in writing to the City Council and shall specify the grounds for the appeal.

(2) Upon receiving a notice of appeal, the City Council may:

(i) Affirm the action of the Commission; or

(ii) Require a transcript or recording of the testimony and all other evidence upon which the Commission made its decision, and after receiving such evidence take such action as, in its opinion is indicated by such evidence alone; or

(iii) Refer the matter back to the Commission, with or without instructions for further proceedings; or

(iv) Set the matter for hearing before itself. At such hearing, it shall hear and decide the case de novo.

(3) In any case in which the City Council set the matter for hearing before itself, or receives the transcript or recording and all other evidence upon which the Commission made its decision, City Council's decision on appeal need not be limited to the points appealed, but may cover all phases of the matter including the addition or deletion of any conditions.

(4) Within seven (7) calendar days after the expiration of the appeal period to the City Council, if no appeal is filed, or within seven (7) calendar days of the date of the action of the City Council, a notice shall be sent to the Coastal Commission, and to any persons who specifically request such notice by submitting a self-addressed stamped envelope. Such notice shall include the written findings of fact required to approve the local coastal development permit and the conditions imposed on the approval, if the permit is approved. Any notice of final local action shall include the procedures for appeal of the action to the Coastal Commission and an indication as to whether the development is in an appealable area.

(g) *Appeals to Coastal Commission.* All actions on local coastal development permits seaward of the appealable area boundary may be appealed by any aggrieved person to the Coastal Commission according to the procedures of the Coastal Commission provided that:

(1) All local appeals of City actions provided for by this section have been exhausted and no fee was charged the appellant for such appeal; and

(2) Any Coastal Commission appeal by two (2) or more Coastal Commissioners, when the local appeals of City actions provided for by this section have not been exhausted, shall constitute a local appeal to the City for any local appeal which has not been exhausted. Any local action to modify or reverse the appeal action shall require that a new Coastal Commission appeal by two (2) or more Coastal Commis-sioners be filed in order to constitute a complete Coastal Commission appeal.

(h) *Determination That a Proposed Development is Seaward of the Appealable Area Boundary.*

(1) Jurisdiction. Determination that a proposed development is seaward of the appealable area boundary shall be made by the Planning Commission.

(2) Means of Determination. Determination shall be made by locating the development on the appealable area boundary map adopted in conjunction with the Local Coastal Program, attached herewith as Exhibit IX by reference.

(3) Appeal of Determination. Any person may appeal the Commission's determination by requesting a referral of the matter to the Executive Director of the Coastal Commission. If the determination of the Executive Director of the Coastal Commission differs from that of the Commission, then the matter shall be resolved by a hearing before the Coastal Commission.

(i) *Effective Date of a Local Coastal Development Permit.* A local coastal development permit shall be effective as follows:

(1) Outside Appealable Area: On final local action;

(2) Within Appealable Area: At the conclusion of the twenty-first (21st) day after final local action; unless

(i) It is appealed - then the permit shall become effective after action on the appeal by the Coastal Commission;

(ii) Notice to the Coastal Commission is not mailed by the City within seven (7) days after final local action - then permit shall become effective at the conclusion of the fourteenth (14th) day after a complete notice is mailed, but not later than at the conclusion of the twenty-first (21st) day after final local action; or

(iii) The Coastal Commission notifies the City and the applicant that notice was not received or distributed in a timely manner, or that the notice was not complete, or does not adequately describe the development - then the permit becomes effective at the conclusion of the fourteenth (14th) day after receipt of such notice from the Coastal Commission or on the date specified by the Coastal Commission .
(Ord. 672, as amended by §5, Ord. 728, eff. October 5, 1982)

Sec. 9-8.104 Definitions.

(a) "Aggrieved person" shall mean any person who testified personally or through a representative at a public hearing or who informed the staff of the Planning Commission hearing of an interest in the subject of a hearing.

(b) "Appealable area" shall mean that portion of the coastal zone seaward of the appealable area boundary as established on a map adopted in conjunction with final certification of the Avalon Local Coastal Program, attached herewith as Exhibit IX by reference.

(c) "Development" shall mean, on land in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of use of land, including, but not limited to, subdivision pursuant to the Subdivision Map Act (commencing with Section 66410 of the Government Code) and any other division of land, including lot splits, except where the land division is brought about in connection with the purchase of such land by a public agency for public recreational use; change in the intensity of use of water, or of access thereto; construction reconstruction, demolition, or alteration of the size of any structure, including any facility of any

private, public, or municipal utility; and the removal or harvesting of major vegetation other than for agricultural purposes, kelp harvesting, and timber operations which are in accordance with a timber harvesting plan submitted pursuant to the Z'berg-Nejedly Forest Practice Act of 1973 (commencing with Section 4511). As used in this section, "structure" includes, but is not limited to, any building, road, pipe, flume, conduit, siphon, aqueduct, telephone line and electrical power transmission and distribution line.

(d) "Public works project" shall mean any action undertaken by the City or under contract to the City to construct, alter, repair or maintain any City structure, utility or right-of-way, including the erection of public signs, the painting or removing of street lines, parking space designations, or the painting or removing paint from curbs, the maintenance, repair and improvement of public streets, the installation and maintenance of landscaping, the repair and expansion of harbor facilities, the maintenance and development of City utilities, including the salt water system repair and improvement to structures maintained, used, or owned by the City, and the repair, replacement, maintenance or development of public facilities under emergency circumstances.
(Ord. 672)

Sec. 9-8.105 Hearing Notice for Coastal Permit.

(a) *Notices Required.* Notice shall be given for all public hearings for coastal permit proceedings not less than ten (10) days or more than forty-five (45) days prior to the hearing date by all of the following means:

(1) The mailing of notice to the property owner, applicant, or duly authorized agent;

(2) The mailing of a notice to all property owners within three hundred (300') feet of the subject property as shown on an assessment roll of the County of Los Angeles;

(3) The publishing of the notice one time in a paper printed and published within the City of Avalon;

(4) The mailing of a notice to the Coastal Commission;

(5) The mailing of a notice to all persons requesting notice for the individual project or all coastal zone hearings; and

(6) The posting of a notice on the site. The posting and maintenance of such notice shall be the responsibility of the applicant. Such notices shall be posted in a manner prescribed by the Planning Commission. Failure to adequately post or maintain the notice shall be cause for the continuance of the hearing.

(b) *Notice Contents.* All coastal permit hearing notices shall contain, as a mini-mum, the following information:

(1) The applicant's name;

(2) The filing date;

(3) The case number for the project;

(4) The location of the project, whether it is in the coastal zone and whether it is appealable to the Coastal Commission;

(5) A description of the project;

(6) The reason for the public hearing;

(7) The date, time and place of the public hearing;

(8) The general procedures for the hearing and receipt of public comments; and

(9) The means for appeal, including appeal to the Coastal Commission, when applicable.

(c) *Notice consolidated.* Notices required under this chapter may be consolidated with other notices required by the Zoning Ordinance.
(Ord. 672)

Sec. 9-8.106 Action.

Following the completion of testimony at a public hearing, action shall be taken to approve, conditionally approve, partially approve, deny, continue or take under advisement the subject of the coastal permit public hearing.
(Ord. 672)

Sec. 9-8.107 Right of Comment.

Prior to the time set for any coastal permit public hearing, any person having any interest affected by the pending application may file with the Planning Commission a written statement either approving or objecting to the application. Any person may also appear at the hearing to present oral testimony.
(Ord. 672)

Sec. 9-8.108 Conditions.

Reasonable and necessary conditions shall be attached to all decisions, to adhere to the purposes of the Local Coastal Program.
(Ord. 672)

Sec. 9-8.109 Effective Date.

All decisions shall be final after the time for filing an appeal has expired if no appeal has been filed; or, if appealed, when the appeal is decided, provided that no decision shall be final until the required findings of fact have been adopted; except that decisions on local coastal development permits seaward of the appealable area boundary shall not be final until the procedures specified in Sections 9-8.101—9-8.104 are completed.
(Ord. 672)

Sec. 9-8.110 Continuing Jurisdiction.

The Commission shall have continuing jurisdiction over all coastal permits issued under the provisions of this article in order to monitor compliance with the provisions and conditions of approval.
(Ord. 672)

Sec. 9-8.111 Revocation of Permits.

Except as otherwise provided, upon determination that there has been a violation of the conditions of any coastal permit or approval provided by this article, the Commission shall schedule a public hearing to determine if such permit or approval should be revoked. If the Commission finds that the conditions have been violated and that the property owner has not made a good faith effort to comply, the permit or approval shall be revoked. The property owner shall have the same right of appeal as would have been applicable if the initial application had been denied by the Commission.
(Ord. 672)

Sec. 9-8.112 Expiration of Permits.

Except as otherwise provided in the conditions of approval, every right or privilege authorized under this article shall terminate thirty-six (36) months after the granting of the request if such right or privilege has not been exercised in good faith within such time. Such termination shall take effect without further City action if a timely request for an extension of time has not been made or is denied. Any interruption or cessation of the permitted activity that is beyond the control of the property owner shall not result in the termination of such right or privilege.

Upon written request submitted not less than thirty (30) days prior to termination of the approval, the Planning Commission may grant one (1) six (6) month extension of such right or privilege but only upon a finding that changed circumstances peculiar to the applicant have resulted in delays beyond the applicant's control, and that the grant of the extension would not be contrary to the provisions of the Zoning Ordinance. The City Council may grant one (1) additional extension of not more than six (6) months upon a finding that changed circum-stances peculiar to the applicant have resulted in delays beyond the applicant's control, and that the grant of the extension would not be contrary to the provisions of the Zoning Ordinance.

Notice of hearing on any requested extension shall be given to any person who re-quests notice at or after the hearing on the original grant of the approval.
(Ord. 672; §1, Ord. 866-91, eff. October 3, 1991; §2, Ord. 897-93, eff. June 3, 1993)

Sec. 9-8.113 Amendment to Permits.

A permit or other zoning exception may be amended at a public hearing. Notice of hearing on the requested amendment shall be given to any person determined by the Planning Commission to have been aggrieved at the original hearing. Such amendment may be approved if it is found that:

(a) It will be in furtherance of the purposes of the zoning regulations; and

(b) It will not significantly alter the approved action.
(Ord. 672)

Sec. 9-8.114 Statute of Limitations.

Any legal action or proceeding to attack, review, set aside, void or annul any decision of matter or proceedings provided in this article shall be commenced within thirty (30) days after the decision becomes final; except that legal action on developments in the coastal zone taken under the provisions of Division 20, Chapter 9, Section 30000 et seq., of the Public Resources Code, shall be commenced within sixty (60) days after the decision becomes final.

Thereafter, all persons are barred from bringing such action or proceeding or from raising any issue of invalidity or unreasonableness of such decision. No person shall maintain such legal action until he has exhausted all administrative remedies.
(Ord. 672)

Article 2. Site Plan Review

Sec. 9-8.201 Intent and Purpose.

(a) Site plan review is established in order to provide a visual and factual document that may be used to determine and control the physical layout, design or use of a lot or parcel of land, buildings or structures. A site plan shall contain information that may include an application form, plans, drawings and diagrams or pictures indicating uses, forms, dimensions and other pertinent factors sufficient to provide a document that may be used to substantiate and corroborate facts and testimony vital to the administration of this title.

(b) A site plan is, or may be, required in order to determine whether or not a pro-posed development will properly comply with the provisions and development standards prescribed in this title or as prescribed by the Commission, City Council, or other authorized agent.

(c) Any person may also use a site plan to indicate his compliance, or plans and intentions to comply, with the regulations and standards prescribed in this title.

(d) The Commission or other authorized agent may:

(1) Require a site plan for any use, development of land, structure, building or modification of standards that involves the approval of the Commission;

(2) Require such other forms and documents as are necessary to determine compliance with the provisions of this title or any conditions that the Commission may require in granting an approval of the requested use, development or modification.

(3) Require any supplemental information or material including revised or corrected copies of any site plan or other document previously presented.

(e) The Commission or other authorized agent shall prescribe the form for application blanks and site plans, and the information to be included in the required site plan.

(f) The Planning Commission may, within its discretion, reduce the maximum allowable building heights, floor area to lot size ratios, coverage allowances, and may increase the required setbacks set forth in this title in order to reduce the impact of the proposed project on topography and view of neighboring residents.
(Ord. 672; §11, Ord. 851, eff. January 4, 1990)

Sec. 9-8.202 Contents of Application for Site Plan Review.

An application for any site plan review, shall contain information as required by the Commission or other authorized agent.

(a) All site plans shall include a topographic map of the site, together with a signed statement by a certified surveyor, civil engineer, or geologic engineer certifying the height of the proposed development is as shown on the plans.
(Ord. 672; §10, Ord. 851, eff. January 4, 1990)

Sec. 9-8.203 Basis for Approval of Site Plans.

Approval or disapproval of any site plan shall be based upon the following factors and principles:

(a) Every use, development of land and application of development standards shall take place in compliance with all applicable provisions of this title.

(b) Every use, development of land and application of development standards shall be considered on the basis of the suitability of the site for the particular use or development in-tended, and the total development, including the application of prescribed development standards, shall be so arranged as to avoid traffic congestion, insure the protection of public health, safety and general welfare, prevent adverse effects on neighboring property and shall be in general accord with all elements of the General Plan.

(c) Every use, development of land, application of development standards shall be considered on the basis of suitable and functional development design, but is not intended that such approval be interpreted to require a particular style or type of architecture.
(Ord. 672)

Sec. 9-8.204 Action Upon Site Plans.

The Commission or other authorized agent acting upon any site plan offered for review as provided in this chapter shall either:

(a) Approve; or

(b) Approve with conditions; or

(c) Deny the proposed use, development or modification as requested in the application and as indicated in the required site plan.
(Ord. 672, as amended by §6, Ord. 741, eff. July 7, 1983; §3, Ord. 774, eff. December 17, 1984)

Sec. 9-8.205 Notice of Action Taken on a Site Plan.

(a) The Commission or other authorized agent shall notify the applicant of a re-quest for a site plan approval of the action taken on the application. The applicant shall be notified of the date set for hearing of the site plan by the Commission. Upon final action by the Commission, the applicant shall be notified of the action taken.

(b) Said notification of action taken shall be made by first-class mail, postage prepaid, or by other means deemed appropriate.
(Ord. 672, as amended by §6, Ord. 741, eff. July 7, 1983; §3, Ord. 774, eff. December 17, 1984)

Sec. 9-8.206 Appeal.

In the event the applicant is dissatisfied with the action taken on a site plan by the authorized agent, he may appeal such decision to the Commission. A Commission decision may be appealed to the City Council. Such appeal shall be filed within fifteen (15) days following notification. The decision of the City Council shall be final.
(Ord. 672, as amended by §6, Ord. 741, eff. July 7, 1983; §3, Ord. 774, eff. December 17, 1984; §2, Ord. 782, eff. November 13, 1985)

Sec. 9-8.207 Permits Required.

(a) Before commencing the erection, construction, reconstruction that would constitute a bathroom or kitchen, moving, conversion, alteration, or an addition to the structural exterior of any building, structure or property within any district shown upon the Zoning Map, permits shall be obtained from the Commission and Building Department. This section shall also apply to any structural alterations which change, in any way, the exterior appearance of projects previously issued permits by either the Planning Commission or Building Department.

(b) Anyone who is found to have engaged in the activities described in this section without obtaining such permits will be cited. They shall immediately cease such unauthorized work. They shall remove all unapproved improvements or make applications for the appropriate approval.

(c) The fee for applications made pursuant to subsection (b) of this section shall be as set by the Avalon City Council.

(d) The issuance of permits pursuant to the provisions of this section shall not be deemed or construed to permit or authorize any violation of any of the provisions of this chap-ter or of any other ordinance or law.
(Ord. 672, as amended by §6, Ord. 741, eff. July 7, 1983; §3, Ord. 774, eff. December 17, 1984)

Sec. 9-8.208 Expiration Time for Site Plan Approval.

A site plan approval which is not used within the time specified in said approval, or if no time is specified within thirty-six (36) months after the granting of approval becomes null and void and of no effect if a timely request for an extension of time has not been made or is denied. Any interruption or cessation of the permitted activity that is beyond the control of the property owner shall not result in the termination of such right or privilege.

Upon written request submitted not less than thirty (30) days prior to termination of the approval, the Planning Commission may grant one (1) six (6) month extension of such right or privilege but only upon a finding that changed circumstances peculiar to the applicant have resulted in delays beyond the applicant's control, and that the grant of the extension would not be contrary to the provisions of the Zoning Ordinance. The City Council may grant one (1) additional extension of not more than six (6) months upon a finding that changed circum-stances peculiar to the applicant have resulted in delays beyond the applicant's control, and that the grant of the extension would not be contrary to the provisions of the Zoning Ordinance.

Notice of hearing on any requested extension shall be given to any person who re-quests notice at or after the hearing on the original grant of the approval.
(§2, Ord. 866-91, eff. October 3, 1991; §3, Ord. 897-93, eff. June 3, 1993)

Article 3. Amendments

Sec. 9-8.301 Scope of Amendments.

This title may be amended to change zones, to alter the boundaries of districts, to impose regulations not heretobefore imposed, and to remove or modify any regulations heretofore imposed, pursuant to Title 7 of the Government Code (Planning Law).
(Ord. 672)

Sec. 9-8.302 Initiation of Amendments.

Changes of zone and other amendments may be initiated by the City Council or the Planning Commission.
(Ord. 672)

Sec. 9-8.303 Petition for Change of Zone.

Any owner or owners may file a petition for a change of zone, with the Commission, upon payment of a filing fee as required in Section 9-8.801 (Fees and Deposits), except that a person may not file, and the Commission shall not accept, a petition which is the same as, or substantially the same as, a petition upon which final action has been taken either by the Commission or by the City Council, within six (6) months prior to the date of said petition.
(Ord. 672)

Sec. 9-8.304 Contents of Petition for a Change of Zone.

A petition for a change of zone shall contain information as requested by the Commission, or their authorized representatives. The accuracy of all information, maps, and lists submitted shall be the responsibility of the applicant.
(Ord. 672)

Sec. 9-8.305 Consistency with Hazardous Waste Management Plan.

Zone change decisions shall be consistent with the portions of the County of Los Angeles Hazardous Waste Management Plan (App. November 30, 1989) relating to siting and siting criteria for hazardous waste facilities.
(§1, Ord. 858, eff. August 9, 1990)

Article 4. Variances and Conditional Use Permits

Sec. 9-8.401 Authorization.

The Commission may hear and act upon a variance or conditional use permit as provided herein and pursuant to Title 7 of the Government Code.
(Ord. 672, as amended by §7, Ord. 741, eff. July 7, 1983; §4, Ord. 774, eff. December 17, 1984)

Sec. 9-8.402 Procedure for Processing of Variances and Conditional Use Permits.

(a) *Submission of an Application.* Any person desiring a variance or conditional use permit required by, or provided for, in this ordinance, may file an application or petition therefor with the City Manager. However, the City Manager may not accept any application requesting a variance or conditional use permit for the same use, or substantially the same, in any case where the Commission or Council has taken a final action on a previous application within six (6) months prior thereto unless the applicant can show changed conditions.
(Ord. 672, as amended by §6, Ord. 728, eff. October 5, 1982; §7, Ord. 741, eff. July 7, 1983; §4, Ord. 774, eff. December 17, 1984)

Sec. 9-8.403 Application for a Variance or Conditional Use Permit.

A person applying for a variance or conditional use permit shall submit an application and such other information as is requested by the Commission or their authorized representatives. The accuracy of all information, maps, and lists submitted shall be the responsibility of the applicant.

Upon receipt of a complete application, the City Manager or his designee may set the matter for hearing before the Planning Commission. Notice shall be provided for such hearing as set forth in Article 9 of this chapter.
(Ord. 672, as amended by §7, Ord. 728, eff. October 5, 1982)

Sec. 9-8.404 Basis for Approval or Denial of a Conditional Use Permit.

The Commission shall consider applications for a conditional use permit and may, with such conditions as are deemed necessary, approve a conditional use which will not jeopardize, adversely affect, endanger or otherwise constitute a menace to the public health, safety or general welfare, or be materially detrimental to the property of other persons located in the vicinity of such use.

(a) In making such determination, the Commission shall find that the proposed use is in general accord with the following principles and standards:

(1) The proposed conditional use shall conform with and carry out the certified Land Use Plan for the area.

(2) The nature, condition, and development of adjacent uses, buildings and structures shall be considered and no proposed conditional use shall be permitted where such use will adversely affect or be materially detrimental to said adjacent uses, buildings and structures.

(3) The site for a proposed conditional use shall be adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping and other development features prescribed in this chapter or as required as a condition in order to integrate said use with the uses in the neighborhood.

(4) The site for a proposed conditional use shall be served by highways and streets adequate in width and improved as necessary to carry the kind and quantity of traffic such use would generate.

(5) The proposed conditional use shall be consistent with and carry out the purpose and intent of the underlying zone.

(b) Conditions imposed by the Commission for a conditional use may involve any pertinent factors affecting the establishment, operation and maintenance of the requested use, including, but not limited to:

(1) Special yards, open spaces and buffer areas.

(2) Fences and walls.

(3) Parking facilities, including vehicular ingress and egress and the surfacing of parking area and driveways to specified standards.

(4) Street and highway dedications and improvements including sidewalks, curbs and gutters.

(5) Water supply and fire protection.

(6) Landscaping and maintenance of ground.

(7) Regulation of nuisance factors such as noise, vibrations, smoke, dust, dirt, odors, gases, noxious matter, heat, glare, electromagnetic disturbances and radiation.

(8) Regulation of operating hours for activities affecting normal neighbor-hood schedules and functions.

(9) Regulation of signs, including outdoor advertising.

(10) A specified validation period limiting the time in which development may begin.

(11) Provisions for a bond or other surety that the proposed conditional use will be removed on or before a specified date.

(12) A site plan indicating all details and data as prescribed in this chapter subject to the provisions of Chapter 8, Article 2 (Site Plan Review).

(13) Such other conditions as will make possible the development of the pro-posed conditional use in an orderly and efficient manner and in general accord with all elements of the General Plan and the intent and purpose of this chapter.

(c) The Commission shall deny the requested conditional use permit where the findings indicate, and the Commission determines, that the applicant has failed to show that the requested use will not jeopardize, adversely affect, endanger or otherwise constitute a menace to the public health, safety or general welfare or be materially detrimental to the property of other persons located in the vicinity of such use, and reasonable restrictions or conditions to permit the establishment of the proposed use will not prevent detriment or menace as indicated, and that the use is not consistent with the purpose and intent of the underlying zone and does not carry out the Land Use Plan.

(d) *Additional Considerations for Transient Rental Use.* In addition to the foregoing, the Planning Commission shall consider the following in connection with an application for a conditional use permit for transient rental use:

(1) Year-Round Rental Status. In the absence of adequate mitigating measures proposed by the applicant, the application should be denied where the subject property is or has been rented for periods of more than thirty (30) consecutive days to the same occupant at any time during the two (2) years preceding the application.

(2) Neighborhood Impacts. The Planning Commission shall consider the objections of the owners and occupants of neighboring properties in determining whether the proposed use is consistent with the surrounding properties and the extent to which such impacts may be mitigated by the imposition of the standard conditions listed below or by the imposition of additional conditions. The Planning Commission may consider objections previously made in connection with applications for transient rental use at other properties located within the same general area as the subject application; however, the Planning Commission should consider the time between the prior application and the subject application, the geographical proximity of the subject application to the prior application, any differing circumstances, and additional mitigating measures proposed by the applicant, and changes in the general area, in determining the weight to be given such prior objections.

(3) Single- and Multiple-Unit Properties. In the absence of other negative findings, (a) where the property is the only unit owned by the applicant in the City and the applicant proposes to use the property himself from time to time; or (b) where the subject property contains multiple units or the applicant owns other separate properties in the City of Avalon which are utilized for year-round rental, the Planning Commission should approve the application.

(4) Condominium Associations Having Ten (10) or More Units. In the case of an application concerning property located within a condominium or similar congregate housing project consisting of ten (10) or more units, the applicant shall be required to demonstrate that (1) the subject property is not or has not been rented for periods of more than thirty (30) consecutive days to the same occupant at any time during the two (2) years preceding the application; and (2) that any governing body of the subject association generally allows transient uses at the condominium or congregated housing project.

(5) The Planning Commission shall consider whether granting the Conditional Use Permit shall result in any year round residence located adjacent to the proposed transient rental having more than a majority of the adjacent residences permitted for transient use. "Adjacent" means having a common property line with the proposed transient rental unit except for the existence of a public street or alley.

(6) The total square footage of the dwelling unit and the site of each bedroom shall be considered for determining whether to grant the conditional use permit.

(e) *Conditions to be Imposed Upon Conditional Use Permits for Transient Rental.* The Planning Commission shall impose as a condition all of the requirements and standards set forth in subsection (f), plus such additional conditions which the Planning Commission determines are appropriate to mitigate the impacts of such use.

(f) *Requirements and Standards Applicable to All Transient Rentals.* The following requirements shall apply to all properties used for transient rental:

(1) Registration, Inspection and Licensing Requirements.

a. Any managing agency, agent, owner or property manager who rents one (1) or more transient private home rental units shall be required to obtain a City business license. Failure to obtain a business license or continuing to operate a transient rental after revocation of a business license constitutes an infraction pursuant to Section 1-2.01(b) of the Municipal Code, and may result in imposition of a fine upon conviction among other penalties.

All transient rentals shall be subject to collection of transient occupancy tax as required by the Municipal Code, and each managing agency,

agent, owner and property manager of a transient rental shall collect and make payment to the City of the transient occupancy tax for their transient rental.

(2) Sign Requirements.

a. Sign Requirements. Each transient rental unit shall have posted in a location that is clearly visible from the outside of the property one (1) sign with the contents set forth below. The sign shall either be purchased at a reasonable cost through the City of Avalon Planning Department or consistent with a template provided by the City. The sign shall be made of material which affixes to a window, not to exceed two (2) square feet in size, have lettering of sufficient size to be easily read from a place accessible to the public, and shall clearly contain the following information:

(i) Street address of the transient rental unit.

(ii) Allowed maximum occupancy for the transient rental unit.

(iii) Name of the managing agency, agent, property manager, or owner of the unit, and a local telephone number at which that party or his agent may be reached on a 24-hour basis.

(3) Advertising Requirements. Any sign advertising the available use of a transient rental unit must meet all of the advertising and sign requirements found in the Avalon Municipal Code.

(4) Notice and Rental Agreement Requirements. Each transient rental unit shall have a clearly visible and legible notice posted within the unit on or adjacent to the front door, containing the following information:

a. The name of the managing agency, agent, property manager, or owner of the unit, and a local telephone number at which that party or his agent may be reached on a 24-hour basis;

b. The maximum number of occupants permitted to stay in the unit;

c. Notification that trash and refuse shall not be left or stored on the property, the scheduled dates and times for pick-up at the location, and an explanation of the City's recycling program;

d. Notification that failure to conform to the parking and occupancy requirements of the structure is a violation of this section;

e. When the City has enacted water conservancy measures by ordinance, notice of the requirements of such ordinance and a request that occupants conserve water as much as possible in the use of showers, baths, faucets and laundry.

f. Notification that use of unenclosed decks and patios between 10:00 p.m. and 8:00 a.m. is prohibited where such use generates noise which would disturb or annoy a reasonable person occupying the adjacent properties.

g. A statement that Avalon has a "zero tolerance" policy towards nuisances, rowdy and disruptive behavior and advising that the occupancy will be immediately terminated for violations of this policy.

The foregoing information shall be stated in the rental information and agreement provided to prospective renters prior to their occupancy of the unit.

(5) Vehicles. Off-street parking shall be provided on or off site such that all vehicles bearing permits issued for the unit can be parked off street, except when used pursuant to a temporary permit issued to the owner as provided in Title 4. The owner, agent and managing agency shall comply with the Avalon vehicle ordinance which (1) permits transient renters to only use the vehicle which is permitted for the location; and (2) prohibits the owner, agent or managing agency from charging for the use of the vehicle, except:

a. Properties located in the "flats" (as defined in Section 9-5.406) and properties located in the condominium known as "Bahia Vista," "Canyon Terrace," and "Sol Vista" shall not include a vehicle to be used by transient guests.

(6) Trash. The owner or managing agent shall provide written information to each transient occupant setting out the schedule for trash pick-up at the location and an explanation of the City's recycling program and ensure that there are adequate materials for disposing of trash in accordance with the City's program. All trash containers shall be secured against animal incursion.

(7) Maximum Occupancy. The maximum occupancy for transient rentals shall be two (2) persons (including children and infants) per bedroom, plus two (2); provided the Planning Commission in its discretion may establish a different maximum number where appropriate and reasonable to permit fewer persons that the foregoing formula might otherwise allow and may also increase the number that would otherwise be allowed under the foregoing formula where facts are presented demonstrating that the configuration of the property warrants it. Reasons for establishing a different maximum occupancy number include but are not limited to:

a. Size and location of the property.

b. Distinction between single- and multi-unit properties.

c. Number and size of each sleeping room in the transient rental unit.

(8) Unenclosed areas. The use of unenclosed areas, such as decks and balconies, attached to each transient rental unit shall be prohibited between the hours of 10:00 p.m. and 8:00 a.m. Monday through Sunday.

(9) Code Compliance, Fire Safety and Inspection. Each dwelling unit used for transient rental within the City is subject to all of the following inspection requirements:

a. The owner shall be responsible for compliance with all codes regarding Fire, Building and Safety, Health and Safety and other relevant laws and the requirements of paragraph (9) h. of this section.

b. Any transient rental unit which was permitted or legally nonconforming and in existence prior to the effective date of this subsection shall be made available for inspection within thirty (30) days after the effective date of this subsection. The City shall endeavor to inspect all such units within

one hundred eighty (180) days of the effective date of this subsection. The Planning Department shall coordinate with the property owner and the inspectors to arrange for reasonable notice and the date of inspection. Within fifteen (15) days following inspection, the inspectors shall submit an original, signed inspection report to the Planning Department, or, where applicable, provide notice that the property owner has unreasonably prevented inspection. Failure to cooperate with the scheduling of the inspection shall subject the approval to use the unit as a transient private home rental to revocation. Any new transient rental unit established after the effective date of this subsection shall be inspected prior to commencement of the use, which inspection shall be scheduled and conducted within thirty (30) days of approval. In addition to the registration for each unit as required in Section 9-8.404(f)(1) above, an original, signed inspection report for each unit shall be submitted to the Business License Representative in order to obtain approval to use the unit as a transient rental.

c. Inspections shall be conducted by a qualified inspector(s) authorized and approved by the City to conduct such inspections. Inspectors shall demonstrate appropriate qualifications to conduct the required inspections as determined by the Building Official or the Fire Department, as applicable. The cost of such inspections, plus any administrative charges shall be paid by the owner pursuant to the City's adopted fee schedule. The City shall make every reasonable effort to ensure that inspections are completed in a timely manner.

d. After the initial inspection, each rental unit shall be reinspected no less than once every three (3) years following the original inspection. Verification of inspection will be done at the time of business license renewal. Failure to submit inspection reports shall result in revocation of approval to use the unit for transient rentals.

e. Inspections shall verify compliance with all applicable provisions of this section.

f. If upon completing an inspection of a transient rental, the inspector(s) determines that the unit is not in conformance with this section, the inspector shall provide the managing agency, agent, owner or property manager with a list of required corrections, set a reasonable time for correction and a date for reinspection. A copy of the foregoing shall also be given to the Planning Department. If the unit is registered with the City as a transient rental, approval by the City to use the unit for transient rental shall be suspended until correction and reinspection if determined by the inspector to present an immediate health and safety hazard, and submission of a new inspection report for the unit indicating compliance with this section. If the unit is not yet registered with or approved by the City, approval for its use as a transient rental shall be withheld until submission of a new inspection report for the unit indicating compliance with this section.

g. Noncompliance by an owner, managing agency, property manager or agent of the requirements for registration, inspection and operation of transient private home rentals may result in the revocation of the business license and conditional use permit authorizing the use, and upon revocation, no new business license or conditional use permit may be issued to the same transient rental licensee for a period of twelve (12) months following such revocation.

h. The following requirements for transient rentals will be evaluated upon inspection of each unit, and shall constitute minimum requirements. The unit must be brought into conformance with these requirements and any other applicable codes and ordinances in order for the use to be allowed.

1. Required sign and notice must be posted, and address of unit must be legible from outside the property unless exempted.

2. Smoke detectors shall be installed within each sleeping room and at a point centrally located in the corridor or area giving access to each separate sleeping room. Battery-operated smoke detectors are acceptable, provided that they are maintained in good working order at all times, or except as required by other applicable codes. Where fire suppression systems have been installed, such systems shall also be subject to the inspection and testing requirements set forth in Title 4, Chapter 3.

3. The transient private home rental shall be equipped with a minimum of one (1) 2A.1OB:C type extinguisher with seventy-five (75') feet of travel distance to all portions of the structure; there shall be no less than one (1) such extinguisher per floor. Fire extinguishers shall be mounted in visible locations with the tops of the extinguishers mounted between three (3') feet and five (5') feet above the floor and shall be accessible to occupants at all times. California State Fire Marshal annual certification tags must be provided and be current on all extinguishers.

4. Any locking mechanism on outside doors must be operable from inside the unit without the use of a key. If the dwelling unit is greater than three thousand (3,000) square feet in area, two (2) exit doors shall be required, each of which shall conform to this requirement.

5. Transient rentals shall be maintained in a clean and sanitary condition and free from hazards, which shall include meeting the following requirements:

i. There shall be no exposed wiring, improper wiring materials, or overloaded electrical circuits;

ii. There shall be no permanent use of extension cords for appliances, heaters, lamps or other fixtures;

iii. There shall be no leaking fixtures, clogged or leaking wastewater lines;

iv. Faucets and fixtures shall be maintained in working conditions;

v. Showers, sinks and bathing facilities shall be clean and properly maintained;

vi. There shall be no evidence of pest infestations;

vii. If directed by the Fire Department, bedroom windows shall be operable to allow for emergency egress;

viii. There shall be at least one (1) window per bedroom, to allow for proper interior ventilation;

ix. There shall be no accumulation of trash and/or debris on the site or within the unit;

x. All steps, stairways, decks and railings shall be stable and structurally sound;

xi. All standard appliances, including but not limited to kitchen appliances, furnaces and water heaters, shall be operational;

xii. Any hot tubs, pools and spas shall be fenced or equipped with an approved cover with locking mechanisms as required by State law, and shall be maintained in a safe and sanitary condition;

xiii. Any lofts or attic conversions shall be provided with acceptable exiting and head clearance; stairs or providing access to these areas shall be safe and structurally sound;

xiv. Exits shall remain clear of storage, debris or impedance at all times.

i. Owner and Management Requirement.

1. The managing agency, agent, property manager, or owner of the unit whose name and local telephone number appears on the sign pursuant to Section 9-8.404(f)(2) must maintain a physical presence within the geographical limits of the City of Avalon during the term of the transient rental unit lease in order to provide prompt response to complaints.
(Ord. 672, as amended by §7, Ord. 741, eff. July 7, 1983; §4, Ord. 774, eff. December 17, 1984; §3, Ord. 1003-01, eff. December 20, 2001; §§1–4, Ord. 1038-06, eff. March 23, 2006; §1, Ord. 1097-10, eff. July 1, 2010)

Sec. 9-8.405 Basis for Approval or Denial of a Variance.

The Commission may grant a variance, with such conditions as are deemed necessary to protect the public health, safety and general welfare. Variances from the terms of the Zoning Ordinance shall be granted only when, because of special circumstances applicable to the property including size, shape, topography, location or surroundings, the strict application of the Zoning Ordinance deprives such property of privileges enjoyed by other property in the vicinity and under identical zoning classification.

Any variance granted shall be subject to such conditions as will assure that the adjustment thereby authorized shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is situated.

A variance shall not be granted for a parcel of property which authorizes a use or activity which is not otherwise expressly authorized by the zone regulation governing the parcel of property. No variances shall be granted which reduce or adversely affect access to or along the shoreline, including physical or visual qualities of access. The variance shall be consistent with the Local Coastal Program. Conditions imposed by the Commission for a variance may involve any pertinent factors affecting the establishment, operation or maintenance of the requested use, including, but not limited to:

(a) Granting a variance for a limited time only.

(b) Granting for a limited time only, an expansion or extension of a previously granted variance or a nonconforming use, on condition that at the end of such time such prior variance or nonconforming use shall also terminate and the property shall thereafter be used for such purposes as are permitted in the zone in which such property is located.

(c) That certain uses, where authorized by the variance or lawful without such variance, be confined to designated portions of the property or to designated days, or designated times in a day.

(d) That certain uses, even if lawful without the granting of the variance, not be made of the property.

(e) That certain uses, where lawful without the granting of the variance, be not made of the property unless and until certain conditions exist.
(Ord. 672, as amended by §7, Ord. 741, eff. July 7, 1983; §4, Ord. 774, eff. December 17, 1984)

Sec. 9-8.406 Notice of Action Taken on a Request for a Variance or Conditional Use Permit.

(a) The Commission shall notify the applicant for a variance or conditional use permit of the action taken on the application.

(b) Notification of the actions of the Commission shall be made either by serving a notice in a manner required by law for the service of summons, or by mailing of a written notice using registered or certified mail, postage prepaid, with a return receipt requested.
(Ord. 672, as amended by §7, Ord. 741, eff. July 7, 1983; Ord. 774, eff. December 17, 1985)

Sec. 9-8.407 Effective Date of a Variance or Conditional Use Permit.

An order by the Commission granting or denying a variance or conditional use permit shall become final and effective fifteen (15) days after receipt by the applicant of a written notice of action taken on a case provided no appeal of the action taken has been filed with the City Clerk within the said fifteen (15) days.
(Ord. 672, as amended by §7, Ord. 741, eff. July 7, 1983; §4, Ord. 774, eff. December 17, 1985; §3, Ord. 782, eff. November 13, 1985)

Sec. 9-8.408 Continuing Validity of a Variance or Conditional Use Permit.

A variance or conditional use permit that is valid and in effect, and was granted pursuant to the provisions of this title, shall adhere to the land and shall continue to be valid upon changes of ownership of the land or any lawfully existing building or structure on said land.
(Ord. 672)

Sec. 9-8.409 Assurance of Faithful Performance of Imposed Conditions.

Whenever the Commission grants or modifies a variance or conditional use permit and the grant or modification of said variance or conditional use permit is subject to one or more conditions, the Commission may require that the applicant or the owner of the property to which such variance or conditional use permit applies, file with the City Clerk a surety bond, or a corporate surety bond, or a deposit of money, or savings and loan certificates or shares in an amount prescribed and for the purpose of guaranteeing the faithful performance of said conditions.
(Ord. 672)

Sec. 9-8.410 Expiration Time for a Variance or Conditional Use Permit.

A variance or conditional use permit which is not used within the time specified in said permit, or if no time is specified within thirty-six (36) months after the granting of the re-quest shall terminate. Such termination shall take effect without further City action if a timely request for an extension of time has not been made or is denied. Any interruption or cessation of the permitted activity that is beyond the control of the property owner shall not result in the termination of such right or privilege.

Upon written request submitted not less than thirty (30) days prior to termination of the approval, the Planning Commission may grant one (1) six (6) month extension of such right or privilege but only upon a finding that changed circumstances peculiar to the applicant have resulted in delays beyond the applicant's control, and that the grant of the extension would not be contrary to the provisions of the Zoning Ordinance. The City Council may grant one (1) additional extension of not more than six (6) months upon a finding that changed circum-stances peculiar to the applicant have resulted in delays beyond the applicant's control, and that the grant

of the extension would not be contrary to the provisions of the Zoning Ordinance.

Notice of hearing on any requested extension shall be given to any person who re-quests notice at or after the hearing on the original grant of the approval.
(Ord. 672; §2, Ord. 866-91, eff. October 3, 1991; §4, Ord. 897-93, eff. June 3, 1993)

Sec. 9-8.411 Termination of a Variance or Conditional Use Permit.

Except as provided in subsection (a) below, a variance or conditional use permit shall cease to be of any force and effect if the use has ceased or been suspended for a consecutive period of one (1) or more years.

(a) With respect to conditional use permits for transient rentals, the permit or legally nonconforming use shall not terminate if the use has ceased or been suspended for a minimum period of one (1) year and all of the following: (1) the property is rented (or made available for rental) for a minimum one (1) year period; (2) prior to suspending the transient use, the owner, agent or managing agency notifies the Planning Department in writing of the intention to cease or suspend transient rental in order to rent the property for a minimum one (1) year period; and (3) the owner, agent or managing agency provides the Planning Department with a copy of a lease agreement for a minimum one (1) year period.
(Ord. 672; §3, Ord. 1003-01, eff. December 20, 2001)

Sec. 9-8.412 Maintenance of a Nuisance.

Neither the provisions of this title nor the granting of any variance or conditional use permit authorizes or legalizes the maintenance of a nuisance, either public or private.
(Ord. 672)

Sec. 9-8.413 Regulations Apply to Conditional Use Permits and Variance.

Unless specifically modified by a conditional use permit or variance all regulations prescribed in the zone in which such conditional use permit or variance is granted shall apply.
(Ord. 672)

Sec. 9-8.414 Consistency with Hazardous Waste Management Plan.

Conditional use permit and variance decisions shall be consistent with the portions of the County of Los Angeles Hazardous Waste Management Plan (App. November 30, 1989) relating to siting and siting criteria for hazardous facilities.
(§2, Ord. 858, eff. August 9, 1990)

Article 5. Revocation

Sec. 9-8.501 Revocation or Modification of a Variance, Conditional Use Permit or Nonconforming Use.

The Commission on their own motion, or if instructed by the City Council, without the filing of an application, may revoke or modify any previously granted variance, conditional use permit, or nonconforming use after a public hearing if the Commission finds:

(a) That such variance, conditional use permit or nonconforming use was obtained by fraud; or

(b) That such variance, conditional use permit or nonconforming use was not being exercised; or

(c) That such variance, conditional use permit or nonconforming use has ceased or has been suspended for one year or more.

(d) If any provision of said variance or conditional use permit is held or declared to be invalid, said variance or conditional use permit shall be void and all privileges granted here-under shall lapse.

(e) If the Commission finds that any term and/or condition of approval of any variance, conditional use permit, or non-conforming use permit are being or have been violated, or that the exercise of any variance, conditional use permit, or non-conforming use permit constitutes, or is likely to constitute, a nuisance, the Commission may, at its sole discretion, revoke or modify such variance, conditional use permit, or non-conforming use permit.
(Ord. 672; §2, Ord. 1144-15, eff. December 17, 2015)

Sec. 9-8.502 Additional Grounds for the Revocation or Modification of a Nonconforming Use.

A nonconforming use may also be revoked, after a public hearing, if the Commission finds:

(a) That the conditions of the improvement, if any, on the property are such that to require the property to be utilized only for those uses permitted in the zone where it is located would not impair the constitutional rights of any person, or

(b) That the nature of said improvements is such that they can be altered so as to be used in conformity with the uses permitted in the zone in which such property is located without impairing the constitutional rights of any person.
(Ord. 672)

Sec. 9-8.503 Notice of Action of a Revocation.

(a) The Commission shall notify the person owning or operating a use for which a revocation or modification of a variance, conditional use permit, or nonconforming use, which was the subject of a public hearing for revocation or modification, and such other persons known to the Commission as having any right, title or interest in the property, of the action taken by the Commission.

(b) Said notification of the action by the Commission shall be made either by serving a notice in the manner required by the law for the service of a summons, or by mailing a written notice using registered or certified mail, postage prepaid, with a return receipt re-quested.
(Ord. 672)

Sec. 9-8.504 Effective Date of a Revocation.

An order by the Commission revoking or modifying a variance, conditional use permit or nonconforming use shall become final and effective fifteen (15) days

after receipt by the owner or operator of such use of a written notice of action taken on a case, provided no appeal of the action taken has been filed with the City Clerk within the said fifteen (15) days.
(Ord. 672)

Article 6. Appeals

Sec. 9-8.601 Appeals of Commission Decision.

(a) Within fifteen (15) days after the receipt by the applicant for a variance or conditional use permit, or receipt by the owner or operator of a use which was the subject of a public hearing for revocation or modification, or notice of the action of the Commission, any person dissatisfied with the action of the Commission may file with the City Clerk an appeal from such action.

(b) Upon receiving a notice of appeal, the City Council may:

(1) Affirm the action of the Commission; or

(2) Require a transcript or recording of the testimony, and all other evidence upon which the Commission made its decision, and after receiving such evidence take such action as, in its opinion, is indicated by such evidence alone; or

(3) Refer the matter back to the Commission, with or without instructions for further proceedings; or

(4) Set the matter for hearing before itself. At such hearing, it shall hear and decide the case de novo.
(Ord. 672)

Sec. 9-8.602 Points Considered on Appeal.

In any case in which the City Council sets the matter for hearing before itself, or receives the transcript or recording and all other evidence upon which the Commission made its decision, City Council's decision on appeal need not be limited to the points appealed, but may cover all phases of the matter including the addition or deletion of any conditions.
(Ord. 672)

Sec. 9-8.603 Finality of Decisions Regarding Appeals.

The decision of the City Council upon an appeal from an action of the Commission, is final and conclusive as to all things involved in the matter.
(Ord. 672)

Article 7. Nonconforming Uses and Buildings

Sec. 9-8.701 Applications of Regulations.

The following regulations shall apply to all nonconforming uses:

Continuation of Nonconforming Uses. A nonconforming use may be continuously maintained provided there is no alteration or addition to any structure nor any enlargement of area, space or volume occupied by or devoted to such use, except as otherwise provided in this title.
(Ord. 672)

Sec. 9-8.702 Termination of Nonconforming Uses.

(a) *Termination by Violation of Ordinance.* Any of the following violations of this title shall terminate the right to operate a nonconforming use, except as otherwise provided in this title, pursuant to Section 9-8.303.

(1) Changing a nonconforming use to a use not permitted in the zone.

(2) Increasing or enlarging the area, space or volume occupied by or de-voted to such nonconforming use.

(3) Addition to a nonconforming use of another use not permitted in the zone.

(b) *Termination by Discontinuance.*

(1) Discontinuance of a nonconforming use as indicated herein shall immediately terminate the right to operate such nonconforming use, except when extended as otherwise provided in this title.

(2) Changing a nonconforming use for a period of twelve (12) or more successive calendar months.
(Ord. 672)

Sec. 9-8.703 Nonconforming Structures.

The following regulations shall apply to all buildings and structures which are nonconforming as a result of development standards adopted in this title.

(a) A nonconforming building or structure may be continuously maintained pro-vided there is no alteration, addition or enlargement of any area, space or volume of the structure, except for the following:

(1) The alteration is required by other applicable law;

(2) The alteration will result in the elimination of the nonconforming conditions; or

(3) The alteration consists of a minor improvement, repair, modification, or remodeling which does not increase the degree of nonconformity present. Any new structure incidental to the nonconforming building or structure is deemed to be an expansion under this section.

(4) The premises are located on a lot which is less than two thousand two hundred (2,200) square feet and in the area depicted in Appendix A, the

nonconformity relates to parking, setbacks or height and the alteration or improvement results in an increase of less than fifty (50%) percent of the square footage of the existing or previously existing structure. For all other premises, the nonconformity relates to parking or setbacks and the alteration or improvement results in an increase of seventy (70) square feet or less.

(b) Buildings or structures damaged or destroyed by fire, flood or other natural disasters may be rebuilt to their preexisting setbacks, sizes, floor area ratios and densities or legal nonconformities with the development standards established by this Title as long as there is no increase in the nonconformity from that which existed prior to the buildings or structures' damage or destruction.

(c) A building or structure that is located in a residential zone and is nonconforming as to density may maintain the nonconforming density and be permitted to seek approval to alter, add to or enlarge area, space or volume of the structure, but only when all of the following apply:

(1) The nonconforming density is no more than one (1) unit above the number of units that would be permitted under current zoning regulations, including therewith density bonus units;

(2) The alteration, addition or enlargement does not increase the existing degree of nonconformity as to any development standard other than density, such as height, floor to lot ration, setbacks, lot coverage, parking, or the provision of trash storage, unless a variance is applied and granted therefor.

(3) The owner enters into a recorded agreement approved by the City Attorney restricting the use of the nonconforming units to year round housing for a period of fifteen (15) years from the date of the issuance of a building permit for the alteration, addition or enlargement.

(4) The nonconforming unit has existed for at least five (5) years before July 1, 2006, as reflected by records in the Los Angeles County Assessor's, records of the City Finance Office for payment of salt, sewer and/or trash fees or similar documentation which, the determination of the Planning Commission confirms the existence of the unit for the required time period.
(Ord. 672; §1, Ord. 854-90, eff. March 22, 1990; §5, Ord. 945-97, eff. October 16, 1997; §1, Ord. 1047-06, eff. December 7, 2006; §§1,2, Ord. 1087-09, eff. November 19, 2009)

Article 8. Fees and Deposits

Sec. 9-8.801 Filing Fees and Deposits.

Each applicant for a change of zone, variance, conditional use permit, site plan review, or for other relief provided for in this title, shall pay those fees and costs as established by resolution of the City Council of the City of Avalon.
(Ord. 672)

Sec. 9-8.802 Penalties.

(a) Except as provided in subsection (b) below, the filing fees and deposits specified in Section 9-8.801 of this article may be increased by the Planning Commission, in its discretion, after notice and hearing, up to a maximum of five (5) times, when work requiring a permit has been started or carried on prior to obtaining all required permits.

(b) With regard to a conditional use permit for transient rentals pursuant to 9-8.804 et seq., the filing fees and deposits specified in Section 9-8.801 of this article and applicable thereto may be increased by the Planning Commission, in its discretion, after notice and hearing, up to a maximum of ten (10) times, when such use has been made, advertised, started or carried on prior to obtaining all required permits and other approvals. In addition, any person making, advertising, starting or carrying on transient rental use prior to obtaining all required permits and other approvals shall submit to an audit, pay to the City the cost thereof, and pay all amounts found to be due after such audit. No permit for transient use shall be issued until the provisions of this section and any penalties assessed and all audit requirements have been fully satisfied.
(§1, Ord. 700; §4, Ord. 1003-01, eff. December 20, 2001)

Article 9. Notice of Public Hearing

Sec. 9-8.901 Notice of Public Hearing on Applications or Petitions for a Zone Change, Variance or Conditional Use Permit.

Not less than ten (10) days prior to the date of a hearing on applications or petitions for a zone change, variance or conditional use permit, the Commission shall give notice which shall include the time, place, and purpose of such hearing, the general location of the property under consideration, and such other information as it deems necessary as provided herein:

(a) Cause a copy of such notice to be published once in a newspaper of general circulation in the City of Avalon;

(b) Cause such notice to be mailed by first-class mail, postage prepaid, to the applicant and to all persons whose names and addresses appear on the latest available assessment roll of the County of Los Angeles as owning property within a distance of three hundred (300') feet from the exterior boundaries of the area actually to be occupied by the use for which an application for a variance or conditional use permit is filed, or, in the case of a zone change, from the exterior boundaries of the property for which a petition for a change of zone is filed, and to such other persons whose property or interests might, in the judgment of the Commission or its designee, be affected by the establishment of the variance, zone change or conditional use permit requested. In the case of an application for a conditional use permit for transient rental, the Commission shall also cause to be posted on the subject property in a location clearly visible from the street, a notice which measures at least eleven (11") by fourteen (14") inches and which contains the information included in the notice as set forth in subsection (a) above; and

(c) If the Commission finds that the mailing of notices prescribed elsewhere in this section may not give sufficient notice to said persons, then such notices shall be posted at such locations as are deemed best suited to reach the attention of and inform those persons who may be affected. This notice may be combined with any coastal permit.
(Ord. 672; §6, Ord. 1003-01, eff. December 20, 2001)

Article 10. Enforcement

Sec. 9-8.1001 Procedure for Enforcement.

Any building or structure erected, constructed, altered, enlarged, converted, moved or maintained contrary to the provisions of this title shall be and the same is hereby declared to be unlawful, and the City Attorney at the request of the Commission shall commence appropriate legal action or proceedings for the abatement, removal or the enjoining thereof, in the manner prescribed by law.
(Ord. 672)

Article 11. Violations and Penalties

Sec. 9-8.1101 Penalty for Violations of This Title.

Violation of any pro-visions of this title or of any approval, conditional use permit, or variance granted hereunder is a misdemeanor. Conviction for such misdemeanor shall be punishable by a fine not to exceed Five Hundred and no/100ths ($500.00) Dollars, or by imprisonment in the County Jail for a period not to exceed six (6) months, or by both such fine and imprisonment. Each separate day or any portion thereof during which any violation of this title occurs or continues constitutes a separate offense and upon conviction thereof shall be punishable as herein provided.

Any violation of this title shall also constitute a violation of Division 20, Section 30000 et seq. of the Public Resources Code of the State of California and shall be subject to the remedies, fines and penalties provided in Division 20, Chapter 9, Section 30800 et seq. of the Public Resources Code. However, this provision shall not preclude any enforcement under the provisions of the City of Avalon Municipal Code.
(Ord. 672)

Article 12. Story Poles

Sec. 9-8.1201 Story Poles.

(a) The installation or staking of story poles shall be required in the following instances:

(1) For all applications for proposed new development or redevelopment projects which request a variance from standards of development dictating height requirements; or

(2) On a case-by-case basis as required by the Planning Commission when, upon consideration of an application for an entitlement, the Planning Commission finds that story poles would assist the Planning Commission in its consideration of the entitlement.

(b) All story poles must be installed or staked not less than fifteen (15) days prior to the date for which the hearing on the application is scheduled.

(c) A story pole plan shall be reviewed by Planning Staff in coordination with the applicant prior to installation of story poles. The plan shall include the following:

(1) Placement of story poles that are sufficient to show the mass, bulk, height, and scale of the structures and measured from a permanent benchmark on or near the proposed project.

(2) Major building corners, finished floor levels, significant elements, length of façade within a specific view shed, ridgelines, and a scale should be shown. It may be necessary to stake more than just the four (4) corners of a structure if significant spans are involved.

(3) Outline of the building footprint with stakes and construction netting or other visible project elements.

(4) Changes proposed in grade, with finished height and elevations, should be shown by color coding the stakes or poles.

(5) Materials proposed to be used for story poles: Story poles should be made of 2x lumber or metal pipe (PVC piping may be allowed in some instances) or other study material and cable, wire or rope of sufficient gage to be visible from off-site. All lumber or pipe should be braced for safety purposes. The cable, wire or rope connections should clearly depict the roofline and ridgelines. Installed story poles, site key, and associated flagging shall be of materials and method of installation to withstand reasonably foreseeable weather or other site factors for the required duration of display.

(6) For large or complex projects (determined at the discretion of the Planning Director), a story pole plan and legend (11" by 17") will be posted on the project site and the Planning Staff's website to inform viewers about the project.

(7) The plan is to include the date the story poles are proposed to be installed, as well as the length of time the story poles will remain on site.

(d) Notwithstanding the requirements in subsection (c), the story poles do not have to and should not depict all the articulations of the building.

(e) The story poles shall be installed according to the story pole plan and the following requirements:

(1) The story pole installation shall be certified by the licensed professional (surveyor, architect, landscape architect, or contractor) who prepared the story pole plan and/or installed the story poles. The certification shall be submitted to staff after installation of the story poles, but before review by the Planning Commission or other review body.

(2) Story poles shall remain in place for a minimum of fifteen (15) days after the review hearing to allow for filing of any appeal per Section 1-4.02. The poles shall also remain in place throughout the duration of the appeal process and until final resolution of the matter by the City Council, unless the City Council has given permission for the poles to be removed during the appeal process.

(3) If story poles are damaged, replacement may be required as directed by the Planning Director.

(f) Staff is required to:

(1) Notify the Planning Commission or City Council if story poles are installed for a project on which they are the decision maker.

(2) Document the installed story poles with photographs.
(§1, Ord. 1102-10, eff. January 6, 2011; §1, Ord. 1139-15, eff. August 6, 2015)

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CHAPTER 9 - APPLICABLE ORDINANCE

Article 1. Adherence to Other Applicable Ordinances

Sec. 9-9.101 Observation of Applicable Provisions.

The provisions of other applicable State, County, and City statutory and ordinance provisions shall be observed and compliance rendered with the more stringent regulations.
(Ord. 672)

CHAPTER 9 - APPLICABLE ORDINANCE
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CHAPTER 10 - PUBLICLY-OWNED PROPERTY

Article 1. Approval of Acquisition

Sec. 9-10.101 Designation of Use by Commission.

When the Commission, pursuant to Chapter 3, Title 7, of the Government Code, approved the acquisition of any square, park or of any other public ground or open space by any public entity, it may, in the approval, designate for what purpose and to what extent said property may be used.
(Ord. 672)

Article 2. Use of Publicly-Owned Property

Sec. 9-10.201 Additional Use of Designated Property.

When the Com-mission so approves the acquisition of publicly owned property, such property may be used for any use designated pursuant to this article by the Commission in addition to those uses permitted in the zone in which such property is located.
(Ord. 672)

CHAPTER 10 - PUBLICLY-OWNED PROPERTY
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CHAPTER 11 - AFFORDABLE HOUSING*

Sec. 9-11.101 Purpose.

The purpose of this chapter is to:

(a) Foster realization of the goals of the community vision elaborated in the Avalon 2020 Vision as adopted by resolution of the City Council on August 14, 2003. The Avalon 2020 Vision was drafted by a working group of Avalon citizens after numerous community meetings, focus groups, and surveys and embodies the statement of policy pursuant to which the comprehensive, long-term plans for the development of Avalon shall be formulated and measured. With regard to housing, the Avalon 2020 Vision states as a goal that "residents have access to dignified, affordable housing."

(b) Encourage the availability of dignified, safe, and affordable workforce housing within the City of Avalon by promoting development of decent living environments and removing unnecessary barriers to such development in order to increase the opportunities for dignified, safe, and affordable housing for lower-, moderate-, and middle-income households, as well as households with special needs, and to thereby implement the housing policies articulated in the Housing Element of the General Plan.

(c) Assist in the development of affordable home ownership opportunities for lower-, moderate-, and middle-income residents.
(§9-11.101, Ord. 1092-10, eff. May 20, 2010)

***Editor's Note:** Prior ordinance history includes portions of Ordinance Nos. 672, 742, 840, 1018 and 1061-07.

Sec 9-11.102 Findings.

The City of Avalon finds that:

(a) Both California and the City face a serious housing problem that threatens their economic security. Lack of access to workforce housing has a direct impact on the health, safety, and welfare of the residents of the City. The City will not be able to contribute to the attainment of State housing goals or to retain a healthy environment without additional affordable housing. The house problem has an impact upon a broad range of income groups including many who are not impoverished by standards other than those found in California's and the City's housing markets, and no single housing program will be sufficient to meet the housing need.

(b) Without assistance from government, there exists within the City a shortage of workforce housing that is affordable (either for rental or purchase) to persons of lower, moderate, and middle income. While Federal and State money and programs continue to assist in meeting the housing needs of lower- and moderate-income groups, middle-income housing is not eligible for this money or programs.

(c) Strong demand for second (vacation) homes has helped push the purchase price of a home in the City beyond the reach of much of the local workforce, including middle-income households.

(d) Home ownership helps foster a stable middle income population that strengthens and benefits the community economically and socially. Rapid rises in real property and development costs have eliminated affordable housing for the middle class in the City. Teachers, firefighters, managers, medical professionals, and others considered as middle class can no longer afford to purchase a modest home. The percentage of local residents who own their homes has declined in the past twenty (20) years from thirty-three (33%) percent to twenty-five (25%) percent.

(e) There is a need to develop housing removed from the speculative real estate market by imposing various restrictions designed to ensure that it is owned and lived in by local workers and remains in the affordable housing pool when sold.

(f) Development of new commercial projects and market-rate housing encourages new residents to move to the City. These residents, together with other commercial projects, will place demands on services provided by both the public and private sectors. Some of the public and private sector employees needed to meet the needs of the new residents or commercial developments earn incomes only adequate to pay for affordable housing. Because affordable housing is in short supply within the City, these employees may be forced to live in less than adequate housing within the City or pay a disproportionate share of their incomes to live in adequate housing. These circumstances harm the City's ability to attain goals articulated in the City's General Plan and strain the City's ability to accept and service new market-rate housing development or commercial projects.

(g) If new development is solely created for higher income, second home ownership, it will exacerbate the work force housing shortage and reduce the limited supply of water and developable land that is available for affordable workforce housing within the City.

(h) The requirement to provide affordable housing in new projects will serve and important public purpose and help mitigate the impacts of such development on the affordable housing shortage. Inclusionary housing policies continue to a healthy job and housing balance.

(i) The citizens of the City seek a well-planned, aesthetically pleasing and balanced community, with housing affordable to lower-, moderate-, and middle-income households. Workforce housing should be available through the City, and not restricted to a few neighborhoods and areas. However, there may also be trade-offs where constructing affordable units at a different site than the site of the principal projects may produce a greater number of affordable units without additional costs to the project applicant. Thus, the City finds that in certain limited circumstances, the purpose of this chapter may be better served by allowing the developer to comply with the inclusionary requirement through alternative means, such as the payment of in-lieu fees, development of off-site housing, or dedication of land. For example, if a project applicant can produce a significantly greater number of affordable units off site, then it may (but not always) be in the best interest of the City to permit the development of affordable units as a different location than that of the principal project, as further set forth in this Chapter 11.

(j) The City is aware that there may be times when the inclusionary housing requirements make market-rate housing more expensive. In weighing all the factors, including the significant need for affordable housing, the City has made the decision that the community's interests are best served by the adoption of this inclusionary housing ordinance.
(§9-11.102, Ord. 1092-10, eff. May 20, 2010)

Sec. 9-11.103 Definitions.

Please note these definitions contain additional provisions and requirements of the Inclusionary Housing Program. Please read carefully.

"Affordable housing cost" shall mean those certain costs associated with owning a home which results in monthly housing payments (including principal, interest, taxes, insurance, homeowners' association dues, and utilities) below or equal to one-twelfth (1/12) of thirty (30%) percent of the maximum annual income for an eligible

low-, moderate-, or middle-income household.

"Affordable rent" shall mean monthly rent (including utility allowance, insurance, and home association costs, if any) that does not exceed one-twelfth (1/12) of thirty (30%) percent of the maximum annual income for a household of the applicable income level (low, moderate, or middle income).

"Affordable unit/low income" shall mean: (1) a housing unit which either has a monthly contract rent which is equal to or less than the Fair Market Rent as established by the U.S. Department of Housing and Urban Development (HUD) for the Section 8 existing or new construction rental assistance programs and which is subject to a Section 8 agreement assuring that HUD will assist lower income persons to rent such units, or (2) units which rent at a monthly rate, including a utility allowance, not to exceed thirty (30%) percent of the low-income family's income, or (3) a unit made available and guaranteed by a Federal or State agency to achieve the goal of providing affordable housing to those that earn eighty (80%) percent or less of the median income for the SMSA.

"Affordable unit/middle income" shall mean a housing unit which is made available for the use of middle-income families and which either: (1) rents at a monthly rate between one hundred twenty-one (121%) percent and two hundred fifty (250%) percent of the Fair Market Rent (FMR) for existing units in the SMSA as promulgated by HUD, or (2) a unit which is sold and/or resold to a person or family which meets the income eligibility requirements as defined herein for "middle income."

"Affordable unit/moderate income" shall mean a housing unit which is made available for the use of moderate-income families and which either: (1) rents at a monthly rate not to exceed one hundred twenty (120%) percent of the Fair Market Rent (FMR) for existing units in the SMSA as promulgated by HUD, or (2) a unit made available and guaranteed by a Federal or State agency to achieve the goal of providing affordable housing to moderate-income families in the SMSA, or (3) a unit which is sold and/or resold to a person or family which meets the income eligibility requirements as defined herein for "moderate income."

"Area median income" or "AMI" shall mean the area median income for Los Angeles County, California, adjusted for family size, as annually estimated by the United States Department of Housing and Urban Development pursuant to Section 8 of the United States Housing Act of 1937 or as published in Section 6932 of Title 25 of the California Code of Regulations or any successor provision published pursuant to California Health and Safety Code Section 50093(c).

"Assets" shall mean anything owned by an individual that has commercial or exchange value. Assets consist of specific property or claims against others, in contrast to obligations due to others . Assets do not include household personal goods used for day to day living or equipment used in the regular course of a person's business.

"City Manager" shall mean the City of Avalon City Manager or his or her designee.

"Continued affordability" shall mean: (1) for rental units, that prior to the development of any units in a project, a recordable contract will be signed between the developer and the City that is binding upon the developer and any successors, to provide and maintain the affordable units consistent with the provisions of this chapter for a period of fifty-five (55) years, and (2) for sale units, that prior to the development of any units in a project, a deed restriction will be recorded limiting the developer and any successors, whenever the unit is sold, to sell such unit to persons meeting the income eligibility requirements for low-, moderate-, or middle-income units as defined herein for a period of fifty-five (55) years. (3) Affordable units created under this chapter shall only be sold to low-, moderate-, or middle-income households that will reside in the unit on a year-round basis. (4) As a condition of the rental or sale of any unit created under this chapter, the City must verify that the conditions of this chapter, and any contract or deed restriction established pursuant to this chapter, are fulfilled.

"Co-signer" shall mean a joint signatory of a promissory note who shall not occupy the unit unless qualified by the City.

"Deed restricted covenant" shall mean the document that contains the details of the applicable deed restriction.

"Deed restriction" shall mean a contract entered into between the City and the owner or purchaser of real property identifying the conditions of occupancy and resale.

"Density bonus" shall mean an increase in the number of units authorized for a particular parcel beyond normal densities authorized in the City's Land Use Element and Zoning Ordinance. These additional densities shall be used exclusively to provide market rate year round rental housing.

"Eligible household" shall mean households whose income and assets limits for various household sizes are either low income (eighty (80%) percent area median income), moderate income (one hundred twenty (120%) percent (area median income), or middle income (two hundred fifty (250%) percent area median income).

"Employer" shall mean a business whose business address is located on Santa Catalina Island, including its waters and harbors, whose business employs Qualified Employees on Santa Catalina Island. If an employer is not physically based on Santa Catalina Island, a Qualified Employee must be able to verify that they work on Santa Catalina Island a minimum of thirty (30) hours a week on average in a calendar year.

"Family" shall mean a household of one (1) or more members.

"Financial statement" shall mean a statement detailing all personal assets, liabilities and net worth (the difference between assets and liabilities) as of a specific date.

"Gross assets" shall mean anything which has tangible or intangible value, including property of all kinds, both real and personal, includes among other things, patents and causes of action which belong to any persons, as well as any stock in a corporation and any interest in the estate of a decedent; also, the entire property of a person, association, corporation, or estate that is applicable or subject to the payment of debts. Gross assets shall include funds or property held in living trust or any similar entity of interest, where the person has management rights or the ability to apply the assets to the payment of debts. Gross assets shall not include household personal goods used for day to day living or equipment used in the regular course of a person's business.

"Gross income" shall mean the total income received, including but not limited to alimony, child support, income derived from a business, trust, employment, and from income-producing properties before deductions for expenses, depreciation, taxes, and similar allowances.

"Household" shall mean one (1) person living alone or two (2) or more persons sharing residency whose income is considered for housing payments.

"Household income" shall mean the combined gross income of all individuals who will be occupying the unit. Adjustments to the gross for business expenses can be made for persons who are self-employed.

"Household net assets" shall mean the combined net assets of all individuals who will be occupying the unit.

"Household size" shall mean the number of all individuals regardless of age who will occupy the unit.

"Inclusionary unit" shall mean a new dwelling unit where the owner has entered into a contractual agreement with the City for consideration to offer the rental unit

at an affordable rate or a dwelling unit that is available at an affordable housing cost to low-, moderate-, or middle-income households.

"Income from nonemployment sources" shall mean the income that is part of a household's total gross income that is not attributed to payment for work performed, including but not limited to: investment dividends, trust funds, income from real property and allowances.

"Joint tenancy" shall mean the ownership of real estate between two (2) or more parties who have been named in one (1) conveyance as joint tenants. Upon the death of one (1) tenant, surviving joint tenants have the right of survivorship.

"Low-income household" shall mean persons and families whose income does not exceed eighty (80%) percent of the AMI adjusted for family size in accordance with the adjustment factors adopted by the United States Department of Housing and Urban Development in establishing income limits for lower income families.

"Market rate housing" shall mean the construction of units for sale or rent as a residential housing development. Market rate units do not guarantee affordability to low-, moderate-, or middle-income families.

"Median income" shall mean the median-household income as published by the California Department of Housing and Community Development as most recently published at the time the affordable unit is offered for sale or rent.

"Middle income household" shall mean persons and families whose income exceeds one hundred twenty (120%) percent, but not two hundred fifty (250%) percent, of the AMI adjusted for family size in accordance with the adjustment factors adopted by the United States Department of Housing and Urban Development in establishing income limits for lower-income families

"Moderate income household" shall mean persons or families whose income exceeds eighty (80%) percent, but not one hundred twenty (120%) percent, of the AMI adjusted for family size in accordance with the adjustment factors adopted by the United States Department of Housing and Urban Development in establishing income limits for lower-income families.

"Net assets" shall mean the gross assets minus liabilities. Retirement accounts will be reviewed on a case-by-case basis to determine whether or not they shall be included as a net asset, taking into account the tax consequences of withdrawal, whether the account is a defined benefit or defined contribution account and similar factors.

"Planning Director" shall mean the City of Avalon Planning Director or his or her designee.

"Primary residence" shall mean the sole and exclusive place of residence. The owner or renter shall be deemed to have ceased to use the unit as his/her sole and exclusive place of residence by accepting permanent employment outside of Santa Catalina Island, or residing in the unit fewer than nine (9) months out of any twelve (12) months.

"Qualified employee" shall mean a person who has been legally employed a minimum of thirty (30) hours worked per week on average over a 9-month period for two (2) continuous years on Santa Catalina Island and must reside on Santa Catalina Island a minimum of nine (9) months out of a year. If self-employed, the worker must provide verification of the work done on Santa Catalina Island. If retiring after living in the inclusionary unit for five (5) years as a Qualified Employee, the person will continue to be considered a Qualified Employee.

"Residential development" shall mean a project proposing the construction of residential dwelling units where an application for a tentative map, parcel map, or for projects not processing a map, a site plan is received on or after October 4, 2007.

"Tenancy in common" shall mean a co-ownership in which individuals hold an undivided interest in real property as if they were a sole owner.

"Tenant" shall mean a person who is leasing or has leased a deed restricted unit which is subject to these guidelines, and any qualifying potential lessee of any such deed restricted unit, but only with respect to any issue arising under these guidelines.
(§9-11.103, Ord. 1092-10, eff. May 20, 2010)

Sec. 9-11.104 General Requirements.

(a) Any new residential development of five (5) or more purchasable units shall make available inclusionary housing units equivalent to twenty (20%) percent of the units constructed in any residential housing project for the exclusive year-round use of low-, moderate-, and middle-income families. The mix of income categories will be determined at the time the project is approved.

(b) Any new residential development of five (5) or more rental units may make available inclusionary housing units equivalent to twenty (20%) percent of the units constructed in any residential housing project for the exclusive year-round use of low-, moderate-, and middle-income families, in exchange for a direct financial contribution or other form of assistance, and pursuant to Section 9-11.104(b)(1). The mix of income categories will be determined at the time the project is approved.

(1) Where twenty (20%) percent of the market rate units of five (5) or more is equivalent to more than one-half (.5) of a unit, this shall be interpreted to require a full inclusionary housing unit.

No. of Units Proposed	*20% Inclusionary Unit Calculation*	*No. of I.U.'s Required**
5	1	1
6	1.2	1
7	1.4	1
8	1.6	2
9	1.8	2
10	2	2
11	2.2	2
12	2.4	2
13	2.6	3
14	2.8	3
15	3	3

*Rounding up from .5

(2) Exceptions to this section shall be:

(i) Approved low-, moderate-, and middle-income rental housing projects where affordability is guaranteed. In addition, the requirements of this chapter do not apply to major or minor repairs of existing buildings, or the reconstruction of any structures that have been destroyed by fire, flood, earthquake or other act of nature, provided that the reconstruction or repair does not increase the number of residential units or increase the interior floor area of a nonresidential structure by more than one thousand nine hundred ninety-nine (1,999) square feet.

(ii) Developments that have been determined to require an environmental impact report and where the housing mitigation for the development would create more low-, moderate-, middle-income units than required by other sections of this chapter.

(3) The number of inclusionary units required for a particular project will be determined only once, at the time of tentative or parcel map approval, or, for developments not processing a map, prior to issuance of a building permit. If a change in the subdivision design results in a change in the total number of units, the number of inclusionary units required will be recalculated to coincide with the final approved project.

(c) The following options will satisfy the requirement to provide inclusionary housing:

(1) Constructing the appropriate number of purchasable inclusionary units.

(2) Constructing the appropriate number of rental inclusionary units as required by Section 9-11.104 and entering into a contractual agreement with the City, in consideration for a direct financial contribution or other form of assistance, to rent those units at an affordable rate and for a certain duration as described in this chapter.

(3) Paying an in-lieu fee to be determined in accordance with Section 9-11.104(h) when the number of purchasable inclusionary units required to be built totals less than five (5).

(d) Any hotel/motel/resort or new commercial development shall provide affordable rental space for at least fifty (50%) percent of the number of peak season employees projected to be employed by the development. Rents for such accommodations may be established by the hotel/motel/resort/commercial operator, provided that when such are rented to other than employees of the operator, the rent may not exceed the prevailing rate charged to the operator's employees for comparable space. All rentals must be for the period of not less than one (1) month.

(e) Employers in Avalon are encouraged to develop year-round housing for their employees. Any dwelling units in excess of the employees' needs shall be rentable to other members of the community for the period of not less than one (1) month.

(f) All units in an apartment development shall be made available to members of the community for period of not less than one (1) month. No condo conversions would be allowed.

(g) Developer of inclusionary units will enter into a recorded regulatory agreement with the City which will include restrictions as set forth by this chapter and administration regulations adopted by resolution.

(h) Where the required inclusionary units total less than five (5), the developer may request the option of paying an in-lieu fee, to be paid to the City for the Housing Trust Fund. The amount of the fee will be determined at the time the development agreement is finalized and will be reasonably related to the negative impact on affordable housing caused by the development project.
(§9-11.104, Ord. 1092-10, eff. May 20, 2010)

Sec. 9-11.105 Density Bonus.

(a) Any property owner of an individual lot or parcel who can create more units on said lot or parcel than land use density would permit, but can meet all other development standards contained in this title, may obtain a use permit from the Planning Commission or in the case of one (1) additional unit on a single lot improved with one (1) existing unit, from the Planning Director, to build said additional unit(s) to be available at market rate rent, provided:

(1) Any unit so created will, for a period of fifteen (15) years, be utilized for year-round, nontransient rental housing. For purposes of this section, "year-round, nontransient rental housing" shall mean that the unit shall be available for occupancy for periods of not less than thirty (30) consecutive days.

(2) Any person building a unit under this provision shall be required to execute an agreement and covenant between the applicant and the City guaranteeing that the units shall remain year-round nontransient housing for a period of not less than fifteen (15) years.
(§9-11.105, Ord. 1092-10, eff. May 20, 2010)

Sec. 9-11.106 Density Bonus Unit Rental Administration.

(a) Any person building a density bonus unit pursuant to Sections 9-11.105 (Density Bonus) shall be required to execute an agreement and covenant between the applicant and the City.

(b) The agreement shall provide for the guarantee of tenancy for a period of twelve (12) months in any subsequent rental or lease agreement between the landlord and his agent and any tenant of a dwelling unit created pursuant to Sections 9-11.105.

(c) The term of the agreement shall be for fifteen (15) years and it will be noncancelable during that period. In case a unit authorized pursuant to Section 9-11.105 is demolished, the property owner will not retain the right to build to density beyond those allowed in the City Land Use Element and the City Zoning Ordinance.

(d) Upon approval of a density bonus unit, the agreement will be recorded in the public records of Los Angeles County and proof of such recordation shall be provided to the City before any building permit will be issued for any market rate unit or for any affordable unit conditioned, regulated, or authorized under the provisions of this chapter.

(e) The agreement between the City and the owner of the density bonus unit shall require that a rental or lease agreement shall be signed between the owner or owner's agent and the tenant of any bonus unit. The term of this agreement shall be for one (1) year except as otherwise required.

(f) All agreements between the landlord or landlord's agent and the tenant for bonus units shall be furnished to the City ten (10) days prior to any tenant occupying the unit.

(g) All units provided under this chapter shall be fully utilized.

(§9-11.106, Ord. 1092-10, eff. May 20, 2010)

Sec. 9-11.107 Reserved.

Sec. 9-11.108 Sales Unit Administration.

Through the vehicle of a deed restriction, the City shall require the developer and his successors to guarantee that any dwelling unit made available under this chapter will continually be capable of being purchased by a low-, moderate-, or middle-income household. A dwelling unit is capable of being purchased by a low-, moderate- or middle-income household if the unit can be purchased for an affordable housing cost. For any successive sale of the unit, the right of the City shall be reserved in the deed restriction for the unit to review and verify that the price of the unit does not exceed an affordable housing cost and that the unit is sold to a low-, moderate- or middle-income household.

Units sold pursuant to this section shall only be for twelve (12) month tenancy of residents used as a primary residence as defined in Section 9-11.103 of this chapter.
(§9-11.106, Ord. 1092-10, eff. May 20, 2010)

Sec. 9-11.109 Inclusionary Housing Standards.

Inclusionary units built under this chapter must conform to the following standards:

(a) *Design.* Except as otherwise provided in this chapter, inclusionary units must be dispersed throughout a residential development and be comparable in infrastructure (including sewer, water and other utilities), construction quality and exterior design to the market-rate units. Inclusionary units shall have at least seventy-five (75%) percent of the square footage of the average size of the market rate units and may have different interior finishes and features than market-rate units so long as the interior features are durable, of good quality and consistent with contemporary standards for new housing.

(b) *Timing.* All inclusionary units must be constructed and occupied concurrently with or prior to the construction and occupancy of market-rate units. In phased developments, inclusionary units may be constructed and occupied in proportion to the number of units in each phase of the residential development with approval of the Planning Director.

(c) *Duration of Affordability Requirement.* Inclusionary units produced under this chapter must be legally restricted to occupancy by households of the income levels for which the units were designated for a minimum of fifty-five (55) years.
(§9-11.109, Ord. 1092-10, eff. May 20, 2010)

Sec. 9-11.110 Compliance Procedures.

(a) *General.* Approval of an Inclusionary Housing Plan and implementation of an approved Inclusionary Housing Agreement is a condition of any tentative map, parcel map or building permit for any development for which this chapter applies. The City Council may impose a fee per inclusionary unit to be set by resolution in order to offset the costs of administering this chapter.

(b) *Inclusionary Housing Plan.* Every application for a tentative map, parcel map, or site plan shall include a statement by the applicant that this chapter is not applicable or shall include an Inclusionary Housing Plan. The Planning Director shall review the Inclusionary Housing Plan within sixty (60) days of receipt to determine if the Inclusionary Housing Plan is complete. If the Inclusionary Housing Plan is incomplete, the Inclusionary Housing Plan will be returned to the developer along with a list of the deficiencies or the information required. No application for a tentative map, parcel map, or site plan to which this chapter applies may be deemed complete until an Inclusionary Housing Plan is submitted. At any time during the review process, the Planning Director may require from the developer additional information reasonably necessary to clarify and supplement the application or determine consistency of the proposed Inclusionary Housing Plan with the requirements of this chapter. The Inclusionary Housing Plan must include:

(1) The location, structure (attached, semi-attached, or detached), proposed tenure (for sale or rental), and size of the proposed market-rate, commercial space and/or inclusionary units and the basis for calculating the number of inclusionary units. Location information should include whether the land is owned by the developer or leased. Leased land would require review of the lease by the City for compliance with the intent of the inclusionary requirements;

(2) A floor or site plan depicting the location of the inclusionary units;

(3) The income levels to which each inclusionary unit will be made affordable;

(4) The mechanisms that will be used to assure that the units remain affordable for the desired term, such as resale and rental restrictions, deeds of trust, and rights of first refusal and other documents;

(5) For phased development, a phasing plan that provides for the timely development of the number of inclusionary units proportionate to each proposed phase of development as required by Section 9-11.104 of this chapter.
(§9-11.110, Ord. 1092-10, eff. May 20, 2010)

Sec. 9-11.111 Purchasable Inclusionary Housing.

(a) *Initial Sales Price.* The initial sales price of the inclusionary unit must be set so that an eligible household will pay an affordable housing cost.

(b) *Transfer.* Where appropriate, revised restrictions will be entered into on each change of ownership prior to the expiration of the 55-year affordability period.

(c) *Resale.* The maximum sales price permitted on resale of an inclusionary unit designated for owner-occupancy shall be the lower of: (1) fair market value or (2) the affordable housing cost for an eligible household within the income level applicable to the inclusionary unit.

(d) *Changes in Title.* Title of the inclusionary unit may change due to changes in circumstance, including death, marriage and divorce. Upon the death of one (1) of the owners, title in the property may transfer to the surviving joint tenant without respect to the eligibility of the household. Upon the death of a sole owner or all owners and inheritance of the inclusionary unit by a noneligible child or stepchild of one (1) or more owners, there will be a one (1) year compassion period between the time when the estate is settled and the time when the property must be sold to an eligible household. Inheritance of an inclusionary unit by any other person who is not an eligible household shall require resale of the unit to an eligible household as soon as is feasible, but no more than one hundred eighty (180) days. As used herein, resale means legitimate efforts reasonably intended to market the unit.
(§9-11.111, Ord. 1092-10, eff. May 20, 2010)

Sec. 9-11.112 Qualifications to Purchase Inclusionary Housing.

(a) *Employment Qualification.* All eligible purchase applicants must have at least one (1) household member who is a qualified employee.

(b) *Primary Residence.* All household members over the age of eighteen (18) must occupy the unit as their primary residence, except that full-time students over the age of eighteen (18) may occupy the unit during school breaks.

(c) *Real Property Ownership.* No member of the household can own a residential unit other than the inclusionary unit.

(d) *Income and Asset Limitations.* A household's gross income, assets, and household size will be used to determine the housing qualification by calculating:

(1) The sum of all gross incomes from all occupants over eighteen (18).

(2) Not more than twenty-five (25%) percent of a household income can come from nonemployment sources.

(3) Each $20,000.00 in assets above $65,000.00 is converted to $1,500.00 in annual income.

(4) Averaging the income over the three (3) previous years.

(§9-11.112, Ord. 1092-10, eff. May 20, 2010)

Sec. 9-11.113 Initial Qualification Process to Purchase Inclusionary Units.

The City must have documentation on file to verify applicant's eligibility for purchasable inclusionary housing. Documentation will be requested to provide proof of applicant's residency, employment, income, and assets. Applicants will need to supply the requested documents that may include:

(a) *Income and Asset Verification.*

(1) Previous three (3) years of Federal Income Tax returns.

(2) All W-2 forms from the previous three (3) years.

(3) Wage stubs (if W-2 forms are not available).

(4) Current income and financial statement (including identification of any property, real or otherwise, owned in part or whole by any household member).

(5) A statement of the amount cash, or easily redeemed valuables, held with a value of over one thousand and no/100ths ($1,000.00) dollars.

(b) *Legal Employment Verification.*

(1) All W-2 forms from current or previous years.

(2) Wage stubs (if W-2 forms are not available).

(3) Employer(s) name, address, telephone and dates of employment.

(4) Landlord verification of residency starting dates.

(5) Valid California driver's license.

(6) Verification of land line or cell phone service billed on Santa Catalina Island.

(7) Divorce decree or separation agreement, including alimony and child support. A copy must indicate that it has been entered in the record with all exhibits and supplements attached.

(8) Documentation showing legal residency.

(c) *Pre-approved Mortgage and Payment Obligations.*

(1) Applicants must submit a pre-approved mortgage for the maximum amount of financing applicant wishes.

(2) Applicants must have the necessary down payment, demonstrated to the satisfactory of the lender.

(d) *Certification of Accuracy.* Applicants must sign a document that states all the information supplied is true and accurate. If it is determined not to be so, applicant may be disqualified from the process and face additional penalties as allowed by the law.

(e) *Minimum and Maximum Occupancy for Purchasable/Rental Units.*

Bedrooms	*Minimum*	*Maximum*
0 BR	1	2
1 BR	1	2
2 BR	2	4
3 BR	3	6
4 BR	4	8

(§9-11.113, Ord. 1092-10, eff. May 20, 2010)

Sec. 9-11.114 Procedures for the Sale of an Inclusionary Housing Unit.

(a) Consult with the City of Avalon to determine the maximum sales price permitted.

(b) Notify the City in writing of your decision to sell your property.

(c) The City of Avalon maintains an option to purchase the property for the affordable housing cost, or the appraised value, whichever is lower, as determined in the recorded deed restrictions. Should the City elect to purchase the property, it will provide notice within thirty (30) days of the written notification of the intent to sell the property. At that time, the City will determine whether or not an appraisal is required and will pay for the costs if required.

(d) The City may assign or transfer its interests in the option to purchase at its sole discretion.

(e) The City will open escrow with an approved escrow company should it elect to exercise its option.

(f) Closing will be scheduled to occur not later than ninety (90) days after the City of Avalon has notified you in writing of its election to exercise its option to purchase.

(g) Closing cost will be as per custom in Los Angeles County, with each party paying its appropriate costs, in escrow.

(h) Applicants purchasing a unit are required to sign a document acknowledging they are aware of and understand all of the terms and conditions of the unit's deed restrictions, and that these restrictions will reduce the value of the property at resale.

(i) Co-ownership title to the property, other than community property with rights of survivorship, joint tenancy or tenancy in common must be approved by the City of Avalon.

(j) A person other than the applicant or a person on the application as a household member may be used to qualify for a mortgage.

(k) A co-signer may be approved for ownership of a unit but shall not occupy the unit unless they qualify under the City's inclusionary guidelines.
(§9-11.114, Ord. 1092-10, eff. May 20, 2010)

Sec. 9-11.115 Enforcement—Remaining Qualified to Own and Occupy Inclusionary Units.

(a) Owner/occupants of purchased inclusionary units must continue to meet all of the following qualification requirements:

(1) Qualified employment or qualified retirement as set forth in Section 9-11.103 (Definitions) and Section 9-11.112(a);

(2) Primary residency as set forth in Section 9-11.112(b);

(3) Real property ownership as set forth in Section 9-11.112(c).

(b) In order to ensure that the continuing qualification requirements are met, the City may perform random audits, investigate complaints or reports of noncompliance, and/or require requalification forms to be completed and filed on a cyclical basis. Failure to cooperate shall subject an owner to the remedies set forth herein or in the regulatory agreements.
(§9-11.115, Ord. 1092-10, eff. May 20, 2010)

Sec. 9-11.116 Owner Leave of Absence.

(a) If an owner wishes to vacate their unit for more than three (3) months and retain ownership of their unit, applicant must apply to the City Manager for a leave of absence.

(b) The City Manager may consider granting, in its sole discretion, a leave of absence for a maximum of two (2) years.

(c) Owners must provide clear and convincing evidence, satisfactory to the City Manager explaining their reason for leaving and their intention of returning.

(d) The unit must be rented nontransiently if allowed by the deed and the homeowners' association.

(e) The owner may choose to whom the unit is rented, but the renter must meet the income guidelines for the specific unit, and all other aspects of being a qualified employee. The City Manager will specify terms of the rental if they are not part of the property's deed.
(§9-11.116, Ord. 1092-10, eff. May 20, 2010)

Sec. 9-11.117 Roommates or Tenants in Purchase Units.

Roommates are allowed only under the following conditions:

(a) The unit's deed and homeowners' association must specifically permit roommates.

(b) The roommate must be a qualified employee.

(c) The employee must meet the income guidelines for the specific unit, and all other aspects of being a qualified employee.

(d) Owner must continue to reside in the unit.

(e) A roommate or tenant must be given a lease or rental agreement approved by the City Manager. Copies of the completed leases or rental agreements must be filed with the City Manager.

(f) The maximum rental rate is governed by these guidelines and will be determined by the size of the unit, how many rooms are rented, and actual homeowner costs to the owner.

(g) The City Manager must be immediately notified in writing of any changes regarding roommate status.

(h) No subletting is allowed.

(§9-11.117, Ord. 1092-10, eff. May 20, 2010)

Sec. 9-11.118 Rental Inclusionary Housing.

Rental units will be offered to eligible households at an affordable rent. The owner of rental inclusionary units shall certify each tenant household's income and other eligibility requirements to the City Manager at the time of initial rental and annually thereafter. The owner must obtain and review documents that demonstrate the prospective renter's total income, such as income tax returns or W-2s for the previous calendar year, and submit such information on a form approved by the City as required in Section 9-11.113 and Section 9-11.114.

(a) *Selection of Tenants.* The owners of rental inclusionary units may fill vacant units through their own selection process, provided that they publish notices of the availability of inclusionary units according to guidelines established by the City Manager.

(b) *Annual Report.* The owner shall submit an annual report summarizing the occupancy of each inclusionary unit for the year, demonstrating that the tenant continues to be an eligible household. The City Manager may require additional information if he or she deems it necessary.

(c) *Subsequent Rental to Eligible Household Tenants.* The owner shall apply the same rental terms and conditions to tenants of inclusionary units as are applied to all other tenants, except as required to comply with this chapter (for example, rent levels, occupancy restrictions and income requirements) or with other applicable government subsidy programs.

(d) *Changes in Tenant Income.* If, after moving into an inclusionary unit, a tenant's household income exceeds the limit for that unit, the tenant household may remain in the unit as long as his or her household income does not exceed twenty-five (25%) percent above the income limit. Once the tenant's income exceeds twenty-five (25%) percent above the income limit, the following shall apply:

(1) If the tenant's income does not exceed the income limits of other inclusionary units in the residential development, the owner may, at the owner's option, allow the tenant to remain in the original unit and redesignate the unit as affordable to households of a higher income level, as long a vacant unit is redesignated for the income category previously applicable to the tenant's household. Otherwise, the tenant shall be given one hundred eighty (180) days notice to vacate the unit. If during the one hundred eighty (180) days, an inclusionary unit becomes available and the tenant meets the income eligibility for that unit, the owner shall allow the tenant to apply for that unit.

(2) If there are no units designated for a higher income category within the development that may be substituted for the original unit, the tenant shall be given one hundred eighty (180) days notice to vacate the unit. If within that one hundred eighty (180) days another unit in the residential development is vacated, the owner may, at the owner's option, allow the tenant to remain in the original unit and raise the tenant's rent to market-rate and designate the newly vacated unit as an inclusionary unit affordable at the income-level previously applicable to the unit converted to market rate. The newly vacated unit must be comparable in size (for example, number of bedrooms, bathrooms, square footage, etc.) as the original unit.

(§9-11.118, Ord. 1092-10, eff. May 20, 2010)

Sec. 9-11.119 Qualifications to Rent Inclusionary Housing.

(a) *Employment Qualification.* All eligible rental applicants must have at least one (1) household member who is a qualified employee.

(b) *Primary Residency.* All household members over the age of eighteen (18) must occupy the unit as their primary residence. Except, fulltime students over the age of eighteen (18) may occupy the unit during school breaks.

(c) No member of the household can own a home.

(d) *Income and Asset Limitations.* A household's gross income and assets is defined as:

(1) The sum of all gross incomes from all occupants over eighteen (18), regardless of their legal status.

(2) Not more than twenty-five (25%) percent of a household income can come from nonemployment sources.

(3) Net assets in excess of $65,000.00 will be converted to income. Each $20,000.00 in assets, above the limit for the base income, is converted to $1,500.00 in annual income.

(§9-11.119, Ord. 1092-10, eff. May 20, 2010)

Sec. 9-11.120 Initial Qualification Process for Rental of Inclusionary Units.

The City must have documentation on file to verify applicant's eligibility for rental inclusionary housing. Documentation will be requested to provide proof of applicant's residency, employment, income, and assets. Applicants will need to supply the requested documents that may include:

(a) *Income and Asset Verification.*

(1) Previous three (3) years of Federal Income Tax returns.

(2) All W-2 forms from the previous three (3) years.

(3) Wage stubs (if W-2 forms are not available).

(4) Current income and financial statement (including identification of any property, real or otherwise, owned in part or whole by any household member).

(5) A statement of the amount cash, or easily redeemed valuables, held, with a value of over One Thousand and no/100ths ($1,000.00) Dollars.

(b) *Legal Employment Verification.*

(1) All W-2 forms from current or previous years.

(2) Wage stubs (if W-2 forms are not available).

(3) Employer(s) name, address, telephone and dates of employment.

(4) Landlord verification of residency starting dates.

(5) Valid California driver's license.

(6) Verification of telephone service on Santa Catalina Island.

(7) Divorce decree or separation agreement, including alimony and child support. A copy must indicate that it has been entered in the record with all exhibits and supplements attached.

(8) Documentation showing legal residency.

(c) *Certification of Accuracy*. Applicants must sign a document that states all the information supplied is true and accurate. If it is determined not to be so, applicant may be disqualified from the process and face additional penalties as allowed by the law.

(d) *Minimum and Maximum Occupancy for Rental Units*.

Bedrooms	*Minimum*	*Maximum*
0 BR	1	2
1 BR	1	2
2 BR	2	4
3 BR	3	6
4 BR	4	8

(§9-11.120, Ord. 1092-10, eff. May 20, 2010)

Sec. 9-11.121 Procedures for Renting Inclusionary Housing.

(a) When a unit becomes available and the applicant chooses to rent it, a detailed check will be done prior to applicant occupying the unit. The unit's property manager will be responsible for the check. The detailed check may include:

(1) Proof of continued employment on Santa Catalina Island.

(2) References and/or tenant history from past landlords.

(3) Utility payment history.

(4) Credit check.

(5) Verify initial application information to ensure continued eligibility.

(b) Leases are subject to the individual property manager and may vary between each rental property, so long as the lease is consistent with these guidelines. In the event of any ambiguity between the lease agreement and these guidelines, the City guidelines shall prevail.

(c) Security deposits are subject to the individual property managers and may vary between each rental property.

(§9-11.121, Ord. 1092-10, eff. May 20, 2010)

Sec. 9-11.122 Enforcement of Qualifications to Remain in Rental Units.

(a) Renters must continue to meet all qualifications as a qualified employee.

(b) City Manager may do random audits and investigate complaints or reports of noncompliance on an ongoing basis.

(c) Requalification for rental of inclusionary housing.

(d) The status of renters/tenants of inclusionary housing units shall be reviewed and verified every year to ensure that they continue to meet the requirements of the guidelines, including but not limited to: maximum occupancy, income and asset requirements, and employment.

(e) Should a household not meet the requirements of the unit in terms of household size or developed property, the tenant shall have one (1) year from the date of the notice to come into compliance or find another place to live. If the tenant fails to come into compliance in the one (1) year period they will be required to vacate the property.

(f) A household that has increased in size due to births or adoptions to or by previously qualified eligible household members may stay in their current unit.

(§9-11.122, Ord. 1092-10, eff. May 20, 2010)

Sec. 9-11.123 Enforcement—General—Rental or Purchase Units.

(a) It shall be a misdemeanor to violate any provision of this chapter. Without limiting the generality of the foregoing, it shall also be a misdemeanor for any person to sell or rent to another person an affordable unit under this chapter at a price or rent exceeding the maximum allowed under this chapter or to sell or rent an affordable unit to a household not qualified under this chapter. It shall further be a misdemeanor for any person to provide false or materially incomplete information to the City or to a seller or lessor of an inclusionary unit to obtain occupancy of housing for which he or she is not eligible.

(b) The City may institute any appropriate legal actions or proceedings necessary to ensure compliance with this chapter, including:

(1) Actions to revoke deny or suspend any permit, including a Building Permit, Certificate of Occupancy, or discretionary approval.

(2) Actions to recover from any violator of this chapter, civil fines, restitution to prevent unjust enrichment from a violation of this chapter, and/or enforcement costs, including attorneys' fees.

(3) Eviction or foreclosure, and

(4) Any other appropriate action for injunctive relief or damages. Failure of any official or agency to fulfill the requirements of this chapter shall not excuse any person, owner, household or other party from the requirements of this chapter.

(§9-11.123, Ord. 1092-10, eff. May 20, 2010)

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CHAPTER 12 - ANNUAL GROWTH POLICY

Article 1. Administration; Definitions

Sec. 9-12.101 Declaration.

The City Council hereby finds that the natural resources of Avalon, as discussed in the Avalon General Plan, have finite limits. Such limits are not easily defined, and, as in the case of such resources as water availability, may change from time to time. The City Council further finds that unlimited construction activity within the limited geographical boundaries and topographical features of the City of Avalon would create significant impacts on the environment of Avalon.

In order to mitigate these problems, the City of Avalon hereby implements an annual growth policy.
(Ord. 672)

Sec. 9-12.102 Annual Review Board.

The City shall not approve any development applications which propose the creation of additional units in November and December of any calendar year commencing in 1979. During this two (2) month period, the City Council, in conjunction with the Planning Commission, shall review the growth permitted in the preceding ten (10) months, review the effects and demands of such development and any additional development upon the City's natural resources, and determine, by resolution, the amount and type of growth the City will permit in the succeeding year, as well as City priori-ties for growth.
(Ord. 672)

Sec. 9-12.103 Administration.

(a) No application for any project which creates any additional living or transient units shall be approved unless the Southern California Edison Company confirms in writing that water is available to serve the project if approved by the City.

(b) All development applications made pursuant to this title shall be considered by the City in the order that said applications are accepted by the City.

(c) Applications may include units from two (2) or more development categories as set forth in subsection (d) hereof.

(d) Any unit approved after this date shall be under construction (defined as foundation work completed and framing in progress) within eighteen (18) months from the date of final Planning Commission or City Council approval. The Planning Commission may approve not more than two (2) six (6) month extensions upon making a determination that an applicant has diligently pursued the construction of the project, and that no substantial change of circum-stances has occurred, and that such extension will not be detrimental to the purpose of these regulations.

The City Council may on appeal grant one additional extension of no more than sixty (60) days upon a finding of extraordinary circumstances.

(e) The City Council shall establish procedures setting forth tenant eligibility and conditions for low and moderate income rental projects.
(Ord. 672, as amended by §1, Ord. 773, eff. December 17, 1984)

Sec. 9-12.104 Definitions.

(a) "Infilling" shall mean any project which creates four (4) or fewer additional residential units that will be built within the designated infilling area.

(b) "Residential tract development" shall mean any project of five (5) additional units or greater.

(c) "Hotel/resort development" shall mean any project which proposes living units that will be used exclusively by transients. Any unit so proposed may contain kitchen facilities with conditional use permit procedures.

(d) "Median income" shall mean the median income of all families residing in the Los Angeles Long Beach Standard Metropolitan Statistical Area (SMSA) as determined by the United States Department of Housing and Urban Development. In the event that median in-come figures are not available for the time period necessary for a specific development application, the most recent median income figures available will be used and adjusted according to changes in the Consumer Price Index for the same SMSA.
(Ord. 672)

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CHAPTER 13 - MULTIPLE UNIT HOUSING REGULATIONS[*]

Sec. 9-13.101 Purpose.

The purposes of this chapter are to:

(a) Establish criteria for the conversion of existing multiple-family rental and residential housing to condominiums and the construction of new multiple-unit projects;

(b) Reduce the impact of conversions on residents in rental housing who may be required to relocate due to the conversion of rental units to condominiums;

(c) Ensure that purchasers of converted housing have been properly informed as to the physical condition of the structure which is offered for purchase;

(d) Ensure that converted and new multiple-unit housing achieves high quality appearance and safety, and is consistent with the goals of the city's general plan and conforms or is legally nonconforming with the density requirements of the general plan's land use element;

(e) Attempt to provide an opportunity for housing ownership of all types, for all levels of income and in a variety of locations;

(f) Attempt to maintain a supply of rental housing for year-round persons and families for all levels of income.
(§8, Ord. 775, eff. January 21, 1985; §4, Ord. 935-96, eff. October 17, 1996)

Sec. 9-13.102 Zoning and Conditional Use Permits Required.

(a) No congregate housing project nor conversion of any multiple family residential structure to congregate housing shall be permitted in any zone unless such zone permits such usage and until a conditional use permit is obtained therefor.

(b) Existing congregate housing projects which do not comply with the provisions of this section shall be deemed nonconforming uses and shall be allowed to continue operation subject to the provisions of the City of Avalon Zoning Ordinance.
(§8, Ord. 775, eff. January 21, 1985)

Sec. 9-13.103 Application Requirements.

The application for approval for a proposed congregate housing project or conversion of an existing structure shall include the following information in the number of copies and degree of detail which the Planning Director and/or Commission determines to be sufficient for distribution:

(a) A complete legal description of the property and the location of all existing or proposed easements, structures and other improvements and trees over six (6") inches in diameter;

(b) Dimensioned schematic development plans depicting the existing or proposed structure, including floor plans and elevations;

(c) Dimensioned schematic development plans depicting any exterior and/or interior changes or additions proposed to be made to the existing structure, including a site plan, elevations and floor plans;

(d) A statement reflecting the extent to which the existing structure conforms to current development standards for the zone, including parking;

(e) A dimensional plan depicting all proposed common open space, private open space, and private and homeowner's association storage space. If the applicant's proposal does not include allocation or construction of one (1) or more such spaces, a written waiver request and explanation of the reasons such waiver should be granted shall be submitted with the application;

(f) If the case of a conversion of an existing multiple family residential structure, a report prepared and signed by a licensed engineer or registered architect evaluating the structural stability of the property, stating when the property was constructed, including modifications and upgrades costing One Thousand and no/100ths ($1,000.00) Dollars or more, and identifying any defective or unsafe or substandard conditions as well as the proposed corrective measures to be employed to correct same;

(g) A statement of repairs and improvements to be made by the applicant necessary to refurbish and restore the project to achieve well-maintained appearance;

(h) In the case of an existing structure, the rental rate history for each type of unit for the two (2) years preceding the date of the application, including information regarding the makeup of existing and prior tenant households and the number of persons and length of residence;

(i) Such other information which the Planning Director or Commission determines necessary to evaluate the proposed project.
(§8, Ord. 775, eff. January 21, 1985; §5, Ord. 935-96, eff. October 17, 1996)

Sec. 9-13.104 Fees.

The fee for the processing of an application for a conditional use permit for congregate housing usage shall be Two Thousand and no/100ths ($2,000.00) Dollars per acre of the surface of the land shown on the tract map or survey as included within the project, or such fee as the City Council may establish by resolution from time to time to reimburse the City of its cost in reviewing and processing the application. The City Council may also establish a supplemental fee for the processing of an application involving the conversion of an existing multiple family structure to congregate housing usage to compensate the City for additional processing costs occasioned by such conversions.
(§8, Ord. 775, eff. January 21, 1985)

Sec. 9-13.105 Criteria for Approval of Multiple Unit Housing Construction or Conversion.

(a) In the case of the proposed construction of new multiple unit housing, the Planning Commission shall approve or conditionally approve the application where it determines that:

(1) It complies with the development standards for the zone, including parking, or qualifies for a variance to the extent that it does not comply with

the development standards;

(2) It provides adequate common open space, private open space, and private and homeowner's association storage space, taking into account any unusual circumstances of the project's location, site, or configuration, the extent to which the size and location of each unit provides adequate alternatives for such space, and any mitigating features incorporated in the project; and

(3) The proposal meets the criteria for approval conditional use permit as specified in Sections 9-13.103 and 9-13.106.

(b) In the case of the proposed conversion of an existing multiple unit structure, the Planning Commission shall approve or conditionally approve the application where it determines that:

(1) The structure complies with the development standards for the zone or is legally nonconforming;

(2) The structure is in sound physical and structural condition or adequate corrective measures have been submitted and made a condition of approval;

(3) The structure provides adequate common open space, private open space, and private and homeowner's association storage space, taking into account any unusual circumstances of the project's location, site, or configuration, the extent to which the size and location of each unit provides adequate alternatives for such space, and any mitigating features incorporated in the project; and

(4) The proposal meets the criteria for approval conditional use permit as specified in Section 9-13.103.

(c) The Planning Commission is empowered to impose conditions on its approval of the conditional use permit as it determines are necessary to further the purpose of this chapter and of the City's general plan.
(§8, Ord. 775, eff. January 21, 1985; §6, Ord. 935-96, eff. October 17, 1996)

Sec. 9-13.106 Congregate Housing Development Criteria.

Each proposal for new congregate housing development presents important considerations that do not lend themselves to specific development standards. The following criteria shall apply to proposals for new congregate housing and shall serve as the basis for evaluating the proposal relative to both the purposes of this chapter as well as accepted and appropriate planning goals necessary for the orderly development of the City.

(a) The project should be a comprehensive and integrated design, providing for its own open space, off-street parking and amenities for contemporary living. To the extent the site and the scale of the project allows, open space, walkways and other areas for people should be separated from parking and driveway areas.

(b) The layout of structures and other facilities should effect a conservation in street, driveway, curb cut, utility and other public or quasi-public improvements. Structures should be designed to minimize, the consumption of natural resources (i.e. gas, water, electricity) either directly or indirectly.

(c) The project should be designed to maintain as much of the natural topography, large trees and environment as practicable.

(d) The configuration and orientation of the project should respect reasonable design limits imposed by the natural and manmade environment. Consideration should be given as to whether the structure can be situated to maximize the advantages of view, topography, sun and wind, while at the same time minimizing the impact of the project on the enjoyment of these advantages by adjacent properties, as much as practicable. Structures should also be situated to minimize or buffer undesirable characteristics of the site such as street noise and nearby commercial or industrial uses.

(e) The layout of the units and open space within the project should establish, through the use of structures and landscape materials, a perceptible spatial transition from the public street, through the semi-privacy of common areas, to the privacy of the units. Most importantly, the environment of each unit should be private and free from visual, auditory and other intrusions.

(f) The project shall comply with State standards facilitating access for the disabled.
(§8, Ord. 775, eff. January 21, 1985; §8, Ord. 935-96, eff. October 17, 1996)

Sec. 9-13.107 Declaration of Covenants, Conditions and Restrictions or Other Management Documents.

To achieve the purpose of this chapter, the declaration of covenants, conditions and restrictions or other management documents relating to the management of the common area and facilities shall accompany all proposals for congregate housing usage and shall be subject to the approval of the City Attorney's office. In addition to such covenants, conditions and restrictions that may be required by the Department of Real Estate of the State of California or pursuant to Title 6 of Part IV of Division II of the Civil Code or other State laws or policies, such declaration, proprietary lease, cooperative housing corporation by-laws or other similar document shall provide for the following, none of which, after acceptance in final form by the City, shall be amended modified or changed without first obtaining the written consent of the City:

(a) *Assignment or Conveyance of Private Open Space*. The surface area and appurtenant airspace of private open space areas and any integral portion of those spaces shall be described and irrevocably assigned to its respective unit, except that where the private open space is totally within the boundary described by the interior surfaces of the unit, it shall be conveyed, leased or assigned as an integral part of the unit.

(b) *Assignment or Conveyance of Private Storage Areas*. The surfaces and appurtenant airspace of private storage areas shall be described and irrevocably assigned in the declaration, condominium plan or proprietary lease to its respective unit, except that where the private storage space is totally within the boundary described by the interior surfaces of the unit, as it would be in a closet opening upon a unit's room or hallway, it shall be conveyed, leased or assigned as an integral part of the unit.

(c) *Maintenance of Impact Insulation Class*. The impact/insulation rating requirements required by the Department of Real Estate shall be described in the declaration and/or proprietary lease and such documents shall provide that the floor covering shall not be removed for any purpose except cleaning or replacement, and shall further provide that any replacement covering(s) shall furnish not less than the degree of impact insulation afforded by the coverage originally installed.

(d) *Right of Public Entry to Common Area*. The City of Avalon, the County of Los Angeles, the State of California, and the Government of the United States, and any department, bureau or agency thereof, shall have the right of immediate access to all portions of common areas of the project not assigned for the exclusive use of the owner of a particular unit at all times for the purpose of preserving the public health, safety and welfare except in those instances where a common area is accessible only through a private unit. Notice of such right of government agency access shall be prominently displayed in the common area of the project.

(e) *Television and Radio Antenna*. Individual television and radio antennas shall be prohibited outside of any owner's unit. The declaration, cooperative housing corporation bylaws or proprietary lease shall provide either for a central antenna with connections to each unit via underground or internal wall wiring or each unit shall be served by either a cable antenna service provided by a company licensed to provide such service within the City or by an effective antenna located wholly within the confines of the unit.

(f) *Voting*. For the purpose of voting, including without limitation voting to set the amount of regular or special assessment and for the purpose of amending the management documents, one vote shall be allocated for each unit within the project. The amount of regular and special assessments may be made proportional to the gross square footage of each unit within the project.

(g) *Partition and Sale of the Project*. An action may be brought by one or more owners within the project for partition thereof (or for dissolution of the cooperative housing corporation) by sale of the entire project as if the owners of all of the units in such project were tenants in common in the entire project in the same proportion as their interests in the common areas or in the stock or members of the cooperative housing corporation; provided, however, that a partition shall be made only upon a showing of the existence or one or more of the conditions set forth in Section 1354 of the California Civil Code, or that:

(1) Two (2) years after damage or destruction to the project which renders a material part thereof unfit for its use, the project has not been rebuilt or repaired substantially to its state prior to its damage or destruction; or

(2) One-half (1/2) or more of the project has been destroyed or substantially damaged and owners holding in aggregate more than fifty (50%) percent interest in the common area or the cooperative housing corporation are opposed to repair or restoration of the project; or

(3) The structure has been in existence in excess of the number of years shown on the following table, is obsolete and uneconomic, and the percentage of owners holding in aggregate a percentage interest in the common areas or cooperative housing corporation as set forth in the following table are opposed to repair or restoration of the project.

Age of Structure	*Percentage of Interest Held by Owners*
30 years	70 percent
40 years	60 percent
50 years	50 percent
60 years	40 percent
70 years	30 percent

For purposes of this section, multiple owners of a single unit shall not be deemed possessed, in the aggregate, of any greater interest in the common area or in the cooperative housing corporation than that possessed by a single owner of a unit.

(h) *Maintenance*. The declaration and/or other management documents shall contain a provision establishing the obligation and duty of the governing body of the project to maintain the common areas in good condition.

(i) *Enforcement*. The declaration and other management documents shall contain a provision insuring the right of any owner to enforce the terms thereof.

(j) *Assessments for Maintenance of Common Areas and Facilities*.

(1) General. In order to protect the public health, safety and welfare, provision shall be made both for annual assessments for maintenance and special assessments for capital improvements. The amount of the regular annual assessment, and the procedure for its change shall be specified. The manner in which special assessments may be levied for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the common area shall be specified. The amount of regular and special assessments may be made, in whole or in part, proportional to the gross square footage of each unit within the project. Both annual and special assessments may be collected on a monthly basis. The remedies which the association may bring for the nonpayment of assessments shall be specified and may include penalties for late payment.

(2) Veto Right and Authority of the City. In consideration for the City's approval of a project, including without limitation any approval of a conversion to congregate housing usage, the declaration and/or other management documents shall provide that the City at its option has the right and authority to veto any action of the association which would tend to decrease the amount of the regular annual assessment upon a finding by the City that such a decrease could or would adversely affect the long-run maintenance of the project structure and/or its common areas. To enable the City to exercise said optional veto, the declaration or other management documents shall provide that association actions to decrease the annual assessment do not become effective until sixty (60) days after written notice of such action is given to the City.

(k) *Utility Easements over Private Streets and Other Areas*. If the project contains private streets, provision shall be made for public utility easements over the entire private street network. The Planning Commission may also require public utility easements adjacent to public streets or over other portions of the project to accommodate fire hydrants, water meters, street furniture, storm drainage, sanitary sewers, water and gas mains, electrical lines and similar urban infrastructure. The Planning Commission may also require access routes necessary to assure that fire fighting equipment can reach and operate efficiently in all areas of the project.

(l) *Amendment of the Declaration or Other Management Document*. Any amendment to the declaration or other management documents which would amend, modify, delete or otherwise affect any provision required by this section shall require the prior written approval of the City. To that end, no such amendment shall be effective unless: (i) the text there-of shall have been submitted to the City sixty (60) days prior to its adoption by the owners; (ii) either the City has approved the amendment or failed to disapprove it within said sixty (60) day period; and (iii) the recorded or other instrument effecting such amendment shall recite that it was so submitted and approved or not disapproved.

(m) Provision shall be made for conveyance of units and assignment of parking.
(§8, Ord. 775, eff. January 21, 1985; §9, Ord. 935-96, eff. October 17, 1996)

Sec. 9-13.108 Congregate Housing Conversions.

(a) *Conversion Criteria*. The Planning Commission shall approve or conditionally approve a conditional use permit for the conversion of a multiple family residential structure to congregate housing usage only upon a finding that the conversion will not adversely affect the supply of rental housing, especially low and moderate income housing, in the City. In reaching this finding the Commission may consider all relevant factors, including: (i) the City-wide vacancy rate and the vacancy rate for low and moderate income units; (ii) the number of units being removed from the rental market by the proposed conversion; (iii) the number, quality, and location of alternative housing opportunities available to existing tenants; (iv) the cumulative effect of the proposed conversion along with the effect of past conversions upon the availability of low and moderate income units; and (v) the effect of the proposed conversion, if any, upon the City's tourist industry.

(b) *Prohibited Conversions.* No hotel, motel, hotel/resort development, or other structure designed exclusively for transient occupancy may be converted to congregate housing usage.

(c) *Affordable Housing Requirements for Congregate Housing Conversions* . All proposed congregate housing conversion projects must satisfy the affordable housing requirements described in Chapter 11. For the purposes of that chapter, a proposed conversion project shall be treated as a new residential development. Existing low and moderate income tenants shall have priority over other eligible tenants in occupying these specially designated units.

(d) *Notice to Tenants of Proposed Congregate Housing Conversion.* Before filing an application for a conditional use permit for the conversion of a multiple family residential structure to congregate housing usage, the applicant must first deliver to each tenant within the structure and to each prospective tenant thereafter a notice regarding the proposed conversion. Such notice must be delivered to all such tenants at least fifteen (15) days prior to any public hearing regarding the conditional use permit for the proposed conversion. Such notice shall contain the following information: (i) the name and address of the project's owner or owner's representative; (ii) a full description of the tenant's right to purchase a converted unit; (iii) the approximate date of the proposed conversion; (iv) a full description of any relocation assistance benefits or continued occupancy rights available to the tenant; and (v) the tenant's right to be heard at any public hearings regarding the conditional use permit for the conversion, and the date(s) of such hearing(s). (Proof of service of the notice as well as a list of names and addresses of all tenants shall be provided to City.)

The applicant bears the burden of demonstrating at any public hearing regarding the conditional use permit for the proposed conversion that applicant has fully satisfied the requirements of this subsection.

(e) *Notice to Tenants of Termination of Tenancy.* All tenants shall receive a one hundred eighty (180) days' written notice of intention to convert prior to the issuance of the notice to vacate. Such notice of intention to convert may not be issued until the applicant has received a conditional use permit for the proposed conversion project. At the end of such one hundred eighty (180) day period, the applicant may issue a written notice to vacate to all tenants. Tenants shall vacate within thirty (30) days of receipt of such written notice to vacate.

(f) *Tenant's Right to Purchase Congregate Housing Converted Unit.* All tenants occupying a unit which has been approved for conversion shall have a nontransferable right of first refusal to purchase the occupied unit at the same or at better terms than those offered to the general public. Such right of first refusal shall be effective for a period of not less than ninety (90) days from the date at which such units are offered for sale to the general public, as described in Section 66427.1 of the Government Code of the State of California. The tenant may waive any such right by executing a written notice to that effect or by terminating his or her lease and vacating the unit without acting upon the right.

(g) *Tenant's Right to Continued Occupancy in a Congregated Housing Converted Unit.* All "special case" tenants, here defined as any elderly or handicapped persons of limited means or households of low or moderate income as defined in Chapter 11, shall be entitled to continued occupancy in a unit approved for conversion for a period of one year from the date of receiving a written notice to vacate from the applicant. All such special case tenants must receive a second written notice to vacate thirty (30) days prior to the expiration of such continued occupancy period. No increase in rents shall be permitted during the course of such a period of continued occupancy.

(h) *Relocation Benefits Available to Tenants of Approved Congregate Housing Conversion Projects* . All applicants must develop a relocation assistance plan, containing, at a minimum, the following elements. Such plan shall be subject to review and modification by the Planning Commission:

(1) The applicant shall pay to each existing tenant household on or before the date the unit is to be vacated for the approved conversion the sum of Five Hundred and no/100ths ($500.00) Dollars to cover the cost of moving expenses. The applicant shall also pay to each tenant household on or before the date the unit is to be vacated, certain relocation benefits to compensate for any anticipated increased future rent consisting of the greater of:

(i) The sum of One Thousand and no/100ths ($1,000.00) Dollars, or

(ii) A sum equal to the current monthly rental for the unit multiplied by the number of years or portion thereof of tenancy, except that under no circumstances shall the latter figure exceed the amount of Five Thousand and no/100ths ($5,000.00) Dollars. Each tenant choosing this alternative must, at least fifteen (15) days prior to vacation of the unit, provide adequate supporting documentation to the owner showing the date tenancy commenced. Should a tenant remain in the unit more than thirty (30) days after receipt of a written notice to vacate, such relocation benefit shall be reduced by an amount equal to one month's rental for each subsequent month of tenancy.

(2) The applicant shall also assist tenants in finding a comparable replacement rental unit. Comparability shall be determined from the following factors: size, price, location, and amenities. For purposes of this chapter, a unit shall not be deemed "comparable" if such unit is located in a building for which an application for conversion purposes has been filed with any governmental agency. Such assistance shall include at a minimum the following:

(i) Making available to such tenants a bi-monthly report concerning the availability of comparable rental housing in the vicinity of the condominium project; and

(ii) Driving tenants without automobiles in order to inspect such comparable housing.

This subsection shall only apply to the conversion to congregate use of a multiple family residential structure consisting of five (5) or more units.
(§8, Ord. 775, eff. January 21, 1985, as amended by §1, Ord. 778, eff May 6, 1985; §10, Ord. 935-96, eff. October 17, 1996)

Sec. 9-13.109 Severability.

If any section, subsection, sentence, clause or phrase of this chapter is for any reason held invalid by a court of competent jurisdiction, such decision shall not affect the validity of any other portion of the chapter, it being the intent hereof that each section, subsection, sentence, clause and phrase hereof would have been adopted irrespective of the fact that any one or more section, subsection, sentence, clause or phrase be declared invalid.
(§11, Ord. 935-96, eff. August 15, 1996)

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*[*] **Editor's Note:** Former Chapter 13 entitled "Condominium Conversion Regulations", which was adopted by Ordinance No. 672, has been repealed in its entirety by §8, Ordinance No. 775, adopted January 21, 1985.

Ordinance No. 935-96, §3 amended the title of Chapter 13 from Congregate Housing Project Regulations to Multiple Unit Housing Regulations.

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CHAPTER 14 - TIME-SHARE PROJECTS

Sec. 9-14.101 Intent and Purpose.

It is the intent of the City of Avalon to regulate the creation and development of time-share projects within the City in order to ensure that such projects promote the goals and policies of the Avalon General Plan and Local Coastal Plan.
(§1, Ord. 788, eff. February 12, 1986)

Sec. 9-14.102 Definitions.

(a) A "time-share interest" is a right in perpetuity, for life, or for a term of years, to the recurrent and exclusive use or occupancy of a lot, parcel, unit, or segment of real property, annually, first reserved first served, or on some other basis, for a period of time which has been or will be allotted from the use or occupancy periods into which the project has been divided.

(b) A "time-share project" is a lot, parcel, unit or other segment of real property whose ownership includes at least one time-share interest. For purposes of this chapter, if the time-share project is a congregate housing project, the entire structure or complex shall be deemed a time-share project. Time-share projects include both new construction and conversions from non-time-share use.
(§1, Ord. 788, eff. February 12, 1986)

Sec. 9-14.103 Certain Conversions Prohibited.

The following types of accommodations shall not be converted to a time-share project:

(a) A residential unit rented or leased as of January 13, 1986; and

(b) Any room, suite or other component part of a motel, hotel, lodge, resort, or other form of transient accommodation.
(§1, Ord. 788, eff. February 12, 1986)

Sec. 9-14.104 Conditional Use Permit and Site Plan Approval Required.

All applicants for time-share projects shall obtain a conditional use permit pursuant to the procedures and substantive findings set forth in Sections 9-8.401 et seq. of this Code and the additional requirements set forth in this chapter, and shall secure site plan approval or approval with conditions pursuant to Sections 9-8.201 et seq. of this Code. No conditional use permit shall be issued pursuant to this chapter unless the use of time-share projects is explicitly included among the possible uses in the zone in which the proposed project would be located.
(§1, Ord. 788, eff. February 12, 1986)

Sec. 9-14.105 Application for Conditional Use Permit.

In addition to the procedures set forth in Sections 9-8.401 et seq. of this Code, the applicant shall provide to the City the following information or documents;

(a) If the proposed time-share project would consist of fewer than all of the units of a congregate housing project, the applicant shall identify which units are proposed to be part of the time-share project;

(b) The duration of the proposed time-share interest, i.e. in perpetuity, for life, for a term of years, or some other basis;

(c) The nature of the proposed time-share interest, i.e. an interest in a particular lot, parcel, unit or other segment of real property, or an undivided interest by license, partnership, tenancy in-common or otherwise;

(d) Copies of the proposed documentation which would establish the nature of the time-share interests in the proposed timeshare project, as well as any proposed documentation which would establish any restrictions on the use, modification or alienation of such time-share interests. As appropriate, such documents shall include but not be limited to articles of incorporation, by-laws, license agreements, membership agreements, partnership agreements, and covenants, conditions and restrictions;

(e) The number of golf carts which the applicant proposes to register with the time share project, provided, however, that such number shall not exceed the number of individual lots, parcels, units or other divided segments of real property which are to constitute a time-share interest for such proposed time-share project.

(f) A report or other document which sets forth the applicant's proposal for managing the time-share project, including, but not limited to, the number and duties of personnel, an itemized budget, and a description of management duties.

(g) If the proposed time-share project is to be converted from existing buildings or structures, a report describing in detail the condition and expected useful life of the proposed project's roof, foundation, and mechanical, electrical, plumbing and structural elements. The report shall additionally include data describing the acoustical attenuation characteristics of any party walls and party ceilings/floors. This report shall be prepared by a registered civil or structural engineer, a licensed architect, or licensed general engineering contractor. Such report shall also include, as necessary, a schedule for bringing the affected property into compliance with the City's Planning and Zoning Ordinance, City Fire Code, and County Building Code.

If the Commission grants the conditional use permit, the representations made by the applicant/permittee in this section shall constitute terms of the conditional use permit and the permit shall be subject to forfeiture if the permittee changes such terms without the City's prior express written approval.
(§1, Ord. 788, eff. February 12, 1986)

Sec. 9-14.106 Necessary Findings for Granting a Conditional Use Permit.

In addition to the findings set forth in Section 9-8.404, the Commission shall find the following:

(a) If the proposed time-share project is a "subdivision" as defined by Business and Professions Code Section 1104.5(e)(1) or 1104.5(e)(2), the applicant has provided a public report issued pursuant to Business and Professions Code Sections 11010 et seq.;

(b) The time-share project would not unduly reduce the availability or affordability of transient or permanent rental accommodations within the City;

(c) The time-share project would not unduly reduce the availability or affordability of low and moderate income housing within the City;

(d) The time-share project complies with all applicable building, safety and fire standards;

(e) The time-share project parking includes facilities which comply with the specific zone where the time-share project is to be located;

(f) The time-share project would be managed in a manner which ensures that the property would be well maintained and the time-share project would be a viable commercial enterprise;

(g) The time-share project is consistent with the City's annual growth policy as set forth in the City's General Plan; and;

(h) The time-share project satisfies all applicable Code provisions relating to advertising signs.

The Commission may, in its discretion, establish and evaluate additional conditions which it determines to be appropriate.
(§1, Ord. 788, eff. February 12, 1986)

Sec. 9-14.107 Vehicles.

(a) No more than one vehicle shall be registered to any one unit in a time-share project.

(b) The conditional use permit for a time-share project shall set forth the maximum number of golf carts which may be registered for the time-share project, provided, however, that such number shall not exceed the number of units, lots, parcels or other segment of real property which constitute a time-share interest for such time-share project.
(§1, Ord. 788, eff. February 12, 1986)

Sec. 9-14.108 License Tax.

Every time-share project shall pay an annual license tax as set forth in Section 3-1.211 of this Code.
(§1, Ord. 788, eff. February 12, 1986)

Sec. 9-14.109 Time-Share Conversion.

If the applicant proposes to convert any congregate housing project to a time-share project, the applicant shall deliver to each party who holds an interest in the structure or complex a notice regarding the proposed conversion before filing an application for a conditional use permit. Such notice must be delivered to all such parties at least fifteen (15) days prior to any public hearing regarding the conditional use permit for the proposed conversion. Such notice shall contain the following information: (a) the name and address of the project's owner or the owner's representative; (b) the approximate date of the proposed conversion; (c) the party's right to be heard at any public hearings regarding the conditional use permit for the conversion, and the date(s) of such hearing(s). Proof of service of the notice as well as a list of names and addresses of all such parties shall be provided to the City.

The applicant bears the burden of demonstrating at any public hearing regarding the conditional use permit for the proposed conversion that the applicant has fully satisfied the requirements of this section.
(§1, Ord. 788, eff. February 12, 1986)

Sec. 9-14.110 Appeals.

An applicant for a time-share project may appeal an adverse decision pursuant to Avalon Municipal Code Section 9-8.601 et seq.
(§1, Ord. 788, eff. February 12, 1986)

Sec. 9-14.111 Severability.

In any section, subsection, sentence, clause or phrase of this chapter is for any reason held invalid by a court of competent jurisdiction, such decision shall not affect the validity of any other portion of the chapter, it being the intent hereof that each section, subsection, sentence, clause and phrase hereof would have been adopted irrespective of the fact that any one or more section, subsection, sentence, clause or phrase be declared invalid.
(§1, Ord. 788, eff. February 12, 1986)

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CHAPTER 15 - DEVELOPMENT AGREEMENTS

Sec. 9-15.101 Purpose.

This chapter is intended to provide procedures and requirements for the consideration of development agreements, as specified in and authorized by the Government Code. The Planning Commission may recommend and the City Council may enter into a development agreement for the development of real property with any person having a legal or equitable interest in such property, or having written permission from a person having such interest.
(§2, Ord. 881-92, eff. October 1, 1992)

Sec. 9-15.102 Initiation of Hearings.

Hearings on a development agreement may be initiated:

(a) If the City Council instructs the Commission to set the matter for a hearing, report and recommendation; or

(b) Upon the initiative of the Commission; or

(c) Upon the filing of an application upon a form to be determined by the Director.
(§2, Ord. 881-92, eff. October 1, 1992)

Sec. 9-15.103 Commission Hearing and Notice.

(a) In all cases where a proposed development agreement is initiated, the Commission shall hold a public hearing and shall give notice of such public hearing in accordance with Title 9, Article 9, Section 9-8.801, "Notice of Public Hearing."

(b) Where an application for a development agreement is concurrently filed with an application for a zone change, development permit, conditional use permit, variance, tentative tract map, minor land division or other discretionary request requiring a public hearing, and may be feasibly processed together, all public hearings shall be concurrently held.

(c) In instances where the provisions of applicable ordinances would permit the modification of development standards during consideration of such development agreement, such standards may be concurrently considered where modification is requested.
(§2, Ord. 881-92, eff. October 1, 1992)

Sec. 9-15.104 Findings and Decision.

(a) The Commission may recommend approval and the Council may approve an application for a development agreement where it finds that the information presented by the applicant and/or obtained at a public hearing substantiates all of the following facts:

(1) That the proposed development agreement is consistent with the General Plan;

(2) That the proposed development agreement complies with zoning sub-division and other applicable ordinances and regulations;

(3) That the proposed development agreement is consistent with the public convenience, general welfare and good land use practice, making it in the public interest to enter into the development agreement with the applicant;

(4) That the proposed development agreement will not:

a. Adversely affect the health, peace, comfort or welfare of per-sons residing or working in the surrounding area;

b. Be materially detrimental to the use, enjoyment or valuation of property of other persons located in the vicinity of the site; or

c. Jeopardize, endanger or otherwise constitute a menace to the public health, safety or general welfare; and

(5) That the proposed development agreement complies with the terms, conditions, restrictions and requirements of Section 9-15.105.

(b) A recommendation by the Commission shall be by resolution carried by the affirmative vote of not less than a majority of its members. Such recommendation is final and conclusive, and may not be reconsidered by the Commission except upon a referral by the Council.

(c) The Commission shall recommend denial where the information submitted and/ or obtained at public hearing fails to substantiate the required findings to the satisfaction of the Commission.
(§2, Ord. 881-92, eff. October 1, 1992)

Sec. 9-15.105 Terms, Conditions, Restrictions and Requirements.

(a) A development agreement entered into by the Council shall include the following terms, conditions, restrictions and requirements; provided, however, that such terms, conditions, restrictions or requirements shall not be contrary to zoning, subdivision or other ordinances, laws or regulations applicable to the proposed development:

(1) The duration of the agreement, including a specified termination date if appropriate;

(2) The uses to be permitted on the property;

(3) The density or intensity of use permitted;

(4) The maximum height, size and location of buildings permitted;

(5) The reservation or dedication of land for public purposes to be accomplished, if any; and

(6) The time schedule established for periodic review as required.

(b) A development agreement may also include additional terms, conditions, restrictions and requirements for subsequent discretionary actions in addition to those provided in Section 9-15.104 provided that such terms, conditions, restrictions and requirements do not prevent development of the lot or parcel of land included in such agreement for the uses and to the density or intensity of development set forth in the agreement, including but not limited to:

(1) The requirement of development schedules providing that construction of the proposed development as a total project or in phases to be initiated and/or completed within a specified time period;

(2) The construction of public facilities required in conjunction with such development, including but not limited to vehicular and pedestrian rights-of-way, drainage and flood-control facilities, parks and other recreational facilities, and sewers and sewage treatment facilities;

(3) The prohibition of one or more uses normally listed as permitted, accessory, or subject to permit in the zone where placed;

(4) The limitation of future development or requirement of specified conditions under which further development not included in the agreement may occur;

(5) The requirement of a faithful performance bond where deemed necessary to, and in an amount deemed sufficient to guarantee the faithful performance of specified terms, conditions, restrictions and/or requirements of the agreement. In lieu of the required bond, the applicant may deposit with the City Finance Director and as-sign to the City, certificates of deposit or savings and loan certificates or shares equal in amount to the same conditions as set forth herein. Such deposit and assignment shall comply with all provisions and conditions of this Code;

(6) The requirements of specified design criteria for the exteriors of buildings and other structures, including signs;

(7) The requirement of special yards, open spaces, buffer areas, fences and walls, landscaping and parking facilities, including vehicular and pedestrian ingress and egress;

(8) The regulation of nuisance factors such as noise, vibration, smoke, dust, odors, gasses, garbage, heat and the prevention of glare or direct illumination of adjacent properties; and

(9) The regulation of operating hours and other characteristics of operation which might adversely affect normal neighborhood schedule and functions on surrounding property.

(c) The development agreement may also include provisions for reimbursement by the City of expenditures made by the developer for public improvements.

(d) Unless otherwise provided by a development agreement, the General Plan, zoning, subdivision, and other ordinances; rules, regulations and official policies governing permitted uses of land, density, and design; improvement and construction standards; and specifications applicable to property subject to a development agreement shall be those applicable to such development on the date of execution of the development agreement by the Council; provided, however, that a development agreement shall not:

(1) Be construed to prevent the application of later adopted or amended ordinances, rules, regulations and policies in subsequent applications applicable to the property which do not conflict with such existing ordinances, rules, regulations and policies; or

(2) Prevent the approval, subject to approval conditions, or denial of subsequent development applications pursuant to such existing or later adopted or amended ordinances, rules, regulations and policies which do not conflict with existing ordinances, rules, regulations and policies.
(Ord. §2, 881-92, eff. October 1, 1992)

Sec. 9-15.106 Council Hearing and Notice.

After receipt of the Commission's recommendation, the Council shall hold a public hearing and shall give notice of such public hearing pursuant to the procedure set forth in Title 9, Article 9, Section 9-8.901 provided, however, that if the Commission has recommended against approval of such application, the action of the Commission shall become final unless appealed in accordance with Section 9-8.601 of this Title.
(§2, Ord. 881-92, eff. October 1, 1992)

Sec. 9-15.107 Council Action.

The Council may approve, modify or disapprove a Planning Commission recommendation involving a development agreement. Council approval shall be by ordinance.
(§2, Ord. 881-92, eff. October 1, 1992)

Sec. 9-15.108 Execution of Contract.

(a) No ordinance shall be adopted and the Council shall not execute a development agreement until it has been executed by the applicant. If the applicant has not executed the agreement, or agreement as modified by the Council, and returned said executed agreement to the City Clerk within thirty (30) days following Council approval, the application shall be deemed withdrawn, and the Council shall not adopt said ordinance nor the mayor execute said agreement. Such thirty (30) day time period may be extended upon approval of the Council.

(b) Not more than ten (10) days following the execution of a development agreement by the Council, the City Clerk shall record with the County Recorder a copy of the executed agreement.
(§2, Ord. 881-92, eff. October 1, 1992)

Sec. 9-15.109 Subsequently Enacted State and Federal Laws.

In the event that State or Federal Laws or regulations enacted subsequent to execution of a development agreement prevent or preclude compliance with one or more provisions of such agreement, the provisions of such agreement shall be deemed modified or suspended to the extent necessary to comply with said State or Federal law or regulation.
(§2, Ord. 881-92, eff. October 1, 1992)

Sec. 9-15.110 Enforcement.

(a) Unless and until amended or cancelled in whole or in part as provided in Section 9-15.111, a development agreement shall be enforceable by any party thereto notwithstanding any change in regulations which alters or amends the regulations applicable to development as specified in Section 9-15.105.

(b) The burden of a development agreement shall be binding upon, and the benefits of the agreement shall inure to, all successors in interest to the parties to the agreement.
(§2, Ord. 881-92, eff. October 1, 1992)

Sec. 9-15.111 Amendment or Cancellation.

A development agreement may be amended, or cancelled in whole or in part, by mutual consent of all parties to the agreement or their successors in interest. Procedures for amendment or cancellation shall be the same as provided in this chapter for initiation and consideration of such agreement.
(§2, Ord. 881-92, eff. October 1, 1992)

Sec. 9-15.112 Review for Compliance.

(a) Every development agreement entered into by the Council shall provide for periodic review of the applicant's compliance with such agreement by the Director at a time interval specified in such agreement, but in no event longer than twelve (12) months.

(b) The Director shall determine on the basis of substantial evidence that the applicant or their successor in interest has or has not complied with the agreement. If, as a result of this review the Director determines that the agreement is not being fulfilled, he or she shall notify the applicant or their successor in interest of his or her findings as required by law for the service of summons or by registered or certified mail, postage prepaid, return receipt re-quested, also indicating that failure to comply within a period specified, but in no event less than thirty (30) calendar days, may result in legal action to enforce compliance, termination or modification of the agreement.

(c) It is the duty of the applicant or their successor in interest to provide evidence of good-faith compliance with the agreement to the Director's satisfaction at the time of said review. Refusal by the applicant or their successor in interest to provide the required information shall be deemed prima facie evidence of violation of such agreement.

(d) If, at the end of the time period established by the Director, the applicant or their successor in interest has failed to comply with the terms of the agreement or, alternatively, submitted additional evidence satisfactorily substantiating such compliance, the Director shall notify the Commission of his or her findings recommending such action as he or she deems appropriate, including legal action to enforce compliance or to terminate or modify the agreement.
(§2, Ord. 881-92, eff. October 1, 1992)

Sec. 9-15.113 Violation of Agreement - Planning Commission Action.

(a) Where the Director notifies the Commission that his or her findings indicate that a development agreement is being violated, a public hearing shall be scheduled before the Commission to consider the applicant's reported failure to comply and the action recommended by the Director. Procedures for conduct of such hearing shall be the same as provided in this chapter for initiation and consideration of a development agreement.

(b) If as a result of such hearing, the Commission finds that the applicant or their successor in interest is in violation of a development agreement, it shall notify the Council of its findings, recommending such action as it deems appropriate.
(§2, Ord. 881-92, eff. October 1, 1992)

Sec. 9-15.114 Violation of Agreement - Council Action.

Where the Commission reports the violation of a development agreement, the Council may take one of the following actions:

(a) Approve the recommendation of the Commission instructing that action be taken as indicated therein in cases other than a recommendation to terminate or modify an agreement; or

(b) Refer the matter back to the Commission for further proceedings with or without instructions; or

(c) Schedule the matter for hearing before itself where termination or modification of an agreement is recommended. Procedures for such hearing shall be the same as provided in Section 9-15.106.
(§2, Ord. 881-92, eff. October 1, 1992)

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CHAPTER 16 - EMERGENCY SHELTERS

Sec. 9-16.100 Purpose.

The purpose of this chapter is to encourage temporary shelter for homeless persons or others in need in a manner that protects the health, safety, and general welfare of nearby residents and businesses, consistent with California Government Code §65583, which requires all California cities to identify in their General Plan Housing Element at least one zone where emergency shelters are permitted by right without requiring discretionary permits or action, provided they comply with objective operating standards established by the City.
(§3, Ord. 1131-14, eff. August 14, 2014)

Sec. 9-16.101 Definitions.

In this chapter, unless the context otherwise requires:

(a) "Emergency shelter" means housing with minimal supportive services that is designed for and occupied by homeless persons for no more than six-months in a consecutive 12-month period. No individual or household may be denied emergency shelter because of an inability to pay.
(§3, Ord. 1131-14, eff. August 14, 2014)

Sec. 9-16.102 Permit Required.

An emergency shelter that complies with the provisions of this chapter shall be permitted within the Commercial (C) and Special Commercial (SC) Zones pursuant to an emergency shelter permit.
(§3, Ord. 1131-14, eff. August 14, 2014)

Sec. 9-16.103 Emergency Shelter Permit; Application and Issuance.

(a) An application for an emergency shelter permit shall be filed with the Zoning Administrator on a form approved by the City together with a fee fixed by resolution of the City Council. The Zoning Administrator shall approve an application that meets the development standards set forth in Section 9-16.104 without discretionary review or a public hearing, no more than sixty (60) days after the application has been deemed complete.

(b) This approval shall expire one year from the approval date unless a building permit has been issued for the project. The Zoning Administrator may extend the period to exercise the permit for up to one additional year upon a showing of good cause, if such request is received in writing prior to the expiration date.
(§3, Ord. 1131-14, eff. August 14, 2014)

Sec. 9-16.104 Development and Management Standards.

(a) Development Standards. An emergency shelter shall conform to the development standards set forth below, as well as all development standards of the C or SC zoning district. If there is a conflict between the C or SC development standards, as applicable, and the standards set forth below, the standards set forth below shall be controlling:

(1) Proximity to Other Shelters. No emergency shelter shall be closer than three hundred (300') feet to another emergency shelter.

(2) Vehicle Parking. An emergency shelter shall provide one off street parking space for employee parking.

(3) Bicycle Parking. An emergency shelter shall provide at least one bicycle space for every five (5) beds.

(4) Shelter Capacity. An emergency shelter shall have no more than two (2) occupants per bedroom or two (2) occupants per eighty (80) square feet of living space. The square footage of living space shall not include the kitchen area, bathroom area or garage space.

(5) Length of Stay. The length of stay per individual in an emergency shelter shall not exceed six (6) months in a consecutive 12-month period.

(6) Screening of Outdoor Uses. An emergency shelter shall not allow or include any of the following to occur in front of an emergency shelter or in any other location incidental to the shelter that is visible from adjoining properties or the public right-of-way, unless the same is entirely screened from public view, to the satisfaction of the zoning administrator:

a. designated outdoor smoking area;

b. outdoor waiting and client intake area;

c. outdoor public telephones; and

d. outdoor refuse area.

(7) Exterior Lighting. Lighting in or on an emergency shelter shall be stationary, directed away from adjacent properties and public rights-of-way, and of an intensity that is consistent with existing lighting in the neighborhood in which the shelter is located.

(8) Personal Property Storage. An emergency shelter shall provide secure areas for temporary storage of personal property of the persons residing in the emergency shelter.

(b) Management Standards. An emergency shelter shall conform to the management standards set forth below:

(1) Emergency Shelter Management Plan. The operator of an emergency shelter shall prepare and submit a management plan to the Zoning Administrator for approval that includes, as applicable, the following: established staff training program to meet the needs of emergency shelter residents; community outreach; adequate security measures to protect emergency shelter residents and the neighboring land uses; a list of services provided to assist emergency shelter residents with obtaining permanent shelter and income; and a method of screening emergency shelter residents to ensure compatibility with services provided at or through the emergency shelter prior to admittance to the shelter.

(2) On-Site Management and Security. Security measures shall be sufficient to protect clients and neighboring land uses, to the satisfaction of the Zoning Administrator. On-site management and on-site security shall be provided during the hours when the emergency shelter is in operation and at all times

that clients are present on site. An on-site staff person shall be designated as a neighborhood liaison to respond to, and address, any questions or concerns from surrounding residents regarding facility operations. Clients shall be screened for compatibility with shelter resources and for compliance with applicable State and Federal laws prior to admittance to the emergency shelter.
(§3, Ord. 1131-14, eff. August 14, 2014)

Sec. 9-16.105 Appeals.

An appeal of a decision made pursuant to this chapter shall be brought and governed as set forth in this Code.
(§ 3, Ord. 1131-14, eff. August 14, 2014)

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that clients are present on site. An on-site staff person shall be designated as a neighborhood liaison to respond to, and address, any questions or concerns from surrounding residents regarding facility operations. Clients shall be screened for compatibility with shelter resources and for compliance with applicable State and Federal laws prior to admittance to the emergency shelter.
(§3, Ord. 1131-14, eff. August 14, 2014)

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An appeal of a decision made pursuant to this chapter shall be brought and governed as set forth in this Code.
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CHAPTER 17 - SPECIAL NEEDS HOUSING

Article 1. Single Room Occupancies

Sec. 9-17.100 Purpose and Intent.

It is the purpose and intent of this chapter to regulate the development and operation of single room occupancy land uses. Single room occupancy (SRO) units provide housing opportunities for lower-income individuals, persons with disabilities, seniors, and formerly homeless individuals. (§2, Ord. 1136-15, eff. April 16, 2015)

Sec. 9-17.101 Occupancy.

A single room occupancy unit provides living and sleeping space for the exclusive use of up to two (2) occupants. (§2, Ord. 1136-15, eff. April 16, 2015)

Sec. 9-17.102 Residential Zone Land Uses and Permit Requirements.

Single-room occupancy facilities shall be permitted in the HD Multiple Residential-High Density (Flats) zone and the High Density Residential – Community Housing (HD-R-CH) zone subject to the approval of a conditional use permit by the Planning Commission per Section 9-8.401. (§2, Ord. 1136-15, eff. April 16, 2015)

Sec. 9-17.103 Standards.

(a) Single Room Occupancy Units. The following standards apply to single room occupancy units. In the event of conflict between these standards and the underlying zoning district regulations, the provisions of this section shall apply.

(1) Unit Size. The minimum size of a unit shall be one hundred ninety (190) square feet.

(2) Bathroom Facilities. An SRO unit is not required to, but may contain partial or full bathroom facilities. A partial bathroom facility shall have at least a toilet and sink; a full facility shall have a toilet, sink, and bathtub, shower, or bathtub/shower combination. If a full bathroom facility is not provided, common bathroom facilities shall be provided with at least one full bathroom on a floor, with at least one bathroom for every three units on a floor. A full bathroom shall be at least 35 square feet.

(3) Kitchen. An SRO unit is not required to but may contain partial or full kitchen facilities. A full kitchen includes a sink, a refrigerator, and a stove, range top, or oven. A partial kitchen is missing at least one of these appliances. If a full kitchen is not provided, common kitchen facilities shall be provided with at least one full kitchen per floor, or at least one kitchen for every six units on a floor.

(4) Closet. Each SRO unit shall have a separate closet.

(5) Code Compliance. All SRO units shall comply with all requirements of the California Building Code.

(b) Single Room Occupancy Facilities. In addition to the development standards in the underlying zoning district, the following standards apply to single room occupancy facilities. In the event of conflict between these standards and the underlying zoning district regulations, the provisions of this section shall apply.

(1) Common Area. A single room occupancy facility shall include at least two hundred (200) square feet in area of interior common space, excluding janitorial storage, laundry facilities, and common hallways. All common areas shall comply with all applicable ADA accessibility and adaptability requirements.

(2) Bathroom Facilities. If private bathing facilities are not provided for each unit, shared shower or bathtub facilities shall be provided with at least one full bathroom (including toilets, sinks, and bathing facilities) for every floor, with a minimum of one full bathroom per every three units on a floor. The shared shower or bathtub facility shall be accessible from a common area or hallway. Each shared shower or bathtub facility shall be provided with an interior lockable door. A full bathroom shall be at least 35 square feet.

(3) Laundry Facilities. Laundry facilities shall be provided in a separate room at the ratio of one washer and dryer for every ten (10) units, with at least one washer and dryer per floor.

(4) Cleaning Supply Room. A cleaning supply room or utility closet with a wash tub with hot and cold running water shall be provided on each floor of the SRO facility.

(5) Management Plan. A management plan shall be submitted with the development application for an SRO facility and shall be approved by the community development director and housing programs manager. The management plan must address management and operation of the facility, rental procedures, safety and security of the residents and building maintenance.

(6) Facility Management. An SRO facility with ten (10) or more units shall have an on-site manager. An SRO facility with less than ten (10) units shall provide a management office on site.

(7) Off-Street Parking. Off-street parking shall be determined by the Planning Commission.

(8) Accessibility. All SRO facilities shall comply with all applicable ADA accessibility and adaptability requirements.

(9) Existing Structures. An existing structure may be converted to an SRO facility, consistent with the provisions of this section.
(§3, Ord. 1136-15, eff. April 16, 2015)

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CHAPTER 1 - FISHING AND USE OF EQUIPMENT

Sec. 10-1.01 Carrying Fishing Spears.

It shall be unlawful for any person to carry on the streets or other public property of the City any fishing spear, or any instrument which shall be sharpened or be dangerous, exceeding two (2') feet in length.
(§1, Ord. 303)

Sec. 10-1.02 Fishing with Spears.

It shall be unlawful for any person to spear fish in the waters of the Pacific Ocean within the corporate limits of the City.
(§2, Ord. 303)

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CHAPTER 2 - HARBOR REGULATIONS[*]

Article 1. Definitions and General Provisions

Sec. 10-2.101 Definitions.

For the purposes of this chapter, certain words and phrases defined shall, unless the context clearly indicates otherwise, have the following meanings:

(a) "Float" shall mean and include wharf, pier, quay, and landing.

(b) "Mooring" shall mean any appliance used by a vessel for anchoring purposes and which appliance is not carried aboard such vessel when under way as regular equipment.

(c) "Pier" shall mean any fixed or floating structure for securing vessels, loading or unloading persons or property, or providing access to the water, and shall include wharf, dock, float, or any other landing facility, and floating dry docks.

(d) "Vessel" shall mean and include watercraft used as a means of transportation on water, including ships and boats of all kinds, sailing vessels, catamarans, trimarans, dinghies, seaplanes on the water, and every hulled structure adapted to be navigated from place to place for the transportation of persons or property. Except as provided in Section 10-2.212, barges, floating homes and floating structures do not constitute a vessel and are not permitted to be moored or anchored in City waters.

(e) Except as otherwise provided in this chapter, "Avalon Harbor" shall mean all navigable waters within the City limits in which the tide ebbs and flows and whether or not the lands lying under the tidal waters are privately or publicly owned.

(f) "City waters" and "waters of the City" shall mean all waters extending seaward from the ordinary or mean high tide line of the Pacific Ocean, whether or not the line has been fixed by ordinance, statute, court action, or otherwise, and lying within the City limits, whether or not the lands lying under said waters are privately or publicly owned.

(g) "Avalon Harbor" and "Avalon Bay" shall be deemed coextensive, and the terms shall be deemed interchangeable.

(h) "City facilities" shall mean and include, but shall not be limited to, any water-front pier, wharf, or other structure, or property located within twenty (20) meters of the mean high tide line owned or controlled by the City.

(i) "Sewage" shall mean human body waste.

(j) "Waste" shall mean sewage and all other waste, liquid galley waste, and water from onboard shower facilities, excluding vessel washdown water.

(k) "Holding tank" shall mean any retention system on a vessel, which system is designed to hold waste or sewage in the system and is required to be emptied from time to time, treated or untreated.

(l) "Certified facility" shall mean a device:

(1) Through which untreated waste and sewage shall pass, be treated, and be discharged into the body of water upon which the vessel floats; and

(2) Which is certified pursuant to the provisions of the Federal Pollution Control Act, as amended from time to time, and/or applicable State laws, as enacted and amended from time to time.

(m) "Length" as applied to vessels and boats shall mean the measurement set forth in the manufacturer's specification for such vessel or boat. Where the vessel has been modified, the Harbor Master shall determine the length of the vessel using any reasonable method. Detachable swim steps and bow pulpits shall not be included in determining length.

(n) "Long Term Vessel" shall mean any vessel as defined herein which is moored in City waters during the storm season (November 1st through March 30th) and during such time is required to pay a service charge for mooring use for fourteen (14) days or more consecutive days or for a total of twenty (20) days in any thirty (30) day period.

(o) "Floating home" or "floating structure" shall mean a structure that has the following characteristics:

(1) It is a stationary structure in, on, or above the water that is:

a. Permanently grounded by means of more than two (2) concrete or other weighted controls at the stern and bow; or

b. Attached to a separate flotation system which is held in place by piling or mooring devices; or

c. Placed on or otherwise affixed to a foundation, dock, piling, walkway, gangway, pier, barge, float or other permanent or floating supporting structure.

(2) It does not have an adequately sized external or internal mechanical propulsion system capable of being used for self-propelled navigation as set forth in Avalon Municipal Code Section 10-2.512. Incidental or limited movement of a structure upon water or resting partially or entirely on the bottom does not preclude the structure from being classified as a floating home or floating structure for purposes of this Code. Registration of a structure as a vessel with State or Federal agencies does not preclude the structure from being classified as a floating home or floating structure for purposes of this Code.

(3) It is designed and built to be used, or is modified to be used, or is used, to serve purposes or provide services typically associated with a structure on or other improvement to real property and/or incorporates building materials and methods which are generally found in structures on land rather than a vessel. The term "floating home" means a structure as described herein that is used or designed so as to be used as a residence. The term "floating structure" means a structure as described herein that is used as a place of business.

(§2, Ord. 519, eff. July 31, 1969, as amended by §1, Ord. 540, eff. July 21, 1971; §1, Ord. 836, eff. November 15, 1988; §1, Ord. 849, eff. October 19, 1989; §1, Ord. 1009-02, eff. October 17, 2002; §1, Ord. 1036-06, eff. February 16, 2006; §§2–3, Ord. 1037-06, eff. March 9, 2006)

Sec. 10-2.102 Office of Harbor Master Created.

The office of Harbor Master is hereby created, and the term "Harbor Master" shall mean the Harbor Master of the City.
(§2, Ord. 519, eff. July 31, 1969)

Sec. 10-2.103 Harbor Master: Authority.

The Harbor Master shall have full authority to enforce all rules and regulations which may be adopted by the City Council or promulgated by the City Manager pertaining to the use of or approach to the City wharf and docking facilities by any person, float, vessel or vehicle.
(§2, Ord. 519, eff. July 31, 1969, as amended by §1, Ord. 698, eff. April 20, 1981)

Sec. 10-2.104 Harbor Master: Duties.

It shall be the duty of the Harbor Master:

(a) To carry out the orders of the Council and to enforce all harbor regulations;

(b) To designate and mark, by buoys or otherwise, the areas within which vessels of different sizes and classes shall be anchored, moored or tied;

(c) To designate and mark, by signs, that certain dinghy docks be posted "No tying between the hours of 3:00 a.m. and 5:00 a.m." when and as directed by the City Council;

(d) To designate and mark, by signs, that certain dinghy docks shall not be used for securing kayaks;

(e) To assign anchorage or moorings to vessels within such designated areas;

(f) To assign berths or landing places to vessels coming alongside wharves and piers;

(g) To order any vessel improperly anchored, moored, or berthed to change its position as he may designate and, in the event his orders are not complied with, or the owner of the vessel cannot be located, to cause such vessel to be so moved and to collect the cost thereof from such vessel or owner thereof;

(h) To promptly report to the City Manager any violation of the laws of the United States for the protection of navigation and the preservation of navigable waters, particularly any encroachment on the waterway by the building of illegal structures by unlawfully filling or dumping material of any kind into the waterway, or by throwing overboard, or setting adrift, or permitting to go adrift anything that is or might become obstructive or dangerous to navigation; and

(i) To keep a record of the number, size, and kind of vessels using the harbor, the amount, kind, and value of waterborne freight handled, and the number of passengers carried by the vessels using the harbor, and to report each month a summary of such record to the Council.
(§2, Ord. 519, eff. July 31, 1969; §2, Ord. 836, eff. November 15, 1988; §1, Ord. 1014-03, eff. July 3, 2003; §1, Ord. 1015-03, eff. July 31, 2003)

Sec. 10-2.105 Harbor Master: Performance of Duties by Deputies.

Whenever a power is granted to, or a duty is imposed upon, the Harbor Master, the power may be exercised, or the duty may be performed, by a deputy or assistant of the Harbor Master or by a person authorized, pursuant to law, by the Council, unless the provisions of this chapter expressly provide otherwise.
(§2, Ord. 519, eff. July 31, 1969)

Sec. 10-2.106 Harbor Master: Police Powers.

The Harbor Master and his assistants are hereby invested with police powers.
(§2, Ord. 519, eff. July 31, 1969)

Sec. 10-2.107 Violations and Penalties.

(a) Violations of the following provisions of Title 10 shall be deemed an infraction:

Section 10-2.214, relating to dinghy docks with the exception of subsection (g) regarding removal of tags or markers affixed by the Harbor Department to detect violations;

Sections 10-2.301 and 10-2.303, relating to permits to repair vessels;

Section 10-2.304, relating to speed of vessels;

Section 10-2.306, relating to operation of generators;

Sections 10-2.417 through 10-2.420, relating to loading of passengers and freight and use of City facilities;

Section 10-2.421, relating to traffic and parking regulations on the Mole;

Section 10-2.501, relating to obstructing landings and fairways;

Sections 10-2.506 and 10-2.507, relating to solicitation of patronage;

Section 10-2.509, relating to submission of manifest information;

Section 10-2.510, relating to posting of charges;

Section 10-2.515, relating to maintenance of vessels;

Section 10-3.02, relating to vessel speed within the Avalon Marine Preserve;

Section 10-6.02, relating to permits for diving within Avalon Harbor;

Sections 10-1.01 and 10-1.02 relating to fishing with spears.

(b) Except as otherwise specified, violations of the following provisions of Title 10 shall be misdemeanors unless the prosecutor in his or her discretion and in the interests of justice determines that the violation should be charged as an infraction:

Sections 10-2.201 through and including 10-2.212, relating to mooring places;

Section 10-2.409, relating to nonpayment of fees;

Section 10-2.410(b) and 10-2.412, relating to operating of a business without first obtaining a waterside permit;

Section 10-2.502, relating to damaging public property;

Section 10-2.503, relating to contamination of waters and beaches, with the exception of subsection (h) relating to refusal or tampering with dye tabbing which shall be punishable as a misdemeanor;

Section 10-2.508, relating to construction work, dredging and excavating;

Section 10-2.511, relating to unattended vessels;

Section 10-2.512, relating to movement of vessels;

Section 10-2.514, relating to unseaworthy vessels;

Section 10-6.01, relating to diving from piers, seawalls and breakwaters.
(§1, Ord. 1039-06, eff. March 23, 2006)

Article 2. Anchoring and Mooring

Sec. 10-2.201 Mooring Places: Permits Required.

It shall be unlawful for any person to place, erect, or construct a mooring in City waters before a revocable permit shall have been issued by the Harbor Master.
(§2, Ord. 519, eff. July 31, 1969)

Sec. 10-2.202 Mooring Places: Approval.

It shall be unlawful to moor or anchor a vessel in City waters until such anchorage or mooring place shall have been first approved by the Harbor Master. It shall be unlawful for any mooring permittee to lease or sublet his mooring for use by any boat other than his own.
(§2, Ord. 519, eff. July 31, 1969)

Sec. 10-2.203 Mooring Places: Specifications.

It shall be unlawful to erect or construct any mooring unless the mooring shall substantially conform to the following specifications:

(a) The Harbor Master shall have the right and duty of allocating a number to each mooring in the waters of the City. There shall be painted on the mooring buoys, and be legible at all times, the number allocated to the mooring by the Harbor Master.

(b) Painters, chains, and fastening on buoys shall be kept in good and serviceable condition at all times and shall be so arranged that when dropped they will immediately sink, except in cases of double moorings when it shall be permissible to connect the two (2) painters with a line having floats to keep the line afloat at all times.
(§2, Ord. 519, eff. July 31, 1969)

Sec. 10-2.204 Mooring Places: Specifications: Approval.

No revocable permit shall be issued by the Harbor Master for a mooring until plans and specifications for such mooring have been submitted to him by the applicant showing the construction of the proposed mooring and the location thereof. Such plans, specifications, and location shall first be approved in writing by the Harbor Master.
(§2, Ord. 519, eff. July 31, 1969)

Sec. 10-2.205 Moorings: Lifting: Equipment.

It shall be the duty of the Harbor Master to require that moorings be lifted by the permittee for inspection and replaced in good condition. The Harbor Master shall require moorings to be lifted by the permittee for inspection annually. Such inspection and repairs, as required, shall be completed prior to May 25 of the year in which they are required and written evidence of an order for repair and in-stallation service shall be filed with the Harbor Master on or before March 1 of each year. Mooring gear shall, at all times, conform to the following specifications:

Boats up to forty feet, zero (40'0") inches in length, as specified herein, shall have not less than two thousand five hundred (2,500) pounds mooring weight on the bow, and not less than two thousand five hundred (2,500) pounds on the stern, connected to the surface with not less than three-quarters (3/4") inch chain.

Boats measuring between forty feet one (40'1") inch and fifty feet eleven (50'11") inches in length, as specified herein, shall have not less than five thousand (5,000) pounds mooring weight on the bow, and not less than five thousand (5,000) pounds on the stern, connected to the surface with not less than three-quarters (3/4") inch chain.

Boats fifty-one feet, zero (51'0") inches in length, as specified herein, and over shall have not less than five thousand (5,000) pounds mooring weight on the bow and not less than five thousand (5,000) pounds on the stern, connected to the surface with not less than one (1") inch chain.

The Harbor Master, at his discretion, may require additional weight and chain for boats of excessive weight.

Chains for vessels measuring fifty feet zero (50'0") inches or less in length shall be changed every four (4) years for moorings inside Avalon Harbor and every three (3) years for moorings in Descanso and Hamilton Coves.

Chains for vessels measuring fifty feet one (50'1") inch and over shall be changed every six (6) years.

Mooring hawsers shall be of polypropelene or equivalent and changed annually. All mooring buoys shall be of a nonmetallic fiberglass type in construction, including alphabet row and the deep water moorings as technology presents itself. All mooring buoys shall be painted annually. The foregoing specifications shall be required:

(a) When a mooring is transferred. Transfers shall not be approved unless the foregoing specifications are met; and

(b) Upon annual inspection in accordance with this section.
(§2, Ord. 519, eff. July 31, 1969, as amended by §1, Ord. 613, eff. December 17, 1975; and §1, Ord. 624, eff. February 2, 1977; §1, Ord. 846, eff. August 17, 1989; §2, Ord. 1009-02, eff. October 17, 2002)

Sec. 10-2.206 Mooring Places: Permits: Conditions.

(a) The Harbor Master, in his discretion, may permit vessels to use an unoccupied mooring for guest vessels.

(b) The permittee shall notify the Harbor Master before midnight of the night be-fore the day the permittee intends to use the mooring assigned to him. Failure to do so shall place the Harbor Master under no obligation to remove a guest vessel.

(c) No vessel shall be placed at a mooring classified and/or equipped for a smaller vessel without the written consent of the Harbor Master.

(d) No vessel less than fourteen (14') feet shall be placed at a mooring other than as provided at the City transient dinghy dock unless such vessel less than fourteen (14') feet is tied off a larger vessel and such larger vessel has been permitted by the Harbor Master to use that mooring space.

(e) Notwithstanding subsection (d) above, a vessel less than fourteen (14') feet may, with the written consent of the Harbor Master, be left at a mooring space which has been assigned to a larger vessel, from sunrise to sunset.

(f) In the event the permittee does not own a boat which is registered with the City for the use of his mooring, and such lack of registered ownership continues for a period of one hundred twenty (120) days, the permit shall be revoked, and the former permittee shall sell or remove the mooring hardware within thirty (30) days next following a written demand by the Harbor Master, and, in the absence of compliance with such demand by the owner, the title to the mooring hardware shall vest in the City.

(g) In no event shall a floating home as defined herein be permitted to be moored or anchored in Avalon waters. A floating structure which consists only of visitor serving commercial facilities affixed to a float or barge may be permitted at such times and places as directed by the Harbor Master and approved pursuant to the waterside permit procedures and rules set forth in this Title; however, the floating structure attached to the Pleasure Pier and owned by the holder of the shoreboat franchise shall be permitted under the franchise agreement and does not require a waterside permit.
(§2, Ord. 519, eff. July 31, 1969, as amended by §2, Ord. 540, eff. July 21, 1971; §1, Ord. 564, eff. January 3, 1973; §1, Ord. 578, eff. January 2, 1974, and §2, Ord. 613, eff. December 17, 1975; §3, Ord. 836, eff. November 15, 1988; §4, Ord. 1037-06, eff. March 9, 2006)

Sec. 10-2.207 Mooring Places: Permits: Fees.

The owner of a vessel shall pay to the City, for the use of Avalon Harbor and its facilities and services, a permit fee of an amount specified by resolution of the City Council pursuant to Section 10-2.218, per month per lineal foot of overall length of the vessel. The provisions of this section shall apply to open water moorings and shall be in effect as long as the boat owner has a permit from the City, or its agents, to moor in Avalon Harbor. Such permit fee shall become due and payable on January 1 of each year and shall be payable in advance.
(§2, Ord. 519, eff. July 31, 1969, as amended by §1, Ord. 548, eff. January 19, 1972; §3, Ord. 613, eff. December 17, 1975, and §1, Ord. 618, eff. December 31, 1975; §3, Ord. 1009-02, eff. October 17, 2002)

Sec. 10-2.208 Mooring Places: Permits: Fees: Delinquencies.

The revocable mooring permits shall provide that if the permit fee set forth in a resolution duly adopted by the City Council pursuant to Section 10.2.218 is not paid on or before January 1, there shall be added thereto a penalty equal to ten (10%) percent of the amount due and that if, on or before February 1, the permit fee and any penalty owing are not paid in full, the permit shall not be renewed. Upon the nonrenewal of such permit, it shall be the duty of the former permittee to immediately remove the mooring hardware. If the former permittee fails, neglects or refuses to do so within ten (10) days after written notification is mailed to him by the Harbor Master, the Harbor Master may remove the mooring hardware and the costs thereof shall be paid by the permittee. Such costs may be collected in any court of competent jurisdiction. At the option of the Harbor Master, any mooring hardware which is not timely removed shall become the property of the City.
(§2, Ord. 519, eff. July 31, 1969, as amended by §I, Ord. 648, eff. July 19, 1978; §2, Ord. 959-98, eff. January 14, 1999)

Sec. 10-2.209 Mooring Places: Permits: Revocation.

Mooring permits may be revoked for:

(a) Use of harbor facilities in violation of City ordinances, harbor regulations or other applicable laws

(b) Violation of conditions of any mooring permit;

(c) Failure or refusal of the mooring owner to consent to dye testing of a vessel's marine sanitation facilities pursuant to Section 10-2.503(h); and

(d) Discharge of contaminating wastes into City waters in violation of Section 10-2.503.

The mooring permit shall provide that such permit shall be revocable for such violations (excluding nonpayment of permit fees) at any time by the Harbor Master upon giving five (5) days' written notice to the permittee. Upon such permit being revoked, it shall be the duty of the former permittee to immediately remove the mooring hardware forthwith. If he shall fail, neglect, or refuse to do so, the mooring hardware may be removed by the Harbor Master, and the costs thereof shall be paid by the occupant of the mooring place. Such costs may be collected in any court of competent jurisdiction. At the option of the Harbor Master, the mooring hardware, if not removed forthwith, shall become the property of the City.
(§2, Ord. 519, eff. July 31, 1969; §2, Ord. 832U, eff. August 16, 1988)

Sec. 10-2.210 Mooring Places: Permits: Transfer.

Unless otherwise provided in the permit, transfers of revocable permits pursuant to which permittees are assigned and hold mooring spaces in Avalon Harbor, shall be permissible provided:

(a) The purchaser pays to the City a transfer fee as set by resolution of the City Council. In the event such fee shall not be paid within ten (10) days after written demand made by the City upon the purported transferee, the permit to use such mooring may be revoked;

(b) The transfer is approved in writing by the Harbor Master; and

(c) In the case of a revocable permit or permits, the fee for which is established by resolution pursuant to Section 10-2.207 of this Article, the transfer is to no more than one person or approved type of entity as set forth in regulations issued by the Harbor Department from time to time; if a commercial use is proposed, such person or entity has obtained a business license; the transfer will not change the then present use of the mooring or moorings held pursuant to the permit or permits; and the provisions of subsections (a) and (b) of this section and the length limitations set forth below have been complied with. Otherwise, such permit or permits shall not be transferred without prior Council approval.

(d) Except as set forth in subsection (e) below, a transfer shall not be approved by the Harbor Master if the vessel to be registered to the mooring exceeds the following Council approved limitations:

(1) Alphabet row shall be limited to powerboats or retractable-keel sailboats which are thirty feet, eleven and ninety-nine hundredths (30'11.99") inches or less in length.

(2) The first row seaward of the in-shore fairway, beginning with mooring No. 1, shall be limited to boats measuring not more than thirty feet, eleven and ninety-nine hundredths (30'11.99") inches in length.

(3) Rows 2 and 3 shall be limited to boats measuring not more than forty feet, eleven and ninety-nine hundredths (40'11.99") inches in length.

(4) Rows 4 and 5 shall be limited to boats measuring not more than fifty feet, eleven and ninety-nine hundredths (50'11.99") inches in length.

(5) Row 6 shall be limited to the capacity of the individual moorings therein.

(6) Row 7 shall be limited to the capacity of the individual moorings therein.

(7) Row 8 shall be limited to the capacity of the individual moorings therein.

(e) Notwithstanding the foregoing;

(1) Where a boat registered to a mooring as of August 1, 2002 exceeds the length limitation set forth above, the permit issued therefor may continue to be renewed by the holder thereof; however, upon transfer of the mooring, all length limitations must be met unless the mooring and vessel are transferred at the same time to the same person or entity. Upon replacement of any vessel which exceeds the foregoing length limitations for the mooring to which it is registered, then all length limitations shall be met.

(f) Where the Harbor Master determines that a boat requires more or less mooring space due to its special design, construction or equipment, he may classify such boat into a footage that he deems appropriate.
(§2, Ord. 519, eff. July 31, 1969, as amended by §1, Ord. 521, eff. December 4, 1969; §3, Ord. 540, eff. July 21, 1971; §1, Ord. 541, eff. August 5, 1971; §2, Ord. 564, eff. January 3, 1973; §2, Ord. 578, eff. January 2, 1974; §§4 and 5, Ord. 613, eff. December 17, 1975; §4, Ord. 1009-02, eff. October 17, 2002; §1, Ord. 1095-10, eff. June 17, 2010)

Sec. 10-2.211 Mooring Places: Number Limited.

No person shall maintain at any one (1) time more than one (1) mooring in Avalon Harbor, except under the following circumstances:

(a) A noncommercial owner of more than one (1) boat may maintain more than one (1) moorage provided that for any such facilities in excess of two (2) special authority from the Council first shall be obtained.

(b) An owner of a boating business duly licensed to do business in the City may maintain commercial moorages in excess of those for which he has obtained a business license by authority of the Council first had and obtained.

The location of each moorage maintained pursuant to the provisions of this section shall be approved by the Harbor Master. For each additional mooring the rate shall be Twenty-Five and no/100ths ($25.00) Dollars per year in addition to the annual footage fee. All moorings used as moorings for rental boats as permitted pursuant to the provisions of this section shall be paid for at the full annual rate.
(§2, Ord. 519, eff. July 31, 1969)

Sec. 10-2.212 Mooring Places: Use of by Guests, Long Term Use Permit Requirements, Fees.

(a) *Use of Moorings by Guests, Fees.* Except as hereinafter provided, it shall be unlawful for any person to use a mooring other than his or her own except by permission of the Harbor Master and except after payment to the Harbor Master of a service charge in an amount specified by resolution of the City Council pursuant to the provisions of Section 10-2.218. The mooring assigned to a guest vessel is not guaranteed and such guest vessel may have to relocate on a daily basis as directed by the Harbor Master.

(b) *Payment of Fees.* All service charges shall be paid prior to departure from the assigned mooring. Failure to pay all or any portion of a service charge which is due and owing prior to departure from the assigned mooring shall result in a penalty in the amount equal to the service charges owing, in addition to payment of any service charge owing. The Harbor Master shall have the authority to waive the penalty where the person in charge of the vessel first advises the Harbor Master of the need to remove the vessel from the mooring for repair or of the vessel owner's desire to move the vessel outside City waters in order to avoid additional mooring fees, provided the owner has entered into an agreement for payment of outstanding fees. No person shall be permitted to pay outstanding fees under a payment plan more than once in any twelve (12) month period. There shall be added to any mooring fees that are more than fourteen (14) days past due, interest at the rate of one-half of one (1/2%) percent per month. Except when small craft or gale warnings are in effect, the Harbor Master shall have the authority to deny use of a mooring in City waters, if there are any outstanding fees as provided under this Title owed to the City by the owner or person in charge of such vessel.

(c) *Reduced Fees During Specified Time Period.* During the period from October 15 through Palm Sunday, after payment of the service charge set forth in this subsection for the first two (2) consecutive nights a mooring is used, such user shall be entitled to the use of such a mooring for an additional consecutive period up to and including five (5) days without charge, provided moorings are available, and provided, further, no portion of the five (5) day period falls on Palm Sunday. If a

boat remains unattended during this period for more than seven (7) consecutive days, a service charge shall be paid on the regular nightly basis.

(d) *City-Owned Moorings.* Commercial boats which are essential to the operation of the harbor and boats owned by residents of Avalon who have lived continuously on a boat in the harbor for six (6) months, and who maintain the boat in the harbor as their only residence, may be given priority on the application list for obtaining a City-owned mooring, provided residents who vacate the mooring or fail to reside in the boat for more than eighteen (18) days in any calendar month shall forfeit the mooring. Moorings made available on a priority basis shall be allocated to vessels of conforming size on a first-come, first-serve basis. No more than twenty (20%) percent of City-owned moorings may be allocated under this priority process. Nontransferable revocable permits for the use of City-owned moorings may be issued by the Harbor Master under a Council-approved list application procedure on a yearly rental basis in an amount set by resolution of the City Council pursuant to Section 10-2.218.

(e) *Vessels Less than Fourteen Feet.* The rules governing the mooring of vessels less than fourteen (14') feet shall be as provided in Section 10-2.206.

(f) *Long Term Vessel Permit Required.* Except as provided herein, the owner or operator of a long term vessel as defined in this article shall be required to obtain a permit from the Harbor Master by the fifteenth consecutive day of being moored in City waters during the applicable period as a condition of continued use of City moorings. A permit shall not be required of vessel owners and/or operators holding a revocable mooring permit or operating the vessel pursuant to a Waterside Permit. Long Term Vessel Permits will be issued beginning on November 1 for a 30-day period and will be automatically renewed the first day of each month up to and including March 30 of each year unless the Harbor Master gives notice to the permit holder that he/she has become ineligible to be granted an extension for failure to comply with the conditions thereof.

The permit shall be issued only if all of the following conditions exist:

(1) All fees and service charges provided for in this Title are current or payments under a payment plan are current;

(2) The Harbor Master has inspected the vessels and the owner and/or operator has demonstrated that it complies with Section 10-2.512.

(3) If the permittee, within the previous three (3) years, has entered into a payment plan for the payment of outstanding mooring fees or other Harbor Department charges, the permittee shall also be required to pay, in addition to the applicable mooring fee(s), a security deposit in a sum equal to the following one (1) month's mooring fees, refundable upon expiration of the permit, less any fees owed to the City at the time of expiration of the permit.

(4) The vessel is equipped with a functioning marine sanitation device which complies with U.S. Coast Guard regulations where all through-hull valves are properly closed to prevent illegal discharge and/or dumping while in City waters.

(5) Proof of insurance as described in Section 10-2.219.

The permittee shall comply with all applicable County, State, and Federal laws, the provisions of the Avalon Municipal Code and any resolutions adopted by the City Council, and all terms and conditions of the permit. Failure to comply with these laws, ordinances, resolutions, or policies shall constitute grounds for revocation of the permit and may result in the loss of use of City moorings. If the Harbor Master finds a permittee has violated any term or condition of the permit, harbor regulations or other applicable harbor related laws, the Harbor Master may suspend or revoke the permit. A decision by the Harbor Master to suspend or revoke a Long Term Mooring permit pursuant to this section shall be appealable to the City Council. Any such appeal must be filed in writing with the City Clerk within ten (10) days of the date of suspension or revocation. The suspension or revocation shall be stayed while the appeal is pending. The appeal shall be filed in writing and shall specify all of the grounds for the appeal. If the appeal is denied, suspension or revocation shall become effective three (3) days following the City Council's decision.
(§2, Ord. 519 eff, July 31, 1969, as amended by §1, Ord. 529, eff. May 20, 1970, §1, Ord. 534, eff. May 5, 1971; §1, Ord. 570, eff. April 18, 1973; §6, Ord. 613, eff. December 17, 1975; §§I and II, Ord. 648, eff. July 19, 1978; §1, Ord. 669, eff. October 17, 1979; §1, Ord. 667, eff. August 15, 1979; §1, Ord. 686, eff. September 17, 1980; §1, Ord. 690, eff. October 15, 1980; § 1, Ord. 828, adopted July 5, 1988, eff. October 15, 1980; §4, Ord. 836, eff. November 15, 1988; §1, Ord. 856, eff. June 14, 1990; §1, Ord. 959-98, eff. January 14, 1999; §2, Ord. 1036-06, eff. February 16, 2006)

Sec. 10-2.213 Liability for Damage to Mooring Equipment.

Whenever any vessel secures to a mooring in City waters, with or without the permission of the Harbor Master, and thereafter does damage to such mooring or any other mooring in City waters, the owner and/or operator of such vessel shall be liable for the cost of the repairs to such mooring so damaged. The amount of such cost of repairs, together with reasonable attorney's fees, may be recovered by the City in any court of competent jurisdiction in the State.
(§2, Ord. 519, eff. July 31, 1969; §3, Ord. 1036-06, eff. February 16, 2006)

Sec. 10-2.214 Dinghy Docks.

(a) Except as hereinafter provided and as provided in Section 10-2.206, it shall be unlawful for any person to keep a vessel less than fourteen (14') feet in length on a mooring other than as permitted at the City transient dinghy docks.

(b) The owner of a vessel fourteen feet zero (14'00") inches in length or under may keep such vessel at a mooring provided the vessel is tied off to a larger vessel and the larger vessel is registered for that mooring.

(c) No vessel which is greater than fourteen feet zero (14'00") inches shall be secured to the City transient dinghy docks.

(d) No vessel, the beam of which is or which was originally manufactured to be greater than seven feet zero (7'00") inches in width, shall be secured to the City transient dinghy docks.

(e) No person shall secure or permit to be tied to a City transient dinghy dock any vessel whose outboard motor is in other than the down position or in such a position as to expose the propeller in a manner which may cause damage to other vessels.

(f) All persons shall comply with signs erected at dinghy docks regarding time limits and safety regulations.

(g) No person shall secure or permit to be secured a vessel at the City transient dinghy docks for a period in excess of seventy-two (72) consecutive hours. It shall be unlawful for any person, except as authorized by the Harbor Department, to remove from a vessel any tag or other marker affixed to a vessel by the Harbor Department in order to detect violations of this provision.
(§2, Ord. 519, eff. July 31, 1969, as amended by Ord. 586, eff. June 5, 1974, and §7, Ord. 613, eff. December 17, 1975; §5, Ord. 836, eff. November 15, 1989; §2, Ord. 1014, eff. July 3, 2003; §2, Ord. 1015-03, eff. July 31, 2003)

Sec. 10-2.215 Moored Vessels: Lights.

All vessels anchoring or mooring in the waters of the City between sunset and sunrise shall conform to the rules and regulations of the United States regarding anchor lights in inland waters of the United States as set forth in the Navigation Laws of the United States.
(§2, Ord. 519, eff. July 31, 1969)

Sec. 10-2.216 Removal of Specified Equipment.

Every vessel owner or person in control of a vessel moored within Avalon Harbor shall remove from the vessel any swordfish plank and retract all outriggers while in Avalon Harbor during the period from December 15 through March 15. This requirement shall be made a condition of all mooring permits issued by the City of Avalon. Violation of this section shall constitute an infraction. In addition, the Harbor Master shall have the authority to refuse a mooring inside the Avalon Harbor to any vessel which is so equipped during the period stated above.
(§2, Ord. 960-99, eff. March 4, 1999)

Sec. 10-2.217 Appeals.

Any order of the Harbor Master issued pursuant to Sections 10-2.201 through 10-2.212, and Section 10-2.503 of this chapter, may be appealed to the Council by the person affected, if such person makes written application to the City Clerk, accompanied by a fee as set by resolution of the City Council from time to time, within fifteen (15) days after such order shall have been served by the Harbor Master. All appeals shall be set for hearing as soon as reasonably possible. The majority of the Council shall constitute a quorum for the hearing of such appeal and the decision of the majority of the Council in attendance at the hearing shall be final in the matter.

Unless a written request is received by the City Clerk at least three (3) days prior to the hearing that the appellant wishes to examine the harbor officer(s) regarding the incident at the hearing, the report prepared by the Harbor Department shall be accepted as evidence without the necessity of further testimony by harbor personnel.
(§2, Ord. 519, eff. July 31, 1969, as renumbered by §4, Ord. 540, eff. July 21, 1971; §2, Ord. 867-91, eff. October 30, 1991; §1, Ord. 911-94, eff. December 1, 1994)

Sec. 10-2.218 Fees Set by Resolution.

The Council may from time to time, by resolution, set new and different rates and fees pursuant to Section 10-2.207 (Mooring Places: Permits: Fees), Section 10-2.210 (Mooring Places: Permits: Transfers), Section 10-2.212 (Mooring Places: Use of By Guests: Fees), Section 10-2.217 (Appeals: Fees) and Section 10-2.402 (Use of Harbor Facilities).
(Ord. 766, eff. July 2, 1984; §2, Ord. 911-94, eff. December 1, 1994)

Sec. 10-2.219 Insurance Requirements.

All vessel owners and/or operators holding a revocable mooring permit and/or operating a vessel pursuant to a Waterside Permit, and any person using a mooring as a guest or anchored in City waters for more than fifteen (15) consecutive days during the period from November 1 to March 30, or who departs City waters and returns to City waters and uses a mooring or anchors within City waters such that the total number of days moored or anchored in City waters is more that fifteen (15) days within any thirty (30) day period of time or more than sixty (60) days during a calendar year, or is moored or anchored in City water for more than thirty (30) consecutive days during the period from April 1 to October 31, shall provide proof of current and valid Protection & Indemnity (P & I) or Watercraft Liability Insurance with limits of at least Three Hundred Thousand and no/100ths ($300,000.00) Dollars which names the City of Avalon, its officials, employees, and volunteers as an additional insured, and which provides that coverage shall not be cancelled except after fifteen (15) days prior written notice has been given to the City. A provision allowing for cost recovery for salvage and pollution control shall be included in the P & I or Watercraft Liability Insurance.
(§7, Ord. 1035-06, eff. February 16, 2006; §1, Ord. 1104-11, eff. February 17, 2011)

Article 3. Vessel Operation and Repair

Sec. 10-2.301 Repair of Vessels: Permits Required.

It shall be unlawful for any person to store, leave, or place any vessel or other structure at any place on the water-front of the City between the line of low tide and of ordinary high tide or upon any street or public place in the City without first obtaining a permit so to do. The Council may grant a permit allowing the placing or leaving of a vessel for a period not exceeding two (2) weeks for the purpose of repairing, painting, or doing work on the same upon any public place or street along the waterfront of the City. The application for such permit shall be in writing and shall be filed with the City Clerk at least two (2) days before the meeting of the Council at which such application shall be considered. Such application shall state the object or purpose for which the permit is requested and shall contain a statement on the part of the applicant to the effect that he will remove the vessel for which the permit is requested immediately upon the expiration of the period for which such permit is granted and that he will observe all the provisions of this chapter relating to such permit.
(§2, Ord. 519, eff. July 31, 1969)

Sec. 10-2.302 Permits to Repair Vessels: Conditions.

The Council may grant or refuse such application in its discretion and may prescribe such terms and conditions in addition to those provided for in this chapter as the Council may deem advisable in order to protect the interests of the public. Such permit, when granted, shall specify the exact location to be used by the applicant and the date of the expiration of the permit.
(§2, Ord. 519, eff. July 31, 1969)

Sec. 10-2.303 Permits to Repair Vessels: Unlawful Acts.

It shall be un-lawful for the holder of any such permit to sell, furnish, or distribute any goods, wares, or merchandise of any kind from such vessel while the same is placed upon the waterfront pursuant to such permit, or to make any use of such permit other than for the purposes for which the same is granted, or to leave any rubbish or debris of any kind upon or adjacent to the place occupied by such vessel.
(§2, Ord. 519, eff. July 31, 1969)

Sec. 10-2.304 Speed of Vessels.

(a) All vessels shall keep their speed wakeless or under five (5) knots, whichever is less, within the limits of the waters of the City.
(§2, Ord. 519, eff. July 31, 1969, as amended by §1, Ord. 553, eff. May 31, 1972; §1, Ord. 805, eff. May 21, 1987)

Sec. 10-2.305 Reckless Use of Vessels.

(§2, Ord. 519, eff. July 31, 1969; repealed by §2, Ord. 553, eff. May 31, 1972)

Sec. 10-2.306 Operation of Generators.

All generators shall be secured and shall not be operated between the hours of 10:00 p.m. and 7:00 a.m. The foregoing restrictions shall not apply in cases of medical emergency.
(§2, Ord. 856, eff. June 14, 1990)

Article 4. Harbor Facilities

Sec. 10-2.401 Maintenance and Use of Harbor Facilities.

Floats, wharves, docks, and other harbor facilities may be maintained by the City, and such harbor facilities shall be available for the loading and unloading of passengers, supplies, and boating gear and for similar purposes in such manner as will best serve the public use thereof and avoid congestion and the blocking of such facilities. The Harbor Master is hereby vested with authority to control the use of such facilities and to regulate the time and manner of such use for the purpose of maintaining such facilities available to the public at all times.
(§2, Ord. 519, eff. July 31, 1969)

Sec. 10-2.402 Use of Harbor Related Facilities: Use Fees.

Wharfage, dockage, landing and use fees for the use of or impact upon any harbor or harbor-related facility owned or controlled by the City of Avalon shall be as follows:

(a) Except as otherwise specifically provided in this article, for all boats, ships, vessels, airplanes or other transportation facilities carrying passengers for hire or charter, whether operating under the authority of the California Public Utilities Commission or not, which land, discharge, load, or embark passengers on, to, or from such City harbor facilities, Two Dollars and Fifty ($2.50) Cents for each passenger so landed, discharged, loaded or embarked.

(b) Except as otherwise provided in paragraph (6) below, for all cruise ships, the fee as laid out in subsection (a) above, which fee shall be levied upon one hundred (100%) percent of the manifest passengers, excluding persons employed upon the vessel. As used in this section “cruise ship” means a vessel which lists Avalon as a port-of-call and which anchors so as to permit passengers to disembark and to return to the same vessel. Commencing on July 1, 2017, the fee shall be increased as follows:

(1) Three ($3.00) Dollars for each passenger so landed, discharged, loaded, or embarked between July 1, 2017 and June 30, 2018;

(2) Three Dollars and Fifty ($3.50) Cents for each passenger so landed, discharged, loaded, or embarked between July 1, 2018, and June 30, 2019;

(3) Four ($4.00) Dollars for each passenger so landed, discharged, loaded, or embarked between July 1, 2019 and June 30, 2020;

(4) Four Dollars and Fifty ($4.50) Cents for each passenger so landed, discharged, loaded, or embarked between July 1, 2020 and June 30, 2021;

(5) Five ($5.00) Dollars for each passenger so landed, discharged, loaded, or embarked on or after July 1, 2021; and

(6) In consideration for a cruise line deploying a second ship to Catalina for fifty (50) or more calls per year, the City of Avalon will pay to the cruise line an annual marketing incentive equal to fifty (50%) percent of the wharfage fees collected for the second ship, payable quarterly, in arrears.

(§ 2, Ord. 1153-17, eff. March 9, 2017)

(c) For businesses engaged in the operation of excursion boats using such facilities for landing, discharging, loading or embarking passengers on, to, or from such facilities, seven (7%) percent of the gross receipts of such business derived from such use. For the purpose of this section, "excursion boats" shall mean vessels operating from points in the City and returning thereto for sightseeing scenic tours or as pleasure cruises, and carrying passengers for hire, but not providing facilities for overnight stays.

(d) For businesses engaged in the operation of "shore boats," as defined herein, and using such facilities for landing, discharging, loading or embarking passengers on, to, or from such facilities, seven (7%) percent of the gross receipts of such business derived from such use, excepting therefrom receipts for transportation of passengers to and from "cruise ships," as defined in subsection (b) herein, or as otherwise provided in an applicable franchise agreement issued pursuant to Section 10-2.410. For the purpose of this section, "shore boats" shall mean vessels carrying passengers or freight for hire to and from boats moored within or without City waters to the shore in Avalon, between such boats in City waters or between points on the shore in Avalon.

(e) Operators of fishing tournaments whose participants use City harbor facilities during the course of such tournaments shall comply with the provisions of Title 3, Chapter 3 regarding admissions taxes as applied to entry fees charged for participation in such tournament.

(f) For all other businesses not otherwise expressly provided for in this Section 10-2.402 carrying passengers for hire by vessel from points in the City and returning thereto, or from one point in the City to another point therein, or engaged in the renting, leasing, or chartering of boats, paddle boards, rafts, or other floating watercraft for hire and using City harbor facilities, or whose patrons regularly use such facilities for launching, landing, boarding, unloading, embarking or disembarking, docking, or other similar uses, or whose business activities involve the use of such facilities, seven (7%) percent of the gross receipts derived from such use.

(g) The fees for the use of such facilities by those not falling within the classifications set forth in subsections (a) through (d) of this section shall be determined initially by a schedule adopted by the Council or shall be incorporated into the flat rental of any contract, permit, lease, franchise or other agreement entered into for use of the facilities.

(h) Businesses which fall within subsections (c), (d) and (f) may exclude from gross receipts otherwise subject to harbor use fees: (1) gross receipts from the sale of marine parts; and (2) gross receipts from marine services rendered to the holder of a valid waterside permit issued pursuant to Sections 10-2.412 through 10-2.416.

The fees authorized by the provisions of this section shall be in addition to any rents paid to the City, and all other taxes, license and permit fees, if any, including

those paid pursuant to the provisions of Section 10-2.410 of this article. There shall be a credit of taxes paid, if any, pursuant to the provisions of Title 3, Article 3, Chapter 3 and Section 3-1.204 subsections (b) through (f).

(§2, Ord. 519, eff. July 31, 1969, as amended by §2, Ord. 521, eff. December 4, 1969; §1, Ord. 535, eff. May 5, 1971; §9, Ord. 613, eff. December 17, 1975; §1, Ord. 654, eff. December 4, 1978, and §1, Ord. 680, eff. August 6, 1980; §1, Ord. 798, eff. December 18, 1986; §1, Ord. 829, eff. August 18, 1988; §§1—2, Ord. 882-92, eff. October 1, 1992; §1, Ord. 994-01, eff. March 22, 2001; §2-6, Ord. 995-01, eff. July 1, 2001; §1, Ord. 996-01, eff. May 3, 2001; §§3, 4, 5, Ord. 1004-02, eff. March 21, 2002; §1, Ord. 1023-04, eff. July 1, 2004; §1, Ord. 1034-05, eff. October 20, 2005; §1, Ord. 1108-11, eff. July 21, 2011; § 2, Ord. 1153-17, eff. March 9, 2017)

Sec. 10-2.403 Fishing Tournaments: Statements.

All fishing tournament operators required to pay the fees set forth in subsection (e) of Section 10-2.402 of this article shall submit to the Finance Department a list of all boats charged an entry fee to participate in the tournament and shall pay the fees provided for in said section. The statement and use fee payment shall be submitted before the tenth day of the month immediately following the end of the tournament.
(§8, Ord. 1004-02, eff. March 21, 2002)

Sec. 10-2.404 Passengers: Gross Receipts: Statements.

(a) All boats, ships, vessels, airplanes, or other transportation facilities carrying passengers for hire or charter and required to pay the fees set forth in subsection (a) of Section 10-2.402 of this article shall submit to the Harbor Master or his deputy and to the Finance Director a monthly statement of the number of passengers landed, discharged, loaded, or embarked and shall pay the fees provided for in said section. Such statement shall be filed before the tenth day of the month immediately following each subject month.

(b) In all cases where the wharfage, dockage, or use fees are based upon gross receipts or passenger counts, the business user shall submit to the Director of Finance, for his guidance in ascertaining the amount of the fees to be paid, a monthly written statement, on a form to be provided by the Director of Finance under oath or penalty of perjury, setting forth such information concerning the user's gross receipts or passenger counts derived from such use during the preceding month as may be required by the Director of Finance to enable him to ascertain the fees to be paid by such business user pursuant to the provisions of this article. Such gross receipts statements shall be filed on or before the last day of each calendar month for the preceding calendar month.

(c) No statement of receipts shall be conclusive on the City but shall be subject to audit and verification by the Director of Finance, his deputies, or authorized agents of the City, who are hereby authorized to examine, audit, and inspect such books and records as may be necessary to verify or ascertain the amount of fees due.

(d) All gross receipts, statements or estimates required by this article shall be confidential and are hereby declared not to be public records. Any unauthorized disclosure or use of such information by any officer, agent, or employee of the City shall be subject to the penalty provisions of this Code in addition to any other penalties provided by law.

(e) All persons engaged in business subject to the provisions of this article are required to keep such books and records as are necessary for the City to determine upon audit thereof the amount of fees due and to permit examination thereof for the purposes of this section. Where the City determines that a person engaged in business subject to the provisions of this article does not keep such books and records as are necessary for the City to determine the amount of fees due, it may direct the business as to the types of books and records which shall be kept by such business thereafter. Failure to thereafter keep such books and records as directed and failure to submit to an audit shall be grounds for suspension or revocation of a waterside permit held by such business as provided in Section 10-2.415.
(§2, Ord. 519, eff. July 31, 1969; §2, Ord. 816, eff. December 3, 1987; §2, Ord. 996-01, eff. May 3, 2001)

Sec. 10-2.405 Number of Passengers: Records: Audit.

All boats, ships, vessels, airplanes, transportation, or other facilities set forth in subsection (a) of Section 10-2.402 of this article shall have and maintain an accurate written record of all passengers landed, discharged, loaded, or embarked, which record shall be made available on demand to the City or its duly authorized agent for audit. If such audit shall disclose an error in such record, which error would require an additional payment to the City and which is the result of improper or careless accounting practices, the owner or operator of such boat, ship, vessel, transportation facility, or business shall pay to the City the additional fees disclosed thereby and the reasonable cost of such audit, plus a sum equal to ten (10%) percent of the additional amount of fees found due and owing by such audit.
(§2, Ord. 519, eff. July 31, 1969)

Sec. 10-2.406 Inspections by Harbor Master.

The Harbor Master or his deputy shall, from time to time, make an actual physical check of the passengers actually landing, discharging, loading, or embarking against the statement of the number of passengers landed, discharged, loaded, or embarked furnished to him by the owner or operator of such boats, ships, vessels, airplanes, or other transportation facilities or businesses.
(§2, Ord. 519, eff. July 31, 1969)

Sec. 10-2.407 Fees: Due Date: Delinquencies.

All fees required by the provisions of this article shall become due and shall be paid on or before the last day of the month immediately following each calendar month. If any such amount so payable is not paid by the last day of the immediately following month, there shall be added to such amount interest payable at the rate of one-half (1/2) of one percent per month on the amount of the tax for each month, or portion thereof, from the date the tax is first delinquent. If such tax is delinquent and unpaid, there shall in addition be added thereto a one-time penalty in the amount of ten (10%) percent of the amount of tax, computed from the date the tax first becomes delinquent.
(§2, Ord. 519, eff. July 31, 1969; §2, Ord. 816, eff. December 3, 1987)

Sec. 10-2.408 Fees: Delinquencies: Collection by Court Action.

Any and all amounts due pursuant to the provisions of this article may be collected by the City by means of an action brought in any court having jurisdiction thereof, in which action the defendant shall be required to pay the costs of such action, together with such attorneys' fees as the court may find to be reasonable.
(§2, Ord. 519, eff. July 31, 1969)

Sec. 10-2.409 Fees: Nonpayment Unlawful.

It shall be unlawful for any captain, master, or other person in charge or control of any boat, ship, or vessel to land or discharge, or to attempt to land or discharge, any passengers at, on, or over the City facilities without the payment of the wharfage and dockage fees required.
(§2, Ord. 519, eff. July 31, 1969)

Sec. 10-2.410 Permits; Franchises to Conduct Businesses.

(a) The City facilities serve as a primary point of ingress and egress for large numbers of people and their relatively small size make necessary control and coordination of businesses operating on the City facilities to avoid undue congestion, to assure against hazard, excessive noise and traffic and to prevent confusion and injury.

(b) It is necessary and vital to the safe and efficient movement of people through the City facilities that the number, nature and scope of businesses on the City facilities be regulated to protect the safety and welfare of all persons. The Council shall, accordingly, have the power and authority, in its discretion, to authorize the use or occupation of the City facilities or some portion thereof to any person by issuance of a waterside project permit. It shall be unlawful for any person, entity or business to use or occupy City facilities for any business purpose, including all land transportation services, without first being issued a waterside project permit by the City Council and entering into a permit agreement.

Notwithstanding the foregoing, the City Council may, in its discretion, award exclusive franchises for shore boat service and baggage handling service on the Mole, for a term not to exceed five (5) years. Such franchises are vital and necessary to the public safety and welfare in that a proliferation of such services within the limited area available would make for excessive traffic congestion and confusion.

(c) Neither franchisee need obtain a separate waterside project permit under this section but shall be holders of a City business license. The franchisee shall enter into a franchise agreement with the City which sets forth the terms and conditions of operation of such services.

(d) For the reasons set forth in paragraphs (a) and (b) above, it is necessary to establish limitations and restrictions on businesses providing nonvital recreational services in the harbor. The following regulations are designed to reduce congestion and to encourage safe, reliable, and year-round provision of recreational services:

(1) No more than one hundred fourteen (114) watercraft rentals-without-operator vessels shall be granted harbor permits.

(2) All businesses operating in the harbor, except those enumerated in paragraph (b) of this section and fishing tournament operators, shall maintain a shore base of operations or an office on Santa Catalina Island. Such office shall have a business telephone which is covered twenty-four (24) hours per day. Any answering service or mechanical means of recording messages may be used provided messages are checked by the operator no less than three (3) times per day.

(3) All businesses operating in the harbor, except those enumerated in paragraph (b) of this section shall provide an insurance policy in compliance with Section 1-6.01 of this Code, shall hold a City business license and shall hold all necessary permits, licenses, certificates or other similar approvals necessary under the law for the type of service performed.

(4) In addition to the provisions of Section 10-2.402, all businesses operating within the harbor, except those operating pursuant to a franchise issued by the City, shall:

(i) In the case of new cross-channel carriers, obtain and keep in force a bond or bank letter of credit to secure payment of wharfage fees in the amount of One Hundred Thousand and no/100ths ($100,000.00) Dollars. After five (5) years of continuous operation, and once annually thereafter, the cross-channel carrier may request the City Council to eliminate or reduce the security. Upon consideration of such request, the City Council should give consideration to the carrier's history of timeliness of payments, any planned or foreseeable significant changes in operation which may impact expenses and revenues, the tariff schedule, a current statement of assets and liabilities, and business plan or other projection of revenues and expenses.

(ii) In the case of waterside permit holders other than cross-channel carriers and other than fishing tournament operators subject to this article which have held fishing tournaments in Avalon prior to the effective date of this ordinance*, pay to the City a nonrefundable use fee deposit of One Thousand and no/100ths ($1,000.00) Dollars, payable in two (2) installments of Five Hundred and no/100ths ($500.00) Dollars each, the first installment on the inception of operations within the Avalon Harbor and the second on August 1. The use fee deposit may be applied against use fees due and owing under Section 10-2.402 at such time that the permittee has made timely payment of use fees for thirteen (13) consecutive months.

(iii) In all cases where the business operates seven (7) or more months during any twelve (12) month period, pay to the City use fees under Section 10-2.402 no fewer than seven (7) months of any twelve (12) month period, and in no event less than the sum of Twenty-Five and no/100ths ($25.00) Dollars per month for each month the business is operating and reports sales receipts.

(iv) In all cases except fishing tournament operators, where the business operates fewer than seven (7) months during any twelve (12) month period, pay to the City a use fee of Two Hundred and no/100ths ($200.00) Dollars for each month the business is closed or does not report any sales receipts.

(5) The charges authorized by paragraph (4) of this section shall be in addition to any payments pursuant to the provisions of any lease agreement.

(6) All vessels over sixteen (16') feet in length operated for hire or used to conduct work in the harbor shall be equipped with a marine radio which shall be monitored at all times that the vessel is in operation.

(7) All businesses operating in the harbor shall maintain all equipment, materials, facilities, machinery and vessels utilized in the operation of the licensed business in a good and working condition, and such businesses shall only employ workers who are qualified to conduct the duties appropriate to the licensed business.

(e) For the purposes of this section, "harbor" shall mean that area from inside Cabrillo Mole to inside Casino Groin.
(§2, Ord. 519, eff. July 31, 1979; §2, Ord. 654, eff. December 4, 1978; §1, Ord. 726U, eff. September 7, 1982; §1, Ord. 727, eff. September 21, 1982; §1, Ord. 811, eff. October 1, 1987; §2, Ord. 849, eff. October 19, 1989; §2, Ord. 872-92, eff. April 2, 1992; §6, Ord. 994-01, eff. March 22, 2001; §7, Ord. 995-01, eff. July 1, 2001; §§5, 6, 7, Ord. 1004-02, eff. March 21, 2002)

Sec. 10-2.411 Franchises for Mooring Services.

No person, other than an owner or lessee thereof, may repair, replace, renovate, construct, install or otherwise service moorings in City waters without first having obtained a franchise therefor from the City. This franchise shall be in addition to any business license otherwise required by this Code, but shall satisfy the waterside project permit requirement of Section 4-2.410.

Applications for mooring service franchises shall be submitted on forms provided by the City containing such information as is required by the City Manager.

The City Council may grant a franchise for mooring services, if upon review of the application, the Council makes the following affirmative findings:

(a) The applicant will operate the mooring service on a twenty-four (24) hours per day basis for twelve (12) months a year.

(b) The applicant demonstrates the financial capability, skills, qualifications and facilities properly to perform mooring services.

(c) The applicant has presented facts demonstrating a need for operation of the proposed business in City waters.

(d) The proposed business will not have a deleterious impact on the public health, safety and welfare.

The term of any such franchise shall not exceed five (5) years. The franchise shall enter into a franchise agreement with the City which sets forth the terms and conditions of operation of such service, including a franchise fee to be paid to the City.
(§2, Ord. 736, eff. April 14, 1983; §2, Ord. 872-92, eff. April 2, 1992)

Sec. 10-2.412 Waterside Project Permits: Applications and Process.

(a) *Permit Required.* No person shall conduct any business or commercial enterprise in City waters or hold himself out as available to conduct any business or commercial enterprise which emanates from City waters, and including any business or commercial enterprise whose patrons use shoreboats to be transported to the enterprise's vessel(s), unless a waterside permit has been obtained therefor in accordance with administrative procedures adopted by resolution and on forms to be approved by the City Manager. Except with respect to businesses described in subsection (b), the application shall include, among other information:

(1) The name, address and telephone number of the applicant and, if the applicant is other than a natural person, the names and addresses of all partners, officers or members of the entity and the name of the agent for service of process;

(2) The names of vessels, a description of the business to be carried on by means of such vessels, and a reference to the business and other license(s), held by such applicant;

(3) A description of the space on City facilities, floats, or landing stages that the applicant desires to use in carrying on such business; and

(4) A statement to be signed by the applicant acknowledging that if such permit is granted, he will conduct his business in accordance with the laws of the City in relation thereto, the terms of the permit and all rules and regulations regarding City facilities; that the permit may be revoked at any time by the Council for violations of the foregoing, including failure to pay use fees; and that the decision of the Council as to the revocation of any permit shall be final and conclusive.

(b) *Fishing Tournaments.* Persons or entities which conduct fishing tournaments within Avalon Harbor shall submit an application which includes the following information:

(1) The name, address and telephone number of the applicant, and if the applicant is other than a natural person, the names and addresses of all partners, officers or members of the entity and the name of the agent for service of process;

(2) The name of the tournament, a description of the tournament including the proposed dates therefor, the maximum number of participating vessels, and a reference to the business and other license(s) held by such applicant;

(3) A description of the space on City facilities, floats, or landing stages that the applicant desires to use in carrying on such business; and

(4) A statement to be signed by the applicant acknowledging that if such permit is granted, he will conduct his business in accordance with the laws of the City in relation thereto, the terms of the permit and all rules and regulations regarding City facilities; that the permit may be revoked at any time by the Council for violations of the foregoing, including failure to pay use fees; and that the decision of the Council as to the revocation of any permit shall be final and conclusive.

(c) *Renewal of Permits.* All permits shall expire on December 31 but shall be renewable pursuant to the criteria set forth in Section 10-2.416, according to procedures adopted by ordinance or resolution of the City Council.
(§2, Ord. 519, eff. July 31, 1969, as amended by §1, Ord. 736, eff. April 14, 1983; §2, Ord. 872-92, eff. April 2, 1992; §2, Ord. 920-95, eff. August 31, 1995; §3, Ord. 996-01, eff. May 3, 2001; §1, Ord. 1004-02, eff. March 21, 2002; §1, Ord. No. 1122-13, eff. September 19, 2013)

Sec. 10-2.413 Waterside Project Permits: Employees.

Where a waterside project permit is desired for a person to carry on business as an employee or agent for any person, the application for such permit shall be approved by the principal of such person, and such permit may be revoked at any time without notice to the holder thereof upon the request of such principal so to do.
(§2, Ord. 519, eff. July 31, 1969; §2, Ord. 872-92, eff. April 2, 1992)

Sec. 10-2.414 Waterside Project Permits: Terms and Conditions.

All waterside project permits shall be on forms to be adopted by the Council and shall include such terms and conditions, in addition to those set forth in this chapter, as the Council may determine from time to time to be necessary or advisable to preserve the public peace and quiet on the City facilities or to protect the public welfare, and all such terms and conditions included in any such permit shall be binding on the holder of such permit to the same extent as though expressly set forth in this chapter.
(§2, Ord. 519, eff. July 31, 1969; §2, Ord. 872-92, eff. April 2, 1992)

Sec. 10-2.415 Waterside Project Permits: Suspension and Revocation.

(a) *Suspension.* The Council may, in its discretion at any time, as a penalty for the violation of the provisions of any waterside project permit, suspend the same for a period to be fixed in such order of suspension.

(b) *Revocation.* All waterside project permits issued shall be granted and accepted by all persons receiving such permits with the express understanding that the Council may revoke the same at any time if satisfied that any of the conditions of the permit or provisions of this chapter have been violated, or that such permit was obtained by fraudulent representation, or that the holder of any such permit is an unfit person to be entrusted with the privileges granted by such permit; provided, however, no permit shall be revoked without first giving the holder an opportunity to appear before the Council in his own behalf, except as to an employee or agent of some other person holding a waterside project permit who requests such revocation.
(§2, Ord. 519, eff. July 31, 1969; §2, Ord. 872-92, eff. April 2, 1992)

Sec. 10-2.416 Criteria for Issuance of Waterside Project Permits.

(a) Except for business operations described in subsection (b), the City Council shall grant a waterside permit for use of or operations upon, in or affecting City waters, facilities, provided it is able to make the following affirmative findings:

(1) The project will not result in a substantial alteration of the City's present or planned waterside uses of the Avalon Harbor;

(2) With regard to transportation and circulation, the project (i) will not generate substantial additional boat trips, including shoreboat trips, or other movement within Avalon Harbor; (ii) will not have a substantial negative impact upon existing mooring, docking, or other anchorage facilities; (iii) will not have a substantial impact on other modes and systems of transportation; (iv) will not result in substantial alterations to present patterns of circulation or movement of people and/or goods; (v) will not increase traffic hazards to swimmers, boaters, or other existing activities; and (vi) will not restrict or alter existing coastal access;

(3) The project will not have a substantial effect upon and will not result in a need for new or altered governmental services, including but not limited to, fire, police, maintenance of facilities, and harbor department services;

(4) The project will not result in the use of substantial amounts of fuel or other forms of energy or substantially increase the demand upon existing sources of energy or require the development of new sources of energy;

(5) The project will not result in a need for new utility systems or a substantial alteration of existing sources or systems for power, natural gas, communications, water, sewage disposal or solid waste disposal;

(6) The project will not obstruct any scenic vista or view open to the public, and will not result in the creation of an aesthetically offensive site which is open to public view;

(7) The project will not result in a substantial negative impact upon the quality and quantity of existing recreational opportunities or result in alterations or restrictions to coastal access;

(8) The applicant is fit to be entrusted with the privileges of a permit, in that he has not engaged in prior violations of City's harbor regulations, including the provisions of this article, has timely paid any harbor-related fees and has not presented checks returned for insufficient funds.

(9) The applicant has a license to do business in the City, in good standing and is current on all fees and charges due to the City; (§2, Ord. 1122-13, eff. September 19, 2013)

(10) The applicant can demonstrate compliance with all Federal, State, and local laws, including all applicable City zoning laws. (§2, Ord. 1122-13, eff. September 19, 2013)

The City Council may deny the permit where the impacts listed in paragraphs (1) through (10) above are cumulatively significant, even though the individual impacts are limited. The City Council may approve a project where mitigation measures eliminating significant impacts are incorporated into the project, and the approval shall be conditioned upon the implementation of such mitigation measures. The failure to comply and maintain any mitigation measures shall be a basis for suspension or revocation of a waterside project permit pursuant to Section 10-2.415.

(b) The Harbor Master shall grant a waterside project permit for fishing tournament operations if he is able to make the following affirmative findings:

(1) The tournament will not result in substantial harbor congestion or conflict with other previously scheduled events;

(2) The tournament will be conducted after Labor Day and not prior to May 15 if the tournament is one which does not donate fifty (50%) percent or more of its gross proceeds to a nonprofit group or groups which primarily serve residents of Catalina Island; and

(3) There are sufficient resources to accommodate the maximum number of vessels expected to participate in the tournament.
(§2, Ord. 519, eff. July 31, 1969; §2, Ord. 726U, eff. September 7, 1982; §2, Ord. 727, eff. September 21, 1982; §3, Ord. 849, eff. October 19, 1989; §2, Ord. 872-92, eff. April 2, 1992; §2, Ord. 1004-02, eff. March 21, 2002; §2, Ord. 1122-13, eff. September 19, 2013)

Sec. 10-2.417 Loading Passengers and Freight.

It shall be unlawful for any master, owner, agent, or other person having the charge or control of any boat, vessel, or watercraft to lay at, remain alongside, or tie up to the City facilities, or any float, landing stage, or approach thereto in use in connection therewith, for any longer period than is actually necessary to take on board the passengers or freight in waiting on the City facilities or float and ready to be taken aboard, or than is actually necessary to discharge the passengers or freight of any such boat or vessel.
(§2, Ord. 519, eff. July 31, 1969)

Sec. 10-2.418 Loading Passengers and Freight: Time Limited.

It shall be unlawful for any master, owner, agent, or other person having the charge or control of any boat, vessel, or watercraft to lay at or remain alongside the City facilities, or any float, landing stage, or approach thereto in use in connection therewith, for a longer period than ten (10) minutes; provided, however, if it is impossible to receive on board all the passengers or freight in waiting on the City facilities or float for such boat or vessel, or to discharge all the passengers or freight from any such boat or vessel during such period, by using all reasonable diligence so to do, such period shall be extended until all such passengers or freight are taken aboard or discharged, as the case may be.
(§2, Ord. 519, eff. July 31, 1969)

Sec. 10-2.419 Loading Passengers and Freight at Places Other Than City Facilities.

It shall be unlawful for any captain, master, or other person having the charge or control of any boat, ship, or vessel to land or discharge freight or passengers upon, or to take on board or receive freight or passengers, from any public street in the City or from any portion of the beach or waterfront of the City under the control of the City other than the City facilities.
(§2, Ord. 519, eff. July 31, 1969)

Sec. 10-2.420 Vessel Passengers to Use City Facilities Only.

It shall be unlawful for any person to land, or attempt to land, from any boat, ship, or vessel carrying passengers for hire, upon any public street in the City or

upon any portion of the beach or waterfront of the City under the control of the City other than the City facilities, or to go aboard any such boat, ship, or vessel carrying passengers for hire from any public street in the City or from any portion of the beach or waterfront of the City under the control of the City other than the City facilities.
(§2, Ord. 519, eff. July 31, 1969)

Sec. 10-2.421 Traffic and Parking Regulations on the Mole.

The Traffic Engineer is authorized to determine and mark loading and passenger loading zones of Harbor facilities in accordance with Article 11 of Title 4, and may establish such parking, standing and loading, and other traffic regulations as are necessary for the safe and efficient use of the City facilities.

(a) It shall be unlawful for any person, business or entity that provides transportation to or from the City facilities to leave baggage or freight unattended at any place on such facilities; except pursuant to an approved baggage handling service franchise agreement.

(b) No person, entity or business shall engage in the business or activity of placing, removing, storing, loading, unloading or delivering to or from businesses and residences in the City any baggage or freight originating from or destined for passenger carriers using the Mole facilities. This shall not apply to any taxi operator or hotel operator providing courtesy bus service that handles personal baggage associated with the transport of passengers to and from the Mole, as long as the baggage and passenger are transported together.

(c) The Traffic Engineer is authorized to establish a permitting system to control access to and parking at areas designated as "restricted access." It shall be unlawful for any person to drive on, stop, stand, or park at any area on the City facilities designated by the Traffic Engineers as "restricted access," unless pursuant to a permit issued by the Traffic Engineer.

(d) It shall be unlawful for any person to ride, drive or propel, or cause to be ridden, driven or propelled any vehicle, including but not limited to bicycles, roller skates, coasters, pushmobiles, skateboards, motopeds or similar contrivances on any portion of the Cabrillo Mole where notice is posted prohibiting such vehicles, except as permitted by the Traffic Engineer pursuant to this section.
(§1, Ord. 726-U, eff. September 7, 1982; §3, Ord. 727, eff. September 21, 1982; §1, Ord. 973-00, eff. March 2, 2000)

Article 5. Miscellaneous Regulations: Harbor and City Waters

Sec. 10-2.501 Obstructing Landings and Fairways.

It shall be unlawful for any person to obstruct the free and easy access to, and departure from, any portion of any public landing, pier, or wharf at any time. It shall be unlawful to obstruct the free and easy use of any designated fairway.
(§2, Ord. 519, eff. July 31, 1969)

Sec. 10-2.502 Damaging Public Property.

It shall be unlawful for any per-son to willfully or carelessly destroy, damage, disturb, deface, or interfere with any buoy, float, life preserver, sign, notice, or any other municipal property under the jurisdiction of the City.
(§2, Ord. 519, eff. July 31, 1969)

Sec. 10-2.503 Contaminating Waters and Beaches.

(a) It shall be unlawful for any person to throw, discharge, deposit, or leave, or cause, suffer, or procure to be thrown, discharged, deposited, or left either from or out of any vessel or holding tank, or from the shore, wharf, manufacturing establishment, or mill of any kind, any refuse matter of any description into the navigable waters of the City.

(b) It shall be unlawful for any person to discharge, or cause, suffer, or procure to be discharged or deposited, material of any kind in any place or on any banks of any navigable waters in the City where such discharged material shall be liable to be washed into the waters of the City either by ordinary or high tides, or by storms, floods, or otherwise.

(c) It shall be unlawful for any person to throw, place, or leave any dead animal or putrefying matter into the waters of the City or along the shore thereof.

(d) It shall be unlawful for any person to deposit, place, throw or in any manner dispose of any cans, receptacles, bottles, papers, food, animal or vegetable matter, rubbish, trash, garbage, or any decaying or putrid matter, material, or substance which might decay, or which might become injurious to health or which might become a nuisance or offensive to the senses of any person coming in proximity thereto into the waters of the Pacific Ocean or into the Bay of Avalon or upon the beaches of the City, or any portion thereof.

(e) It shall be unlawful for any person owning, managing, controlling, operating, navigating or otherwise handling any boat, vessel, ship, or barge to discharge, or cause to be discharged, any ballast water, bilge water or waste water containing or contaminated with any crude petroleum, refined petroleum, engine oil, or oily byproduct within the waters of the City unless such ballast water, bilge water or waste water is discharged into suitable and adequate settling basins, tanks, or other receptacles.

(f) It shall be unlawful for any person to throw, place, bury, or deposit upon any public or private beach in the City any glass, glassware, crockery, or any bottle, cup, container, plate, or other vessel made of glass, glassware, or crockery, or any other material or substance which would cause, or might reasonably be presumed to cause, injury to patrons of such beaches. None of such materials shall be left on the beach by any person, but the same shall be deposited in receptacles provided by the City for the deposit thereof or shall otherwise be removed from the beach by the owner of such materials.

(g) The unauthorized dumping of any kind of material into the waterway, or the throwing overboard, or setting adrift, or permitting to set adrift anything that is, or might become, obstructive or dangerous to navigation is hereby expressly prohibited.

(h) In order to enforce the provisions of this section and to safeguard and protect City waters from contamination, the owner and/or person in charge of any boat or vessel entering City waters shall, as condition of entering and/or remaining in City waters, allow City personnel to board the vessel and place dye tablets into the vessel's marine sanitary device, and to perform a test or tests to ensure that the marine sanitary device is in such a condition as to prevent any contaminants from being discharged into City waters. It shall be unlawful for any person to deny City personnel access to a vessel for purposes of placing dye tablets in the marine sanitary device, to refuse or interfere with testing of the marine sanitary device by City personnel, to tamper with or remove while in City waters any dye tablet placed in a marine sanitary device by City personnel, or to place any substance in the marine sanitary device with the intent to interfere with the enforcement of this section. Violation of the provisions of this subsection shall be punishable as a misdemeanor. In addition to the penalties prescribed herein and in subsection (i), the Harbor Master shall have the authority to order any owner or person in charge of any boat or vessel upon which any act or omission specified herein has occurred, to immediately remove such vessel from City waters.

(i) In the event that the Harbor Department observes or receives information that any vessel is discharging into City waters any liquid or solid material from or through its marine sanitation device, marine holding tank or related or connected equipment in violation of this section, as evidenced by the discharge of dye placed into the facility pursuant to subsection (h) of this section, or has tampered with or removed dye tablets placed in the sanitation device, or if the owner or person apparently in charge does not permit or interferes with the placing of dye tablets or performance of any testing of the marine sanitation device by the Harbor Department required by this section, then the Harbor Master or any harbor patrol officer shall locate, if present on the vessel, the owner or person in apparent control or possession of the vessel and present the evidence of discharge, tampering or removal, refusal or interference and offer that person the opportunity to respond to or rebut the evidence. The conference shall be informal. If, after the informal conference, the Harbor Master or harbor patrol officer concludes that the discharge emanated from the subject vessel, or that tampering or removal of the dye tablets has occurred, or that the placing of dye tablets or testing of the marine sanitation device has been refused or interfered with, the Harbor Master or harbor patrol officer shall issue an order barring the vessel and the person owning and/or in possession of the vessel from entering City waters on the subject vessel, and any other vessel under the person's ownership or control. In the case of discharge, the order shall be for a period of one (1) year, effective immediately. In the case of tampering or removal of dye tablets or refusal or interference with the placing of dye tablets or performance of testing, the order shall be for a period of two (2) years, effective immediately. The order shall be made in writing and delivered personally to the subject vessel owner and/or person in apparent control unless actions of the owner or person in control make such delivery impractical or infeasible. Where personal delivery cannot be made, a copy of the order shall be sent by first-class mail, postage prepaid, to the address of the person to whom the vessel is registered. The order may be appealed pursuant to the provisions of Section 10-2.217.

(j) No person shall discharge from any vessel and it shall be unlawful for any liquid or solid material to be discharged from or through a vessel's marine sanitation device or marine holding tank into City waters in violation of this section, as evidenced by the discharge of dye placed into the facility pursuant to subsection (h) of this section. Violation of Section 10-2.503 shall be a strict liability offense.

(k) Notwithstanding the provisions of subsections (a) through (j) of this section, no violation of this section shall occur where a vessel mechanic licensed to do business in Avalon Harbor complies with the following requirements: (1) notifies the Avalon Harbor Department of the vessel name, its location and the type of repair requested prior to commencing repairs; (2) notifies the Avalon Harbor Department that the holding tank of the vessel on which he intends to conduct repairs has been pumped out, or provides an explanation of why the tank cannot be pumped out prior to commencing repair work; (3) notifies the Avalon Harbor Department prior to conducting a test flush, at which time a Harbor Deputy shall be sent to the vessel to observe the flush, or if a Harbor Deputy is not available within a reasonable time, the Harbor Department may authorize the mechanic to proceed with the test flush as agent for the Avalon Harbor Department; and (4) notifies the Avalon Harbor Department when all repairs have been completed and the mechanic or vessel owner or other person in charge is present at the vessel while new dye tablets are placed in the head(s) and a test flush is conducted. A discharge which occurs during such repair or tests conducted to confirm the successful completion of the repair shall not result in liability or penalty to the mechanic or vessel owner or other person in charge, provided there is compliance with the foregoing requirements.
(§2, Ord. 519, eff. July 31, 1969; §1, Ord. 832U, eff. August 16, 1988; §1, Ord. 845, eff. August 4, 1989; §1, Ord. 877-92, eff. June 18, 1992; §1, Ord. 900-93U, eff. November 9, 1993; §1, Ord. 901-93, eff. December 23, 1993; §1, Ord. 957-98, eff. October 15, 1998; §1, Ord. 958-98, eff. November 6, 1998; §2, Ord. 974-00, eff. March 2, 2000; §3, Ord. 1039-06, eff. March 23, 2006)

Sec. 10-2.504 Drift Materials: Care and Sale.

All vessels, portions thereof, timber, or other articles found adrift, sunken, abandoned, or a hazard to navigation, within the waters of the City, and not in the lawful possession or control of some person, shall be immediately delivered to the Harbor Master in whose custody they shall remain until claimed by the proper owner. Such owner shall pay all expenses incurred by the Harbor Master in connection therewith, including a charge for keeping and storing the same. If such vessels, timbers, or other articles are not claimed within sixty (60) days, and the charges are not paid therefor as provided in this section, the Harbor Master may sell such property by giving at least ten (10) days' previous notice of such sale by one (1) insertion in a newspaper printed and published in the City. Such notice shall describe the property briefly and give the place, hour, and day of the proposed sale.
(§2, Ord. 519, eff. July 31, 1969)

Sec. 10-2.505 Waste Materials: Liability.

It shall be unlawful to permit vessels, boats, materials, garbage, refuse, or waste matter of any description to remain on the shore lines of the Pacific Ocean or on the shore lines of the waters of the City within its jurisdiction, and any person violating the provisions of this section shall be guilty of a misdemeanor. In addition thereto, the Harbor Master may remove such waste matter with or without notice, at his option, and the expenses of removing the same shall be a charge against the person liable therefor. Any cost of removing the same may be recovered by the City against any guilty person in any court of competent jurisdiction.
(§2, Ord. 519, eff. July 31, 1969)

Sec. 10-2.506 Harbor Waters: Oral Soliciting Restricted.

It shall be unlawful for any person, as principal, agent, employee, or otherwise, upon any portion of the navigable waters of Avalon Harbor within one thousand (1,000') feet of any pier or wharf used by boats or vessels for taking on or discharging passengers, or upon any boat, vessel, ship, float, barge, or other watercraft or structure while within one thousand (1,000') feet of any such pier or wharf, to cry out, announce, or proclaim any trip, transportation, service, show, exhibition, announcement, or event for the purpose of commending, announcing, advertising, or calling attention to the same, or for the purpose of soliciting patronage for any business of any kind, or for the sale of any tickets, goods, wares, or merchandise of any kind.
(§2, Ord. 519, eff. July 31, 1969)

Sec. 10-2.507 Harbor Waters: Mechanical Soliciting Restricted.

It shall be unlawful for any person, as principal, agent, employee, or otherwise, upon any portion of the navigable waters of Avalon Harbor within one thousand (1,000') feet of any pier or wharf used by boats or vessels for taking on or discharging passengers, or upon any boat, vessel, ship, float, barge, or other watercraft or structure while within one thousand (1,000') feet of any such pier or wharf, to blow any whistle, horn, or trumpet, beat any drum, or ring any bell, or to use any amplifier or other instrument for increasing the human voice, or play upon any musical instrument or make any other loud or unusual noise for the purpose of advertising, announcing or calling attention to any trip, transportation, service, show, exhibition, announcement, or event for the purpose of soliciting patronage for any business of any kind, or for the sale of any tickets, goods, wares, or merchandise of any kind.
(§2, Ord. 519, eff. July 31, 1969)

Sec. 10-2.508 Construction Work, Dredging and Excavating: Permits Required: Fees.

No person shall build or extend any privately owned wharf, pier, landing, bulkhead, seawall, or structure, nor make or cause any filling to be made of any description beyond (seaward) the line of mean high tide, nor shall any dredging or excavating be done within the City for the benefit or use of any person unless plans showing the proposed work shall have been submitted to the Council for approval and a permit shall have been issued by the Council authorizing such work prior to its commencement. An inspection fee in the amount of Ten and no/100ths ($10.00) Dollars shall be paid upon the issuance of such permit.
(§2, Ord. 519, eff. July 31, 1969)

Sec. 10-2.509 Records of Harbor Use: Submission of Information.

To enable the Harbor Master to keep an accurate record of the number, size, and kind of vessels using the Avalon Harbor, the amount, kind, and value of waterborne freight handled, and the number of passengers carried, the masters and pursers of all vessels using the harbor or wharves are hereby required to furnish the Harbor Master with such information and, if so requested, to permit the Harbor Master to examine their papers, including their manifests.
(§2, Ord. 519, eff. July 31, 1969)

Sec. 10-2.510 Vessel and Harbor Businesses: Posting Charges.

All persons conducting or operating vessels or businesses in City waters or on City facilities shall post in a conspicuous place in plain view of the general public a sign setting forth the prices to be charged by such vessel or business.

Such sign shall be posted at a point as near as practicable to the public at the place of business as well as on all vessels operated, chartered, or rented by such person or business.
(§2, Ord. 519, eff. July 31, 1969)

Sec. 10-2.511 Unattended Vessels.

Persons using moorings other than their own and those anchored in City waters shall not cause or permit a vessel which they control or for which they are responsible to be unattended. As used herein, unattended means that the vessel owner or the owner's agent is not aboard the vessel or fails to promptly respond when contacted by the Harbor Master to care for the vessel. Where the Harbor Department is able to reach the owner, it shall be the owner's responsibility to find another person if the owner is not able to promptly respond to the Harbor Department's directive. An owner may designate in writing with the Harbor Department no more than two (2) agents and shall provide contact telephone numbers for each agent. In no event shall the Harbor Department or the City be responsible for damage to the vessel because of the failure to contact the owner or the agent in the event of weather or other conditions.
(§1, Ord. 696, eff. March 2, 1981; §8, Ord. 1036-06, eff. February 16, 2006)

Sec. 10-2.512 Movement of Vessels.

No vessel except those moored in the harbor as a result of bona fide emergency, shall be permitted or maintained on a mooring place or in the anchorage in City waters unless the vessel has the ability to operate in open waters of the Pacific Ocean and back to the mooring or anchorage under its own mechanical power, which power is operational and can be placed and operated in neutral, forward, and reverse. If the vessel is a sailboat, it must have functioning auxiliary power that is capable of propelling and steering the sailboat in a safe manner. If a vessel owner or operator disputes the Harbor Master's determination that the vessel does not comply with this section, the owner or operator may perform a sea trial consisting of maneuvering the vessel out of the harbor and back to the vessel's mooring or anchorage.
(§1, Ord. 696, eff. March 2, 1981; §4, Ord. 1036-06, eff. February 16, 2006)

Sec. 10-2.513 Aircraft Take-Off from and Landing on Vessels.

Except as otherwise provided herein, no person shall cause or permit any aircraft to take-off from or land on any vessel while such vessel is within City waters. As used herein, "aircraft" shall mean any contrivance now known, or hereafter invented, used or designed for navigation of or flight in the air. This section shall not apply to activities of any Federal, State, County or City agency. A violation of this section shall be punishable as a misdemeanor.
(§2, Ord. 987-00, eff. October 19, 2000)

Sec. 10-2.514 Unseaworthy Vessels.

It shall be unlawful for any person to secure or permit to be tied to a dinghy dock, float or wharf or to moor or to cause to be moored in the Avalon Harbor a vessel of any kind whatsoever which is unseaworthy, in a deteriorated condition, which is likely to sink, or to damage docks, wharves, floats, or other vessels, or to become a menace to navigation. If the Harbor Master determines that a vessel is so unseaworthy so as to present an immediate danger of serious injury to persons using such vessel or to others, the Harbor Master shall have authority to promptly remove and store such vessel. Where a vessel is determined to be unseaworthy but does not present an immediate danger of serious injury to persons using such vessel or others, the Harbor Master shall provide at least twenty-four (24) hours written notice before removing such vessel. The notice of the violation and intent to remove shall be attached to the vessel in a conspicuous place so as to be easily observed by the person in charge of the vessel upon the return of that person, and so as to prevent the notice from being removed by wind. All costs of removal and storage shall be recoverable from the registered owner, operator, rentee, or lessee of such vessel.
(§3, Ord. 1014-03, eff. July 3, 2003; §3, Ord. 1015-03, eff. July 31, 2003)

Sec. 10-2.515 Maintenance of Vessels.

All vessels moored or anchored in city waters shall be sound and properly maintained so as not to create or present a danger to public safety or cause damage to City property or other vessels or persons aboard such vessels. No materials shall be stored or permitted on the vessel which result in noxious odors. Halyards and other equipment shall be secured so as to prevent unnecessary noise. Decks must be kept clear of any clutter, rubbish, debris, or parts and/or equipment relating to the marine environment so as allow clear passage and access by emergency personnel.
(§5, Ord. 1036-06, eff. February 16, 2006)

Sec. 10-2.516 Utility Connections Prohibited.

Except as specifically authorized pursuant to a Waterside Permit granted pursuant to this Title, no vessel or floating structure which is moored or anchored in City waters shall be physically connected to any utility lines, including but not limited to sewer, water, electricity, telephone or cable.
(§6, Ord. 1036-06, eff. February 16, 2006)

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*Sections 10-2.01, 10-2.03 through 10-2.19, 10-2.21, and 10-2.25 through 10-2.35, codified from Ordinance No. 264, as amended by Ordinance Nos. 336, 344, 404, 408, 437, 472, 476, Ordinance No. 479, effective January 21, 1965, Ordinance No. 493, effective December 15, 1966 and Ordinance No. 495, effective May 22, 1967, Sections 10-2.02 and 10-2.20, codi-fied from Ordinance No. 20, and Sections 10-2.22 through 10-2.24, codified from Ordinance No. 16, were repealed by Section 1, Ordinance No. 519, effective July 31, 1969.

*Editor's Note: Ordinance No. 1004-02, effective March 21, 2002.

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CHAPTER 3 - MARINE PRESERVE

Sec. 10-3.01 Established.

In order to preserve a portion of the City's tidelands as a marine preserve and thereby continue in existence one of the scenic underwater attractions so valuable to the community's economic and social welfare, the following described parcel of property is hereby established and declared to be the Avalon Marine Preserve:

That certain parcel of property located in the City of Avalon, County of Los Angeles, State of California, described as follows:

Beginning at the most southeasterly corner of the Cabrillo Wharf (the wharf for ocean-going vessels on the seaward side of the peninsula), then extending a line seaward, perpendicular to the seaward face of the wharf, to a point approximately one hundred (100) yards from the mean tide line, then turning in a southeasterly direction and following the alignment of the mean tide line at a distance of one hundred (100) yards from the mean tide line continuing through Lovers Cove, around Abalone Point, and continuing to a point approximately four hundred thirty (430') feet easterly of Abalone Point, commonly known as "Ring Rock", then returning to shore on a line perpendicular to the Pebbly Beach Road.
(§1, Ord. 413, as amended by §1, Ord. 523, eff. February 5, 1970; §1, Ord. 1020-04, eff. April 15, 2004)

Sec. 10-3.02 Fishing and Boating.

It shall be unlawful for any person to fish, anchor a boat, or drive a boat at a speed in excess of five (5) miles per hour within the Avalon Marine Preserve.
(§3, Ord. 413)

Sec. 10-3.03 Markers and Patrolling.

As funds are made available by the Council and as the Council directs, the Harbor Master shall place and maintain buoy markers with appropriate signs delineating the exterior boundaries of the preserve and shall patrol such area.
(§4, Ord. 413)

Sec. 10-3.04 Discontinuance by Law.

The Avalon Marine Preserve shall continue in existence until otherwise declared by ordinance duly passed and adopted by the City.
(§2, Ord. 413)

Sec. 10-3.05 Reserved.[*]

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[*] **Editor's Note:** Former Section 10-3.05, Violations of Provisions, previously codified herein and containing portions of Ordinance No. 413, was repealed in its entirety by Ordinance No. 1039-06. See Section 10-1.107 for violations of Section 10-3.02.

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CHAPTER 6 - SWIMMING AND DIVING

Sec. 10-6.01 Diving from Piers, Seawalls, and Breakwaters: Signs.

No person shall dive or jump from any portion of a pier, seawall, or breakwater. Appropriate signs shall be posted on the seawalls, breakwaters, and piers calling attention to the provisions of this section.
(§§1 and 2, Ord. 421)

Sec. 10-6.02 Permit Required.

It shall be unlawful for any person to dive for recreational purposes with the use of underwater artificial breathing apparatus, sometimes known as "scuba", without first obtaining a permit from the Harbor Master. Persons diving for commercial and equipment maintenance purposes shall advise the Harbor Department of the time and location of the dive not less than two (2) hours prior to diving, but shall not be required to obtain a permit.
(§1, Ord. 449, as amended by §1, Ord. 491, eff. May 7, 1966; §1, Ord. 939-96, eff. December 5, 1996)

Sec. 10-6.03 Criteria for Issuance of Recreational Scuba Diving Permit.

In determining whether to grant a permit application request, the Harbor Master shall consider the relative impact of the proposed dive time, location and duration on boating operations and safety of the diver and others, and whether the permit can be conditioned so as to provide for reasonably safe diving conditions. The following is a nonexclusive listing of information relevant to this determination: the location of the proposed dive; the time of year in relation to boating and other water activities; the number of boats present or anticipated to be present and amount of movement of same in the proposed dive area; the day of week, time of day and duration of the proposed dive; the method proposed by the diver to mark his or her location; and the purpose of the dive. The Harbor Master may impose conditions on the permit as he deems necessary to promote safety and efficient boating operations.
(§2, Ord. 449, as amended by §1, Ord. 939-96, eff. December 6, 1996)

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CHAPTER 1 - ADOPTION OF CODE

Sec. 1-1.01 Title: Reference to Code.

This Code shall be known as the "Avalon Municipal Code". It shall be sufficient to refer to this Code as the Avalon Municipal Code in any prosecution for the violation of any provision thereof. It shall also be sufficient to designate any ordinance adding to, amending, or repealing this Code, or portions thereof, as an addition or amendment to, or a repeal of, the Avalon Municipal Code, or a portion thereof.

Sec. 1-1.02 Authority.

Except as otherwise herein or hereafter provided, this Code consists of all the regulatory, penal, and administrative laws of general application of the City of Avalon, codified pursuant to the authority contained in Article 2 of Chapter 1 of Part 1 of Division 1 of Title 5 of the Government Code of the State of California.

Sec. 1-1.03 Effective Date.

This Code shall take effect upon the effective date of the ordinance adopting this Code by reference.

Sec. 1-1.04 Effect of Code on Past Actions and Obligations.

Neither the adoption of this Code nor the repeal hereby of any ordinance of the City shall in any manner affect the prosecution for violations of ordinances, which violations were committed prior to the effective date of this Code, nor be construed as a waiver of any license or penalty at said effective date due and unpaid under such ordinances, nor be construed as affecting any of the provisions of such ordinances relating to the collection of any such license or penalty or the penal provisions applicable to any violation thereof, nor to affect the validity of any bond or cash deposit in lieu thereof required to be posted, filed, or deposited pursuant to any ordi-nance, and all vested rights and obligations thereunder appertaining shall continue in full force and effect.

Sec. 1-1.05 Reference to Specific Ordinances.

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

Sec. 1-1.06 Validity of Code.

If any section, subsection, sentence, clause, or phrase of this Code is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this Code. The Council hereby declares that it would have passed this Code and each section, subsection, sentence, clause, and phrase there-of irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional.

Sec. 1-1.07 Repeal of Ordinances.

All ordinances or portions of ordi-nances in conflict with the provisions of this Code are hereby repealed.

Sec. 1-1.08 Maintenance of Code.

Not less than three (3) copies of this Code shall be filed for use and examination by the public in the office of the City Clerk. At least three (3) additional copies, duly certified by the City Clerk, shall be maintained on file in his office as the official copies of the Code. Additional copies of the Code shall be distributed to the departments and divisions of the City as shall be prescribed by the City Clerk.

Upon the adoption of any amendment or addition to this Code, or upon the repeal of any of its provisions, the City Clerk shall certify thereto and shall make an appropriate notation in the official volumes of this Code of the taking of such action, noting thereon the number and date of the ordinance pursuant to which such action is taken.

Duly certified copies of each ordinance making changes in the Code shall be filed in the office of the City Clerk in books for such purpose, duly indexed for ready reference.

At least quarterly the City Clerk shall cause the loose leaf pages of this Code in which changes have been made to be reproduced, including the notation as to the ordinance number and date pursuant to which such change is adopted, and distributed in order that the loose leaf copies of the Code, prepared for the use and convenience of the officers and employees of the City and the general public, may be brought up-to-date.

Sec. 1-1.09 Exclusions from Code.

Ordinances relating to matters of a special or temporary nature only are excluded from this Code and are unaffected by the pro-visions of this Code.

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CHAPTER 2 - PENALTY PROVISIONS

Sec. 1-2.01 Violations.

(a) No person shall violate any provisions, or fail to comply with any of the re-quirements of this Code. Any person violating any of the provisions or failing to comply with any of the requirements of this Code shall be guilty of a misdemeanor unless such violation or failure to comply is expressly stated by this Code to be an infraction or to be punishable by imposition of specified civil penalties. Any person convicted of a misdemeanor under the provisions of this Code shall be punishable by a fine of not more than One Thousand and no/100ths ($1,000.00) Dollars, or by imprisonment in the County Jail for a period not exceeding six (6) months, or by both such fine and imprisonment. Each such person shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of this Code is committed, continued, or permitted by such person and shall be punishable accordingly.

(b) *Infractions*. Any person violating any provision or failing to comply with any mandatory requirement of this Code expressly stated by this Code to be an infraction shall be guilty of an infraction. Any person convicted of an infraction shall be punishable by:

(1) A fine not exceeding One Hundred and no/100ths ($100.00) Dollars for a first violation;

(2) A fine not exceeding Two Hundred and no/100ths ($200.00) Dollars for a second violation of the same provision of this Code within one year;

(3) A fine not exceeding Five Hundred and no/100ths ($500.00) Dollars for each additional violation of the same provision of this Code within one year.

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

In addition to the penalties hereinabove provided, any condition caused or permitted to exist in violation of any of the provisions of this Code shall be deemed a public nuisance and may be, by this City, summarily abated as such, and every day such condition continues shall be regarded as a new and separate offense.
(Ord. 797, eff. November 27, 1986; §2, Ord. 899-93, eff. September 2, 1993)

Sec. 1-2.02 Prohibited Acts.

Whenever in this Code any act or omission is made unlawful, it shall include causing, permitting, aiding, abetting, suffering, or concealing the fact of such act or omission.

Sec. 1-2.03 Imposition of Penalty.

The provisions of this Code which declare certain crimes to be punishable as therein mentioned devolve a duty upon the court authorized to pass sentence to determine and impose the punishment described.

Sec. 1-2.04 Determination of Punishment.

Whenever in this Code the punishment for a crime is left undetermined between certain limits, the punishment to be in-flicted in a particular case shall be determined by the court authorized to pass sentence, within such limits as may be prescribed by this Code.

Sec. 1-2.05 Place of Confinement.

There is hereby established in the City of Avalon a City Jail to be located at Falls Canyon, which City Jail is hereby declared to be and is hereby designated as a jail and place wherein shall be confined any person ordered com-mitted for the violation of any laws of the City or laws of the State properly within the juris-diction of the City of Avalon. Every person found guilty of violating any of the provisions of this Code and sentenced to imprisonment shall be imprisoned in the City Jail or County Jail.
(§1, Ord. 265)

Sec. 1-2.06 Use of Prisoners for Public Works.

Persons confined in the City Jail pursuant to a final judgment of imprisonment for violation of or failure to comply with any of the provisions of any law of the City or any penal provision of the State or for any violation of any of the provisions of this Code may be required by the Chief of Police to perform clerical or menial labor on the streets or other public property or works within the City of Avalon.

As used in this section, "streets or other public property or works within the City of Avalon" shall include, among other things, the City Jail or any camp maintained within the City.
(§1, Ord. 412)

Sec. 1-2.07 Fees, Charges, Fines, Penalties and Taxes Made a Civil Debt.

The amount of any fee, charge, fine, penalty, utility charge, license or tax of any nature whatsoever imposed by any provision of this Code shall be deemed a civil debt owing to the City. An action may be commenced in the name of the City in any court of competent jurisdiction for the collection of the amount of any such fee, charge, fine, penalty, utility charge, license or tax. The remedy prescribed by this section shall be cumulative and the use of an action to collect such an amount as a debt by civil action shall not ban the use of any other remedy provided by this Code or by law.

The City shall be entitled to all costs and attorneys' fees it incurs in enforcing the Code and in any collection action pursuant to the Code.
(§1, Ord. 835, eff. December 1, 1988; §2, Ord. 1135-14, eff. January 1, 2015)

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CHAPTER 3 - RULES OF CONSTRUCTION

Sec. 1-3.01 Scope of Chapter.

Unless the provisions of the context other-wise specify, the general provisions, rules of construction, and definitions set forth in this chapter shall govern the construction of this Code. The provisions of this Code and all pro-ceedings under it are to be construed with a view to effect its objects and to promote justice.

Sec. 1-3.02 Provisions Construed as Restatements and Continuations.

The provisions of this Code, insofar as they are substantially the same as existing ordinances relating to the same subject matter, shall be construed as restatements and con-tinuations and not as new enactments.

Sec. 1-3.03 Tenure of Officers Preserved.

All persons who, at the time this Code takes effect, hold office under any of the ordinances repealed by this Code, which offices are continued by this Code, shall continue to hold them according to their former tenure.

Sec. 1-3.04 Effect of Headings.

Title, chapter, article, and section headings contained in this Code shall not be deemed to govern, limit, modify, or in any manner affect the scope, meaning, or intent of the provisions of any title, chapter, article, or section of this Code.

Sec. 1-3.05 Meaning of Section and Subsection.

"Section" shall mean a section of this Code, unless some other source is specifically mentioned. "Subsection" shall mean a subsection of the section in which the term occurs, unless some other section is expressly mentioned.

Sec. 1-3.06 Reference to Acts or Omissions Within the City.

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

Sec. 1-3.07 Acts by Deputies.

Whenever a power is granted to, or a duty is imposed upon, a public officer or employee, the power may be exercised or the duty may be performed by a deputy of such officer or employee or by a person otherwise duly authorized pursuant to law or ordinance, unless this Code expressly provides otherwise.

Sec. 1-3.08 Writing.

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

Sec. 1-3.09 References to Ordinances: Application to Amendments.

Whenever any reference is made to an ordinance, the reference shall apply to such ordinance of the City unless otherwise specifically provided. Whenever any reference is made to any portion of this Code, or to any ordinances of the City, the reference shall apply to all amend-ments and additions now or hereafter made.

Sec. 1-3.10 Service of Notices.

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

Sec. 1-3.11 Service of Notices: Proof.

Proof of giving any notice may be made by the certificate of any officer or employee of the City or by affidavit of any person over the age of eighteen (18) years, which affidavit shows service in conformity with this Code or other provisions of law applicable to the subject matter concerned.

Sec. 1-3.12 Statute of Limitations.

When a limitation or period of time prescribed in any existing ordinance or statute for acquiring a right or barring a remedy, or for any other purpose, has begun to run before this Code goes into effect, the time which has already run shall be deemed a part of the time prescribed as such limitation.

Sec. 1-3.13 Definitions.

For the purposes of this Code, unless otherwise apparent from the context, certain words and terms used herein are defined as follows:

(a) "Calendar year" shall mean from January 1 through December 31 of any given year;

(b) "City" shall mean the City of Avalon;

(c) "Council" shall mean the City Council of the City of Avalon;

(d) "County" shall mean the County of Los Angeles;

(e) "Fiscal year" shall mean from July 1 of any given year through June 30 of the following year;

(f) "Gender". The masculine gender shall include the feminine and neuter genders;

(g) "May" shall be permissive;

(h) "Month" shall mean a calendar month unless otherwise expressed;

(i) "Number". The singular number shall include the plural, and the plural number shall include the singular;

(j) "Oath" shall include affirmation;

(k) "Office". The use of the title of any officer, employee, office, or ordinance shall mean such officer, employee, office, or ordinance of this City, unless otherwise specified;

(l) "Owner", applied to a building or land, shall include any part owner, joint owner, tenant, tenant in common, or joint tenant of the whole or a part of such building or land;

(m) "Person" shall include any person, firm, company, corporation, partnership, association, any public corporation, political subdivision, City (excepting the City of Avalon), County of Los Angeles, district in the County of Los Angeles, the State of California, or the United States of America, or any department or agency of any thereof, unless this Code expressly provides otherwise;

(n) "Personal property" shall include money, goods, chattels, things in action, and evidences of debt;

(o) "Property" shall include both real and personal property;

(p) "Quarterly", when used to designate a period of time, shall mean the first three (3) calendar months of any given year or any succeeding period of three (3) calendar months;

(q) "Real property" shall include lands, tenements, and hereditaments;

(r) "Shall" shall be mandatory;

(s) "State" shall mean the State of California;

(t) "Street" shall include all streets, highways, avenues, boulevards, alleys, courts, places, squares, or other public ways in the City which have been or may hereafter be dedicated and open to public use, or such other public property so designated in any law of this State;

(u) "Tenant or occupant", applied to a building or land, shall include any person who occupies the whole or part of such building or land, whether alone or with others; and

(v) "Tenses". The present tense shall include the past and future tenses, and the future tense shall include the present tense.

(w) "Gross Receipts" shall mean the total amounts received from all revenue sources during the relevant period, except admission taxes, sales taxes, California redemption taxes, and City of Avalon use taxes/fees and reasonable commissions which are paid to third parties. For purposes of calculating Gross Receipts, such commissions shall not exceed 20% of the price paid by the consumer/customer.

(§1, Ord. 1130-14, eff. July 17, 2014)

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CHAPTER 4 - APPEALS

Sec. 1-4.01 Right to Appeal.

(a) Except as otherwise specifcally provided in this Code, any person excepting to the denial, suspension, or revocation of a permit applied for or held by him pursuant to any decision made by any appointive board of the City pursuant to any of the provisions of this Code may appeal in writing to the Council by filing with the City Clerk a written notice of such appeal setting forth the specific grounds thereof.

(b) Except as otherwise specifically provided in this Code, any person excepting to any administrative decision made by any official of the City pursuant to any of the provisions of this Code may appeal in writing to the Council by filing with the City Clerk a written notice of such appeal setting forth the specific grounds thereof.
(Amended by §1, Ord. 620, eff. March 18, 1976)

Sec. 1-4.02 Time Within Which an Appeal Shall be Filed.

The written notice of appeal shall be filed with the City Clerk within fifteen (15) days after the receipt of written notice of such action appealed from.
(§1, Ord. 782, eff. November 13, 1985)

Sec. 1-4.03 Hearing: Notice.

The City Clerk shall forthwith set such matter for a hearing before the Council at a subsequent regular meeting and shall cause a notice thereof to be given to the applicant not less than five (5) days prior to such hearing, unless such notice is waived in writing by the applicant. At such hearing the appellant shall show cause on the grounds specified in the notice of appeal why the action excepted to should not be approved. The Council may continue the hearing from time to time, and its findings on the appeal shall be final and conclusive in the matter.

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CHAPTER 5 - CITATION PROCEDURE

Sec. 1-5.01 Notice to Appear.

If any person is arrested for the violation of any law of the City and such person is not immediately taken before a magistrate, as is more fully set forth in the Penal Code of the State, the arresting officer shall prepare, in duplicate, a written notice to appear in court, which notice shall state the name and address of such person, the offense charged, and the time and place such person shall appear in court.
(§1, Ord. 464)

Sec. 1-5.02 Notice to Appear: Time.

The time specified in the notice to appear shall be not less than five (5) days after such arrest.
(§2, Ord. 464)

Sec. 1-5.03 Notice to Appear: Place.

The place specified in the notice to appear shall be before a municipal court judge who has jurisdiction of the offense and who is nearest and most accessible.
(§3, Ord. 464)

Sec. 1-5.04 Promise to Appear.

The officer shall deliver one copy of the notice to appear to the arrested person, and the arrested person, in order to secure a release, shall give his written promise so to appear in court by signing the duplicate notice, which shall be retained by the officer. Thereupon the arresting officer shall forthwith release the person arrested from custody.
(§4, Ord 464)

Sec. 1-5.05 Deposit of Bail: Forfeiture.

The officer shall, as soon as practicable, file a duplicate notice with the court specified in such notice. The defendant may, prior to the date upon which he promised to appear in court, deposit with the court the amount of bail set by a judge thereof. Thereafter, at the time when the case is called for arraignment before the court, if the defendant does not appear, either in person or by counsel, the court may declare the bail forfeited and may, in its discretion, order that no further proceedings shall be held in such case.
(§5, Ord. 464)

Sec. 1-5.06 Use of Warrant for Arrest.

No warrant shall be issued on such charge for the arrest of a person who has given such written promise to appear in court unless and until he has violated such promise or has failed to deposit bail, to appear for arraignment, trial, or judgment, or to comply with the terms and provisions of the judgment as required by law.
(§6, Ord. 464)

Sec. 1-5.07 Issuance of Warrant for Arrest.

When a person signs a written promise to appear at the time and place specified in the written promise to appear and has not posted bail as provided in Section 1-5.05 of this chapter, the court shall issue and have delivered for execution a warrant for such person's arrest within twenty (20) days after his failure to appear as promised.
(§8, Ord. 464)

Sec. 1-5.08 Violation of Promise to Appear.

Every person wilfully violating his written promise to appear in court shall be guilty of a misdemeanor regardless of the disposition of the charge upon which such person was originally arrested.
(§7, Ord. 464)

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CHAPTER 6 - PUBLIC LIABILITY INSURANCE

Sec. 1-6.01 Public Liability Insurance.

Applicants for permits or franchises and parties to leases and contracts with the City of Avalon may be required by the Avalon Municipal Code or the City Manager to maintain a policy of public liability insurance. Such policy shall:

(a) Contain broad from commercial general liability insurance, or in the case of marine operations, the substantial equivalent, with respect to the premises, as applicable and the permittee, franchisee, contractor or lessees' activities with a combined single limit of not less than One Million and no/100ths ($1,000,000.00) Dollars per occurrence and aggregate. Such insurance shall be produced by an insurer authorized to do business in California with a then current Best's Insurance Guide Rating of not less than A-VII, shall name the City of Avalon, its officers, agents and employees as additional insureds, and shall contain a provision that prohibits cancellation, modification or; and

(b) Name the City as additional insured and contain a waiver of subrogation against the named insured or respective officers, employees, agents; and

(c) Provide that it may not be canceled without at least thirty (30) days prior written notice to the City; and

(d) Provide primary and not excess coverage insurance coverage shall be subject to the approval of the City.

The applicant shall provide evidence of such insurance coverage by providing the City with a copy of the policy and/or a copy of a fully explanatory certificate of insurance, as determined by the City.
(§1, Ord. 1029-05, eff. April 14, 2005; §1, Ord. 704, eff. August 17, 1981; §1, Ord. 815, eff. December 3, 1987)

Sec. 1-6.02 Council Action.

The City Council may by minute action or resolution modify the requirements of this chapter including increasing or decreasing the amount of insurance or requiring additional types of coverage upon a finding that the modification will serve a public purpose and will represent, in the Council's determination, based on available information, the risk presented by the requested permit, franchise, lease or contract.
(§1, Ord. 1029-05, eff. April 14, 2005; §1, Ord. 704, eff. August 17, 1981)

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CHAPTER 7 - SERVICE FEES

Sec. 1-7.01 Public Hearing Requirement.

The adoption by the City Council of any resolution increasing or adopting service or user fees or charges as authorized by any provision of this Code shall be preceded by no fewer than one (1) duly noticed public hearing.
(§1, Ord. 768, eff. July 16, 1984; §1, Ord. 1137-15, eff. June 4, 2016)

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CHAPTER 8 - REASONABLE ACCOMMODATION

Sec. 1-8.01 Intent.

The purpose of the City of Avalon's ("City's") Americans with Disabilities Act of 1990 ("ADA") Reasonable Modification Policy is to ensure disabled persons have equal and effective access to City programs and services, and that reasonable and long-term modifications to City employment, building, and zoning rules, regulations, practices, and standards may be made for disabled persons in full compliance with the provisions of Title II of the ADA and all other applicable State and Federal laws.
(§1, Ord. 1106-11, eff. March 31, 2011; §3, Ord. 1132-14, eff. November 6, 2014)

Sec. 1-8.02 Policy Statement.

The City is committed to providing equal access and opportunity to qualified individuals with disabilities in all City programs, services, employment policies, and building and zoning rules, regulations, practices, and standards. The City recognizes that in order to have equally effective opportunities and benefits, individuals with disabilities may need reasonable and long-term modifications to City policies and procedures. The City will adhere to all applicable Federal and State laws, regulations and guidelines with respect to providing reasonable modifications, as necessary, to afford disabled persons equal access to City programs and services, and to modify City employment, building, and zoning rules, regulations, practices, and standards when necessary. Questions regarding reasonable modification and/or discrimination on the basis of disability should be directed to the City's ADA Coordinator. A notification of this policy shall be on display at City Hall/Planning Department to alert people that this policy exists and that a copy of this policy will be made available by the City upon request.

The City shall make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless the City can demonstrate that making the modifications would fundamentally alter the nature of the service, program, activity, regulation or policy being modified, or result in an undue financial or administrative burden.

The City shall take appropriate steps to ensure that communication with applicants, participants, and members of the public with disabilities are as effective as communications with others. To this end, the City shall furnish upon request appropriate auxiliary aids and services where necessary to afford an individual with a disability an equal opportunity to participate in, and enjoy the benefits of, a service, program, or activity conducted by the City. In determining what type of auxiliary aid or service is necessary, the City shall give primary consideration to the requests of the individual with a disability.

The City recognizes that providing services in an integrated setting through architectural barrier removal is the most desirable method to provide equally effective opportunities and benefits for many individuals with disabilities.

The City is not required to take any action that it can demonstrate would result in a fundamental alteration in the nature of a service, program, activity or regulations, or any action that would result in undue financial or administrative burdens. Any determination that a modification in its policies or procedures to provide an equal opportunity to participate in, and enjoy the benefits of, a service, program, or activity for individuals with disabilities would fundamentally alter the service, program, or activity or unduly burden the City shall be made by the City ADA Coordinator after consulting with the City Attorney and after considering all resources available for use in funding and operating the program, service, or activity. The decision shall be accompanied by a written statement of the reasons for reaching that determination.

When barrier removal is "technically infeasible" or when reasonable modification would result in "undue financial or administrative burden" or "fundamental alteration in the nature of a service, program, or activity," the procedures in this policy will help ensure that the City adheres to the requirements of the ADA regulations and guidelines with respect to burden and infeasibility.
(§1, Ord. 1106-11, eff. March 31, 2011; §3, Ord. No. 1132-14, eff. November 6, 2014)

Sec. 1-8.03 Definitions.

"Auxiliary aids and services" shall mean and include:

(a) Qualified interpreters, note takers, transcription services, written materials, assistive listening systems, and other effective methods for making aurally delivered materials available to individuals with hearing impairments,

(b) Qualified readers, taped texts, audio recordings, Braille materials, large print materials, or other effective methods for making visually delivered materials available to individuals with visual impairments,

(c) Acquisition or modification of equipment or devices, and

(d) Other similar services and actions.

"Disability" As defined by the ADA at 42 U.S.C. § 12102 and with respect to an individual shall mean (a) a physical or mental impairment that substantially limits one or more of the major life activities of such individual, (b) a record of such impairment, or (c) being regarded as having such an impairment.

"Qualified individual with a disability" shall mean an individual with a disability who, with or without reasonable modifications to rules, policies, or practices, the removal of architectural, communication, or transportation barriers, or the provision of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services, the participation in programs or activities provided by the City, or is subject to the laws, rules and regulations of the City.

"Reasonable modification" shall mean modifications or adjustments to a program, service, legal requirements and statutes or activity that will enable equal access, to the maximum extent possible, for qualified individuals with a disability.

"Technically infeasible" With respect to an alteration of a building or a facility, technically infeasible is something that has little likelihood of being accomplished because existing structural conditions would require removing or altering a load-bearing member that is an essential part of the structural frame; or because other existing physical or site constraints prohibit modification or addition of elements, spaces, or features that are in full and strict compliance with the minimum requirements.

"Undue burden" shall mean significant difficulty or expense. In determining whether an action would result in an undue burden, the City shall consider all City resources available to the program or component for which the product is being developed, procured, maintained, or used or entitlements, approvals or permits sought.
(§1, Ord. 1106-11, eff. March 31, 2011; §3, Ord. 1132-14, eff. November 6, 2014)

Sec. 1-8.04 Policies and Procedures.

(a) The City will make all reasonable modifications to policies and programs to ensure that people with disabilities have an equal opportunity to enjoy all of its programs, services, and activities, and will permit exceptions to stated local zoning, vehicle, parking, building, and employment standards, requirements, and practices when necessary and reasonable to ensure equal opportunity.

(b) Any disabled person, his or her representative, or any developer or provider of housing for one or more people with a disability may request an accommodation from any of the City's rules, policies, practices, and/or procedures when such accommodation is reasonable and necessary to afford such persons equal opportunity and access as citizens who are not disabled.

(c) Anyone who requires an auxiliary aid or service for effective communication, or a modification of policies or procedures to participate in a program, service, or activity of the City, should contact the ADA Coordinator, as soon as possible but no later than forty-eight (48) hours before the scheduled event. Please include the name, location and date of the service or program, and your contact information. While requests for auxiliary aids or services can usually be accommodated with limited notice, please be advised that other requests for accommodation, including but not limited to requests for exceptions to local zoning and buildings standards, regulations, and practices will require the completion of a request for accommodation application.

(d) The City will generally, upon request, provide appropriate aids and services leading to effective communication for qualified persons with disabilities so they can participate equally in the City's programs, services, and activities, including qualified sign language interpreters, documents in Braille, and other ways of making information and communications accessible to people who have speech, hearing, or vision impairments. Requests for aids or services for effective communication should be directed to the ADA Coordinator, with as much advance notice as practicable.

(e) In the provision of auxiliary aids or services, including modifications in policies, practices, or procedures, the City will not place surcharges on individuals with disabilities to cover the costs involved in making programs, services or activities accessible.

(f) City facilities are either fully structurally accessible to individuals with disabilities or will be made fully accessible. Should any facility not be fully accessible, all services normally provided to the public at that location will be provided at a fully accessible location upon request.

(g) In cases of emergency services, which are unplanned and may require complex and important communication, interpretation services consistent with the requirements of the ADA will be arranged to the extent practicable.

(h) If the reasonable accommodation involves deviation from the City's vehicle standards, the request shall be heard by the Vehicle Hearing Officer or his or her designee, subject to all applicable regulations for notice, determination and appeal.

(i) If the reasonable accommodation involves deviation from the City's building standards or zoning regulations, the request shall be heard by the Planning Commissioner or his or her designee, subject to all applicable regulations for notice, determination and appeal.

(j) The City's ADA Coordinator shall coordinate the City's efforts to comply with and carry out its responsibilities under Title II of the ADA and applicable State law, including investigation of any complaint communicated to the City alleging its noncompliance or alleging any actions that are prohibited under the ADA. The City shall make available to all interested individuals the name, office address, telephone number, and email of the ADA Coordinator and shall provide for procedures for the prompt and equitable resolution of complaints alleging any action that is prohibited under the ADA. Complaints that a program, service, or activity of the City is not accessible to persons with disabilities should be directed to the ADA Coordinator.
(§1, Ord. 1106-11, eff. March 31, 2011; §3, Ord. 1132-14, eff. November 6, 2014)

Sec. 1-8.05 Application for Accommodation.

(a) A disabled person, or his or her representative, who desires to request an accommodation may do so by filing an application with City's ADA Coordinator. Requests for auxiliary aids and services may be made up to forty-eight (48) hours before the event needing accommodation; other requests should provide at least thirty (30) days' notice.

(b) If an individual needs assistance in making the request for accommodation or reducing such request to writing, the ADA Coordinator will endeavor to provide the assistance necessary to ensure that the process is accessible to the applicant or representative.

(c) The application shall require the following:

(1) The applicant's name, address, and telephone number;

(2) If not the applicant, the identity of the disabled person(s), and the applicant's relation to the disabled person;

(3) Identification and description of the disability which is the basis for the request for accommodation, including a description of the effect the disability has on the disabled individual's medical, physical, or mental limitations. At the discretion of the ADA Coordinator, physician or other similar verification of the disability may be required. For any information marked as confidential by the applicant, the City will keep such information confidential and not disclose such information, unless required by law, subpoena, or similar legal process;

(4) The rule, regulation, policy, practice, or procedure of the City for which the request for accommodation is being made;

(5) If applicable the specific event of the City for which the request for accommodation is being made;

(6) The type of accommodation being sought and an explanation as to why it is necessary. When appropriate, this shall include a summary of any potential alternative means of accommodation;

(7) Where applicable, copies of correspondence, pictures, plans, or other appropriate background information reasonably necessary for the City to reach a decision regarding the feasibility and necessity of the accommodation. Additional information may be required at the discretion of the ADA Coordinator;

(8) If the modification is related to building or zoning standards, verification that adjacent property owners have been notified of the potential modification shall be required.

(d) The ADA Coordinator may, at his or her discretion, consider a request for accommodation to be ongoing and may not require a new request for each instance of accommodation. In other circumstances, individuals shall submit a new request for each instance of accommodation.
(§1, Ord. 1106-11, eff. March 31, 2011; §3, Ord. 1132-14, eff. November 6, 2014)

Sec. 1-8.06 Criteria for Granting Accommodation.

(a) Auxiliary Aids and Services. Requests for auxiliary aids and services may be approved without findings or written conclusions by the ADA Coordinator, or his or her representatives.

(b) Findings. For all other types of requests for accommodation, including but not limited to those requesting exceptions to stated zoning, building, vehicle and employment rules, regulations, practices, and procedures, the following findings shall be analyzed, made, and adopted before any action is taken to approve, approve with conditions, or deny a request for accommodation, and must be incorporated into the record of the proceeding relating to such decisions:

(1) Whether the request for accommodation is reasonable and necessary to afford the applicant with equal opportunities as citizens who are not disabled;

(2) Whether there are preferable and feasible alternatives to the requested accommodation that may provide an equivalent level of benefit;

(3) The physical attributes of any proposed changes to properties and structures;

(4) Whether the requested accommodation will require a fundamental alteration of the City's rules, regulations, policies, practices, or procedures;

(5) Whether the requested accommodation will result in an undue financial or administrative burden to the City;

(6) If zoning related, whether the requested accommodation would result in a detriment to the character of the neighborhood;

(7) Whether the requested accommodation, under the specific circumstances, will result in a direct and significant threat to the health or safety of other individuals or property; and

(8) Any other factors that may have bearing on the request.

(c) Conditions of Approval. Any modification granted for an individual with a disability may be considered a personal accommodation for the individual applicant, and may not run with the land. The conditions of approval may, where deemed appropriate, provide for any or all of the following:

(1) Periodic inspection of the affected premises, as specified in the conditions, to verify compliance with this section and with any other applicable conditions of approval.

(2) Prior to any transfer of interest in the premises, notice to the transferee of the existence of the modification, the personal status of the modification and the requirement that the transferee apply for a new modification, if necessary.

(3) Removal of the improvements, where removal would not constitute an unreasonable and unfair financial burden, if the need for which the accommodation was granted no longer exists.

(4) Time limits and/or expiration of the approval if the need for which the accommodation was granted no longer exists.

(5) Other conditions deemed necessary to protect the public health, safety, and welfare.

(d) Notice of Determination. When practical, the Planning Commissioner, Vehicle Code Officer, or the ADA Coordinator or his or her representative, as applicable, shall issue a written notice of decision within thirty (30) days of the submittal of the completed application or hearing, as the case may be. The decision shall grant the request, grant the request with conditions, deny the request, or offer approval of an alternative accommodation. The request shall be denied if the result of granting the request would lead to a violation of Federal or State law. The notice shall contain the factual findings, conclusions, and reasons for the decision and give notice of the right to appeal as set forth in Section 1-8.07 of this chapter. The notice shall be mailed to the applicant by certified mail to the address listed on the application for the request.
(§1, Ord. 1106-11, eff. March 31, 2011; §3, Ord. 1132-14, eff. November 6, 2014)

Sec. 1-8.07 Appeals.

(a) Appeal of Notice of Decision. Any person dissatisfied with the decision provided by the ADA Coordinator, the Planning Commissioner or the Vehicle Code Officer, or any such designee thereof, pursuant to this chapter may appeal the decision to the City Council. The appeal shall be in writing, shall be filed with the City Clerk, and shall be submitted within thirty (30) days of receiving the decision being appealed.

(b) The City Council shall review the appeal and may, at their discretion, request additional information as needed.

(c) The City Council shall issue a written decision within thirty (30) days of receiving the appeal, with such thirty (30) day period stayed during any time during which the City Council has requested and yet to receive any additional information regarding the appeal, and may grant the request, deny the request, offer approval of an alternative accommodation, or approval the request with conditions. The City Council may not offer an accommodation more restrictive than what was originally offered. In reaching its decision, the City Council should consider the factors outlined in Section 1-8.06(b) of this chapter. Nothing in this chapter shall preclude the applicant from any other State or Federal remedy available to applicant.
(§1, Ord. 1106-11, eff. March 31, 2011; §3, Ord. 1132-14, eff. November 6, 2014)

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CHAPTER 9 - ADMINISTRATIVE CITATIONS

Sec. 1-9.01 Legislative Findings and Statement of Purpose.

The City Council hereby finds that there is a need for an alternative method of code enforcement to the traditional civil, criminal or administrative abatement actions to effect compliance with certain provisions of the Avalon Municipal Code, its adopted codes and applicable State codes.

The procedures established in this chapter shall be in addition to criminal, civil or administrative abatement or any other legal remedy established by law, which may be pursued to address violations of the Avalon Municipal Code, its resolutions and adopted codes or applicable State codes, at the sole discretion of the City.
(§1, Ord. 1135-14, eff. January 1, 2015)

Sec. 1-9.02 Definitions.

(a) "Administrative citation" shall mean an administrative citation issued pursuant to this section to remedy a violation.

(b) "City Manager" shall mean the City Manager or his or her designee.

(c) "Code" shall mean the Avalon Municipal Code, resolutions and any code adopted by reference.

(d) "Day" shall mean a calendar day.

(e) "Enforcement Officer" shall mean any peace officer, code enforcement officer or any other employee or agent of the City designated by the City Manager to enforce any provision of this Code.

(f) "Non-emergency health or safety violation" shall mean a continuing violation of any building, plumbing, electrical or other similar structural or zoning ordinance which does not create an immediate danger to health or safety.

(g) "Responsible person" shall mean a person who causes a Code violation to occur, or allows a violation to exist or continue, by his or her action or failure to act, or whose agent, employee, or independent contractor causes a violation to occur, or allows a violation to exist or continue. For the purposes of this chapter, there may be more than one responsible person for a violation.
(§1, Ord. 1135-14, eff. January 1, 2015)

Sec. 1-9.03 Authority.

(a) Any responsible person violating any provision of the Avalon Municipal Code, its adopted codes, its regulations or any applicable State code, may be issued an Administrative Citation by an Enforcement Officer as provided in this chapter. A violation of this Code includes, but is not limited to, all violations of the Avalon Municipal Code, the Uniform Codes adopted by the City Council, failing to comply with any condition imposed by any entitlement, permit, agreement or environmental document issued or approved under the provisions of this Code.

(b) Each and every day a violation of the Code, adopted code or applicable State code exists, constitutes a separate and distinct offense.

(c) A civil fine shall be assessed by means of an Administrative Citation issued by an Enforcement Officer and shall be payable directly to the City of Avalon.

(d) Fines shall be assessed in the amounts specified by the Avalon Municipal Code, Resolutions of the City Council, or where no amount is specifically identified in the Avalon Municipal Code or Resolution, the fines are as follows:

(1) A fine not exceeding one hundred dollars ($100.00) for a first violation;

(2) A fine not exceeding two hundred dollars ($200.00) for a second violation of the same provision or permit within one year from the date of the first violation;

(3) A fine not exceeding five hundred dollars ($500.00) for each additional violation of the same ordinance or permit within one year from the date of the first violation.

(e) Each Administrative Citation shall contain the following information:

(1) The name of the person charged with any violation of the Code.

(2) The date or dates on which the person violated the Code.

(3) The section or sections of the Code so violated.

(4) The location where the violation occurred.

(5) The amount of the fine imposed or to be imposed for each violation of the Code.

(6) In the case of a non-emergency health or safety violation, the amount of time the person charged with the violation of the Code has to correct or otherwise remedy the violation prior to the fine becoming effective.

(7) A notice of the procedure to request an administrative hearing to contest the citation.

(8) The amount of the proposed fine for each violation listed in the citation.

(9) The name and signature of the person who issued the citation.

(10) The date the citation is issued.

(11) Any other information deemed necessary by the City Manager or Enforcement Officer for enforcement or collection purposes.

(f) If the violation of the Code is for a non-emergency health or safety violation, a reasonable period of time of at least thirty (30) days shall be provided in writing to the person responsible for the non-emergency health or safety violation to correct or otherwise remedy the violation prior to the imposition of a civil fine. If the violation is not corrected by the time noted in the notice, the civil fine shall immediately become due and payable.
(§1, Ord. 1135-14, eff. January 1, 2015)

Sec. 1-9.04 Payment and Collection of Fines.

(a) Payment of a civil fine assessed for a violation of this chapter shall be due within 21 days from the date of issuance of the citation and shall be in the form of check or money order made payable to the City of Avalon. The citation number shall be designated on the check or money order.

(1) Unless the citation requires personal delivery of civil fine payment pursuant to Section 1-9.04(a)(2) below, payment shall be mailed to: City of Avalon Finance Department, 410 Avalon Canyon Road, P.O. Box 707, Avalon, California, 90704.

(2) Where a citation expressly requires personal delivery of civil fine payment, payment shall be personally delivered by the responsible person to: City Hall, 410 Avalon Canyon Road, Avalon, California, 90704.

(b) Payment of any fine or fines shall not excuse the responsible person from complying with the provision of the Code so violated. The issuance of a citation or payment of any fine, or both, shall not bar the City from instituting any other enforcement action or remedy to obtain compliance with the provisions of the Code so violated, including the issuance of additional citations.
(§1, Ord. 1135-14, eff. January 1, 2015)

Sec. 1-9.05 Failure to Pay Administrative Fines.

(a) The failure of any person to pay the civil fines assessed by an Administrative Citation within the time specified may result in the matter being referred to the City Attorney to file a claim and/or initiate collection efforts pursuant to Section 1-2.07.

(b) Any person who fails to pay to the City any fine imposed pursuant to this chapter on or before the date that fine is due also shall be liable for the payment of a late payment charge in the amount of $25.00 plus interest at the maximum rate permitted by law.
(§1, Ord. 1135-14, eff. January 1, 2015)

Sec. 1-9.06 Appeal of Administrative Citation.

(a) The recipient of a citation issued pursuant to this section may contest the citation. A notice of appeal and request for hearing contesting an Administrative Citation issued for a violation of this chapter shall be accompanied by any non-refundable administrative fee as established by the City, an advance deposit of the total amount of the fine, which shall be refunded if it is determined, after a hearing, that the person charged in the Administrative Citation was not responsible for the violation(s) or that there was no violation(s) as charged in the citation.

(b) The City Manager shall designate the hearing officer for the Administrative Citation hearing. The hearing officer shall not be a City employee.

(c) The hearing before the hearing officer shall be set for a date that is not less than fifteen (15) and not more than sixty (60) calendar days from the date that the notice of appeal is filed in accordance with the provisions of this chapter. The person requesting the hearing shall be notified of the time and place set for the hearing at least ten (10) calendar days prior to the date of the hearing.

(d) At least ten (10) days prior to the date of the hearing, the recipient of an Administrative Citation shall be provided with copies of the citations, reports and other documents submitted or relied upon by the Enforcement Officer. No other discovery is permitted. Formal rules of evidence shall not apply.

(e) The hearing officer shall only consider evidence that is relevant to whether the violation(s) occurred and whether the party contesting the Administrative Citation has caused, maintained or allowed the violation(s) of the Municipal Code, adopted code, regulation or other applicable State code on the date(s) specified in the Administrative Citation.

(f) The Administrative Citation and any additional documents submitted by the Enforcement Officer shall constitute prima facie evidence of the respective facts contained in those documents.

(g) The person contesting the Administrative Citation shall be given the opportunity to testify and present witnesses and evidence concerning the Administrative Citation.

(h) The unexcused failure of any recipient of an Administrative Citation to appear at the Administrative Citation hearing shall constitute a forfeiture of the fine and a failure to exhaust their administrative remedies.

(i) The hearing officer may continue the hearing and request additional information from the Enforcement Officer or the recipient of the Administrative Citation prior to issuing a written decision.

(j) The hearing officer is not required to provide transcriptions of hearings, but is required to make available tapes of hearings for a fee.

(k) After considering all the evidence and testimony submitted at the hearing, the hearing officer shall issue his or her written decision on the contested Administrative Citation within ten (10) business days. The decision of the hearing officer shall either uphold or deny the Administrative Citation or any portion thereof, and state the facts and reasons supporting the decision. If the Administrative Citation is upheld, the hearing officer shall also order the imposition of a fine in the amount stated in the citation, as well as any attorneys' fees and costs the City has incurred in enforcing the Code, which shall be paid within twenty-five (25) days from receipt of the decision. If the Administrative Citation is denied, the hearing officer shall order the return of the deposited fine, which return shall occur within sixty (60) days following the written order of the hearing officer. The written decision shall be filed with the City Clerk and a copy thereof shall be mailed to the recipient of the citation.

(l) All decisions and orders of a hearing officer shall become final unless appealed by the requesting party as provided herein.
(§1, Ord. 1135-14, eff. January 1, 2015)

Sec. 1-9.07 Right to Further Appeal Using Judicial Review.

Any person aggrieved by an administrative decision of a hearing officer on an Administrative Citation may obtain review of the administrative decision by filing an appeal with the Superior Court in accordance with the timelines and provisions as set forth in California Government Code section 53069.4.

(§1, Ord. 1135-14, eff. January 1, 2015)

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CHAPTER 1 - CITY COUNCIL*

Sec. 2-1.01 Regular Meetings.

The City Council of the City of Avalon shall hold regular meetings in the Council Chamber of the City Hall on the first and third Tuesdays of each month, commencing at 6:00 p.m., and on such other days, at such other times, as may be held in accordance with the provisions of the Brown Act. Whenever more than seventy-two (72) hours notice is given, the meeting held shall be a regular meeting. When the date for any regular meeting falls on a legal holiday as established by any law of the State, then such meeting shall be held at the same hour on the next succeeding business day, with the same effect as if it has been held on the day herein appointed.
(§1, Ord. 566, eff. January 3, 1973, as amended by §1, Ord. 626, eff. March 24, 1977; §1, Ord. 719, eff. June 14, 1982; §1, Ord. 762, eff. June 5, 1984; §1, Ord. 793, eff. October 2, 1986; Ord. 1114-12, eff. August 16, 2013)

Sec. 2-1.02 Informal Study Meetings.

(§1, Ord. 566, eff. January 3, 1973, as amended by §1, Ord. 577, eff. January 2, 1974, and §1, Ord. 591, eff. September 4, 1974; repealed by §1, Ord. 625, eff. March 9, 1977)

Sec. 2-1.03 Salary of Members.

Pursuant to the authority set forth in Sec-tion 36516 of the Government Code of the State of California, each member of the City Council shall receive a salary in the amount of Three Hundred and no/100ths ($300.00) Dollars per month. Such salaries shall be payable at such time and in the same manner as salaries are paid to other officers and employees of the City of Avalon.
(§1, Ord. 576, effective, as to all Councilmen, on the first day of the term of office of any Councilman elected in the General Municipal Election held on March 5, 1974, as amended by §1, Ord. 716; §1, Ord. 800U, eff. September 16, 1986; §1, Ord. 819, eff. April 19, 1988)

Sec. 2-1.04 Elective Mayor.

The office of Mayor shall be an elective office and shall be for a term of two (2) years.
(§1, Ord. 842, eff. May 8, 1989)

Sec. 2-1.05 Reserved.

Editor's Note: Former Section 2-1.05, Vacancies, previously codified herein and containing portions of Ordinance No. 905-94 was repealed in its entirety by Ordinance No. 942-97.

Sec. 2-1.06 Delegation of Signature Authority for City Documents.

The signature authority for all warrants drawn on the City Treasurer; all written contracts and conveyances made or entered by the City; and all instruments requiring the City Seal is hereby delegated to the Mayor, the City Manager or the City Manager's designee. (§1, Ord. 1098-10, eff. August 19, 2010)

Sec. 2-1.07 Delegation of Signature Authority for Avalon Community Improvement Agency Documents.

The signature authority for all warrants drawn on the Avalon Community Improvement Agency and all written contracts and conveyances made or entered by the Avalon Community Improvement Agency is hereby delegated to either the Chairman, the Executive Director or his designee.
(§2, Ord. 1098-10, eff. August 19, 2010)

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*Section 2-1.01, codified from Ordinance No. 331, as amended by Ordinance No. 513, effective November 16, 1968, and Ordinance No. 528, effective March 5, 1970, and Section 2-1.02, as added by Ordinance No. 561, effective August 4, 1972, amended by Section 1, Ordinance No. 566, effective January 3, 1973.

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CHAPTER 2 - OFFICERS AND EMPLOYEES

Article 1. Director of Finance

Sec. 2-2.101 Office Created.

Pursuant to the provisions of Section 40805.5 of the Government Code of the State, there is hereby created and established the office of Director of Finance of the City.
(§1, Ord. 431)

Sec. 2-2.102 Powers and Duties.

The financial and accounting duties im-posed upon the City Clerk by Sections 40802 through 40805 of the Government Code of the State are hereby transferred to the Director of Finance. He shall perform the following duties:

(a) *Financial Records*. Maintain all records readily reflecting the financial condition of the City and all of its departments;

(b) *Annual Reports*. At the end of each fiscal year, prepare and present to the Council a summary statement of receipts and disbursements by departments and funds, including opening and closing fund balances in the City treasury;

(c) *Financial Statement*. Cause the financial statement of the City to be published in accordance with the provisions of Sections 40804 and 40805 of the Government Code of the State;

(d) *Budget Information*. Compile all financial information necessary for the preparation of the City's budget and make such information available to the officer whose responsibility it is to prepare the budget;

(e) *Monthly Reports*. Prepare monthly statements of all receipts and disburse-ments in sufficient detail to show the financial condition of the City and each of its de-partments;

(f) *Licenses*. Issue all licenses for the City;

(g) *Payroll Records*. Supervise and be in charge of all payroll records;

(h) *Insurance Policies*. Maintain a record of all insurance policies and their expiration dates; and

(i) *Taxes, Assessments, and Fees*. Be responsible for the collection of all taxes, assessments, license fees, and other revenues of the City, or for which collection the City is responsible, and all other moneys receivable by the City from the County, State, or Federal government or from any court, office, department, or agency of the City.
(§2, Ord. 431)

Sec. 2-2.103 Bond.

Pursuant to the requirements of the laws of the State with reference thereto, the Director of Finance, before entering upon the duties of his office, shall execute a bond in the penal sum of Ten Thousand and no/100ths ($10,000.00) Dollars and shall faithfully perform all duties imposed on him.
(§4, Ord. 431, as amended by §1, Ord. 469)

Article 2. Chief of the Fire Department

Sec. 2-2.201 Office Created.

The office of Chief of the Fire Department of the City is hereby created and established.
(§1, Ord. 19)

Sec. 2-2.202 Appointment; Compensation; Removal.

(a) All appointments to the office of Chief of the Fire Department shall be made by the City Manager. Such appointment shall only be terminated for cause by the City Manager.

(b) The City Manager may remove the Chief of the Fire Department from office by providing the Chief of the Fire Department with written notice of the cause of removal. All compensation and benefits shall immediately terminate upon the effective date of any cause for removal.

(c) Removal "for cause" shall mean if the Chief of the Fire Department: (i) refuses or fails to act in accordance with any specific, lawful, significant director or order from the City Manager; (ii) is convicted of a felony; (iii) is convicted of any criminal act involving fraud or malfeasance, or (iv) neglects to perform the duties of the Fire Chief.
(§2, Ord. 19; §1, Ord. 1088-09, eff. November 19, 2009; §1, Ord. 1126-13, eff. January 16, 2014)

Sec. 2-2.203 Powers and Duties.

The Chief of the Fire Department shall have the following powers and duties:

(a) To organize a volunteer fire department which shall have a captain appointed by the Chief of the Fire Department; such Fire Department may establish and adopt bylaws and regulations for its government consistent with all laws and the provisions of this article;

(b) To aid in the enforcement of all fire laws duly enacted by the City;

(c) To report violations of laws relating to the prevention or extinguishment of fires and, when directed by the proper authorities, to institute prosecutions therefor;

(d) To report to the City Manager any conditions existing in the City which may be likely to cause destruction of life or property by fire;

(e) To attend to all fires in the City;

(f) To prevent injury to, take charge of, and preserve all property rescued from fires;

(g) To control, order and give directions to all subordinate officers and employees of the Fire Department;

(h) To recommend to the City Manager the appointment, removal, promotion, and demotion of any and all subordinate officers and employees of the Fire Department, subject however, to the rules and regulations of the Firefighter Procedural Bill of Rights;

(i) To recommend to the City Manager such reorganization of offices, positions, departments, or units to the Fire Department as may be indicated in the interest of the efficient, effective, and economical conduct of the City's business;

(j) To prepare and submit the proposed annual budget and the proposed annual salary plan for the Fire Department to the City Manager for his or her approval;

(k) To be responsible for the recommendation of the purchase of all supplies, services, and equipment for the Fire Department as provided in Chapter 4 of Title 3 of this Code;

(l) To make investigations into the affairs of the Fire Department and any Fire Department contract and the proper performance of any obligation of the Fire Department, and to make recommendations to the City Manager with regard to the results of such investigations;

(m) To exercise general supervision over all Fire Department buildings; and

(n) To perform such other duties as the City Manager shall direct.
(§3, Ord. 19, as amended by §2, Ord. 466; §2, Ord. 1088-09, eff. November 19, 2009; §2, Ord. 1126-13, eff. January 16, 2014)

Sec. 2-2.204 Incurring of Indebtedness.

Neither the Chief of the Fire Department, the Fire Department, nor any member thereof shall have any power or authority to incur any indebtedness against the City unless expressly authorized so to do by the Council. (§3, Ord. 19)

Article 3. City Manager

Sec. 2-2.301 Office Created.

The office of City Manager is hereby created and established. The City Manager shall be appointed by the Council wholly on the basis of his administrative and executive ability and qualifications and shall hold office for and during the pleasure of the Council.
(§1, Ord. 481, eff. April 17, 1965)

Sec. 2-2.302 Residence.

Residence in the City at the time of the appointment of a City Manager shall not be required as a condition of the appointment, but within 180 days thereafter the City Manager shall become a resident of the City, or the Council shall declare the office of the City Manager vacant.
(§2, Ord. 481, eff. April 17, 1965)

Sec. 2-2.303 Eligibility.

No person elected as a Councilman of the City shall, subsequent to such election, be eligible for appointment as City Manager until one year has elapsed after such Council member shall have ceased to be a member of the Council.
(§3, Ord. 481, eff. April 17, 1965)

Sec. 2-2.304 Bond.

The City Manager shall furnish a corporate surety bond, to be approved by the Council, in such sum as may be determined by the Council. Such bond shall be conditioned upon the faithful performance of the duties imposed upon the City Manager as set forth in this article. Any premium for such bond shall be a proper charge against the City.
(§4, Ord. 481, eff. April 17, 1965)

Sec. 2-2.305 Temporary Manager.

In the event of the absence or disability of the City Manager, the Council may designate a qualified City employee to perform the duties of the City Manager during the period of such absence or disability; provided, however, such designated City employee shall furnish a corporate surety bond as set forth in Section 2-2.304 of this article, conditioned upon the faithful performance of the duties required to be performed by the City Manager.
(§5, Ord. 481, eff. April 17, 1965)

Sec. 2-2.306 Compensation.

The City Manager shall receive such compensation and expense allowances as the Council shall from time to time determine and fix by contract, and such compensation and expenses shall be a proper charge against such funds of the City as the Council shall designate.

The City Manager shall be reimbursed for all sums necessarily incurred or paid by him in the performance of his duties or incurred when traveling on business pertaining to the City under direction of the Council; provided, however, reimbursement shall only be made when a verified itemized claim, setting forth the sums expended for such business for which reimbursement is requested, has been presented to the Council for approval.
(§6, Ord. 481, eff. April 17, 1965; §3, Ord. 1126-13, eff. January 16, 2014)

Sec. 2-2.307 Powers and Duties.

The City Manager shall be the administrative head of the government of the City under the direction and control of the Council. He shall also be responsible for

the efficient administration of all the affairs of the City which are under his control. In addition to his general powers as administrative head of all City departments, and not as a limitation thereon, he shall also have the following powers and duties:

(a) *Law Enforcement*. To enforce all the laws and ordinances of the City and to see that all franchises, contracts, permits, and privileges granted by the Council are faithfully observed;

(b) *Authority over Employees*. To control, order, and give directions to all heads of departments and subordinate officers and employees of the City under his jurisdiction through their department heads;

(c) *Power of Appointment and Removal*. To appoint, remove, promote, and demote any and all officers and employees of the City except the City Clerk, City Attorney, City Treasurer, and any other position subject to appointment and removal by the Council as set forth in any resolution of the Council, subject, however, to the rules and regulations of the Civil Service Commission, if such Commission exists;

(d) *Reorganization of Officers*. To recommend to the Council such reorganization of offices, positions, departments, or units under his direction, as may be indicated in the interests of the efficient, effective, and economical conduct of the City's business;

(e) *Ordinances*. To recommend to the Council for adoption such measures and ordinances as he deems necessary or expedient;

(f) *Attendance at Council Meetings*. To attend all meetings of the Council, unless excused therefrom, except when his removal is under consideration;

(g) *Financial Reports*. To keep the Council at all times fully advised as to the financial conditions and needs of the City;

(h) *Budget*. To prepare and submit the proposed annual budget and the proposed annual salary plan, to the Council for its approval;

(i) *Purchasing Agent*. To be responsible for the purchases of all supplies for all the departments or divisions of the City, as provided in Chapter 4 of Title 3 of this Code. No expenditure shall be submitted or recommended to the Council except upon a report and approval by the City Manager.

(j) *Investigations*. To make investigations into the affairs of the City, and any department or division thereof, and any contract or the proper performance of any obligation of the City.

(k) *Public Utilities: Franchises*. To investigate all complaints in relation to matters concerning the administration of the City government and in regard to the services maintained by public utilities in the City and to see that all franchises and permits granted by the City are faithfully performed and observed;

(l) *Public Properties*. To exercise general supervision over all public buildings, public parks, and other public properties, which are under the control and jurisdiction of the Council;

(m) *Hours of Employment*. Unless otherwise provided in his employment agreement, to devote his entire time to the duties of his office in the interests of the City; and

(n) *Additional Duties*. To perform such other duties and exercise such other powers as may be delegated to him from time to time by ordinance, resolution, or other action of the Council.
(§§7 through 21, Ord. 481, eff. April 17, 1965, as amended by §1, Ord. 650, eff. October 5, 1978; §3, Ord. 1088-09, eff. November 19, 2009; §4, Ord. 1126-13, eff. January 16, 2014)

Sec. 2-2.307.5 Additional Powers.

In addition to those powers and duties specified in Section 2-2.307, the City Manager may perform the following specific actions:

(a) To approve organized activity permits which are required by Avalon Municipal Code Section 4-6.02.

(b) To delegate to any other officer or employee who is subject to his or her direction and supervision any of the powers and duties specified in this Article 3.
(§1, Ord. 808, eff. July 16, 1987; §4, Ord. 1088-09, eff. November 19, 2009)

Sec. 2-2.308 Council-Manager Relations.

The Council and its members shall deal with the administrative services of the City only through the City Manager, except for the purposes of inquiry, and neither the Council, nor any member thereof, shall give orders to any subordinate of the City Manager.
(§22, Ord. 481, eff. April 17, 1965)

Sec. 2-2.309 Departmental Cooperation.

It shall be the duty of all subordinate officers and the City Clerk, Treasurer, and City Attorney to assist the City Manager in administrating the affairs of the City efficiently, economically, and harmoniously so far as may be consistent with their duties as prescribed by the laws and ordinances of the City.
(§23, Ord. 481, eff. April 17, 1965; §5, Ord. 1088-09, eff. November 19, 2009; §5, Ord. 1126-13, eff. January 16, 2014)

Sec. 2-2.310 Attendance at Commission Meetings.

Upon his own volition, or upon the direction of the Council, the City Manager may attend any and all meetings of the Planning Commission, Recreation and Parks Commission, and any other commission, board, or committee created by the Council. At such meetings which the City Manager attends, he shall be heard by the commissions, boards, or committees as to all matters upon which he wishes to address the members thereof, and he shall be considered by the Council and cooperate to the fullest extent with the members of all commissions, boards, and committees appointed by the Council.
(§24, Ord. 481, eff. April 17, 1965)

Article 4. Code Enforcement Officers

Sec. 2-2.401 Position Created.

There is hereby created and established the position of Code Enforcement Officer for the City, the number of which officers shall be as provided for by the Council from time to time.

(§1, Ord. 503, eff. December 7, 1967)

Sec. 2-2.402 Appointments to Position.

Appointments to the position of Code Enforcement Officer shall be made by the City Manager and such officers shall be subject to the control, order, and direction of the City Manager. Such appointments may be revoked at any time by the City Manager or by the Council.
(§2, Ord. 503, eff. December 7, 1967)

Sec. 2-2.403 Duties.

It shall be the duty of every Code Enforcement Officer to see to the enforcement of the Avalon Municipal Code, all ordinances of the City, and all statutes effective in the City, to preserve order and prevent infractions of the law, and to arrest violators thereof. Every Code Enforcement Officer is hereby declared to be a conservator of the peace and is hereby invested with police powers.

The duties set forth in this section may be delineated, limited, or extended from time to time, or additional duties may be assigned, by resolution of the Council.
(§3, Ord. 503, eff. December 7, 1967)

Sec. 2-2.404 Serving Processes.

No Code Enforcement Officer shall serve writs, summons, or other processes, except by direction of the City Manager.
(§4, Ord. 503, eff. December 7, 1967)

Sec. 2-2.405 Witness Fees.

Every Code Enforcement Officer shall appear as a witness whenever necessary in a prosecution for a violation of a City ordinance, this Code, or a State or Federal law; provided, however, no such officer shall receive any witness fee for such services in any action or suit to which the City is a party. All fees due for such services, if paid, shall be turned over to the City Treasurer.
(§5, Ord. 503, eff. December 7, 1967)

Sec. 2-2.406 Conduct.

It shall be the duty of every Code Enforcement Officer to conduct himself or herself in a proper and law abiding manner and to avoid the use of unnecessary force.
(§6, Ord. 503, eff. December 7, 1967)

Sec. 2-2.407 Rules and Regulations.

The City Manager may make or de-scribe such rules and regulations for the guidance of Code Enforcement Officers as he shall see fit. Such rules, when approved by the Council, shall be binding on such officers.
(§7, Ord. 503, eff. December 7, 1967)

Article 5. Police Department

Sec. 2-2.501 Police Department Designated.

The Police Department of the City shall be the Sheriff's Department of the County as provided under the terms and conditions of such agreement as may be entered into between the County and the City.
(Initiative Ord. No. 645, adopted at a General Election held March 7, 1978)

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CHAPTER 6 - EMPLOYER-EMPLOYEE RELATIONS

Article 1. General Provisions

Sec. 2-6.101 Title.

This chapter shall be known as the "Employer-Employee Relations Law" of the City.
(§1.01, Ord. 522, eff. December 18, 1969)

Sec. 2-6.102 Statement of Purpose.

The purpose of this chapter is to implement Chapter 10, Division 4, Title 1 of the Government Code of the State (Sections 3500, et seq.), entitled "Public Employee Organizations", by providing orderly procedures for the administration of employer-employee relations between the City and its employee organizations and for resolving disputes regarding wages, hours, and other terms and conditions of employment.
(§1.02, Ord. 522, eff. December 18, 1969)

Sec. 2-6.103 Conflicts with Other Laws.

The provisions of this chapter are not intended to conflict with the provisions of Chapter 10, Division 4, Title 1 of the Government Code of the State (Sections 3500, et seq.) as amended in 1968, and nothing in this chapter shall be construed to deny any person or employee the rights granted by Federal and State laws and City Charter provisions. The rights, powers, and authority of the Council in all matters, including the right to maintain any legal action, shall not be modified or rescinded by mutual agreement of the parties thereto.
(§5.01, Ord. 522, eff. December 18, 1969)

Sec. 2-6.104 Municipal Employee Relations Officer.

The City Manager is hereby designated as the Municipal Employee Relations Officer and shall be the City's principal representative in all matters of employer-employee organizations. The City Manager is hereby authorized to delegate these duties and responsibilities to other management officials.
(§1.03, Ord. 522, eff. December 18, 1969)

Sec. 2-6.105 Definitions.

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

(a) "Appropriate unit" shall mean a unit established pursuant to the provisions of Sections 2-6.302 and 2-6.303 of Article 3 of this chapter.

(b) "City" shall mean the City of Avalon, a municipal corporation, and, where appropriate, "City" shall refer to the City Council. the governing body of the City, or any duly authorized management official as defined in subsection (j) of this section.

(c) "City services" shall mean all governmental and proprietary functions services, or activities hereinbefore or hereinafter performed, authorized to be performed or required to be performed by the City pursuant to the authority granted in the Constitution of the State or any act of the Legislature of the State.

(d) "Consult" or "consultation in good faith" shall mean communicate verbally or in writing for the purpose of presenting and obtaining views or advising of intended actions.

(e) "Employee" shall mean any person regularly employed by the City except those persons elected by popular vote.

(f) "Employee, confidential" shall mean an employee who is privy to decisions of City management affecting employer-employee relations.

(g) "Employee, professional" shall mean employees engaged in work requiring specialized knowledge and skills attained through the completion of a recognized course of instruction, including, but not limited to, attorneys, physicians, registered nurses, engineers, architects, teachers, and various types of physical, chemical, and biological scientists.

(h) "Employee organization" shall mean any organization which includes employ-ees of the City and which has as one of its primary purposes representing such employees in their employment relations with the City.

(i) "Employer-employee relations" shall mean the relationship between the City and its employees and their employee organization, or, when used in a general sense, the rela-tionship between City management and employee or employees' organizations.

(j) "Management officials" shall mean the City Manager, department heads, and their designated representatives acting in their executive, administrative, or ministerial capacity as authorized or prescribed by this Code.

(k) "Mediation" shall mean the effort by an impartial third party to assist in reconciling a dispute regarding wages, hours, and other terms and conditions of employment between representatives of the City and the recognized employee organizations through interpretation, suggestion and advice.

(l) "Meet and confer in good faith" (sometimes referred to as "meet and confer" or "meeting and conferring") shall mean performance by duly authorized representatives of the City and of recognized employee organizations of their mutual obligation as set forth in Section 2-6.205 of Article 2 of this chapter.

(m) "Police officer" shall mean and include those employees referred as such in Section 3508 of the Government Code of the State.

(n) "Recognized employee organization" shall mean an employee organization which has been formally acknowledged by the City as an employee organization that repre-sents employees of the City as provided in Section 2-6.304 of Article 3 of this chapter.
(§1.04, Ord. 522, eff. December 18, 1969)

Article 2. Rights: Representations: Meetings and Conferences: Memorandums of Understanding: Mediation

Sec. 2-6.201 Employee Rights.

Employees of the City shall have the right to form, join, and participate in the activities of employee organizations of their own choosing for the purpose of representation on all matters of employer-employee relations, including, but not limited to, wages, hours, and other terms and conditions of employment. Employees of

the City also shall have the right to refuse to join or participate in the activities of employee organizations and shall have the right to represent themselves individually in their employment relations with the City.

(a) No employee shall be interfered with, intimidated, restrained, coerced, or dis-criminated against by the City or employee organizations because of his exercise of such rights.

(b) No employee, however, may be represented by more than one recognized em-ployee organization for the purposes of this chapter.

(c) Professional employees shall not be denied the right to be represented sepa-rately from nonprofessional employees.

(d) Management or confidential employees shall not represent any recognized employee organization on matters within the scope of representation.

(e) Department heads charged with the duty and responsibility of enforcing State laws or local laws shall not form, join, or participate in recognized employee organizations.
(§2.01, Ord. 522, eff. December 18, 1969)

Sec. 2-6.202 Peace Officers.

Peace officers may form, join, participate in, and be represented by employee organizations of their own choosing for the purpose of representation on all matters of employer-employee relations as provided by this chapter provided such employee organizations:

(a) Are composed solely of such peace officers;

(b) Are not subordinate to any other organization; and

(c) Concern themselves solely and exclusively with the wages, hours, working conditions, welfare programs, and advancement of the academic and vocational training in furtherance of the police profession.
(§2.02, Ord. 522, eff. December 18, 1969)

Sec. 2-6.203 Scope of Representation.

The scope of representation of a recognized employee organization shall include all matters relating to employment conditions and employer-employee relations, including, but not limited to, wages, hours, and other terms and conditions of employment; provided, however, the scope of representation shall not in-clude consideration of the merits, necessity, or organization of any service or activity provided by law or executive order. Recognition of an employee organization as a recognized employee organization:

(a) Does not preclude employees from representing themselves individually in their employment relations with the City; and

(b) Does not preclude or restrict the right of management officials to meet and consult with employees concerning their employment relations with the City.
(§2.03, Ord. 522, eff. December 18, 1969)

Sec. 2-6.204 City Rights.

Management officials of the City have and shall retain the exclusive right to manage and direct the performance of City services and the work forces performing such services, including, but not limited to:

(a) The exclusive right to determine the processes, methods, means, manner, and personnel by which such services are to be performed;

(b) The exclusive right to schedule and assign both the work to be performed and the work force or employees by which the work is to be completed;

(c) The exclusive right to contract or subcontract all or any part of the work to be performed and to make work and safety rules and regulations in order to maintain the effi-ciency and economy desirable in the performance of City services;

(d) The exclusive right to lay off employee members of the work force for lack of work, lack of funds, or for other legitimate reasons; and

(e) The exclusive right to appoint, promote, or transfer members of the work force and, for just cause, to suspend, demote, discharge, or take other disciplinary action against employee members of the work force.

Management officials, in exercising these functions, shall not discriminate against any employee because of his membership or nonmembership in any recognized employee organ-ization.
(§2.04, Ord. 522, eff. December 18, 1969)

Sec. 2-6.205 Meetings and Conferences in Good Faith.

The City, through its representatives, shall meet and confer in good faith with representatives of recognized employee organizations regarding matters within the scope of representation, including wages, hours, and other terms and conditions of employment within the appropriate unit.

(a) The City shall not be required to meet and confer in good faith on any subject preempted by Federal or State law, nor shall it be required to meet and confer in good faith on proposed amendments to the provisions of this chapter.

(b) The mutual obligation of the representatives of the City and the recognized employee organizations to meet personally and confer in order to exchange freely information, opinions, and proposals and to endeavor to reach agreement on matters within the scope of representation shall not require either party to agree to a proposal or to make a concession.
(§2.05, Ord. 522, eff. December 18, 1969)

Sec. 2-6.206 Memorandums of Understanding.

If agreement is reached by the representatives of the City and a recognized employee organization, it shall be incorporated in a written memorandum of understanding, which shall not be binding, signed by the duly authorized representatives of the City and the recognized employee organization, and submitted to the Council for determination.

(§2.06, Ord. 522, eff. December 18, 1969)

Sec. 2-6.207 Mediation: Division of Costs.

If, after a reasonable period of time, representatives of the City and the recognized employee organization fail to reach agreement, the City and the recognized employee organization together may agree upon the appointment of a mediator mutually agreeable to the parties. The costs of mediation shall be divided one-half (1/2) to the City and one-half (1/2) to the recognized employee organization.
(§2.07, Ord. 522, eff. December 18, 1969)

Article 3. Recognition: Appropriate Units: Council Determination: Withdrawal of Recognition

Sec. 2-6.301 Petitions for Recognition.

An employee organization that seeks formal recognition as a recognized employee organization for the purpose of meeting and conferring in good faith as the majority representative of employees in an appropriate unit shall file a petition with the Municipal Employee Relations Officer containing the following infor-mation and documentation:

(a) The name and address of the employee organization, certified copies of the employee organization's constitution and bylaws, the names and titles of its officers, and the names of employee organization representatives who are authorized to speak on behalf of its members;

(b) A statement as to whether the employee organization is a chapter or local of, or affiliated directly or indirectly in any manner with, any County, regional, State, national, or international organization and, if so, the name and address of each such County, regional, State, national, or international organization;

(c) A statement that the employee organization has no restriction on membership based on race, color, creed, sex, or national origin and that the employee organization recog-nizes that the provisions of Section 923 of the Labor Code of the State are not applicable to City employees;

(d) A statement that the employee organization has, as one of its primary purposes, the representation of employees in their employment relations with the City and the designation of those persons and their addresses, not exceeding one for each fifty (50) members or major portion thereof, to whom notice sent by regular United States mail will be deemed sufficient notice to the employee organization for any purpose;

(e) A statement of the number of members of the employee organization classified by department, division, and job title in the unit claimed to be appropriate for the purpose of meeting and conferring in good faith on all matters within the scope of representation; and

(f) A request that the Municipal Employee Relations Officer determine the appro-priate unit, establish the election date for determining the majority representative, and formally acknowledge the majority representative as the recognized employee organization. The petition, including all accompanying documents, shall be verified as true and correct, under oath, by the executive officer and secretary of the employee organization. All changes in such information shall be filed in like manner within thirty (30) days of any such change.
(§3.01, Ord. 522, eff. December 18, 1969)

Sec. 2-6.302 Appropriate Units.

The Municipal Employee Relations Officer, after reviewing the petition filed by an employee organization seeking formal recognition as majority representative and acknowledgment as the recognized employee organization, shall determine whether the proposed unit is an appropriate unit. The principal criterion in making this determination is whether there is a community of interest among such employees. The following factors, among others, are to be considered in making such determination:

(a) Which unit will assure employees the fullest freedom in the exercise of rights set forth under the provisions of this chapter;

(b) The history of employee relations in the unit, among other employees of the City, and in similar public employment;

(c) The effect of the unit on the efficient operation of the City and sound employer-employee relations; and

(d) The extent to which employees have common skills, job duties, working con-ditions, or departmental assignment.

No unit shall be established solely on the basis of the extent to which employees in the proposed unit have organized.
(§3.02, Ord. 522, eff. December 18, 1969)

Sec. 2-6.303 Appeals: Council Determination.

Any employee organization which is aggrieved by the determination of an appropriate unit by the Municipal Employee Relations Officer may, within ten (10) days of such determination, appeal such decision to the Council for final determination.

(a) The appeal by the employee organization shall be in writing, and copies shall be filed with the City Clerk and the Municipal Employee Relations Officer.

(b) The Council shall, within forty-five (45) days after the filing of the appeal, consider the matter and determine the appropriate unit, and such determination shall be final.
(§3.03, Ord. 522, eff. December 18, 1969)

Sec. 2-6.304 Majority Representative: Recognition.

The Municipal Employee Relations Officer shall, after designation of an appropriate unit, determine the majority representative of City employees in such unit by arranging for a secret ballot election. Such election shall be conducted by him in order to assure a free choice by the majority of such employees.

(a) Any employee organization claiming representation of all or any part of the appropriate unit shall be authorized one official observer to observe the balloting and the count-ing of such ballots.

(b) The employee organization found to represent a majority of the employees in the appropriate unit, as determined by the secret ballot election, shall be formally acknowl-edged as the recognized employee organization by the Municipal Employee Relations Officer.

(c) The recognized employee organization, determined as provided in this section, shall be the only employee organization entitled to meet and confer in

good faith on matters within the scope of representation on behalf of the employees in such unit.
(§3.04, Ord. 522, eff. December 18, 1969)

Sec. 2-6.305 Challenges: Withdrawal of Recognition.

The recognition rights of any recognized employee organization shall not be subject to challenge by any other employee organization for a period of twelve (12) months following the date of such recognition or during the term of any memorandum of understanding between such organization and the City.

(a) Any other employee organization may, however, commence a proceeding to challenge such recognition rights not more than ninety (90) days prior to the expiration of one year or the expiration of any memorandum of understanding, as the case may be, in the man-ner required for formal recognition.

(b) The Municipal Employee Relations Officer shall withdraw the recognition rights of any recognized employee organization which has been found by secret ballot election to no longer represent a majority of the employees in an appropriate unit.
(§3.05, Ord. 522, eff. December 18, 1969)

Article 4. Organizational Relationships: Grievances: Peaceful Performance of Services

Sec. 2-6.401 Reasonable Notice.

A copy of the Council agenda for each meeting, mailed to each authorized representative of any recognized employee organization in advance of such meeting, shall constitute reasonable written notice, and notice of an opportunity to meet with such agencies, on all matters within the scope of representation upon which the Council or Personnel Board may act.
(§4.01, Ord. 522, eff. December 18, 1969)

Sec. 2-6.402 Employee Representatives: Meetings.

Members of any recognized employee organization may, by any reasonable method, select not more than one employee member of such organization of each twenty (20) members, or major portion there-of, to meet and confer with the Municipal Employee Relations Officer and other management officials (after written certification of such selection by an authorized official of the organization) on subjects within the scope of representation during regular duty or work hours, without loss of time; provided, however:

(a) No employee representative shall leave his duty or work station or assignment without specific approval by an authorized departmental management official.

(b) Any such meeting shall be subject to scheduling by an authorized departmental management official so as to avoid interference with or interruption of assigned work sched-ules or work performance.

Nothing provided in this section, however, shall limit or restrict management officials and employees or employee representatives from meeting and conferring before or after regular duty or work hours as a matter of mutual convenience.
(§4.02, Ord. 522, eff. December 18, 1969)

Sec. 2-6.403 Access to Work Stations.

Access to work or duty stations shall be limited to duty hours for employee members of any recognized employee organization and shall be prohibited at any time without special approval for non-employee members and representatives of any recognized employee organization or its affiliated organizations. Employee access during non-duty hours and non-employee representative access during duty hours may be obtained with the specific approval in each instance of the Municipal Employee Relations Officer, or an authorized departmental management official, when such access does not interfere with or interrupt work performance and does not place an unreasonable or undue burden upon the time of management officials.
(§4.03, Ord. 522, eff. December 18, 1969)

Sec. 2-6.404 Peaceful Performance of City Services.

Participation by any employee in a strike or a concerted work stoppage shall be unlawful and terminate the employment relation.

(a) Employee organizations shall not participate in or encourage, assist, or condone any strike, concerted work stoppage, cessation of work, slow-down, sit-down, stay-away, picketing, or any other form of interference with or limitation of the peaceful performance of City services.

(b) In the event there occurs any strike, concerted work stoppage, cessation of work stoppage, cessation of work, slow-down, sit-down, stay-away, picketing, or any other form of interference with or limitation of the peaceful performance of City services, the City, in addition to any other lawful remedies or disciplinary actions, may by action of the Municipal Employee Relations Officer, prohibit the use of bulletin boards, prohibit the use of City facil-ities, and prohibit access to former work or duty stations.

(c) Employee members of any recognized employee organization shall not be locked out or prevented by management officials from performing their assigned duties. Any action by management officials shall be considered and deemed an act of bad faith.
(§4.04, Ord. 522, eff. December 18, 1969)

Sec. 2-6.405 Organization Business Affairs.

The internal business affairs of any recognized employee organization shall not be conducted by employees during their duty hours except by special permission of the Municipal Employee Relations Officer in limited instances involving the mutual benefit of the organization and the City. The organization may meet in City facilities when such facilities are available and such use has been approved by the Municipal Employee Relations Officer or an authorized departmental management official.
(§4.05, Ord. 522, eff. December 18, 1969)

Sec. 2-6.406 Bulletin Boards: Literature Distribution.

A reasonable number of bulletin boards shall be provided upon which any recognized employee organization may post only notices of recreational and social affairs, notices of meetings, elections, and appointments, and results of elections. The posting of any other class of notice or the distribution of any written or printed notices, cards, pamphlets, or literature of any kind at City work stations or premises shall be prohibited without the prior written permission of the Municipal Employee Relations Officer or an authorized departmental management official.
(§4.06, Ord. 522 eff. December 18, 1969)

Sec. 2-6.407 Responsibility for Statements and Literature.

Each recognized employee organization shall assume responsibility for approving all literature that may be distributed or statements attributed to it in publications. If any inflammatory statements of libelous literature concerning the City or its officers or management officials are distributed by any recognized employee organization to employees of the City or the public, the organization shall be held responsible for such statements and, upon reasonable proof thereof, recognition of such organization as a recognized employee organization may be withdrawn. If any inflammatory or libelous statements or literature concerning the City or its officers or management officials is distributed by an employee to employees of the City or the public, the employee shall be held responsible for such statements and shall, upon reasonable proof thereof, be dismissed, and such dismissal shall be deemed with just cause.
(§4.07, Ord. 522, eff. December 18, 1969)

Sec. 2-6.408 Grievances: Disputes: Disagreements.

In the event any grievances, disputes, or disagreements arise concerning matters within the scope of representation of any recognized employee organization, such grievance, dispute, or disagreement shall be resolved as follows:

(a) Grievances, disputes or disagreements concerning the interpretation or appli-cation of the terms of any memorandum of understanding shall be resolved, if possible, by meeting and conferring in good faith. If unresolved by such meetings, the parties shall con-sider submitting such issues to mediation as provided by Section 3505.2 of the Government Code of the State. In the absence of agreement to mediate, or failure of mediation, the issue shall be resolved by an action in a court of competent jurisdiction on motion by either party.

(b) Grievances, disputes, or disagreements involving removals, demotions, or sus-pensions shall be resolved as provided by Article 3 of Chapter 2 of this title and the personnel rules and regulations.

(c) Other grievances, disputes, or disagreements shall be resolved as provided by Article 3 of Chapter 2 of this title and the personnel rules and regulations; provided, however, representation by any recognized employee organization shall be limited to grievances, dis-putes, or disagreements which cannot or have not been resolved between the employee and his immediate supervisor or the employee and his department head. Representation by any recog-nized employee organization shall be limited, in this class of grievance, to appearances before the department head, Personnel Director and the Municipal Employee Relations Officer.
(§4.08, Ord. 522, eff. December 18, 1969; §1, Ord. 865-91, eff. September 5, 1991)

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CHAPTER 1 - BUSINESS LICENSING

Article 1. General Provisions

Sec. 3-1.101 Definitions.

For the purposes of this chapter, certain words and phrases used herein are defined as follows:

(a) "Amusement machine" shall mean and include all machines in which there shall be inserted money for the operation or use of such machine for pleasure or amusement.

(b) "Business" shall mean and include professions, trades, and occupations and each and every kind of calling, whether or not carried on for profit.

(c) "Entertainment" shall mean and include performances, games, or events of every kind and description, whether live or mechanical, which are used for the pleasure or amusement of customers, except radios, television receivers, juke boxes, and similar devices.

(d) "Outside service" shall mean and include service which is either rendered or received on public property, provides merchandise likely to be consumed on other than the vendor's or vendee's private property, or uses public property at any time to consummate the transaction.

(e) "Person" shall mean and include all domestic and foreign corporations, associations, syndicates, joint stock corporations, partnerships of every kind, clubs, Massachusetts business or common law trusts, societies, and individuals transacting and carrying on any business in the City other than as an employee.

(f) "Rental unit" shall mean and include a room, apartment, house, cottage, or other housing or rooming facility.

(g) "Vending or service machine" shall mean and include all machines in which there shall be inserted money for merchandise or services.
(§1, Ord. 399, as amended by Ord. 486, eff. March 26, 1966)

Sec. 3-1.102 Revenue and Regulatory Measure.

Pursuant to the City's authority under Government Code §37101, the provisions of this chapter are enacted for both regulatory and revenue purposes. Where any provision makes reference to a business license tax or tax certificate, such provisions are enacted solely to raise revenue for municipal purposes and are not intended for regulation.
(§2, Ord. 399, as amended by Ord. 486, eff. March 26, 1966; §9, Ord. 931-96, eff. September 19, 1996)

Sec. 3-1.103 Business License and Tax Certificate Required.

No person shall commence or carry on, either directly or indirectly, any business, profession, occupation or calling for which a business license and/or tax certificate is required by this chapter, without first having obtained and maintained in good standing such business license and/or tax certificate. Each day that a business, profession, trade or calling is commenced or carried on without such license or tax certificate shall constitute a separate violation of this Code. The use of signs, circulars, cars, telephone books, newspapers and other forms of advertisement to hold out, or represent that a person is conducting business in the City, or when any person holds an active license or permit by a governmental agency indicating that a person is conducting business in the City shall constitute prima facie evidence that such person is conducting business in the City.
(§5, Ord. 399, as amended by Ord. 486, eff. March 26, 1966; §9, Ord. 931-96, eff. September 19, 1996)

Sec. 3-1.104 Unlawful Business Not Authorized.

Licenses and certificates issued under the provisions of this chapter shall not be construed as authorizing anyone to conduct any illegal or unlawful activity or business.
(§9, Ord. 931-96, eff. September 19, 1996)

Sec. 3-1.105 License: Branch Establishments.

A separate license shall be obtained for each branch establishment or location of the business transacted and carried on and for each separate type of business at the same location. Each such license shall authorize the licensee to transact and carry on only the business licensed thereby at the location or in the manner designated in such license; provided, however, warehouses and distributing plants used in connection with, and incidental to, a business licensed pursuant to the provisions of this chapter shall not be deemed to be separate places of business or branch establishments, and a vending machine located in a licensed establishment shall not be deemed to be a separate place of business if the owner of the machine is licensed; provided further, however, where a license is issued authorizing a person to transact and carry on a business at a particular place, such licenses may, upon application therefor and the payment of a fee in the amount of Six and 25/100ths ($6.25) Dollars, have the license amended to authorize the transacting and carrying on of such business under such license at some other location to which the business has been or is to be moved.
(§6, Ord. 399, as amended by Ord. 486, eff. March 26, 1966; and §1, Ord. 549, eff. January 1, 1972)

Sec. 3-1.106 Duplicate License or Tax Certificate.

A duplicate license or tax certificate may be issued by the Finance Director to replace any license or certificate previously issued which has been lost or destroyed upon the licensee filing a statement attesting to such fact and on payment of a duplicate license fee in an amount set by resolution of the City Council.
(§13, Ord. 399, as amended by Ord. 486, eff. March 26, 1966; and §2, Ord. 549, eff. January 1, 1972; §9, Ord. 931-96, eff. September 19, 1996)

Sec. 3-1.107 License: Posting.

All licenses shall be kept and posted in the following manner:

(a) Any licensee transacting and carrying on business at a fixed place of business in the City shall keep the license posted in a conspicuous place upon the premises where such business is carried on.

(b) Any licensee transacting and carrying on business but not operating at a fixed place of business in the City shall keep the license upon his person at all times while transacting and carrying on such business.
(§14, Ord. 399, as amended by Ord. 486, eff. March 26, 1966)

Sec. 3-1.108 Enforcement.

It shall be the duty of the Finance Director or his authorized representative to enforce each of the provisions of this chapter, including the collection of business taxes, penalties and interest. The Director of Finance shall be responsible for the issuance of all licenses and certificates provided for in this chapter, and for the proper processing of all applications and registrants. The Director of Finance may make rules and regulations consistent with the provisions of this chapter as he deems necessary or desirable to aid in its administration and enforcement.
(§18, Ord. 399, as amended by Ord. 486, eff. March 26, 1966; §9, Ord. 931-96, eff. September 19, 1996)

Sec. 3-1.109 Authorized Representatives and Deputized Accountants.

Whenever the words "Director of Finance" appear in this chapter they shall mean and include any Deputy Director of Finance and any other person authorized or appointed by the Finance Director to act in his place and stead in the performance of any duty imposed by this chapter. For the purpose of enforcing this chapter, the Director of Finance, with the approval of the City Manager, may deputize qualified accountants to examine the books and records of any person doing business or reasonably thought to be doing business within the City. Any member of the law enforcement agency of the City of Avalon shall also have all of the powers conferred on the Director of Finance for the purposes of enforcing the provisions of this chapter. The failure of any person to cooperate or to promptly disclose such information, or to exhibit to and allow examination by the Director of Finance, any deputized accountant or the City Attorney, at reasonable times and places, of such books and records as are required and reasonably necessary to ascertain compliance with this chapter shall constitute a violation of this Code, punishable as a misdemeanor.
(§9, Ord. 931-96, eff. September 19, 1996)

Sec. 3-1.110 Additional Powers of Director of Finance.

In addition to other powers conferred herein, the Finance Director shall have the power to:

(a) Extend the time of filing any application, statement or registration not to exceed thirty (30) days for good cause shown;

(b) Waive any penalty that would otherwise accrue; and, with the approval of the City Attorney, to compromise any claim for permit fee, taxes or penalties under the provisions of this chapter;

(c) Pursuant to Penal Code §11105, access and utilize State summary criminal history information when needed to assist him in fulfilling licensing duties as specified herein.
(§10, Ord. 399, as amended by Ord. 486, eff. March 26, 1966; §9, Ord. 931-96, eff. September 19, 1996)

Sec. 3-1.111 Application for License.

Except as otherwise required in Sections 3-1.120 and 3-1.121, applications for a business license required by this chapter shall be signed and verified by the applicant and shall set forth the following:

(a) The name, address, telephone and facsimile number, if any, of the applicant.

(b) The name and address, telephone and facsimile number, if any, of the applicant's employer, if applicable. If the application is filed on behalf of a partnership, corporation or association, the applicant shall provide the names and addresses of the partners or principal officers and designate the name, address, telephone and facsimile number, if any, of the person authorized to accept service of process for the entity.

(c) The nature of the business for which a license is requested.

(d) The place(s) where the business is to be conducted.

(e) A brief description of the nature and amount of equipment to be used in the business.

(f) Personal identification information for the applicant, including, but not limited to, date of birth, social security number, a copy of a driver's license or identification card.
(§8, Ord. 399, as amended by Ord. 486, eff. March 26, 1966; §9, Ord. 931-96, eff. September 19, 1996)

Sec. 3-1.112 License Fee.

The fee for filing, processing of business license applications, issuance of business licenses, issuance of business license renewals, conducting on-site inspections of business premises and collecting taxes associated with such applications shall be set by resolution of the City Council. The fee shall be payable in advance and shall be in addition to any tax imposed by this chapter.
(§9, Ord. 931-96, eff. September 19, 1996; §1, Ord. 1000-01, eff. November 15, 2001)

Sec. 3-1.113 License Hearing Officer and Appeals Board.

The Director of Finance shall have the power and authority to hear and conduct proceedings for the granting and issuance of all licenses required by this chapter, and to revoke or suspend any licenses issued, subject to the limitations contained herein. The decision of the Director of Finance shall be final unless a timely appeal is taken to the City Council. The Director of Finance shall be governed by the following procedures:

(a) *License Application and Hearing.* The Director of Finance shall formulate all necessary rules and regulations governing the license application and investigation thereof. The Director of Finance shall require reports from the City's law enforcement agency and other City departments and officials concerning the effect of granting the license on the public health, safety and welfare. Any applicant shall be entitled to a hearing before the Director of Finance and to reasonable notice of the time and place of any hearing, and may be represented by counsel and present all pertinent and relevant information pertaining to the application and to be heard and to call witnesses on his behalf. The hearing may be continued from time to time as determined necessary by the Director of Finance or upon request of the applicant upon good cause being shown. The Director of Finance shall be required to conduct a hearing only when he makes an initial determination to deny the application.

(b) *Issuance of Permits.* The Director of Finance shall have the power to grant licenses required by this chapter only when all necessary clearances have been obtained from law enforcement and other involved City departments and officials, and where he has received no evidence indicating that the public health, safety or welfare or the purposes of this chapter will be injured by the granting of such license. In the event any of the foregoing exist, the Director of Finance shall hold a hearing as provided in subsection (a) above, before taking action on the application.
(§9, Ord. 931-96, eff. September 19, 1996)

Sec. 3-1.114 Grant or Denial of License.

Except as otherwise provided in this chapter, the Director of Finance, after investigation of the veracity of the information contained on the application and the proposed business, may grant or deny the license. The Director of Finance may deny the license when he determines that the conduct of the business will be contrary to the preservation of the public peace, health, safety or welfare of the City or its residents and visitors. No license shall be granted if:

(a) The granting of the license would result in the establishment of the use or occupancy of land in violation of the City's Zoning and Planning laws or any other provision of this Code.

(b) The granting of the license would result in the creation or maintenance of a public nuisance.

(c) The applicant has knowingly made a false statement on a material matter in the application or in testimony at any hearing on the application, and it is therefore in the public interest that the license not be granted.

In granting any license, the Director of Finance may, in the application of the standards stated herein and in order to protect the public health, safety and welfare, impose reasonable conditions pertaining to the conduct of the business licensed, in addition to, but not limited by, the regulations contained in this chapter.
(§9, Ord. 931-96, eff. September 19, 1996)

Sec. 3-1.115 Appeal from Denial of License.

In all cases where the Director of Finance denies the license application, he shall notify the applicant within ten (10) days, in writing, either personally or by mail, of the denial and the reasons therefor. The applicant may appeal such denial to the City Council provided such appeal is served on the City, personally or by mail, within fifteen (15) days of the date of the written notice of denial and payment of an appeal fee in an amount to be set by resolution of the City Council. The City Council shall follow the procedures set forth in Section 3-1.116 in conducting a hearing on the appeal.
(§9, Ord. 399, as amended by Ord. 486, eff. March 26, 1966; §9, Ord. 931-96, eff. September 19, 1996)

Sec. 3-1.116 Revocation or Suspension of Licenses.

Any license issued under this Chapter may be revoked or suspended where:

(a) The licensee has violated any provision of this chapter;

(b) Where a license has been granted on false or fraudulent evidence, testimony or application; or

(c) Where the licensee has violated the terms and conditions of the license, including but not limited to the timely payment of business license taxes required by this chapter.

All matters pertaining to revocation or suspension shall be referred by the Director of Finance to the City Council, with a written statement of the reasons for the proposed revocation or suspension. The City Council shall give reasonable notice to the licensee to appear before the City Council at a time and place set for the hearing, to show cause why the license shall not be revoked or suspended. The notice shall state the grounds for the complaint or reasons for the proposed revocation or suspension in clear and concise language. The notice shall be served upon the licensee personally or by mail not less than ten (10) and not more than twenty (20) days prior to the hearing date. At the hearing, the licensee shall be given the opportunity to appear personally or through counsel, to be heard, to defend the charges and to call witnesses. Upon good cause shown, the licensee shall be entitled to a continuance until the next meeting of the City Council. After conducting such hearing, the City Council may revoke, suspend for a stated time period, or reinstate any license upon such terms and conditions as in the exercise of sound discretion is determined to be appropriate. The decision of the City Council shall be final and conclusive.
(§9, Ord. 931-96, eff. September 19, 1996)

Sec. 3-1.117 Suspension of License Prior to Hearing.

A license may be suspended prior to a hearing thereon where the Director of Finance receives a written, detailed recommendation from the City's law enforcement agency or it appears to the City Council that the preservation of the public health, safety, welfare or peace warrant immediate suspension.

Within twenty-four (24) hours of such suspension, the Director of Finance shall serve the licensee personally or by express mail or facsimile written notice of the reasons for the suspension and of the time and place of a hearing to show cause. A hearing on revocation or continued suspension shall be held not later than fifteen (15) days following the service of such notice.
(§9, Ord. 931-96, eff. September 19, 1996)

Sec. 3-1.118 New License Required.

No person whose license has been revoked or suspended shall engage in or carry on the business during the period of suspension or after revocation until a new license shall have been granted. Violations of this provision shall be punishable as a misdemeanor.
(§9, Ord. 931-96, eff. September 19, 1996)

Sec. 3-1.119 Delivery and Proof of Notice.

Any notice required to be given under this chapter may be given either personally to the licensee or to any employee at the place of business if the licensee is absent from the place of business, or by depositing the notice with the United States Postal Service in a sealed envelope, postage prepaid, addressed to the person listed in the application. Service shall be deemed to be completed at the time of deposit. Proof of giving service may be made by affidavit of any officer or employee of the City or law enforcement personnel, showing service in conformity with this chapter.
(§9, Ord. 931-96, eff. September 19, 1996)

Sec. 3-1.120 Nontransferability.

No license issued under this chapter shall be transferable except on completion of a license application by the transferee and the consent of the Director of Finance. The denial of a transfer shall be appealable to the City Council using the procedures set forth in Section 3-1.115.
(§11, Ord. 399, as amended by Ord. 486, eff. March 26, 1966; §3, Ord. 549, eff. January 1, 1972; §9, Ord. 931-96, eff. September 19, 1996)

Sec. 3-1.121 Special License Required for Certain Businesses.

It is the intention of the City Council to provide a special licensing procedure for those businesses enumerated in Section 3-1.122. The omission to enumerate other businesses and activities covered in other sections of this Code that require licenses, permits or franchises, shall not be deemed or construed to relieve such

businesses or activities from the procedures and requirements governed by other sections of this chapter, this Code or State law.
(§9, Ord. 931-96, eff. September 19, 1996)

Sec. 3-1.122 Businesses, Professions, Trades and Occupations Requiring a Special License to Conduct Same within the City.

It shall be unlawful to conduct the following businesses without each person proposing to engage in such activities having a special license to conduct same issued pursuant to the provisions of this section:

Carnivals, circuses, public exhibitions, or other similar businesses.

(a) *Filing of Application.* Every person and all employees desiring to conduct or engage in these activities shall file an application and the applicable fee with the Director of Finance at least sixty (60) days prior to conducting such business upon a form provided by the Director of Finance, specifying:

(1) The name, address, telephone and facsimile number, if any, of the applicant;

(2) The address of the proposed location for the conduct of the business;

(3) A statement of convictions for violations of law by any owner, operator or employee, excluding minor traffic violations;

(4) Two (2) copies of an identifying photograph of any owner, operator and employee of the proposed business, taken within two (2) years of the application for submission to the City's law enforcement agency;

(5) Submission to fingerprinting by the City's law enforcement agency of any owner, operator and employee of the proposed business;

(6) The full address and approximate dates when the applicant, owner, operator and employees of the proposed business practiced a similar business, either alone or in conjunction with others;

(7) Such other and further information as the Director of Finance may find necessary to process the application.

(b) *Investigation.* The Director of Finance shall make or cause to be made an investigation in order to verify the facts contained in the application or supporting data. The results of the investigation and the application form shall be submitted to the City Council, which shall conduct a hearing on the application in accordance with the procedures set forth in Section 3-1.116.

(c) *Issuance or Denial of License.* Within thirty (30) days of the conclusion of the hearing, the City Council shall approve issuance of the license, conditioned upon the posting by the applicant with the Director of Finance of a surety bond in the principal sum of One Hundred Thousand ($100,000.00) Dollars issued by a surety authorized to do surety business in California and approved by the City Attorney, to insure good faith and fair dealing on the part of the applicant and as a guarantee of indemnity for any and all loss, damage, or injury suffered by any patron of the applicant during the term of the special license, if it finds:

(1) The information contained in the application is accurate and complete;

(2) No owner, operator or employee has been convicted by a final judgment in a Court of competent jurisdiction of an offense involving moral turpitude. The City Council may disregard conviction information if it determines, in its discretion, that mitigating circumstances exist based upon consideration of the following factors:

a. The nature of the business for which the license is issued, and whether such business or similar business is related to the conviction;

b. The nature and seriousness of the offense;

c. The circumstances surrounding the offense;

d. The length of time elapsed since the offense and conviction;

e. The age of the person at the time of the conviction;

f. The presence or absence of rehabilitation or efforts at rehabilitation.

(3) No information has been adduced at the hearing which would require the City Council to deny the permit based on considerations of the public health, safety and welfare.

In granting any license, the City Council may, in the application of the standards stated herein and in order to protect the public health, safety and welfare, impose reasonable conditions pertaining to the conduct of the business licensed, in addition to, but not limited by, the regulations contained in this chapter.
(§9, Ord. 931-96, eff. September 19, 1996; §1, Ord. 1134-14, eff. December 4, 2014)

Sec. 3-1.123 Annual Renewal.

Licenses issued pursuant to this chapter shall be renewed annually on or before January 1 of each year. The purpose of the annual renewal is to determine compliance with the provisions of this Code and any terms or conditions of a license issued under this article. The Director of Finance may, in the sound exercise of discretion, renew licenses without conducting an investigation upon the applicant's verification of the continuing validity of all information submitted for initial issuance of the license, without payment of additional processing fees.
(§9, Ord. 931-96, eff. September 19, 1996)

Article 2. Taxes*

Sec. 3-1.201 Scope of Article Provisions.

Every person transacting and carrying on businesses in the City shall pay a license tax as set forth in this article.
(Ord. 486, eff. March 26, 1966)

Sec. 3-1.202 Restaurants and Bars.

The license tax for restaurants, cafes, cafeterias, lunch counters, bars, hot dog stands, light lunch or sandwich shops, or eating or drinking places of any kind where food or beverage is sold shall be as follows:

(a) For restaurants, including eating places serving alcoholic beverages at tables only but not maintaining a bar, Ninety-Three and 75/100ths ($93.75) Dollars per year as a basic license tax;

(b) For bars serving alcoholic beverages, One Hundred Twenty-Five and no/100ths ($125.00) Dollars per year as a basic license tax;

(c) For restaurants and bars combined serving alcoholic beverages. One Hundred Twenty-Five and no/100ths ($125.00) Dollars per year as a basic license tax;

(d) For restaurants and/or bars with outside service, an additional license tax of Ninety-Three and 75/100ths ($93.75) Dollars per year;

(e) For restaurants and/or bars with outside service open after 11:00 p.m., an additional license tax of Ninety-Three and 75/100ths ($93.75) Dollars per year;

(f) For restaurants and/or bars providing entertainment for their customers, an additional license tax of Sixty-Two and 50/100ths ($62.50) Dollars per year; and

(g) For restaurants and/or bars providing the privilege or opportunity for their customers to dance, an additional license tax of One Hundred Twenty-Five and no/100ths ($125.00) Dollars per year.
(Ord. 486, eff. March 26, 1966, as amended by §4, Ord. 549, eff. January 1, 1972)

Sec. 3-1.203 Housing Units or Rooms Rentals.

(a) *Transient Rentals.* The business license tax for all hotels, apartment units, rented rooms or units in residences or rooming houses, and lodgings and any other kind of housing or rooming facility in which one or more rooms or units are rented transiently as follows:

Number of Rental Units	*Tax*
1 or 2	Base Tax Rate
3 to 10	Base Tax Rate, plus $6.25 per each unit over 2
Number of Rental Units	*Tax*
11 to 20	Base Tax Rate, plus $62.50, plus $5.00 per each unit over 10
21 to 30	Base Tax Rate, plus $112.50, plus $3.75 per each unit over 20
31 to 70	Base Tax Rate, plus $150.00, plus $2.50 per each unit over 30
Over 70	Base Tax Rate, plus $250.00, plus $1.25 per each unit over 70

(b) *Nontransient Rentals.* The business license tax for all apartment units, rented rooms or units in residences or rooming houses, and lodgings and any other kind of housing or rooming facility rented nontransiently shall be as follows:

Number of Rental Units	*Tax*
1 or 2	$12.50
3 to 10	$12.50, plus $6.25 per each unit over 2
11 to 20	$12.50, plus $62.50, plus $5.00 per each unit over 10
21 to 30	$12.50, plus $112.50, plus $3.75 per each unit over 20
31 to 70	$12.50, plus $150.00, plus $2.50 per each unit over 30
Over 70	$12.50, plus $250.00, plus $1.25 per each unit over 70

All persons that engage in nontransient rentals shall attest to such fact under penalty of perjury. Where the unit owner elects to change the use of any unit from nontransient to transient during the year for which the business license has been issued, then not less than thirty (30) days prior to such change in use the business operator shall notify the Director of Finance of such modification to the business license and shall remit the additional tax amount owed for the transient rental. In the event that the Director of Finance determines that a business operator failed to make notification of the transient use and failed or refuses to remit the adjusted tax for the transient units, there shall be added to the tax due a one-time penalty in the amount of ten (10%) percent thereof and the total of the tax and penalty shall be subject to interest from the date the change in use was made until paid at the rate of one-half (1/2) of one (1%) percent per month.
(Ord. 486, eff. March 26, 1966, as amended by §5, Ord. 549, eff. January 1, 1972; §2, Ord. 938-96, eff. November 14, 1996)

Sec. 3-1.204 Transportation or Vehicle Rentals.

The license tax for taxicabs, buses, limousines, baggage trucks, delivery trucks, airplanes, hydro-airplanes, flying boats, ships, boats, autoettes, cars, bicycles, motorcycles, life rafts, paddle boats, or other vehicles used for the transportation of passengers, freight, or express for hire or offered for lease, rent, or charter to customers shall be as follows:

(a) For any business utilizing vehicles as hereinabove stated, Ninety-Three and 75/100ths ($93.75) Dollars per year as a basic license tax or any other basic license tax under any other section of this article;

(b) For each power vehicle under twenty (20') feet in length, an additional license tax of Fifteen and no/100ths ($15.00) Dollars per year;

(c) For each power vehicle twenty (20') feet or over in length, an additional license tax of Forty-Six and 87/100ths ($46.87) Dollars per year;

(d) For each nonpower vehicle under six (6') feet in length, an additional license tax of One and 25/100ths ($1.25) Dollars per year;

(e) For each nonpower vehicle six (6') feet or over in length, an additional license tax of Six and 25/100ths ($6.25) Dollars per year; and

(f) For each power attachment or device which attaches to a nonpower vehicle to power such vehicle, an additional license tax of Twelve and 50/100ths

($12.50) Dollars per year.

The conduct of a business which is subject to a license tax under this section shall also obtain a special permit from the Council pursuant to Chapters 11 or 14 of Title 5, as well as comply with the requirements for vehicles set forth in Chapter 4, Article 17 of Title 4.
(Ord. 486, eff. March 26, 1966, as amended by §6, Ord. 549, eff. January 1, 1972; §1, Ord. 580, eff. February 14, 1974; and §1, Ord. 701, eff. July 6, 1981)

Sec. 3-1.205 Educational.

The license tax for a teacher affording instruction, training, lessons, or education shall be Twelve and 50/100ths ($12.50) Dollars per year. If a teacher provides services other than instruction, sells merchandise, or employs another individual, he shall be subject to a license tax under one of the other sections of this article.
(Ord. 486, eff. March 26, 1966, as amended by §7, Ord. 549, eff. January 1, 1972)

Sec. 3-1.206 Public Auctions, Astrologists, Etc., and Carnivals, Etc.

The license tax for public auctions shall be Ninety-Three and 75/100ths ($93.75) Dollars per day; provided, however, no license shall be required for selling any goods belonging to the United States or the State at a public auction, or for the sale of property by virtue of a process issued by any State or Federal court, or for the bona fide sale of household goods at the domicile of the owner of such property.

The license tax for astrology, palmistry, phrenology, card reading, fortune-telling, cartomancy, clairvoyance, clairaudience, crystal gazing, hypnotism, mediumship, prophecy, augury, divination, magic, necromancy, handwriting analysis, or other similar arts and businesses, or the practice, exercise or exhibition thereof, shall be Ninety-Three and 75/100ths ($93.75) Dollars per year, subject to first obtaining a special permit from the Council.

The license tax for carnivals, circuses, or public exhibitions shall be Ninety-Three and 75/100ths ($93.75) Dollars per day, subject to first obtaining a special permit from the Council.
(Ord. 486, eff. March 26, 1966, as amended by §8, Ord. 549, eff. January 1, 1972; §1, Ord. 763, eff. July 2, 1984)

Sec. 3-1.207 Services, Merchandising or General.

The license tax for conducting a store, plant, office, establishment or business of any kind and description not otherwise provided for in this article shall be Ninety-Three and 75/100ths ($93.75) Dollars per year, provided that retail merchandising may be conducted at personal service establishments by the same licensee, at the same address, under the same license tax.

An additional license tax of Eighteen and 75/100ths ($18.75) Dollars per year shall be paid for each amusement machine made available to the public for operation or use. The offering of an amusement machine to the public for operation or use shall be subject to ob-taining a special permit from the Council or its delegate. Although no license tax shall be due for vending or service machines offered to the public for operation or use, such offerings shall be subject to obtaining a special permit from the Council or its delegate.

The license tax for a business which has no place of business in the City and which operates through the activities of self-employed sales representatives serving as independent contractors in the City, if not otherwise provided for in this article, shall be Ninety-Three and 75/100ths ($93.75) Dollars per year. Each independent sales representative shall pay a license tax of Ten and no/100ths ($10.00) Dollars per year.
(§1, Ord. 486, eff. March 26, 1966, as amended by §9, Ord. 549, eff. January 1, 1972; §1, Ord. 574, eff. October 31, 1973; §1, Ord. 599, eff. February 27, 1975; §1, Ord. 721)

Sec. 3-1.208 Reserved.[*]

Sec. 3-1.209 Limitations.

All taxes levied pursuant to this chapter shall be subject to the following limitations.

(a) *Intent.* In enacting the provisions of Article 2, the City Council has established taxes based upon reasonable classifications. The tax schedule and procedure has been prepared on the basis of an occurrence of a taxable event within the City, and it is only taxable events within the City that are subject to taxation. Having a fixed place of business within the City is a taxable event within the City. Those persons doing business within the City but having a fixed place of business outside the City are also subject to taxation according to the City's tax rate schedule on the basis of the occurrence of a taxable event within the City. Such events include, but are not limited to, manufacturing, construction, services, selling, deliveries, and similar activities.

(b) *Inter-City Transportation Business.* Nothing contained herein shall be deemed to levy a business license tax in violation of the Commerce Clause of the United States Constitution, including, but not limited to, levies upon a person or corporation not having a fixed place of business within the City, and engaged in the business of transporting goods, wares or merchandise through the City where both the point of origin and destination are outside the City's boundaries.
(§1, Ord. 579, eff. February 14, 1974; as amended by §8, Ord. 931-96, eff. September 19, 1996)

Sec. 3-1.210 Small Businesses.

The license tax for any business that has annual gross revenues of less than One Thousand and no/100ths ($1,000.00) Dollars shall be Ten and no/100ths ($10.00) Dollars per quarter. In the event such a business exceeds One Thousand and no/100ths ($1,000.00) Dollars in gross revenues in any one year, the payments made pursuant to this section shall apply towards satisfaction of the business license tax otherwise applicable to such a business under the provisions of this article.
(§1, Ord. 761, eff. May 15, 1984)

Sec. 3-1.211 Time-Share Projects.

The license tax for time share projects shall be as follows:

Number of Units	*License Tax per Year*
1 or 2	Minimum $50.00
3 to 10	$25.00 per unit
11 to 20	$250.00, plus $20.00 per unit
21 to 30	$450.00, plus $15.00 per unit
31 to 70	$600.00, plus $10.00 per unit

Over 70	$1,000.00, plus $5.00 per unit

(§5, Ord. 788, eff. February 12, 1986)

Sec. 3-1.212 Exemptions from Provisions.

(a) *Verified Statements Required.* Any person claiming an exemption pursuant to the provisions of this section shall file a verified statement with the City Clerk stating the facts upon which such exemption is claimed.

(b) *Issuance of Licenses.* The City Clerk, upon a proper showing contained in the verified statement, shall issue a license to such person claiming an exemption without payment to the City of the license tax required by the provisions of this chapter.

(c) *Revocation of Licenses.* The City Clerk, after giving notice and a reasonable opportunity for a hearing to a licensee, may revoke any license granted pursuant to the provisions of this section upon information that the licensee is not entitled to the exemption provided for in this section.

(d) *Federal and State Exempted Businesses.* Nothing contained in this chapter shall be deemed or construed to apply to any person transacting and carrying on any business exempt by virtue of the constitution or applicable statutes of the United States or of the State from the payment of such taxes as are prescribed in this chapter.

(e) *Interstate Commerce.* None of the license taxes provided for by this chapter shall be so applied as to occasion an undue burden upon interstate commerce. In any case where a license tax is believed by a licensee or applicant for a license to place an undue burden upon such commerce, he may apply to the City Clerk for an adjustment of the tax so that it shall not be discriminatory or unreasonable as to such commerce. Such application may be made before, at, or within six (6) months after payment of the prescribed license tax. The applicant shall, by affidavit and supporting testimony, show his method of business and the gross volume or estimated gross volume of business and such other information as the City Clerk may deem necessary in order to determine the extent, if any, of such undue burden on such commerce. The City Clerk shall then conduct an investigation and, after having first obtained the written approval of the City Attorney, shall fix as the license tax for the applicant an amount that is reasonable and nondiscriminatory or, if the license tax has already been paid, shall order a refund of the amount over and above the license tax so fixed. In fixing the license tax to be charged, the City Clerk shall have the power to base the license tax upon a percentage of gross receipts or any other measure which will assure that the license tax assessed shall be uniform with that assessed on businesses of like nature, so long as the amount assessed does not exceed the license tax as prescribed by this chapter. Should the City Clerk determine the gross receipts measure of license tax to be the proper basis, he may require the applicant to submit, either at the time of termination of the applicant's business in the City or at the end of each three (3) month period, a sworn statement of the gross receipts and pay the amount of license tax therefor; provided, however, no additional license tax during any one calendar year shall be required after the licensee shall have paid an amount equal to the annual license tax as prescribed in this chapter.

(f) *Charitable and Nonprofit Activities.* The provisions of this chapter shall not be deemed or construed to require the payment of a license tax to conduct, manage, or carry on any business, occupation, or activity from any institution or organization which is conducted, managed, or carried on wholly for the benefit of charitable purposes or from which profit is not derived, either directly or indirectly, by any individual; nor shall any license tax be required for the conduct of any entertainment, concert, exhibition, or lecture on scientific, historical, literacy, religious, or moral subjects within the City whenever the receipts of any such entertainment, concert, exhibition, or lecture are to be appropriated to any church or school or to any religious or benevolent purpose; nor shall any license tax be required for the conduct of any entertainment, dance, concert, exhibition, or lecture by any religious, charitable, fraternal, educational, military, State, County, or municipal organization or association whenever the receipts of any such entertainment, dance, concert, exhibition, or lecture are to be appropriated for the purposes and objects for which such organization or association was formed and from which profit is not derived, either directly or indirectly, by an individual; provided, however, nothing contained in this section shall be deemed to exempt any such organization or association from complying with any of the provisions of this chapter requiring a permit from the Council or any officer to conduct, manage, or carry on any profession, trade, calling, or occupation.
(§7, Ord. 399, as amended by Ord. 486, eff. March 26, 1966; §1, Ord. 931-96, eff. September 19, 1996)

Sec. 3-1.213 License Tax a Debt to City.

The amount of any license tax and penalty imposed by the provisions of this chapter shall be deemed a debt to the City. An action may be commenced in the name of the City in any court of competent jurisdiction for the amount of any delinquent license tax and penalties.
(§19, Ord. 399, as amended by Ord. 486, eff. March 26, 1966; §2, Ord. 931-96, eff. September 19, 1996)

Sec. 3-1.214 License Tax: Due Dates.

All license fees shall be paid in advance in lawful money of the United States of America at the office of the City Clerk. Unless otherwise specifically provided, all license taxes shall be due and payable in advance. Annual licenses shall date from the first day of January of the year for which they are issued.
(§15, Ord. 399, as amended by §1, Ord. 451; Ord. 486, eff. March 26, 1966; §3, Ord. 931-96, eff. September 19, 1996)

Sec. 3-1.215 License Tax: Delinquencies: Penalties.

For failure to pay a license tax when due, the City Clerk shall add a penalty in the amount of ten (10%) percent of such license tax on the 15th day of each month after the due date thereof; provided, however, the amount of such penalty to be added shall in no event exceed fifty (50%) percent of the amount of the license tax due.
(§16, Ord. 399, as amended by Ord. 486, eff. March 26, 1966; §4, Ord. 931-96, eff. September 19, 1996)

Sec. 3-1.216 License Tax in Addition to Other Revenues.

Persons required to pay a license tax for transacting and carrying on any business pursuant to the provisions of this chapter shall not be relieved from the payment of any license tax for the privilege of doing such business required pursuant to any other law of the City, and shall remain subject to the regulatory provisions of all other laws.
(§3, Ord. 399, as amended by Ord. 486, eff. March 26, 1966; §5, Ord. 931-96, eff. September 19, 1996)

Sec. 3-1.217 Remedies Cumulative.

All remedies prescribed by this chapter shall be cumulative, and the use of one or more remedies by the City shall not bar the use of any other remedy for the purpose of enforcement of the provisions of this chapter.
(§20, Ord. 399, as amended by Ord. 486, eff. March 26, 1966; §6, Ord. 931-96, eff. September 19, 1996)

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[*] Sections 3-1.201 through 3-1.243, codified from Ordinance No. 399, as amended by Ordinance Nos. 411, 418, 436, 465, and 477, amended in their entirety by

Ordinance No. 486, effective March 26, 1966.

*Editor's Note: Former Section 3-1.208, previously codified herein and containing portions of Ordinance No. 486 was repealed in its entirety by Ordinance No. 931-96, §7.

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CHAPTER 2 - FUNDS

Article 1. Promotion Funds

Sec. 3-2.101 Allocation Authorized.

Each fiscal year there shall be an allocation from the General Fund of the City of a sum equal to twenty-two (22%) percent of the Transient Occupancy Tax collected pursuant to Article 4 of Chapter 2 of Title 3, but excluding therefrom Transient Occupancy Taxes collected from a hotel or resort project consisting of one hundred (100) or more rooms constructed after July 1, 2004, or a project constructed after July 1, 2004 pursuant to a development agreement providing for fee waivers by the City. The funds so allocated shall be used for promotion and music and provided in Government Code Section 37110.
(§1, Ord. 378, as amended by §1, Ord. 750, eff. September 15, 1983; §2, Ord. 904-94, eff. April 14, 1994; §1, Ord. 921-95, eff. September 14, 1995; §1, Ord. 1024-04, eff. July 1, 2004)

Sec. 3-2.102 Expenditures Authorized.

The sum allocated for promotion and music pursuant to Section 3-2.101 shall be deposited with the Catalina Island Chamber of Commerce and Visitors Bureau, Inc. ("the Chamber of Commerce"), which shall expend the funds solely and exclusively for promotion of the City. Any portion of the funds not so expended during the fiscal year shall be returned to the City and placed in the General Fund.

The funds shall be expended by the Chamber of Commerce on behalf and to the satisfaction of the City as follows:

(a) To provide information services to the general public including responding to all communications and inquiries whether written, telephonic, person-to-person, or otherwise regarding the City of Avalon, its facilities for visitors, recreational and sporting events and other attractions;

(b) To prepare and distribute to the public, the press, the tourism industry and any other interested category of persons articles, publications, press releases, correspondence, photographs, literature, historical information, and any other advertising and publicity material descriptive of the City and its advantages;

(c) To promote the City as a site for professional, business, and trade conventions and business meetings;

(d) To perform such other activities as may be required by the City Council in order to promote the City.
(§2, Ord. 378, as amended by §1, Ord. 750, eff. September 15, 1983; §3, Ord. 904-94, eff. April 14, 1994)

Sec. 3-2.103 Conditions of Expenditures.

Expenditures by the Chamber of Commerce of the funds provided by the City shall, in addition to the limitations set forth in Section 3-2.102 be subject to the following conditions:

(a) On or before the first day of September of each fiscal year, the Chamber of Commerce shall submit to the City a report containing an accounting of the use of funds provided by the City during the previous fiscal year, setting forth with particularity and in accordance with professional accounting standards the amount and nature of all such expenditures;

(b) Funds obtained by the Chamber of Commerce from the City shall not be used for political purposes or in a manner which unlawfully discriminates against any class or category of persons or businesses;

(c) The Chamber of Commerce shall make available to the City or its representative upon reasonable notice for examination, audit, or inspection all of its books, records, and accounts which in any manner relate to the expenditure of the City funds.
(§3, Ord. 378, as amended by §1, Ord. 750, eff. September 15, 1983; §4, Ord. 904-94, eff. April 14, 1994)

Sec. 3-2.104 Enforceability.

In the event of noncompliance by the Chamber with any of the provisions of this article, the City may at its discretion withhold disbursement of City funds to the Chamber in addition to any other remedy which it may have.
(§1, Ord. 750, eff. September 15, 1983)

Article 2. Special Gas Tax Street Improvement Fund

Sec. 3-2.201 Created.

To comply with the provisions of Article 5 of Chapter 1 of Division 1 of the Streets and Highways Code of the State, as amended by Chapter 642 of the Statutes of 1935, there is hereby created and established in the City Treasury a special fund to be known as the "Special Gas Tax Street Improvement Fund".
(§1, Ord. 221)

Sec. 3-2.202 Deposits.

All money received by the City from the State pursuant to the provisions of the Streets and Highways Code for the acquisition of real property or interests therein, or for the construction, maintenance, or improvement of streets or highways other than State highways, shall be paid into such fund.
(§2, Ord. 221)

Sec. 3-2.203 Expenditures.

All money in such fund shall be expended exclusively for the purposes authorized by, and subject to all of the provisions of, Article 5 of Chapter 1 of Division 1 of the Streets and Highways Code of the State.
(§3, Ord. 221)

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CHAPTER 3 - TAXES

Article 1. Property Taxes

Sec. 3-3.101 Taxes to be Collected Pursuant to Government Code Provisions.

The Council, deeming it to be for the best interests of the City and determining that the public interest and necessity demand the action herein taken, does hereby elect to avail itself, and the City does hereby elect to avail itself, of all the provisions of Article 1 of Chapter 2 of Part 2 of Division 1 of Title 5 of the Government Code of the State relating to the transfer of City tax functions.
(§1, Ord. 24)

Sec. 3-3.102 Assessment and Collection Duties to be Performed by County.

All assessments for taxes in and for the City shall be made, and all such taxes collected, by the Assessor and Tax Collector, respectively, of the County, and the duties of assessing property and collecting taxes provided by law to be performed by the Assessor and Tax Collector of the City shall be performed by the Assessor and Tax Collector, respectively, of the County until the City shall, by ordinance, elect not to avail itself of the provisions of said State law for any longer time.
(§1, Ord. 24)

Article 2. Sales and Use Tax*

Sec. 3-3.201 Short Title.

This article shall be known as the "Uniform Local Sales and Use Tax Law" of the City.
(§1, Ord. 575, eff. October 31, 1973, operative January 1, 1974)

Sec. 3-3.202 Rate.

The combined rate of the sales, transaction and use tax imposed by the provisions of this article shall be one and one-half (1 1/2%) percent.
(§1, Ord. 575, eff. October 31, 1973, operative January 1, 1974; §2, Ord. 972-99, eff. January 6, 2000, operative July 1, 2000; §2, Ord. 975-00, eff. March 16, 2000, operative July 1, 2000)

Sec. 3-3.203 Operative Date.

The provisions of this article shall be operative on January 1, 1974.
(§1, Ord. 575, eff. October 31, 1973, operative January 1, 1974)

Sec. 3-3.204 Purpose.

The Council hereby declares that the provisions of this article are adopted to achieve the following, among other, purposes and directs that the provisions of this article be interpreted in order to accomplish those purposes:

(a) To adopt a sales and use tax law which complies with the requirements and limitations contained in Part 1.5 and Part 1.6 of Division 2 of the Revenue and Taxation Code of the State;

(b) To adopt a sales and use tax law which incorporates provisions identical to those of the Sales and Use Tax Law of the State insofar as those provisions are not inconsistent with the requirements and limitations contained in Part 1.5 and Part 1.6 of Division 2 of said Revenue and Taxation Code;

(c) To adopt a sales and use tax law which imposes a tax and provides a measure therefor which can be administered and collected by the State Board of Equalization in a manner that adapts itself as fully as practicable to, and requires the least possible deviation from, the existing statutory and administrative procedures followed by the State Board of Equalization in administering and collecting the Sales and Use Taxes of the State; and

(d) To adopt a sales and use tax law which can be administered in a manner that will, to the degree possible consistent with the provisions of Part 1.5 and Part 1.6 of Division 2 of said Revenue and Taxation Code, minimize the cost of collecting City sales and use taxes and at the same time minimize the burden of record keeping upon persons subject to taxation under the provisions of this article.
(§1, Ord. 575, eff. October 31, 1973, operative January 1, 1974; §3, Ord. 972-99, eff. January 6, 2000, operative July 1, 2000; §3, Ord. 975-00, eff. March 16, 2000, operative July 1, 2000)

Sec. 3-3.205 Contract with State Board of Equalization.

Prior to the operative date of this article, the City shall contract with the State Board of Equalization to perform all the functions incident to the administration and operation of this sales and use tax law; provided, however, if the City shall not have contracted with the State Board of Equalization prior to such operative date, the City shall nevertheless so contract, and, in such a case, the operative date shall be the first day of the first calendar quarter following the execution of such contract rather than the first day of the first calendar quarter following the adoption of this article.
(§1, Ord. 575, eff. October 31, 1973, operative January 1, 1974)

Sec. 3-3.206 Sales Taxes.

For the privilege of selling tangible personal property at retail, a tax is hereby imposed upon all retailers in the City at the rate set forth in Section 3-3.202 of this article of the gross receipts of the retailer from the sale of all tangible personal property sold at retail in the City on and after the operative date of this article.
(§1, Ord. 575, eff. October 31, 1973, operative January 1, 1974)

Sec. 3-3.207 Place of Sale.

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

(§1, Ord. 575, eff. October 31, 1973, operative January 1, 1974)

Sec. 3-3.208 Use Taxes.

An excise tax is hereby imposed on the storage, use, or other consumption in the City of tangible personal property purchased from any retailer on and after the operative date of this article for the storage, use or other consumption in the City at the rate set forth in Section 3-3.202 of this article of the sales price of the property. The sales price shall include delivery charges when such charges are subject to State sales or use tax, regardless of the place to which delivery is made.
(§1, Ord. 575, eff. October 31, 1973, operative January 1, 1974)

Sec. 3-3.209 Adoption of State Law Provisions.

Except as otherwise provided in this article, unless inconsistent with the provisions of Part 1.5 and Part 1.6 of Division 2 of the Revenue and Taxation Code of the State, all of the provisions of Section 7260 and 7261 of the California Revenue and Taxation Code are hereby adopted by this reference and made a part of this article as though fully set forth in this article.
(§1, Ord. 575, eff. October 31, 1973, operative January 1, 1974; §§3, 4, Ord. 972-99, eff. January 6, 2000, operative July 1, 2000; §4, Ord. 975-00, eff. March 16, 2000, operative July 1, 2000)

Sec. 3-3.210 Limitations on Adoption of State Law Provisions.

In adopting the provisions of Part 1 of Division 2 of the Revenue and Taxation Code of the State, wherever the State is named or referred to as the taxing agency, the name of the City shall be substituted therefor. Such substitution, however, shall not be made when the word "State is used as part of the title of the State Controller, the State Treasurer, the State Board of Control, the State Board of Equalization, the State Treasurer, or the Constitution of the State; the substitution shall not be made when the result of that substitution would require action to be taken by or against the City, or any agency thereof, rather than by or against the State Board of Equalization, in performing the functions incident to the administration or operation of the provisions of this article; the substitution shall not be made in those sections, including, but not necessarily limited to, sections referring to the exterior boundaries of the State, where the result of the substitution would be to provide an exemption from this tax with respect to certain sales, storage, use, or other consumption of tangible personal property which would not otherwise be exempt from this tax while such sales, storage, use, or other consumption remains subject to tax by the State under the provisions of Part 1 of Division 2 of said Revenue and Taxation Code, or to impose this tax with respect to certain sales, storage, use, or other consumption of tangible personal property which would not be subject to tax by the State under the said provisions of said Code; the substitution shall not be made in Sections 6701, 6702 (except in the last sentence thereof), 6711, 6715, 6737, 6797, or 6828 of the Revenue and Taxation Code of the State; and the substitution shall not be made for the word "State" in the phrase "retailer engaged in business in his State" in Section 6203 of said Code or in the definition of that phrase in said Section 6203.
(§1, Ord. 575, eff. October 31, 1973, operative January 1, 1974)

Sec. 3-3.211 Permits Not Required.

If a seller's permit has been issued to a retailer pursuant to the provisions of Section 6067 of the Revenue and Taxation Code of the State, an additional seller's permit shall not be required by the provisions of this article.
(§1, Ord. 575, eff. October 31, 1973, operative January 1, 1974)

Sec. 3-3.212(a) Exclusions and Exemptions.

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

(b) The storage, use, or other consumption of tangible personal property, the gross receipts from the sale of which have been subject to tax under a sales and use tax ordinance enacted in accordance with Part 1.5 and Part 1.6 of Division 2 of the Revenue and Taxation Code by any City and County, County, or City, in this State shall be exempt from the tax due under this article.

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

(d) In addition to the exemptions provided in Section 6366 and 6366.1 of the Revenue and Taxation Code, the storage, use or other consumption of tangible personal property purchased by operators of aircraft and used or consumed by such operators directly and exclusively in the use of such aircraft as common carriers of persons or property for hire or compensation under a certificate of public convenience and necessity issued pursuant to the laws of the State, the United States, or any foreign government is exempted from the use tax.
(§1, Ord. 575, eff. October 31, 1973, operative January 1, 1974, as amended by §1, Ord. 753U, eff. December 7, 1983, operative January 1, 1984; §3, Ord. 972-99, eff. January 6, 2000, operative July 1, 2000; §2, Ord. 975-00, eff. March 16, 2000, operative July 1, 2000)

Sec. 3-3.212(b) Exclusions and Exemptions.[*]

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

(b) The storage, use, or other consumption of tangible personal property, the gross receipts from the sale of which have been subject to tax under a sales and use tax ordinance enacted in accordance with Part 1.5 and Part 1.6 of Division 2 of the Revenue and Taxation Code by any city and county, county, or city, in this State shall be exempt from the tax due under this article.

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

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

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

(f) In addition to the exemptions provided in Sections 6366 and 6366.1 of the Revenue and Taxation Code the storage, use or other consumption of tangible personal property purchased by operators of aircraft and used or consumed by such operators directly and exclusively in the use of such aircraft as common carriers of persons or property for hire or compensation under a certificate of public convenience and necessity issued pursuant to the laws of this State, the United

States, or any foreign government is exempted from the use tax.
(§2, Ord. 753U, eff. December 7, 1983; §3, Ord. 972-99, eff. January 6, 2000, operative July 1, 2000; §2, Ord. 975-00, eff. March 16, 2000, operative July 1, 2000)

Sec. 3-3.213 Amendments.

All subsequent amendments of the Revenue and Taxation Code of the State, which amendments relate to the sales and use tax and which are not inconsistent with the provisions of Part 1.5 and Part 1.6 of Division 2 of said Revenue and Taxation Code, shall automatically become a part of this article.
(§1, 575, eff. October 31, 1973, operative January 1, 1974, as amended by §1, Ord. 753U, eff. December 7, 1983; §3, Ord. 972-99, eff. January 6, 2000, operative July 1, 2000; §2, Ord. 975-00, eff. March 16, 2000, operative July 1, 2000)

Sec. 3-3.214 Enjoining Collection Forbidden.

No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action, or proceeding in any court against the State or the City, or against any officer of the State or the City, to prevent or enjoin the collection under this article, or Part 1.6 of Division 2 of the Revenue and Taxation Code of the State of any tax or any amount of tax required to be collected.
(§1, 575, eff. October 31, 1973, operative January 1, 1974, as amended by §1, Ord. 753U, eff. December 7, 1983; §3, Ord. 972-99, eff. January 6, 2000, operative July 1, 2000)

Sec. 3-3.215 Penalties.

Any person violating any of the provisions of this article shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punishable by a fine of not more than Five Hundred and no/100ths ($500.00) Dollars, or by imprisonment for a period of not more than six (6) months, or by both such fine and imprisonment.
(§1, 575, eff. October 31, 1973, operative January 1, 1974, as amended by §1, Ord. 753U, eff. December 7, 1983)

Sec. 3-3.216 Severability.

If any provision of this article or the application thereof to any person or circumstance is held invalid, the remainder of this article and the application of such provision to other persons or circumstances shall not be affected thereby.
(§1, 575, eff. October 31, 1973, operative January 1, 1974, as amended by §1, Ord. 753U, eff. December 7, 1983)

Article 3. Entertainment and Amusement Taxes

Sec. 3-3.301 Definitions.

For the purposes of this article, the following words and phrases are defined as follows:

(a) "Admission charge" shall mean a fee or charge made for admission to any guided tour or place of amusement or entertainment which is located or which takes places in whole or part within the City of Avalon.

(b) "Guided tour" shall mean any activity whereby or place wherein persons are charged a fee to be led by a guide or through various points or places by foot, horse, cart, automobile, bus, boat, or other form of transport, taking place in whole or part within the City, and shall include, but not be limited to, a scenic bus ride, boat ride, guided horseback ride or guided walk or hike. A "guided tour" shall not include boat, plane or helicopter trips between Avalon and the mainland of California.

(c) "Place of amusement or entertainment" shall mean every place where a fee is charged to observe or participate in any show, performance, display, or exhibition, or any form of amusement, sport, or entertainment is offered or allowed, including but not limited to:

(1) Museums, galleries, exhibition halls, playhouses, concert halls, auditoriums, motion picture theaters and other similar places;

(2) Dance halls, discos and night clubs;

(3) Places where horses, bicycles, boats, barges, carts, or automobiles are rented;

(4) Golf courses, swimming pools and other similar places;

(5) Carnivals, circuses, fairs, horse shows, dog shows, rodeos, air shows and other similar events;

(6) Sporting events.

A "place of amusement or entertainment" does not include any place where a show, performance, display or exhibition or any activity otherwise covered by this definition is wholly sponsored by or solely benefits a public school, a private nonprofit school, a church, a charitable or nonprofit organization or political organization, or where such show, performance, display or exhibition is an annual event exempted by resolution of the City Council.
(§1, Ord. 475; §1, Ord. 902-94, eff. March 31, 1994; §1, Ord. 999-01, eff. September 20, 2001)

Sec. 3-3.302 Imposition of Tax.

For the privilege of imposing an admission charge for any guided tour or entry to any place of amusement or entertainment, which guided tour or entry to any place of amusement or entertainment takes place in whole or part within the jurisdiction of the City of Avalon, a tax is hereby levied upon all such sellers at the rate of four (4%) percent of the gross receipts of and from such sales and admission charges. The tax shall be in addition to any and all other taxes, licenses and permit fees.
(§1, Ord. 475, §1, Ord. 902-94, eff. March 31, 1994; §2, Ord. 999-01, eff. September 20, 2001)

Sec. 3-3.303 Collection of Tax.

Every person receiving any admission charge for any guided tour or for any place or amusement or entertainment on which a tax is levied pursuant to the provisions of this article shall collect the amount of tax imposed from the person paying the admission charge at the time of the payment of such admission charge or from the person admitted free at the time of such admission. If tickets or cards of admission are issued, the tax shall be collected at the time of the issuance of such tickets or cards. The taxes required to be collected shall be deemed to be held in trust by the person required to collect the same, until remitted to the City.
(§3, Ord. 475; §3, Ord. 902-94, eff. March 31, 1994)

Sec. 3-3.304 Reports.

The person collecting the admission tax shall make a report upon such forms and setting forth such information as the Finance Director may prescribe and require, including, but not limited to, the amount of admission charges collected, exclusive of the Federal tax thereon and the amount of the tax from the admission for which he is liable. He shall sign the report under penalty of perjury and deliver the report and remittance monthly to the Finance Director on or before the last business day of the month following the reported month. Remittance by check or money order shall be made payable to the City.
(§4, Ord. 475, as amended by §1, Ord. 816, eff. December 4, 1987; §1, Ord. 928-96, eff. August 1, 1996)

Sec. 3-3.305 Interest and Penalties.

If any person shall fail or refuse to remit to the Finance Director the tax required to be collected and paid within the time and in the amount specified in this article, interest at the rate of one-half (1/2) of one (1%) percent per month on the amount of the tax for each month or portion thereof, from the date upon which the tax is delinquent, shall be added to any tax due, exclusive of penalties. In addition, a one-time penalty in the amount of ten (10%) percent of the amount of the tax, computed from the date the tax first becomes delinquent shall be assessed. If any person shall fail or refuse to timely file a complete monthly report as required by Section 3-3.305, there shall be a penalty assessed until a complete report is filed, in the amount of Thirty and no/100ths ($30.00) Dollars per month or a prorated portion of the month.
(§5, Ord. 475, as amended by §1, Ord. 816, eff. December 4, 1987; §1, Ord. 928-96, eff. August 1, 1996)

Sec. 3-3.306 Failure to Collect and Report Tax.

If any person shall fail or refuse to collect such tax and to make, within the time provided, any report and remittance required by the provisions of this article, the Tax and License Collector shall proceed in such manner as he may deem best to obtain the facts and information on which to base his estimate of the tax due. As soon as the Tax and License Collector shall procure such facts and information as he is able to obtain upon which to base the assessment of any tax payable by any person who has failed or refused to collect the same and to make such report and remittance, the Tax and License Collector shall proceed to determine and assess against such person the tax and penalties provided for and shall notify such person by mail of the total amount of such tax, interest, and penalties, and the total amount thereof shall be payable within ten (10) days from the date of such notice.
(§6, Ord. 475)

Sec. 3-3.307 Records.

It shall be the duty of every person liable for the col-lection and payment to the City of any tax imposed by the provisions of this article to keep and preserve, for a period of two (2) years, such suitable records as may be necessary to determine the amount of such tax he may have been liable for the collection of and payment to the City. The Tax and License Collector shall have the right to inspect such records at all reasonable times.
(§7, Ord. 475)

Sec. 3-3.308 Cessation of Business.

Whenever any person required to collect and pay to the City a tax pursuant to the provisions of this article shall quit business or otherwise dispose of his business, any tax payable to the City shall become immediately due and payable, and such person shall immediately make a report and pay the tax due.
(§8, Ord. 475)

Sec. 3-3.309 Temporary Places of Amusement or Entertainment.

(a) *Transmission of Tax.* Whenever any place of amusement or entertainment makes an admission charge which is subject to the tax levied by the provisions of this article and such place of amusement or entertainment is of a temporary or transitory nature, the Tax and License Collector may require the report and remittance of the admission tax to be made on the day following its collection, or on the day following the conclusion of a series of performances or exhibitions, or at such other reasonable times as he shall determine. Failure to comply with any such requirement of the Tax and License Collector as to the report and remittance of the tax so required shall be a violation of the provisions of this article.

(b) *Deposit of Funds.* Before any such temporary or transient amusement or entertainment shall begin, and before any license shall be issued therefor, if a license is required, the person operating such place of amusement or entertainment shall deposit with the City Treasurer a sum of money, to be estimated by the Tax and License Collector, sufficient to cover the admission tax required to be collected by such person, as security for the collection of any payment to the City of such admission tax. At the conclusion of such transitory or transient operation, such person shall file with the Tax and License Collector the report required by the provisions of this article and pay the tax collected to the City. Upon such report being filed and payment being made, the City Treasurer shall refund the deposit.

(c) *Failure to Pay Tax Within Time Limit.* If any person shall fail to file such report and pay such amount of tax collected within five (5) days from the termination of the operation of the amusement or entertainment, the Tax and License Collector may thereupon assess such person with such tax at the amount of the deposit, and the City Treasurer shall retain the deposit in full payment of the tax collected by and due the City by such person.
(§10, Ord. 475)

Sec. 3-3.310 Exceptions to Provisions.

No tax shall be payable by the following persons if admitted free to any guided tour or any place of amusement or entertainment:

(a) Bona fide officers, including directors of a corporation and employees of such place;

(b) Any Federal, State, County, or City official or employee on official business;

(c) Any person whose admission to such place is required for the performance of some duty to or work for the proprietor thereof; and

(d) Any newspaper, television or radio reporter or photographer, or person per forming a similar vocation who is admitted for the performance of special duties in connection with any event and whose special duty is the reason for his presence.
(§9, Ord. 475; §4, Ord. 902-94, eff. March 31, 1994)

Sec. 3-3.311 Federal Tax.

The amount paid for admission on which the tax imposed by the provisions of this article is based shall be the amount paid for admission exclusive of any Federal tax thereon.
(§11, Ord. 475)

Sec. 3-3.312 Violations of Provisions.

Any person violating any of the provisions of this article or knowingly or intentionally misrepresenting to any officer or employee of the City any material fact in procuring the license or permit provided for in this article shall be deemed guilty of a misdemeanor.
(§12, Ord. 475)

Sec. 3-3.313 Effective Date of Provisions.

The provisions of this article shall become effective on July 1, 1964.
(§14, Ord. 475)

Article 4. Transient Occupancy Tax

Sec. 3-3.401 Title of Provisions.

This article shall be known as the Uniform Transient Occupancy Tax Law of the City.
(§1, Ord. 474)

Sec. 3-3.402 Definitions.

For the purposes of this article, certain words and phrases used herein are defined as follows:

(a) "Hotel" shall mean any structure, or any portion of any structure, which is occupied, or intended or designed for occupancy, by transients for dwelling, lodging, or sleeping purposes and shall include any hotel, inn, tourist home or house, motel, studio hotel, bachelor hotel, lodging house, rooming house, apartment house, dormitory, public or private club, mobile home or house trailer at a fixed location, or other similar structure, or portion thereof.

(b) "Occupancy" shall mean the use or possession, or the right to the use or pos-session of any room, or portion thereof, for dwelling, sleeping or lodging purposes. The Director of Finance may from time to time adopt administrative regulations specifying those services, goods, or other benefits related to the use or possession of the room, which are included within the meaning of "occupancy."

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

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

(e) "Rent" shall mean the consideration charged for the occupancy of space in a hotel valued in money, whether to be received in money, goods, labor, or otherwise, including all receipts, cash, credits, property, and services of any kind or nature without deduction therefrom whatsoever. "Rent" includes the consideration charged for occupancy, as defined, regardless of whether named a fee, assessment, service charge, management fee, cleaning fee, or other expense.

(f) "Tax" shall mean transient occupancy tax.

(g) "Transient" shall mean any person who exercises occupancy or is entitled to occupancy by reason of concession, permit, right of access, license, or other agreement for a period of thirty (30) consecutive calendar days or less, counting portions of calendar days as full days. Any such person so occupying space in a hotel shall be deemed to be a transient until the period of thirty (30) days has expired unless there is an agreement in writing between the operator and the occupant providing for a longer period of occupancy. In determining whether a person is a transient, uninterrupted periods of time extending both prior and subsequent to the effective date of the provisions of this article may be considered.
(§2, Ord. 474; §§1—3, Ord. 891-93, eff. February 18, 1993)

Sec. 3-3.403 Imposition of Tax.

For the privilege of occupancy in any hotel, each transient shall be subject to and shall pay a tax in the amount of twelve (12%) percent of the rent charged for such occupancy. Such tax shall constitute a debt owed by the transient to the City, which debt shall be extinguished only by payment to the operator or to the City. The transient shall pay the tax to the operator of the hotel at the time the rent is paid; however, where the operator blocks a room or rooms at a discounted or wholesale rate to a third party who collects the rent from the transient, then the third party shall pay to the operator the tax on the actual rent paid by the transient to the third party. The third party shall pay the tax based on the rate which the operator would charge a transient if the operator rented the same room or rooms directly to a transient.
(§3, Ord. 474, as amended by §1, Ord. 508, eff. June 1, 1968; and §1, Ord. 544, eff. January 1, 1972; §1, Ord. 666, eff. August 15, 1979; §4, Ord. 891-93, eff. February 18, 1993; §1, Ord. 904-94, eff. April 14, 1994; §1, Ord. 1022-04, eff. July 1, 2004)

Sec. 3-3.404 Exemptions from Provisions.

No tax shall be imposed upon:

(a) Any person as to whom, or any occupancy as to which, it is beyond the power of the City to impose the tax provided for in this article;

(b) Any Federal or State officer or employee when on official business; or

(c) Any officer or employee of a foreign government, which officer or employee is exempt by reason of express provisions of Federal laws or international treaties.

No exemption shall be granted except upon a claim therefor made at the time the rent is collected and under penalty of perjury upon a form prescribed by the Director of Finance.
(§4, Ord. 474)

Sec. 3-3.405 Operator's Duties.

Each operator shall collect the tax imposed by the provisions of this article to the same extent and at the same time as the rent is collected from every transient. The amount of tax shall be separately stated from the amount of the rent charged, and each transient shall receive a receipt for payment from the operator. No operator

of a hotel shall advertise or state in any manner, whether directly or indirectly, that the tax, or any part thereof, will be assumed or absorbed by the operator, or that it will not be added to the rent, or that, if added, any part will be refunded except in the manner provided in this article.
(§5, Ord. 474)

Sec. 3-3.406 Registration and Permit.

Every person desiring to engage in or conduct business as operator of a hotel renting to transients within the City shall file with the Director of Finance an application for a transient occupancy registration permit. Every application for such permit shall be made upon a form prescribed by the Director of Finance and shall set forth the name under which the applicant transacts or intends to transact business, the location of his place of business, the name and address of the property owner if the hotel and/ or land is subject to a lease, and such other information as the Director of Finance may require. The application shall be signed by a natural person; by a member or partner if an association or partnership; by an executive officer if a corporation, and state the address where notices to such person or entity shall be sent. In addition, any corporation registered under the provisions of this chapter shall provide to the Director of Finance a current certified document each year from the Secretary of State listing the officers and agent for service of process of the corporation. Within ten (10) days after change of ownership of the business, the new operator shall file said application. The transient occupancy registration permit must be in effect at all times while a business subject to the chapter is in operation, and shall be at all times posted in a conspicuous place on the premises. The permit shall state the following:

(a) Name and address of the hotel;

(b) Name of the operator;

(c) Date on which the permit was issued;

(d) A statement as follows: "This Transient Occupancy Registration Permit signifies that the person named on the face hereof has fulfilled the requirements of the Transient Occupancy Tax Chapter by registering with the Director of Finance for the purpose of collecting from transients the Transient Occupancy Tax and remitting said tax to the Director of Finance. The permit does not authorize any person to conduct any unlawful business or in an unlawful manner, nor operate a hotel without strictly complying with all applicable laws, including but not limited to those requiring a permit from any board, commission, department or office of the City or any other agency."
(§6, Ord. 474; §5, Ord. 891-93, eff. February 18, 1993)

Sec. 3-3.407 Reporting and Remitting.

The operator collecting the transient occupancy tax shall make a report upon such forms and setting forth such information as the Finance Director may prescribe and require, including, but not limited to, the total amount of rents charged and collected, the amount of transient occupancy tax collected for the prior month and occupancy data. He shall sign the report under penalty of perjury and deliver the report and tax remittance monthly to the Finance Director on or before the last business day of the month following the reported month. Remittance by check or money order shall be made payable to the City. The Director of Finance may establish shorter reporting periods for any permit holder if he deems it necessary in order to assure collection and remittance of the tax. Reports and remittances shall be due immediately upon cessation of business for any reason. Remittance by check or money order shall be made payable to the City. All taxes collected by operators pursuant to this article shall be held in trust for the account of the City until payment thereof is made.
(§7, Ord. 474; §6, as amended by Ord. 891-93, eff. February 18, 1993; §2, Ord. 928-96, eff. August 1, 1996)

Sec. 3-3.408 Penalties and Interest.

(a) *Original Delinquency.* Any operator who shall fail to remit any tax imposed by the provisions of this article within the time required shall pay a penalty in the amount of ten (10%) percent of the tax in addition to the amount of the tax. No penalty shall accrue where the regulations in effect at the time the transient's payment was received by the operator did not provide for the application of the tax to such payment or where the operator has obtained a written ruling from the Director of Finance regarding the application of the tax to a particular charge. The Director of Finance shall provide a written ruling within five (5) days of his receipt of a written request for a ruling. The Director of Finance's rulings shall be kept on file by the City's Finance Department in a separate book and shall be made available upon request. The Director of Finance may waive any or all of a penalty imposed where, in his sole discretion, he deems it to be appropriate.

(b) *Continued Delinquency.* Any operator who shall fail to remit any delinquent remittance on or before a period of thirty (30) days following the date on which the remittance first became delinquent shall pay a second delinquency penalty in the amount of ten (10%) percent of the tax in addition to the amount of the tax and the ten (10%) percent penalty first imposed.

(c) *Fraud.* If the Director of Finance shall determine that the nonpayment of any remittance due pursuant to the provisions of this article is due to fraud, a penalty in the amount of twenty-five (25%) percent of the amount of the tax shall be added thereto in addition to the penalties set forth in subsections (a) and (b) of this section.

(d) *Interest.* In addition to the penalties imposed, any operator who shall fail to remit any tax imposed by the provisions of this article shall pay interest at the rate of one-half (1/2) of one percent per month, or fraction thereof, on the amount of the tax, exclusive of penalties, from the date on which the remittance first became delinquent until paid.

(e) *Penalties for Failure to Timely File Complete Report.* If any person shall fail or refuse to timely file a complete monthly report as required by Section 3-3.407, there shall be a penalty assessed until a complete report is filed, in the amount of Thirty and no/100ths ($30.00) Dollars per month or a prorated portion of the month, in addition to other penalties.

(f) *Penalties Merged with Tax.* Every penalty imposed, and such interest as accrues, pursuant to the provisions of this section shall become a part of the tax required to be paid by the provisions of this article.
(§8, Ord. 474; as amended by §7, Ord. 891-93, eff. February 18, 1993; §3, Ord. 928-96, eff. August 1, 1996)

Sec. 3-3.409 Failure to Collect and Report Tax.

If any operator shall fail or refuse to collect such tax and to make, within the time provided in this article, any report and remittance of such tax, or any portion thereof, required by the provisions of this article, the Director of Finance shall proceed in such manner as he may deem best to obtain the facts and information on which to base his estimate of the tax due. As soon as the Director of Finance shall procure such facts and information as he is able to obtain upon which to base the assessment of any such tax imposed and payable by any operator who has failed or refused to collect the same and to make such report and remittance, the Director of Finance shall proceed to determine and assess against such operator the tax, interest, and penalties provided for by the provisions of this article. In the event such determination is made, the Director of Finance shall give notice of the amount so assessed by serving it personally or by depositing it in the United States mail, postage prepaid, addressed to the operator so assessed at his last known place of address. Such operator may, within ten (10) days after the service or mailing of such notice, make an application in writing to the Director of Finance for a hearing on the amount assessed. If an application by the operator for a hearing is not made within the time prescribed, the tax, interest, and penalties, if any, determined by the Director of Finance shall become final and conclusive and immediately due and payable. If such an

application is made, the Director of Finance shall give not less than five (5) days' written notice in the manner prescribed in this section to the operator to show cause at a time and place fixed in such notice why the amount specified therein should not be fixed for such tax, interest, and penalties. At such hearing the operator may appear and offer evidence why such specified tax, interest, and penalties shall not be so fixed. After such hearing the Director of Finance shall determine the proper tax to be remitted and shall thereafter give written notice to the person in the manner prescribed in this section of such determination and the amount of such tax, interest, and penalties. The amount determined to be due shall be payable after fifteen (15) days unless an appeal is filed as provided in Section 3-3.410 of this article.
(§9, Ord. 474)

Sec. 3-3.410 Determinations of Director of Finance: Appeals.

Any operator aggrieved by any decision of the Director of Finance with respect to the amount of such tax, interest, and penalties, if any, may appeal to the Council by filing a notice of appeal with the City Clerk within fifteen (15) days after the service or mailing of the determination of the tax due. The Council shall fix a time and place for hearing such appeal, and the City Clerk shall give notice in writing to such operator at his last known place of address. The findings of the Council shall be final and conclusive and shall be served upon the appellant in the manner prescribed in this article for the service of a notice of hearing. Any amount found to be due shall be immediately due and payable upon the service of notice.
(§10, Ord. 474)

Sec. 3-3.411 Records.

It shall be the duty of every operator liable for the collection and payment to the City of any tax imposed by the provisions of this article to keep and preserve, for a period of three (3) years, all records as may be necessary to determine the amount of such tax as he may have been liable for the collection of any payment to the City, which records the Director of Finance shall have the right to inspect at all reasonable times.
(§11, Ord. 474)

Sec. 3-3.412 Refunds.

(a) Whenever the amount of any tax, interest, or penalty has been overpaid, or paid more than once, or erroneously or illegally collected or received by the City, such amount may be refunded as provided in subsections (b) and (c) of this section provided a claim in writing therefor, stating under penalty of perjury the specific grounds upon which the claim is founded, is filed with the Director of Finance within three (3) years after the date of payment. The claim shall be on forms furnished by the Director of Finance.

(b) Any operator may claim a refund or take as credit against taxes collected and remitted the amount overpaid, paid more than once, or erroneously or illegally collected or received when it is established in a manner prescribed by the Director of Finance that the person from whom the tax has been collected was not a transient; provided, however, neither a refund nor a credit shall be allowed unless the amount of the tax so collected has either been refunded to the transient or credited to rent subsequently payable by the transient to the operator.

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

(d) No refund shall be paid pursuant to the provisions of this section unless the claimant establishes his right thereto by written records showing entitlement thereto.
(§12, Ord. 474)

Sec. 3-3.413 Tax a Debt to City: Suits for Recovery.

Any tax required to be paid by any transient pursuant to the provisions of this article shall be deemed a debt owed by the transient to the City. Any such tax collected by an operator which has not been paid to the City shall be deemed a debt owed by the operator to the City. Any person owing money to the City pursuant to the provisions of this article shall be liable to an action brought in the name of the City for the recovery of such amount.
(§13, Ord. 474)

Sec. 3-3.414 Violations of Provisions.

Any operator or other person who fails or refuses to register as required, or to furnish any return required to be made, or who fails or refuses to furnish a supplemental return or other data required by the Director of Finance, or who renders a false or fraudulent return or claim shall be guilty of a misdemeanor. Any person required to make, render, sign, or verify any report or claim and who makes any false or fraudulent report or claim with intent to defeat or evade the determination of any amount due required by the provisions of this article to be made shall be guilty of a misdemeanor.
(§14, Ord. 474)

Sec. 3-3.415 Revocation of Permit.[*]

Whenever an operator fails to comply with any provision of this article relating to transient occupancy taxes or any rule or regulation prescribed by the Director of Finance relating to such tax or registration permit, the Director of Finance shall hold a hearing, after giving the lessor, if applicable and the operator ten (10) days' written notice sent by certified mail specifying the time and place of hearing and requiring the operator to show cause why his permit or permits should not be revoked. After such hearing, the Director of Finance may suspend or revoke any one or more of the permits held by the operator. Within five (5) days after the hearing, the Director of Finance shall give the operator written notice by certified mail of the suspension or revocation of the permit or permits.

The aggrieved operator may appeal the suspension or revocation of the permit or permits to the City Council by filing a notice of appeal in writing with the City Clerk within fifteen (15) days after the service or mailing of the notice of suspension or revocation. The findings of the Council shall be final and conclusive.

The Director of Finance shall not issue a new permit after revocation or lift a suspension of a permit until the operator has satisfied any outstanding debt to the City under this article, including penalties and interest. Where an operator has failed to timely remit the return or taxes more than two (2) times in any calendar year, whether or not such failure has resulted in a suspended or revoked permit, the Director of Finance may send written notice to the operator requiring that such operator post a bond within fifteen (15) days of such notice, in a form approved by the City Attorney and in an amount equal to the preceding six (6) months taxes collected. The bond shall remain in force until the operator has timely remitted returns and taxes for a continuous period of six (6) months. Thereafter, the bond shall be released. The failure to post the bond within fifteen (15) days after such notice shall constitute a violation of this article.
(§8, Ord. 891-93, eff. February 18, 1993)

Sec. 3-3.416 Closure of Hotel Without Permit.[*]

During any period of time during which a permit has not been issued or is suspended, revoked or otherwise not valid, the Director of Finance may require that the hotel be closed. Notice of the closure shall be sent to the lessor, if applicable, and the operator by certified mail and shall be posted at the hotel. Any person who operates a hotel in violation of a notice of closure shall be guilty of a misdemeanor.
(§9, Ord. 891-93, eff. February 18, 1993)

Sec. 3-3.417 Recording Certificate of Lien.

If any amount required to be remitted or paid to the City under this article is not remitted or paid when due, the Director of Finance may, within three (3) years after the amount is due file for recording with the Los Angeles County Recorder's Office a certificate specifying the amount of the tax, penalties and interest due, the name and address as it appears on the registration permit of the operator liable for the amount and the fact that the Director of Finance has complied with all provisions of this article in determining such amount. From the time of the filing for recording the amount shall constitute a lien upon all real property in the County, except a proprietary lease, owned by the operator. The lien shall have the force, effect and priority of a judgment lien and shall continue for ten (10) years from the time of filing of the certificate unless sooner released or discharged.
(§10, Ord. 891-93, eff. February 18, 1993)

Sec. 3-3.418 Priority and Lien of Tax.

(a) The amounts required to be remitted and/or paid by any operator under this article with penalties and interest shall be satisfied first in any of the following cases:

(1) Whenever the person is insolvent;

(2) Whenever the person makes a voluntary assignment of his assets;

(3) Whenever the estate of the person in the hands of executors, administrators, or heirs is insufficient to pay all the debts due from the deceased;

(4) Whenever the estate and effects of an absconding, concealed or absent person required to pay any amount under this article are levied upon by process law. This article does not give the City a preference over any recorded lien which attached prior to the date when the amounts required to be paid became a lien.

(b) The preference given to the City by this section shall be subordinate to the preferences given to claims for personal services by Sections 1204 and 1206 of the Code of Civil Procedure.
(§10, Ord. 891-93, eff. February 18, 1993)

Sec. 3-3.419 Warrant for Collection of Tax.

At any time within three (3) years after any operator is delinquent in the remittance or payment of any amount herein required to be remitted or paid or within three (3) years after the last recording of a certificate under Section 3-3.417, the Director of Finance may issue a warrant for the enforcement of any liens and for the collection of any amount required to be paid to the City under this article. The warrant shall be directed to any sheriff, marshal, or constable and shall have the same effect as a writ of execution. The warrant shall be levied and sale made pursuant to it in the same manner with the same effect as a levy of and a sale pursuant to a writ of execution. The Director of Finance may pay or advance to the sheriff, marshal, or constable the same fees, commissions and expenses for his services as are provided by law for similar services pursuant to a writ of execution. The Director of Finance, and not the court, shall approve the fees for publication in a newspaper.
(§10, Ord. 891-93, eff. February 18, 1993)

Sec. 3-3.420 Seizure and Sale.

At any time within three (3) years after any operator is delinquent in the remittance or payment of any amount, the Director of Finance may forthwith collect the amount in the following manner. The Director of Finance shall seize any property, real or personal, of the operator and sell the property, or a sufficient part of it, at public auction to pay the amount due together with any penalties and interest imposed for the delinquency and any costs incurred on account of the seizure and sale. Any seizures made to collect occupancy taxes due shall be only of property of the operator not exempt from execution under the provisions of the Code of Civil Procedure.
(§10, Ord. 891-93, eff. February 18, 1993)

Sec. 3-3.421 Duties on Transfer of Business.

(a) *Registration.* Within ten (10) days after change of ownership of the business, the new operator shall file said application.

(b) *Successor's Liability — Withholding by Purchaser.* If any operator liable for any amount under this article sells out his business, his successor or assigns shall withhold sufficient monies from the purchase price to cover such amount until the former operator produces a receipt from the Director of Finance showing that it has been paid or a certificate stating that no amount is due.

(c) *Liability of Purchaser — Release.* If the purchaser of a hotel operator's business fails to withhold part of the purchase price as required, he shall become personally liable for the payment of the amount required to be withheld by him to the extent of the purchase price, valued in money. Within sixty (60) days after receiving a written request from the purchaser for a certificate, or within sixty (60) days from the date the former hotel operator's records are made available for audit, whichever period expires later, but in any event not later than ninety (90) days after receiving the request, the Director of Finance shall either issue the certificate or mail notice to the purchaser at his address as it appears on the records of the Director of Finance of the amount that must be paid as a condition of issuing the certificate. Failure of the Director of Finance to mail the notice will release the purchaser from any further obligation to withhold the purchase price as above provided. The time within which the obligation of the successor may be enforced shall start to run at the time the operator sells his business or at the time that the determination against the operator becomes final, whichever event occurs the later.
(§10, Ord. 891-93, eff. February 18, 1993)

Sec. 3-3.422 Reserved.

Sec. 3-3.423 Withhold Notice.

If any person or operator is delinquent in the remittance or payment of the amount required to be remitted or paid by him or in the event a determination has been made against him for the remittance of tax and payment of the penalty, the City may, within three (3) years after the tax obligation became due, give notice thereof personally or by registered mail to all persons including the state or any political subdivision thereof, having in their possession or under their control any credits or other personal property belonging to the taxpayer. After receiving the withholding notice, the person so notified shall make no disposition of the taxpayer's credits, other personal property or debts until the City consents to a transfer or disposition or until sixty (60) days elapse after the receipt of the notice, whichever expires earlier. All persons, upon receipt of said notice, shall advise the City immediately of all such credits, other personal property or debts in their possession, under their control or

owing by them. If such notice seeks to prevent the transfer or other disposition of a deposit in a bank or other credits or personal property in the possession or under the control of the bank, to be effective the notice shall be delivered or mailed to the branch or office of such bank at which such deposit is carried or at which such credits or personal property is held. If any person so notified makes transfer or disposition of the property or debts required to be held hereunder during the effective period of the notice to withhold, he shall be liable to the City to the extent of the value of the release up to the amount of the indebtedness owned by the taxpayer to the City.
(§10, Ord. 891-93, eff. February 18, 1993)

Sec. 3-3.424 Stacking Prohibited.

It is a violation of this chapter for any person to knowingly aid or engage in the practice commonly known in the lodging industry as "stacking." As used herein, "stacking" occurs when a transient occupant who is the registered occupant of a transient occupancy unit allows other persons to share occupancy of that unit for overnight sleeping on any night for which such other person or persons are not registered. Any transient who allows stacking to take place in the unit for which that person is registered, and any transient who occupies a unit knowing that his or her occupancy has not been reported to the owner or operator or has not been paid for, shall be in violation of this section. Any such violation shall be prosecuted as a misdemeanor, or, in the discretion of the prosecuting attorney, may be prosecuted as an infraction.

(a) *Notice.* In order to apprise transient occupants of potential violations of this section, all hotel and other transient occupancy facility operators are encouraged to incorporate language similar to the following in their registration documents:

Your room/unit is to be occupied by not more than _____ persons. The Avalon Municipal Code prohibits housing additional unregistered guests in a unit.
(§1, Ord. 1026-04, eff. September 2, 2004)

Article 5. Real Property Transfer Tax

Sec. 3-3.501 Title.

This article shall be known as the "Real Property Transfer Tax Law of the City of Avalon". It is adopted pursuant to the authority contained in Part 6.7 (commencing with Section 11901) of Division 2 of the Revenue and Taxation Code of the State.
(§1, Ord. 501, eff. December 7, 1967)

Sec. 3-3.502 Tax Imposed.

There is hereby imposed on each deed, instrument, or writing by which any lands, tenements, or other realty sold within the City shall be granted, assigned, transferred, or otherwise conveyed to, or vested in, the purchaser or purchasers, or any other person or persons, by his or their direction, when the consideration or value of the interest or property conveyed (exclusive of the value of any lien or encumbrances remaining thereon at the time of sale) exceeds One Hundred and no/100ths ($100.00) Dollars a tax at the rate of Twenty-Seven and One-Half ($0.275) Cents for each Five Hundred and no/100ths ($500.00) Dollars or fractional part thereof.
(§1, Ord. 501, eff. December 7, 1967)

Sec. 3-3.503 Person Responsible for Payment.

Any tax imposed pursuant to the provisions of Section 3-3.502 of this article shall be paid by any person who makes, signs, or issues any document or instrument subject to the tax, or for whose use or benefit the same is made, signed, or issued.
(§1, Ord. 501, eff. December 7, 1967)

Sec. 3-3.504 Debt Security Instruments Exempted.

Any tax imposed pursuant to the provisions of this article shall not apply to any instruments in writing given to secure a debt.
(§1, Ord. 501, eff. December 7, 1967)

Sec. 3-3.505 Governmental Agencies Exempted.

The United States, or any agency or instrumentality thereof, any State or territory or political subdivision thereof, or the District of Columbia shall not be liable for any tax imposed pursuant to the provisions of this article with respect to any deed, instrument, or writing to which it is a party, but the tax may be collected by assessment from any other party liable therefor.
(§1, Ord. 501, eff. December 7, 1967)

Sec. 3-3.506 Bankruptcies and Receiverships.

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

(a) Confirmed under the Federal Bankruptcy Act, as amended;

(b) Approved in an equity receivership proceeding in a court involving a railroad corporation, as defined in subsection (m) of Section 205 of Title 11 of the United States Code, as amended;

(c) Approved in an equity receivership proceeding in a court involving a corporation, as defined in subsection (3) of Section 506 of Title 11 of the United States Code, as amended; or

(d) Whereby a mere change in identity, form, or place of organization is effected.

The provisions of this section shall only apply if the making, delivery, or filing of instruments of transfer or conveyances occurs within five (5) years from the date of such confirmation, approval, or change.
(§1, Ord. 501, eff. December 7, 1967)

Sec. 3-3.507 Securities and Exchange Commission.

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

(a) The order of the Securities and Exchange Commission in obedience to which such conveyance is made recites that such conveyance is necessary or appropriate to effectuate the provisions of Section 79k of Title 15 of the United States Code relating to the Public Utility Holding Company Act of 1935;

(b) Such order specifies the property which is ordered to be conveyed; and

(c) Such conveyance is made in obedience to such order.
(§1, Ord. 501, eff. December 7, 1967)

Sec. 3-3.508 Partnerships.

(a) In the case of any realty held by a partnership, no levy shall be imposed pursuant to the provisions of this article by reason of any transfer of all interest in a partnership or otherwise if:

(1) Such partnership (or another partnership) is considered a continuing partnership within the meaning of Section 708 of the Internal Revenue Code of 1954: and

(2) Such continuing partnership continues to hold the realty concerned.

(b) If there is a termination of any partnership within the meaning of Section 708 of the Internal Revenue Code of 1954, for the purposes of this article such partnership shall be treated as having executed an instrument whereby there was conveyed, for fair market value (exclusive of the value of any lien or encumbrance remaining thereon), all realty held by such partnership at the time of such termination.

(c) Not more than one tax shall be imposed pursuant to the provisions of this article by reason of a termination described in subsection (b) of this section, and any transfer pursuant thereto, with respect to the realty held by such partnership at the time of such termination.
(§1, Ord. 501, eff. December 7, 1967)

Sec. 3-3.509 Administration.

The County Recorder shall administer the provisions of this article in conformity with the provisions of Part 6.7 of Division 2 of the Revenue and Taxation Code of the State and the provisions of any County ordinance adopted pursuant thereto.
(§1, Ord. 501, eff. December 7, 1967)

Sec. 3-3.510 Claims for Refunds.

`Claims for the refund of taxes imposed pursuant to the provisions of this article shall be governed by the provisions of Chapter 5 (commencing with Section 5096) of Part 9 of Division 1 of the Revenue and Taxation Code of the State.
(§1, Ord. 501, eff. December 7, 1967)

Sec. 3-3.511 Operative Date.

The provisions of this article shall become operative upon the operative date of any ordinance adopted by the County pursuant to the provisions of Part 6.7 (commencing with Section 11901) of Division 2 of the Revenue and Taxation Code of the State, or on December 7, 1967, whichever is the later.
(§1, Ord. 501, eff. December 7, 1967)

Article 6. Utility User Tax

Sec. 3-3.601 Tax Imposed.

There is established and imposed, effective December 31, 1992, a utility user tax in the manner and at the rates set forth in this article.
(§1, Ord. 879-32, eff. December 31, 1992)

Sec. 3-3.602 Purpose.

This article is enacted solely to raise revenue for the general governmental purposes of the City of Avalon. All of the proceeds from the tax imposed by this Article shall be placed in the City's general fund and used for the usual current expenses of the City.
(§1, Ord. 879-92, eff. December 31, 1992)

Sec. 3-3.603 Definitions.

The following words and phrases whenever used in this article shall be construed as defined in this section.

(a) "Person" shall mean any domestic or foreign corporation, firm, association, syndicate, joint stock company, partnership of any kind, joint venture, club, Massachusetts business or common law trust, society, or individual.

(b) "City" shall mean the City of Avalon.

(c) "County" shall mean the County of Los Angeles.

(d) "Electrical corporation" shall have the same meaning as defined in Section 218 of the Public Utilities Code of the State of California, as said section existed on January 1, 1975. "Electrical corporation" shall be construed to include any municipality or franchised agency engaged in the selling or supplying of electrical power to a service user.

(e) "Tax Administrator" shall mean the City Finance Director or his designee.

(f) "Service supplier" shall mean a utility company which receives taxes paid and remits same as imposed by this article.

(g) "Service user" shall mean a person required to pay a tax imposed by this article.

(h) "Month" shall mean a calendar month.

(§1, Ord. 879-92, eff. December 31, 1992)

Sec. 3-3.604 Exemptions.

(a) Nothing in this article shall be construed as imposing a tax upon any person when imposition of such tax upon that person would be in violation of the Constitution of the United States, or the Constitution of the State of California or any California statute.

(b) Persons age sixty-five (65) or older as of the beginning of a full regular billing period applicable to the service user and whose annual income is fifty (50%) percent or less of the County median income shall be exempt from the tax imposed herein.

(c) Churches; facilities of the City of Avalon, Los Angeles County, Long Beach Unified School District, 501(c)3 nonprofit organizations and the Catalina Island Chamber of Commerce shall also be exempt from the tax imposed herein.

(d) The City Council may, by order or resolution, establish one or more classes of persons or one or more classes of utility service otherwise subject to payment of a tax imposed by this article and provide that such classes of persons or service shall be exempt, in whole or in part from such tax.

(e) The Tax Administrator shall prepare a list of the persons exempt from the provisions of this article by virtue of this section and furnish a copy thereof to each service supplier.
(§1, Ord. 879-92, eff. December 31, 1992)

Sec. 3-3.605 Electricity User Tax.

(a) There is hereby imposed a tax on every person using electrical energy in the City. The tax imposed by this section shall be at the rate of three (3%) percent of the charges made for such energy and shall be paid by the person paying for such energy. "Charges", as used in this section, shall include charges made for metered energy and charges for service, including customer charges, service charges, standby and monthly charges, and any other charge authorized by the California Public Utilities Commission or the Federal Energy Regulatory Commission.

The City Council shall consider reducing or eliminating this tax in the event of (1) State legislative action and local voter approval of a one-half (1/2%) percent sales tax; (2) Congressional approval of gaming on cruise ships that make Avalon a port of call and/or Avalon's designation as a port of entry, if either action results in additional cruise ship stops in Avalon.

(b) As used in this section, the term "using electrical energy" shall not be construed to mean the storage of such energy by a person in a battery owned or possessed by him/her for use in an automobile or other machinery or device apart from the premises upon which the energy was received, provided, however, that the term shall include the receiving of such energy for the purpose of using it in the charging of batteries; nor shall the term include the mere receiving of such energy by an electric public utility or governmental agency at a point within the City for resale; nor shall the term include the use of such energy in the production or distribution of water by a public utility for a governmental agency.

(c) The tax imposed in this section shall be collected from the service user by the person supplying such energy. The amount of tax collected in one (1) month shall be remitted to the Tax Administrator on or before the last day of the following month, unless the due date occurs on a weekend or a holiday, in which case the due date is the first business day following. Taxes shall be deemed remitted on the date received by the Tax Administrator, or on the date postmarked, if remitted by first class United States mail with postage fully prepaid. With prior written approval of the Tax Administrator, remittance of tax may be predicated on a formula based upon the payment pattern of the supplier's customers.
(§1, Ord. 879-92, eff. December 31, 1992; as amended by §4, Ord. 923-95, eff. December 21, 1995)

Sec. 3-3.606 Interest and Penalty.

(a) Taxes collected from a service user which are not remitted to the Tax Administrator on or before the due dates provided in this article are delinquent and are subject to penalties and interest.

(b) Any person who fails to remit taxes collected in the time required by this article shall pay a penalty of five (5%) percent of the amount of the tax, and if not remitted within two (2) working days after the date of delinquency, shall pay a total penalty of twenty (20%) percent of the amount of tax owed. Such penalty shall attach to the amount of tax due and shall be paid by the person required to collect and remit the tax.

(c) When fraud or gross negligence in reporting and remitting tax collections is discovered, the Tax Administrator shall have power to impose additional penalties of twenty (20%) percent of taxes owed upon persons required to collect and remit taxes under the provisions of this article.

(d) Any person required to remit to the Tax Administrator delinquent taxes as required in this section, shall pay interest at the rate of one and one-half (1.5%) percent per month, or portion thereof, on the amount of tax owed exclusive of penalties, from the date on which the tax first became delinquent until paid.

(e) Notwithstanding the provisions of subsections (b) and (d), no penalty or interest shall be applied if delinquencies are the result of natural disasters or other phenomena beyond the control of the person charged with collecting and remitting the tax, provided the person being delinquent notifies the Tax Administrator as soon as normal communications permit.
(§1, Ord. 879-92, eff. December 31, 1992)

Sec. 3-3.607 Debt.

Any tax required to be paid by a service user under the provisions of this article shall be deemed a debt owed by the service user to the City. Any such tax collected from a service user which has not been remitted to the Tax Administrator shall be deemed a debt owed to the City by the person required to collect and remit the tax. Any person owing money to the City under the provisions of this article shall be liable in an action brought in the name of the City for the recovery of such amount.
(§1, Ord. 879-92, eff. December 31, 1992)

Sec. 3-3.608 Duty to Collect - Procedures.

The duty to collect and remit the taxes imposed by this article shall be performed as follows:

(a) The tax shall be collected insofar as practicable at the same time as, and along with, the collection of charges made in accordance with the regular billing practices of the service supplier. Except in those cases where a service user pays the full amount of said charges but does not apply any portion of a tax imposed by this article, or where a service user has notified a service supplier that he is refusing to pay a tax imposed by this article which said service supplier is required to collect, if the amount paid by a service user is less than the full amount of the charge and tax which has accrued for the billing period, such amount and any subsequent payments

by a service user shall be applied to the utility charge first. Any remaining balance shall be applied to taxes due.

(b) The duty to collect tax from a service user shall commence with the beginning of the first full regular billing period applicable to the service user where charges are subject to the provisions of this article. Where a person receives more than one billing, one or more being for different periods than another, the duty to collect shall arise separately for each billing period.
(§1, Ord. 879-92, eff. December 31, 1992)

Sec. 3-3.609 Additional Powers and Duties of Tax Administrator.

(a) The Tax Administrator shall have the power and duty, and is hereby directed, to enforce each and all of the provisions of this article.

(b) The Tax Administrator shall have the power to adopt rules and regulations not inconsistent with provisions of this article for the purpose of carrying out and enforcing the payment, collection and remittance of the taxes herein imposed. A copy of such rules and regulations shall be on file in the Tax Administrator's office.

(c) The Tax Administrator may make administrative agreements to vary the strict requirements of this article so that collection of any tax imposed here may be made in conformance with the billing procedures of a particular service supplier so long as said agreements result in collection of the tax in conformance with the general purpose and scope of this article. A copy of each such agreement shall be on file in the Tax Administrator's office.

(d) The Tax Administrator shall determine the eligibility of any person who asserts a right to exemption from the tax imposed by this article. The Tax Administrator shall provide the service supplier with the name of any person who the Tax Administrator determines is exempt from the tax imposed hereby, together with the address and account number to which service is supplied to any such exempt person. The Tax Administrator shall notify the service supplier of the termination of any person's right to exemption hereunder, or the change of any address to which service is supplied to any exempt person.
(§1, Ord. 879-92, eff. December 31, 1992)

Sec. 3-3.610 Assessment - Administrative Remedy.

(a) The Tax Administrator may assess the service user for taxes not paid to the service supplier.

(b) Whenever the Tax Administrator determines that a service user has deliberately withheld the amount of the tax owed by such users from the amounts remitted to a person required to collect the tax, or that a service user has refused to pay the amount of tax to such person, or whenever the Tax Administrator deems it in the best interest of the City, he may relieve such person of the obligation to collect taxes due under this article from certain named service users for specified billing periods.

(c) The service supplier shall provide the City with amounts refused, along with the names, addresses and reasons of the service users refusing to pay the tax imposed under provisions of this article. Whenever the service user has failed to pay the amount of tax for a period of two (2) or more billing periods, the Tax Administrator may relieve the service supplier of the obligation to collect taxes due.

(d) The Tax Administrator shall notify the service user that he has assumed responsibility to collect the taxes due for the stated periods and demand payment of such taxes. The notice shall be served on the service user by handing it to him personally or by deposit of the notice in the United States mail, postage prepaid thereon, addressed to the service user at the address to which billing was made by the person required to collect the tax; or, should the service user have changed his address, to his last known address. If a service user fails to remit the tax to the Tax Administrator within fifteen (15) days from the date of the service of the notice upon him, which shall be the date of mailing if service is not accomplished in person, a penalty of twenty-five (25%) percent of the amount of the tax set forth in the notice shall be imposed, but not less than Five and no/100ths ($5.00) Dollars. The penalty shall become part of the tax herein required to be paid.
(§1, Ord. 879-92, eff. December 31, 1992)

Sec. 3-3.611 Records.

It shall be the duty of every person required to collect and remit to the City any tax imposed by this article to keep and preserve, for a period of three (3) years, all records as may be necessary to determine the amount of such tax as he may have been liable for the collection of and remittance to the Tax Administrator, which records the Tax Administrator shall have the right to inspect at all reasonable times.
(§1, Ord. 879-92, eff. December 31, 1992)

Sec. 3-3.612 Refunds.

(a) Whenever the amount of any tax has been overpaid or paid more than once or has been erroneously or illegally collected or received by the Tax Administrator under this article it may be refunded as provided in this section.

(b) Notwithstanding the provisions of subsection (a) of this section, a service supplier may, with prior written approval from the Tax Administrator, claim a refund or take as credit against taxes collected and remitted the amount overpaid, paid more than once, or erroneously or illegally collected or received when it is established that the service user from whom the tax has been collected did not owe the tax; provided however, that neither a refund nor a credit shall be allowed unless the amount of the tax so collected has either been refunded to the service user or credited to charges subsequently payable by the service user to the person required to collect and remit. A service supplier that has collected any amount of tax in excess of the amount of tax imposed by this article and actually due from a service user, may refund such amount to the service user and may, with prior written approval of the Tax Administrator, claim credit for such overpayment against the amount of tax which is due upon any other monthly returns, provided such credit is claimed in a return dated no later than three (3) years from the date of overpayment.

(c) Notwithstanding subsection (b), no person shall be entitled to a refund unless the claimant thereof submits a written claim to the Tax Administrator setting forth the amount of the claim, the dates on which the amount in dispute was collected, and the legal basis for the refund claim no later than sixty (60) days from the date of the service provider's bill which contains the disputed tax.

(d) Notwithstanding other provisions of this section, whenever a service supplier, pursuant to an order of the California Public Utilities Commission or a court of competent jurisdiction, makes a refund to service users of charges for past utility services, the taxes paid pursuant to this article on the amount of such refunded charges shall also be refunded to service users, and the service supplier may, with prior written approval of the Tax Administrator, take a credit for such refunded taxes against the amount of tax which is due upon the next monthly returns. In the event this article is repealed, the amounts of any refundable taxes will be borne by the City.

(e) A service supplier may refund the taxes collected to the service user in accordance with this section or by the service supplier's customary practice.
(§1, Ord. 879-92, eff. December 31, 1992; as amended §5, Ord. 923-95, eff. December 21, 1995)

Sec. 3-3.613 Termination or Suspension of Utility User Tax.

The service supplier shall, upon notification, terminate or suspend any utility user tax commencing with the first full billing period which occurs after the effective

date of such action by the City Council.
(§3, Ord. 879-92, eff. December 31, 1992)

Sec. 3-3.614 Operative Date.

This article shall become effective on the first regular billing period commencing on or after December 31, 1995 and shall be inoperative as of December 31, 1998, unless voter approval of this tax is required by law and is not given in the April 1996 election.
(§4, Ord. 879-92, eff. December 31, 1992; as amended by §6, Ord. 923-95, eff. December 20, 1995)

Article 7. New Construction Tax

Sec. 3-3.701 Tax Imposed.

There is hereby established and imposed a tax on new development and construction in the manner and at the rates set forth in this article.
(§2, Ord. 912-94, eff. December 15, 1994)

Sec. 3-3.702 Definitions.

The following words and phrases whenever used in this article shall be construed as defined in this section.

(a) "Commercial unit" shall mean any structure or portion of a structure to be used for retail and wholesale sales and services, personal and professional services and any other nonresidential use permitted or conditionally permitted in the City, except motels and hotel units. Each portion of a single structure which is to be separately rented, sold or used shall constitute a single unit.

(b) "Dwelling unit" shall mean any residential structure or portion of a structure designed or used as a separate habitation for one or more persons, but shall not include motel or hotel units.

(c) "Motel or hotel unit" shall mean each separate guest room or rooms having a separate entrance from a common area and contained in one or more buildings.

(d) "Person" shall mean every person, firm corporation or other entity constructing a dwelling unit itself or through the services of any employee, agent or independent contractor.
(§2, Ord. 912-94, eff. December 15, 1994)

Sec. 3-3.703 Purpose.

This article is enacted solely to raise revenue for the general governmental purposes of the City of Avalon. All of the proceeds from the tax im posed by this article shall be placed in the City's general fund.
(§2, Ord. 912-94, eff. December 15, 1994)

Sec. 3-3.704 New Construction Tax Rates.

In addition to any other fee or tax prescribed by the Avalon Municipal Code, every person constructing new development shall pay the following:

(a) *Commercial Unit:* One Thousand Two Hundred and no/100ths ($1,200.00) Dollars per unit, plus a surcharge of Five Hundred and no/100ths ($500.00) Dollars for every one thousand (1,000) square feet above three thousand (3,000) square feet.

(b) *Dwelling Unit:* One Thousand and no/100ths ($1,000.00) Dollars for each such new dwelling unit.

(c) *Motel and Motel Unit:* Six Hundred and no/100ths ($600.00) Dollars per unit.
(§2, Ord. 912-94, eff. December 15, 1994)

Sec. 3-3.705 Exemptions.

(a) Nothing in this article shall be construed as imposing a tax upon any person where such imposition would violate the Constitution of the United States, or the Constitution of the State of California or any California statute;

(b) Any dwelling unit to be used exclusively for housing elderly or handicapped persons which is owned and operated by any entity subject to the provisions of California Health and Safety Code Section 33396 and entitled to the welfare exemption set forth in Section 4 of Article 13 of the State Constitution shall be exempt from the tax imposed herein;

(c) Any dwelling unit constructed as part of a City sponsored program to provide affordable housing, including but not limited to the City's First Time Homebuyer's Program, shall be exempt from the tax imposed herein;

(d) Structures to be owned by churches, facilities of the City of Avalon, Los Ange les County, Long Beach Unified School District, 501(c)3 nonprofit organizations and other similar type nonprofit organizations shall be exempt from the tax imposed herein;

(e) The City Council may, by order or resolution, establish one or more classes of persons or one or more classes of structures and provide that such classes of persons or structures shall be exempt, in whole or part, from such tax.
(§2, Ord. 912-94, eff. December 15, 1994)

Sec. 3-3.706 Duty to Collect - Procedures.

The tax imposed by this article shall be due and payable upon application to the City for a building permit for the construction of the dwelling unit, commercial unit and motel or hotel unit, provided, however, that in the event the building permit is not approved or is not used for such construction, such funds shall be refunded on written request to the Finance Director for such refund.
(§2, Ord. 912-94, eff. December 15, 1994)

*Sections 3-3.201 through 3-3.208, codified from Ordinance No. 377, as amended by Ordinance No. 428, superseded by Section 1, Ordinance No. 575, effective October 31, 1973, operative January 1, 1974.

*Section 2 shall be operative on the operative date of any act of the Legislature of the State of California which amends Section 7202 of the Revenue and Taxation Code or which repeals and reenacts Section 7202 of the Revenue and Taxation Code to provide an exemption from City sales and use taxes for operators of waterborne vessels in the same, or substantially the same, language as that existing in subdivisions (i) (7) and (i) (8) of Section 7202 of the Revenue and Taxation Code as those subdivisions read on October 1, 1983.

***Editor's Note:** Prior ordinances codified herein include portions of Ordinance No. 474.

***Editor's Note:** Prior ordinances codified herein include portions of Ordinance Nos. 508 and 666.

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CHAPTER 4 - PURCHASING SYSTEM

Article 1. General

Sec. 3-4.101 Adoption of Purchasing System.

In order to establish efficient procedures for the purchases of supplies and equipment, to secure for the City supplies and equipment at the lowest possible cost commensurate with quality, to exercise positive financial control over purchases, to clearly define the authority for the purchasing function, and to assure the quality of purchases, a purchasing system is hereby adopted.
(§2, Ord. 650, eff. October 5, 1978)

Sec. 3-4.102 Bidding.

Purchases of supplies and equipment shall be by bid procedures pursuant to Sections 3-4.105 and 3-4.106 of this article. Bidding shall be dispensed with only when an emergency requires that an order be placed with the nearest available source of supply, when the amount involved is less than Five Thousand ($5,000.00) Dollars, when the commodity can be obtained from only one vendor, or when the Council determines that such purchase can be made more economically or efficiently without bid procedures.
(§2, Ord. 650, eff. October 5, 1978; §1, Ord. 834, eff. November 3, 1988)

Sec. 3-4.103 Purchase Orders.

Purchases of supplies and equipment shall be made only by purchase order issued by the City Manager or his designee.
(§2, Ord. 650, eff. October 5, 1978; §6, Ord. 1088-09, eff. November 19, 2009; §6, Ord. 1126-13, eff. January 16, 2014)

Sec. 3-4.104 Encumbrance of Funds.

Except in the case of emergency, neither the City Manager or his designee shall issue any purchase order for supplies or equipment unless there exists an unencumbered appropriation in the fund account against which such purchase is to be charged.
(§2, Ord. 650, eff. October 5, 1978, §7, Ord. 1088-09, eff. November 19, 2009; §7, Ord. 1126-13, eff. January 16, 2014)

Sec. 3-4.105 Formal Contract; Procedure.

Except as otherwise provided in this article, purchases and contracts for supplies and equipment of an estimated value of Five Thousand and no/100ths ($5,000.00) Dollars and greater shall be by written contract with the lowest responsible bidder pursuant to the following procedures:

(a) *Notices Inviting Bids.* Notices inviting bids shall include a general description of the articles to be purchased, shall state where bid blanks and specifications may be secured, and the time and place for opening bids. Such notices shall be published at least ten (10) days before the date of opening the bids in a newspaper of general circulation, printed and published in the City, or if there is none, such notices shall be posted in at least three (3) public places for posting public notices. Sealed bids shall also be solicited from all responsible prospective suppliers whose names are on the bidders' list or who request their names to be added thereto.

(b) *Bidder's Security.* When deemed necessary by the City Manager, bidder's security may be prescribed in the public notices inviting bids. Bidders shall be entitled to the return of bid security; provided, however, the successful bidder shall forfeit his bid security upon his refusal or failure to execute the contract within ten (10) days after the notice of the award of contract has been mailed, unless the City is responsible for the delay. The Council, on the refusal or failure of the successful bidder to execute the contract, may award it to the next lowest responsible bidder. If the Council awards the contract to the next lowest bidder, the amount of the lowest bidder's security shall be applied by the City to the difference between the lowest responsible bid and the second lowest responsible bid, and the surplus, if any, shall be returned to the lowest responsible bidder.

(c) *Bid Opening Procedure.* Sealed bids shall be submitted to the City Manager or his designee, and shall be identified as bids on the envelope. Bids shall be opened in public at the time and place stated in the public notices. A tabulation of all bids received shall be open for public inspection during regular business hours for a period of not less than thirty (30) calendar days after the bid opening.

(d) *Rejection of Bids.* In its discretion, the Council may reject any and all bids presented and purchase without further bidding or re-advertise for bids.

(e) *Award of Contracts*. Contracts shall be awarded by the Council to the lowest responsible bidder, except as otherwise provided in this section.

(f) *Tie Bids.* If two (2) or more bids received are for the same total amount or unit price, quality and service being equal, the Council may accept the bid it chooses or accept the lowest bid made by negotiation with the tie bidders.

(g) *Performance Bonds.* The Council shall have the authority to require a performance bond before entering into a contract in such amount as the Council shall find reasonably necessary to protect the best interests of the City. If the Council requires a per-formance bond, the form and amount of the bond shall be described in the notice inviting bids.
(§2, Ord. 650, eff. October 5, 1978; §2, Ord. 808, eff. July 16, 1987; §1, Ord. 834, eff. November 3, 1988; §8, Ord. 1088-09, eff. November 19, 2009; §8, Ord. 1126-13, eff. January 16, 2014)

Sec. 3-4.106 Open Market Procedure.

Purchases of supplies and equipment of an estimated value in the amount of less than Five Thousand ($5,000.00) Dollars may be made by the City Manager or his designee, in the open market without observing the procedure prescribed by Section 3-4.105 of this article.

(a) *Minimum Number of Quotes*. Purchases which do not exceed One Thousand and ($1,000.00) Dollars, and which constitute a complete purchasing not involving the "splitting of purchase orders" for a single purpose or project, may be made with a single quote; however, all other purchases pursuant to this section, whenever possible, shall be based on at least three (3) quotes and shall be awarded to the firm or individual making the lowest responsible, responsive quote in terms of price.

(b) *Notice Inviting Quotes.* The City Manager or his designee, shall solicit quotes by written requests to prospective vendors, by telephone, and/or by written notice which has been mailed to prospective vendors or posted on a public bulletin board in a City facility.

(c) *Record of Quote*. Quotes shall be submitted to the City Manager or his designee. The City Manager or his designee shall keep a record of all open market orders and bids for a period of two (2) years after the submission of quotes or the placing of orders. Such records shall be maintained by the Director of Finance and while so kept, shall be open to public inspection.

(d) *Small Purchases*. Purchases of One Hundred and no/100ths ($100.00) Dollars and less may be made by Department Heads of the City with the approval of the City Manager, except that such purchases by the Chief of the Fire Department shall not require the approval of the City Manager, without the necessity of complying with this section.
(§2, Ord. 650, eff. October 5, 1978; §3, Ord. 808, eff. July 16, 1987; §1, Ord. 834, eff. November 3, 1988; §9, Ord. 1088-09, eff. November 19, 2009; §9, Ord. 1126-13, eff. January 16, 2014)

Sec. 3-4.107 Inspection and Testing.

The City Manager or his designee shall inspect the supplies and equipment delivered to determine their conformance with the specifications set forth in the order or contract. The City Manager or his designee shall have the authority to require chemical and physical tests of samples submitted with bids and samples of deliveries which are necessary to determine their quality and conformance with specifications.
(§2, Ord. 650, eff. October 5, 1978; §10, Ord. 1088-09, eff. November 19, 2009; §10, Ord. 1126-13, eff. January 16, 2014)

Sec. 3-4.108 Time and Materials.

All purchases of supplies and equipment, by contract or otherwise, in an amount in excess of Five Thousand and no/100ths ($5,000.00) Dollars shall be specified as a "lump sum" or as a "not-to-exceed" amount. The City Council may by a four-fifths (4/5) vote approve exceptions to this requirement only after expressly finding that a determination of a "not-to-exceed" price is not feasible.
(§1, Ord. 834, eff. November 3, 1988)

Sec. 3-4.109 Local Bidder Preference; Maintenance and General Services.

As set forth in further detail in Section 3-4.110, the City Council has made findings and adopted a Local Bidder Preference Program ("Local Program") applicable to certain purchases of materials, supplies, and equipment, as well as contracts for public works construction, maintenance and general services contracts described in this section. Accordingly, construction, maintenance and general services contracts that are competitively bid shall be subject to the Local Program set forth in Section 3-4.110. A properly certified Local Small Businesses (as defined in Section 3-4.110) shall be entitled to the specified reduction of five (5%) percent in the tabulation of its bid for purposes of determining the lowest responsible bidder or proposed price for services or delivery of goods, unless otherwise prohibited by law. This five (5%) percent adjustment shall only apply to local small businesses when such local small businesses are at least equal in responsibility and quality to other businesses bidding on contracts. Such findings shall be made by the City Council when awarding the contract to a local small business. If the Program is applicable to a bid offering, it shall be noted in the applicable bid solicitation. The five (5%) percent preference shall only apply to the determination of the business that is awarded the City contract. The price set forth in the actual bid or quote will be the price set forth in the agreement between the City and the local small business. (§1, Ord. 1093-10, eff. June 17, 2010)

Sec. 3-4.110 Local Bidder Preference Program; Purchase of Materials, Supplies and Equipment.

Based upon the findings provided for in the recitals of the Ordinance adding this section, the City Council has determined that is in the best interests of the City to give a minimum preference to local small businesses when the City is making certain purchases of materials, supplies, and equipment, as well as when it is entering into contracts for public works construction, maintenance, and general services, as set forth in this Local Bidder Preference Program ("Program").

The Program shall consist of the following general requirements, which shall be implemented by the City Manager:

(a) A *local small business* for the purposes of this Program shall mean the vendor: (i) has fixed facilities with employees located at a business address within City limits (a post office box or nonbusiness residence alone is insufficient); (ii) has an appropriate City business license/permit (iii) has at least fifty (50%) percent of its full-time employees residing within City limits; and (iv) has no more than twenty-five (25) employees employed full-time. A full-time employee is one who works more than thirty-five (35) hours a week. A vendor seeking to qualify for this Program shall provide supporting information and certify in writing that it meets the above requirements as part of its bid.

(b) In applying the Program to bids on a City purchase subject to the Program, qualifying local small business shall be entitled to a reduction of five (5%) percent in the tabulation of its bid for purposes of determining the lowest responsible bidder or price for comparison to other businesses, unless otherwise prohibited by law (i.e. special State or Federal grant programs). This five (5%) percent adjustment shall only apply to local small businesses when such local small businesses are at least equal in responsibility and quality to other businesses bidding on contracts. Such findings shall be made by the City Council when awarding the contract to a local small business.

(c) The Program shall only be applicable to purchases of materials, supplies and equipment, and contracts for public works construction, maintenance, and general services which are competitively bid. If the Program is applicable to a bid offering, it shall be noted in the applicable bid solicitation.
(§2, Ord. 1093-10, eff. June 17, 2010)

Article 2. Public Works Projects

Sec. 3-4.201 Contracts to Specify Dollar Amounts.

All contracts for public works projects in an amount in excess of Five Thousand and no/100ths ($5,000.00) Dollars shall be specified as a "lump sum" or as a "not-to-exceed" amount. The City Council may by a four-fifths (4/5) vote approve exceptions to this requirement only after expressly finding that a determination of a "not-to-exceed" price is not feasible.
(§2, Ord. 834, eff. November 3, 1988)

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CHAPTER 5 - CABLE TELEVISION FRANCHISES

Article 1. General Provisions

Sec. 3-5.101 Definitions.

For the purpose of this chapter, the following terms, phrases, words and their derivations shall have the meaning given in this section. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

(a) "Basic services" shall mean the cable television system shall:

(1) Relay to subscribers' terminals those broadcast signals required by the FCC.

(2) Distribute in color all television signals which it receives in color.

(3) Have a minimum downstream capacity in accordance with FCC regulations, which are incorporated herein by reference.

(4) Provide to each subscriber, as technology is available at no additional charge to the subscriber, a program security or lock-out device that would allow the subscriber to program the blocking out of any channel of service being provided.

(5) Provide to subscriber burglar and fire alarm and medical alert services when requested, as technology is available.

(b) "Cable television system," "CATV," "CTV" and "community antenna" shall mean a system employing antennae, microwave, wires, wave guides, coaxial cables, or other conductors, equipment or facilities, designed, constructed or used for the purpose of:

(1) Collecting and amplifying local and distant broadcast television or radio signals and distributing and transmitting them;

(2) Transmitting cablecast programming not received through television broadcast signals;

(3) Transmitting television pictures, film and videotape programs, not received through broadcast television signals;

(4) Transmitting or receiving two-way signals or transmissions;

(5) Transmitting and receiving all other signals, digital voice, and audiovisual.

(c) "City" shall mean the City of Avalon, State of California.

(d) "Council" shall mean City Council of Avalon.

(e) "FCC" shall mean the Federal Communications Commission.

(f) "Franchise" shall mean and include any authorization granted hereunder in terms of a franchise, privilege, permit, license or otherwise to construct, operate and maintain a cable television system within all or a specified area in the City. Any such franchise shall be deemed to include and shall incorporate by reference all the terms of this chapter and of the ordinance authorizing the franchise. Any such authorization shall not satisfy the business license requirement contained in Section 3-1.103 of this Code.

(g) "Franchisee" is a grantee of rights under this chapter and shall mean a person granted a franchise and the lawful successor or permitted assignee of said person. The terms "franchisee" and "grantee" shall be used interchangeably throughout this chapter.

(h) "Franchise property" shall mean all property and all depreciable property, including, but not limited to towers, antennae, coaxial cables, electrical conductors, conduits, electronic equipment, appurtenances and facilities owned, installed or used within the city by the grantee in the operation and conduct of a cable television system business under the authority of the franchise granted pursuant to this chapter.

(i) "Head-end" shall mean large master antennae and electronic equipment used to pick up direct signals from broadcasting facilities.

(j) "Highway" shall mean any public highway, including bridges, freeway (except a State freeway), street, road, alley, lane, trail or court, or other public property or public easement as defined in this section, and above and below the same, which now exists or which may hereafter exist in any incorporated territory of the City and in which the City has the authority to grant a franchise.

(k) "Non-basic services" shall mean that the cable television system may:

(1) Transmit original cablecast programming not received through television broadcast signals;

(2) Transmit television pictures, film, and videotape programs not received through broadcast television signals, whether or not encoded or processed to permit reception by only selected receivers or subscribers.

(3) Transmit any additional broadcast signals permitted by the FCC.

(4) Transmit and receive all other signals, digital, voice and audio visual, etc.

(5) Provide a minimum of one combined access channel, one channel each for municipal, educational and public access.

(6) Maintain and have available for public use at least the minimal equipment and facilities necessary for the production and programming of a public access channel. This facility shall be located within the designated franchise area unless otherwise authorized by the Council.

(l) "Person" shall mean any natural person, firm, partnership, association, corporation, company or organization of any kind.

(m) "Public easement" shall mean and include, but is not limited to any easement created by dedication to the City for public utility purposes or any other

purpose whatsoever.

(n) "Subscriber" or "user" shall mean any person or entity receiving for any purpose any service of a franchisee's cable television system, including the ultimate recipient of any distribution of a franchisee's service.

(o) "Subscriber revenues" shall mean those revenues derived from the monthly service charges paid by subscribers located within an authorized franchise service area. Subscriber revenues shall include revenues received as installation charges and fees for reconnections, connections, inspection, repairs or modifications of any installations. Subscriber revenues shall also include the following:

(1) "Gross annual basic subscriber receipts" shall mean any and all compensation and other consideration received directly or indirectly by the franchisee from subscribers in payment for the basic service of the cable television system.

(2) "Gross annual nonbasic service receipts" shall mean any and all compensation and other consideration received directly or indirectly by the franchisee from subscribers or users in payment for the receipt of nonbasic service.

(3) "Gross annual advertising receipts" shall mean any income, compensation and other consideration received by the franchisee derived from any form of advertising.

(4) "Gross annual lease receipts" shall mean any fees or income received by the franchisee for the lease or rental and compensation for any service in connection therewith, including but not limited to studio and equipment rental and projection costs of any channel permitted or designated by the FCC to be so leased or rented.
(§1, Ord. 740, eff. June 16, 1983)

Sec. 3-5.102 Franchise to Install and Operate.

The nonexclusive franchise granted by the City authorizes a franchisee, subject to the provisions herein contained:

(a) To engage in the business of cable television service and the distribution and sale of such service to subscribers within the designated service area.

(b) To erect, install, construct, replace, and retain poles, coaxial cable, conductors, amplifiers, television antenna, supporting structures, and appurtenances in, along and across streets or other public places within the designated service area;

(c) To maintain and operate such franchise properties for the origination, collection, transmission, amplification, distribution and reception of electrical or radiant energy.
(§1, Ord. 740, eff. June 16, 1983)

Sec. 3-5.103 Term of Franchise.

(a) *Ten (10) Year Term.* A franchise granted hereunder shall be for a ten (10) year period commencing on the effective date of the City Council's adoption of an ordinance authorizing the franchise.

(b) *Renewal.*

(1) The franchise may be renewed by the City for a further term, not to exceed ten (10) years, at the discretion of the City Council on the terms, covenants, and conditions contained herein, upon application of the grantee and a finding by the City Council after a public hearing thereon that the grantee has satisfactorily performed its obligations under the franchise during the primary term.

(2) The grantee shall inform the City in writing of its intent to seek renewal of the franchise at least twenty-four (24) months prior to the expiration of the franchise.

(3) In making such determination, the City Council shall consider technical developments and performance of the system, programming, other services offered, cost of services, the grantee's annual performance reports to the City and the FCC, industry performance on a national scale and any other factors which the City Council deems relevant. The City Council shall make its determination at least twelve (12) months before the expiration of the franchise. The City Council may condition the renewal upon compliance with any amendments to this chapter or applicable State or Federal law and upon such revisions in the franchise agreement as it deems necessary and proper.

(4) The grantee may refuse to accept the renewal of the franchise on such conditions and amendments, in which event the franchise shall terminate at the expiration of the primary term.

(5) In the event of a finding by the City Council that the grantee has not satisfactorily performed its obligations under this franchise during the primary term, new applicants may be sought and evaluated and a new franchise may be awarded by the City.

(6) Failure of the grantee to apply for a renewal of the franchise pursuant to the provisions of this section shall be construed to mean that the grantee intends to dispose of its franchise property at the termination of the franchise term in accordance with the provisions of this chapter.
(§1, Ord. 740, eff. June 16, 1983)

Sec. 3-5.104 Franchise Temporary.

A franchise may include all or a specific opinion of the City.

(a) In the event any new territory shall be annexed to the City which is contiguous to only one franchise area in the City, such new territory shall become, by operation of law, a part of such franchise area immediately upon the effective date of such annexation.

(b) In the event any new territory shall be annexed to the City which is contiguous to an area served by more than one franchise or is not contiguous to any franchise area, then the Council shall determine at a public hearing, which grantee or grantees, if any, shall serve such new territory.

(c) In the event any opinion of the unincorporated territory covered by an existing franchise or license granted by the County of Los Angeles is annexed to the City prior to the time that the grantee of such County franchise or license has commenced installation of a CATV system within said territory, all rights acquired by said grantee under its County franchise or license shall terminate by operation of law as of the date on which the annexation to the City becomes effective.

(d) In the event any portion of the unincorporated territory covered by an existing franchise or license granted by the County of Los Angeles is annexed to the City after the grantee thereof has commenced or completed construction and installation of a CATV system within said territory, the rights reserved under such franchise or license to the County of Los Angeles or to any officer thereof, shall inure to the benefit of the City and all regulatory provisions of this chapter and any other rules and regulations applicable to CATV systems operating within the City, whether then in effect or subsequently adopted, shall be applicable to and binding upon said grantee. In addition, the grantee shall be obligated to pay annually to the City, the percentage of the gross receipts established by the County of Los Angeles in said franchise or license which are derived from its operations within the annexed territory for five (5) years or upon termination of the franchise, whichever is of the shorter time duration, at which time the Council may establish the percentage of gross receipts to be paid to the City.
(§1, Ord. 740, eff. June 16, 1983)

Sec. 3-5.105 Legislative Authority.

All franchises or licenses for a cable television shall be granted pursuant to Section 53066 of the Government Code.
(§1, Ord. 740, eff. June 16, 1983)

Sec. 3-5.106 FCC or California Public Utilities Commission Jurisdiction.

Whenever the FCC or the Public Utilities Commission (PUC) of the State or any other Federal or State body or agency now or hereafter exercises any paramount jurisdiction over any specific provisions of the franchise, such paramount jurisdiction shall preempt or preclude the exercise of like jurisdiction by City.

In the event that the FCC elects to deregulate any area of cable communication over which it currently exercises jurisdiction in such manner as to expand rather than limit municipal regulatory authority, any franchise issued pursuant to the ordinance shall be automatically amended, without any additional act by any party to it, to reflect these new municipal regulatory powers, and the City may, if it so elects, adopt rules and regulations in these areas.
(§1, Ord 740, eff. June 16, 1983)

Sec. 3-5.107 Responsibility for Signal Quality.

Franchisee shall retain full responsibility for the quality of cable television service to all recipients of redistributed service (i.e., through microwave, master antennae or satellite redistribution). Franchisee shall be presumed to have retained such responsibility together with all obligations arising from the franchise, including but not limited to charges to the ultimate recipient for service.
(§1, Ord. 740, eff. June 16, 1983)

Sec. 3-5.108 Equality of Rates.

Franchisee shall not grant any preference or advantage to any person or group, nor subject any person or group to prejudice or disadvantage as to rates, services, service facilities, rules and regulations or in any other respect relative to the rights granted under the franchise.
(§1, Ord. 740, eff. June 16, 1983)

Sec. 3-5.109 Franchise Fee.

(a) In consideration for the granting and exercise of the franchise as defined in this chapter, for the purpose of constructing and operating a cable television system, franchisee shall pay quarterly to the City in lawful money of the United States, and during the life of the franchise, five (5%) percent of its gross subscriber revenues received by the franchisee for regular monthly cable television services rendered to customers located within the authorized franchise service area. However, the City reserves the right to change its fees at five (5) year intervals after a public hearing determines good cause is found and such action is not in conflict with FCC rules and regulations.

(1) For the purpose of this section only, the term "gross subscriber revenues" shall be deemed to be installation fees, disconnect and reconnect fees and fees for regular cable benefits including the transmission of broadcast signals and access and local origination channels, if any, derived from its operations within the authorized franchise service area. It does not include revenues derived from per-program or per-channel charges, leased channel revenues and advertising revenues or any other incomes derived from the system. The franchisee shall pay quarterly to the City an amount equal to the total of the following derived from its operations within the authorized franchise service area:

(i) Five (5%) percent of its gross annual basic subscriber receipts;

(ii) Five (5%) percent of its gross annual nonbasic service receipts;

(iii) Five (5%) percent of its gross annual advertising receipts;

(iv) Five (5%) percent of its gross annual lease receipts.

(2) The franchise payment period for the franchise shall be on a calendar-year basis.

(b) Checks for all such payments shall be made payable to the City of Avalon and shall be submitted to the Finance Director within thirty (30) days after the expiration of said period. Franchise fees remitted and actually received by the City on or before the last day of the thirty (30) day period following each payment period shall be deemed timely remitted. Franchise fees remitted by mail shall be deemed timely filed only if the envelope enclosing the franchise fee is addressed to the City and bears a postmark on or prior to the due date.

(c) Each payment shall be accompanied by statement of the manager, or other franchisee officer of equal authority, showing in detail the facts material to the determination of the amount due.

(d) In the event franchisee fails to make the payments for the franchise on or before the dates due as provided in this section, franchisee shall pay interest on the amount due at the current prime interest rate at the time of default calculated from the date due until paid.

(e) Franchisee shall keep and preserve, for a period of three (3) years subsequent to the date of the most recent franchise fee determination, all the records necessary to determine the amount of such franchisee fee, including but not limited to all business and bank statements.

(f) *Public Benefit.* Grantee shall contribute Fifty ($.50) Cents per subscriber per year, to a nonprofit corporation to enable the cable TV subscriber in the franchise area to receive community access programming not otherwise available. The City shall have the right to determine which agency shall receive the contribution.
(§1, Ord. 740, eff. June 16, 1983)

Sec. 3-5.110 Reports and Audits.

(a) Franchisee shall permit examination by any duly authorized representative of the City at all reasonable times of any and all maps and other such records and accounts kept or maintained by franchisee or under its control concerning the operation, affairs, transactions or property of franchisee relating to the franchise.

(b) City shall have the right to require such additional reports as may be reasonably necessary to confirm franchisee's performance of obligations under this chapter to City and to franchisee's subscribers.
(§1, Ord. 740, eff. June 16, 1983)

Sec. 3-5.111 Fair Employment Practices.

(a) Franchisee shall not make any discrimination, distinction or restriction on ac-count of color, race, religion, ancestry or national origin contrary to the provisions of Section 51 of the Civil Code of the State which is incorporated in this section by reference.

(b) All provisions of Section 1410 through 1432 of the Labor Code of the State (California Fair Employment Practice Act) are incorporated in this section by reference.
(§1, Ord. 740, eff. June 16, 1983)

Sec. 3-5.112 Nonexclusive Franchise.

The granting of the franchise shall not be construed to prevent the City from granting any identical or similar franchise to any person other than the franchisee.
(§1, Ord. 740, eff. June 16, 1983)

Sec. 3-5.113 FCC Compliance.

(a) Franchisee shall, at all times, comply with the rules and regulations governing CATV operations promulgated by the FCC specifically but not limited to those set out in Section 76.31 of the FCC Rules and Regulations. This shall include adherence by the franchisee to FCC rules regarding technical and engineering specifications involved in the construction of the CATV system and signal carriage therein.

(b) Consistent with the requirements of Section 76.3(a) (6) of the FCC, any modification(s) of Section 76.31 resulting from amendment thereto by the FCC shall to the extent applicable be considered a part of the franchise as of the effective date of the amendment made by the FCC.
(§1, Ord. 740, eff. June 16, 1983)

Article 2. Applications, Hearing and Grant of Franchise

Sec. 3-5.200 Application - Required.

Any person desiring a franchise or license for a cable television system shall file an adequate application with the City.
(§1, Ord. 740, eff. June 16, 1983)

Sec. 3-5.201 Application - Contents.

An adequate application for a franchise or license for a cable television system shall contain, where applicable:

(a) The name, address and telephone number of the applicant;

(b) Designation of specific area proposed to be served by franchisee;

(c) A detailed description of prior history and experience of applicant, including the expertise of applicant in the cable television field;

(d) A detailed statement of the corporate or other business entity organization of the applicant, including but not limited to, the following and to whatever extent required by the City:

(1) The names, residence and business addresses of all officers, directors, associates, partners (general and limited), and joint venturers of the applicant.

(2) The names, residence and business addresses of all officers, persons and entities having, controlling, or being entitled to have or control of five (5%) per-cent or more of the ownership of the applicant and the respective ownership share of each such person or entity.

(3) The names and addresses of any parent or subsidiary of the applicant, namely, any other business entity owning or controlling applicant in whole or in part or owned or controlled in whole or in part by the applicant, and a statement describing the nature of any such parent or subsidiary business entity, including but not limited to cable television systems owned or controlled by the applicant, its parent and subsidiary and the areas served thereby.

(e) A description of education and business background of each officer;

(f) A current financial statement of applicant verified by a CPA audit. If statement is unavailable, then the following will be required:

(1) Letters of credit, or other acceptable evidence in writing from a recognized lending institution or funding source, addressed to both the applicant and the Council, setting forth the basis for a study performed by such lending institution or funding source, and a clear statement of its intent as a lending institution or funding source to provide whatever capital shall be required by the applicant to construct and operate the proposed system in the City.

(2) Letters from persons verifying or having knowledge of applicant's business experience, technical expertise and financial status, certifying that the applicant has available sufficient free, net and uncommitted cash resources to construct and operate the proposed system in the City.

(3) Itemized business bank accounts, if any, together with name, and location of banks handling accounts.

Applicant will be required to authorize release of financial information to City from financial institutions relating to information supplied by applicant in support of the application;

(g) Proposed construction schedule, providing for at least twenty (20%) percent construction per year for five (5) years;

(h) A street map of area to be served including the location of proposed or existing head-end site (antenna site) and business office;

(i) Legal description of area to be served;

(j) Proposed rates and charges to be charged subscribers;

(k) Itemized electronic equipment to be used, channels to be provided, pay TV or additional services and type of converter;

(l) Technical market survey of area and economic analysis including number of homes, population, income bracket and percent of those requesting service, if available;

(m) A statement identifying, by place and date, any other cable television franchise(s) awarded to the applicant, its parent or subsidiary; the status of said franchise(s) with respect to completion thereof; the total cost of completion of such system(s); and the amount of applicant's and its parent's or subsidiary's resources committed to the completion thereof;

(n) Any additional information that the City deems to be applicable;

(o) A copy of the form of any agreement, undertaking, or other instrument pro-posed to be entered into between the applicant and any subscriber;

(p) A detailed statement setting forth in its entirety any and all agreements and undertakings, whether formal or informal, written, oral, or implied, existing or proposed to exist between the applicant and any person, firm, or corporation which materially relate or pertain to or depend upon the application and the granting of the franchise;

(q) A copy of any agreement covering the franchise area, if existing between the applicant and any public utility subject to regulation by the California Public Utilities Com-mission providing for the use of any facilities of the public utility, including but not limited to poles, lines, or conduits;

(r) An application fee in the sum of Five Hundred Fifty and no/100ths ($550.00) Dollars, which shall be in the form of cash, certified or cashier's check, or money order, to pay the costs of studying, investigating, and otherwise processing such application including costs of publication, and which shall be in consideration thereof and not returnable or refund-able in whole or in part, except to the extent that such fee exceeds the actual costs incurred by the City in studying, investigating and otherwise processing the application; provided, that any applicant who shall deliver to the City Clerk a written withdrawal of or cancellation of any application hereunder, not later than the seventh (7th) day next following the day such application is received by the City Clerk, shall be entitled to have returned and refunded the sum of Five Hundred and no/100ths ($500.00) Dollars, less any actual costs or expenses incurred by the City by reason of such application.
(§1, Ord. 740, eff. June 16, 1983)

Sec. 3-5.202 Setting for Public Hearing.

(a) The Council may, by advertisement or any other means, solicit and call for applications for cable television system franchises and may determine and fix any date upon or after which the same shall be received by the City, or the date before which the same must be received, and may make any other determinations and specify any other times, terms, conditions, or limitations respecting the soliciting, calling for, making and receiving of such applications.

(b) Upon receipt of any application for franchise, the Council shall refer the same to the City Manager who shall prepare a report and make his recommendations respecting such application, and cause the same to be completed and filed with the Council within forty-five (45) days.

(c) The City Manager shall set the application or applications for hearing at a time and date approved by the City Council.
(§1, Ord. 740, eff. June 16, 1983)

Sec. 3-5.203 Notice of Hearing.

Not less than ten (10) days before the hearing, the City Clerk shall give notice in writing of the time, date and place of hearing to the applicant. The City Clerk shall serve such notice upon the applicant either by first-class mail, postage prepaid, or by personal delivery thereof to applicant.
(§1, Ord. 740, eff. June 16, 1983)

Sec. 3-5.204 Posting Notice.

In those three (3) places within the area to be served which the City Clerk finds will most adequately notify the inhabitants thereof, the City Clerk not less than ten (10) days prior to the hearing shall post notice of the time, date and place of hearing at each of three (3) locations.
(§1, Ord. 740, eff. June 16, 1983)

Sec. 3-5.205 Contents of Posted Notice.

The posted notice of hearing shall state the applicant's statement of prices to be charged and also shall state:

Any person having objections to the granting of the franchise or license for which application is made, or wishing to suggest any other terms and conditions which should be included in such franchise or license, at any time prior to the date above named may file with the City Clerk in writing his/ her reasons therefor, and may appear at the time and place of the hearing to be heard relative thereto.
(§1, Ord. 740, eff. June 16, 1983)

Sec. 3-5.206 Publication.

The City Clerk shall publish in a newspaper of general circulation circulated within the area to be served and pursuant to Section 6063 of the Government Code the same notice as is required to be posted.
(§1, Ord. 740, eff. June 16, 1983)

Sec. 3-5.207 Payment for Publication and Posting.

If the cost of publication, posting and processing of applications exceeds the amount deposited by the applicant, the City shall bill for the deficiency. The applicant shall pay the whole of such bill within thirty (30) days after receipt thereof.
(§1, Ord. 740, eff. June 16, 1983)

Sec. 3-5.208 Protests and Suggestions.

Any person interested, at any time after the filing of an application as provided in this chapter, and prior to the hearing there-on, may file with the City Clerk written protests or suggestions, or both, either against the granting of the franchise or license or to suggest any terms and conditions which should be included in the franchise or license. The Council in considering the application shall give consideration to all of such protests and suggestions.
(§1, Ord. 740, eff. June 16, 1983)

Sec. 3-5.209 Conduct of Hearing.

At the time and place set for the hearing or at the time and place to which the hearing may be continued by the Council, the Council shall hear the applicant, who may present any evidence to show why the franchise or license should be granted, why certain terms or conditions should be imposed or not imposed on such franchise or license if granted, and also shall hear testimony or statements of other persons who may attend the hearing and present reasons why the application should be denied or why, if granted, the franchise or license should or should not be subject to certain conditions.
(§1, Ord. 740, eff. June 16, 1983)

Sec. 3-5.210 Decision After Hearing.

Within thirty (30) days after the close of the hearing, and based upon the evidence received at the hearing the Council shall make a decision as to whether or not the application should be granted, and, if granted, subject to what conditions. In making any determination hereunder as to any application the Council may give due consideration to the quality of the service proposed, rates to subscriber, income to the City, experience, character, background, and financial responsibility of any applicant, and its management and owners, technical and performance quality of equipment, willingness and ability to meet construction and physical requirements, and to abide by policy conditions, franchise limitations and requirements, and any other considerations deemed pertinent by the Council for safeguarding the interests of the City and the public. The Council, in its discretion, shall determine the award of any franchise on the basis of such considerations and without competitive bidding.

The Council determination to accept or reject such application shall be final and conclusive. The Council shall send a copy of its decision to the applicant.
(§1, Ord. 740, eff. June 16, 1983)

Sec. 3-5.211 Acceptance of Franchise.

(a) No franchise granted under this chapter shall become effective for any purpose unless and until written acceptance thereof shall have been filed with the City Clerk. Written acceptance, which shall be in the form and substance approved by the City Attorney, shall also be and operate as an acceptance of each and every term and condition and limitation contained in this chapter, or in such franchise, or otherwise specified as herein provided.

(b) The written acceptance shall be filed by the grantee not later than 12:01 p.m. of the fortieth (40th) day next following the effective date of the ordinance granting such franchise.

(c) In default of the filing of such written acceptance as herein required, the grantee shall be deemed to have rejected and repudiated the franchise. Thereafter, the acceptance of the grantee shall not be received nor filed by the City Clerk. The grantee shall have no rights, remedies, or redress in the premises, unless and until the Council, by resolution, shall determine that such acceptance be received or filed, and then upon such terms and conditions as the Council may impose.

(d) In any case, and in any instance, all rights, remedies and redress in these premises which may or shall be available to the City, shall at all times be available to the City, and shall be preserved and maintained and shall continuously exist in and to the City, and shall not be in any manner or means modified, abridged, altered, restricted, or impaired by reason of any of these premises, or otherwise.

(e) Any franchise granted and accepted under this chapter shall be in lieu of any and all other rights, privileges, powers, immunities, and authorities owned, possessed, con-trolled, or exercisable by the grantee, of or pertaining to the construction, operation, or maintenance of any cable television systems in the City.
(§1, Ord. 740, eff. June 16, 1983)

Sec. 3-5.212 Alienation of Franchise.

(a) Franchisee shall not sell, transfer, lease, assign or dispose of, in whole or in part, either by forced or involuntary sale, or by ordinary sale, contract, consolidation or otherwise, the franchise without the prior consent of the Council and then only upon such terms and conditions as may be prescribed by the Council. Any attempt to sell, transfer, lease, assign or otherwise dispose of the franchise without the consent of the Council shall be null and void. No such consent shall be required for a transfer in trust, mortgage or other hypothecation, in whole or in part, to secure an indebtedness, except when such hypothecation exceeds fifty (50%) percent of the market value of the property of franchisee or any part thereof.

(b) In the event that franchisee is a corporation, prior approval of the Council shall be required where ownership or control of more than ten (10%) percent of the voting stock of franchisee is acquired by a person or group of persons acting in concert, none of whom already own or control thirty (30%) percent or more of the voting stock, singularly or collectively.

(c) Franchisee shall notify the City in writing of any foreclosure or any other judicial sale of all or a substantial part of the property of franchisee or upon the termination of any lease or interest covering all or a substantial part of said franchise property. Such notification shall be considered by the City as notice that a change in control of ownership of the franchise has taken place and the provisions under this section governing the consent of City to such change in control of ownership shall apply.
(§1, Ord. 740, eff. June 16, 1983)

Sec. 3-5.213 Rights Reserved to City.

(a) In addition to any rights specifically reserved to the City by this chapter the City reserves to itself every right and power which is or under the franchise, and franchisee by acceptance of the franchise agrees to be bound thereby and to comply with any action or requirement of the City in its exercise of any such right or power.

(b) The City shall have the right to inspect during normal working hours franchisee's facilities and records relating to the franchise.

(c) The City shall have the right to waive any provision of the franchise, except those required by Federal or State regulation, if the City determines (1) that it is in the public interest to do so, or (2) that the enforcement of such provision will impose an undue hardship on the franchisee or the subscribers. To be effective, such waiver shall be evidenced by a statement in writing signed by a duly authorized representative of the City. Waiver of any provision in one instance shall not be deemed a waiver of such provision subsequent to such instance nor be deemed a waiver of any other provision of the franchise unless the statement so recites.
(§1, Ord. 740, eff. June 16, 1983)

Article 3. Service Standards and Rates

Sec. 3-5.300 Establishment of Service.

(a) Within thirty (30) days after acceptance of the franchise, the franchisee shall proceed with due diligence to obtain all necessary permits, authorization, the FCC Certificate of Compliance and any other authorizations which are required in the conduct of its business. In connection therewith, copies of all petitions, applications and communications submitted by the franchisee to the FCC, or any Federal or State regulatory body having jurisdiction in respect of any matter affecting franchisee's cable television operation, shall also be submitted concurrently to the City Clerk.

(b) Franchisee shall within eighteen (18) months after acceptance of franchise obtain all necessary permits, certifications and authorizations as indicated in subsection (a) of this section. Franchisee shall notify City when all such permits, authorizations and certifications have been obtained, and shall send a copy of the FCC Certificate of Compliance to the City Clerk. Should franchisee be unable to comply with the requirements of this subsection within the time specified herein, the franchise granted in this chapter shall become null and void and franchisee shall have no rights thereunder; provided, however, that the City may for good cause shown by franchisee grant extensions of time to comply with this requirement.

(c) Within ninety (90) days after obtaining the necessary permits, certifications and authorizations, franchisee shall commence construction and installation of the cable television system. Franchisee shall notify City in writing, within ten (10) days thereof of the date of commencement of construction and installation work.

(d) The franchisee shall extend and complete cable television system throughout the designated service area with reasonable diligence. Within one year after complying with the requirements of subsection (b) of this section, franchisee shall complete the construction of an operable "head-end" and shall construct energized trunk cable to at least twenty (20%) percent of the remaining authorized franchised service area. At the end of three (3) years after complying with the requirements of subsection (b) of this section, franchisee shall be capable of pro-viding basic service to every residence within the franchise area.
(§1, Ord. 740, eff. June 16, 1983)

Sec. 3-5.301 Rates.

(a) The provisions contained herein relating to rates shall apply to any grantee during the first year following the date of delivery of service pursuant to the initial grant of a franchise hereunder pursuant to the provisions of Government Code Section 53066.1(a) and shall continue to be applicable to any grantee beyond said first year unless said grantee makes the necessary election and files the necessary declaration of exemption with the City, all in accordance with the requirements of Government Code Section 53066.1.

(b) At the time of the granting of any franchise hereunder, the Council shall establish and fix all rates and charges for the basic service, herein defined, allowable to grantee, such as:

(1) Charges for installation;

(2) Subscriber rates;

(3) Service charges for separate classifications of service (e.g., additional connections, etc.);

(4) Once established, such rates or charges shall not be increased at any time after granting of a franchise, except after due notice and hearing as provided herein or as otherwise provided in subsection (a) above.

(c) Rates and charges for services, other than the basic service, shall also be approved by the Council by resolution, after due notice and hearing as provided herein to the extent authorized by the FCC and State Law.

(d) Prior approval of the Council is required before the grantee may increase any rates or charges to subscribers, or make new rates for additional services, to the extent authorized by Federal or State law.

(1) In the event that grantee desires to change any rate or rates it shall file a petition with the Council at least ninety (90) days prior to the proposed date of rate change. Said petition shall set forth the proposed changes and the reason for which said changes are based. Upon receipt of said petition for rate change the Council may direct the City Manager to conduct a study and make recommendations concerning said rate change request. Following receipt of said report and recommendation the Council shall hold a public hearing on the rate change request. Notice of any such hearing shall describe any rates or charges to be fixed or changed, the reasons therefor, ad setting forth the time and place when and where any persons having any interest therein may appear before the and be heard. The City Clerk shall publish the notice at least ten (10) days before the hearing in a newspaper of general circulation within the City. The City Clerk shall also cause a copy of such notice to be mailed to the Grantee at least ten (10) days prior to the date specified for the hearing.

(2) Following said public hearing, the Council may establish and fix rates or charges so as to provide a rate of return reasonable and fair to the grantee and the public.

(3) The Council shall adopt a resolution approving, disapproving or modifying the proposed rate change request which resolution shall establish and fix any new rates or charges therein. Such resolution shall hereupon be part of any franchise granted under this chapter. In addition, said resolution shall set forth findings of fact and conclusions to support said determination of the Council in connection with said rate change request.

(4) The Council shall render its decision within ninety (90) days after receipt of the petition for change of rate except that said period may be extended for an additional thirty (30) days upon motion of the Council or upon written request by the grantee. In the event that the Council does not make a decision within the time periods heretofore mentioned, grantee may institute the proposed rate changes upon an interim basis. Rates charged on an interim basis shall be conformed to the decision of the Council when rendered. Upon request by the Council, grantee shall post a security bond on an acceptable surety company to guarantee any adjustments or refunds that may be required pursuant to the decision of the Council.

(5) The Council on its own motion may direct the City Manager to conduct a study of the grantee's rates at any time, and make recommendations concerning the same. Following receipt of the City Manager's report and recommendation, the Council shall hold a public hearing prior to changing any existing rate or approving any new rate or charge. Notice of any such hearing shall describe any rates or charges to be fixed or changed, the reasons therefor, and setting forth a time and place when and where any persons having any interest therein may appear before the Council and be heard. The City Clerk shall publish the notice at least thirty (30) days before the hearing in a newspaper of general circulation within the City. The City Clerk shall also cause a copy of such notice to be mailed to the grantee at least thirty (30) days prior to the date specified for the hearing. Following said public hearing, the decision of the Council shall be made in accordance with the provisions of paragraph (3) set forth above.

(e) In the event that Federal or State law precludes the City from regulating rates, the grantee shall notify the City of intent to increase or otherwise revise rates. Said notification shall be made in writing ninety (90) days prior to the proposed date for implementation of the new rates.
(§1, Ord. 740, eff. June 16, 1983)

Sec. 3-5.302 Minimum Service Standards.

(a) Franchisee shall construct a cable television system which provides all of those basic services set forth in subsection (a) of Section 3-5.101. This cable system shall have the technical capacity for nonvoice return communication when the FCC so rules.

(b) Franchisee shall distribute in color those television signals which it receives in color.

(c) Franchisee shall render such service to subscriber as will meet or exceed FCC technical and performance requirements.

(d) Franchisee shall render efficient service, making repairs promptly and interrupting service only for good cause and for the shortest time possible; such interruptions insofar as possible shall be preceded by notice given to subscribers twenty-four (24) hours in advance and shall occur during the periods of minimum use of the system.

(e) Franchisee shall maintain and upgrade the system and services to reflect those technical and economic developments occurring during the term of the franchise which will benefit the public in terms of new and more effective and efficient services.

(f) Franchisee shall obtain prior authorization from the City to operate under a fictitious name other than that stated in the franchise. Any fictitious name shall be filed with the City Clerk.

(g) Franchisee shall provide and maintain continuous service to subscribers unless allowed otherwise by the City. Franchisee may petition the City to authorize the suspension or abandonment of service upon such reasonable terms and conditions as may be prescribed by the City.
(§1, Ord. 740, eff. June 16, 1983)

Sec. 3-5.303 Subscriber Complaints.

(a) The grantee shall limit system failures to minimum time duration by locating and correcting malfunctioning promptly, but in no event longer than twenty-four (24) hours after occurrence, irrespective of holidays or other nonbusiness hours.

(b) Upon complaint by any subscriber, franchisee shall have the burden to satisfy the City that a signal is being delivered which is of sufficient strength and quality to meet standards contained in the FCC rules and regulations.

(c) Franchisee shall maintain a written complaint record containing the following information:

(1) Date and time of subscriber complaint;

(2) Identification of the complainant by name and address;

(3) A record of when and what action was taken by franchisee to resolve the complaint.

(d) Said record shall be kept at franchisee's local office for a period of two (2) years after receipt of any such complaint. A copy of said complaint records shall be submitted by franchisee to City within ten (10) days following receipt of a written request therefor by City.

(e) Franchisee shall provide each subscriber in the authorized franchise area with a notice identifying City as the franchising authority, indicating the local business headquarters office of franchisee to handle subscriber complaints, and identifying the City as the referral agency if any problem regarding the CATV service or rates is not resolved by the franchisee to the reasonable satisfaction of the subscriber.

(f) Franchisee shall maintain a local business headquarters office within the City and provide the name, address and phone number of a person who will act as the company's agent to receive complaints regarding quality of service, equipment malfunctions and similar matters. The local office shall be open to receive inquiries or complaints from subscribers during normal business hours. A toll-free phone number shall be available to all subscribers located within the franchised area for the reporting of service problems on a twenty-four (24) hours per day, seven (7) days per week, three hundred sixty-five (365) days per year basis.

(g) The grantee shall credit or refund to the subscriber an amount equal to five (5%) percent of the total monthly service charge for each day's service interrupted whenever service is not provided for a period of twenty-four (24) hours, beginning from the time such outage is reported to the grantee, except when such outage is caused by circumstances outside the grantee's control such as fire, earthquake, riot and other similar circumstances.

(h) A subscriber bill of rights approved by the City shall be provided to each sub-scriber by the franchisee published initially and with each change in rate and/or charge there-after.

(i) The City Manager or his designated representative shall be responsible for assisting in the resolution of any consumer complaints. Citizens or grantee may call upon this service.
(§1, Ord. 740, eff. June 16, 1983)

Sec. 3-5.304 Prohibited Activities.

The franchisee, or any of its agents or employees, shall not sell, or otherwise make available to any party (a) lists of the names and addresses of subscribers, or (b) any list which identifies the viewing habits of individual sub-scribers. This does not prohibit the franchisee from providing composite ratings of subscriber viewing to any party.
(§1, Ord. 740, eff. June 16, 1983)

Sec. 3-5.305 Technical Standards.

(a) The franchise shall construct, install, operate and maintain its system in such a manner consistent with all laws, ordinances, construction standards, governmental requirements, FCC technical standards, and detailed standards submitted by the franchisee as part of its application. In addition, franchisee shall provide the City, upon request, with a written re-port of the results of the franchisee's annual proof of performance tests conducted pursuant to FCC standards and requirements.

(b) The franchisee shall continue, through the term of the franchise, to maintain technical standards and quality of service set forth in this chapter. Should the City find that the franchisee has failed to maintain these technical standards and quality of service, and should the City specifically enumerate improvements to be made, the franchisee shall make such improvements. Failure to make such improvements within three (3) months of such resolution will constitute a breach.
(§1, Ord. 740, eff. June 16, 1983)

Sec. 3-5.306 City Review of System Performance.

(a) When there have been similar complaints made or where there exists other evidence which, in the judgment of the City Manager, casts reasonable doubt on the reliability or quality of cable service, the City Manager shall have the right to compel the grantee to test, analyze and report on the performance of the system in order to protect the public against substandard cable service. Such test or tests shall be made and the report thereof shall be de-livered to the City Manager no later than fourteen (14) days after the City Manager notifies the grantee that he is exercising such right. Such report shall include the following information: the nature

of the complaints which precipitated the special tests; what system component was tested; the equipment used and procedures employed in said testing; the results of such tests; and, the method in which such complaints were resolved. Any other information pertinent to the special test shall be recorded.

(b) Said tests and analyses shall be supervised at the expense of the grantee, if so requested by the City Manager, by a professional engineer who is not on the permanent staff of the grantee. The engineer shall sign all records of such special tests and forward such records to the City Manager with a report interpreting the result of the tests and recommending actions to be taken.

(c) In the event that the grantee shall fail to make the improvements, repairs or adjustments to the system necessary to restore the reliability or quality of cable service within sixty (60) days after the City Manager has given notice to the grantee that he is exercising his right to compel the grantee to test, analyze and report on the performance of the system as set forth in subsection (a) of this section, the grantee shall pay to the City the sum of Five Hundred and no/100ths ($500.00) Dollars per day for each day that the grantee has failed to remedy such deficiency, unless the grantee proves to the reasonable satisfaction of the City Manager that the delay was caused by factors beyond the control of the grantee, or is otherwise waived by the City Council for good cause shown.
(§1, Ord. 740, eff. June 16, 1983)

Sec. 3-5.307 Periodic Evaluation Sessions.

The City and the grantee shall hold scheduled evaluation sessions within thirty (30) days of the third (3rd) and sixth (6th) anniversary dates of the granting of this franchise. All such evaluation sessions shall be open to the public and advertised in a newspaper of general circulation at least ten (10) days before each session. The sessions shall be held at such place, date and time and before such body or officer as the City Council shall determine. The purpose of the sessions shall be to evaluate the performance of the grantee in fulfilling its obligation under this franchise and the quality of its service to the public. Subjects for discussion may include, but shall not be limited to, service rate structure, free or discounted service, application of new technologies, system performance, services provided, programming offered, customer complaints, privacy and civil rights, amendments to this chapter, statutes of Congress and the legislature and judicial and FCC rulings.
(§1, Ord. 740, eff. June 16, 1983)

Sec. 3-5.308 Special Evaluation Sessions.

The City may hold special evaluation sessions at any time during the term of this franchise. The grantee shall be notified of the place, time and date thereof and the topics to be discussed. Such sessions shall be open to the public and advertised in a newspaper of general circulation at least ten (10) days before each session.
(§1, Ord. 740, eff. June 16, 1983)

Sec. 3-5.309 Periodic Reporting.

The following information shall be re-ported to the City on an annual basis and the report shall be received by the City Manager on or before the first (1st) day of April of each year.

(a) *Existing Service Area*. An outline of the existing service area with comments on small areas not actually served, areas where certain services are not yet available, or areas where special conditions exist. All special rate areas or isolated subscribers shall be indicated.

(b) *Work in Progress*. An indication on the map of areas where system construction or reconstruction is in progress plus a comment on the present status and anticipated schedule of completion of the work in each area.

(c) *Proposed Service Area*. An indication on the map of those areas where service is planned and a schedule describing the planned implementation.

(d) *Special Service Points*. Maps or lists indicating where any type of special service is available.

(e) *Statistics on Subscribers*. The following numbers shall be supplied: single-family homes passed, single-family subscribers, multiple-dwelling units passed, multiple-dwelling units subscribers, commercial subscribers, additional television outlets, and saturation (total subscribers divided by total dwelling units passed).

(f) *Statistics on System Expansion*. A listing of any expansion of the cable system including a measure, in miles of cable, of such expansion. Designations shall be included to identify expansions to new developments.

(g) *Technical Standards*. A detailed, informative, and referenced statement de-scribing the actual equipment and operational standards of the grantee and the corresponding standards required by this chapter shall be provided. Such statement shall be certified by a third party, acceptable to City for accuracy. Changes shall not be made in the statement without prior approval of the City Manager.

(h) *Subscriber Agreements*. Copies of new or revised subscriber agreements, if any. Changes in such agreements shall not be made without prior approval of the City Manager.
(§1, Ord. 740, eff. June 18, 1983)

Sec. 3-5.310 Service to Public Buildings.

Franchisee shall, at its cost, provide and maintain one cable television drop to each City facility, library district, and public school district located within the authorized franchise service area upon request for service.
(§1, Ord. 740, eff. June 18, 1983)

Sec. 3-5.311 Service to Private Nonprofit Schools.

(a) Franchisee shall at its cost, provide and maintain one cable television drop to each private, nonprofit school site within the authorized franchise service area.

(b) As used in this section, "private, nonprofit schools" means schools that satisfy the requirements of Section 12154 of the Education Code of the State and which are exempt from taxation under Section 214 of the Revenue and Taxation Code of the State.
(§1, Ord. 740, eff. June 18, 1983)

Sec. 3-5.312 Interconnection.

Upon the effective date of the franchise, the grantee shall install no CATV system component, whether as part of a new CATV system, as an extension of an existing system, or as a replacement for an existing system, unless such component has a bi-direction interconnect capability. Whenever adjacent systems have full bi-directional interconnect capability, the City reserves the right to require such systems be interconnected provided that the City has first consulted with the franchisee and provided that such interconnection is technically feasible.

(§1, Ord. 740, eff. June 18, 1983)

Sec. 3-5.313 Construction Requirements.

(a) All franchise property to be constructed and operated under the franchise shall be built and constructed of first class materials in a good and workmanlike manner and shall be maintained in good working condition.

(b) Franchisee shall not construct or install any poles, conduits or other system facilities within City highways until franchisee has secured the necessary permits from the City or obtained any other necessary authorization from City, and obtained permission from the Federal Aviation Authority to erect and maintain antennae suitable to the needs of the system and its subscribers.

(c) In those areas of the City where transmission or distribution facilities of the public utility providing telephone or electric power service are underground, the grantee like-wise shall construct, operate and maintain all of its transmission and distribution facilities therein underground.

(d) In those areas of the City where grantee's cables are located on the above-ground transmission or distribution facilities of the public utility providing telephone or electric power service, and in the event that such public utility facilities or any part thereof subsequently are placed underground, then the grantee likewise shall reconstruct, operate and maintain its transmission and distribution facilities underground.

(e) Amplifiers and other electrical facilities to service underground cables may be pad-mounted.

(f) If any portion of any street is damaged by reason of installation or existence of any facility constructed under this franchise, the grantee thereof shall, at its own expense, immediately following written or oral notification thereof, repair any such damage and put such street in as good condition as it was before such damage, to the satisfaction of the City Manager or such person as designated by the City Manager. All work and repairs in the public rights-of-way shall conform to the City's street standards.
(§1, Ord. 740, eff. June 18, 1983)

Article 4. Security, Insurance and Termination

Sec. 3-5.400 Removal or Abandonment of Franchise Property.

(a) In the event that (1) the use of any franchise property or a portion thereof is disconnected for a continuous period of twelve (12) months, or (2) franchise property has been installed in any highway, or any portion thereof, without complying with the requirements of the franchise, or without a permit or other authority, as required in this chapter, franchisee, upon notice to do so from the City and at franchisee's sole cost and expense, shall remove promptly from the highway all such franchise property other than any such property which the City may permit to be abandoned in place. Franchisee shall obtain a permit from the City prior to any such removal or abandonment in place.

(b) Upon permanent abandonment of any franchise property in place, franchisee, if required by the City, shall submit to the City an instrument, satisfactory in form to the City Attorney, transferring to the City the ownership of the franchise property as abandoned.

(c) In addition to the foregoing, the City Manager, upon such terms as the City may impose, may give the franchisee permission to abandon, without removing, any system facility or equipment laid, directed, constructed, operated or maintained under the franchise. The length of any such facility or equipment abandoned with such permission shall not be considered in calculating payments due under the franchise except for the time prior to the effective date of such permission. Nothing contained in the franchise shall be construed to permit the franchisee any right to omit from its annual reports, if such reports are required and from the calculation of its franchise payments, the length of any abandoned facility or equipment of franchisee except in the manner aforesaid. Unless such permission is granted, the franchisee shall remove all abandoned facilities and equipment within ninety (90) days after such abandonment and shall restore the highway to its former state at the time such facilities and equipment are removed, as near as may be, so as not to impair its usefulness.
(§1, Ord. 740, eff. June 18, 1983)

Sec. 3-5.401 Hold Harmless.

Franchisee shall indemnify, defend and hold the City, its officers, agents and employees harmless from any liability, claims, damages, costs or expenses, including reasonable attorney's fees, arising from injury to persons or damage to property proximately caused by any conduct undertaken by the franchisee, its agent or employees, by reason of the franchise; franchisee shall, at his sole cost and expense, upon demand of the City, appear in and defend any and all suits, actions or other legal proceedings, whether judicial, quasijudicial, administrative, legislative or otherwise brought or instituted or had by third persons or duly constituted authorities, against or affecting the City, its officers, agents or employees, and arising out of or pertaining to the exercise of rights arising under the franchise.
(§1, Ord. 740, eff. June 18, 1983)

Sec. 3-5.402 Insurance.

(a) On or before commencement of franchise operations, franchisee shall obtain policies of liability, worker's compensation and property insurance from companies authorized to transact business in California by the Insurance Commissioner of California.

(b) The policy of liability insurance shall:

(1) Be issued to franchisee and name City, its officers, agents and employees as an additional insured;

(2) Indemnify for all liability for personal and bodily injury, death and damage to property arising from activities conducted and premises used pursuant to this chapter by providing coverage therefor, including but not limited to coverage for:

(i) Negligent acts or omission of franchisee and the agents, servants and employees thereof, committed in the conduct of franchise operations, and/or

(ii) Use of motor vehicles;

(3) Provide a combined single limit for comprehensive general liability and comprehensive automobile liability insurance in the amount of One Million and no/100ths ($1,000,000.00) Dollars;

(4) Be noncancellable without thirty (30) days' written notice thereof directed to City.

(c) The policy of worker's compensation insurance shall:

(1) Have been previously approved as to substance and form by the California Insurance Commissioner;

(2) Cover all employees of franchisee who in the course and scope of their employment are to conduct the franchise operations;

(3) Provide for every benefit and payment presently or hereinafter conferred by Division 4 of the Labor Code of the State upon an injured employee, including the vocational rehabilitation and death benefits.

(d) The policy of property insurance shall provide fire insurance with extended coverage, as well as burglary and theft insurance, on the inventory, trade fixtures, furnishings and equipment to be used by franchisee in the conduct of franchise operations in an amount sufficiently adequate to enable franchisee to resume franchise operations following the occurrence of any of the risks covered by said insurance.

(e) Franchisee shall file with the City Clerk prior to commencement of the franchise operations either certified copies of said policies or a certificate of insurance for each of the required policies executed by the company issuing the policy, certifying that the policy is in force and providing the following information with respect to said policy:

(1) The policy number;

(2) The date upon which the policy will become effective and the date upon which it will expire;

(3) The names of the named insured and any additional insured;

(4) Subject of the insurance;

(5) The type of coverage provided by the insurance;

(6) Amount or limit of coverage provided by the insurance;

(7) A description of all endorsements that form a part of the policy.

(f) Conduct of the franchise operations shall not commence until franchisee has complied with the aforementioned provisions of this section, and shall be suspended during any period that franchisee fails to maintain said policies in full force and effect.
(§1, Ord. 740, eff. June 18, 1983)

Sec. 3-5.403 Faithful Performance Bond.

On or before the effective date of the ordinance granting the franchise, franchisee shall file and thereafter at all times during the life of the franchise keep on file with the City Clerk a corporate surety bond running to the City, or to its lawful successors in interest by virtue of future incorporations or annexations, in the penal sum of Five Thousand and no/100ths ($5,000.00) Dollars with surety to be approved by the City, conditioned that franchisee shall well and truly observe, fulfill and perform each condition of the franchise and that in case of any breach of condition of the bond the whole amount of the penal sum shall be deemed to be liquidated damages and shall be recoverable from the principal and sureties of the bond. If the bond is not filed prior to the effective date of the ordinance granting the franchise, the award of the franchise may be set aside and the ordinance granting the franchise repealed at any time prior to the filing of the bond and any money paid in consideration for the award of franchise shall be deemed forfeited. In the event that the bond, after it has been so filed, shall at any time during the life of the franchise become insufficient, franchisee agrees to renew the bond, with sureties to be approved by the City, within ten (10) days after written notice to do so from the City.
(§1, Ord. 740, eff. June 18, 1983)

Sec. 3-5.404 Termination of Franchise Due to Default.

(a) Any franchise granted under this chapter may be terminated prior to its date of expiration by the City Council in the event that the City Council has found, after thirty (30) days' notice of any proposed termination and public hearing, that:

(1) The grantee has failed to comply with any provision of this chapter, or has, by act of omission, violated any term or condition of any franchise or permit is-sued; provided, that in the event of such violation the City Manager shall make written demand that grantee do or comply with any such term or condition within such reasonable amount of time as is deemed by the City Manager to be appropriate under the circumstances, and the grantee shall have such amount of time thereafter in which to fully comply.

(b) Upon declaration of termination, all rights and privileges accruing to franchisee by virtue of the franchise shall be terminated and franchise shall cease all construction under said franchise and shall, within thirty (30) days after such declaration of forfeiture, conclude all operation and business under the franchise.
(§1, Ord. 740, eff. June 18, 1983)

Sec. 3-5.405 Severability.

If any provision of the franchise or the application of the franchise to any person or circumstance is held invalid by a court of competent jurisdiction or is not in compliance with any requirement of the FCC, the PUC or any other Federal or State agency, the remainder of the franchise, or the application of the franchise to persons of circumstances other than those to which it is held invalid or not in such compliance shall not be affected thereby.
(§1, Ord. 740, eff. June 18, 1983)

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CHAPTER 1 - BICYCLES, PUSHMOBILES, AND TOY VEHICLES

Sec. 4-1.01 Bicycles: Registration Required.

It shall be unlawful for any person to operate, or permit to be operated by hire or otherwise a bicycle upon any street or public way within the City unless such bicycle shall be in a safe operating condition and shall have been registered by the owner and properly licensed or tagged as provided in this chapter.
(§1, Ord. 285, as amended by §1, Ord. 391; and §1, Ord. 459)

Sec. 4-1.02 Bicycles: Application and Registration.

Every owner of a bicycle, excluding rental bicycles, shall register the bicycle once with the Fire Department by filing an application setting forth the name and address of the owner, together with a complete description of the bicycle, including the make, type and serial number, on forms provided for such purpose by the Fire Department and by paying a one time registration fee in an amount to be set by resolution of the City Council.
(§2, Ord. 285, as amended by §2, Ord. 391; and §1, Ord. 543, eff. January 1, 1972; §1, Ord. 839, eff. April 6, 1989; §1, Ord. 954-98, eff. August 20, 1998; §1, Ord. 1001-1, eff. November 15, 2001)

Sec. 4-1.03 Identification Tags and License Plates.

Each registered bicycle shall be assigned a number to be kept on file in the Fire Department as a public record. Upon registration, the Fire Department shall cause an identification tag or license plate to be affixed to each bicycle so registered at or near the rear of the seat or saddle. The identification tag or license plate shall be serially numbered to correspond with the registration number. The tag or license plate shall remain fixed to the bicycle unless removed by court order. In the case of theft, loss, mutilation, or defacement of the tag or license plate, a duplicate shall be issued by the Fire Department for a fee to be set by resolution of the City Council. No person shall willfully remove, deface or destroy any identification tag or license plate.
(§2, Ord. 285, as amended by §2, Ord. 391; §1, Ord. 839, eff. April 6, 1989; §2, Ord. 1001-01, eff. November 15, 2001)

Sec. 4-1.04 Change of Ownership or Dismantling.

Within ten (10) days after any change in ownership or the dismantling to take out of use any bicycle registered pursuant to the provisions of this chapter, the person in whose name the bicycle has been registered shall report such information to the Fire Department and shall endorse upon the registration certificate previously issued for such bicycle a written transfer of same, setting forth the name, address and telephone number of the transferee, the date of transfer, and the signature of the transferor. Any person who purchases or otherwise acquires possession of a bicycle shall, within ten (10) days of taking possession, apply for the transfer of registration to the person's own name and shall pay a new registration fee in an amount to be set by resolution of the City Council. In cases of dismantling in order to take a bicycle out of operation, the registration shall be canceled and the identification tag or license plate shall be returned to the Fire Department.
(Ord. 285, as amended by §3, Ord. 391; §1 Ord. 839, eff. April 6, 1989; §3, Ord. 1001-01, eff. November 15, 2001)

Sec. 4-1.05 Bicycles: Operation Without Consent of Registered Owner.

It shall be unlawful for any person to operate a bicycle in the City without the consent of the registered owner.
(§4, Ord. 285)

Sec. 4-1.06 Skates and Skateboards.

(a) It shall be unlawful for any person to use any skateboard, skate, rollerblade or similar wheeled device on any public sidewalk, street, roadway or alley within the City between the hours of sunset and sunrise and during such other times that the enforcing agency issues a prior warning to forbid skating and skateboarding in such areas based upon the enforcing agency's determination, within its discretion, that the number of persons and vehicles in the area are such as to render the skating activity unsafe. Notwithstanding the foregoing, skating and skateboarding may be permitted during such times and places for supervised events with prior written approval from the Council or the City Manager.

(b) (1) Notwithstanding Section 4-1.06(a), it shall be unlawful for any person to use any skateboard at any time on any public wall, bench, fountain, sidewalk or stair and on any of the following public rights-of-way: all of Crescent Avenue from Marilla Avenue to and including all portions of South Beach and the Cabrillo Mole; Pebbly Beach Road from Crescent Avenue to the beginning of Lover's Cove Walkway pavers; Chimes Tower Road; Vieudelou Avenue; Hiawatha Avenue; Lower Marilla Avenue from Vieudelou Avenue down; West Whittley Avenue; East Whittley Avenue; Metropole Avenue from Tremont to Crescent Street; Country Club Drive; Wrigley Road; Clarissa, Catalina, and Sumner Avenues from Third Street, including all alley ways that extend therefrom, to Crescent Street; Casino Walk between the intersection of Metropole and Crescent to the archway; and any other public right-of-way of more than ten (10%) percent grade that may be hereafter be accepted by the City and which the City Council identifies by resolution as consisting of such grade.

(2) Notwithstanding Section 4-1.06(a), it shall be unlawful for any person to use any skate at any time on any public wall, bench, fountain, sidewalk, stair and on any of the following public rights-of-way: Crescent Avenue from Clarissa to Metropole; on the Cabrillo Mole; Chimes Tower Road; Vieudelou Avenue; Hiawatha Avenue; Lower Marilla Avenue from Vieudelou Avenue down; West Whittley Avenue; East Whittley Avenue; Metropole Avenue from Tremont to Crescent Street; Country Club Drive; Wrigley Road; Catalina and Sumner Avenues from Third Street, including all alley ways that extend therefrom, down to Crescent Street; Casino Walk between the intersection of Metropole and Crescent to the archway; and any other public right-of-way of more than ten (10%) percent grade that may hereafter be accepted by the City and which the City Council identifies by resolution as consisting of such grade.

(c) It shall be unlawful for any person while using any skateboard, skate, rollerblade, or similar wheeled device to obstruct the free movement of any person on any public sidewalk, street, roadway or alley or other place open to the public.

(d) It shall be unlawful for any person to ride or use a skateboard in the City's Las Casitas Skateboard Park unless he or she is wearing a helmet, and elbow and knee pads.

(e) The enforcing agency shall have the authority to confiscate a skateboard, skates, rollerblades or similar wheeled device from any person violating this section or when a citation is issued for violation of this section, and to hold such item pending release to a parent or guardian or as evidence pending trial. Where the violator is a minor, inquiry shall be made to determine the location of the minor's parent or guardian in order to determine whether confiscation will result in hardship or practical difficulties in returning the confiscated item.
(§1, Ord. 69, as amended by §1, Ord. 559, eff. July 19, 1972; §1, Ord. 601, eff. April 2, 1975; §1, Ord. 611, eff. November 5, 1975; §1, Ord. 622, eff. October 4, 1976; §2, Ord. 880-92-U, eff. August 18, 1992; §2, Ord. 883-92, eff. October 1, 1992; §2, Ord. 927-96, eff. June 20, 1996; §2, Ord. 945A-97, eff. November 20, 1997; §§2, 3, Ord. 950-98, eff. May 7, 1998)

Sec. 4-1.07 Recovery and Storage of Bicycles.

The owner of any bicycle found or recovered, which is stored by the City or its agents, shall be charged daily storage fees in an amount to be set by resolution of the City Council. The daily storage fee shall be charged commencing on the first day of storage of a bicycle not then currently registered pursuant to the provisions of Section 4-1.02 of this chapter. Prior to release of the bicycle, the owner shall pay the storage fees and apply for and receive a license pursuant to the provisions of Section 4-1.02. Where the bicycle is currently registered, the daily storage fee shall be charged commencing on the date notification is mailed to the registered owner and shall be paid prior to release of the bicycle.
(§3, Ord. 543, eff. January 1, 1972; §4, Ord. 1001-01, eff. November 15, 2001)

Sec. 4-1.08 Receipts and Expenditures.

All money received from the fees provided for by this chapter shall be placed in the City's General Fund, and the cost of defraying the expenses of registrations, tags, and license plates shall be provided by the Council.
(§6, Ord. 285, as renumbered by §2, Ord. 543, eff. January 1, 1972)

Sec. 4-1.09 Violations of Provisions.

Except as provided herein, violations of this chapter shall constitute a misdemeanor, and upon conviction, the violator shall be punished as set forth in Chapter 2 of Title 1 of this Code and/or shall have his license suspended for a period not to exceed ninety (90) days. Two (2) or fewer violations of Section 4-1.06 within a twelve (12) month period shall be an infraction, punishable by a fine of not less than Twenty-five and no/100ths ($25.00) Dollars for a first offense and a fine of not less than Forty and no/100ths ($40.00) Dollars for a second offense. A third or greater number of violations within a twelve (12) month period shall constitute a misdemeanor, and upon conviction, the violator shall be punished as set forth in Chapter 2 of Title 1 of this Code.
(§7, Ord. 285, as renumbered by §2, Ord. 543, eff. January 1, 1972; §1, Ord. 948A-98, eff. March 5, 1998)

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CHAPTER 2 - CIVIL DEFENSE

Sec. 4-2.01 Purposes.

The declared purposes of this chapter are to provide for the preparation and carrying out of plans for the protection of persons and property within this City in the event of an emergency, the direction of the emergency organization, and the coordination of the emergency functions of this City with all other public agencies, corporations, organizations, and affected private persons.
(§1, Ord. 670, eff. November 14, 1979)

Sec. 4-2.02 Definition.

As used in this chapter, "emergency" shall mean the actual or threatened existence of conditions of disaster or of extreme peril to the safety of per-sons and property within this City caused by such conditions as air pollution, fire, flood, storm, epidemic, riot, or earthquake, or other conditions, including conditions resulting from war or imminent threat of war, but other than conditions resulting from a labor controversy, which conditions are or are likely to be beyond the control of the services, personnel, equipment, and facilities of this City, requiring the combined forces of other political subdivisions to combat.
(§1, Ord. 670, eff. November 14, 1979)

Sec. 4-2.03 Disaster Council Membership.

The Avalon Disaster Council is hereby created and shall consist of the following:

(a) City Manager, who shall be Director of Emergency Services.

(b) Assistant Director of Emergency Services.

(c) Such chiefs of emergency services as are provided for in a current emergency plan of this City, adopted pursuant to this chapter.

(d) Such representatives of civic, business, labor, veterans, professional, or other organizations having an official emergency responsibility, as may be appointed by the director with the advice and consent of the City Council.
(§1, Ord. 670, eff. November 14, 1979)

Sec. 4-2.04 Disaster Council Powers and Duties.

It shall be the duty of the Avalon Disaster Council, and it is hereby empowered, to develop and recommend for adoption by the City Council, emergency and mutual aid plans and agreements and such ordinances and resolutions and rules and regulations as are necessary to implement such plans and agreements. The Disaster Council shall meet upon call of the chairman, or, in his absence from the City or inability to call such meeting, upon call of the vice chairman.
(§1, Ord. 670, eff. November 14, 1979)

Sec. 4-2.05 Director and Assistant Director of Emergency Services.

There is hereby created the office of Director of Emergency Services. The City Manager shall be the Director of Emergency Services.

There is hereby created the office of Assistant Director of Emergency Services, who shall be appointed by the Director.
(§1, Ord. 670, eff. November 14, 1979)

Sec. 4-2.06 Powers and Duties of the Director and Assistant Director of Emergency Services.

(a) The Director is hereby empowered to:

(1) Request the City Council to proclaim the existence or threatened existence of a "local emergency" if the City Council is in session, or to issue such proclamation if the City Council is not in session. Whenever a local emergency is proclaimed by the director, the City Council shall take action to ratify the proclamation within seven days thereafter or the proclamation shall have no further force or effect.

(2) Request the Governor to proclaim a "state of emergency" when, in the opinion of the Director, the locally available resources are inadequate to cope with the emergency.

(3) Control and direct the effort of the emergency organization of this City for the accomplishment of the purposes of this chapter.

(4) Direct cooperation between and coordination of services and staff of the emergency organization of this City, and resolve questions of authority and responsibility that may arise between them.

(5) Represent this City in all dealings with public or private agencies on matters pertaining to emergencies as defined herein.

(6) In the event of the proclamation of a "local emergency" as herein provided, the proclamation of a "state emergency" by the Governor or the Director of the State Office of Emergency Services, or the existence of a "state of war emergency", the Director is hereby empowered:

(i) To make and issue rules and regulations on matters reasonably related to the protection of life and property as affected by such emergency; provided, however, such rules and regulations must be confirmed at the earliest practicable time by the City Council.

(ii) To obtain vital supplies, equipment, and such other properties found lacking and needed for the protection of life and property and to bind the City for the fair value thereof and, if required immediately, to commandeer the same for public use.

(iii) To require emergency services of any City officer or employee and, in the event of the proclamation of a "state of emergency" in the County in which this City is located or the existence of a "state of war emergency", to command the aid of as many citizens of this community as he deems necessary in the execution of his duties such persons shall be entitled to all privileges, benefits, and immunities as are provided by State law for registered disaster service workers.

(iv) To requisition necessary personnel or material of any City department or agency.

(v) To execute all of his ordinary power as City Manager, all of the special powers conferred upon him by this chapter, or by resolution or

emergency plan pursuant hereto adopted by the City Council, all powers conferred upon him by any statute, by any agreement approved by the City Council, and by any other lawful authority.

(b) The Director of Emergency Services shall designate the order of succession to that office, to take effect in the event the Director is unavailable to attend meetings and other-wise perform his duties during an emergency. Such order of succession shall be approved by the City Council.

(c) The Assistant Director shall, under the supervision of the Director and with the assistance of emergency service chiefs, develop emergency plans and manage the emergency programs of this City and shall have such other powers and duties as may be assigned by the Director.
(§1, Ord. 670, eff. November 14, 1979)

Sec. 4-2.07 Emergency Organization.

All officers and employees of this City, together with those volunteer forces enrolled to aid them during an emergency, and all groups, organizations, and persons who may by agreement or operation of law, including persons impressed into service under the provisions of Section 4-2.06(a)(6)(iii) of this chapter, be charged with duties incident to the protection of life and property in this City during such emergency, shall constitute the emergency organization of the City of Avalon.
(§1, Ord. 670, eff. November 14, 1979)

Sec. 4-2.08 Emergency Plan.

The Avalon Disaster Council shall be responsible for the development of the City of Avalon Emergency Plan, which plan shall provide for the effective mobilization of all of the resources of this City, both public and private, to meet any condition constituting a local emergency, state of emergency, or state of war emergency; and shall provide for the organization, powers and duties, services, and staff of the emergency organization. Such plan shall take effect upon adoption by resolution of the City Council.
(§1, Ord. 670, eff. November 14, 1979)

Sec. 4-2.09 Expenditures.

Any expenditures made in connection with emergency activities, including mutual aid activities, shall be deemed conclusively to be for the direct protection and benefit of the inhabitants and property of the City of Avalon.
(§1, Ord. 670, eff. November 14, 1979)

Sec. 4-2.10 Punishment of Violations.

It shall be a misdemeanor, punish-able by a fine of not to exceed Five Hundred and no/100ths ($500.00) Dollars, or by imprisonment for not to exceed six (6) months, or both, for any person, during an emergency, to:

(a) Willfully obstruct, hinder, or delay any member of the emergency organization in the enforcement of any lawful rule or regulation issued pursuant to this chapter, or in the performance of any duty imposed upon him by virtue of this chapter.

(b) Do any act forbidden by any lawful rule or regulation issued pursuant to this chapter if such act is of such a nature as to give or be likely to give assistance to the enemy or to imperil the lives or property of inhabitants of this City, or to prevent, hinder, or delay the defense or protection thereof.

(c) Wear, carry, or display, without authority, any means of identification specified by the emergency agency of the State.
(§1, Ord. 670, eff. November 14, 1979)

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CHAPTER 3 - FIRE PREVENTION

Article 1. Fire Code

Editor's Note: Prior ordinances codified herein include portions of Ordinance Nos. 327, 511, 796, 806, 892-93, 908-94, 941-97, 943-97 and 1054-07.

Sec. 4-3.101 Adoption of Fire Code.

Except as hereinafter provided in this Chapter, the 2016 edition of the California Fire Code, also known as Part 9 of Title 24 of the California Code of Regulations, is hereby adopted by reference and shall constitute and may be cited as the Fire Code of the City of Avalon. A copy of the Fire Code shall be maintained in the office of the City Clerk and shall be made available for public inspection while the Code is in force.
(§ 5, Ord. 1155-17, eff. March 23, 2017)

Sec. 4-3.102 Adoption of Los Angeles County Fire Code Modifications.

(a) Because of the particular geography, climate, development of Los Angeles County, the Los Angeles Region Uniform Code Program has recommended and published certain modifications to the 2016 California Fire Code.

(b) The City of Avalon hereby adopts and incorporates the 2016 Los Angeles Region Uniform Fire Code modifications, except for those specifically enumerated in this article.

(§ 5, Ord. 1155-17, eff. March 23, 2017)

Sec. 4-3.103 Amendments to California Fire Code.

(a) Section 103.2 of the California Fire Code is hereby deleted from the City of Avalon Fire Code.

(b) Section 907.2.8A of the California Fire Code is hereby added to read as follows:

907.2.8A Group R, Divisions 1 and 3 Occupancies.

907.2.8A.1 General. In existing Group R, Divisions 1 and 3 occupancies, every dwelling unit and every guest room in a hotel, congregate residence or lodging house used for sleeping purposes shall be provided with smoke detectors conforming to State Fire Marshal Standards. All detectors shall be installed in accordance with the approved manufacturer's instructions.

907.2.8A.2 Location within dwelling units. In dwelling units, a detector shall be installed in each sleeping room and at a point centrally located in the corridor or area giving access to each separate sleeping area. When the dwelling unit has more than one (1) story and in dwellings with basements, a detector shall be installed on each story and in the basement. In dwelling units where a story or basement is split into two (2) or more levels, the smoke detector shall be installed on each level. When sleeping rooms are on an upper level, the detector shall be placed at the ceiling of the upper level in close proximity to the stairway. In dwelling units where the ceiling height of a room open to the hallway serving the bedrooms exceeds that of the hallway by twenty-four (24") inches or more, smoke detectors shall be installed in the hallway and in the adjacent room. Detectors shall sound an alarm audible in all sleeping areas of the dwelling unit in which they are located.

907.2.8A.3 Location in efficiency dwelling units, congregate residences and hotels. In efficiency dwelling units, hotel, motel, lodging house and congregate residence sleeping rooms, and in hotel suites, detectors shall be located on the ceiling or wall of the main room or each sleeping room. Where sleeping rooms are on an upper level within the efficiency dwelling unit or hotel suite, the detector shall be placed at the ceiling of the upper level in close proximity to the stairway. When actuated, the detector shall sound an alarm audible within the sleeping area of the dwelling unit, hotel suite or sleeping room in which it is located.

907.2.8A.4 Power source. Smoke detectors required by this section may be battery operated or they may be wired into the building wiring system when such wiring is served from a commercial source. The detector shall emit a signal when the batteries are low. When required smoke detectors receive their primary power from the building wiring, such wiring shall be permanent, without a disconnecting switch other than those required for overcurrent protection and equipped with a battery backup.

907.2.8A.5 Transfer of title. No person may transfer title to a dwelling unit or guest room required by this section to be equipped with a smoke detector without first filing with the City and the purchaser a statement that the dwelling unit or guest room is equipped with smoke detectors meeting the requirements of this section.

(c) Section 1003.2 of the California Fire Code is hereby amended in its entirety to read as follows:

"All buildings and structures constructed after the effective date of this ordinance, regardless of when permitted or approved, shall be provided with an automatic sprinkler system installed in accordance with the applicable standards of the National Fire Protection Association, the rules and regulations of the State Fire Marshal and of this Code. In addition, an automatic sprinkler system shall be installed throughout an entire building or structure upon (1) the rehabilitation, remodeling or reconstruction of twenty-five (25%) percent or more of the gross square footage of an existing commercial or multiple unit residential building or structure, whether done at one time or through successive projects approved at any time after the effective date of this Ordinance; (2) the rehabilitation, remodeling or reconstruction of fifty (50%) percent or more of the gross square footage of an existing single family dwelling, whether done at one time or through successive projects approved at any time after the effective date of this Ordinance, except where the cost of the rehabilitation, remodeling or reconstruction is $10,000 or less as determined by the Building Official using city-approved construction cost estimates; and (3) upon a change in the use of any building or structure, except in the case of a change in the use of a single family residence to use as a family day care home, in which case the provisions of Health & Safety Code section 1596 et seq. shall apply. Where a property owner constructs changes to an existing building without first obtaining permits for such work and no readily available, reliable source of information

exists to verify whether the unpermitted work triggers the provisions of this Section, a rebuttable presumption that the installation of fire sprinklers is required under this Section shall arise. The property owner may request a hearing before the Building Official, whose decision shall be appealable to the City Manager, for the purpose of rebutting the presumption. The City Council shall promulgate rules and regulations by resolution setting forth examples and guidance for the application of this ordinance."

(d) Sections 1003.2.3 through 1003.2.3.6 of the California Fire Code are hereby deleted.

(§ 5, Ord. 1155-17, eff. March 23, 2017)

Sec. 4-3.104 Violations; Penalties.

(a) Every person violating any provision of the Fire Code or of any permit or license granted hereunder, or any rule, regulation or policy promulgated pursuant hereto, is guilty of a misdemeanor unless such violation is otherwise declared to be an infraction by this chapter. Each such violation is a separate offense for each and every day during any portion of which such violation is committed.

(b) Every violation determined to be a misdemeanor hereunder is punishable in such manner and to such extent as is provided by Section 1-2.01 (a) of this Code. Every violation determined to be an infraction hereunder is punishable in such manner and to such extent as is provided by Section 1-2.01(b) of this Code.

(c) For the purposes of this section a forfeiture of bail shall be equivalent to a conviction.

(d) *Responsibility.* Any person who personally or through another willfully, negligently, or in violation of law sets a fire, allows a fire to be set, or allows a fire kindled or attended by such person to escape from his or her control, allows any hazardous material to be handled, stored or transported in a manner not in accordance with nationally recognized standards, allows any hazardous material to escape from his or her control, neglects to properly comply with any written notice of the Chief, or willfully or negligently allows the continuation of a violation of the Fire Code and amendments thereto is liable for the expense of fighting the fire or for the expense incurred during a hazardous materials incident, and such expense shall be a charge against that person. Such charge shall constitute a debt of such person and is collectible by the public agency incurring such expense in the same manner as in the case of an obligation under a contract, expressed or implied.

(e) *List of Infractions*. The violation of the following sections or subsections of the Fire Code shall be infractions:

505	Premises identification
1.	Obstructing and control of fire apparatus access
326.10	Restricted Entry on Closed Lands
901.6	Maintenance of fire-protection systems and equipment
901.7	Systems out of service
2.	Fire hydrant and fire appliances
2310.6.2	Obstruction of fire protection equipment
906.6	Portable fire extinguishers
3304.3; 3404.1	Open burning
304.1.1	Combustible materials
304.2	Combustible waste - storage within buildings
303.1—303.9	Asphalt kettles
2108.5	Smoking
305.1	Burning objects
305.2	Hot ashes and spontaneous ignition sources
3.	Structures
325	Clearance of brush - extra hazard
326.17	Fire roads and firebreaks
1031.2.1	Locking devices
1024.5	Door identification
315.3.2.1	Storage under stairways
1104.3	Illumination
2504.6	Smoking
2311.2.2	Waste Oil Storage
5704.2.6.1	Waste Control
2803.3.3	Combustible waste
1008.1	Means of egress illumination
3104.21	Vegetation removal
304.2	Storage
503	Fire apparatus access roads
324.3	Fire protection
306.2.2	Smoking
4501.4	Smoking
2403.2.7	Welding warning signs
2404.7.8.5	Filter disposal
306.2.1	Fire extinguishers
2403.4	Operations and maintenance
2403.4.3	Metal Waste Cans for Rags and Waste

905.12.1	General
2405.3.4	Dip tank covers
912.4	Signs
1104.16.7	Maintenance
2204.3	Dust Collection
2408.5	Sources of ignition
2003.2	Smoking
2803.3.1	Housekeeping
3003.7.7	Sources of ignition
910.1	General
5303.5	Security
326.13	Open Flame Device
5701.6	Maintenance and operating practices
2408.5	Sources of ignition
5003.2.5	Empty containers and tanks
324.3	Fire protection
912.4	Signs
325	Clearance of Brush and Vegetative Growth
605.5	Electrical Extension Cords
3604.4	Portable Fire Extinguishers—marinas
3603.2	Open flame device-boat or marina
2007.10.3	Access
2405.4.2	Portable fire protection equipment

(§ 5, Ord. 1155-17, eff. March 23, 2017)

Article 2. Abatement of Weeds, Rubbish and Rubble

Sec. 4-3.201 Definitions.

"Rubbish" shall mean all solid wastes, whether or not putrescible or combustible, including but not limited to garbage, refuse, ashes, street cleanings and dead animals, which are in such a state as to be unsightly or which endanger the public safety by creating a health or fire hazard.

"Rubble" shall mean any residue remaining after the demolition or partial demolition of any wall, structure or building.

"Weeds" shall mean all plants which bear or may bear seeds of a downy or wingy nature; brush, grasses or other plants which may attain such large growth as to become, when dry, a fire menace; all plants which are otherwise noxious or dangerous, including but not limited to poison ivy and oak.
(§1, Ord. 893-93, eff. March 4, 1993)

Sec. 4-3.202 Certain Accumulations Unlawful.

It shall be unlawful for any person having charge or control of any property, lands or lots in the City, either as owner, lessee, tenant or otherwise, to permit any weeds, rubbish or rubble to be or remain upon such property, lands or lots, or upon the sidewalks, parking or streets upon which the same abuts. Violations of this section shall be punishable as a misdemeanor.
(§1, Ord. 120; §1, Ord. 893-93, eff. March 4, 1993)

Sec. 4-3.203 Disposal of Weeds, Rubbish and Rubble.

Upon removal, all weeds, rubbish and rubble shall not be placed, deposited or dumped in City streets or between the property line and the curb line.
(§1, Ord. 893-93, eff. March 4, 1993)

Sec. 4-3.204 Annual Publication of Notice.

The Fire Chief shall cause to be published in "The Catalina Islander" and "The Avalon Bay News", between April 1 and April 20 of each year, two (2) separate notices which read as follows:

NOTICE TO ALL PERSONS TO REMOVE WEEDS, RUBBISH AND RUBBLE PRIOR TO JUNE 1:

ALL PERSONS IN CHARGE OR IN CONTROL OF PROPERTY IN THE CITY OF AVALON ARE HEREBY NOTIFIED TO REMOVE AND DISPOSE OF ALL WEEDS, RUBBISH AND RUBBLE THEREON PRIOR TO JUNE 1ST.

MISDEMEANOR CITATIONS SHALL BE ISSUED PURSUANT TO AVALON MUNICIPAL CODE SECTION 4-3.202 AGAINST PERSONS FAILING TO COMPLY WITH THIS NOTICE.

_____
FIRE CHIEF, City of Avalon
By Direction of the City Council.

(§1, Ord. 893-93, eff. March 4, 1993)

Sec. 4-3.205 Notice to Remove.

Upon the failure of any property owner or other person to remove or dispose of weeds, rubbish and rubble prior to May 15 of each year, such person shall be given written notice before June 1 of each year by the Fire Chief to remove or dispose of same within ten (10) days of the date of the notice. Said notice shall also be posted at the premises. The notice shall be in substantially the form set forth in Section 4-3.206 and shall be sent by registered or certified mail by the City Clerk to the owners of the property as they and their addresses appear upon the current assessment roll.
(§1, Ord. 893-93, eff. March 4, 1993)

Sec. 4-3.206 Form of Notice.

The notice shall bear the heading in letters not less than one-inch in height: "NOTICE TO REMOVE AND DISPOSE OF WEEDS, RUBBISH AND RUBBLE" and shall state:

Notice is hereby given that the weeds or plants growing upon or in front of your property, described as Assessor's Parcel Number __, or the rubbish or rubble thereon constitute a public nuisance which must be abated within ten (10) days of the date of this notice. Failure to comply with the notice is a violation and a misdemeanor, and a citation will be issued and served upon you requiring you to appear before the Catalina Justice Court. IT IS THE POLICY OF THE COURT NOT TO DISMISS CITATIONS WHERE COMPLIANCE OCCURS AFTER JUNE 1ST.

If you fail to remove and dispose of the weeds, rubbish and rubble, they will be removed and abated by the City of Avalon and the cost of removal assessed upon the land from or in front of which the weeds, rubbish and rubble are removed and will constitute a lien upon such land until paid. Reference is hereby made to the Avalon Municipal Code for further particulars, a copy of which is on file in the office of the City Clerk.

All property owners having any objections to the proposed removal of the weeds, rubbish and rubble are hereby notified to attend the meeting of the City Council of the City of Avalon on Tuesday _____, when their objections shall be heard and given due consideration.

Dated this __ day of _____, 19___.

_____
Fire Chief of the City of Avalon

(§1, Ord. 893-93, eff. March 4, 1993)

Sec. 4-3.207 Preventive Abatement.

The City Council may find and declare by resolution that weeds on specified parcels of property are seasonal and recurrent nuisances. Upon the second and any subsequent occurrence of such nuisance on the same parcel or parcels within the same calendar year, no further hearings need by held and it shall be sufficient to mail a post card notice to the owners property that the City will abate the nuisance and costs of the abatement will be assessed upon the parcel. The notice shall also state that the efficient and economical control of such seasonal and recurrent nuisances require preventive chemical control, the City shall do so and the costs of such chemical control will be assessed upon the parcel.
(§1, Ord. 893-93, eff. March 4, 1993)

Sec. 4-3.208 Hearing and Abatement Order.

At the conclusion of the hearing, the City Council shall allow or overrule any objections and by motion shall order the Fire Chief to abate the nuisance.
(§1, Ord. 893-93, eff. March 4, 1993)

Sec. 4-3.209 Entry to Abate.

The Fire Chief or his designee may enter upon private property to abate nuisances provided that a warrant is first obtained if required.
(§1, Ord. 893-93, eff. March 4, 1993)

Sec. 4-3.210 Costs, Special Assessment and Lien.

The cost of abatement, including investigation, boundary determination, measurement, clerical and other related costs, shall constitute a special assessment against the parcel. The Fire Chief shall keep an account of the cost of abatement of or on each separate parcel where work is done by him or at his direction and shall, in writing, inform the City Clerk of the cost of performing same. The City Clerk shall advise the property owner in writing of such cost and that such costs shall constitute an assessment and lien when confirmed by the City Council unless payment is made within ten (10) days after the date of the notice or within ten (10) days after the City Council has heard a protest from the property owner, if any, and has confirmed the final cost. The Fire Chief shall submit to the City Council for confirmation an itemized written report showing such cost, which report shall be posted near the Council Chambers for at least three (3) days prior to the date on which the City Council shall consider it. At the time fixed for receiving the report, the City Council shall hear the report together with any objections of the property owners liable to be assessed, and may modify the report. The City Council shall then confirm the report by motion. The City Clerk shall record in the office of the County Recorder, a statement of the total balance due to the City, a legal description of the property, place or area involved and the name of the owner or possessor concerned. From the date of such recording, the balance due will constitute a lien on the property. The lien will continue in full force and effect until the entire amount, together with interest at the maximum legal rate accruing from the date of completion of the abatement, is paid in full.

The City may also, in accordance with the provisions of the laws of the State of California, cause the amount due to the City, together with interest at the maximum legal rate, to be charged to the owners of the property on the next regular tax bill and such costs shall be enforced and collected by the County Assessor pursuant to the provisions of Government Code Sections 39577 et seq. Refunds shall be made in accordance with Government Code Section 39585.
(§1, Ord. 893-93, eff. March 4, 1993)

Article 3. Repealed

Article 3, Fireworks, was repealed in entirety by Ordinance No. 796, effective November 27, 1986.

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