

Code of Ordinances

Title 1**GENERAL PROVISIONS**

	Chapter 1.04 DEFINITIONS	§ 1.14.050.	Service of citations, orders and notices.
§ 1.04.010.	Definitions.	§ 1.14.060.	Hearing.
		§ 1.14.070.	Administrative order.
		§ 1.14.080.	Determination of administrative penalties.
	Chapter 1.12 VIOLATION OF CODE	§ 1.14.090.	Judicial review.
§ 1.12.010.	Infraction penalty for violation of code.	§ 1.14.100.	Failure to pay administrative penalties and costs.
§ 1.12.015.	Misdemeanor penalty for violation of code.	§ 1.14.110.	Liens.
§ 1.12.020.	Each day a separate offense.	§ 1.14.120.	Administrative citation.
§ 1.12.030.	Accessory to violations.	§ 1.14.130.	Administrative compliance order.
§ 1.12.040.	Violation of code is a public nuisance.		
	Chapter 1.14 ADMINISTRATIVE REMEDIES		
§ 1.14.010.	Definitions.	§ 1.16.010.	Nuisance defined.
§ 1.14.020.	Applicability.	§ 1.16.015.	Nonresidential property nuisances.
§ 1.14.030.	Amount of administrative penalties.	§ 1.16.016.	Declaration of public nuisance.
§ 1.14.040.	Hearing officer.	§ 1.16.020.	Notice to abate nuisance.
		§ 1.16.030.	Abatement by city.
		§ 1.16.035.	Summary abatement.
		§ 1.16.040.	Remedies not exclusive.

CHAPTER 1.04 DEFINITIONS

§ 1.04.010. Definitions.

"Building" means any structure with substantial walls and roof securely affixed to the land and entirely separated on all sides from any structure by space or by walls in which there are no communicating doors, windows or openings.

"City" means the city of Burlingame.

"Days" shall mean calendar days. In the event the last day of the specified time period falls on a Saturday, Sunday or federal holiday observed by the city, then the last day of the specified time period shall be the next business day.

"Nonresidential property" means any property within the city of Burlingame, except properties zoned R1 through R4.

"Owner" means any person owning property, as shown on the last equalized assessment roll for city taxes, or the lessee, tenant or other person having control or possession of the property.

"Person" includes any individual, firm, association, corporation, limited liability company, trust, or partnership. Masculine gender includes the feminine, feminine gender includes the masculine, and the singular number includes the plural.

"State of partial construction" means, since commencement of construction, construction has been suspended or abandoned for an unreasonable period of time, and the appearance of the building substantially detracts from the appearance of the immediate neighborhood or the condition of the building is detrimental to the public health, safety or welfare.

"Structure" means anything constructed or erected, except fences, the use of which requires permanent location on the ground or attached to something having a permanent location on the ground.

"Vehicle" means a device by which any person or property may be propelled, moved or drawn upon a highway, excepting a device moved by human power.

(Ord. 1913 § 1, (2015))

CHAPTER 1.12 VIOLATION OF CODE

§ 1.12.010. Infraction penalty for violation of code.

Except as provided in Section 1.12.015, any person who commits any act declared by any provision of this code to be unlawful, or who violates the provisions, or fails to comply with the mandatory requirements of any section or portion of this code, shall be punishable as for an infraction. Every such violation is punishable by:

- (1) A fine not exceeding \$100 for the first violation;
- (2) A fine not exceeding \$200 for a second violation of the same code section within 12 months;
- (3) A fine not exceeding \$500 for each additional violation of the same code section within 12 months.
(1941 Code § 101, Ord. 415, (1945); Ord. 1041 § 1, (1975); Ord. 1277 § 1, (1984); Ord. 1637 § 3, (2000))

§ 1.12.015. Misdemeanor penalty for violation of code.

The city attorney may determine that any violation of this code shall be punishable as a misdemeanor. Every such violation is punishable by a fine not exceeding \$1,000, imprisonment not exceeding six months, or both.

(Ord. 1277 § 1, (1984))

§ 1.12.020. Each day a separate offense.

A person is guilty of a separate offense for each and every violation of the provisions of this code, or any section or part thereof, committed, continued or permitted by such person and shall be punished accordingly. This section shall prevail over any penalty provision contained in any code adopted by reference or any penalty otherwise set forth in this code.

(1941 Code § 102, Ord. 1277 § 1, (1984); Ord. 1637 § 4, (2000))

§ 1.12.030. Accessory to violations.

The provisions of this chapter shall apply to any person causing, allowing, permitting, aiding, abetting or suffering the commission of any act made unlawful by any provisions of this code, or the violation of the provisions or the failure to comply with the mandatory requirements of any provision or part of this code.
(Ord. 1277 § 1, (1984); Ord. 1637 § 5, (2000))

§ 1.12.040. Violation of code is a public nuisance.

Any building, property or structure erected, constructed, altered or maintained and/or any use of property contrary to the provisions of this code is unlawful and a public nuisance, and any failure, refusal or neglect to obtain a permit as required by the terms of this code is prima facie evidence of the fact that a nuisance has been committed in connection with the use, erection, construction, alteration or maintenance of any building, property, structure erected, constructed, altered, maintained or used contrary to the provisions of this code. The city attorney shall commence necessary proceedings for the abatement, removal and/or injunction thereof in the manner provided by law.

(Ord. 1277 § 1, (1984))

CHAPTER 1.14 ADMINISTRATIVE REMEDIES

§ 1.14.010. Definitions.

For the purposes of this chapter, the following words shall have the meanings set forth below:

"Enforcement officer" means any city employee or agent of the city designated with the authority to enforce any provision of this code.

"Enforcement official" means the principal supervisor for any city department or division charged with responsibility for enforcement of any provision of this code.

(Ord. 1892 § 1, (2013))

§ 1.14.020. Applicability.

In addition to all other civil remedies and as an alternative to any criminal remedies, the city may pursue an administrative citation or administrative compliance order pursuant to this chapter as authorized pursuant to California Government Code Section 53069.4. Use of the administrative citation and administrative compliance order shall be at the sole discretion of the enforcement officers and enforcement officials authorized to proceed under this chapter. Payment of an administrative penalty under this chapter shall not bar enforcement proceedings, including any alternative remedy, for any continuation or repeated occurrence of any code violation.

(a) Enforcement. Enforcement and collection of the penalties, costs and other charges pursuant to Sections 1.14.100 and 1.14.110 shall require the advice and consent of the city attorney.

(Ord. 1892 § 1, (2013))

§ 1.14.030. Amount of administrative penalties.

The amounts of administrative penalties for code violations shall be not less than \$50 nor more than the maximum amount of the penalty or penalties for criminal violations as set forth in the municipal code. The schedule of administrative penalties shall be set by the city manager and shall specify the amount of any late payment charges and any increased penalties for repeat violations. Such schedule shall be publicly available in the office of the city clerk and posted and/or published in a manner consistent with other city-designated fines and penalties.

(Ord. 1892 §§ 1, (2013))

§ 1.14.040. Hearing officer.

The city manager shall designate a hearing officer for administrative hearings who shall not be the citing enforcement officer. The employment, performance evaluation, compensation and/or benefits of the hearing officer shall not be directly or indirectly conditioned upon the amount of administrative penalties or the rulings upheld, revised or otherwise issued by the hearing officer. The hearing officer designated under this section may be an employee of the city or an outside contractor, as determined by the city manager in his or her discretion.

(Ord. 1892 §§ 1, (2013))

§ 1.14.050. Service of citations, orders and notices.

All citations, orders and notices required by this chapter may be served either by personal delivery or certified mail, postage prepaid, return receipt requested, addressed to a location reasonably calculated to

give notice to the alleged violator, and shall be deemed effective on the date of personal delivery or when delivery is attempted. If the certified mail receipt is returned unsigned, then service may instead be effected by first class mail, postage prepaid, provided that the notice sent by regular mail is not returned by the postal service as undeliverable, and shall be deemed effective on the date three days following deposit in the mail. Service may be effected alternately or additionally by posting a copy of the order at a conspicuous location on any real property that is the subject of the order.

(Ord. 1892 § 1, (2013))

§ 1.14.060. Hearing.

- (a) Notice and Time of Hearing. Written notice of hearing shall be served on any person to whom the citation or compliance order was addressed and shall contain the date, time and place at which the hearing shall be conducted. The hearing shall be set for a date that is not less than 15 days and not more than 60 days from the date of the notice of hearing. The hearing officer may approve a continuance of the hearing to any date for good cause.
- (b) Hearing Procedure. Hearings held pursuant to this section shall be informal and the rules of evidence shall not apply. However, at the hearing, the alleged violator shall have the opportunity to testify, present evidence, and to cross-examine witnesses concerning the administrative citation or compliance order. The alleged violator may appear personally or through an attorney. Prehearing discovery is not authorized. Subpoena of witnesses and documents shall be permitted as authorized by law. The hearing officer may conduct the hearing informally, both as to rules of procedure and admission of evidence, in any manner which will provide a fair hearing, and may continue the hearing to obtain additional evidence. The administrative citation or administrative compliance order and any additional report submitted by the enforcement officer, shall constitute presumptive evidence of the respective facts contained in those documents.
- (c) Failure to Appear. The failure of any alleged violator to appear at the hearing after proper notice or, in the alternative, to present written or demonstrative evidence shall constitute an admission of the violation by the alleged violator and an exhaustion of administrative remedies that may bar judicial review.

(Ord. 1892 § 1, (2013))

§ 1.14.070. Administrative order.

- (a) Decision Process. After considering all the testimony and evidence submitted at the hearing, the hearing officer shall issue a written administrative order, including findings regarding the existence of each violation and the extent of compliance, the reasons for that decision and notice of the right to judicial review, within 30 days following completion of the hearing. The alleged violator shall be served with a copy of the administrative order within 10 calendar days following its issuance. Service of the administrative order shall be in a form consistent with that described in Section 1.14.050. The administrative order shall be final upon service on the violator, subject only to judicial review as allowed by law.
- (b) Penalty. If the hearing officer determines that the alleged violator committed the violation alleged by a preponderance of the evidence, the hearing officer shall establish an administrative penalty and a date the penalty and any administrative costs shall be due and payable. If the hearing officer finds that the administrative citation should not be sustained or that the amount of the administrative penalty should be reduced, the city shall refund any appropriate amounts as designated in the order paid pursuant to a previously imposed citation or penalty within 30 days of the order.

- (c) Administrative Costs. The hearing officer may assess administrative costs against the violator from the date on which compliance was ordered. These administrative costs may include any and all costs incurred by the city in connection with the matter before the hearing officer, including, but not limited to, costs of inspection, investigation, staffing costs incurred in preparation for the hearing and for the hearing itself, and costs for all reinspections.
 - (d) Jurisdiction. After the administrative order becomes final, the hearing officer shall maintain continuing jurisdiction until full compliance is achieved and shall have the power to modify the administrative order, after providing the person subject to the administrative order with notice and an opportunity to be heard.
 - (e) Exception. The city attorney has independent jurisdiction to pursue alternate remedies for the same violations notwithstanding the pendency of administrative proceedings pursuant to this chapter.
- (Ord. 1892 § 1, (2013))

§ 1.14.080. Determination of administrative penalties.

The hearing officer may impose administrative penalties in an amount not to exceed the maximum provided in the schedule of administrative penalties in effect on the date of the violation. In determining the amount of the administrative penalty, the hearing officer may consider the duration of the violation, the frequency, recurrence and number of violations, related or unrelated, by the same violator, the seriousness of the violation, any good-faith compliance efforts, the economic impact of the violation on the community and such other factors as justice may require.

(Ord. 1892 § 1, (2013))

§ 1.14.090. Judicial review.

Any person subject to a decision of the hearing officer may obtain judicial review of the decision in the superior court pursuant to the provisions of California Government Code Section 53069.4.

(Ord. 1892 § 1, (2013))

§ 1.14.100. Failure to pay administrative penalties and costs.

- (a) Enforcement. Failure to pay the assessed administrative penalties and/or administrative costs specified in the administrative order may be enforced as a personal obligation of the violator, and/or if the violation is in connection with real property, a lien upon the real property, which shall remain in effect until all of the administrative penalties, interest and administrative costs are paid in full.
 - (b) Late Payment Charges. Late payment charges shall accrue and are payable as specified in the schedule of administrative penalties.
 - (c) Notification of Tax Collector. The director of finance shall notify the county tax collector of any administrative penalties and/or administrative costs imposed in connection with real property that have not been satisfied in full within 90 days after the administrative order becomes final.
- (Ord. 1892 § 1, (2013))

§ 1.14.110. Liens.

- (a) Procedure. Whenever the amount of any administrative penalty and/or administrative cost imposed pursuant to this chapter in connection with real property has not been satisfied in full within 90 days after the administrative order becomes final, this obligation may constitute a lien against any real property which was involved in the violation. Interest shall accrue on the principal amount remaining

unsatisfied pursuant to law.

- (1) Prior to recording any such lien, the director of finance shall prepare and file with the city clerk a report stating the amounts due and owing. The city clerk shall fix a time, date and place for hearing such report and any protests or objections thereto by the city council. The director of finance shall cause written notice to be served on each property owner whose interest is disclosed by the current county equalized assessment roll not less than 10 days prior to the time set for the hearing.
 - (2) The lien shall be recorded with the county recorder. Once recorded, the administrative order shall have the force and effect and priority of a judgment lien governed by California Code of Civil Procedure Section 697.340 and may be extended as provided in California Code of Civil Procedure Sections 683.110 through 683.220, as these sections may be amended.
- (b) Public Hearing and Protests of Proposed Liens. Any person owning a legal or equitable interest in real property proposed to be subject to a lien pursuant to this section may file a written protest with the city clerk and/or may protest orally at the city council hearing. The grounds for protest or objection, and any evidence or testimony submitted in support or in opposition to the imposition of a lien, shall be confined to whether the amount of any administrative penalty and/or administrative cost imposed was satisfied in full within the time allowed by law and/or was successfully challenged by a timely appeal or writ of mandate. At the close of the hearing, the city council shall adopt a resolution confirming, discharging or modifying the amount of the lien based upon evidence produced at the hearing.
- (c) Recording of Lien. Thirty days following the adoption of a resolution by the city council imposing a lien, the director of finance shall file the same as a judgment lien in the office of the county recorder of San Mateo County. The lien may carry such additional administrative charges as set forth by resolution of the city council.
- (d) Satisfaction of Lien. Once payment in full is received by the city for outstanding penalties and costs, the director of finance shall either record a notice of satisfaction or provide any property owner or financial institution having a legal or equitable interest in the property with a notice of satisfaction so they may record this notice with the office of the county recorder. Such notice of satisfaction shall cancel the city's lien.

(Ord. 1892 § 1, (2013))

§ 1.14.120. Administrative citation.

- (a) Issuance. An enforcement officer may issue an administrative citation to any person responsible for a city code violation. However, prior to the issuance of an administrative citation for a violation which pertains to building, plumbing, electrical or similar structural or zoning matters that do not create an immediate danger to health or safety, the enforcement officer shall provide a reasonable period to correct or otherwise remedy the violation of not less than 10 days.
- (b) Contents of Administrative Citation. Each administrative citation shall contain the following information: the date of the violation; the address or description of the location of the violation; the section or sections of this code violated and a description of the acts or omissions constituting the violation; the amount of the penalty for the code violation; a description of the penalty payment process, including a description of the time within which and the place to which the penalty shall be paid; a notice of right to a hearing, including the time within which the administrative citation may be contested, and how to request a hearing; and the name of the citing enforcement officer.

- (c) Request for Administrative Citation Hearing. Any recipient of an administrative citation may contest it before the hearing officer by requesting a hearing in writing and submitting the request and an advance deposit of the administrative penalty or a request for an advance deposit hardship waiver within 30 calendar days from the date the administrative citation is served.
- (d) Hardship Waiver. Any person who requests a hearing to contest an administrative citation may request in writing an advance deposit hardship waiver, including the reasons for the request. The director of finance may issue an advance deposit hardship waiver if he or she is satisfied that the person is unable to deposit the full amount of the penalty in advance of the hearing. The director shall issue a written determination of whether to issue the advance deposit hardship waiver. The written determination shall be final, subject only to judicial review as provided by law. If the director determines not to issue an advance deposit hardship waiver, the person shall remit the deposit to the city within 10 days of the date of that decision in order to secure the hearing.

(Ord. 1892 §§ 1, (2013))

§ 1.14.130. Administrative compliance order.

- (a) Issuance. An enforcement official may issue a written compliance order, providing a reasonable time for correction of not less than 10 days, to any person responsible for a municipal code violation.
- (b) Contents of Administrative Compliance Order. A compliance order issued pursuant to this chapter shall contain the following information: the date and location of the violation; the section of this code violated and a description of the violation; the action required to correct the violation; the time period after which administrative penalties will begin to accrue if compliance with the order has not been achieved; and the amount of penalties that will begin to accrue.
- (c) Compliance and Failure to Comply. If the enforcement official determines that all violations have been corrected within the time specified in the compliance order or within any amended orders, the enforcement official shall so advise each party to whom the compliance order was addressed. If full compliance is not achieved within the time specified in the compliance order or within any amended orders, the enforcement official shall schedule a hearing before the hearing officer.
- (d) Administrative Order by Hearing Officer. If the hearing officer determines that a violation occurred which was not corrected within the time period specified in the compliance order, the hearing officer shall issue an administrative order which imposes any or all of the following: an order to correct code violations, including a schedule for correction, if appropriate; administrative penalties; and administrative costs as provided in this chapter.
- (e) Administrative Penalties. The hearing officer may impose administrative penalties for each day during which a violation occurs after compliance was ordered. Administrative penalties assessed by the hearing officer shall be due by the date specified in the administrative order.

(Ord. 1892 §§ 1, (2013))

CHAPTER 1.16 ABATEMENT OF NUISANCES

§ 1.16.010. Nuisance defined.

A nuisance, within the meaning of this chapter, is defined as anything which is dangerous, injurious or a menace to health or safety, or is indecent or offensive to the senses, or is an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property, or which unlawfully obstructs the free passage or use in the customary manner of any stream, or any public park, square, street or highway, or which by any provision of this code is specifically declared to be a nuisance; provided, however, nothing which is done or maintained under the express authority of law is a nuisance.

(1941 Code § 105, Ord. 1637 § 6, (2000))

§ 1.16.015. Nonresidential property nuisances.

It is unlawful for any person owning, leasing, renting, occupying or having charge or possession of any nonresidential property in the city to maintain or to allow to be maintained such property in such manner that any of the following conditions are found to exist thereon for an unreasonable period of time and are visible from a public street or adjoining parcel, except as may be allowed by any other provision of law, including provisions of city ordinances:

- (a) The accumulation of dirt, litter, or debris;
- (b) Lumber, junk, trash, recyclables, salvage materials, building materials, landscaping materials or other similar materials, provided that short-term storage of materials in a secure and non-hazardous manner incident to an active building permit shall not constitute a nuisance under this provision;
- (c) Attractive nuisances or hazards including abandoned, broken, or neglected equipment, machinery, tools, refrigerators and freezers, hazardous pools, ponds, and excavations;
- (d) Broken or discarded furniture, household equipment, electronic equipment, and furnishings or abandoned shopping carts;
- (e) Overgrown vegetation likely to harbor rats, vermin and other nuisances dangerous to public health, safety, and welfare, or obstructing a necessary view of drivers on public streets or private driveways;
- (f) Weeds, dead, decayed, diseased or hazardous trees, fallen leaves and other vegetation constituting an unsightly appearance or dangerous to public health, safety and welfare;
- (g) Vehicle parts or other articles of personal property which are abandoned or left in a state of partial construction or repair;
- (h) Mobile homes, recreational vehicles, utility trailers, unmounted camper tops, boats, cars, trucks, or other vehicles that are parked or stored in violation of the zoning provisions or that appear inoperable;
- (i) Graffiti on the exterior of any building, fence, wall, automobile, or other structure;
- (j) Fences and walls which have become dilapidated or are in a state of disrepair;
- (k) Buildings which are abandoned, boarded up, partially destroyed, or left in a state of partial construction;
- (l) Structures which are unpainted or where a substantial portion of the paint on the building exterior is chipping, peeling, cracked or mostly worn off;

- (m) Improper maintenance of signs related to uses no longer conducted or products no longer sold on the property;
- (n) Construction equipment, materials or machinery of any type of description parked or stored so as to be visible from a public right-of-way or from adjoining properties except while excavation, construction or demolition operations covered by an active building permit are in progress on the subject property or an adjoining property;
- (o) Any property with pooled oil or other hazardous liquids accumulation, oil or hazardous liquids flowing into a public right-of-way, storm drain, or adjoining property, or excessive accumulation of grease or oil on paved surfaces, buildings, walls or fences;
- (p) The leaving of any garbage can, recycling container or refuse container on any public right-of-way, except as permitted by Section 8.16.040 of this code;
- (q) Property otherwise maintained in such a blighted condition, or in such condition of deterioration or disrepair that the same causes appreciable diminution of the property values of surrounding properties or is materially detrimental to proximal properties and improvements.

(Ord. 1913 § 2, (2015))

§ 1.16.016. Declaration of public nuisance.

Any property found to be maintained in violation of Section 1.16.015 is declared to be a public nuisance and shall be abated by rehabilitation, removal, demolition, or repair, and shall be subject to the enforcement mechanisms available under Chapter 1.12 of this code and any other applicable code provisions or other laws. The election of enforcement mechanisms or remedies shall be at the discretion of the city attorney.
(Ord. 1913 § 3, (2015))

§ 1.16.020. Notice to abate nuisance.

- (a) If the city manager determines that a nuisance exists upon private property, the manager may refer the matter to the city council for hearing and determination. Notice of the hearing before the city council will be given by first class mail to the owners of the real property at the last known address of the owners as those persons' names and addresses appear on the last equalized assessment roll. If the owners' names and addresses cannot be determined, notice of the hearing will be posted on the property itself. Notice will be given at least 10 days before the scheduled date of the hearing.
- (b) At the hearing, the council will receive written and oral testimony from all interested persons. At the conclusion of the hearing, the council may proceed to order abatement of the nuisance if the council determines a nuisance exists within certain time periods. The decision of the council shall be final and conclusive.

(1941 Code § 106, Ord. 1637 § 6, (2000))

§ 1.16.030. Abatement by city.

- (a) If the property owners fail to abate the nuisance as ordered by the city council, the manager may proceed to abate the nuisance with city forces or by contract forces. The manager will keep an account of the expenses incurred by the city in abating the nuisance and report these expenses to the city council.
- (b) A copy of the report together with a notice of hearing on confirming the report and assessing the property for the expenses shall be mailed by first class mail to the owners of the real property at the

last known address of the owners as those persons' names and addresses appear on the last equalized assessment roll. If the owners' names and addresses cannot be determined, notice of the hearing will be posted on the property itself. Notice will be given at least 10 days before the scheduled date of the hearing on the expenses.

- (c) At the hearing, the city council will consider the report and receive any written or oral testimony for any interested persons regarding the proposed assessment of the expenses. Following the hearing, the city council may make such modifications in the proposed assessment as the council may deem just and proper, and adopt a decision by resolution.
- (d) The amount of the expenses, if any, of abating the nuisance adopted by the city council will constitute a special assessment against the applicable property, and after being approved by the council, shall constitute a lien on the property for the amount of the approved assessment until paid.
- (e) A certified copy of the resolution will be filed with the tax collector to be collected at the same time and in the same manner as property taxes are collected, and shall be subject to the same interest and penalties, and the same procedure and sale in case of delinquency.

(1941 Code § 107, Ord. 1637 § 6, (2000))

§ 1.16.035. Summary abatement.

Whenever any condition on or use of property causes or constitutes or reasonably appears to cause or constitute an imminent or immediate danger to the health or safety of the public or a significant portion thereof as determined by the manager, the manager shall have the authority to summarily and without notice abate the same insofar as necessary to make the condition or use not an imminent or immediate danger. An account of the expenses incurred by the city with its own forces or by contract in conducting this abatement will be accounted for and reported to the council and be subject to the same notice, hearing, confirmation, and assessment as provided in Section 1.16.030 above.

(Ord. 1637 § 6, (2000))

§ 1.16.040. Remedies not exclusive.

Nothing in this chapter shall be held or construed to affect or prejudice any other remedy or penalty, civil or criminal, which may exist or be adopted or enacted for creating, causing, committing or maintaining a nuisance within the city.

(1941 Code § 107, Ord. 1637 § 6, (2000))

GENERAL PROVISIONS

Title 2**ADMINISTRATION**

	Chapter 2.04 COUNCIL		Chapter 2.24 MAILED BALLOT ELECTIONS
§ 2.04.010.	Time of meetings.	§ 2.24.010.	Use of mailed ballots for elections.
§ 2.04.020.	Place of meetings.		
§ 2.04.030.	Salary and reimbursement.		
	Chapter 2.12 OFFICE HOURS		Chapter 2.25 CAMPAIGN CONTRIBUTION LIMITS
§ 2.12.010.	Official hours for municipal offices—Acceptance of bids.	§ 2.25.010.	Definitions.
		§ 2.25.020.	Limits on contributions.
		§ 2.25.030.	Anonymous contributions.
		§ 2.25.040.	Disclosure in campaign statements.
	Chapter 2.16 EMPLOYMENT HOURS	§ 2.25.050.	Voluntary campaign expenditure limits and penalties.
§ 2.16.010.	Hours of work generally—Schedule.	§ 2.25.060.	Limitations on repayment of personal loans.
§ 2.16.020.	Hours of work in police and fire departments.	§ 2.25.070.	Penalties.
	Chapter 2.18 CITY COUNCIL BY-DISTRICT ELECTIONS		Chapter 2.26 ELECTRONIC FILING OF CAMPAIGN DISCLOSURE INFORMATION
§ 2.18.005.	Date of election.	§ 2.26.010.	Required use of electronic filing system.
§ 2.18.010.	Declaration of purpose.	§ 2.26.020.	Paper filing not required after electronic filing.
§ 2.18.020.	City council districts established.	§ 2.26.030.	Internet posting of data.
§ 2.18.030.	Election of members of the city council by-district.	§ 2.26.040.	Records retention.
§ 2.18.040.	Commencement of district elections.		
	Chapter 2.20 FILING DOCUMENTS		Chapter 2.28 INFORMAL BIDDING PROCEDURES
§ 2.20.010.	Time for filing—Record.	§ 2.28.010.	Informal bid procedures.
§ 2.20.020.	Fee for filing nomination papers.	§ 2.28.020.	Contractors list.
		§ 2.28.030.	Notice inviting informal bids.
		§ 2.28.040.	Award of contracts.

ADMINISTRATION

Chapter 2.29
**NOTICE INVITING BIDS ON PUBLIC
PROJECTS**

§ 2.29.010. Posting notices.

Chapter 2.32
POLICE TRAINING STANDARDS

§ 2.32.010. Declaration of intent.

**§ 2.32.020. Adherence to recruitment and
training standards.**

Chapter 2.36
**PUBLIC SAFETY DISPATCHER
STANDARDS**

§ 2.36.010.

§ 2.36.020.

§ 2.36.030.

Declaration of intent.

**Adherence to recruitment and
training standards.**

**State commission's right to
inquire.**

CHAPTER 2.04 COUNCIL

§ 2.04.010. Time of meetings.

The regular meetings of the city council will be on the first and third Monday of each month at such hour as they shall determine and may adjourn from time to time as in their judgment may seem proper. However, when the day fixed for any regular meeting of the city council falls upon a day designated by law as a city holiday, the meeting will be held on a day later in the week as the council may designate. The council may cancel or reschedule a regular meeting by a vote of the council.

(1941 Code § 301, Ord. 1303, (1985); Ord. 1539 §(1996); Ord. 1637 §(2000))

§ 2.04.020. Place of meetings.

The place of regular meetings of the city council shall be at the City Hall, unless the council designates otherwise or unless the City Hall is not usable for a public meeting, in which case the council may establish another meeting place in the city.

(1941 Code § 302, Ord. 1637 § 8, (2000))

§ 2.04.030. Salary and reimbursement.

- (a) Salaries. Each member of the council shall receive as salary a sum of \$950 per month. It shall be payable at the same time and in the same manner as the salaries paid to other officers and employees of the City. The salary shall increase each year by an amount not to exceed the lesser of: (1) the increase in salary amount provided to the AFSCME bargaining units for that year; or (2) the amount provided by Government Code Section 36516(a), as amended from time to time.
- (b) Reimbursement. The salaries prescribed in this section are exclusive of any amounts payable to each member of the council as reimbursement for actual and necessary expenses incurred in the performance of official duties. Actual and necessary expenses shall not include mileage for any activity within the county.

(Ord. 836 §§ 1—6, (1965); Ord. 1097 § 1, (1977); Ord. 1253 § (1983); Ord. 1331 § 1, (1986); Ord. 1436 § 1, (1991); Ord. 1610 § 2, (1999); Ord. 2029, 9/3/2024)

CHAPTER 2.12 OFFICE HOURS

§ 2.12.010. Official hours for municipal offices—Acceptance of bids.

The office hours for the opening and closing of all municipal offices within the city for the purpose of this code shall be 8:00 a.m. for the opening and 5:00 p.m. for the closing, on all business days, and such offices shall be closed all day on city holidays, Saturdays and Sundays; provided, however, that in the matter of public bidding on any work to be done for the city, sealed proposals or bids may be designated for acceptance by the city up to 8:00 p.m. of the day when the proposals or bids are to be opened.

(1941 Code § 801, Ord. 553, (1954); Ord. 1637 § 9, (2000))

CHAPTER 2.16 EMPLOYMENT HOURS

§ 2.16.010. Hours of work generally—Schedule.

All persons employed by the city of Burlingame in full-time positions, except police officers and firefighters, and all those employed as miscellaneous employees in the administration and water departments, shall work and be on a five day, 40 hour week.

Heads of all departments affected shall be authorized and are ordered to arrange a schedule of hours for employees under them to conform herewith.

(1941 Code § 805; Ord. 482, (1949); Ord. 554, (1954))

§ 2.16.020. Hours of work in police and fire departments.

- (a) Police. All persons employed by the city of Burlingame in full-time positions in the police department shall work 40 hours per week.
- (b) Firefighters. All persons employed by the city of Burlingame in full-time positions in the fire department shall work such work weeks as may be established from time to time.
- (c) Schedule. The chief of police and the chief of the fire department are authorized to arrange an effective schedule of working hours for the employees in their respective departments to comply with the foregoing.
- (d) On Call. Notwithstanding anything contained in this section, the personnel of the police and fire departments shall be subject to call and must respond on any occasion when the chief of the department may deem it necessary for the protection of life, property or the safety of the citizens of Burlingame.

(1941 Code § 805.1; Ord. 529, (1952); Ord. 1049 § 4, (1975))

CHAPTER 2.18 CITY COUNCIL BY-DISTRICT ELECTIONS

§ 2.18.005. Date of election.

Pursuant to Elections Code Sections 1301 and 10403.5, the general municipal election in the city of Burlingame for the offices of city councilmember shall be the first Tuesday following the first Monday in November of even-numbered years commencing in November 2022.

(Ord. 2003 § 3, (2022))

§ 2.18.010. Declaration of purpose.

The city council hereby declares that the purpose of this chapter is to change the method of electing members of this council to a by-district method as defined in the California Voting Rights Act of 2021.

(Ord. 2003 § 3, (2022))

§ 2.18.020. City council districts established.

Five city council districts are hereby established in the city of Burlingame. The boundaries and identifying numbers of each district shall be as described and shown on the Council District Map attached to the ordinance codified in this chapter as Exhibit A, and incorporated by reference.

(Ord. 2003 § 3, (2022))

§ 2.18.030. Election of members of the city council by-district.

- (a) Following the effective date of the ordinance codified in this chapter and upon the commencement of "by-district" elections in the order established in Section 2.18.040 of this chapter, members of the city council shall be elected "by-district" as defined in the California Government Code Section 34871 or any successor statute. Any candidate for city council must have been a resident and elector of the district in which they seek election by the time they pull nomination papers for such office, or such person's appointment to fill a vacancy therein. No term of any member of the city council that commenced prior to the effective date of the ordinance codified in this chapter shall be affected by the adoption of said ordinance. A vacancy in an office filled by at-large election shall be filled by appointment or election from the city at large.
- (b) Registered voters signing nomination papers or voting for a member of the city council shall be residents of the geographical area making up the district from which the member is to be elected.
- (c) The terms of the office of each member elected to the city council shall remain four years.

(Ord. 2003 § 3, (2022))

§ 2.18.040. Commencement of district elections.

- (a) Commencing on the General Municipal Election in 2022 and every four years thereafter the voters in districts 1, 3, and 5, shall elect members of the city council by district for four year terms. At the General Municipal Election in 2024, and every four years thereafter, the voters in districts 2 and 4, shall elect members of the city council by district for four year terms.
- (b) The term of office of any councilmember who has been elected and whose term of office has not expired shall not be affected by any change in the boundaries of the district from which they were elected.

(Ord. 2003 § 3, (2022))

**CHAPTER 2.20
FILING DOCUMENTS**

§ 2.20.010. Time for filing—Record.

Any and all papers or documents that are required to be filed in any department of the city government shall be presented to the official or his or her lawfully authorized deputy in his or her particular office within the time specified in Section 2.12.010 of this code. Upon receipt of any paper or document, the official in whose department it is presented for filing shall note the time of filing of the paper or document as to the minute, hours, day, month and year as well as the name of the party at whose request said paper or document is filed; the paper or instrument shall also show the word "filed," and be attended by the signature of the particular official.

(1941 Code § 802)

§ 2.20.020. Fee for filing nomination papers.

A filing fee of \$25 is established for processing of nomination papers for elective city offices pursuant to Elections Code Section 10228.

(Ord. 1703 § 2, (2003))

**CHAPTER 2.24
MAILED BALLOT ELECTIONS**

§ 2.24.010. Use of mailed ballots for elections.

The city council may approve the use of mailed ballots for elections that are authorized to use mailed ballots, including, but not limited to, elections under Proposition 218 for fees, charges, and assessments. The city council may adopt procedures for a mailed ballot election. The city council approves of the use of Elections Code Section 9290 that allows one copy of official matter to be mailed to a postal address where two or more registered voters have the same surname and same address.

(Ord. 1834 § 2, (2008))

CHAPTER 2.25
CAMPAIGN CONTRIBUTION LIMITS

§ 2.25.010. Definitions.

- (a) Unless a term is specifically defined in this chapter, the definitions set forth in Chapter 2, "Definitions," of the State Political Reform Act (Section 82000 et seq. of the Government Code) shall govern the interpretation of the provisions of this chapter.

"Candidate" means a candidate for an elective city office.

"Controlled committee" means a controlled committee controlled directly or indirectly by a candidate for elective city office or that acts jointly with a candidate for elective city office or another controlled committee in connection with the making of expenditures.

"Election period" means the following:

- (A) Except as further limited by subsections (B), (C), and (D) of this subsection, for a candidate or controlled committee in a general municipal election, "election period" means the period beginning on January 1st after the last general or special municipal election for the affected office seat and ending on December 31st following the next general municipal election for the particular office seat. This election period is normally four years.
- (B) For a candidate or controlled committee in a special municipal election held to fill a vacancy in an elective city office, "election period" means the period beginning on the day the vacancy in office began and ending on the December 31st following the special municipal election; provided, however, that for a candidate at the special municipal election who established a controlled committee for the office or accepted contributions before the vacancy occurred, the election period means the period beginning on January 1st following the last general municipal election for the particular office seat affected by the vacancy and ending on the December 31st following the special election.
- (C) For a candidate or a controlled committee in a special municipal election held to recall an elected city officer, including the elected official who is the subject of the recall election, "election period" means the period beginning on the date that the notice of intention to circulate a recall petition is filed with the city clerk pursuant to the Elections Code and ending on the December 31st following the special municipal election; provided, however, that for any candidate at the special municipal election who established a controlled committee or accepted contributions for the office before the vacancy occurred, the election period means the period beginning on January 1st following the last general municipal election for the particular office affected by the vacancy and ending on the December 31st following the special municipal election.
- (D) For a candidate who is recalled at a special municipal election or who is not elected at a general or special municipal election and for a controlled committee for such a candidate, "election period" begins again on the January 1st following the election at which the candidate was recalled or not elected and ends on the December 31st following the next general or special municipal election at which the person is a candidate again.

"Individual" means a natural person.

"Organization" means a partnership, joint venture, syndicate, business trust, company, corporation, limited liability company, association, committee, and any other organization or group of persons acting in concert.

- (b) Contributions, in-kind contributions, and gifts of service are regulated by the Political Reform Act of 1974 and Title 2, Division 6 of the California Code of Regulations.
(Ord. 1801 § 2, (2007); Ord. 2001 § 3, (2021))

§ 2.25.020. Limits on contributions.

- (a) It is unlawful for any individual to make contributions to any single candidate or to any single controlled committee totaling more than \$350 in an election period.
- (b) It is unlawful for any organization to make contributions to any single candidate or to any single controlled committee totaling more than \$350 in an election period.
- (c) It is unlawful for any candidate or controlled committee to accept contributions from any individual totaling more than \$350 in an election period.
- (d) It is unlawful for any candidate or controlled committee to accept contributions from any organization totaling more than \$350 in an election period.
- (e) The maximum amounts specified in this section shall be automatically adjusted by the city clerk each odd-numbered year. The new amount will be adopted by resolution of the city council to take effect on January 1 of each even-numbered year, beginning on January 1, 2024. The contribution limit will be increased by \$25 every two years thereafter.

(Ord. 1801 § 2, (2007); Ord. 2001 § 3, (2021))

§ 2.25.030. Anonymous contributions.

Notwithstanding Government Code Section 84211, no person shall make an anonymous contribution or contributions to a candidate or a controlled committee totaling \$50 or more in an election period.
(Ord. 1801 § 2, (2007); Ord. 2001 § 3, (2021))

§ 2.25.040. Disclosure in campaign statements.

Each campaign statement required to be filed by Article 2 of Chapter 4 of the Political Reform Act of 1974, shall contain, in addition to any other required information:

- (a) The total dollar amount of contributions received during the period covered by the campaign statements from persons who have given less than \$50.
- (b) The full name of each person from whom a contribution or contributions totaling \$50 and above has been received, together with the contributor's street address, occupation, and the name of the contributor's employer, if any, or the principal place of business if the contributor is self-employed, the amount of the contribution, and the date the contribution was received.

(Ord. 2001 § 3, (2021))

§ 2.25.050. Voluntary campaign expenditure limits and penalties.

- (a) Each candidate for election to the city council in November 2022, and for each city council election thereafter, shall, prior to the time they file their nomination papers with the city clerk, advise the city clerk in writing on a form provided by the city whether or not the candidate will opt to voluntarily limit their campaign expenditures in accordance with the voluntary campaign expenditure limits set forth in this section and by resolution. The agreement to voluntarily limit campaign expenditures shall pertain to all expenditures incurred by the candidate or the candidate's committee in support of their

candidacy and shall include all such expenditures that a candidate or candidate's committee is required to report pursuant to the California Political Reform Act of 1974, as amended, whether those expenditures are made before or after the filing of nomination papers.

- (b) Withdrawal Period. Within three business days after the deadline to file nomination papers with the city clerk, a candidate that previously accepted the voluntary campaign expenditure limit will have one opportunity to notify the city clerk that they have decided not to accept the voluntary campaign expenditure limit. The candidate shall thereafter be relieved of abiding by the expenditure limit.
- (c) Candidates who agree to abide by the voluntary campaign expenditure limit shall receive the following benefits and incentives at no cost to themselves:
 - (1) The city's website will clearly identify which candidates have agreed to the voluntary expenditure limit.
 - (2) The city will publish on social media and in the eNews which candidates have agreed to the voluntary expenditure limit. This will be published twice (once at the next eNews publishing after the withdrawal period and once when the ballots are mailed to residents).
 - (3) The city will publish Chinese, English, and Spanish notices in newspapers of general circulation the candidates who agreed to the voluntary expenditure limit.
- (d) Calculation of Voluntary Expenditure Limit.
 - (1) A candidate for district city councilmember who voluntarily agrees to expenditure ceilings shall not make qualified expenditures exceeding \$5 per resident in the electoral district for each election in which the candidate is seeking elective office. Residency of each electoral district shall be determined by the latest decennial census population figures available for that district. The city clerk shall publish the expenditure limit by resolution at the last meeting of each odd-numbered year that will take effect on the first day of January in the even-numbered year beginning January 1, 2024.
 - (2) The voluntary expenditure limit for the November 2022 election is \$30,000.
 - (3) Beginning in December 2025, the city clerk shall in odd-numbered years increase the expenditure ceiling amounts by twenty-five cents (\$0.25) per resident. The city council shall adopt the expenditure limit by resolution at the last meeting of each odd-numbered year.
 - (4) The voluntary campaign expenditure limit called for by this section shall include any expenditures made by the candidate or by the candidate's campaign committee in connection with the preparation and publication of the candidate's statement of qualifications in the sample ballot pamphlet published in accordance with California Elections Code Section 13307.
- (e) Penalties. Any violation of this section, including the filing of false reports that entitle the candidate to the benefits conferred by this section, shall within 72 hours of the city's knowledge of the violation:
 - (1) Be forwarded to newspapers of general circulation in Chinese, English, and Spanish for publication; and
 - (2) Be posted on the city's website; and
 - (3) Be posted in the city's eNews and social media accounts.

(Ord. 2001 § 3, (2021))

§ 2.25.060. Limitations on repayment of personal loans.

Following the date of the election for which a candidate is seeking elective office, it is unlawful for the candidate to repay themselves or for any controlled committee to repay the candidate from contributions to the candidate or the controlled committee for any loan amount incurred during that election's election period by the candidate in excess of \$12,000.

(Ord. 2001 § 3, (2021))

§ 2.25.070. Penalties.

Pursuant to Chapter 1.12 of this code, the enforcement of violations of the provisions of this chapter, excluding Section 2.25.050, may be prosecuted as an infraction or misdemeanor.

- (a) Prosecution. Every violation of this chapter shall be a misdemeanor; provided, however, that where the prosecutor has determined that such action would be in the best interest of justice, the prosecutor may specify in the accusatory pleading or citation that the violation shall be prosecuted as an infraction.
- (b) Infraction/Misdemeanor. Any person who violates any of the provisions of this chapter shall be guilty of an infraction or misdemeanor, punishable as provided in Chapter 1.12 of the Burlingame Municipal Code.

(Ord. 2001 § 3, (2021))

CHAPTER 2.26
ELECTRONIC FILING OF CAMPAIGN DISCLOSURE INFORMATION

§ 2.26.010. Required use of electronic filing system.

- (a) Except as set forth in subsection b of this section, any elected officer, candidate, committee, or other person required to file specified statements, reports, forms, or other documents with the city clerk as required by Chapter 4 (commencing with Section 84100 of Title 9 of the California Government Code, also known as the Political Reform Act), and that has received contributions or made expenditures of \$2,000 or more in a calendar year, may electronically file such statement using the city's online filing system according to procedures established by the city clerk.
- (b) An elected officer, candidate, committee, or other person may choose not to use the electronic filing system by filing original statements, reports, forms, or other documents in paper format with the city clerk.
- (c) The online filing system shall ensure the integrity of the data transmitted and shall include safeguards against efforts to tamper with, manipulate, alter, or subvert the data.
- (d) The online or electronic filing system shall accept a filing in the standardized record format pursuant to Government Code Section 84615(b).

(Ord. 2002 § 3, (2021))

§ 2.26.020. Paper filing not required after electronic filing.

Any elected officer, candidate, committee, or other person who has electronically filed a statement, report, form, or other document using the city's online system is not also required to file a copy of that document in a paper format with the city clerk.

(Ord. 2002 § 3, (2021))

§ 2.26.030. Internet posting of data.

Pursuant to Government Code Section 84616, the city clerk shall ensure that the city's system makes all electronically-filed statements, reports, forms, or other documents available on the internet in an easily understood format that provides the greatest public access. The data shall be made available free of charge and as soon as possible after receipt/deadline. The data made available on the internet shall not contain the street name and building number of the persons or entity representatives listed on the electronically-filed forms or any bank account numbers required to be disclosed by the filer. The city clerk's office shall also make a complete, unredacted copy of the statement, report, form, or other document available to the Fair Political Practices Commission for Government Code Section 87200 filers.

(Ord. 2002 § 3, (2021))

§ 2.26.040. Records retention.

The city clerk's office shall maintain records according to the city's records retention schedule and applicable state law commencing from the date filed, a secured, official version of each online or electronic statement, report, form, or other document, which shall serve as the official version of that record.

(Ord. 2002 § 3, (2021))

CHAPTER 2.28 INFORMAL BIDDING PROCEDURES

§ 2.28.010. Informal bid procedures.

- (a) Public projects, as defined by the Uniform Public Construction Cost Accounting Act, Sections 22000 et seq., of the Public Contract Code, of \$75,000 or less may be let to contract by informal procedures as set forth in Sections 22032 et seq., of that code.
- (b) When authorized by the city manager, public projects, as defined by the Uniform Public Construction Cost Accounting Act, Sections 22000 et seq., of the Public Contract Code, of more than \$75,000 but equal to or less than \$100,000 may be let to contract by informal procedures as set forth in Sections 22032 et seq., of that code.
- (c) Whenever an open purchase order for materials or supplies exceeds \$25,000 in a fiscal year, it shall be either informally or formally bid as if it were a public project under this section for subsequent fiscal years, until such time as the annual expenditure is less than \$25,000.

(1941 Code § 405, Ord. 501, (1950); Ord. 615, (1956); Ord. 1490 § 1, (1993); Ord. 1656 § 2, (2001))

§ 2.28.020. Contractors list.

A list of contractors shall be developed and maintained in accordance with the provisions of Section 22034 of said code and criteria promulgated from time to time by the California Uniform Construction Cost Accounting Commission.

(1941 Code § 401.1, Ord. 613, (1956); Ord. 615, (1956); Ord. 1490 § 1, (1993))

§ 2.28.030. Notice inviting informal bids.

Where a public project is to be performed which is subject to the provisions of this chapter, a notice inviting informal bids shall be mailed to all contractors for the category of work to be bid, as shown on the list developed in accordance with Section 2.26.020, and to all construction trade journals as specified by the California Uniform Construction Cost Accounting Commission in accordance with Section 22036 of the Public Contract Code. Additional contractors and/or construction trade journals may be notified at the discretion of the department soliciting bids; provided however:

- (a) If there is no list of qualified contractors maintained by the city for the particular category of work to be performed, the notice inviting bids shall be sent only to the construction trade journals specified by the Commission.
- (b) If the product or service is proprietary in nature such that it can be obtained only from a certain contractor or contractors, the notice inviting informal bids may be sent exclusively to such contractor or contractors.

(Ord. 1490 § 1, (1993))

§ 2.28.040. Award of contracts.

The finance director and the director of public works are each authorized to award informal contracts pursuant to this chapter.

(Ord. 1490 § 1, (1993))

CHAPTER 2.29
NOTICE INVITING BIDS ON PUBLIC PROJECTS

§ 2.29.010. Posting notices.

Notices inviting bids on public projects which are required by the provisions of Public Contracts Code section 20164 to be posted shall be posted at the following three municipal buildings in the city: (1) the City Hall; (2) the main public library; and (3) the recreation center, and may be posted at such other public places within the city as the director of public works may designate.

(Ord. 989 § 1, (1973); Ord. 1637 § 11, (2000))

**CHAPTER 2.32
POLICE TRAINING STANDARDS**

§ 2.32.010. Declaration of intent.

The council of the city of Burlingame declares that it desires to qualify to receive aid from the state of California under the provisions of Chapter 1 of Title 4, Part 4 of the California Penal Code.
(Ord. 727 § 1, (1960))

§ 2.32.020. Adherence to recruitment and training standards.

Pursuant to Section 13522 of such Chapter 1, the city of Burlingame while receiving aid from the state of California pursuant to Chapter 1 will adhere to the standards for recruitment and training established by the California Commission on Peace Officer Standards and Training.
(Ord. 727 § 2, (1960))

**CHAPTER 2.36
PUBLIC SAFETY DISPATCHER STANDARDS**

§ 2.36.010. Declaration of intent.

The city of Burlingame declares that it desires to qualify to receive aid from the state of California under the provisions of Section 13522, Chapter 1, of Title 4, Part 4, of the California Penal Code.
(Ord. 1384 § 1, (1989))

§ 2.36.020. Adherence to recruitment and training standards.

Pursuant to Section 13510(c), Chapter 1, the city of Burlingame will adhere to standards for recruitment and training established by the California Commission on Peace Officer Standards and Training (POST).
(Ord. 1384 § 2, (1989))

§ 2.36.030. State commission's right to inquire.

Pursuant to Section 13512, Chapter 1, the Commission and its representatives may make such inquiries as deemed appropriate by the Commission to ascertain that the city of Burlingame's public safety dispatcher personnel adhere to standards for selection and training established by the Commission on Peace Officer Standards and Training.
(Ord. 1384 § 3, (1989))

City of Burlingame, CA

ADMINISTRATION

Title 3**OFFICERS, BOARDS, COMMISSIONS AND PERSONNEL**

	Chapter 3.04 CITY MANAGER	§ 3.13.070. § 3.13.080.	City bonds. Deposits.
§ 3.04.010.	Office established—Appointment.		Chapter 3.17 DIRECTOR OF PARKS AND RECREATION
§ 3.04.020.	Bond.		
§ 3.04.030.	Delegation, absence, or disability.	§ 3.17.010. § 3.17.020.	Duties. Other code references.
§ 3.04.040.	Powers and duties.		
§ 3.04.050.	City council acts through manager.		Chapter 3.20 DIRECTOR OF PUBLIC WORKS
§ 3.04.060.	Compensation.		
§ 3.04.070.	Removal from office.	§ 3.20.010.	Powers and duties.
	Chapter 3.05 CITY ATTORNEY		Chapter 3.21 DIRECTOR OF COMMUNITY DEVELOPMENT
§ 3.05.010.	Legal department created.	§ 3.21.010.	Department established.
§ 3.05.020.	City attorney.	§ 3.21.020.	Office established.
§ 3.05.030.	Compensation and expenses.	§ 3.21.030.	Appointment and removal.
§ 3.05.040.	Powers and duties.	§ 3.21.040.	Powers and duties.
§ 3.05.050.	Other personnel.		
	Chapter 3.08 CITY CLERK		Chapter 3.22 TRAFFIC, SAFETY AND PARKING COMMISSION
§ 3.08.010.	Office of the city clerk.	§ 3.22.010.	Organization—Terms of members—Compensation.
§ 3.08.020.	Appointment of the city clerk.	§ 3.22.020.	Removal of appointed members—Filling vacancies.
§ 3.08.030.	Compensation.	§ 3.22.030.	Meetings—Officers.
§ 3.08.040.	Duties.	§ 3.22.040.	Record of proceedings kept by secretary—Filing.
	Chapter 3.13 OFFICE OF FINANCE DIRECTOR/TREASURER	§ 3.22.050.	Powers and duties.
§ 3.13.010.	Office established.		Chapter 3.28 BEAUTIFICATION COMMISSION
§ 3.13.030.	Duties of finance director/treasurer.		
§ 3.13.040.	Delegation.	§ 3.28.010.	Organization—Terms of members—Compensation.
§ 3.13.050.	Investments.		
§ 3.13.060.	Redemptions.		

OFFICERS, BOARDS, COMMISSIONS AND

§ 3.28.020.	Removal of member from office—Filling vacancies.	§ 3.40.030.	Meetings—Officers and employees—Record of proceedings.
§ 3.28.030.	Meetings—Officers.	§ 3.40.040.	Powers and duties.
§ 3.28.040.	Record of proceedings kept by secretary—Filing.		
§ 3.28.050.	Powers and duties.		
			Chapter 3.44 LIBRARY BOARD
	Chapter 3.32		
	PARKS AND RECREATION COMMISSION	§ 3.44.010.	Public library established.
		§ 3.44.020.	Management of public library.
§ 3.32.010.	Organization—Terms—Compensation.		
§ 3.32.020.	Removal of member from office—Filling vacancies.		Chapter 3.52 CIVIL SERVICE FOR EMPLOYEES
§ 3.32.030.	Meetings—Officers.	§ 3.52.010.	Classified and unclassified services—Generally.
§ 3.32.040.	Record of proceedings kept by secretary—Filing.	§ 3.52.020.	Employees blanketed into classified service.
§ 3.32.050.	Powers and duties.	§ 3.52.030.	Rules and regulations.
		§ 3.52.060.	Appointments—Temporary appointments.
	Chapter 3.36		
	EMERGENCY SERVICES	§ 3.52.070.	Discipline—Removal and suspension.
§ 3.36.010.	Purposes.	§ 3.52.080.	Abolishment of positions.
§ 3.36.020.	Definitions.	§ 3.52.100.	Soliciting political contributions prohibited.
§ 3.36.030.	Disaster council membership.		
§ 3.36.040.	Disaster council powers and duties.		
§ 3.36.050.	Director and assistant director of emergency services.		Chapter 3.56 COMPENSATION PLAN
§ 3.36.060.	Powers and duties of the director and assistant director of the emergency services.	§ 3.56.020.	Promotion to higher class.
§ 3.36.070.	Emergency organization.	§ 3.56.030.	Time of effect of seniority increment.
§ 3.36.080.	Emergency plan.	§ 3.56.050.	Payment of compensation restricted to duly qualified persons actually performing required services.
§ 3.36.090.	Expenditures.		
§ 3.36.095.	Punishment of violations.		
§ 3.36.099.	Repeal of conflicting ordinances.		
	Chapter 3.40		
	PLANNING COMMISSION		
§ 3.40.010.	Organization—Terms of members—Compensation.	§ 3.60.010.	Findings.
§ 3.40.020.	Removal of appointive member—Filling vacancies.	§ 3.60.020.	City council is redevelopment agency.
		§ 3.60.030.	Authority to transact business.
			Chapter 3.60 REDEVELOPMENT AGENCY

CHAPTER 3.04 CITY MANAGER

§ 3.04.010. Office established—Appointment.

The office of city manager of the city of Burlingame is hereby created and established. The city manager shall be appointed by the city council solely on the basis of his or her executive and administrative qualifications and ability, and shall hold office during the pleasure of the city council. No person elected to membership on the city council shall, subsequent to such election, be eligible for appointment as city manager until one year has elapsed following the termination of the tenure for which he or she last was elected.

(1941 Code § 420, Ord. 615, (1956))

§ 3.04.020. Bond.

The city manager shall furnish a corporate surety bond to be approved by the city council in such sum as may be determined by the city council and shall be conditioned on the faithful performance of the duties imposed on the city manager as herein prescribed.

(1941 Code § 421, Ord. 615, (1956))

§ 3.04.030. Delegation, absence, or disability.

- (a) The city manager may delegate the performance of duties of the manager specified in this code to others unless otherwise expressly provided by action of the council. However, the city manager will remain responsible to the city council for the proper performance of those duties.
- (b) In case of absence or disability of the city manager, the city council may designate a duly qualified person to perform the duties of the city manager.

(1941 Code § 422, Ord. 615, (1956); Ord. 1656 § 3, (2001))

§ 3.04.040. Powers and duties.

The city manager shall be the administrative head of the city government under the direction and control of the city council, except as otherwise provided in this chapter. He or she shall be responsible for the efficient administration of all affairs of the city which are under his or her control. In addition to his or her general powers as administrative head, and not as a limitation thereon, it shall be his or her duty and he or she shall have the power:

- (a) To see that all laws and ordinances of the city are duly enforced.
- (b) To control, order and give directions to all heads of departments, subordinate officers and employees of the city, except the city clerk, city treasurer and city attorney; and to transfer employees from one department to another; and to consolidate or combine offices, positions, departments or units under his or her direction, provided, however, that nothing herein contained shall be construed to supersede the authority of the civil service commission in the matter of classification of city officers or employees.
- (c) To exercise control over all departments of the city government and over all appointive officers and employees thereof.
- (d) To attend all meetings of the city council unless excused therefrom by the council, except when his or her removal is under consideration by the council.

- (e) To recommend to the city council for adoption such measures and ordinances as he or she deems necessary or expedient.
- (f) To keep the city council at all times fully advised as to the financial conditions and needs of the city.
- (g) To prepare and submit to the city council the annual budget.
- (h) To purchase all supplies for all of the departments or divisions of the city and to enter into contracts on behalf of the city as provided herein and by any governing purchasing policy. The city manager shall exercise up to \$100,000 in contracting signature authority, consistent with the city's budget as adopted or amended by the city council. No expenditure shall be submitted or recommended to the city council, except on report or approval of the city manager.
- (i) To make investigations into the affairs of the city, and any department or division thereof, and any contract, or the proper performance of any obligations running to the city.
- (j) To investigate all complaints in relation to matters concerning the administration of the city government and in regard to the service maintained by public utilities in the city, and to see that all franchises, permits and privileges granted by the city are faithfully performed and observed. The city manager shall be authorized to settle claims and litigation brought or asserted against the city, on the recommendation of the city attorney, in an amount up to \$20,000.
- (k) To exercise general supervision over all public buildings, public parks and other public property which are under the control and jurisdiction of the city council and not specifically delegated to a particular board or officers.
- (l) To devote his or her entire time to the duties of his or her office and the interests of the city of Burlingame.
- (m) To perform such other duties and exercise such other powers as may be delegated to him or her from time to time by ordinance or resolution of the city council.

(1941 Code § 423, Ord. 615, (1956); Ord. 1890 § 1, (2013); Ord. 2030, 9/16/2024)

§ 3.04.050. City council acts through manager.

The city council and its members shall deal with the administrative services of the city only through the city manager, except for the purpose of inquiry, and neither the city council nor any members thereof shall give orders to any subordinates of the city manager.

(1941 Code § 424, Ord. 615, (1956))

§ 3.04.060. Compensation.

The city manager shall receive such compensation as the city council shall from time to time determine and fix by resolution, and he or she shall be paid at the same time and out of the same fund as other employees and officers of the city are paid. He or she shall also be reimbursed for all sums necessarily incurred or paid by him or her in the performance of his or her duties, or when traveling on business pertaining to the city; provided that such reimbursement shall be made on an itemized claim and presented to the city council for approval and by it approved and allowed.

(1941 Code § 425, Ord. 615, (1956))

§ 3.04.070. Removal from office.

The removal of the city manager shall be only on a four-fifths vote of the whole council. In case of his or

her intended removal by the council, the city manager shall be furnished with a written notice stating the council's intention to remove him or her and the reasons therefor, at least 30 days before the effective date of his or her removal.

Within seven days after the delivery to the city manager of such notice, he or she may by written notification to the city clerk, request a public hearing before the council. Thereafter the council shall fix a time for the public hearing which shall be held at its usual meeting place, but before the expiration of the 30 day period, and at which the city manager shall appear and be heard.

After furnishing the city manager with written notice of intended removal, the city council may suspend him or her from duty, but his or her compensation shall continue until his or her removal by resolution of the council passed subsequent to the aforesaid public hearing.

In removing the city manager the city council shall use its uncontrolled discretion and its action shall be final, and shall not depend upon any particular showing or degree of proof at the hearing, the purpose of which is to allow the city manager to publicly present to the city council his or her grounds of opposition to removal prior to its action.

(1941 Code § 426, Ord. 615, (1956))

CHAPTER 3.05 CITY ATTORNEY

§ 3.05.010. Legal department created.

A legal department is created which shall be under the direction of the city attorney, who shall be responsible to the city council, and shall consist of the city attorney and such other employees as the city council may approve.

(Ord. 1027 § 1, (1975))

§ 3.05.020. City attorney.

The city attorney shall be selected and appointed by the city council on the basis of the appointee's qualifications, with special reference to the appointee's actual experience in the field of municipal law and in respect to the duties of the office as hereinafter set forth. The city attorney shall hold office at and during the pleasure of the city council. The city attorney may be suspended or removed by a four-fifths vote of the city council.

The position of city attorney shall be a full-time position and the appointee shall not be entitled to engage in private practice, nor shall the city attorney be entitled to make court appearances except on behalf of the city. To become and remain eligible for this position, the appointee shall be an attorney duly admitted and qualified to practice in the Supreme Court of the State of California, and shall have been an active member in good standing of the State Bar of California for at least five years prior to appointment. Nothing contained in this chapter shall be construed to prohibit the city council from retaining special counsel to represent the city in certain legal matters, nor to prevent the council from retaining the services of a qualified attorney-at-law on a full or part-time basis to act as city attorney, de facto or de jure, upon the discharge, resignation or disability of any city attorney appointed pursuant to this chapter.

(Ord. 1027 § 1, (1975); Ord. 1637 § 12, (2000))

§ 3.05.030. Compensation and expenses.

The city attorney shall receive such compensation and expense allowance as the city council shall, from time to time, determine, and said compensation and expenses shall be a proper charge against such funds of the city as the city council shall designate.

(Ord. 1027 § 1, (1975))

§ 3.05.040. Powers and duties.

In addition to the powers and duties set forth in the Government Code of the State of California, the city attorney shall:

- (a) Represent and advise the city council and all city officers upon all matters of law pertaining to the city and to their office;
- (b) Frame all ordinances and resolutions required by the city council;
- (c) Represent and appear for the city, its authorized agents, officers and employees, in any and all actions and proceedings in which the city, or its agents, officers or employees, in or by reason of their official capacity only, is concerned or is a party thereto. The city council shall have control of all legal proceedings, however, and shall direct and control the prosecution and defense of all actions and proceedings to which the city is a party or in which it is interested, and may employ special counsel, if it feels the interests of the city require same, to assist the city attorney, or to prosecute or defend in

any such action or proceeding. Pursuant to Government Code Section 935.4, the city council delegates authority to the city attorney to review all claims for timeliness and sufficiency, and to reject any and all claims regardless of amount. The city council further delegates to the city attorney authority to allow, compromise, or settle claims for an amount up to \$30,000.00 acting alone, or up to \$40,000.00 with the concurrence of the city manager. The city council shall have sole authority to allow, compromise, or settle claims for an amount in excess of \$40,000.00.

- (d) Attend all meetings of the city council and planning commission;
- (e) Render legal opinions or advice, in writing, whenever requested to do so by the council or any of the city boards, commissions or city officers;
- (f) Approve the form and execution of all bonds, contracts and other instruments to which the city is a party;
- (g) Specify the minimum requirements of insurance policies and bonds required to be filed with the city, and no such policy or bond shall be deemed to satisfy legal requirements of the city unless in conformity with such specifications or otherwise approved by the city attorney;
- (h) Devote such time to the duties of the office, and attend such conferences, meetings, and proceedings as the council may specify from time to time, and as shall be determined by the work requirements of the legal department;
- (i) Keep on file in the city attorney's office all written communications, opinions, briefs, and papers used in the normal course of legal activities of the legal department. The city attorney shall deliver all books, records, papers, documents, and property of every description, belonging to the city, to the attorney's successor in office;
- (j) Act as director of the legal department, subject to the general administrative direction of the city council. The city attorney shall have the authority to retain expert outside counsel to advise the city when, in his or her opinion, such assistance of counsel is necessary to the provision of legal services to the city.

(Ord. 1027 § 1, (1975); Ord. 1637 § 13, (2000); Ord. 1890 § 1, (2013); Ord. 2030, 9/16/2024)

§ 3.05.050. Other personnel.

The appointment and removal of assistants, clerical and stenographic personnel as are authorized to be employed in the legal department shall be governed by the provisions of the civil service system of the city. (Ord. 1027 § 1, (1975))

CHAPTER 3.08 CITY CLERK

§ 3.08.010. Office of the city clerk.

Pursuant to Government Code Sections 36501 and 36508 through 36510, there is an office of city clerk in the city of Burlingame.

(Ord. 1884 § 1, (2013))

§ 3.08.020. Appointment of the city clerk.

Pursuant to Government Code Section 34856, the city clerk shall be appointed by the city manager and shall hold office at the pleasure of the city manager.

(Ord. 1884 § 1, (2013))

§ 3.08.030. Compensation.

The city clerk shall receive the same benefits as other members of the department head unrepresented group.

(Ord. 1884 § 1, (2013))

§ 3.08.040. Duties.

The city clerk shall be clerk of the council and keep an accurate record of all ordinances, resolutions and motions, shall have custody of the official seal and all official records committed to his or her care, shall make affidavits and administer oaths without charge in matters affecting the business of the city, shall conduct elections and shall perform the duties of a city clerk as provided by the general law of the state.

The city clerk shall also maintain regular, full-time office hours, provide documents to the public, provide administrative support for appointments to city boards and commissions, maintain city's document retention system, maintain city agreements, resolutions, bonds and real property documents, maintain and update city's municipal code, receive and open bids for city projects and contracts, publish notices and ordinances and such other related duties as may be assigned by the city manager.

(Ord. 1884 § 1, (2013))

**CHAPTER 3.13
OFFICE OF FINANCE DIRECTOR/TREASURER**

§ 3.13.010. Office established.

The office of finance director/treasurer of the city of Burlingame is created and established. The finance director/treasurer shall be appointed by the city manager with the approval of the city council.
(Ord. 940 § 1, (1971); Ord. 1489 § 2, (1993))

§ 3.13.030. Duties of finance director/treasurer.

The finance director/treasurer, subject to the direction and supervision of the city manager, shall promote, secure and preserve the financial and property interests of the city, and shall have the following powers and perform the following duties:

- (a) Administer the financial affairs of the city, under the direction of the city manager.
- (b) Be the accounting officer of the city, maintain a general accounting system and records readily reflecting the financial condition of the city, and prepare and present to the city manager and city council all financial statements and reports required by the city council or the city manager.
- (c) Be responsible for the preparation of all vouchers for payment, and the preparation of the register of demands, along with the preparation and handling of the city payroll.
- (d) Before payment, audit and approve all bills, invoices, payrolls, demands or charges against the city, and, with the advice of the city attorney when necessary, determine the regularity, legality and correctness of all claims, demands or charges.
- (e) Receive from the various officers and department heads of the city the annual budget requests, and in conjunction with the city manager, compile the annual budget for submission to the city council.
- (f) Enforce the licensing and business tax provisions of the city ordinances.
- (g) Be the ex officio tax collector and except for the collection of ad valorem property taxes and assessments for municipal improvements, and as provided for in Chapter 4.05 and elsewhere in this code, collect all taxes levied by the city and deposit them as required by law.
- (h) Perform all other duties as required by other city ordinances, resolutions and state laws governing fiscal administration.
- (i) Serve in any appointed office or position within the city government as appointed by the city manager, and hold and perform the duties thereof at the pleasure of the city manager and without further compensation except as expressly provided by the city manager at the time of such appointment or thereafter.
- (j) Perform such other duties and exercise such other powers as are necessarily incident to the above duties and powers, or as may be assigned or delegated to the finance director/treasurer from time to time by the city manager.

(Ord. 940 § 1, (1971); Ord. 1489 § 2, (1993); Ord. 1637 § 14, (2000))

§ 3.13.040. Delegation.

Pursuant to Sections 53607, 53608, 53621, and 53684 of the Government Code, the authority to invest

and reinvest money of the city, to sell or exchange securities so purchased, and to deposit such securities for safekeeping is delegated to the finance director/treasurer. This delegation includes investments made pursuant to section 53609 of the Government Code.

(Ord. 1489 § 2, (1993); Ord. 1637 § 14, (2000))

§ 3.13.050. Investments.

The finance director/treasurer is authorized to purchase, at their original sale or after they have been issued, securities which are permissible investments under Sections 53601, 53635, and 53684 of the Government Code, as they now read or may hereafter be amended, from money in the finance director/treasurer's custody which is not required for the immediate necessities of the city and as the finance director/treasurer may deem wise and expedient, and to sell or exchange for other eligible securities and reinvest the proceeds of the securities so purchased. The finance director/treasurer shall make a monthly report of all such investments to the city council.

(Ord. 1489 § 2, (1993); Ord. 1637 § 15, (2000))

§ 3.13.060. Redemptions.

From time to time the city treasurer shall redeem the securities in which city money has been invested pursuant to Section 3.13.050 so that the proceeds may be applied to the purposes for which the original purchase money was designated or placed in the city treasury.

(Ord. 1489 § 2, (1993))

§ 3.13.070. City bonds.

Bonds issued by the city and purchased pursuant to Section 3.13.050 may be canceled either in satisfaction of sinking fund obligations or otherwise; provided, however, that the bonds may be held uncanceled and while so held may be resold.

(Ord. 1489 § 2, (1993))

§ 3.13.080. Deposits.

The finance director/treasurer is authorized to deposit for safekeeping with a trust company or a state or national bank or with the Federal Bank of San Francisco or any branch thereof or with any Federal Reserve Bank, or with any state or national bank located in any city designated as a reserve city by the board of governors of the Federal Reserve System, the securities in which the city money has been invested pursuant to Section 3.13.050; provided, however, that the finance director/treasurer shall take from such trust company or bank a receipt for the securities so deposited and shall not be responsible for such securities delivered to and received for by such trust company or bank until they are withdrawn therefrom by the finance director/treasurer.

(Ord. 1489 § 2, (1993))

CHAPTER 3.17 DIRECTOR OF PARKS AND RECREATION

§ 3.17.010. Duties.

The director of parks and recreation shall be responsible for the development and maintenance of parks and landscaped areas, the trimming and care of city trees, and the operation of a comprehensive municipal recreation program. The director shall:

- (a) Administer, operate and maintain existing park and recreation areas and facilities and plan for the acquisition, development and operation of proposed facilities;
- (b) Administer and operate the city street tree program and the city urban reforestation and tree protection program;
- (c) Plan, promote, organize and supervise a comprehensive municipal recreation program and administer the same in the interest of the entire community;
- (d) Supervise recreation areas and facilities throughout the city that are required to meet the community's recreation and community services needs; conduct activities, events and programs that employ the leisure time of the citizens in a wholesome and constructive manner;
- (e) Prepare the annual department budget for review by the city manager and assigned city commissions and for approval by the city council. The director shall administer the annual budget as directed by the city manager and finance director;
- (f) Assign department employees to provide staff services to the parks and recreation commission, beautification commission, and senior commission so as to aid and advise them in the performance of their duties; provide staff services to any other commissions, boards or committees as assigned by the city council or city manager.
- (g) Perform such other duties and functions as may be from time to time fixed and prescribed by the city manager.

(Ord. 882 § 1, (1968); Ord. 1546 § 1, (1996))

§ 3.17.020. Other code references.

All references in this code to either park director or recreation director shall be understood to refer to the parks and recreation director or designee until changed by further amendment to the code.

(Ord. 1546 § 1, (1996))

**CHAPTER 3.20
DIRECTOR OF PUBLIC WORKS**

§ 3.20.010. Powers and duties.

- (a) The director of public works shall attend to and carry out all duties appertaining to general municipal engineering involving the city, and shall attend to all special assessment proceedings and carry on in all work generally performed by a municipal engineer for the city.
- (b) The director shall also be the supervisor and director of all divisions of public works in the city, specified as follows:
 - (1) The director shall have supervision and direction of all work relating to grading, paving, cleaning, lighting and repairing of streets and sidewalks; the building and repairing of streets and sidewalks; the building and repairing of sewer and storm drains; the disposal of sewage, garbage and rubbish. The director shall also act as the superintendent of streets of the city.
 - (2) The director shall have supervision and control of all work in connection with and relating to the water division of the city.
 - (3) The director shall be the custodian of all city maps, plans, profiles, field notes and other city records appertaining to the director's office with the indices thereof, and shall turn them over to the director's successor who shall give a duplicate receipt therefor, one of which shall be filed with the city clerk.
- (c) The director of public works may designate qualified persons to exercise duties described above, and these authorized persons may sign or approve plans, maps, surveys, and specifications as directed by the director and as allowed by state law.
- (d) All work done or made by the director of public works in connection with the duties of the office of director of public works, including maps, plans and memoranda, shall be the property of the city.
(1941 Code § 402, Ord. 398, (1943); Ord. 499, (1950); Ord. 1181 § 1, (1980); Ord. 1618 § 2, (1999); Ord. 1806 § 2A, (2007))

**CHAPTER 3.21
DIRECTOR OF COMMUNITY DEVELOPMENT**

§ 3.21.010. Department established.

The community development department is created and established.

(Ord. 947 § 1, (1971); Ord. 1806 § 2, (2007))

§ 3.21.020. Office established.

The office of director of community development is created and established.

(Ord. 947 § 1, (1971); Ord. 1806 § 2, (2007))

§ 3.21.030. Appointment and removal.

The director of community development shall be appointed, and may be removed, by the city manager.

(Ord. 947 § 1, (1971); Ord. 1806 § 2, (2007))

§ 3.21.040. Powers and duties.

The director of community development shall be head of the community development department, consisting of planning and building divisions, and shall be responsible for all phases of planning and zoning. The director of community development shall administer Title 25 (Zoning) of this code and shall:

- (a) Enforce the provisions of Title 25 (Zoning) of this code;
- (b) Establish, with the approval of the city council and the city manager, and administer rules for the conduct of the planning division;
- (c) Maintain records of documents and proceedings under Title 25;
- (d) Perform necessary research and planning studies and prepare reports for the planning commission and the city council;
- (e) Provide and maintain a continuing program of education and public information on planning and zoning matters;
- (f) Conduct such inspections of buildings, structures and use of land as are necessary to determine compliance with the terms of Title 25;
- (g) Receive, review and transmit to the planning commission all applications for variances, conditional use permits, special permits, amendments, environmental determinations and other matters on which the commission is authorized to act under the provisions of this code;
- (h) Review all applications for building permits and business licenses to determine whether a proposed building or structure, or use, or business is in compliance with Title 25.
- (i) Initiate review of the provisions of Title 25 and report to the planning commission proposed amendments, supplements, changes or repeal of the whole or any portion of Title 25;
- (j) Guide and coordinate the physical development and redevelopment of the city consistent with approved policies and the adopted general plan; seek to conserve the values of property throughout the city and to protect the character and stability of residential, commercial and manufacturing areas,

and to promote the orderly and beneficial development of such areas and to improve the quality of life for all people in the city;

- (k) Maintain the general plan as an active policy guide by the preparation of additional elements and periodically review and report on possible changes or amendments to the general plan;
- (l) Assist in preparing a capital improvement program to implement city council policies and the general plan;
- (m) Perform other professional services necessary to carry out the provisions of the State Planning and Zoning Law as the same may be amended from time to time; and
- (n) Have overall management responsibility for the conduct and operations of the building division.

(Ord. 947 § 1, (1971); Ord. 1603 § 8, (1998); Ord. 1806 § 2, (2007))

CHAPTER 3.22 TRAFFIC, SAFETY AND PARKING COMMISSION

§ 3.22.010. Organization—Terms of members—Compensation.

There shall be a commission of traffic, safety and parking in the city consisting of five members, appointed by the council. Their term of office shall be for a period of three years and until their successors are appointed and qualified. At the time of their application for the commission and throughout their terms as commissioners, they shall be registered, qualified electors of the city. The members shall serve without compensation, but all necessary expenses incurred by them while acting in their official capacities shall be paid by appropriate council action.

(Ord. 1030 § 2, (1975); Ord. 1593 § 2, (1998); Ord. 1647 § 2, (2001))

§ 3.22.020. Removal of appointed members—Filling vacancies.

Any member of the commission may be removed from office, for cause, prior to the expiration of that member's term, by the affirmative vote of not less than three-fifths of all of the members of the city council. Vacancies shall be filled by appointment by the mayor with the approval of the council, and shall be for the unexpired portion of the term of office vacated.

(Ord. 1030 § 2, (1975); Ord. 1637 § 16, (2000))

§ 3.22.030. Meetings—Officers.

The commission shall hold regular meetings at least once a month when there is business to conduct and a quorum present and may hold such other meetings as may be necessary or expedient. A majority of the commission shall constitute a quorum for the purpose of transacting the business of the commission. The commission shall elect a chair and secretary, both of whom shall serve at the pleasure of the commission.

(Ord. 1030 § 2, (1975); Ord. 1637 § 17, (2000))

§ 3.22.040. Record of proceedings kept by secretary—Filing.

The secretary of the commission shall keep a record of all proceedings, resolutions, findings, determinations and transactions of the commission, which records shall be a public record, and a copy of which record shall be filed with the city clerk as clerk of the city council.

(Ord. 1030 § 2, (1975))

§ 3.22.050. Powers and duties.

The commission shall make recommendations to the city council and advise the council in matters pertaining to traffic, safety and the parking of motor vehicles generally, and in particular as to:

- (a) The parking of motor vehicles on public streets and on public parking lots and areas;
- (b) The establishment of metered zones and the maintenance of free or metered parking spaces;
- (c) The rates per hour per space to be paid for the metered parking spaces;
- (d) The rental of off-street parking spaces;
- (e) The permissible time for parking in any parking space;
- (f) The design and improvement of, including lighting of, or traffic flow on, any public streets or parking

lot;

(g) The posting of signs giving notice of parking regulations;

(h) The landscaping of any parking lot; and

(i) The purchase and installation of parking meters.

(Ord. 1030 § 2, (1975); Ord. 1637 § 18, (2000))

CHAPTER 3.28 BEAUTIFICATION COMMISSION

§ 3.28.010. Organization—Terms of members—Compensation.

There shall be a beautification commission in the city consisting of five members, appointed by the council; their terms of office shall be for a period of three years and until their successors are appointed and qualified. At the time of their application for the commission and throughout their terms as commissioners, they shall be registered, qualified electors of the city. The members shall serve without compensation, but all necessary expenses shall be paid by appropriate council action.

(Ord. 884 § 1, (1968); Ord. 1593 § 3, (1998); Ord. 1866 § 2, (2011))

§ 3.28.020. Removal of member from office—Filling vacancies.

The city council may remove any appointed member of the beautification commission from office prior to the expiration of that member's term of office, with or without cause by an affirmative vote of not less than three-fifths of all the members of the city council. Vacancies on the commission, except as to ex officio members, shall be filled by appointment by the mayor, subject to the confirmation of the city council.

(Ord. 884 § 1, (1968); Ord. 1637 § 19, (2000))

§ 3.28.030. Meetings—Officers.

The commission shall hold regular meetings at least once each month when there is business to conduct and a quorum present, and may hold such additional meetings as it may deem necessary or expedient. A majority of the commission shall constitute a quorum for the purpose of transacting the business of the commission. The commission shall, as soon as practicable, after the time of the annual appointment of a member to the commission, elect a chair, vice chair, and a secretary thereof, who shall serve at the pleasure of the commission.

(Ord. 884 § 1, (1968); Ord. 1637 § 20, (2000))

§ 3.28.040. Record of proceedings kept by secretary—Filing.

The secretary of the commission shall keep a record of all proceedings, resolutions, findings, determinations and transactions of the commission, which records shall be a public record, and a copy of which record shall be filed with the city clerk as clerk of the city council.

(Ord. 884 § 1, (1968))

§ 3.28.050. Powers and duties.

Subject to the approval of the city council, the beautification commission, shall:

- (a) Act in an advisory capacity to the city council, the city manager, and the director of parks and recreation in all matters of city trees and protected private trees and to cooperate with other governmental and civic groups in the advancement of sound reforestation and tree protection planning and programs;
- (b) Recommend, develop, sponsor, and implement programs and activities to promote community awareness and participation in city beautification;
- (c) Recommend a master street tree plan for adoption by the city council;
- (d) Recommend an "Official Street Tree List" to the city council for adoption, designating specific types

of trees which can be planted on any street, based on pertinent local street and tree factors;

- (e) Recommend specific types of street trees for any new subdivision;
- (f) Recommend a survey to be made from time to time to determine those street trees which are to be retained and those which should be removed to conform to the street tree planning and maintenance program, having regard for both the immediate and long-term needs of the city;
- (g) Recommend or comment on plans and programs for the planting, maintenance and removal of all street trees in the city;
- (h) Recommend or comment on plans and programs for the uniform planting, care and maintenance of street trees and of shrubs, grass plots and other ornamental or beautifying plantings upon the streets and highways;
- (i) Recommend or comment on plans and programs for the development and beautification of the public parks, parkways and buildings belonging to, or leased by, the city;
- (j) Consider the annual budget of the parks and recreation department during the process of its preparation and make recommendations thereto to the city council and city manager and, in the case of capital improvement, also to the planning commission;
- (k) As part of each commission meeting, provide the opportunity for citizens to address the commission; and
- (l) Perform such other duties as may be delegated to it by the city council from time to time.

(Ord. 884 § 1, (1968); Ord. 1637 § 21, (2000))

CHAPTER 3.32 PARKS AND RECREATION COMMISSION

§ 3.32.010. Organization—Terms—Compensation.

There shall be a parks and recreation commission in the city consisting of seven members, appointed by the council; their terms of office shall be for a period of three years and until their successors are appointed and qualified. At the time of their application for the commission and throughout their terms as commissioners, they shall be registered, qualified electors of the city. In addition to the seven voting members, the city council will appoint two non-voting members to the commission to represent the interests of youth in the community. The members shall serve without compensation, but all necessary expenses shall be paid by appropriate council action.

(Ord. 883 § 2, (1968); Ord. 1593 § 4, (1998); Ord. 1637 § 22, (2000); Ord. 1655 § 3, (2001); Ord. 1722 § 2, (2003))

§ 3.32.020. Removal of member from office—Filling vacancies.

The city council may remove any appointed member of the commission from office prior to the expiration of that member's term of office, with or without cause by an affirmative vote of not less than three-fifths of all the members of the city council. Vacancies on the commission, except as to ex officio members, shall be filled by appointment by the mayor, subject to the confirmation of the city council.

(Ord. 883 § 2, (1968); Ord. 1637 § 22, (2000))

§ 3.32.030. Meetings—Officers.

The commission shall hold regular meetings at least once each month when there is business to conduct and a quorum present, in the recreation center or such other place in the city as the commission may designate, and may hold such additional meetings as it may deem necessary or expedient. A majority of the voting members of the commission shall constitute a quorum for the purpose of transacting the business of the commission. The commission shall, as soon as practicable, after the time of the annual appointment of a member to the commission, elect a chair, vice-chair, and a secretary, who shall serve at the pleasure of the commission.

(Ord. 883 § 2, (1968); Ord. 1637 § 22, (2000); Ord. 1655 § 4, (2001))

§ 3.32.040. Record of proceedings kept by secretary—Filing.

The secretary of the commission shall keep a record of all proceedings, resolutions, findings, determinations and transactions of the commission, which records shall be a public record, and a copy of which record shall be filed with the city clerk as clerk of the city council.

(Ord. 883 § 2, (1968))

§ 3.32.050. Powers and duties.

Subject to the approval of the city council, the parks and recreation commission shall:

- (a) Act in an advisory capacity to the city council, the city manager, the director of parks and recreation, in all matters of public parks and recreation, and to cooperate with other governmental agencies and with civic groups in the advancement of sound recreation planning and programming;
- (b) Recommend policies on recreation and park service for approval of the city council;
- (c) Advise the director of parks and recreation on problems of development of recreation areas, facilities,

programs and improved recreation services;

- (d) Recommend the adoption of standards on areas, facilities, programs and financial support;
- (e) Make or cause to be made, periodic inventories of parks and recreation services that exist or may be needed;
- (f) Aid in coordinating the parks and recreation service with the programs of other governmental agencies and of voluntary organizations;
- (g) Review the effectiveness of the parks and recreation programs with the director of parks and recreation;
- (h) Interpret the policies of the city and the functions of the parks and recreation department to the public;
- (i) Make studies and recommend rules and regulations for adoption by the city council for the use and enjoyment of all public parks and recreational facilities, and particularly of specific recreational facilities, including, but not limited to, playgrounds, play fields, recreational centers, swimming pools, ball diamonds, basketball courts, golf facilities, boating areas and such other recreational areas and facilities as may require regulation from time to time;
- (j) Review the annual budget of the parks and recreation department before presentation to the city manager and make recommendations thereto to the city council and the city manager and, in the case of capital improvements, also to the planning commission.
- (k) Consider the issues and needs of the senior population of the city in recommending programs, policies, and facilities.

(Ord. 883 § 2, (1968); Ord. 1049 § 5, (1975); Ord. 1637 § 22, (2000); Ord. 1655 § 5, (2001))

CHAPTER 3.36 EMERGENCY SERVICES

§ 3.36.010. Purposes.

The declared purposes of this chapter are to provide for the preparation and carrying out of plans for the protection of persons and property within this 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.

(Ord. 930 § 1, (1971))

§ 3.36.020. Definitions.

As used in this chapter, "emergency" means the actual or threatened existence of conditions of disaster or of extreme peril to the safety of persons and property within this city caused by such conditions as air pollution, fire, flood, storm, epidemic, riot, 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.

(Ord. 930 § 1, (1971))

§ 3.36.030. Disaster council membership.

The city of Burlingame disaster council is hereby created and shall consist of the following:

- (a) The city council; the chair shall be the mayor or in the mayor's absence, the vice mayor. If the mayor and vice mayor are both absent, the chair shall be the member of the city council most senior in years of continuous service;
- (b) The city manager who shall serve as vice chair and director of emergency services;
- (c) The assistant director of emergency services, who under the supervision of the director, shall develop emergency service plans, and organize the emergency service and disaster program of this city and shall have such other duties as may be assigned by the director;
- (d) Such chiefs of emergency services as are provided for in current emergency plan of this city, adopted pursuant to this chapter;
- (e) Such representatives of civic, business, labor, veterans, professional or other organizations having an official emergency responsibility as may be appointed by the director with the advice and consent of the city council.

(Ord. 930 § 1, (1971); Ord. 1507 § 1, (1994); Ord. 1637 § 26, (2000))

§ 3.36.040. Disaster council powers and duties.

It shall be the duty of the city 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 the call of the chair or, in the chair's absence from the city or inability to call such meeting, upon call of the vice chair.

(Ord. 930 § 1, (1971); Ord. 1637 § 27, (2000))

§ 3.36.050. Director and assistant director of emergency services.

- (a) There is hereby created the office of director of emergency services. The city manager shall be the director of emergency services.
- (b) There is hereby created the office of assistant director of emergency services, who shall be appointed by the director.
- (c) In the event that the director or assistant director of emergency services is not available to perform the director's duties, the police chief or director of public works, or the senior officer present from the fire, police, or public works department, shall assume the duties until relieved by an officer of higher precedence under the order of succession for director.

(Ord. 930 § 1, (1971); Ord. 1507 § 2, (1994); Ord. 1637 § 28, (2000))

§ 3.36.060. Powers and duties of the director and assistant director of the 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 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 local 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 of 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:
 - (A) To make and issue rules and regulations on matters reasonably related to the protection of life and property as affected by such emergency; provided, however, such rules and regulations must be confirmed at the earliest practicable time by the city council,
 - (B) To obtain vital supplies, equipment and such other properties found lacking and needed for the protection of life and property and to bind the city for the fair value thereof and, if required immediately, to commandeer the same for public use,
 - (C) 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 or she deems necessary in the execution of his or her duties; such persons

shall be entitled to all privileges, benefits and immunities as are provided by state law for registered disaster service workers,

- (D) To requisition necessary personnel or material of any city department or agency, and
 - (E) To execute all of the director's ordinary powers as city manager conferred by this code or by resolution or emergency plan adopted pursuant to this code, and all powers conferred upon the director by any law, by any agreement approved pursuant to this code, 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 otherwise perform the director's duties during an emergency. This 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.

(Ord. 930 § 1, (1971); Ord. 1637 §§ 29, 30, (2000))

§ 3.36.070. 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 3.36.060(a)(6)(C) 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 Burlingame.

(Ord. 930 § 1, (1971))

§ 3.36.080. Emergency plan.

The Burlingame disaster council shall be responsible for the development of the Burlingame emergency plan, which plan shall provide for the effective mobilization of all the resources of this city, both public and private, to meet any condition constituting a local emergency, or state of war emergency; and shall provide for the organization powers and duties, services and staff of the emergency organization. Such plan shall take effect upon adoption by resolution of the city council.

(Ord. 930 § 1, (1971))

§ 3.36.090. Expenditures.

Any expenditures made pursuant to this chapter 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.

(Ord. 930 § 1, (1971); Ord. 1637 § 31, (2000))

§ 3.36.095. Punishment of violations.

It is a misdemeanor, punishable by a fine of not to exceed \$500 or by imprisonment for not to exceed six months, or both, for any person, during an emergency proclaimed pursuant to this chapter, to:

- (a) Wilfully 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 any member of the emergency organization by virtue of this chapter;

- (b) Do any act forbidden by any lawful rule or regulation issued 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 or 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 by the State Office of Emergency Services.

(Ord. 930 § 1, (1971); Ord. 1637 § 32, (2000))

§ 3.36.099. Repeal of conflicting ordinances.

Ordinance No. 792, adopted February 3, 1964, is hereby repealed, provided that it is the intent of the city council in enacting this chapter that it shall be considered a revision and continuation of the ordinance repealed by the ordinance codified in this chapter and the status of volunteers shall not be affected by such repeal; nor shall civil defense and disaster mutual aid plans and agreements, rules and regulations, or resolutions adopted pursuant to such repealed ordinance be affected by such repeal until amended, modified or superseded as provided in this chapter.

(Ord. 930 § 1, (1971))

CHAPTER 3.40 PLANNING COMMISSION

§ 3.40.010. Organization—Terms of members—Compensation.

There is a planning commission of the city, consisting of seven members appointed by the council. They shall hold office for a term of four years, or until their respective successors have been appointed and qualified. At the time of their application for the commission and throughout their terms as commissioners, they shall be registered, qualified electors of the city. The members shall serve without compensation, but all necessary expenses incurred by them while acting in their official capacities shall be paid by appropriate council action.

(Ord. 522, (1952); Ord. 1437 § 1, (1991); Ord. 1593 § 6, (1998); Ord. 1636 § 2, (2000); Ord. 1721 § 2, (2003); Ord. 1947 § 1, (2017))

§ 3.40.020. Removal of appointive member—Filling vacancies.

The city council may remove, for cause, any appointive member of the commission from office, prior to the expiration of that member's term, by the affirmative vote of not less than four-fifths of all of the members of the city council. Vacancies shall be filled by appointment by the mayor subject to confirmation of the city council, and shall be for the unexpired portion of the term of office vacated.

(1941 Code § 615.1; Ord. 522, (1952); Ord. 1637 § 33, (2000))

§ 3.40.030. Meetings—Officers and employees—Record of proceedings.

The commission shall hold regular meetings at least once a month when there is business to conduct and a quorum present, and may hold such other meetings as may be necessary or expedient. A majority of the voting members of the commission shall constitute a quorum for the purpose of transacting the business of the commission. Unless otherwise required by state law or this code, the commission may take action by the affirmative vote of not less than a majority, and never less than three affirmative votes, of the members present. The commission shall elect a chair and secretary from among the appointed members for a term of one year, and in the event of a vacancy of either office, may elect a successor. The commission may appoint such other officers for the purpose of carrying on its business and functions as it may determine.

The commission shall adopt rules to be approved by the city council for the transaction of its business, and shall keep a record of all proceedings, resolutions, findings and transactions of the commission for public inspection, and shall file a copy thereof with the city clerk for the city council.

The commission may, with the approval of the city council, contract for and employ planning consultants and other specialists for such services as it may require.

(1941 Code § 615.2; Ord. 522, (1952); Ord. 1049 § 6, (1975); Ord. 1578 § 1, (1997); Ord. 1637 § 34, (2000))

§ 3.40.040. Powers and duties.

The planning commission shall have such powers, duties, authority and procedures as provided by the laws of the state of California and the provisions of this code.

(1941 Code § 615.3; Ord. 522, (1952))

**CHAPTER 3.44
LIBRARY BOARD**

§ 3.44.010. Public library established.

Pursuant to the provisions of an act entitled "An act to provide for the establishment and maintenance of public libraries within municipalities," approved March 23, 1901 (Statutes 1901, page 557), and the acts amendatory thereof, a public library is established in and for the city.

(1941 Code § 630)

§ 3.44.020. Management of public library.

The public library shall be managed by a board of library trustees, consisting of five members, to be appointed and to act in the manner provided by the laws of the state of California.

(1941 Code § 631)

**CHAPTER 3.52
CIVIL SERVICE FOR EMPLOYEES**

§ 3.52.010. Classified and unclassified services—Generally.

The civil service of the city shall be divided into the unclassified and the classified service.

(a) Unclassified Service. The unclassified service shall include the following officers and positions:

- (1) All elective officers;
- (2) City manager and one private secretary to the city manager;
- (3) Positions on appointive boards, commissions or committees;
- (4) The head of each department and one private secretary to the head of a department, where applicable;
- (5) Assistant department heads;
- (6) Chief fire inspector;
- (7) Chief building inspector;
- (8) City engineer;
- (9) Park superintendent
- (10) Recreation superintendent
- (11) Part-time or volunteer firemen and other fire department employees paid on an hourly or per diem basis;
- (12) Special police officers and other police department employees paid on an hourly or per diem basis;
- (13) Casual or seasonal employees in any office or department of the city. For the purpose of this chapter, casual or seasonal employees shall have synonymous meaning and shall be treated alike. Such casual or seasonal employment shall not continue for a period longer than six months, and no person shall be eligible to serve as a casual or seasonal employee for more than an aggregate period of six months in any one fiscal year;
- (14) Part-time employees in any office or department of the city. A "part-time employee" is an employee appointed to a position which requires service of four hours a day or less;
- (15) Hourly or per diem employees in any office or department of the city. An hourly or per diem employee shall be any person paid on an hourly or per diem basis, employed in any position, but such service or employment shall in no case exceed nor continue for a longer period than six months in any one fiscal year;
- (16) Emergency employees in any office or department of the city. For the purposes of this chapter, an "emergency employee" is any person appointed to a position or employment, the necessity for which has been created by reason of riot, insurrection or other extraordinary emergency. No position shall be created, or employment made, hereunder until the existence of a state of emergency has been proclaimed pursuant to chapter 3.36. All such positions and employments

shall be for the duration of the emergency and shall terminate immediately thereafter.

- (b) Classified Service. The classified service shall comprise all positions not specifically included by this section in the unclassified service.
- (c) Status on Effective Date of Ordinance Codified Herein. Any person holding a position or employment included in the classified service who, on the effective date of the ordinance codified herein, has served continuously in such position, or in some other position included in the classified service, for a period of 12 months immediately prior to such effective date, shall automatically continue his or her regular status in the classified service in the position held on such effective date, and shall continue thereafter to be subject in all respects to the provisions of the civil service system provided for in this code until his or her office or position becomes vacant.
- (d) Removal of Unclassified Officers and Employees. Any unclassified officer or employee of the city except the city manager and attorney may be suspended or removed from office or employment by the officer by whom appointed. Written notice of layoff, suspension or removal served personally on an officer or employee, or written notice left at or mailed to his or her usual place of residence, shall be sufficient to effect any such layoff, suspension or removal, unless the person so notified within five days after such notice demands a written statement of the reasons therefor and the right to be heard publicly before the officer by whom such notice was given. Upon such demand the officer making the layoff, suspension or removal shall deliver to the person notified thereof a written statement of the reasons therefor and shall fix a time and place for the public hearing. Following the public hearing, the officer ordering the layoff, suspension or removal shall by a decision in writing, make such disposition of the case as, in his or her opinion, the good of the service may require, and such decision shall be final. A copy of the statement of reasons for any layoff, suspension or removal, a copy of the written reply thereto by the officer or employee involved, and a copy of the final decision of the officer by whom the layoff, suspension or removal was made shall be filed as public records in the office of the city clerk.

(1941 Code § 501; Ord. 370 (1941); Ord. 968 § 1, (1972); Ord. 983 §§ 1, 2, (1973); Ord. 1027 § 2, (1975); Ord. 1049 § 7, (1975); Ord. 1102 §§ 1, 2, (1977); Ord. 1138 § 1, (1978); Ord. 1181 § 2, (1980); Ord. 1546 § 3, (1996); Ord. 1637 § 37, (2000))

§ 3.52.020. Employees blanketed into classified service.

Any person holding a position or employment in the classified service on April 16, 1936, or at the effective date of any subsequently enacted ordinance placing positions or employments under the classified service, who shall have served in such position for a period of at least one year continuously immediately prior to such effective date, shall become a classified service employee without preliminary or working tests, and shall thereafter be subject in all respects to the provision of this chapter. Any other persons holding positions or employment in the classified service shall be regarded as holding such positions or employments as probationers who are serving out probationary periods before their appointments become complete.

(1941 Code § 502)

§ 3.52.030. Rules and regulations.

The city council shall formulate and adopt rules and regulations for the administration of the civil service system under the city manager. Any subsequent amendments to said rules and regulations may be adopted by the council after review and recommendation by the city manager. All rules and regulations adopted shall be considered with the provisions of this chapter. Such rules shall provide for the following matters in addition to such other matters as may be necessary and proper in carrying out the intent and purposes of

this chapter:

- (a) The classification of all persons in the classified service;
- (b) The selection, employment, advancement, suspension, demotion, discharge and retirement of all persons in the classified service;
- (c) The formulating of minimum standards and qualifications for each of the positions in the classified service.

(1941 Code § 503; Ord. 1221 § 2, (1982); Ord. 1841 § 4, (2009))

§ 3.52.060. Appointments—Temporary appointments.

All appointments to positions or employments in the classified service shall be made by the city manager from the applications on file in accordance with the rules and regulations adopted under the authority of this code. Temporary appointments may be made by the city manager of persons who do not possess the minimum standards or qualifications for office or whose applications have not been filed or who have not been certified on an eligible list as the result of an examination, or in the event those who are eligible are not immediately available. Such temporary appointments shall not continue for a longer period than three months, and no person shall be eligible to serve as a temporary appointee in any one or more positions for more than an aggregate period of three months in any one fiscal year. In the giving of an examination for any positions in the classified service no credit shall be allowed for service rendered under a temporary appointment.

During the exigency of war or a state of emergency, or an existing shortage of manpower, and in the absence of eligible persons on a regularly established list, the city manager may make limited-tenure appointments, through informal noncompetitive tests. Such appointments shall in no event continue more than six months beyond the termination of the exigency, and employees serving under such employment shall acquire no right or privilege to permanent civil service status by reason of such service, or no credit shall be given for service under any temporary appointment.

(1941 Code § 506; Ord. 448, (1947); Ord. 502, (1951); Ord. 676, (1958); Ord. 1221 § 4, 1982))

§ 3.52.070. Discipline—Removal and suspension.

The city council in whom is vested disciplinary or removal power shall be allowed full freedom in its action on such matters, it being the intent and spirit of this chapter to provide a fair and just approach to municipal employment for every inhabitant of the city in order that city employees may be selected on a basis of merit, but, in no sense, to handicap or curtail any responsible administrative officer in securing efficient service. All persons holding positions in the classified service shall be subject to suspension without pay for a period of not exceeding 30 days, and also to demotion or removal from office or employment for misconduct, incompetency, inefficiency or failure to perform duties, or to observe the rules and regulations of the department, office or board, but subject to the right of appeal of the aggrieved party to the city council in the manner set forth in the rules and regulations.

(1941 Code § 507)

§ 3.52.080. Abolishment of positions.

Whenever, in the judgment of the city council, it becomes necessary in the interest of economy or because the necessity for the position involved no longer exists, the city council may abolish any position or employment in the classified service as provided by the statutes of the state of California, and discharge the employee holding such position or employment. Should such position or employment or any position

involving all or any of the same duties be reinstated or created within two years, the employee discharged shall be eligible to be appointed thereto in preference to any other qualified persons on the eligible list for such position. If the employee whose position is abolished was appointed from an eligible list, he or she shall be returned to his or her original position on the eligible list from which he or she was appointed.
(1941 Code § 508)

§ 3.52.100. Soliciting political contributions prohibited.

No officer, agent, clerk or employee of the city shall directly or indirectly solicit or receive, or be in any manner concerned in soliciting or receiving, any assessment, subscription, contribution or political service, whether voluntary or involuntary, for any political purpose whatever, from anyone on the eligible lists or holding any position under the provisions of this chapter.

(1941 Code § 510)

**CHAPTER 3.56
COMPENSATION PLAN**

§ 3.56.020. Promotion to higher class.

Any employee in the classified service promoted from one position to one of a higher class, and at the time of such promotion is receiving compensation equal to or greater than the minimum compensation provided for such higher classified service, shall be entitled to receive such compensation in the higher classification next above the rate of compensation he or she or she had theretofore received, and such increase shall be effective upon the date of promotion.

(1941 Code § 822, Ord. 436, (1946))

§ 3.56.030. Time of effect of seniority increment.

Except as herein provided, seniority increment on the basis of years of service as fixed in the schedule of compensations adopted by the city council shall be effective beginning on the date following the anniversary of permanent appointment in the classification to which the position of the employee is allocated, and if such anniversary date is between the first and the fifteenth of the month, such increment will take effect at the beginning of the current month, and if the anniversary is after the fifteenth of the month, such increment will take effect on the first day of the month following.

(1941 Code § 824, Ord. 402, (1943))

§ 3.56.050. Payment of compensation restricted to duly qualified persons actually performing required services.

The treasurer shall not pay, nor shall the city clerk issue a warrant for the payment of any salary or compensation to any person holding a position in the classified or unclassified service unless such person has been duly elected, appointed or employed by the city and is performing the service required in his or her classification.

(1941 Code § 828, Ord. 402, (1943))

**CHAPTER 3.60
REDEVELOPMENT AGENCY**

§ 3.60.010. Findings.

It is found, determined and declared that there is need for a redevelopment agency to function in the city of Burlingame in accordance with the provisions of the Community Redevelopment Law.
(Ord. 1091 § 1, (1976))

§ 3.60.020. City council is redevelopment agency.

Pursuant to the provisions of Section 33200 of the Community Redevelopment Law, the city council hereby declares itself to be the redevelopment agency of the city of Burlingame.
(Ord. 1091 § 3, (1976))

§ 3.60.030. Authority to transact business.

Said redevelopment agency is activated pursuant to Section 33101 of the Community Redevelopment Law, to be known as the redevelopment agency of the city of Burlingame. Said redevelopment agency is authorized to transact business and to exercise its powers under the provisions of the Community Redevelopment Law.
(Ord. 1091 § 2, (1976))

REVENUE AND FINANCE

Title 4**REVENUE AND FINANCE**

ASSESSMENT AND TAX COLLECTION BY COUNTY	Chapter 4.05	§ 4.09.020.	Definitions.
§ 4.05.010.	Definitions.	§ 4.09.025.	Tax rate.
§ 4.05.020.	Transfer of assessment and tax collection duties to county.	§ 4.09.030.	Tax imposed.
§ 4.05.030.	City offices abolished—Transfer of duties other than assessment and tax collection.	§ 4.09.040.	Exemptions.
		§ 4.09.050.	Operators duties.
		§ 4.09.060.	Registration.
		§ 4.09.070.	Reporting and remitting.
		§ 4.09.080.	Penalties and interest.
		§ 4.09.090.	Failure to collect and report tax—Determination of tax by tax administrator.
	Chapter 4.08	§ 4.09.100.	Appeal.
UNIFORM LOCAL SALES AND USE TAX		§ 4.09.110.	Records.
		§ 4.09.120.	Refunds.
§ 4.08.010.	Short title.	§ 4.09.130.	Collection of tax.
§ 4.08.020.	Rate.	§ 4.09.140.	Violations—Misdemeanor.
§ 4.08.030.	Operative date.		
§ 4.08.040.	Purpose.		Chapter 4.10
§ 4.08.050.	Contract with state.		TRANSACTIONS AND USE TAX
§ 4.08.060.	Sales tax.	§ 4.10.010.	Title.
§ 4.08.070.	Place of sale.	§ 4.10.020.	Operative date.
§ 4.08.080.	Use tax.	§ 4.10.030.	Purpose.
§ 4.08.090.	Adoption of provisions of state law.	§ 4.10.040.	Contract with state.
§ 4.08.100.	Limitations on adoption of state law.	§ 4.10.050.	Transactions tax rate.
§ 4.08.110.	Permit not required.	§ 4.10.060.	Place of sale.
§ 4.08.120.	Exclusions and exemptions.	§ 4.10.070.	Use tax rate.
§ 4.08.130.	Exclusions and exemptions.	§ 4.10.080.	Adoption of provisions of state law.
§ 4.08.140.	Application of provisions relating to exclusions and exemptions.	§ 4.10.090.	Limitations on adoption of state law and collection of use taxes.
§ 4.08.150.	Amendments.	§ 4.10.100.	Permit not required.
§ 4.08.160.	Enjoining collection forbidden.	§ 4.10.110.	Exemptions and exclusions.
§ 4.08.170.	Penalties.	§ 4.10.120.	Amendments.
	Chapter 4.09	§ 4.10.130.	Enjoining collection forbidden.
UNIFORM TRANSIENT OCCUPANCY TAX		§ 4.10.140.	Citizens' oversight and annual audit.
§ 4.09.010.	Title.	§ 4.10.150.	Amendments by city council.
		§ 4.10.160.	Termination.

BURLINGAME CODE

	Chapter 4.12	SPECIAL FUND FOR CAPITAL OUTLAYS	§ 4.24.020.	Property tax imposed.
			§ 4.24.030.	Property tax—Payment.
			§ 4.24.040.	Nonapplicability—Instrument to secure a debt.
§ 4.12.010.	Fund established—Tax levy.		§ 4.24.050.	United States or its instrumentalities.
§ 4.12.020.	Transfers to fund—Disbursements.		§ 4.24.060.	Plan of reorganization or adjustment.
§ 4.12.030.	Interpretation of "capital outlays."		§ 4.24.070.	Securities and exchange commission.
	Chapter 4.14		§ 4.24.080.	Transfer of interest in partnership.
		SPECIAL INSURANCE FUND		Administration.
§ 4.14.010.	Special insurance fund.		§ 4.24.090.	Claims for refund.
	Chapter 4.15		§ 4.24.100.	Operative date.
		CLAIMS PROCEDURES	§ 4.24.110.	Copies filed.
§ 4.15.010.	Claims for money or damages.		§ 4.24.120.	
	Chapter 4.16			
		WATER FUNDS		
§ 4.16.010.	Deposit of funds in water fund.		§ 4.30.010.	Establishment of storm drainage fee.
	Chapter 4.20		§ 4.30.020.	Computing the fee.
		SPECIAL GASOLINE TAX STREET IMPROVEMENT FUND	§ 4.30.030.	Setting the fee.
§ 4.20.010.	Created.		§ 4.30.040.	The fee in fiscal year 2009-2010.
§ 4.20.020.	Source of funds.		§ 4.30.050.	Appeals by property owners.
§ 4.20.030.	Expenditures.		§ 4.30.060.	Collection of the fee.
	Chapter 4.24		§ 4.30.070.	Deposit in the special storm drainage fund.
		REAL PROPERTY TRANSFER TAX	§ 4.30.080.	Various actions.
			§ 4.30.090.	Expiration of fee.
§ 4.24.010.	Short title.		§ 4.30.100.	Citizens oversight committee.
			§ 4.30.110.	Severability.

**CHAPTER 4.05
ASSESSMENT AND TAX COLLECTION BY COUNTY**

§ 4.05.010. Definitions.

The following words and expressions when used in this chapter shall for the purpose of this chapter have the meanings respectively ascribed to them as follows:

"City," as used in this chapter, means the city of Burlingame, a municipal corporation situated in the county of San Mateo, state of California.

"County," as used in this chapter, means the county of San Mateo, a political subdivision of the state of California.

(1941 Code § 951.1, Ord. 758, (1962))

§ 4.05.020. Transfer of assessment and tax collection duties to county.

The assessment and tax collection duties, and the collection of assessments levied for municipal improvements, now performed by the assessor and the tax collector of the city, are hereby transferred to the assessor and the tax collector of the county for the purpose of assessment and collection of ad valorem property taxes that become a lien after June 18, 1962, and the collection of assessments for municipal improvements becoming due and payable on and after July 1, 1963.

(1941 Code § 951.2, Ord. 758, 1962))

§ 4.05.030. City offices abolished—Transfer of duties other than assessment and tax collection.

The offices of city assessor and city tax collector are abolished as of the first day of July, 1963. Thereafter all duties to be performed by the city assessor other than the assessing of property in the city are transferred to and are to be performed by the city clerk and all duties performed by the city tax collector other than the collection of ad valorem taxes on property that become a lien after June 18, 1962 and the collection of assessments for municipal improvements becoming due and payable on and after July 1, 1963 are transferred to and are to be performed by the city treasurer.

(1941 Code § 951.3, Ord. 758 (1962))

**CHAPTER 4.08
UNIFORM LOCAL SALES AND USE TAX**

§ 4.08.010. Short title.

This chapter shall be known as the "Uniform Local Sales and Use Tax Ordinance."
(Ord. 996 § 1, (1973))

§ 4.08.020. Rate.

The rate of sales tax and use tax imposed by this chapter shall be ninety-five hundredths of one percent.
(Ord. 996 § 1, (1973))

§ 4.08.030. Operative date.

This chapter shall be operative on January 1, 1974.
(Ord. 996 § 1, (1973))

§ 4.08.040. Purpose.

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

- (a) To adopt a sales and use tax ordinance which complies with the requirements and limitations contained in Part 1.5 of Division 2 of the Revenue and Taxation Code;
- (b) To adopt a sales and use tax ordinance which incorporates provisions identical to those of the Sales and Use Tax Law of the state of California insofar as those provisions are not inconsistent with the requirements and limitations contained in Part 1.5 of Division 2 of the Revenue and Taxation Code;
- (c) To adopt a sales and use tax ordinance which imposes a tax and provides a measure therefor that can be administered and collected by the State Board of Equalization in a manner that adapts itself as fully as practicable to, and requires the least possible deviation from, the existing statutory and administrative procedures followed by the State Board of Equalization in administering and collecting the California State Sales and Use Taxes;
- (d) To adopt a sales and use tax ordinance which can be administered in a manner that will, to the degree possible consistent with the provisions of Part 1.5 of Division 2 of the Revenue and Taxation Code, minimize the cost of collecting city sales and use taxes and at the same time minimize the burden of record keeping upon persons subject to taxation under the provisions of this chapter.

(Ord. 996 § 1, (1973))

§ 4.08.050. Contract with state.

Prior to the operative date this city shall contract with the State Board of Equalization to perform all functions incident to the administration and operation of this sales and use tax ordinance; provided, that if this city shall not have contracted with the State Board of Equalization prior to the operative date, it shall nevertheless so contract and in such a case the operative date shall be the first day of the first calendar quarter following the execution of such a contract rather than the first day of the first calendar quarter following the adoption of the ordinance codified in this chapter.

(Ord. 996 § 1, (1973))

§ 4.08.060. Sales tax.

For the privilege of selling tangible personal property at retail a tax is imposed upon all retailers in the city at the rate stated in Section 4.08.020 of the gross receipts of the retailer from the sale of all tangible personal property sold at retail in this city on and after the operative date.

(Ord. 996 § 1, (1973))

§ 4.08.070. Place of sale.

For the purposes of this chapter, all retail sales are consummated at the place of business of the retailer unless the tangible personal property sold is delivered by the retailer or his or her agent to an out-of-state destination or to a common carrier for delivery to an out-of-state destination. The gross receipts from such sales shall include delivery charges, when such charges are subject to the state sales and use tax, regardless of the place to which delivery is made. In the event a retailer has no permanent place of business in the state or has more than one place of business, the place or places at which the retail sales are consummated shall be determined under rules and regulations to be prescribed and adopted by the State Board of Equalization. (Ord. 996 § 1, (1973))

§ 4.08.080. Use tax.

An excise tax is imposed on the storage, use or other consumption in this city of tangible personal property purchased from any retailer on and after the operative date for storage, use or other consumption in this city at the rate stated in Section 4.08.020 of the sales price of the property. The sales price shall include delivery charges when such charges are subject to state sales or use tax regardless of the place to which delivery is made.

(Ord. 996 § 1, (1973))

§ 4.08.090. Adoption of provisions of state law.

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

(Ord. 996 § 1, (1973))

§ 4.08.100. Limitations on adoption of state law.

In adopting the provisions of Part 1 of Division 2 of the Revenue and Taxation Code, wherever the state of California is named or referred to as the taxing agency, the name of this city shall be substituted therefor. The substitution, however, shall not be made when the word "state" is used as part of the title of the State Controller, the State Treasurer, the State Board of Control, the State Board of Equalization, the State Treasury or the Constitution of the state of California; 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 this chapter; the substitution shall not be made in those sections, including, but not necessarily limited to, sections referring to the exterior boundaries of the state of California, where the result of the substitution would be to provide an exemption from this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not otherwise be exempt from this tax while such sales, storage, use or other consumption remain subject to tax by the state under the provisions of Part 1 of Division 2 of the 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 that Code; the substitution shall not be made in Section 6701, 6702 (except in the last sentence thereof), 6711, 6715, 6737, 6797 or 6828 of the Revenue and Taxation Code; and the substitution shall not be made for the word "state" in the phrase "retailer engaged in business in this state" in Section 6203 or in the definition of that phrase in Section 6203.

(Ord. 996 § 1, (1973))

§ 4.08.110. Permit not required.

If a seller's permit has been issued to a retailer under Section 6067 of the Revenue and Taxation Code, an additional seller's permit shall not be required by this chapter.

(Ord. 996 § 1, (1973))

§ 4.08.120. 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 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 chapter.
- (c) There are exempted from the computation of the amount of the sales tax, the gross receipts from the sale of tangible personal property to operators of aircraft to be used or consumed principally outside the city in which the sale is made and directly and exclusively in the use of such aircraft as common carriers of persons or property under the authority of the laws of this state, the United States or any foreign government.
- (d) In addition to the exemptions provided in Sections 6366 and 6366.1 of the Revenue and Taxation Code, the storage, use or other consumption of tangible personal property purchased by operators of aircraft and used or consumed by such operators directly and exclusively in the use of such aircraft as common carriers of persons or property for hire or compensation under a certificate of public convenience and necessity issued pursuant to the laws of this state, the United States, or any foreign government is exempted from the use tax.

(Ord. 996 § 1, (1973); Ord. 1262 § 1, (1983))

§ 4.08.130. 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 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 ordinance.
- (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 of 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.

(Ord. 996 § 1, (1973); Ord. 1262 § 2, (1983))

§ 4.08.140. Application of provisions relating to exclusions and exemptions.

- (a) Section 4.08.120 shall be operative January 1, 1984.
- (b) Section 4.08.130 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 as those subdivisions read on October 1, 1983.

(Ord. 996 § 1, (1973); Ord. 1262 §§ 3, 4, (1983))

§ 4.08.150. Amendments.

All subsequent amendments of the Revenue and Taxation Code which relate to the sales and use tax and which are not inconsistent with Part 1.5 of Division 2 of the Revenue and Taxation Code shall automatically become a part of this chapter.

(Ord. 996 § 1, (1973))

§ 4.08.160. 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 this city, or against any officer of the state or this city, to prevent or enjoin the collection under this chapter, or Part 1.5 of Division 2 of the Revenue and Taxation Code, of any tax or any amount of tax required to be collected.

(Ord. 996 § 1, (1973))

§ 4.08.170. Penalties.

Any person violating any of the provisions of this chapter is guilty of a misdemeanor, and upon conviction thereof shall be punishable by a fine of not more than \$500 or by imprisonment for a period of not more than six months, or by both such fine and imprisonment.

(Ord. 996 § 1, (1973))

CHAPTER 4.09 UNIFORM TRANSIENT OCCUPANCY TAX

§ 4.09.010. Title.

This chapter shall be known as the "Uniform Transient Occupancy Tax Ordinance of the city of Burlingame."

(Ord. 847 § 1, (1966); Ord. 1989 § 2, (2020))

§ 4.09.020. Definitions.

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

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

"Operator" means the person who is proprietor of the hotel or short-term rental, whether in the capacity of owner, lessee, sublessee, mortgagee in possession, licensee or any other capacity. Where the operator performs his or her functions through a managing agent of any type or character other than an employee, the managing agent of any type or character is an operator for the purposes of this chapter and shall have the same duties and liabilities as his or her principal. In relation to short-term rentals, the operator is the party responsible for collecting the transient occupancy tax, whether that entity is a hosting platform or host. Compliance with the provisions of this chapter by either the principal or the managing agent shall, however, be considered to be compliance by both.

Person. Except as used in the definition for transient below, "person" means any individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate or any other group or combination acting as a unit.

"Rent" means the consideration charged, whether or not received, for the occupancy of space in a hotel or short-term rental valued in money, whether to be received in money, goods, labor or otherwise, including all receipts, cash, credits and property and services of any kind or nature, without any deduction therefrom whatsoever. The value of complimentary meals or other similar services or inducements shall not be deducted. In the event of dispute the tax administrator shall determine the proper rent.

"Tax administrator" means the city finance director/treasurer or the director/treasurer's designated representative.

"Transient" means any individual who exercises occupancy or is entitled to occupancy of a specific room

by reason of concession, permit, right of access, license or other agreement for a period of 30 consecutive calendar days or less, counting portions of calendar days as full days. Any such individual so occupying space in a hotel or short-term rental shall be deemed to be a transient until the period of 30 days has expired unless there is an agreement in writing providing for a longer period of occupancy of the room. In determining whether a person is a transient, uninterrupted periods of time extending both prior and subsequent to the effective date of this chapter may be considered.

"Short-term rental" means the use or possession of or the right to use or possess any room or rooms, or portions thereof in any dwelling unit for residing, sleeping or lodging purposes for less than 30 consecutive calendar days, counting portions of days as full calendar days.

(Ord. 847 § 1, (1966); Ord. 1135 § 1, (1978); Ord. 1348 § 1, (1987); Ord. 1359 § 1, (1988); Ord. 1443 § 1, (1991); Ord. 1705 § 2, (2003); Ord. 1989 § 2, (2020))

§ 4.09.025. Tax rate.

For the privilege of occupancy in any hotel or short-term rental, each transient is subject to and shall pay a tax in the amount of 12% of the rent charged by the operator.

(Ord. 1668, (2001); Ord. 1840 § 1, (2009); Ord. 1989 § 2, (2020))

§ 4.09.030. Tax imposed.

The tax imposed by this chapter constitutes a debt owed by the transient to the city which is extinguished only by payment to the operator or to the city. The transient shall pay the tax to the operator of the hotel or short-term rental at the time the rent is paid. If the rent is paid in installments, a proportionate share of the tax shall be paid with each installment. The unpaid tax shall be due upon the transient's ceasing to occupy space in the hotel or short-term rental. If for any reason the tax due is not paid to the operator of the hotel or short-term rental, the tax administrator may require that such tax shall be paid directly to the tax administrator.

(Ord. 847 § 1, (1966); Ord. 924 § 1, (1970); Ord. 1104 § 1, (1977); Ord. 1132 § 1, (1978); Ord. 1439 § 1, (1991); Ord. 1672 § 2, (2001); Ord. 1989 § 2, (2020))

§ 4.09.040. Exemptions.

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 this tax; provided, employees of the state or federal government are exempt only if room charges are paid directly by their employing agency. Copies of official travel orders are generally required. (See 46 Cal. Ops. Atty. Gen. 16).
 - (b) Any properly credentialed officer or employee of a foreign government who is exempt by reason of express provision of federal law or international treaty.
- (Ord. 847 § 1, (1966); Ord. 1215 § 1, (1981); Ord. 1348 § 2, (1987); Ord. 1443 § 2, (1991); Ord. 1705 § 3, (2003); Ord. 1989 § 2, (2020))

§ 4.09.050. Operators duties.

Each operator shall collect the tax imposed by this chapter to the same extent and at the same time as the rent is collected from every transient. The amount of tax shall be separately stated from the amount of the rent charged, and each transient shall receive a receipt for payment from the operator. No operator of a hotel or short-term rental 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 chapter.
(Ord. 847 § 1, (1966); Ord. 1989 § 2, (2020))

§ 4.09.060. Registration.

- (a) No more than five days after commencing business or after a change in operator, each operator of any hotel or short-term rental renting occupancy to transients shall register the hotel or short-term rental with the tax administrator and obtain from the administrator a transient occupancy registration certificate that will be posted at all times in a conspicuous place on the hotel or short-term rental premises. This certificate shall, among other things, state the following:
 - (1) The name of the operator;
 - (2) The name and address of the hotel or short-term rental; and
 - (3) The date upon which the certificate was issued;
- (b) This transient occupancy registration certificate signifies that the person named on the face hereof has fulfilled the requirements of the uniform transient occupancy tax ordinance by registering with the tax administrator for the purpose of collecting from transients the transient occupancy tax and remitting said tax to the tax administrator. This certificate does not authorize any person to conduct any unlawful business or to conduct any lawful business in an unlawful manner, nor to operate a hotel or short-term rental without strictly complying with all local applicable laws, including, but not limited to, those requiring a permit from any board, commission, department or office of this city. The certificate does not constitute a permit.
- (c) No more than five days after changing the name of a hotel registered under this section, the hotel operator shall notify the tax administrator of the new name in writing and obtain from the administrator an amended transient occupancy registration certificate specifying the new hotel name.
(Ord. 847 § 1, (1996); Ord. 1348 § 3, (1987); Ord. 1443 § 3, (1991); Ord. 1705 § 4, (2003); Ord. 1989 § 2, (2020))

§ 4.09.070. Reporting and remitting.

- (a) Each operator shall, on or before the last day of each month, make a return to the tax administrator, on forms provided by the administrator, of the total rents charged and the amount of tax calculated for transient occupancies for the preceding month. Unless a separate bank account is permitted and established as hereinafter set forth, the full amount of the tax calculated shall be remitted to the tax administrator together with the return. If any exemptions or bad debts are included on the return, copies of back-up information including room folios shall be included with the return. The signed, original return together with the remittance shall be delivered in person to the tax administrator or postmarked no later than the last day of the month in which it is due. Returns and remittances mailed pursuant to this subsection shall be sent by certified mail. The tax administrator may establish shorter reporting and/or remitting periods for any operator and may require additional information in any return. Returns and payments are due immediately upon cessation of business for any reason.
- (b) Any operator collecting less than \$10,000 in transient occupancy taxes per quarter shall deposit such taxes in a separate bank account in trust for the benefit of the city, until payment thereof is made to the tax administrator.
- (c) All other operators shall post a bond or irrevocable letter of credit guaranteeing payment of taxes, equal to one quarter's tax as determined by the tax administrator. Any such bond shall provide for no

more than 10 days notice of cancellation to city.

- (d) Notwithstanding subsection (c) above, the tax administrator may require an operator to establish a separate bank account in trust for the city for deposit of transient occupancy taxes, until payment is made to the city, when the tax administrator determines that an operator may not be capable of properly complying with the collection or remittance requirements of this chapter.
- (e) The city may also appoint or obtain an agent or receiver to collect the taxes due at the hotel or short-term rental itself.
- (f) Any hosting platform, as defined in Chapter 6.56, that assists with arranging transient occupancy may enter into a voluntary collection agreement (or equivalent) with the city for the collection and payment of transient occupancy taxes. Where a hosting platform has entered into such an agreement, the hosting platform shall have the same duties and liabilities of the operator under this chapter. Compliance with the provisions of this chapter by either the operator or the hosting platform shall be considered to be compliance by both. To comply with Section 4.09.060, a hosting platform shall register in its own name and post its transient occupancy registration certificate on its website, if applicable. Operators that only use a hosting platform for providing lodging to transients shall not be required to register separately with the tax administrator or post a transient occupancy registration certificate on-site so long as such hosting platform used by the operator has registered pursuant to Section 4.09.060.

(Ord. 847 § 1, (1966); Ord. 1348 § 4, (1987); Ord. 1443 § 4, (1991); Ord. 1498 § 1, (1994); Ord. 1705 § 5, (2003); Ord. 1989 § 2, (2020))

§ 4.09.080. Penalties and interest.

- (a) Original Delinquency. Any operator who fails to remit any tax imposed by this chapter within the time required shall pay a penalty of 5% of the amount of the tax in addition to the amount of the tax.
- (b) Continued Delinquency. Any operator who fails to remit any delinquent remittance on or before a period of 15 days following the date on which the remittance first became delinquent shall pay a second delinquency penalty of 5% of the amount of the tax in addition to the amount of the tax and the 5% penalty first imposed. An additional penalty of 5% shall be paid for each 15 days thereafter which the remittance is delinquent.
- (c) Fraud. If the tax administrator determines that the nonpayment of any remittance due under this chapter is due to fraud, a penalty of 25% of the amount of the tax shall be added thereto in addition to the penalties stated in subsections (a) and (b) of this section.
- (d) Interest. In addition to the penalties imposed, any operator who fails to remit any tax imposed by this chapter shall pay interest at the rate of one percent per month or fraction thereof on the amount of the tax, exclusive of penalties, from the date on which the remittance first became delinquent until paid.
- (e) Penalties Merged with Tax. Every penalty imposed and such interest as accrues under the provisions of this section shall become a part of the tax required to be paid by this chapter.

(Ord. 847 § 1, (1966); Ord. 1135 § 2, (1978); Ord. 1443 § 5, (1991); Ord. 1989 § 2, (2020))

§ 4.09.090. Failure to collect and report tax—Determination of tax by tax administrator.

- (a) If any operator shall fail or refuse to collect said tax and to make, within the time provided in this chapter, any report and remittance of said tax or any portion thereof required by this chapter or if the tax administrator reasonably believes that a hotel or short-term rental operator has not accurately and

fully made any such report or remittance, the tax administrator shall proceed in such manner as the administrator may deem best to obtain facts and information on which to base the administrator's estimate of the tax due.

- (b) The tax administrator may review any return filed pursuant to this chapter and may request or inspect any documents or accounts as provided for in this chapter to determine what the correct tax due is. The tax administrator, and any person designated as an agent by the tax administrator, may, at any time during normal business hours, for the purpose of enforcing the provisions of this chapter, inspect and audit the accounts, books, papers, and documents of any operator that holds any tax certificate of the city under this chapter or that has filed a return with the city under this chapter. Any person shall produce under the seal of the city the person's authority to make such an audit or inspection.
- (c) No person conducting an inspection or review pursuant to this section may reveal the information obtained from such an inspection or audit to anyone not charged with the administration or enforcement of the provisions of this title.
- (d) As soon as the tax administrator shall procure such facts and information as the administrator is able to obtain upon which to base the assessment of any tax imposed by this chapter and payable by any operator who has neglected, failed or refused to collect the same and to make such report and remittance, the administrator shall proceed to determine and assess against such operator the tax, interest and penalties provided for by this chapter. The administrator may include in said assessment costs of any necessary audits or investigations. These costs will include any additional visits or expenses incurred because an operator failed to provide records as required by this chapter. In case such determination is made, the tax administrator shall give a notice of the amount so assessed by serving it personally or by depositing it in the United States mail, postage prepaid, addressed to the operator so assessed at his or her last known place of address.
- (e) The operator to be assessed by the administrator's determination may, within 10 days after the serving or mailing of such notice, make application in writing to the tax administrator for a hearing on the amount assessed. If application by the operator for a hearing is not made within the time prescribed, the tax, interest and penalties, if any, determined by the tax administrator shall become final and conclusive and immediately due and payable. If such application is made, the tax administrator shall give not less than five days' written notice in the manner prescribed herein to the operator to show cause at a time and place fixed in said notice why the amount specified should not be fixed for such tax, interest and penalties. At the hearing, the operator may appear and offer evidence why such specified tax, interest and penalties should not be so fixed. After the hearing, the tax administrator shall determine the proper tax to be remitted and shall thereafter give written notice to the operator of the determination and the amount of the tax, interest and penalties now due. The amount determined to be due shall be payable after 15 days unless an appeal is taken as provided in Section 4.09.100.

(Ord. 847 § 1, (1966); Ord. 1443 § 6, (1991); Ord. 1705 § 6, (2003); Ord. 1989 § 2, (2020))

§ 4.09.100. Appeal.

Any operator aggrieved by any decision of the tax administrator 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 15 days of the serving or mailing of the determination of 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 or her 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 above for service of notice of hearing. Any amount found to be due shall be immediately due and payable upon the service of notice.

(Ord. 847 § 1, (1966); Ord. 1989 § 2, (2020))

§ 4.09.110. Records.

It shall be the duty of every operator liable for the collection and payment to the city of any tax imposed by this chapter to keep and preserve, for a period of three years, all records as may be necessary to determine the amount of such tax as he or she may have been liable for the collection of and payment to the city, which records the tax administrator shall have the right to inspect at all reasonable times. Such records shall be maintained at the operator's premises or shall be available for delivery to the tax administrator within one week after request. Such records shall be so maintained for at least six months after a change of operator. The records shall include at least the following:

- (a) Daily summaries of room occupancies;
- (b) A record of each occupancy charge for which an exemption is claimed, including the name of the individual occupying the room, dates of occupancy and reasons for exemption;
- (c) List of bad debts claimed for exemption, including names and addresses of debtor, amount of room rent unpaid, and all room folios documenting the applicable occupancies;
- (d) Bank statements for the separate account required in Section 4.09.070.

(Ord. 847 § 1, (1966); Ord. 1135 § 3, (1978); Ord. 1443 § 7, (1991); Ord. 1705 § 6, (2003); Ord. 1989 § 2, (2020))

§ 4.09.120. Refunds.

- (a) Whenever the amount of any tax, interest or penalty has been erroneously or illegally collected or received by the city under this chapter, it may be refunded as provided in subsections (b) and (c) of this section provided a claim in writing therefor, stating under penalty of perjury the specific grounds upon which the claim is founded, is filed with the city council within the time period set forth in Chapter 4.15. Accrual of the cause of action shall be the date upon which payment of the tax was actually made or the date the tax was due, whichever was earlier.
- (b) An operator may claim a refund or take as credit against taxes collected and remitted the amount overpaid, paid more than once or erroneously or illegally collected or received when it is established in a manner prescribed by the tax administrator that the person from whom the tax has been collected was not a transient; provided, however, that neither a refund nor a credit shall be allowed unless the amount of the tax so collected has either been refunded to the transient or credited to rent subsequently payable by the transient to the operator.
- (c) A transient may obtain a refund of taxes overpaid or paid more than once or erroneously or illegally collected or received by the city by filing a claim in the manner provided in subsection (a) of this section, but only when the tax was paid by the transient directly to the tax administrator, or when the transient, having paid the tax to the operator, establishes to the satisfaction of the tax administrator that the transient has been unable to obtain a refund from the operator who collected the tax.
- (d) No refund shall be paid under the provisions of this section unless the claimant establishes his or her right thereto by written records showing entitlement thereto.

(Ord. 847 § 1, (1966); Ord. 1443 § 8, (1991); Ord. 1657 § 2, (2001); Ord. 1989 § 2, (2020))

§ 4.09.130. Collection of tax.

- (a) The following shall apply to hotel and short-term rental operations:
 - (1) Actions to Collect. Any tax required to be paid by any transient under the provisions of this

chapter shall be deemed a debt owed by the transient to the city. Any such tax collectible by any operator which has not been paid to the city shall be deemed a debt owed by the operator to the city. The amount of the tax collected by the operator shall be held to be a special fund in trust for the city and shall be deemed to be public monies upon collection. This trust obligation shall apply whether the taxes collected are held in a separate account or not. Any person owing money to the city under the provisions of this chapter shall be liable to an action brought in the name of the city for the recovery of such amount.

- (2) Recording Certificate—Lien. If any amount required to be paid to the city under the ordinance codified in this chapter is not paid when due, the administrator may within three years after the amount is due file for record in the office of the San Mateo county recorder a certificate specifying the amount of tax, penalties and interest due, the name and address as it appears on the records of the tax administrator of the operator liable for the same and the fact that the tax administrator has complied with all provisions of this chapter in the determination of the amount required to be paid. From the time of the filing for record, the amount required to be paid together with penalties and interest constitutes a lien upon a real property in the county owned by the operator or acquired by him or her afterwards and before the lien expires. The lien has the force, effect and priority of a judgment lien and shall continue for 10 years from the time of filing of the certificate unless sooner released or otherwise discharged.
 - (3) Priority and Lien of Tax. The amounts required to be paid by any operator under this chapter with penalties and interest shall be satisfied first in any of the following cases:
 - (A) Whenever the person is insolvent;
 - (B) Whenever the person makes a voluntary assignment of his or her assets;
 - (C) Whenever the estate of the person in the hands of executors, administrators or heirs is insufficient to pay all the debts due from the deceased; or
 - (D) Whenever the estate and effects of an absconding, concealed or absent person required to pay any amount under this chapter levied upon by process of law. This chapter does not give the city a preference over any recorded lien which attached prior to the date when the amounts required to be paid became a lien.
 - (4) Warrant for Collection of Tax. At any time within three years after any operator is delinquent in the payment of any amount herein required to be paid off within years after the last recording of a certificate of lien under subsection (2) of this section, the tax administrator may issue a warrant for the enforcement of any liens and for the collection of any amount required to be paid to the city under this chapter. The warrant shall be directed to any sheriff, marshal or constable and shall have the same effect as a writ of execution. The warrant shall be levied and sale made pursuant to it in the same manner and with the same effect as a levy of and a sale pursuant to a writ of execution. The tax administrator may pay or advance to the sheriff, marshal or constable, the same fees, commissions and expenses for his or her services as are provided by law for similar services pursuant to a writ of execution.
- (b) The following shall apply to hotel operations only:
- (1) Seizure and Sale. At any time within three years after any operator is delinquent in the payment of any amount, the tax administrator may forthwith collect the amount in the following manner: the tax administrator shall seize any property, real or personal, of the operator and sell the property, or a sufficient part of it, at public auction to pay the amount due together with any

penalties and interest imposed for the delinquency and any costs incurred on account of the seizure and sale. Any seizure made to collect occupancy taxes due shall be only of property of the operator not exempt from execution under the provisions of the code of civil procedure.

- (2) Successor's Liability—Withholding by Purchaser. If any operator liable for any amount under this chapter sells out his or her business or quits the business, his or her successor assignee shall withhold sufficient of the purchase price to cover such amount until the former owner produces a receipt from the tax administrator showing that it has been paid or a certificate stating that no amount is due.
- (3) Liability of Purchaser—Release. If the purchaser of a hotel fails to withhold funds from the purchase price as required, he or she shall become personally liable for the payment of the amount required to be withheld by him or her to the extent of the purchase price, valued in money. Within 60 days after receiving a written request from the purchaser for a certificate, or within 60 days from the date the former owner's records are made available for audit, whichever period expires the later, but in any event, not later than 90 days after receiving the request, the tax administrator shall either issue the certificate or mail notice to the purchaser at his or her address as it appears on the records of the tax administrator of the amount that must be paid as a condition of issuing the certificate. Failure of the tax administrator to mail the notice shall release the purchaser from any further obligation to withhold purchase price as above provided. The time within which the obligation of the successor may be enforced shall start to run at the time the operator sells his or her business or at the time that the determination against the operator becomes final, whichever event occurs the later.
- (4) Sale of a hotel, dismissal of the operator or other termination of his or her rights to operate the facility shall not relieve him or her from liability for taxes due or owing under this chapter.

(Ord. 847 § 1, (1966); Ord. 1359 § 2, (1988); Ord. 1705 § 8, (2003); Ord. 1989 § 2, (2020))

§ 4.09.140. Violations—Misdemeanor.

Any person violating any of the provisions of this chapter shall be guilty of a misdemeanor and shall be punishable therefor by a fine of not more than \$500 or by imprisonment for a period of not more than six months or by both such fine and imprisonment.

Any operator or other person who fails or refuses to register as required herein, or to furnish any return required to be made, or who fails or refuses to furnish a supplemental return or other data required by the tax administrator, or who renders a false or fraudulent return or claim, is guilty of a misdemeanor, and is punishable as aforesaid. Any person required to make, render, sign or verify any report or claim who makes any false or fraudulent report or claim with intent to defeat or evade the determination of any amount due required by this chapter to be made, is guilty of a misdemeanor and is punishable as aforesaid.

(Ord. 847 § 1, (1966); Ord. 1989 § 2, (2020))

CHAPTER 4.10 TRANSACTIONS AND USE TAX

§ 4.10.010. Title.

This chapter shall be known as the "Burlingame Essential Services Measure." The city of Burlingame hereinafter shall be called "city." This chapter shall be applicable in the incorporated territory of the city. (Ord. 1944 § 2, (2017))

§ 4.10.020. Operative date.

"Operative date" means the first day of the first calendar quarter commencing more than 110 days after the adoption of the ordinance codified in this chapter, the date of such adoption being as set forth herein. (Ord. 1944 § 2, (2017))

§ 4.10.030. Purpose.

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

- (a) To impose a retail transactions and use tax in accordance with the provisions of Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code and Sections 7285.9, 7293, and 7294 of Part 1.7 of Division 2 which authorize the city to adopt this tax ordinance which shall be operative if a majority of the electors voting on the measure vote to approve the imposition of the tax at an election called for that purpose.
- (b) To adopt a retail transactions and use tax ordinance that incorporates provisions identical to those of the Sales and Use Tax Law of the state of California insofar as those provisions are not inconsistent with the requirements and limitations contained in Part 1.6 of Division 2 of the Revenue and Taxation Code.
- (c) To adopt a retail transactions and use tax ordinance that imposes a tax and provides a measure therefore that can be administered and collected by the State Board of Equalization in a manner that adapts itself as fully as practicable to, and requires the least possible deviation from, the existing statutory and administrative procedures followed by the State Board of Equalization in administering and collecting the California State Sales and Use Taxes.
- (d) To adopt a retail transactions and use tax ordinance that can be administered in a manner that will be, to the greatest degree possible, consistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, minimize the cost of collecting the transactions and use taxes, and at the same time, minimize the burden of record keeping upon persons subject to taxation under the provisions of this chapter.

(Ord. 1944 § 2, (2017))

§ 4.10.040. Contract with state.

Prior to the operative date, the city shall contract with the State Board of Equalization to perform all functions incident to the administration and operation of this transactions and use tax ordinance; provided, that if the city shall not have contracted with the State Board of Equalization prior to the operative date, it shall nevertheless so contract and in such a case the operative date shall be the first day of the first calendar quarter following the execution of such a contract.

(Ord. 1944 § 2, (2017))

§ 4.10.050. Transactions tax rate.

For the privilege of selling tangible personal property at retail, a tax is hereby imposed upon all retailers in the incorporated territory of the city at the rate of one-quarter of one percent of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in said territory on and after the operative date of the ordinance codified in this chapter.

(Ord. 1944 § 2, (2017))

§ 4.10.060. Place of sale.

For the purposes of this chapter, all retail sales are consummated at the place of business of the retailer unless the tangible personal property sold is delivered by the retailer or his or her agent to an out-of-state destination or to a common carrier for delivery to an out-of-state destination. The gross receipts from such sales shall include delivery charges, when such charges are subject to the state sales and use tax, regardless of the place to which delivery is made. In the event a retailer has no permanent place of business in the state or has more than one place of business, the place or places at which the retail sales are consummated shall be determined under rules and regulations to be prescribed and adopted by the State Board of Equalization. (Ord. 1944 § 2, (2017))

§ 4.10.070. Use tax rate.

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 the ordinance codified in this chapter for storage, use or other consumption in said territory at the rate of one-quarter of one percent of the sales price of the property. The sales price shall include delivery charges when such charges are subject to state sales or use tax regardless of the place to which delivery is made.

(Ord. 1944 § 2, (2017))

§ 4.10.080. Adoption of provisions of state law.

Except as otherwise provided in this chapter and except insofar as they are inconsistent with the provisions of Part 1. 6 of Division 2 of the Revenue and Taxation Code, all of the provisions of Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code are hereby adopted and made a part of this chapter as though fully set forth herein.

(Ord. 1944 § 2, (2017))

§ 4.10.090. Limitations on adoption of state law and collection of use taxes.

In adopting the provisions of Part 1 of Division 2 of the Revenue and Taxation Code:

- (a) Wherever the state of California is named or referred to as the taxing agency, the name of this city shall be substituted therefor. However, the substitution shall not be made when:
 - (1) The word "state" is used as a part of the title of the State Controller, State Treasurer, State Board of Control, State Board of Equalization, State Treasury, or the Constitution of the state of California;
 - (2) The result of that substitution would require action to be taken by or against this city or any agency, officer, or employee thereof rather than by or against the State Board of Equalization, in performing the functions incident to the administration or operation of this chapter.
 - (3) In those sections, including, but not necessarily limited to, sections referring to the exterior

boundaries of the state of California, where the result of the substitution would be to:

- (A) Provide an exemption from this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not otherwise be exempt from this tax while such sales, storage, use or other consumption remain subject to tax by the state under the provisions of Part 1 of Division 2 of the Revenue and Taxation Code; or
 - (B) 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 provision of that code.
- (4) In Section 6701, 6702 (except in the last sentence thereof), 6711, 6715, 6737, 6797 or 6828 of the Revenue and Taxation Code.
- (b) The word "city" shall be substituted for the word "state" in the phrase "retailer engaged in business in this state" in Section 6203 and in the definition of that phrase in Section 6203.

(Ord. 1944 § 2, (2017))

§ 4.10.100. Permit not required.

If a seller's permit has been issued to a retailer under Section 6067 of the Revenue and Taxation Code, an additional transactor's permit shall not be required by this chapter.

(Ord. 1944 § 2, (2017))

§ 4.10.110. Exemptions and exclusions.

- (a) There shall be excluded from the measure of the transactions tax and the use tax the amount of any sales tax or use tax imposed by the state of California or by any city, city and county, or county pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law or the amount of any state-administered transactions or use tax.
- (b) There are exempted from the computation of the amount of transactions tax the gross receipts from:
 - (1) Sales of tangible personal property, other than fuel or petroleum products, to operators of aircraft to be used or consumed principally outside the county 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.
 - (2) Sales of property to be used outside the city which is shipped to a point outside the city, pursuant to the contract of sale, by delivery to such point by the retailer or his agent, or by delivery by the retailer to a carrier for shipment to a consignee at such point. For the purposes of this subsection (b)(2), delivery to a point outside the city shall be satisfied:
 - (A) With respect to vehicles (other than commercial vehicles) subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, and undocumented vessels registered under Division 3.5 (commencing with Section 9840) of the Vehicle Code by registration to an out-of-city address and by a declaration under penalty of perjury, signed by the buyer, stating that such address is, in fact, his or her principal place of residence; and
 - (B) With respect to commercial vehicles, by registration to a place of business out-of-city and declaration under penalty of perjury, signed by the buyer, that the vehicle will be operated

from that address.

- (3) The sale of tangible personal property if the seller is obligated to furnish the property for a fixed price pursuant to a contract entered into prior to the operative date of the ordinance codified in this chapter.
 - (4) A lease of tangible personal property which is a continuing sale of such property, for any period of time for which the lessor is obligated to lease the property for an amount fixed by the lease prior to the operative date of the ordinance codified in this chapter.
 - (5) For the purposes of subsection (b)(3) and (4) of this section, the sale or lease of tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.
- (c) There are exempted from the use tax imposed by this chapter, the storage, use or other consumption in this city of tangible personal property:
- (1) The gross receipts from the sale of which have been subject to a transactions tax under any state-administered transactions and use tax ordinance.
 - (2) Other than fuel or petroleum products 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. This exemption is in addition to the exemptions provided in Sections 6366 and 6366.1 of the Revenue and Taxation Code of the state of California.
 - (3) If the purchaser is obligated to purchase the property for a fixed price pursuant to a contract entered into prior to the operative date of the ordinance codified in this chapter.
 - (4) If the possession of, or the exercise of any right or power over, the tangible personal property arises under a lease which is a continuing purchase of such property for any period of time for which the lessee is obligated to lease the property for an amount fixed by a lease prior to the operative date of the ordinance codified in this chapter.
 - (5) For the purposes of subsection (c)(3) and (4) of this section, storage, use, or other consumption, or possession of, or exercise of any right or power over, tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.
 - (6) Except as provided in subsection (c)(7), a retailer engaged in business in the city shall not be required to collect use tax from the purchaser of tangible personal property, unless the retailer ships or delivers the property into the city or participates within the city in making the sale of the property, including, but not limited to, soliciting or receiving the order, either directly or indirectly, at a place of business of the retailer in the city or through any representative, agent, canvasser, solicitor, subsidiary, or person in the city under the authority of the retailer.
 - (7) "A retailer engaged in business in the city" shall also include any retailer of any of the following: vehicles subject to registration pursuant to Chapter 1 commencing with Section 4000 of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, or undocumented vessels registered under Division 3. 5 commencing with

Section 9840 of the Vehicle Code. That retailer shall be required to collect use tax from any purchaser who registers or licenses the vehicle, vessel, or aircraft at an address in the city.

- (d) Any person subject to use tax under this chapter may credit against that tax any transactions tax or reimbursement for transactions tax paid to a district imposing, or retailer liable for a transactions tax pursuant to Part 1.6 of Division 2 of the Revenue and Taxation Code with respect to the sale to the person of the property the storage, use or other consumption of which is subject to the use tax.

(Ord. 1944 § 2, (2017))

§ 4.10.120. Amendments.

All amendments subsequent to the effective date of the ordinance codified in this chapter to Part 1 of Division 2 of the Revenue and Taxation Code relating to sales and use taxes and which are not inconsistent with Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, and all amendments to Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, shall automatically become a part of this chapter; provided, however, that no such amendment shall operate so as to affect the rate of tax imposed by this chapter.

(Ord. 1944 § 2, (2017))

§ 4.10.130. Enjoining collection forbidden.

No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action or proceeding in any court against the state or the city, or against any officer of the state or the city, to prevent or enjoin the collection under this chapter, or Part 1.6 of Division 2 of the Revenue and Taxation Code, of any tax or any amount of tax required to be collected.

(Ord. 1944 § 2, (2017))

§ 4.10.140. Citizens' oversight and annual audit.

- (a) There shall be a committee consisting of no fewer than three persons appointed by the city council to review and report on the receipt of revenue and expenditure of funds from the tax authorized by this chapter ("revenues and expenditures"). Members of the committee shall be residents of the city or representatives of businesses located in the city.
- (b) Beginning with the fiscal year that ends June 30, 2018, the city's independent auditors shall, as part of their annual audit of the city's financial statements, review the collection and expenditure of revenue from the tax authorized by this chapter. The auditors' review shall be a public document. The committee shall annually review the auditors' findings and report in writing to the city council regarding the accuracy of the auditors' findings regarding the revenues and expenditures. The committee's statement shall be transmitted to the city council for consideration at a public meeting.
- (c) By January 31, 2018, the city council shall adopt a resolution establishing the composition of the committee and defining the scope of its responsibilities consistent with this section. Provisions defining the scope of committee responsibilities and reporting requirements shall address bond oversight, in the event that a decision is made at a later time to sell bonds that are in part backed by the revenues referenced in this section. The city council shall appoint the initial members of the committee no later than March 1, 2018.

(Ord. 1944 § 2, (2017))

§ 4.10.150. Amendments by city council.

The following amendments to this chapter must be approved by the voters of the city: increasing the tax rate or revising the methodology for calculating the tax such that a tax increase would result or imposing the tax on transactions and uses not previously subject to the tax (unless such amendment occurs automatically by operation of Section 4.10.120). The city council may otherwise amend this chapter without submitting the amendment to the voters for approval.

(Ord. 1944 § 2, (2017))

§ 4.10.160. Termination.

The authority to levy the tax imposed by this chapter shall be ongoing, unless terminated earlier by a unanimous vote of the city council.

(Ord. 1944 § 2, (2017))

CHAPTER 4.12 SPECIAL FUND FOR CAPITAL OUTLAYS

§ 4.12.010. Fund established—Tax levy.

There is established a special fund for capital outlays, to be created by the levy and collection of taxes and assessments which the city council may levy, and which taxes and assessments shall be levied and collected in the same manner and at the same time as other taxes. In making such levy, the city council shall not exceed the limitation to impose taxes prescribed by the general laws of the state of California without the assent of two-thirds of the qualified electors of the city.

(1941 Code § 950, Ord. 405, (1944))

§ 4.12.020. Transfers to fund—Disbursements.

The city council may transfer to such capital outlay fund any unencumbered surplus funds remaining on hand at the end of any fiscal year. No money shall be disbursed from such fund except for the making of any capital outlays; provided, however, the city council may submit a proposition to the electors of the city, to obtain the consent of such electors to the use of the moneys in such fund, or any portion thereof, for some other specific purpose. Such proposition may be submitted at any election, and shall require a two-thirds vote of all voters voting at such election to authorize the expenditure of the moneys in such fund, or any portion thereof, for such other purpose.

(1941 Code § 950, Ord. 405, (1944))

§ 4.12.030. Interpretation of "capital outlays."

"Capital outlays" shall not be construed to include the construction, acquisition, extension of or addition to utilities other than utilities for the furnishing of a water supply.

(1941 Code § 950, Ord. 405, (1944))

**CHAPTER 4.14
SPECIAL INSURANCE FUND**

Note: Prior ordinance history: Ords. 1093, 1098 and 1161.

§ 4.14.010. Special insurance fund.

The special insurance fund is established and shall be maintained for the deposit of all new moneys budgeted for payment of workers' compensation insurance premiums and claims, liability insurance premiums and claims, and all other insurance premiums and claims. It shall also be the depository for moneys recovered from third parties for reimbursement of losses and other similar recovery of funds. Payments therefrom shall also be made for other expenditures related to said programs.

The fund shall be established and amounts accumulated therein so as to maintain sufficient reserves for known and anticipated future losses consistent with accepted accounting practices. The amount and sufficiency of reserves shall be reviewed annually. All earnings from investments of the fund and all state mandated benefit costs recovered shall accrue to the fund.

(Ord. 1322 § 1, (1986))

**CHAPTER 4.15
CLAIMS PROCEDURES**

§ 4.15.010. Claims for money or damages.

- (a) Claims against the city, its officers or employees for money or damages which are exempted by Government Code Section 905 from Chapter 1 and Chapter 2 of Part 3 of Division 3.6 of Title 1 of the Government Code of the State of California, and which are not governed by any other statutes or regulations expressly related thereto, shall be governed by this section. A claim relating to such a cause of action shall be presented not later than one year after the accrual of the cause of action. Such claims shall be presented and processed as provided by Chapters 1 and 2 of Part 3 of Division 3.6 of Title 1 of the Government Code insofar as the provisions are not in conflict with this section.
- (b) No suit for money or damages may be brought or maintained against the city, its officers or employees until a written claim therefor has been presented to the city council and has been acted upon or has been deemed to have been rejected by the city in accordance with this section. The time within which the city will act on the claim presented will conform to the time requirements set forth in Section 912.4 of the Government Code. All claims shall be verified by the claimant or by his or her guardian, conservator, executor, or administrator. No claim may be filed on behalf of a class of persons unless verified by every member of that class as required by this section. In addition, all claims shall contain the information required by California Government Code Section 910.
- (c) Pursuant to Chapter 5 of Part 3 of Division 3.6 of Title 1 of the Government Code, written agreements entered into by or in behalf of the city may provide all claims arising out of or related to the agreement must be presented not later than six months after the accrual of the cause of action, and such claims shall be governed by the provisions of this section.

(Ord. 1225 § 1, (1982); Ord. 1657 § 3, (2001); Ord. 1793 § 3, (2006); Ord. 1809 § 3 (2007))

CHAPTER 4.16 WATER FUNDS

§ 4.16.010. Deposit of funds in water fund.

All moneys or credits due the city from the municipal water system shall be deposited with the city treasurer. The treasurer shall credit to the water fund the moneys so received.

(1941 Code § 624, Ord. 590, (1955); Ord. 689, (1959))

**CHAPTER 4.20
SPECIAL GASOLINE TAX STREET IMPROVEMENT FUND**

§ 4.20.010. Created.

There is created in the city treasury a special fund to be known as the special gas tax street improvement fund.

(1941 Code § 1745)

§ 4.20.020. Source of funds.

All moneys received by the city from the state of California under the provisions of the Streets and Highways Code for the acquisition of real property or interests therein for, or the construction, maintenance or improvement of, streets or highways other than state highways shall be paid into said fund.

(1941 Code § 1746)

§ 4.20.030. Expenditures.

All moneys in said fund shall be expended exclusively for the purposes authorized by, and subject to all of the provisions of Article 5, Chapter 1, Division I of the Streets and Highways Code.

(1941 Code § 1747)

CHAPTER 4.24 REAL PROPERTY TRANSFER TAX

§ 4.24.010. Short title.

This chapter shall be known as the "Real Property Transfer Tax Ordinance of the city of Burlingame." It is adopted pursuant to the authority contained in Part 6.7 (commencing with Section 11901) of Division 2 of the Revenue and Taxation Code of the state of California.

(Ord. 872 § 1, (1967))

§ 4.24.020. Property tax imposed.

There is imposed on each deed, instrument or writing by which any lands, tenements or other realty sold within the city of Burlingame 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 her 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 \$100, a tax at the rate of twenty-seven and one-half cents (\$0.27.5) for each \$500 or fractional part thereof.

(Ord. 872 § 2, (1967))

§ 4.24.030. Property tax—Payment.

Any tax imposed pursuant to Section 4.24.020 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.

(Ord. 872 § 3, (1967))

§ 4.24.040. Nonapplicability—Instrument to secure a debt.

Any tax imposed pursuant to this chapter shall not apply to any instrument in writing given to secure a debt.

(Ord. 872 § 4, (1967))

§ 4.24.050. United States or its instrumentalities.

Any deed, instrument or writing to which the United States or any agency or instrumentality thereof, any state or territory, or political subdivision thereof, is a party shall be exempt from any tax imposed pursuant to this chapter when the exempt agency is acquiring title.

(Ord. 872 § 5, (1967); Ord. 909 § 1, (1970))

§ 4.24.060. Plan of reorganization or adjustment.

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

- (a) Confined under the Federal Bankruptcy Act, as amended;
- (b) Approved in an equity receivership proceeding in a court involving a railroad corporation, as defined in subdivision (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 subdivision (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.

Subdivisions (a) to (d), inclusive, of this section shall only apply if the making, delivery or filing of instruments of transfer or conveyances occurs within five years from the date of such confirmation, approval or change.

(Ord. 872 § 6, (1967))

§ 4.24.070. Securities and exchange commission.

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

- (1) 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;
- (2) Such order specifies the property which is ordered to be conveyed;
- (3) Such conveyance is made in obedience to such order.

(Ord. 872 § 7, (1967))

§ 4.24.080. Transfer of interest in partnership.

- (a) In the case of any realty held by a partnership, no levy shall be imposed pursuant to this chapter by reason of any transfer of an interest in a partnership or otherwise, if:
 - (1) Such partnership (or another partnership) is considered a continuing partnership within the meaning of Section 708 of the Internal Revenue Code of 1954; and
 - (2) Such continuing partnership continues to hold the realty concerned.
- (b) If there is a termination of any partnership within the meaning of Section 708 of the Internal Revenue Code of 1954, for purposes of this chapter, such partnership shall be treated as having executed an instrument whereby there was conveyed, for fair market value (exclusive of the value of any lien or encumbrance remaining thereon), all realty held by such partnership at the time of such termination.
- (c) Not more than one tax shall be imposed pursuant to this chapter by reason of a termination described in subsection (b), and any transfer pursuant thereto, with respect to the realty held by such partnership at the time of such termination.

(Ord. 872 § 8, (1967))

§ 4.24.090. Administration.

The county recorder shall administer this chapter in conformity with the provisions of Part 6.7 of Division 2 of the Revenue and Taxation Code and the provisions of any county ordinance adopted pursuant thereto. (Ord. 872 § 9, (1967))

§ 4.24.100. Claims for refund.

Claims for refund of taxes imposed pursuant to this chapter shall be governed by the provisions of Chapter

5 (commencing with Section 5096) of Part 9 of Division 1 of the Revenue and Taxation Code of the State of California.

(Ord. 872 § 10, (1967))

§ 4.24.110. Operative date.

This chapter shall become operative upon the operative date of any ordinance adopted by the county of San Mateo, pursuant to Part 6.7 (commencing with Section 11901) of Division 2 of the Revenue and Taxation Code of the State of California, or upon the effective date of the ordinance codified in this chapter whichever is the later.

(Ord. 872 § 11, (1967))

§ 4.24.120. Copies filed.

Upon its adoption the city clerk shall file two copies of this chapter with the county recorder of San Mateo County.

(Ord. 872 § 12, (1967))

CHAPTER 4.30 STORM DRAINAGE FEE

§ 4.30.010. Establishment of storm drainage fee.

There is established a storm drainage fee for all parcels of real property in the city that drain into the city storm drainage system, including pipes, inlets, outlets, and natural drainage courses. No fee shall be imposed unless and until the voter approval required by Constitution Article XIII D, Section 6 (Proposition 218) has been obtained.

(Ord. 1836 § 2, (2009))

§ 4.30.020. Computing the fee.

- (a) An annual storm drainage fee is levied upon each parcel of property that drains into the city's storm drain system. The rate per square foot of impervious area shall be determined by resolution of the city council upon consideration of a report of the city engineer but in no event shall the rate exceed that authorized by required voter approval.
- (b) The amount of the storm drainage fee for each individual parcel shall be computed as follows: parcel square footage shall be multiplied by the percentage of impervious area on the parcel. The resulting number shall be multiplied by the per square foot impervious area rate in order to calculate the dollar fee for the fiscal year. Said rate shall not exceed the maximum rate established by the voters, i.e., 4.192 cents per square foot of impervious area. When the impervious area of a parcel is increased or decreased, the annual fee for the parcel shall be adjusted for the fiscal year next succeeding the change in impervious area.
- (c) The term impervious area shall have the following meaning: the non-natural state or surface of a parcel, viewed and measured in plan, which acts as a barrier that prevents the majority of storm water from infiltrating into the ground below, including as examples but not limited to concrete, asphalt pavement or concrete paver walkways, patios or driveways; playing surfaces such as tennis courts or basketball courts; pools and pool decks; roof tops; tool sheds; carports; and/or patio covers.
- (d) The fee for each condominium shall be based on the individual condominium's percentage of ownership interest as shown on the assessor's roll; and if not shown are deemed to be equal ownership percentages, unless proof is submitted otherwise.
- (e) Vacant, unimproved parcels are still in their natural states and do not contribute any additional runoff to burden the city's storm drain system. Therefore, the storm drain user fee is not applicable to these parcels. When a vacant parcel that is not subject to this chapter adds impervious area, it shall be required to pay a storm drainage fee based on its impervious area.
- (f) Streets and highways, channels, and canals are exempt from the storm drainage fee as part of the storm system.

(Ord. 1836 § 2, (2009))

§ 4.30.030. Setting the fee.

- (a) Commencing with fiscal year 2010-2011, the city council, following a public hearing, shall determine the storm drainage fee. In no event shall the square footage rate for impervious area be increased beyond that rate approved by a majority vote of the property owners subject to the storm drainage fee without further approval by a majority vote of the property owners subject to the storm drainage fee; provided, however, that, without approval by a majority vote of the property owners subject to the

storm drainage fee, the maximum per square foot rate for impervious area, commencing fiscal year 2010-2011, may be increased by an amount equal to the change in the Consumer Price Index for all Urban Consumers for the area including San Mateo County (the "CPI"), including all items as published by the U.S. Bureau of Labor Statistics as of March 1st of each year, not to exceed a maximum increase of 2% per year.

- (b) The storm drainage fee shall not be deemed to be increased in the event the actual fee upon a parcel in any given year is higher due to an increase in the amount of the impervious area of the subject parcel.
- (c) In any year in which the city council does not change the rate per square foot of impervious area, the previously adopted fee shall continue in full force and effect for the next fiscal year. Property owners whose storm drainage is increased/decreased as a result a change in impervious area have appeal rights under Section 4.30.050.
- (d) The city council shall not be required to enact an inflation increase in each year but may accumulate the inflationary increases and enact the cumulative amount.

(Ord. 1836 § 2, (2009))

§ 4.30.040. The fee in fiscal year 2009-2010.

Subject to the appeal rights set forth below, the fee for fiscal year 2009-2010 shall be that parcel fee specified in the notice of protest hearing sent to the property owner.

(Ord. 1836 § 2, (2009))

§ 4.30.050. Appeals by property owners.

- (a) If a property owner disagrees with the calculation of his or her storm drainage fee, the property owner may appeal the calculation within 20 calendar days after the property owner receives notice that the fee will be increased/decreased:
 - (1) The property owner must provide written documentation explaining the reason why the storm drain fee is not correct. This documentation must include:
 - (A) The name, telephone number, mailing address, and email address, if available, of the property owner;
 - (B) The Assessor's Parcel Number (APN) of the property in question;
 - (C) To-scale drawings of the property in question and the impervious areas located on it with accompanying calculations. The to-scale drawings shall include the square footage and labels for each impervious area (i.e., house, garage, driveway, patio, tool shed, carport, etc.).
- (b) If additional documentation is required or insufficient documentation was submitted, the public works department will notify the property owner.
- (c) Once the public works department has determined that sufficient documentation has been submitted, it will analyze the appeal. The property owner will be notified in writing within three weeks after sufficient documentation has been submitted whether or not the fee will be changed.
 - (1) Any new fee will be documented in the city's fee database.

- (2) The property owner can appeal the decision of public works to the city council if the amount remaining in dispute after the public works decision exceeds \$100 annually. The appeal must be made in writing and filed with the city clerk not later than 10 calendar days from the date of mailing of the public works department decision. The city clerk shall fix a time and place for hearing the appeal and shall give notice in writing to the appellant. The city council's determination on the appeal shall be final.
- (d) If an appeal is granted by public works department or the city council that does not permit inclusion for the following fiscal year's property tax roll submittal, a reimbursement will be provided to the property owner by the city.
- (e) Any action brought against the city pursuant to this section shall be subject to the provisions of Government Code Sections 945.6 and 946. Compliance with these provisions shall be a prerequisite to a suit thereon.
- (f) The city council may establish appeal fees.
- (g) To appeal the fee for fiscal year 2009-2010 a property owner must file an appeal not later than 20 days after the city council certifies the election results.

(Ord. 1836 § 2, (2009))

§ 4.30.060. Collection of the fee.

Commencing with fiscal year 2009-2010, the storm drainage fee shall be collected on the San Mateo County tax roll in the same manner, by the same persons, and at the same time as, together with and not separately from, the general taxes of the city; provided, however, in any year the city council may, by resolution, provide for an alternative procedure for collection of the storm drainage fee. For any fiscal year in which the storm drainage fee is authorized but not collected on the tax roll, the city may collect all or a portion of the fee for such year on the tax roll in the following fiscal year or years.

(Ord. 1836 § 2, (2009))

§ 4.30.070. Deposit in the special storm drainage fund.

Upon receipt of moneys representing storm drainage fees, the city finance director shall deposit the moneys in the city treasury to the storm drainage fund and the moneys shall be subject to annual independent audit and funds shall only be expended for storm drainage improvements approved by the city council and for the operation and maintenance of those improvements.

(Ord. 1836 § 2, (2009))

§ 4.30.080. Various actions.

Without a vote of the property owners, in any year the city council may do any and all of the following:

(a) discontinue the storm drainage fee; (b) reduce the maximum square footage rate for impervious area; or (c) increase the rate per square foot up to or below the maximum voter-authorized square footage rate for impervious area if it has been previously set below such rate. In no event shall the city council increase the rate in excess of the maximum square footage rate approved by a majority vote of the property owners subject to the storm drainage fee for impervious area without approval by a majority vote of the property owners subject to the storm drainage fee.

(Ord. 1836 § 2, (2009))

§ 4.30.090. Expiration of fee.

The storm drainage fee established by this chapter shall remain in effect until 2038.
(Ord. 1836 § 2, (2009))

§ 4.30.100. Citizens oversight committee.

The city council shall appoint a citizens committee to assure that the fees are used for storm drain purposes. The committee shall also review and then provide advisory input to the public works director in the preparation of the budget expenditures, and any amendments thereto, from the storm drainage fund, including project priorities.

(Ord. 1836 § 2, (2009))

§ 4.30.110. Severability.

Should any provision or clause of this chapter or application thereof to any person or circumstance be held invalid or unconstitutional that invalidity or unconstitutionality shall not affect other provisions or applications thereof which can be given effect without the invalid provision or application and, to this end, the provisions of this ordinance are declared severable. By adopting this ordinance the city council declares that it would have adopted this ordinance without that provision or provisions.

(Ord. 1836 § 2, (2009))

(RESERVED)

Title 5

(RESERVED)

Title 6**BUSINESS LICENSES AND REGULATIONS**

GENERAL LICENSE PROVISIONS	Chapter 6.04	§ 6.04.280.	Revocation of licenses—Hearing—Subsequent application for license.
§ 6.04.010. Purpose of licenses.		§ 6.04.290.	License tax a debt.
§ 6.04.020. Definitions.		§ 6.04.300.	Both criminal and civil action authorized for failure to pay license tax.
§ 6.04.030. Evidence of doing business.			Effect of mistake.
§ 6.04.040. License required.			Evidence of liability.
§ 6.04.050. Contents of license.		§ 6.04.310.	
§ 6.04.060. License tax—How payable.		§ 6.04.320.	
§ 6.04.070. Terms of licenses—Delinquency.			Chapter 6.08
§ 6.04.080. Proration.			LICENSE TAXES
§ 6.04.090. Duration of license.		§ 6.08.010.	General.
§ 6.04.100. Limitations.		§ 6.08.020.	License taxes.
§ 6.04.110. Branch establishments.		§ 6.08.030.	Cannabis license tax.
§ 6.04.120. Duplicate licenses.		§ 6.08.040.	Subcontractors.
§ 6.04.130. Transfer of place of business.		§ 6.08.060.	Theaters.
§ 6.04.140. License to be conspicuously posted.		§ 6.08.080.	Amusement devices.
§ 6.04.150. Refunds.		§ 6.08.085.	Operators of commercial parking facilities.
§ 6.04.160. Application for issuance of license.		§ 6.08.110.	Motor vehicles sales.
§ 6.04.170. Application for first license.		§ 6.08.140.	Peddlers and solicitors.
§ 6.04.180. Applications not conclusive.		§ 6.08.150.	Closing-out sales.
§ 6.04.200. Determination of license tax in certain cases.		§ 6.08.170.	Curb, street and sidewalk sign painters.
§ 6.04.210. Appeals.		§ 6.08.180.	Rental car agencies.
§ 6.04.220. Additional power of license collector.			Chapter 6.10
§ 6.04.225. Document production and inspection and entry.			MINIMUM WAGE
§ 6.04.230. License of new business—Approval.		§ 6.10.010.	Definitions.
§ 6.04.240. Exemptions.		§ 6.10.020.	Minimum wage.
§ 6.04.250. Exclusions.		§ 6.10.030.	Notice and posting.
§ 6.04.260. Substitute for other revenue acts.		§ 6.10.040.	Implementation.
§ 6.04.270. Effect on past actions and obligations previously accrued.		§ 6.10.050.	Enforcement.
		§ 6.10.060.	(Reserved)
		§ 6.10.070.	No pre-emption of higher standards.
		§ 6.10.080.	Federal or state funding.

BUSINESS LICENSES AND REGULATIONS

	Chapter 6.16 ENTERTAINMENT BUSINESSES		
§ 6.16.010.	Purpose.	§ 6.20.020.	Scope of license.
§ 6.16.020.	Definitions.	§ 6.20.030.	Suspension and revocation of license.
§ 6.16.030.	Permit required.	§ 6.20.040.	Inspection of premises.
§ 6.16.040.	Exceptions.	§ 6.20.050.	Penalty for violations.
§ 6.16.050.	Application requirements.		Chapter 6.22
§ 6.16.060.	Investigation and action on application.		MERCHANDISE SALES FROM RESIDENCES
§ 6.16.070.	Permit denial.	§ 6.22.010.	No sale without permit.
§ 6.16.080.	Permits nontransferable.	§ 6.22.020.	Application for permit.
§ 6.16.090.	Single event entertainment permit applications.	§ 6.22.030.	Time limitation and sign limitation for permitted sales.
§ 6.16.100.	Investigation and action on single event permit applications.	§ 6.22.031.	Displays.
§ 6.16.110.	Single event entertainment permit denial.	§ 6.22.032.	Owned personal property.
§ 6.16.115.	Reviews.		Chapter 6.24
§ 6.16.120.	Suspension or revocation of entertainment permits and single event entertainment permits.	§ 6.24.010.	Permit required.
§ 6.16.130.	Emergency suspension of permit.	§ 6.24.015.	Sidewalk vendors.
§ 6.16.140.	Appeals and judicial review.	§ 6.24.020.	Application for permit.
§ 6.16.150.	Performance standards for entertainment businesses.	§ 6.24.030.	Permit fee and investigation.
§ 6.16.160.	Performance standards for entertainment businesses where alcoholic beverages are served.	§ 6.24.040.	Business license.
§ 6.16.170.	Performance standards for amusement arcades.	§ 6.24.050.	Issuance or denial of permit.
§ 6.16.190.	Display of permit.	§ 6.24.060.	Appeal.
§ 6.16.200.	Inspections.	§ 6.24.070.	License and permit not transferable.
§ 6.16.210.	Compliance with other laws.	§ 6.24.080.	Display of permit.
§ 6.16.220.	Interpretation of chapter.	§ 6.24.085.	No soliciting at residence when posted.
§ 6.16.230.	Public nuisance.	§ 6.24.090.	Revocation or suspension of permits.
§ 6.16.240.	Severability.		Chapter 6.25
	Chapter 6.20 CLOSING-OUT SALES		SIDEWALK VENDING PROGRAM
§ 6.20.010.	License required—Application.	§ 6.25.010.	Purpose.
		§ 6.25.020.	Definitions.
		§ 6.25.030.	Permit required.
		§ 6.25.040.	Issuance of permit.
		§ 6.25.050.	Operating conditions.
		§ 6.25.060.	Prohibited activities and locations.

BURLINGAME CODE

§ 6.25.070.	Penalties.	§ 6.36.100.	Revocation or suspension of permits.
§ 6.25.080.	Appeals.	§ 6.36.110.	Rates of fare.
§ 6.25.090.	Administrative procedures.	§ 6.36.120.	Safe maintenance of taxicabs—Inspection.
§ 6.25.100.	Conflict of laws.	§ 6.36.130.	Insurance.
	Chapter 6.30 VALET PARKING	§ 6.36.132.	Markings and decal required.
		§ 6.36.133.	Replacing taxicabs.
§ 6.30.010.	Fixed location valet parking and special event valet parking permits.	§ 6.36.135.	Preferences prohibited.
§ 6.30.020.	Application for permit.	§ 6.36.140.	Driver to take direct route to destination.
§ 6.30.030.	Corporations and partnerships.	§ 6.36.150.	Failure to pay lawful fare.
§ 6.30.040.	Permit fee and investigation.	§ 6.36.160.	Refusal of service.
§ 6.30.050.	Business license.	§ 6.36.170.	Display of driver's permit.
§ 6.30.060.	Insurance.	§ 6.36.180.	Change of employment by driver.
§ 6.30.070.	Issuance or denial of permit.	§ 6.36.190.	Expiration and renewal of driver's permit.
§ 6.30.080.	Appeal.		
§ 6.30.090.	Revocation or suspension of permits.		Chapter 6.38 FORTUNETELLING AND PSYCHIC SERVICES
§ 6.30.100.	Rules and regulations—Additional requirements.	§ 6.38.010.	Fortunetelling and psychic services.
§ 6.30.110.	Requirements for permittee's employees.	§ 6.38.020.	Definitions.
§ 6.30.120.	Conformance with applicable laws.	§ 6.38.030.	Application for license.
	Chapter 6.36 TAXICABS	§ 6.38.040.	Business license.
§ 6.36.010.	Definitions.	§ 6.38.050.	Surety bond.
§ 6.36.020.	Owner and driver permits required.	§ 6.38.060.	Permit fee and investigation.
§ 6.36.030.	Application for permit.	§ 6.38.070.	Issuance or denial of permit.
§ 6.36.035.	Controlled substance testing.	§ 6.38.080.	Appeal.
§ 6.36.040.	Corporations and partnerships.	§ 6.38.090.	Revocation or suspension of permits.
§ 6.36.050.	Permit fee and investigation.	§ 6.38.100.	License and permit not transferable.
§ 6.36.060.	Business license.	§ 6.38.110.	Display of permit.
§ 6.36.070.	Issuance or denial of owner's permit.	§ 6.38.120.	Exceptions.
§ 6.36.080.	Issuance or denial of driver's permit.		Chapter 6.39 MASSAGE ESTABLISHMENTS
§ 6.36.090.	Appeal.	§ 6.39.010.	Purpose.
		§ 6.39.020.	Definitions.

BUSINESS LICENSES AND REGULATIONS

§ 6.39.030.	State certification and city registration required.	§ 6.40.115.	Surety bond.
§ 6.39.040.	Grant of authority.	§ 6.40.120.	Sale or transfer of establishment.
§ 6.39.050.	Application for registration.	§ 6.40.130.	Revocation or suspension of permits.
§ 6.39.060.	Registration process.	§ 6.40.140.	Display of signs and permits.
§ 6.39.070.	Appeal.	§ 6.40.150.	Notice of changes.
§ 6.39.080.	Business license required.	§ 6.40.160.	Renewal of permits.
§ 6.39.090.	Exemptions from massage practitioner permit requirements.		Chapter 6.41
§ 6.39.100.	Registration not entitlement to violate other laws.		MODEL STUDIOS, ESCORT BUREAU, AND INTRODUCTORY SERVICES
§ 6.39.110.	Health and safety operating requirements.	§ 6.41.010.	Permit required.
§ 6.39.120.	Display of signs and permits.	§ 6.41.020.	Definitions.
§ 6.39.130.	Inspection by officials.	§ 6.41.025.	Corporations and partnerships.
§ 6.39.140.	Revocation or suspension of permits.	§ 6.41.030.	Application for license.
§ 6.39.150.	Sale or transfer of establishment.	§ 6.41.040.	Permit fee and investigation.
§ 6.39.160.	Notice of changes.	§ 6.41.050.	Business license.
§ 6.39.170.	Renewal of registration.	§ 6.41.060.	Issuance or denial of permit.
§ 6.39.180.	Enforcement—Remedies cumulative.	§ 6.41.070.	Appeal.
		§ 6.41.080.	Regulations—Model studios.
		§ 6.41.085.	Records—Escort bureaus and introductory services.
		§ 6.41.090.	Inspection by officials.
		§ 6.41.100.	Sale or transfer of establishment.
		§ 6.41.110.	Revocation or suspension of permits.
		§ 6.41.120.	Notice of changes.
		§ 6.41.130.	Renewal of permits.
			Chapter 6.42
			TANNING FACILITIES
§ 6.40.010.	Purpose.	§ 6.42.010.	Purpose.
§ 6.40.020.	Permit required.	§ 6.42.020.	Permit required.
§ 6.40.030.	Definitions.	§ 6.42.030.	Definitions.
§ 6.40.035.	Corporations and partnerships.	§ 6.42.035.	Corporations and partnerships.
§ 6.40.040.	Application for permit.	§ 6.42.040.	Application for permit.
§ 6.40.050.	Exemptions.	§ 6.42.050.	Exemptions.
§ 6.40.055.	Exemptions from practitioner permit requirements.	§ 6.42.060.	Permit fee and investigation.
§ 6.40.057.	Permit not entitlement to violate other laws.	§ 6.42.070.	Business license.
§ 6.40.060.	Permit fee and investigation.	§ 6.42.080.	Issuance or denial of permit.
§ 6.40.070.	Business license.		
§ 6.40.080.	Issuance or denial of permit.		
§ 6.40.090.	Appeal.		
§ 6.40.100.	Operating and sanitation requirements.		
§ 6.40.110.	Inspection by officials.		

BURLINGAME CODE

§ 6.42.090.	Appeal.
§ 6.42.100.	Operating and sanitation requirements.
§ 6.42.110.	Inspection by officials.
§ 6.42.115.	Surety bond.
§ 6.42.120.	Sale or transfer of establishment.
§ 6.42.130.	Revocation or suspension of permits.
§ 6.42.140.	Display of signs and permits.
§ 6.42.150.	Notice of changes.
§ 6.42.160.	Renewal of permits.

Chapter 6.43
BINGO

§ 6.43.010.	Purpose.
§ 6.43.020.	Licenses—Issuance, renewal, suspension, revocation.
§ 6.43.030.	License requirement.
§ 6.43.040.	Application for license to conduct bingo game.
§ 6.43.050.	Number of days per week of operation—Limit.
§ 6.43.060.	Use of facilities for bingo—Limit per week.
§ 6.43.070.	Hours of operation—Limit.

Chapter 6.44
PRIVATE PATROL OPERATORS

§ 6.44.010.	Private patrol operator—Definition.
§ 6.44.020.	Permit required.
§ 6.44.030.	Business license.
§ 6.44.040.	Application for local security guard permit.
§ 6.44.050.	Permit fee and investigation.
§ 6.44.060.	Issuance or denial of permit.
§ 6.44.070.	Appeal.
§ 6.44.080.	Renewal of permits.
§ 6.44.090.	Transfer of permit.
§ 6.44.100.	Revocation or suspension of permits.
§ 6.44.110.	Uniforms and badges.

§ 6.44.120.	Titles.
§ 6.44.130.	Operations.
§ 6.44.140.	Vehicles.
§ 6.44.150.	Notice of termination of employees.
§ 6.44.160.	Terminated employee delivering permit.

Chapter 6.50

VIDEO SERVICE PROVIDED BY STATE FRANCHISE HOLDERS

§ 6.50.010.	Purpose and applicability.
§ 6.50.020.	Definitions.
§ 6.50.030.	Franchise fee for state franchise holders.
§ 6.50.040.	Public, educational, and government channels.
§ 6.50.050.	Customer service penalties by state franchise holders.
§ 6.50.060.	Authority to examine and audit business records.

Chapter 6.52

BROADWAY AREA IMPROVEMENT DISTRICT

§ 6.52.010.	Definitions.
§ 6.52.020.	Establishment of boundaries.
§ 6.52.030.	Advisory board.
§ 6.52.040.	Establishment of benefit assessments.
§ 6.52.050.	Purpose and use of benefit assessments.
§ 6.52.060.	Exclusions from benefit assessment.
§ 6.52.070.	Collection of benefit assessment.
§ 6.52.080.	Late payment penalties and prorations.
§ 6.52.090.	Annual budget process.

BUSINESS LICENSES AND REGULATIONS

	Chapter 6.54	§ 6.55.030.	Activities and improvements—Findings.
	BURLINGAME AVENUE AREA BUSINESS IMPROVEMENT DISTRICT	§ 6.55.040.	(Reserved)
		§ 6.55.050.	Bonds.
§ 6.54.010.	Definitions.	§ 6.55.060.	Boundaries.
§ 6.54.020.	Establishment of boundaries.	§ 6.55.070.	Assessments.
§ 6.54.030.	Advisory board.	§ 6.55.080.	Collections.
§ 6.54.040.	Establishment of benefit assessments.	§ 6.55.090.	Owners' association.
§ 6.54.050.	Purpose and use of benefit assessments.	§ 6.55.100.	Annual report.
§ 6.54.055.	Appeal of assessment amount.	§ 6.55.110.	Amendments to enabling legislation.
§ 6.54.060.	Exclusions from benefit assessment.		
§ 6.54.070.	Collection of benefit assessment.		
§ 6.54.080.	Late payment penalties and prorations.	§ 6.56.010.	Purpose.
§ 6.54.090.	Annual budget process.	§ 6.56.020.	Definitions.
	Chapter 6.55	§ 6.56.030.	Permitted use.
	SAN FRANCISCO PENINSULA TOURISM MARKETING DISTRICT	§ 6.56.040.	Registration and annual renewal.
§ 6.55.010.	Establishment.	§ 6.56.050.	Operating standards.
§ 6.55.020.	Management district plan.	§ 6.56.060.	Transient occupancy tax (TOT).
		§ 6.56.070.	Enforcement.
		§ 6.56.080.	Amnesty period for short-term rentals.

CHAPTER 6.04 GENERAL LICENSE PROVISIONS

§ 6.04.010. Purpose of licenses.

It is hereby declared that the provisions of this title of the ordinance code of the city of Burlingame are for the purpose of revenue and not regulation.

(Ord. 1125 § 2, (1978); Ord. 2006 § 2, (2022))

§ 6.04.020. Definitions.

For the purpose of this title, words and phrases used herein shall be held to mean the following:

"Business" includes professions, trades and occupations of all and every kind of calling, whether or not carried on for profit.

"Cannabis business" means any business activity involving cannabis, including, but not limited to: commercial cannabis activities, as that term is set forth in Chapter 25.48 of Title 25; and delivery of cannabis and cannabis products, as "delivery" defined in state law.

"City" means the city of Burlingame.

"Collector" or "license collector" means the finance director, or the finance director's duly authorized representative.

"Contractor" means any person who undertakes to, or offers to undertake to, or purports to have the capacity to undertake to, or submits a bid to, or does him or herself or by or through others, construct, alter, repair, add to, subtract from, improve, move, wreck or demolish any building, highway, road, parking facility, railroad, excavation or other structure, project, development or improvement, or to do any part thereof, including the erection of scaffolding or other structures or works in connection therewith. The term contractor includes subcontractor and specialty contractor.

"Employee" means all persons engaged in the operation or conduct of any business, whether as owner, any member or owner, any member of owner's family, partner, agent, manager, solicitor, broker, salesperson and any and all other persons employed or working in said business.

"Fixed place of business" means the premises occupied in the city of Burlingame for the particular purpose of conducting a business thereat.

"Gross receipts" except as otherwise specifically provided, means, whether designated a sales price, royalty, rent, commission, dividend, or other designation, the total amount (including all receipts, cash, credits, services and property of any kind or nature) received or payable for sales of goods, wares or merchandise or for the performance of any act or service of any nature for which a charge is made or credit allowed (whether such service, act or employment is done as part of or in connection with the sale of goods, wares, merchandise or not), without any deduction therefrom on account of the cost of the property sold, the cost of materials used, labor or service costs, interest paid or payable, losses or any other expense whatsoever. Where the gross receipts, as defined above, are less than the cost of operations of the licensee, then the licensee shall be deemed to produce gross receipts in an amount at least equal to the cost of maintaining such operations. Such cost of operations shall include, but not be limited to, rent and/or depreciation, salaries and wages, fixed charges and other expenses. However, the following shall be excluded from gross receipts:

- (1) Cash discounts where allowed and taken on sales;
- (2) Any tax required by law to be included in or added to the purchase price and collected from the

consumer or purchaser;

- (3) Such part of the sale price of any property returned by purchasers to the seller as refunded by the seller by way of cash or credit allowances or return of refundable deposits previously included in gross receipts;
- (4) Receipts derived from the occasional sale of used, obsolete or surplus trade fixtures, machinery or other equipment used by the taxpayer in the regular course of the taxpayer's business;
- (5) Cash value of sales, trades or transactions between departments or units of the same business;
- (6) Whenever there are included within the gross receipts amounts which reflect sales for which credit is extended and such amount proved uncollectible in a subsequent year, those amounts may be excluded from the gross receipts in the year they prove to be uncollectible; provided, however, if the whole or portion of such amounts excluded as uncollectible are subsequently collected they shall be included in the amount of gross receipts for the period when they are recovered;
- (7) Receipts of refundable deposits, except that such deposits when forfeited and taken into income of the business shall not be excluded when in excess of one dollar (\$1.00);
- (8) Amounts collected for others where the business is acting as an agent or trustee and to the extent that such amounts are paid to those for whom collected. These agents or trustees must provide the city's finance department with the names and the addresses of the others and the amounts paid to them. This exclusion shall not apply to any fees, percentages, or other payments retained by the agent or trustees.

"Newly established business" means a business in existence and operation within the city for less than three months.

"Peddler" means any person not having a regularly established place of business, who travels or goes from house to house, or from place to place, and who sells and makes immediate delivery, or offers for sale and immediate delivery, any services, goods, wares or merchandise in his or her possession.

"Person" includes 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 of Burlingame, other than as an employee.

"Solicitor" means any person who travels or goes from house to house, or from place to place, or in or along the streets, taking orders for or endeavoring to take orders, for the sale, exchange or delivery of any services, goods, wares or merchandise not in his or her immediate possession.

"Vehicle" means every device in, upon or by which any person or property is or may be transported or drawn upon a public street or highway, except devices moved by human power or used upon stationary rails or tracks.

(Ord. 1125 § 2, (1978); Ord. 1459 § 2, (1992); Ord. 1671 § 7, (2001); Ord. 2006 § 2, (2022))

§ 6.04.030. Evidence of doing business.

When any person shall, by the use of signs, circulars, cards, stationery, telephone books or newspapers, advertise, hold out or represent that he or she is in business in the city, or when any person holds an active license or permit issued by a governmental agency indicating that he or she is in business in the city, or when any person makes a sale, takes an order, renders a commercial service or performs any other similar act within the city, and such person fails to deny by sworn statement given to the collector that he or she is

not conducting a business in the city after being requested to do so by the collector, then these facts shall be considered *prima facie* evidence that he or she is conducting a business in the city.

(Ord. 1125 § 2, (1978); Ord. 2006 § 2, (2022))

§ 6.04.040. License required.

There are hereby imposed upon the businesses, trades, professions, callings and occupations specified in this title license taxes in the amounts hereinafter prescribed. No person shall transact and carry on any business, trade or profession, calling or occupation in the city without first having procured a license or without first having paid to the city the license tax provided herein, and to do so without complying with all such regulations shall constitute a separate violation of this code for each and every day that such business is so carried on.

The issuance of a license under this title shall not entitle the licensee to engage in any business which for any reason is in violation of any law or ordinance and shall not entitle the holder thereof to carry on any business unless he or she has complied with all the requirements under the other ordinances of the city and all other applicable laws, nor shall it entitle the licensee to carry on any business in any building or on any premises designated in such license in the event that such business or premises are situated in a zone or locality in which the conduct of such business is a violation of any law.

(Ord. 1125 § 2, (1978); Ord. 2006 § 2, (2022))

§ 6.04.050. Contents of license.

All licenses shall be prepared and issued by the license collector upon payment of the sum to be paid therefor, and each license so issued shall state upon the face thereof the following:

- (a) The name of the person to whom the license is issued;
- (b) The kind or kinds of business licensed thereby;
- (c) The location of such business;
- (d) The date of the expiration of such license;
- (e) Such other information as the license collector may require.

(Ord. 1125 § 2, (1978); Ord. 2006 § 2, (2022))

§ 6.04.060. License tax—How payable.

All license taxes due hereunder shall be paid in advance, in lawful money of the United States, at the office of the license collector.

(Ord. 1125 § 2, (1978); Ord. 2006 § 2, (2022))

§ 6.04.070. Terms of licenses—Delinquency.

- (a) Except as otherwise provided, all license taxes due hereunder shall be due and payable on the first day of July.
- (b) If a license tax that is due and payable under subsection (a) above has not been received before August 1st, the license collector shall add to each license remaining unpaid a penalty of 25% of the amount of the delinquent license tax, up to a maximum penalty of 100% of the amount of the delinquent license tax.

(c) The license collector may include in the delinquency assessment, costs of any necessary audits or investigations necessitated by an incorrect or incomplete return of a license tax under this chapter.

(d) Every penalty and assessment imposed and such interest as accrues under the provisions of this section shall become a part of the tax required to be paid by this chapter.

(Ord. 1125 § 2, (1978); Ord. 1459 § 2, (1992); Ord. 1500 § 1, (1994); Ord. 1671 § 2, (2001); Ord. 2006 § 2, (2022))

§ 6.04.080. Proration.

No proration of any license due hereunder shall be made for any portion of the period for which a license is payable, except in the case of a first annual license the tax may be prorated as follows:

- (a) If the application is made during the quarter beginning July 1st, 100% of such fee shall be paid;
- (b) If the application is made during the quarter beginning October 1st, 75% of such fee shall be paid;
- (c) If the application is made during the quarter beginning January 1st, 50% of such fee shall be paid; and
- (d) If the application is made during the quarter beginning April 1st, 25% of such fee shall be paid.

The date of commencement of business shall be deemed the date of application whenever an application is filed after the commencement of business.

(Ord. 1125 § 2, (1978); Ord. 2006 § 2, (2022))

§ 6.04.090. Duration of license.

- (a) No license shall be issued for a period of more than 12 months. No license shall be issued for any period extending beyond the thirtieth day of June following the issuance.
- (b) While the license collector is empowered to mail renewal notices to businesses regarding the annual business license, the failure of the license collector to mail such a notice or the failure of the business to receive such a notice shall not excuse any failure to pay the business license tax due at the time and pursuant to the provisions of Section 6.04.070 nor to excuse any penalties or interest that may be assessed because of late or incomplete payment.

(Ord. 1125 § 2, (1978); Ord. 1671 § 3, (2001); Ord. 2006 § 2, (2022))

§ 6.04.100. Limitations.

No greater or lesser amount of money shall be charged or received for any license tax other than provided for in this title, and no license shall be sold or issued for any period of time other than provided for in this title; provided, that this section shall not refer to such penalties as are herein provided for.

(Ord. 1125 § 2, (1978); Ord. 2006 § 2, (2022))

§ 6.04.110. Branch establishments.

Separate licenses must be obtained for each branch establishment or location of the business engaged in, as if each such branch establishment or location were a separate business, and each license shall authorize the licensee to engage only in the business licensed thereby at the location or in the manner designated in such license; provided, that warehouses and distributing plants used in connection with and incidental to a

business licensed under the provisions of this title shall not be deemed to be separate places of business or branch establishments.

(Ord. 1125 § 2, (1978); Ord. 2006 § 2, (2022))

§ 6.04.120. Duplicate licenses.

Duplicate licenses may be issued by the license collector to replace any license previously issued which has been lost or destroyed upon the licensee filing an affidavit attesting to such fact, and at the time of filing such affidavit paying to the license collector the sum of \$10.

(Ord. 1125 § 2, (1978); Ord. 1459 § 2, (1992); Ord. 1752 § 2, (2005); Ord. 2006 § 2, (2022))

§ 6.04.130. Transfer of place of business.

No license issued pursuant to this title shall be transferred to another person. When a licensee transfers his or her business from one location to another within the city, the license previously issued may be amended to authorize the conduct of the business at the new location.

(Ord. 1125 § 2, (1978); Ord. 1459 § 2, (1992); Ord. 2006 § 2, (2022))

§ 6.04.140. License to be conspicuously posted.

All licenses must 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 or her person or in his or her vehicle at all times while transacting and carrying on such business.

(Ord. 1125 § 2, (1978); Ord. 2006 § 2, (2022))

§ 6.04.150. Refunds.

No refunds will be made on any amount paid as a license tax except in case of an error on the part of the city in the determination of the amount of the license tax, in the case of a miscalculation by the business of the license tax due, in the event of double payment for a license, or in case of an illegally collected license tax. Claims for such refunds must be made pursuant to and within the time requirements of Chapter 4.15. Accrual of the cause of action shall be the date of payment for the license or the date the license payment was due, whichever is earlier.

(Ord. 1125 § 2, (1978); Ord. 1657 § 4, (2001); Ord. 1671 § 4, (2001); Ord. 2006 § 2, (2022))

§ 6.04.160. Application for issuance of license.

Every person required to have a license under the provisions of this title shall make application for the same to the license collector. Such application shall be a written statement upon a form provided by such department and shall be signed by the applicant under penalty of perjury, or sworn to by the applicant before a person authorized to administer oaths. The application shall set forth such information as may be necessary properly to determine the amount of the license tax to be paid by applicant.

(Ord. 1125 § 2, (1978); Ord. 2006 § 2, (2022))

§ 6.04.170. Application for first license.

Every person making application for a license shall pay to the license collector the license tax for the business in which he or she is engaged and a nonrefundable application fee of \$35.

(Ord. 1125 § 2, (1978); Ord. 1459 § 2, (1992); Ord. 1752 § 3, (2005); Ord. 2006 § 2, (2022))

§ 6.04.180. Applications not conclusive.

No applications shall be conclusive as to the matters set forth therein, nor shall the filing of the same preclude the city from collecting by appropriate action such sum as is actually due and payable hereunder. (Ord. 1125 § 2, (1978); Ord. 2006 § 2, (2022))

§ 6.04.200. Determination of license tax in certain cases.

- (a) If any person fails to apply for a business license, or, after demand therefor has been made by the license collector, he or she fails to file a corrected application within 15 days after notification to so do, the license collector shall determine the amount of license tax due from such person by means of such information as the collector may be able to obtain.
- (b) The license collector will determine which classification of business under this title applies to each business in light of the information available to the collector. When more than one classification might apply to a business, the license collector will apply that classification that best represents the overall conduct of the business. Classification by the business itself is not binding on the collector.

(Ord. 1125 § 2, (1978); Ord. 1664 § 1, (2001); Ord. 2006 § 2, (2022))

§ 6.04.210. Appeals.

- (a) When the license collector determines that a license tax is due that is more than the tax paid by the business, the license collector will give a notice of the amount so assessed by serving it personally or by depositing it in the United States mail, postage prepaid, addressed to the business at its last known place of address. The assessed business may, within 10 days after the serving or mailing of such notice, make application in writing to the license collector for a hearing on the amount assessed. If application by the business for a hearing is not made within the time prescribed, the tax, interest and penalties, if any, determined by the license collector shall become final and conclusive and immediately due and payable. If application for a hearing is made, the license collector shall give not less than five days' written notice by mail to the business of the time and place for the hearing. At the hearing, the business may appear and offer evidence for what the specified tax, interest and penalties should be. After hearing, the license collector will determine the proper tax to be remitted and shall thereafter give written notice to the business of the decision. The amount determined to be due shall be payable after 15 days unless an appeal is taken as provided in subsection (b) below.
- (b) Any person aggrieved by any decision of the license collector with respect to the issuance or refusal to issue a license, or the amount of a license tax, may appeal to the city manager by filing a written notice of appeal with the manager within 15 days of the collector's decision. If no appeal is filed within the 15 day period, the decision of the license collector is final. The city manager shall fix a time and place for hearing such appeal, and give notice in writing to the appellant of the time and place of hearing by serving it personally or by depositing it in the United States Post Office, postage prepaid, addressed to such person at the address appearing on the person's last license or application. The person who filed the appeal may appear and offer evidence regarding the matter. Following the hearing, the city manager may affirm, modify, or reverse the decision of the license collector. The decision of the city manager shall be served upon the appellant in the manner prescribed above for

service of notice of hearing. The city manager's decision is the final administrative determination. (Ord. 1125 § 2, (1978); Ord. 1459 § 2, (1992); Ord. 1671 § 6, (2001); Ord. 2006 § 2, (2022))

§ 6.04.220. Additional power of license collector.

In addition to all other power conferred upon him or her, the license collector shall have the power, for good cause shown, to extend the time for filing any required sworn statement for a period not exceeding 30 days in such case to waive any penalty which would otherwise have accrued; and shall have the further power, with the consent of the council, to compromise any claim as to amount of license tax due. (Ord. 1125 § 2, (1978); Ord. 2006 § 2, (2022))

§ 6.04.225. Document production and inspection and entry.

- (a) The license collector may review any application or return filed pursuant to this chapter and may request or inspect any documents or accounts as provided for in this title to determine what the correct tax due is. The license collector, and any person designated as an agent by the license collector, may, at any time during normal business hours, for the purpose of enforcing the provisions of this title, inspect the accounts, books, papers, and documents of any business that holds any permit or tax certificate of the city under this title or that has filed a permit application or business tax return with the city under this title. Any person shall produce under the seal of the city the person's authority to make such an inspection.
- (b) It shall be the duty of each business that receives a license or permit under this title to keep and preserve, for a period of three years, all records as may be necessary to determine the amount of such tax as the business may have been liable for the collection of and payment to the city. Such records shall be maintained at the business's premises or shall be available for delivery to the license collector within one week after request. Such records shall be so maintained for at least six months after a change of owner. The license collector may, upon five days' written notice, require any business that holds a permit or business license under this title or that has filed a permit application or business tax return with the city to produce any accounts, books, papers, or documents at any location in the city that the license collector may designate in writing, for the purpose of enforcing this title.
- (c) No person conducting an inspection or review pursuant to this section may reveal the information obtained from such an inspection or review to anyone not charged with the administration or enforcement of the provisions of this title.
- (d) The license collector, any designated officer or agent of the license collector, and any police officer is entitled to enter free of charge at any time any place of business for which a tax, license, or permit under this title is required, and to demand the exhibition of the business license or permit for the current term from any person engaged or employed in the transaction of such business.

(Ord. 1671, § 5, (2001); Ord. 2006 § 2, (2022))

§ 6.04.230. License of new business—Approval.

Upon the issuance of an initial license to conduct a business at a place, building or premises located in the city, or when a license is transferred to a new place of business in the city, the license collector shall transfer a copy of the application to the building inspector, the fire chief, planner and health inspector of the city. It shall be the duty of said officials to report to the license collector whether or not the place, building or premises, including any incidental warehouse or distribution plants, can be used for the purpose stated in the application. If it is reported that the carrying on of such business will violate any law or ordinance or jeopardize or constitute a menace to the public health or safety, it shall be the duty of the license collector to

revoke the issuance or the transfer of the license. License fees shall not be refunded upon such revocation. (Ord. 1125 § 1, (1978), Ord. 1459 § 2, (1992); Ord. 2006 § 2, (2022))

§ 6.04.240. Exemptions.

(a) Charitable and Nonprofit Organizations.

- (1) The license provisions of this code shall not be deemed or construed to require the payment of a license fee to conduct, manage or carry on any business, or require the payment of any license fee from any institution or organization which is conducted, managed or carried on solely for the benefit of charitable purposes or from which profit is not derived either directly or indirectly by any person, if such business is exempt from the payment of bank and corporation taxes by Sections 23701 of the Revenue and Taxation Code, nor shall any license be required for the conducting of any entertainment, concert, exhibition, lecture or scientific, historical, religious or moral services whenever the receipts of such entertainment, concert, exhibition or lecture are to be appropriated to any church, school or to any religious or benevolent purpose within the city; nor shall any license be required for the conducting 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 purpose and objects for which such association or organization was formed and from which a profit is not derived either directly or indirectly by any person; provided, however, that nothing herein contained shall be deemed to exempt any institution or organization from complying with the provisions of any of the ordinances of the city requiring such institution or organization to obtain a permit from the city to conduct, manage or carry on such business.
 - (2) The license provisions of this code shall not be deemed or construed to require the payment of a license fee to conduct, manage or carry on any business in the city that consists solely of selling foodstuffs, live plants, art work, or handicrafts at an event or market in the city that is operated by any religious, charitable, fraternal, educational, military, state, county or municipal organization or association. However, nothing herein contained shall be deemed to exempt any such person from complying with the provisions of any of the ordinances of the city requiring such a person to obtain a permit from the city to conduct, manage or carry on such a business.
- (b) Interstate Commerce. Nothing in this title shall be deemed or construed to apply to any person transacting or carrying on any business exempt by virtue of the Constitution or applicable statutes of the United States or of the state of California from payment of such licenses as are herein prescribed. Such person shall file a verified statement with the license collector setting forth all of the facts showing that he or she is entitled to such exemption. The statement shall contain the name and location of the person for which the orders are to be solicited or secured, the name and address of the nearest local or state manager, the kind of goods, wares or merchandise to be delivered, the place from where the same are to be shipped or forwarded, the method of solicitation or taking orders, the location of any warehouse, factory or plant within the state of California, the method of delivery, the name and address of the applicant, and any other facts necessary to establish such claim of exemption.
- (c) Veterans. Any veteran, as defined by Sections 16001 and 16001.5 of the Business and Professions Code of the state of California, shall be exempt from the payment of license fees for peddling or soliciting upon presentation of proof of such exemption satisfactory to the license collector.
- (d) Minors, Sixteen Years and Younger. Every natural person of the age of 16 years or under, whose annual gross receipts from any and all businesses are \$4,000 or less, shall be exempt from payment

of any license tax under the provisions of this title.

- (e) Senior Citizens. Every natural person of the age of 65 years or over, whose annual gross receipts from any and all business are \$4,000 or less, shall be exempt from payment of any license tax under the provisions of this title.
- (f) Nothing in this title shall be deemed or construed to require the payment of a license tax by any person to conduct or officiate any recreation program or activity provided or sponsored by the city.
- (g) Nothing in this title shall be deemed or construed to require the payment of a license tax by any person engaged in the business of providing goods or services to a nonprofit organization that provides activities to the youth of Burlingame, or who conducts or officiates any recreation program or activity provided or sponsored by a legal, nonprofit organization that provides services to the youth of Burlingame; provided however, that any and all persons providing goods or services to other organizations that are not explicitly exempted by this chapter are still required to obtain a business license and pay the annual tax.

(Ord. 1125 § 2, (1978); Ord. 1815 § 2, (2008); Ord. 1818 § 2, (2008); Ord. 1853 § 2, (2010); Ord. 2006 § 2, (2022))

§ 6.04.250. Exclusions.

Except as may be otherwise specifically provided in this title, the terms hereof shall not be deemed or construed to apply to any of the following persons:

- (a) Any public utility which makes payments to the city of Burlingame under a franchise or similar agreement;
- (b) Banks, including national banking associations, to the extent that a city may not levy a license tax upon them under the provisions of Article XIII, Section 16, Subdivision 1(a) of the State Constitution;
- (c) Insurance companies and associations to the extent that a city may not levy a license tax upon them under the provisions of Article XIII, Section 28 of the State Constitution;
- (d) Any person whom the city is not authorized to license under any law or constitution of the United States or the state of California.

The license collector may require the filing of a verified statement from any person claiming to be exempted or excluded by the provisions of Section 6.04.240 or this section, which statement shall set forth all facts upon which the exclusion is claimed.

(Ord. 1125 § 2, (1978); Ord. 2006 § 2, (2022))

§ 6.04.260. Substitute for other revenue acts.

Any person required to pay a license tax for transacting and carrying on any business under this title shall not be relieved from the payment of any license tax for the privilege of doing such business which has been required under any other ordinance of the city, and shall remain subject to the regulatory provisions of such other ordinance.

(Ord. 1125 § 2, (1978); Ord. 2006 § 2, (2022))

§ 6.04.270. Effect on past actions and obligations previously accrued.

Neither the adoption of this title, nor its superseding of any portion of any other ordinance of the city of Burlingame, shall in any manner be construed to affect prosecution for violation of any other ordinance committed prior to the effective date hereof, nor be construed as a waiver of any license or any penal provision applicable to any such violation, nor be construed to affect the validity of any bond or cash deposit required by any ordinance to be posted, filed or deposited, and all rights and obligations thereto appertaining shall continue in full force and effect.

(Ord. 1125 § 2, (1978); Ord. 2006 § 2, (2022))

§ 6.04.280. Revocation of licenses—Hearing—Subsequent application for license.

Any license issued under the terms of this code may be suspended or revoked by the city council whenever it shall appear that the licensee has failed to pay the charges imposed by this title, that the business, calling, profession or trade of the person to whom such license was issued is conducted in a disorderly or improper manner or in violation of any law of the United States, the state of California, or any ordinance of the city, or that the person conducting the business, trade, profession or calling is of an unfit character to conduct the same, or the purpose for which the license has been issued is being abused to the detriment of the public, or is being used for a purpose foreign to that for which the license was issued.

Except as provided in Section 6.04.230, a license issued under this title shall not be revoked, canceled or suspended until a hearing thereon shall have been had by the city council. Written notice of the time and place of such hearing shall be served upon the permittee at least three days prior to the date set for such hearing. Such notice shall also contain a brief statement of the grounds to be relied upon for revoking, canceling or suspending such license. Notice may be given either by personal delivery thereof to the person to be notified or by depositing it in the United States Post Office in a sealed envelope, postage prepaid, addressed to such person to be notified, at the business address appearing upon said license. At the hearing before the city council the person aggrieved shall have an opportunity to answer and may be thereafter heard, and, upon due consideration and deliberation by the city council, the complaint may be dismissed, or, if the city council concludes that charges have been sustained and substantiated, it may revoke, cancel or suspend the license of the permittee, and the action of the city council shall be final and conclusive and no appeal therefrom shall be had.

If any such license shall have been revoked, neither the holder thereof nor any person acting for him or her directly or indirectly shall be entitled to another license to carry on the same or any similar business within the city unless the application for such license shall be approved by the city council.

(Ord. 1125 § 2, (1978); Ord. 1459 § 2, (1992); Ord. 2006 § 2, (2022))

§ 6.04.290. License tax a debt.

The amount of any license tax and penalty imposed by the provisions of this title shall be deemed a debt to the city of Burlingame, and any person carrying on any business without first having procured a license from the city to do so shall be liable to an action in the name of the city in any court of competent jurisdiction for the amount of the license tax and penalties imposed on such business.

(Ord. 1125 § 2, (1978); Ord. 2006 § 2, (2022))

§ 6.04.300. Both criminal and civil action authorized for failure to pay license tax.

The conviction of any person for engaging in any business without first obtaining a license to conduct such business shall not relieve such person from paying the license tax to conduct such business, nor shall the payment of any license tax prevent a criminal prosecution for the violation of any of the provisions of this

title; all remedies prescribed hereunder 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 enforcing the provisions hereof.

(Ord. 1125 § 2, (1978); Ord. 2006 § 2, (2022))

§ 6.04.310. Effect of mistake.

In no case shall any mistake made by the city in stating the amount of a license tax prevent or prejudice the collection by the city of what shall be actually due from anyone carrying on a business subject to a license tax under this title.

(Ord. 1125 § 2, (1978); Ord. 2006 § 2, (2022))

§ 6.04.320. Evidence of liability.

In any action brought under or arising out of any of the provisions of this title, or of any ordinance imposing a license tax, the fact that a party thereto represented him or herself as engaged in any business or calling for the transaction of which a license is required, or that such party exhibited a sign indicating such business or calling, shall be presumptive evidence of the liability of such party to pay for a license for such business.

(Ord. 1125 § 2, (1978); Ord. 2006 § 2, (2022))

CHAPTER 6.08 LICENSE TAXES

§ 6.08.010. General.

For every person engaged in carrying on or maintaining any profession, trade, occupation, calling or business, the license tax shall be as set forth in the following sections.

(Ord. 1125 § 3, (1978); Ord. 2006 § 2, (2022))

§ 6.08.020. License taxes.

- (a) Unless otherwise provided by this title, persons shall pay an annual license tax at the following rates based on annual gross receipts:
 - (1) Businesses with annual gross receipts up to \$249,999 shall pay an annual license tax of \$200.
 - (2) Businesses with annual gross receipts from \$250,000 to \$999,999 shall pay an annual license tax of \$300.
 - (3) Businesses with annual gross receipts of one million dollars (\$1,000,000.00) shall pay an annual license tax of \$750.
- (b) Unless otherwise provided by this title, this section shall apply to:
 - (1) Every person conducting or carrying on the business consisting of selling any goods, wares and merchandise or commodities, or services, or conducting or carrying on any profession, trade, occupation, calling or business not otherwise specifically taxed by this chapter.
 - (2) Every person not having a fixed place of business within the city who engages in business within the city, including contractors.
 - (3) Every person conducting a home occupation as defined by Title 25 of this code.
 - (4) Every person conducting or carrying on the business of selling holiday trees, except where such business is conducted in connection with another regularly established place of business for which a license has been issued.

(Ord. 1125 § 3, (1978); Ord. 1459 § 2, (1992); Ord. 1669 § 1, (2001); Ord. 2006 § 2, (2022))

§ 6.08.030. Cannabis license tax.

- (a) Tax Imposed.
 - (1) There is imposed upon each person who is engaged in business as a cannabis business a cannabis business tax at a rate of 5% of annual gross receipts. The tax under this section shall not be imposed on a cannabis business unless and until the city council, by resolution, takes action to set a tax rate not to exceed 5% of annual gross receipts.
 - (2) Such tax is payable regardless of whether the business has been issued a license or permit to operate lawfully in the city or is operating unlawfully. The city's acceptance of a cannabis business tax payment from a cannabis business operating illegally will not constitute the city's approval or consent to such illegal operations.
- (b) Adjustment of Cannabis Business Tax Rate. Notwithstanding the maximum rate established in subsection (a) of this section, the city council may, in its discretion and at any time by resolution,

adopt a lower tax rate for all cannabis businesses or establish differing tax rates for different categories of cannabis businesses, as defined in such resolution, subject to the maximum rate of 5% of annual gross receipts. The city council may, by resolution, also increase any such tax rate from time to time, not to exceed the maximum tax rate of 5% of annual gross receipts established under subsection (a) of this section.

- (c) Personal Cultivation Not Taxed. The provisions of this section shall not apply to personal cannabis cultivation or use as those activities are authorized in the Medicinal and Adult Use Cannabis Regulation and Safety Act. This section shall not apply to personal use of cannabis that is specifically exempted from state licensing requirements, that meets the definition of personal use or equivalent terminology under state law, and provided that the individual receives no compensation whatsoever related to that personal cultivation or use.

(Ord. 2006 § 2, (2022))

§ 6.08.040. Subcontractors.

Every person conducting or carrying on the business of contractor shall furnish the collector the names and addresses of all subcontractors doing work on each such construction or work and the premises on which it is located.

(Ord. 1125 § 3, (1978); Ord. 2006 § 2, (2022))

§ 6.08.060. Theaters.

Every person conducting or operating an indoor or outdoor theater for showing moving pictures, or for the presentation of plays, musicals, operas, operettas, revues or similar presentations of entertainment and amusement, having a seating capacity of not more than 1,000 persons, shall pay an annual license tax of \$150, and every person conducting or operating such a theater having a seating capacity in excess of 1,000 persons shall pay an annual license tax of \$200.

(Ord. 1125 § 3, (1978); Ord. 1459 § 2, (1992); Ord. 1663 § 2, (2001))

§ 6.08.080. Amusement devices.

In addition to an annual business license, every business having upon its premises amusement machines or devices including any machine, instrument or apparatus for the purpose of producing, reproducing or playing any musical tone or tones or combination of tones requiring a coin, token or other substitute therefor to be deposited therein, shall pay an annual license tax of \$10 for each machine.

(Ord. 1125 § 3, (1978); Ord. 1223 § 1, (1982); Ord. 1459 § 2, (1992); Ord. 1663 § 4, (2001))

§ 6.08.085. Operators of commercial parking facilities.

- (a) Commercial Parking Facility Defined. "Commercial parking facility" means any privately owned or operated facility that provides, for any form of consideration, parking or storage for motor vehicles, motorcycles, trailers, bicycles, or other similar means of conveyance for passengers or property. "Commercial parking facility" does not include a parking facility that is:
- (1) Not the predominant use of the parcel on which the parking facility is located; or
 - (2) Leased or owned by a business and operated exclusively to park or store vehicles that are owned or leased by that same business; or
 - (3) Leased or owned by a business and operated exclusively to park or store vehicles that are part of that same business's inventory for purposes of sale, lease, or resale.

- (b) Operator Defined. "Operator" means any person who, as owner, lessee, employee, agent, or otherwise, operates, maintains, manages, keeps, permits, or allows to be operated, maintained, managed, or kept any commercial parking facility in or upon any premises owned, leased, managed, operated, or controlled by such person within the city.
- (c) The operator of a commercial parking facility in the city shall pay an annual license tax of 5% of the gross receipts received from the operation of the commercial parking facility without deduction therefrom.
- (d) Each operator of a facility shall, on or before the last day of the month following the close of each calendar quarter, or at the close of any shorter reporting period which may be established by the license collector, make a return to the license collector, on forms provided by the collector of the total tax. At the time the return is filed, the full amount of the tax shall be remitted to the license collector. The license collector may establish shorter reporting periods for any operator if the collector deems it necessary in order to insure timely collection of the tax; and the collector may also require further information in the return. Returns and payments are due immediately upon cessation of business for any reason.

(Ord. 1670, § 1, (2001); Ord. 2006 § 2, (2022))

§ 6.08.110. Motor vehicles sales.

Every person conducting or operating the business of selling new, or used motor vehicles, shall pay an annual license tax of \$150.

(Ord. 1125 § 3, (1978); Ord. 1459 § 2, (1992); Ord. 1663 § 5, (2001))

§ 6.08.140. Peddlers and solicitors.

- (a) Every person who conducts the business of peddling or soliciting under a license obtained pursuant to Chapter 6.24 of this code shall pay an annual license fee of \$120 payable in advance; provided, however, that any person maintaining a regular route of established deliveries of food products shall pay an annual license fee as provided in Section 6.08.020 above.
- (b) As used herein the term "established delivery" means a delivery of articles of food over a definite route of travel, serving regular customers and which route has been established for at least one year.
- (c) The license fee required by this section is imposed on and payable by the business and not on or by each individual employee of the business that is engaged in peddling or soliciting.

(Ord. 1125 § 3, (1978); Ord. 1459 § 2, (1992); Ord. 1663 § 6, (2001); Ord. 1776 § 3, (2006))

§ 6.08.150. Closing-out sales.

The license fee for closing-out sales under a license obtained pursuant to Chapter 6.20 of this code shall be as established in the following schedule:

If the applicant has been operating the business to be closed out under a valid city business license for:

- (a) A period of six months or less prior to the date the application is filed: \$100.
- (b) More than six months: \$50.
- (c) More than two years: \$10.

(Ord. 1125 § 3, (1978); Ord. 1459 § 2, (1992); Ord. 1663 § 7, (2001))

§ 6.08.170. Curb, street and sidewalk sign painters.

For traveling from house to house or place to place for the purpose of painting house or address numbers upon private real property or an adjacent street curb; or for placing or maintaining any number, figure, letter, carving, drawing, design or other marking to identify the premises of any such property upon any street, sidewalk or curb, the license tax shall be \$10 per person in addition to any solicitor's licenses which may be required.

(Ord. 1125 § 3, (1978); Ord. 1459 § 2, (1992); Ord. 1663 § 8, (2001))

§ 6.08.180. Rental car agencies.

Every person conducting or operating the business of renting autos, trucks, or other vehicles for periods of 30 days or less, not in conjunction with an auto or truck sales agency or automobile service business situated in the city, shall pay an annual license tax of \$300.

(Ord. 1125 § 3, (1978); Ord. 1459 § 2, (1992); Ord. 1663 § 9, (2001))

CHAPTER 6.10 MINIMUM WAGE

§ 6.10.010. Definitions.

As used in this chapter, the following terms shall have the following meanings:

"Calendar week" means a period of seven consecutive days starting on Sunday.

"City" means the city of Burlingame.

"Employee" means any person who qualifies as an employee entitled to payment of a minimum wage from any employer under the California Minimum Wage law, as provided under Section 1197 of the California Labor Code and wage orders published by the State of California Industrial Welfare Commission. Employees shall include learners, as defined by the California Industrial Welfare Commission.

"Employer" means any person (including a natural person, corporation, non-profit corporation, general partnership, limited partnership, limited liability partnership, limited liability company, business trust, estate, trust, association, joint venture, agency, instrumentality, or any other legal or commercial entity, whether domestic or foreign), who directly or indirectly (including through the services of a temporary services or staffing agency or similar entity) employs or exercises control over the wages, hours or working conditions of any employee.

"Minimum wage" has the meaning set forth in Section 6.10.020 of this chapter.

(Ord. 1982 § 2, (2020))

§ 6.10.020. Minimum wage.

- (a) Employers shall pay employees no less than the minimum wage for each hour worked within the geographic boundaries of the city.
- (b) The minimum wage paid shall be as follows: Beginning January 1, 2021, the minimum wage shall be an hourly rate of \$15.
- (c) Beginning on January 1, 2022, and each January thereafter, the minimum wage shall increase by an amount equal to the prior year's increase, if any, in the Consumer Price Index (CPI) for San Francisco-Oakland-San Jose as determined by the United States Department of Labor. The change shall be calculated by using the August to August change in the CPI to calculate the annual increase, if any. A decrease in the CPI shall not result in a decrease in the minimum wage.
- (d) An employee who is a learner, as defined by California Industrial Welfare Commission Order No. 4-2001, shall be paid no less than 85% of the applicable minimum wage for the first 160 hours of employment. Thereafter, the employee shall be paid the applicable minimum wage rate.
- (e) An employer may not deduct an amount from wages due an employee on account of any tip or gratuity, or credit the amount or any part thereof, of a tip or gratuity, against, or as a part of, the wages due the employee from the employer.
- (f) Exemptions: (1) first degree relatives (defined as the parents, siblings, or children) of a natural person who is an employer under this chapter or who is the sole owner or in sole control of an employer are exempt from the minimum wage required by this chapter, although all other relevant labor and employment laws continue to apply; and (2) persons who act as independent contractors or who otherwise provide services without attaining the status of an employee are exempt from the minimum wage required by this chapter.

(Ord. 1982 § 2, (2020))

§ 6.10.030. Notice and posting.

- (a) By October 1 of each year, the city shall publish and make available to employers a bulletin announcing the adjusted minimum wage rate, to take effect January 1 of the following year. In conjunction with this bulletin, the city shall, by November 1st of each year, publish and make available to employers, in English and other languages as provided in any implementing regulations, a notice suitable for posting by employers in the workplace informing employees of the current minimum wage rate and of their rights under this chapter.
- (b) Each employer shall give written notification to each current employee, and to each new employee at time of hire, of his/her/their rights under this chapter. The notification shall be in English and other languages as provided in any implementing regulations, and shall also be posted prominently in areas at the work site where it will be seen by all employees. Every employer shall also provide each employee, at the time of hire, with the employer's name, address, and telephone number in writing. Failure to post such notice shall constitute a violation of this municipal code. The city is authorized to prepare sample notices and employers' use of such notices shall constitute compliance with this subsection.

(Ord. 1982 § 2, (2020))

§ 6.10.040. Implementation.

The city may promulgate regulations for the implementation and enforcement of this chapter. Any regulation promulgated by the city shall have the force and effect of law and may be relied on by employers, employees and other parties to determine their rights and responsibilities under this chapter. Any regulations may establish procedures for ensuring fair, efficient and cost-effective implementation of this chapter, including supplementary procedures for informing employees of their rights under this chapter, for monitoring employer compliance with this chapter, and for providing administrative hearings or determining whether an employer has violated the requirements of this chapter.

(Ord. 1982 § 2, (2020))

§ 6.10.050. Enforcement.

- (a) Enforcement by the City. The city may take any enforcement action set forth in Title 1 of this municipal code to address violations of this chapter. Alternatively, the city may elect to contract for enforcement services with a third party. If the city elects to enter into such a contract, the city shall provide public, written procedures for such enforcement and any such enforcement shall be consistent with the due process rights established by Title 1 of this code and relevant law.
- (b) Private Rights of Action. An employee claiming harm from a violation of this chapter may bring an action against the employer in court to enforce the provisions of this chapter and shall be entitled to all remedies available to correct any violation of this chapter, including, but not limited to, back pay, reinstatement, injunctive relief, or civil penalties as provided herein. An employee who is a prevailing party in an action to enforce this chapter is entitled to an award of reasonable attorney fees, witness fees, and costs.
- (c) Remedies.
 - (1) The remedies for violation of this chapter include, but are not limited to:
 - (A) Reinstatement, the payment of back wages unlawfully withheld, and payment of an

additional sum as a civil penalty in the amount of \$50 to each employee whose rights under this chapter were violated for each day or portion thereof that the violation occurred or continued, and fines imposed pursuant to other provisions of this code or state law.

- (B) Interest on all due and unpaid wages at the rate of interest specified in subdivision (b) of Section 3289 of the California Civil Code, which shall accrue from the date that the wages were due and payable as provided in Part 1 (commencing with Section 200) of Division 2 of the California Labor Code, to the date the wages are paid in full.
 - (C) Reimbursement of the city's administrative costs of enforcement and reasonable attorney fees.
 - (D) The city may require the employer to pay an additional sum as a civil penalty in the amount of \$50 to the city for each employee or person whose rights, under this chapter, were violated for each day or portion thereof that the violation occurred or continued, and fines imposed pursuant to other provisions of this code or state law, where there has been a previous violation of this chapter.
- (2) The remedies, penalties and procedures provided under this chapter are cumulative and are not intended to be exclusive of any other available remedies, penalties and procedures established by law which may be pursued to address violations of this chapter. Actions taken pursuant to this chapter shall not prejudice or adversely affect any other action, administrative or judicial, that may be brought to abate a violation or to seek compensation for damages suffered.
- (d) Retaliation Barred.
- (1) An employer shall not discharge, reduce the compensation or otherwise retaliate against any employee for making a complaint to the city, participating in any of the city's proceedings, using any civil remedies to enforce his or her rights, or otherwise asserting his or her rights under this chapter. Within 120 days of an employer being notified of such activity, it shall be unlawful for the employer to discharge any employee who engaged in such activity unless the employer has clear and convincing evidence of just cause for such discharge.
 - (2) No employer may fund increases in compensation required by this chapter, nor otherwise respond to the requirements of this chapter, by reducing the wage rate paid to any employee, nor by increasing charges to them for parking, meals, uniforms or other items, nor by reducing the citation or other non-wage benefits of any such employee, except to the extent such prohibition would be pre-empted by the Federal Employee Retirement Income Security Act.
- (e) Retention of Records. Each employer shall maintain for at least three years for each employee, a record of his or her name, hours worked and pay rate. Each employer shall provide each employee a copy of the records relating to such employee upon the employee's reasonable request.

(Ord. 1982 § 2, (2020))

§ 6.10.060. (Reserved)

(Ord. 1982 § 2, (2020); Ord. 1984 § 1, (2020))

§ 6.10.070. No pre-emption of higher standards.

The purpose of this chapter is to ensure minimum labor standards. This chapter does not pre-empt or prevent the establishment of superior employment standards (including higher wages) or the expansion of coverage by ordinance, resolution, contract, or any other action of the city. This chapter shall not be

construed to limit a discharged employee's right to bring a common law cause of action for wrongful termination.

(Ord. 1982 § 2, (2020))

§ 6.10.080. Federal or state funding.

This chapter shall not be applied to the extent it will cause the loss of any federal or state funding of city activities.

(Ord. 1982 § 2, (2020))

CHAPTER 6.16 ENTERTAINMENT BUSINESSES

Prior ordinance history: Ords. 1125, 1225, 1386.

§ 6.16.010. Purpose.

This chapter is intended to regulate businesses that offer entertainment in order to protect the health, safety, and general welfare of the city. Over the years, the city has had a variety of businesses that offered entertainment at different locations in the city, and each location had a number of issues involving security, patron safety, and interaction with nearby businesses, homes, and public activity. The provisions of this chapter have neither the purpose nor effect of imposing limitation or restriction on the content of any entertainment activity.

(Ord. 1767 § 2, (2005))

§ 6.16.020. Definitions.

The following definitions apply to this chapter:

"ABC" means the State Department of Alcoholic Beverage Control.

"Amusement arcade" means any business or establishment which has five or more amusement devices on its premises for the purpose of being played, operated or used by the patrons of the arcade on a prepaid basis or for money or tokens deposited in the amusement machine played, operated, or used. "Amusement arcade" also means any premises where 25% or more of the public floor area is devoted to amusement devices, whether or not amusement devices constitute a primary use or an accessory use of the premises.

"Amusement device" means any device, game, or contrivance, including, but not limited to pinball machines, video games, computer games, and electronic games, for which a charge or payment is received for the privilege of playing, using, or operating the same and which, as the result of such use, operation, or playing does not entitle the person using, operating, or playing such device, game, or contrivance to receive the same return in market value in the form of tangible merchandise each time such device, game, or contrivance is used, operated, or played.

"Chief of police" means the chief of police of the city or the chief's authorized representative.

"Entertainment" means any show, play, skit, musical revue, karaoke, dance production, concert, opera, or the production or provision of sights or sounds or visual or auditory sensations, which are designed to or may divert, entertain, or otherwise appeal to members of the public who are admitted to a place of entertainment, and which is produced by any means, including radio, phonograph, tape recorder, piano, orchestra or band, or any other musical instrument, television, slide or movie projector, spotlights, or interruptible or flashing light devices.

"Entertainment business" means any amusement arcade or any place of business wherein entertainment is offered or given to the public, whether or not a fee is charged for admission thereto, except businesses where only incidental entertainment is offered or given and theaters.

"Incidental entertainment" means the use of radio, television, or music recording devices or juke boxes in any establishment when used for background only. In addition, this term includes non-amplified live performance by a performer (or performers). This term does not include the use of the devices mentioned above by a disc jockey, or in conjunction with karaoke, or in connection with dancing by patrons.

"Primary entertainment" means entertainment provided at an entertainment business where the

predominant reason for patronage is to observe or participate in the entertainment offered at the business, and admission to the establishment is charged either separately, or as part of a cover charge, or minimum food or beverage purchase requirement.

"Security guard" means a uniformed person licensed under the California Department of Consumer Affairs licensing and training requirements.

"Secondary entertainment" means entertainment provided at an entertainment business where the observation or participation in the entertainment offered is not the predominant reason for patronage, and no admission to the establishment is charged either separately, or in the form of a cover charge, or minimum food or beverage purchase requirement.

"Theater" means an establishment that is primarily devoted to film or theatrical performances and means a building, playhouse, room, hall or other place having permanently affixed seats so arranged that a body of spectators can have an unobstructed view of the stage upon which theatrical, movies, or live performances are presented, and where such performances are not incidental to promoting the sale of food, drink or other merchandise; and for which a city business license for a theater is in full force and effect.

(Ord. 1767 § 2, (2005))

§ 6.16.030. Permit required.

- (a) It is unlawful for any person to engage in, conduct or carry on, or to permit to be engaged in, conducted or carried on, in or upon any premises in the city, the operation of an entertainment business unless the person first obtains and continues to maintain in full force and effect a permit from the city as required by this chapter.
- (b) It is unlawful for any person who owns, leases, or is in otherwise lawful possession of property to permit or allow another person to arrange for and provide entertainment on such property, unless the owner, lessee, or person in lawful possession of the property first obtains and continues to maintain in full force and effect a single event entertainment permit as herein required. This provision shall apply to premises that are used on an occasional basis for entertainment events conducted either:
 - (1) By persons who are not the property owners and who have not conducted such an event at the property in the previous six months; or
 - (2) By the property owners and who have not conducted such an event at the property in the previous six months.

(Ord. 1767 § 2, 2005)

§ 6.16.040. Exceptions.

Notwithstanding any other provision of this chapter, the provisions of this chapter shall not apply to entertainment that is:

- (a) Entertainment sponsored by the city, the county of San Mateo, the various public boards of education, or by any other political subdivision of the state; or
- (b) Entertainment sponsored by any nonprofit public benefit organization, whose primary objective is the sponsoring and control of youth activities and child welfare. If the event is a dance, the following requirements must be met:
 - (1) No person 18 years of age or older may be admitted as a guest, unless such person is a bona fide student at, or member of, the sponsoring agency or organization;

- (2) No alcoholic beverages are served, consumed, or permitted on the premises;
 - (3) Chaperones from the sponsoring agency are present on the premises at the rate of two adults, who are at least 25 years of age or older, for every 100 guests, and
 - (4) The event must finish by 12:00 a.m. and the premises and the adjoining parking lots must be promptly vacated by all the guests; or
- (c) Entertainment lawfully conducted under permit at any city park, building, or recreational facility; or
 - (d) Entertainment lawfully conducted entirely upon property owned or controlled by a governmental entity; or
 - (e) Incidental entertainment only; or
 - (f) Entertainment provided for members and their guests at a private club having an established membership when admission is not open to the public. For purposes of this section, private club means corporations or associations operated solely for objects of national, social, fraternal, patriotic, political, or athletic nature, in which membership is by application and regular dues are charged, and the advantages of which club belong to members, and the operation of which is not primarily for monetary gain; or
- (g) Entertainment provided for invited guests at a private event such as a wedding reception, banquet, or celebration, where there is no admission charge and the general public is neither invited nor admitted; or
 - (h) Street performers, such as musicians, singers, or mimes; or
 - (i) Entertainment conducted or sponsored by any religious organization, bona fide club, organization, society, or association that is exempt from taxation pursuant to Internal Revenue Code Section 501(c)(3), when all proceeds, if any, arising from such entertainment are used exclusively for the benevolent purposes of such religious organization, club, society, or association; or
 - (j) Performances by the students at educational institutions as defined by the Education Code where such performances are part of an educational or instructional curriculum or program;
 - (k) Theaters; or
 - (l) Dance lessons, theatrical and performing arts lessons, and student recitals; or
 - (m) Book readings, book signings, poetry recitations, and any other similar entertainment consisting of the spoken word, including plays; or
 - (n) The normal and customary fitness services provided by an athletic club or fitness center; or
 - (o) Entertainment provided as at a conference or convention as part of the convention's or conference's overall program and to which the general public is neither invited nor admitted; or
 - (p) An adult oriented business that is offering entertainment solely in conformance with a current city adult oriented business permit;
 - (q) A remote broadcast by a television or radio station that consists of the spoken word; if music is a part of the broadcast, the music shall either be non-amplified at the remote location or shall last no longer than a total of five minutes during any 15 minute period.

(Ord. 1767 § 2, (2005))

§ 6.16.050. Application requirements.

- (a) Any person who proposes to maintain, operate or conduct an entertainment business in the city shall file an application with the chief of police upon a form provided by the city and shall pay a filing fee, as established by resolution adopted by the city council from time to time, which shall not be refundable.
- (b) All applications shall include the following information:
 - (1) If the applicant is an individual, the individual shall state his or her legal name, including any aliases, address, and submit satisfactory written proof that he or she is at least 18 years of age.
 - (2) If the applicant is a partnership, the partners shall state the partnership's complete name, address, and the names of all partners, whether the partnership is general or limited.
 - (3) If the applicant is a corporation, the corporation shall provide its complete name, the date of its incorporation, evidence that the corporation is in good standing under the laws of California, the names and capacity of all officers and directors, the name of the registered corporate agent and the address of the officer for service of process.
- (c) If the applicant is an individual, he or she shall sign the application. If the applicant is other than an individual, an authorized officer of the business entity or an individual with a 10% or greater interest in the business entity shall sign the application.
- (d) If the applicant intends to operate the entertainment business under a name other than that of the applicant, the applicant shall provide the fictitious name of the entertainment business.
- (e) The application shall contain a description of the type of entertainment business for which the permit is requested and the proposed address where the entertainment business will operate, plus the names and addresses of the owners and lessors of the entertainment business site.
- (f) The application shall include the address to which notice of action on the application is to be mailed; this address will also be used for contact and notices during the life of the permit unless the permittee provides written notice to the police department that the address has been changed.
- (g) The application shall include a sketch or diagram showing the interior configuration of the premises, including a statement of the total floor area occupied by the entertainment business. The sketch or diagram need not be professionally prepared, but must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus one foot.
- (h) The application shall include a description of the lighting to be provided inside the entertainment business; a sketch or site plan depicting the lighting and security measures to be provided at all entrances and exits to the business; and a sketch of the site plan of any private parking areas that will serve the entertainment business and the lighting and security measures to be provided at those areas.
- (i) A brief description of the entertainment to be offered and the hours during which the entertainment may be offered.
- (j) The application shall describe the type of security and crowd management to be provided for the entertainment business. This description shall specifically describe procedures for admitting and re-admitting patrons, checking identification, enforcing dress codes, and removal of unruly patrons from the premises.

(Ord. 1767 § 2, (2005))

§ 6.16.060. Investigation and action on application.

- (a) Upon receipt of a completed application and payment of the application and permit fees, the chief of police shall promptly investigate the information contained in the application to determine whether the applicant shall be issued an entertainment permit.
- (b) The applicant is responsible for making an appointment with the chief of police to discuss the security program for the entertainment business, and no application shall be approved until such a meeting has been held.
- (b) Within 15 business days of receipt of the completed application, the chief of police shall complete the investigation, grant or deny the application in accordance with the provisions of this section, and so notify the applicant as follows:
 - (1) The chief of police shall write or stamp "Granted" or "Denied" on the application and date and sign such notation.
 - (2) If the application is denied, the chief of police shall attach to the application a statement of the reasons for denial.
 - (3) If the application is granted, the chief of police shall attach to the application an entertainment permit together with the standard conditions of operation and any special conditions developed in consultation with the applicant to address specific site concerns.
 - (4) The decision of the chief of police shall be placed in the United States mail, first class postage prepaid, addressed to the applicant at the address stated in the application.
- (c) The chief of police shall grant the application and issue the entertainment permit upon findings that the applicant has met all of the development and performance standards and requirements of this chapter and the application is not subject to denial pursuant to Section 6.16.070 of this chapter.
- (d) If the chief of police neither grants nor denies the application within 15 business days after it is stamped as received, the applicant may begin operating the entertainment business for which the permit was sought, subject to strict compliance with the development and performance standards and requirements of this chapter. If the applicant begins operating the entertainment business because the chief of police has not granted or denied the application within 15 business days, the chief of police may issue the permit after the 15 day period has elapsed, and the permit shall be subject to suspension or revocation under the provisions of Section 6.16.120.

(Ord. 1767 § 2, (2005))

§ 6.16.070. Permit denial.

The chief of police shall deny the application for any of the following reasons:

- (a) The building, structure, equipment, or location to used by the entertainment business does not comply with the requirements and standards of the health, zoning, fire and safety laws of the city, county of San Mateo, and the state, or with the development and performance standards and requirements of this chapter. However, approval of the permit by the chief of police shall not be deemed to be a waiver by the city, the county, or the state of any such laws or a determination that the building, structure, equipment, or location complies with such laws.
- (b) The applicant, or an employee, agent, partner, director, officer, shareholder, or manager of the applicant has knowingly made any false, misleading or fraudulent statement of material fact in the

application for an entertainment permit or the application process.

- (c) An applicant is under 18 years of age.
- (d) The required application fee has not been paid.
- (e) Within the last five years immediately preceding the date of the filling of the application, the applicant, or an employee, agent, partner, director, officer, shareholder, or manager of the applicant has either had an entertainment permit issued by the city or any other jurisdiction revoked, or has engaged in conduct that would provide grounds for revocation of such a permit under Section 6.16.120 of this chapter.
- (f) The applicant has failed to provide a complete application. If an application is denied on this basis, the chief of police shall state the information that is needed to make the application complete.
- (g) The applicant has failed to make an appointment to meet with the chief of police within five business days of filing the application.

(Ord. 1767 § 2, (2005))

§ 6.16.080. Permits nontransferable.

- (a) A permittee shall not operate an entertainment business under the authority of an entertainment permit at any place other than the address of the entertainment business stated in the application for the permit.
- (b) A permittee shall not transfer ownership or control of an entertainment business or transfer an entertainment permit to another person.
- (c) Any attempt to transfer a permit either directly or indirectly in violation of this section is hereby declared void, and the permit shall be deemed revoked.

(Ord. 1767 § 2, (2005))

§ 6.16.090. Single event entertainment permit applications.

- (a) Every person who owns, leases, or is otherwise in lawful possession of property and who proposes to permit or allow another person to arrange for and provide entertainment on such property in the city shall file an application for an entertainment permit under the provisions of Section 6.16.050 (unless such person has already obtained an entertainment permit) and in addition, shall file an application with the chief of police for a single event entertainment permit. The applicant for a single event entertainment permit shall pay a filing fee, as established by resolution adopted by the city council from time to time, which shall not be refundable.
- (b) The single event entertainment permit application shall include the following information:
 - (1) If the person who will arrange and provide entertainment is an individual, the applicant shall state their legal name, including any aliases, address, and submit satisfactory written proof that he or she is at least 18 years of age.
 - (2) If the person who will arrange and provide entertainment is a partnership, the applicant shall state the partnership's complete name, address, the names of all partners, whether the partnership is general or limited, and attach a copy of the partnership agreement, if any.
 - (3) If the person who will arrange and provide entertainment is a corporation, the applicant shall

provide its complete name, the date of its incorporation, evidence that the corporation is in good standing under the laws of California, the names and capacity of all officers and directors, the name of the registered corporate agent and the address of the registered office for service of process.

- (4) The application shall contain a description of the type of entertainment for which the permit is requested, the proposed address where the entertainment will be provided, including the names and addresses of the owners and lessors of the property, and the date and the hours during which the entertainment will be conducted.
 - (5) The application shall include a description of the lighting to be provided inside the entertainment venue; a sketch or site plan depicting the lighting and security measures to be provided at all entrances and exits to the venue; and a sketch of the site plan of any private parking areas that will serve the entertainment venue and the lighting and security measures to be provided at those areas.
 - (6) The application shall describe the type of security and crowd management to be provided for the entertainment venue. This description shall specifically describe procedures for admitting and re-admitting patrons, checking identification, enforcing dress codes, and removal of unruly patrons from the premises.
 - (7) The application shall include the address to which notice of action on the application is to be mailed; this address will also be used for contact and notices during the life of the permit unless the permittee provides written notice to the police department that the address has been changed.
 - (8) The application shall disclose whether the person who will arrange and provide entertainment has in the past been issued an entertainment permit by the city, or by any other jurisdiction, and if so, shall disclose the issuing agency, the dates during which the permit was valid. In addition, the applicant shall disclose whether the person who will arrange and provide entertainment has ever had an entertainment permit, or similar authorization revoked or voluntarily surrendered because of the violation of permit conditions.
- (c) The applicant is responsible for scheduling a meeting with the chief of police within five business days of filing the application to discuss security arrangements. No permit shall be issued unless such a meeting has occurred.
 - (d) The entertainment authorized by a single event entertainment permit shall be limited to the type and location of entertainment specified in the permit application. The permittee shall not permit or allow entertainment not described in the permit application to be provided.

(Ord. 1767 § 2, (2005))

§ 6.16.100. Investigation and action on single event permit applications.

- (a) Upon receipt of a completed application and payment of the application and permit fees, the chief of police shall promptly investigate the information contained in the application to determine whether the applicant shall be issued a single event entertainment permit.
- (b) Within 15 business days of receipt of the completed application, the chief of police shall complete the investigation, grant or deny the application in accordance with the provisions of this section, and so notify the applicant as follows:
 - (1) The chief of police shall write or stamp "Granted" or "Denied" on the application and date and

- sign such notation.
- (2) If the application is denied, the chief of police shall attach to the application a statement of the reasons for denial.
 - (3) If the application is granted, the chief of police shall attach to the application an entertainment permit together with the standard conditions of operation and any special conditions developed in consultation with the applicant to address specific site concerns.
 - (4) If the application is granted or denied, the decision and the permit, if any, shall be placed in the United States mail, first class postage prepaid, addressed to the applicant at the address stated in the application.
- (c) The chief of police shall grant the application and issue the single event entertainment permit upon findings that the applicant has obtained an entertainment permit and met all of the development and performance standards and requirements of this chapter, unless the application is denied for one or more of the reasons set forth in Section 6.16.110 of this chapter. The permittee shall post the permit conspicuously in the entertainment business premises on the date of the single event.
 - (d) If the chief of police grants the application or if the chief of police neither grants nor denies the application within 15 business days after it is stamped as received, the applicant may conduct the single event for which the permit was sought, subject to strict compliance with the development and performance standards and requirements of this chapter.

(Ord. 1767 § 2, (2005))

§ 6.16.110. Single event entertainment permit denial.

The chief of police shall deny the application for any of the following reasons:

- (a) The applicant has not obtained an entertainment permit.
- (b) The building, structure, equipment, or location proposed for the single event does not comply with the requirements and standards of the health, zoning, fire and safety laws of the city, the county of San Mateo, and the state, or with the development and performance standards and requirements of this chapter.
- (c) The applicant, or the person arranging and providing the entertainment, or an employee, agent, partner, director, officer, shareholder, or manager of the applicant or the person arranging and providing the entertainment have knowingly made any false, misleading or fraudulent statement of material fact in the application for a single event entertainment permit.
- (d) An applicant, or the person arranging and providing the entertainment, is under 18 years of age.
- (e) The required application fee has not been paid.
- (f) Within the last five years immediately preceding the date of the filing of the application, the applicant, or the person arranging and providing the entertainment, or an employee, agent, partner, director, officer, shareholder, or manager of the applicant or the person arranging and providing the entertainment have either had an entertainment permit issued by the city or any other jurisdiction revoked, or have engaged in conduct that would provide grounds for revocation of such a permit under Section 6.16.120.
- (g) The applicant has failed to provide a complete application. If an application is denied on this basis,

the chief of police shall state the information that is needed to make the application complete.
(Ord. 1767 § 2, (2005))

§ 6.16.115. Reviews.

- (a) Upon initial issuance of an entertainment business permit, the permit shall be subject to review by the chief of police after six months from date of issuance.
- (b) Each entertainment permit shall be subject to annual review in June or July by the chief of police.
- (c) During a review, the chief of police may request a permittee to meet with the chief to discuss any problems or concerns. A permittee shall attend such a meeting as directed, and failure to attend shall be grounds for suspension or revocation of the permit.

(Ord. 1767 § 2, (2005))

§ 6.16.120. Suspension or revocation of entertainment permits and single event entertainment permits.

An entertainment permit or a single event entertainment permit may be suspended or revoked in accordance with the procedures and standards of this section.

- (a) On determining that grounds for permit revocation may exist and that a suspension or revocation should be considered at that time, the chief of police shall furnish written notice of the proposed suspension or revocation to the permittee. Such notice shall set forth the time and place of a hearing and the ground or grounds upon which the hearing is based, the pertinent code sections, and a brief statement of the factual matters in support of the consideration. The notice shall be mailed, postage prepaid, addressed to the address of the permittee as last provided by the permittee in connection with the entertainment permit, or shall be delivered to the permittee personally, at least 10 days prior to the hearing date. Hearings shall be conducted in accordance with following procedures, as may be supplemented by procedures established by the chief of police:
 - (1) All parties involved shall have a right to offer testimonial, documentary, and tangible evidence bearing on the issues; may be represented by counsel; and shall have the right to confront and cross-examine witnesses. Any relevant evidence may be admitted that is the sort of evidence upon which reasonable persons are accustomed to rely in the conduct of serious affairs. Any hearing under this section may be continued for a reasonable time for the convenience of a party or a witness. The chief of police's decision may be appealed in accordance with Section 6.16.140.
- (b) A permittee may be subject to suspension or revocation of its permit, or be subject to other appropriate disciplinary action, for any of the following causes arising from the acts or omissions of the permittee, or an employee, agent, partner, director, stockholder, or manager of an entertainment business:
 - (1) The permittee has knowingly made any false, misleading or fraudulent statement of material facts in the application for a permit, or in any report or record required to be filed with the city.
 - (2) The permittee, employee, agent, partner, director, stockholder, or manager of an entertainment business has knowingly allowed or permitted, and has failed to make a reasonable effort to prevent the occurrence of any of the following on the premises of the entertainment business, or in the case of a single event entertainment permit, the permittee, employee, agent, partner, director, stockholder, or manager has knowingly allowed or permitted and has failed to make a

reasonable effort to prevent the occurrence of any of the following at the single entertainment event:

- (A) Any conduct prohibited by this chapter; or
- (B) Any violation of any condition of the entertainment permit.
- (3) Failure to abide by a disciplinary action previously imposed by an appropriate city official.
- (4) Failure to comply with all applicable state and local law in the operation of the entertainment business.
- (c) After holding the hearing in accordance with the provisions of this section, if the chief of police finds and determines that there are grounds for disciplinary action, based upon the severity of the violations, the chief of police shall impose one of the following:
 - (1) A warning;
 - (2) Imposition of conditions to correct the violations that occurred;
 - (3) Suspension of the permit for a specified period not to exceed six months, which may include imposition of additional conditions upon re-opening to correct the violations that occurred; or
 - (4) Revocation of the permit.

(Ord. 1767 § 2, (2005); Ord. 1793 § 4, (2006))

§ 6.16.130. Emergency suspension of permit.

The chief of police may suspend an entertainment permit pending a hearing on the suspension or revocation of the permit if the chief of police finds that there is an impending and significant threat to the public health or safety arising out of the use of the entertainment permit. No emergency suspension shall remain in effect for more than 15 days, unless the permittee agrees to a longer term.

(Ord. 1767 § 2, (2005))

§ 6.16.140. Appeals and judicial review.

An applicant who wishes to appeal the decision of the chief of police regarding an application or an action to suspend or revoke a permit may do so under the following hearing procedures:

- (a) An appeal of the chief of police's decision on a permit application or from the chief of police's decision after a permit revocation or suspension hearing, may be made by filing a written request for appeal with the city clerk within 10 days of the date the decision was mailed. If no appeal is filed within this time period, then the decision of the chief of police shall become final, and the applicant shall be deemed to have waived all rights to appeal or other review. All requests for appeal shall include a statement of the basis for the appeal and the errors claimed to have occurred.
- (b) The city manager or the manager's designee shall schedule a hearing on the appeal for not less than 10 days nor more than 20 days from the date of mailing notice to the applicant of the time and place of the appeal hearing. The notice of hearing shall be sent by first class mail to the applicant within five days of filing a timely notice of appeal.
- (c) The city manager or the manager's designee shall review the written record and allow testimony to be given. The city manager or designee shall also allow oral argument. After all verbal testimony has been reviewed, the city manager or designee shall render a written decision within 10 working days

from the date the matter is submitted for decision. The action of the city manager or designee shall be final and conclusive, subject only to applicable court review.

- (d) If the chief of police's decision is affirmed on appeal, the applicant or permittee may seek prompt judicial review of such administrative action pursuant to the Code of Civil Procedure Section 1094.5 or 1094.8 (if that section is applicable). The city shall make all reasonable efforts to expedite judicial review, if sought by the permittee.

(Ord. 1767 § 2, (2005))

§ 6.16.150. Performance standards for entertainment businesses.

The following performance standards shall apply to all entertainment businesses except amusement arcades, and shall be deemed conditions of all entertainment permits. Failure to comply with each such requirement, unless expressly provided otherwise in the specific entertainment permit, shall be grounds for suspension or revocation of a permit issued pursuant to this chapter:

- (a) Maximum occupancy load, fire exits, aisles and fire equipment shall be regulated, designed, and provided in accordance with the fire and building regulations and standards of the city. A manager shall be on the premises at all times during which entertainment is being offered.
- (b) The premises within which the entertainment business is located shall provide sufficient sound-absorbing insulation so that noise generated inside the premises shall not be audible anywhere on any adjacent property or public right-of-way or within any other building or other separate unit within the same building and comply with all applicable city noise regulations. The establishment shall measure the current 24 hour ambient noise levels (L10) at the exterior of the property along the public right-of-way using a methodology approved by the director of community development before opening for business. Upon request by the city, the establishment shall conduct noise measurements to determine whether the noise from the establishment is exceeding the five dBA standard for increases in noise from the baseline as provided in the Burlingame General Plan, and shall report the measurements to the city, and the establishment shall ensure that the five dBA standard is not exceeded.
- (c) No entertainment shall be permitted between the hours of 1:30 a.m. and 9:00 a.m.
- (d) The business premises offering entertainment shall be suitably lighted with minimum lighting of six-candle power at floor level, except during performances on stages. This light intensity shall be measured at no more than 30 inches from the floor.
- (e) All patrons shall be out of the building by 2:00 a.m. Specific times for last call for any alcohol service may be determined by the chief of police based on the number of entertainment businesses within 1,000 feet, with the objective of staggering the closing times to reduce potential traffic problems and conflicts and make police patrol and security more efficient.
- (f) Security personnel shall be visible at the primary entrance beginning no later than 30 minutes before closing of the entertainment business and shall remain until patrons are dispersed. Security shall not permit crowds or patrons to loiter in the front of or in the immediate vicinity of the entertainment business after closing. If a cover charge is charged to enter the establishment, the establishment shall ensure that patrons in line to enter do not obstruct either the public sidewalk or the public street.
- (g) The permittee shall remove all litter from the front of the entertainment site and public sidewalks adjacent to and within 50 feet of the front of the entertainment site immediately upon every closing.
- (h) Private Rooms. No entertainment shall be offered, permitted, or allowed to take place within a private

room the interior of which is not fully visible by a person standing in at least one place within 10 feet of the primary entrance to the premises in which the entertainment is offered, unless all of the following conditions are met:

- (1) Visibility into the private room is provided through the installation in the wall separating the room from a corridor accessible to patrons or the main room of the premises of a 12 square foot window measuring four feet in width by three feet in height, the lower edge of which shall be installed at a point four feet above the floor.
- (2) The window required by subsection (h)(1) above shall remain completely clear and unobstructed at all times.
- (3) The dimensions of the windows required by subsection (h)(1) above are the minimum required, but may be larger.
- (4) The private room shall be lit to at least the illumination that allows a person on the outside of the room to observe the activity of those in the room at all times the room is occupied.
- (5) Doors providing access to private rooms shall not be equipped with locks of any kind.
- (6) No private room shall be configured so that the installation of the windows required by subsection (h)(1) above will not provide substantially complete visibility into the private room to a person standing outside the room.

(i) Security.

- (1) For occupancy levels below 100 persons, the permittee shall provide at least two persons to monitor occupancy and admittance and exterior, interior and parking areas associated with the use at all times that any entertainment is being offered. At least one person will be a front door person responsible for monitoring occupancy and admittance and maintaining a count of persons admitted. At least one other person will monitor exterior areas and will float throughout the interior area to provide a safe environment. When occupancy exceeds 100 persons, the permittee shall provide security guards to adequately control the environment at a ratio of at least one guard per additional 50 people (or any fraction thereof). The permittee is responsible for providing a safe environment. These security requirements are minimum mandatory requirements. The permittee shall provide security based on all the circumstances surrounding the entertainment provided and patrons expected.
- (2) Permittee shall designate a front door security presence when open for entertainment. Front door security shall check identification to verify age requirements. Permittee shall educate these persons in admission policy and maximum occupancy limit. Further, permittee shall provide these persons with a means to monitor occupancy, screen for weapons, bottles, drugs, and intoxication, and direct security to prohibit further entry when maximum occupancy is reached. When maximum occupancy exists, permittee shall advise the remaining people in line that the establishment has reached its maximum number of occupants and that there will not be any further admittance.
- (3) Permittee is responsible for maintaining an outdoor security presence when a crowd is waiting to gain access to the building. Permittee shall post at least one dedicated security guard, in addition one security guard or management employee checking identifications at the door, who will be responsible for providing an organized method of maintaining a line that will not block public sidewalks, driveways, or surrounding business doorways. Permittee shall have the

designated outside line security maintain an orderly single file line. Stanchions, ending just prior to the neighboring business, may be used to control the line with the approval of the chief of police. Once the line reaches maximum occupancy, the designated security shall advise all remaining patrons that the line is full. He or she must advise remaining patrons that they are to exit the area in an orderly fashion.

- (4) Security personnel shall be readily identifiable to customers and law enforcement as either private security or management personnel through use of distinctive clothing or uniforms and identification. Security guards shall wear distinctive uniforms and be readily identifiable as private security personnel to customers and law enforcement.
- (j) Any violations of the law or threatened violations shall be immediately reported to the police department and full cooperation shall be given by employees and management of the business.
- (k) No variance from the permitted entertainment shall occur without obtaining an amendment to the permit.
- (l) No part of the business shall be subleased without notification to the police department.
- (m) Any fight, ejection of customer, thefts from customers, or any other criminal act occurring at the establishment shall be reported to the police department as soon as any establishment employee or security guard is aware of such an incident.
- (n) Any request by anyone in the establishment for an employee to contact the police department shall be honored immediately, without question.
- (o) Labor Code Section 6404.5 regulating smoking shall be enforced at all times.
- (p) Advertising for the entertainment shall conform to the requirements of this code.
- (q) No patrons will be admitted to the establishment after 1:00 a.m.
- (r) For establishments located in either the Burlingame Avenue or the Broadway Commercial District as defined in Title 25 of this code, beverages will only be served in plasticware after 10 p.m. on Thursday, Friday, and Saturday nights and New Year's Eve, the Wednesday night before Thanksgiving Day, Saint Patrick's Day, Halloween, and the Fourth of July. In addition, the establishment shall be responsible for applying this condition to other times and events during the year such as grand opening celebrations, anniversaries, and other nights or days in which the establishment has attracted extraordinarily large numbers of or unusually rowdy persons or other special considerations indicate that application of this condition makes good business and practice sense. The exceptions to this are closed, private parties and beverages served in stemware.
- (s) Permittee shall ensure that all business employees fully cooperate with the police department when asked to provide witness statements, contact information, and requests to return telephone calls as soon as possible.
- (t) Permittee shall not permit any person in an intoxicated condition to enter or remain in the establishment.
- (u) The permittee shall meet with the chief of police to discuss the conduct of the establishment upon reasonable request.

(Ord. 1767 § 2, (2005); Ord. 1806 § 3, (2007))

§ 6.16.160. Performance standards for entertainment businesses where alcoholic beverages are served.

The following additional requirements shall apply to any entertainment business where alcoholic beverages are served anywhere on site, and failure to comply with every such requirement shall be grounds for revocation or suspension of a permit issued pursuant to this chapter:

- (a) All alcohol beverage laws shall be strictly enforced. The permittee shall comply with all conditions and restrictions imposed upon the Department of Alcoholic Beverage Control (ABC) license and all applicable ABC regulations.
- (b) No minors are to be allowed on the premises during hours when there is no food service, unless they are there on lawful business, and no minors shall be allowed in the business after 10:00 p.m. when entertainment is being offered. If an ABC Type 47 on-sale general eating place permit has been issued to the permittee, persons under the age of 21 years shall not be allowed in areas where meals are not served.
- (c) A sign indicating there is an age restriction of 21 years and older shall be posted at all entrances to bar areas. This sign shall be readily visible to patrons.
- (d) The permittee shall participate with ABC programs for refresher bartender and waitress training on no less than an annual basis.

(Ord. 1767 § 2, (2005))

§ 6.16.170. Performance standards for amusement arcades.

The following requirements shall apply to entertainment businesses providing amusement arcade entertainment; and shall be deemed conditions of the entertainment permit, and failure to comply with every such requirement shall be grounds for revocation of the permit issued pursuant to this chapter.

- (a) All amusement devices within the premises shall be visible to and supervised by an identifiable adult attendant who shall be present at all times when any amusement device is being operated. Such attendant shall be provided with a jacket, vest, or other clothing that clearly identifies such person as an employee of the arcade.
- (b) The supervision of the patrons on the premises shall be adequate to insure that there is no conduct that unreasonably interferes with the use of surrounding properties.
- (c) No one under 18 years of age shall be allowed to play the amusement devices between the hours of 7:00 a.m. and 3:00 p.m. during the academic year of any public school district with a school in the city; holidays, Saturdays, and Sundays are excluded. No one under 18 years of age may loiter inside or outside the premises or play amusement devices between 10:00 p.m. and 6:00 a.m.
- (d) Each arcade maintaining 16 amusement devices or more shall provide a minimum of one uniformed private security person in addition to the adult attendant from 3:00 p.m. until after closing time during weekdays and at all times during the hours of operation on weekends and holidays. The identity of the security person or persons shall be provided to the chief of police on forms provided by the police department. If there are an unusual amount of police service calls to an amusement arcade with 16 or more amusement devices, the chief of police may require that the security person required by this subsection be replaced by a security guard.
- (e) Outside security lighting shall be provided under the direction of and subject to the approval of the police department.

- (f) Public restroom facilities shall be provided.
- (g) A minimum of 10 foot-candle illumination generally distributed must be contained in all parts of the premises at all times when the arcade is open and when the public is permitted to enter or remain therein.
- (h) No amusement device shall be situated in such a way that its use will violate any applicable fire regulation or hinder the reasonable egress from and ingress to the premises of the public. A fully dimensioned floor plan indicating the location of each machine and the aisle width for ingress shall be clearly labeled.
- (i) The business entrance shall be unlocked during all times that the premises is open for use of arcade games.
- (j) Video surveillance cameras shall be installed in the arcade areas to continually record patron activities to tape or disk during the establishment's hours of operation. Recorded tapes and disks shall be maintained for a period of at least 96 hours after recording. The recorded tapes and disks shall be made available to police personnel upon written request.
- (k) No alcoholic beverages are allowed in areas operated as amusement arcades.
- (l) If a token change machine or coin change machine is installed, it shall be protected by an alarm system.
- (m) The applicant shall restrict access into and out of the facility through the front door(s) only. The rear door shall be equipped with an audible alarm that will sound whenever the door is opened. The door shall be sign posted to indicate the alarm condition.
- (n) Any pay telephone installed inside the premises or any pay telephone immediately adjacent to the front of the business shall be restricted from receiving incoming calls.
- (o) No gambling shall be permitted in areas operated as amusement arcades.
- (p) The permittee shall maintain and keep its amusement devices in good working order and condition.
(Ord. 1767 § 2, (2005))

§ 6.16.190. Display of permit.

Every entertainment business shall display at all times during business hours the permit issued pursuant to the provisions of this chapter for such entertainment business in a conspicuous place so that the permit may be readily seen by all persons entering the entertainment business.

(Ord. 1767 § 2, (2005))

§ 6.16.200. Inspections.

An applicant or permittee shall permit representatives of the police department, health department, fire department, community development department, or other city departments to inspect the premises of an entertainment business for the purpose of insuring compliance with the law and the development and performance standards applicable to entertainment businesses, at any time it is occupied or opened for business. A person who operates an entertainment business or his or her agent or employee is in violation of the provisions of this section if he or she refuses to permit such lawful inspection of the premises at any time it is occupied or open for business.

(Ord. 1767 § 2, (2005); Ord. 1806 § 4, (2007))

§ 6.16.210. Compliance with other laws.

The provisions of this chapter are not intended to be exclusive and compliance therewith shall not excuse noncompliance with any other provisions of this code or county or state laws applicable to the entertainment activity or the business within which the activity is conducted.

(Ord. 1767 § 2, (2005))

§ 6.16.220. Interpretation of chapter.

If ambiguity arises concerning the content or application of this chapter, it shall be the duty of the chief of police to establish all pertinent facts and to interpret its provisions.

(Ord. 1767 § 2, (2005))

§ 6.16.230. Public nuisance.

Any entertainment business operated, conducted, or maintained in violation of the requirements of this chapter is declared to be a public nuisance, and in addition to any other remedy provided by this law may be abated through the initiation of a civil enforcement action brought by the city attorney.

(Ord. 1767 § 2, (2005))

§ 6.16.240. Severability.

If any section, subsection, subdivision, paragraph, sentence, clause, or phrase in 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 one or more subsections, subdivisions, paragraphs, sentences, clauses, or phrases be declared unconstitutional, or invalid, or ineffective.

(Ord. 1767 § 2, (2005))

CHAPTER 6.20 CLOSING-OUT SALES

§ 6.20.010. License required—Application.

Except as herein provided it shall be unlawful for any person to advertise, represent or hold out that any sale of goods, wares or merchandise as an insurance, bankruptcy, liquidation, mortgage, insolvent's, assignee's, executor's, administrator's, receiver's, removal, closing-out sale or quitting business sale, under the guise of discontinuing business, the sale of any goods from the stock of a bankrupt, trustee or insurance company, or to conduct such sale unless and until a license therefor shall have been received from the license collector.

To obtain such license, applicant must file a written application therefor and pay a filing fee of \$25. The application shall set forth:

- (1) Location of proposed sale;
- (2) The reason for the proposed sale;
- (3) A full, true and correct inventory or statement setting forth the amount and description of the goods or personal property to be sold at such sale;
- (4) The dates upon and during which the proposed sale is to be conducted;
- (5) The application shall also be accompanied by the required license fee as established in Section 6.08.150 of this code. (This subsection has been editorially added to reflect the amendments created by Ord. 1125).

(1941 Code § 1045, Ord. 538, (1953))

§ 6.20.020. Scope of license.

The license issued for the respective fees set forth in Section 6.08.150 shall authorize the conducting of the respective sales therein licensed upon the dates mentioned in the application; providing, however, that all sales made under such license must be within the period of 30 consecutive days, and the license collector shall not issue any renewal of any such license for a longer period than 30 days upon payment of the license fee as herein provided.

The provisions of this chapter shall not apply to the sale of any goods, wares, merchandise or property belonging to any governmental agency or pursuant to the authority of any process of any court, or a bona fide sale of the assets of any estate of a deceased or the sale by the owner of any property upon which his or her home or business is located, or where any goods are being sold by any charitable, fraternal or church organization under the name of "rummage sale."

(1941 Code § 1045, Ord. 538, (1953))

§ 6.20.030. Suspension and revocation of license.

Any license issued under the provisions of this chapter may be instantly suspended if any goods, merchandise or property other than that described in the statement and inventory furnished in connection with the issuance of such license, is offered for sale, or if any advertising or statement relating to such sale is untrue or misleading, and after such suspension, such license may be revoked by the city council, and it shall be unlawful for any person to proceed with any such sale under any license issued hereunder after the said license has been suspended as herein set forth until such time as the city council shall have restored the same. In the event of suspension or revocation, no part of the license fee shall be refunded.

(1941 Code § 1045, Ord. 538, (1953))

§ 6.20.040. Inspection of premises.

It shall be the duty of the chief of police to inspect the premises where such sale is being conducted to ascertain if all of the conditions imposed upon the licensee are being fully carried out.

(1941 Code § 1045, Ord. 538, (1953))

§ 6.20.050. Penalty for violations.

The penalties for violations of the provisions of this chapter shall be as set forth in Section 1.12.010.

(1941 Code § 1045, Ord. 538, (1953))

CHAPTER 6.22 MERCHANDISE SALES FROM RESIDENCES

§ 6.22.010. No sale without permit.

No person shall sell or offer for sale any used or new clothing, furniture, appliances, bric-a-brac, or furnishings from a dwelling where the general public is invited to participate by signs or advertising, known as garage sales or backyard sales, without obtaining a permit therefor and conforming to the regulations which follow.

(Ord. 908 § 1, (1970))

§ 6.22.020. Application for permit.

To obtain such permit, applicant must file a written application therefor in the office of the license collector which shall set forth:

- (1) Location of proposed sale;
- (2) A reasonable inventory of the goods to be offered for sale;
- (3) Date or dates during which the proposed sale is to be conducted;
- (4) Names and addresses of all persons providing goods for the sale.

(Ord. 908 § 1, (1970); Ord. 1257 § 1, (1983))

§ 6.22.030. Time limitation and sign limitation for permitted sales.

- (a) No permit shall be approved and no such sale shall be permitted for more than five days within any 15 day period and no more than one such permit shall be issued in any calendar year at any location.
- (b) A sign, no larger than three square feet in area, may be displayed on the property announcing the sale during the permitted period, other prohibitions of this code notwithstanding.

(Ord. 908 § 1, (1970))

§ 6.22.031. Displays.

Personal property offered for sale shall not be displayed or stored in the front or side yards of any premises or on adjoining public streets or rights-of-way, provided that the property may be displayed on a permanently constructed driveway within the front or side yards.

(Ord. 1257 § 2, (1983))

§ 6.22.032. Owned personal property.

All personal property sold at said sale shall have been owned, utilized and maintained for at least six months prior to the sale by person or persons listed on the application or by members of his or her family, on or in connection with, the residential premises which they occupy and shall not have been acquired or consigned for the purpose of resale.

(Ord. 1257 § 3, (1983))

CHAPTER 6.24 PEDDLERS AND SOLICITORS

§ 6.24.010. Permit required.

Unless exempted from the provisions of this title pursuant to Chapter 6.04, it is unlawful for any person to operate, engage in, conduct, carry on, or permit to be operated, engaged in, conducted or carried on within the city, the business of peddler or solicitor unless a permit for such business and the individual engaged in peddling or soliciting has first been obtained from the police department of the city and remains in effect in accordance with the provisions of this chapter.

(Ord. 1484 § 2, (1993); Ord. 1776 § 2, (2006))

§ 6.24.015. Sidewalk vendors.

The provisions of this chapter shall not apply to a permitted sidewalk vendor, as defined and regulated by Chapter 6.25.

(Ord. 2008 § 6, (2023))

§ 6.24.020. Application for permit.

Any person, including those holding a license issued under other chapters of this title, desiring a permit to peddle or solicit (except those who sell to merchants with a fixed place of business for purpose of resale) shall first make an application therefor by filing with the license collector a sworn application in writing on a form to be furnished by the license collector which shall give the following information:

- (a) Name, residence and telephone number;
- (b) The previous address of the applicant for the five years immediately prior to the present address of the applicant;
- (c) Taxpayers identification number and driver's license number, if any;
- (d) Fingerprints (taken by the police department for criminal history investigation purposes) and three portrait photographs at least two inches by two inches, taken within the last 60 days immediately prior to the date of the filing of the application, which photograph shall show the head and shoulders of the applicant in a clear and distinct manner;
- (e) Applicant's height, weight, color of eyes and hair;
- (f) Business occupation or employment of the applicant for the five years immediately preceding the date of application;
- (g) The business license, if any, and permit history of the applicant; whether such person, in previously operating in this or any other city or state, under license has had such license or permit revoked or suspended, the reason therefor, and the business activity or occupation subsequent to such action of suspensions or revocation;
- (h) Whether such person has ever been convicted of any crime, except misdemeanor traffic violations. If there has been any such conviction, a statement must be made giving the place and court in which such conviction was had, the specific charge under which the conviction was obtained and the sentence imposed as a result of such conviction;
- (i) A brief description of the nature of the business and the goods or services to be sold;

- (j) The name of the business under which the solicitation in the city will be conducted;
- (k) The application will also include a separately signed waiver and release authorizing the city, its agents and employees to seek information and to conduct an investigation into the truth of the statements made on the application.

(Ord. 1484 § 2, (1993); Ord. 1776 § 2, (2006))

§ 6.24.030. Permit fee and investigation.

All applications for permits shall be accompanied by an investigation and permit fee as established by resolution adopted by the city council from time to time, no part of which is refundable, together with the fee charged by the state for fingerprint submittal. Upon receipt of the application, the license collector shall refer the application to the police department, which within a period of 10 business days from the date of filing the application shall interview the applicant or any other person and make any other investigation necessary to approve or deny the permit. If the police department is unable to complete its review within 10 business days from the date of filing the application, the application will be deemed approved and the department shall issue the permit; however, should the department determine after issuance that the application should have been denied, the permit will be suspended pursuant to Section 6.24.090 of this chapter.

(Ord. 1484 § 2, (1993); Ord. 1776 § 2, (2006); Ord. 1823 § 2, (2008))

§ 6.24.040. Business license.

At the time of the application for a permit, applicant shall also apply for and furnish the information necessary to obtain a business license as required by Chapter 6.04 of this code unless the applicant will be an employee of another person who has obtained or is obtaining a city business license. No business license shall be issued until the investigation is completed and the permit is approved. The business license shall be issued upon payment of the business license fee as provided in Chapter 6.04 of this code.

(Ord. 1484 § 2, (1993); Ord. 1776 § 2, (2006))

§ 6.24.050. Issuance or denial of permit.

The police department shall issue such permit if all required information has been furnished and the report filed finds that:

- (a) The applicant has not been convicted of any law involving fraud or moral turpitude; and
- (b) The applicant has not knowingly and with intent to deceive made any false, misleading or fraudulent oral or written statements to the permit application or to any person investigating the application.

The permit shall be denied if all of the above findings cannot be made or if all of the information required is not supplied to the city. If denied, the reasons therefor shall be endorsed upon the application, and the police department shall notify the applicant upon which the reasons have been endorsed by first class mail.

(Ord. 1484 § 2, (1993); Ord. 1776 § 2, (2006))

§ 6.24.060. Appeal.

In the event a permit has been denied, applicant shall have 10 days from the date of mailing the notice within which to appeal to the city council by filing a written application for a public hearing with the clerk of the city. Notice and a public hearing shall be given as follows:

- (a) Upon receipt of the appeal, the city clerk shall set the matter for hearing before the council, at a regular meeting thereof, within 30 days from the date of filing the appeal and shall give written notice of such hearing to the applicant at the address set forth in the appeal by first class mail at least 10 days prior thereto;
 - (b) On the date set, the council shall hear the matter, and may continue it from time to time before reaching a decision. If the council finds that the applicant has satisfactorily met all of the requirements of this chapter, it shall order the issuance of the permit and business license. If it finds that the requirements have not been met satisfactorily, it shall deny the permit and license;
 - (c) All findings of the council shall be final and conclusive upon the applicant.
- (Ord. 1484 § 2, (1993); Ord. 1776 § 2, (2006))

§ 6.24.070. License and permit not transferable.

No license or permit issued under the provisions of this chapter shall be used or worn at any time by any person other than the one to whom it was issued.

(Ord. 1484 § 2, (1993); Ord. 1776 § 2, (2006))

§ 6.24.080. Display of permit.

Each person issued a permit under this chapter shall keep it in the person's personal possession when going door to door conducting any soliciting or peddling in the city, and it shall be displayed to any person upon request.

(Ord. 1484 § 2, (1993); Ord. 1776 § 2, (2006))

§ 6.24.085. No soliciting at residence when posted.

No person shall peddle any services or goods or solicit any payments for any services or goods at any dwelling unit where a sign is prominently posted or displayed indicating "No Solicitors" or "No Soliciting" or a similar indication that no solicitation is desired by the occupant of the dwelling unit.

(Ord. 1776 § 2, (2006))

§ 6.24.090. Revocation or suspension of permits.

- (a) Any permit issued under this chapter shall be subject to suspension or revocation by the city manager for violation of, or for causing or permitting violation of any provision of this chapter or for any grounds that would warrant the denial of such permits in the first instance.
 - (b) Prior to the suspension or revocation of any permit issued under this chapter, the permittee shall be entitled to a hearing before the city manager or the manager's designated representative, at which time evidence will be received for the purpose of determining whether or not such permit shall be suspended or revoked or whether the permit may be retained. In the event the permit is suspended or revoked, the notification of the reasons for such suspension or revocation shall be set forth in writing and sent to the permittee by means of first class mail.
 - (c) In the event of suspension or revocation of any permit, the permittee may appeal to the city council in the manner as provided in Section 6.24.060.
- (Ord. 1484 § 2, (1993); Ord. 1776 § 2, (2006))

CHAPTER 6.25 SIDEWALK VENDING PROGRAM

§ 6.25.010. Purpose.

The purpose of this chapter is to establish a sidewalk vendor permitting and regulatory program that complies with Senate Bill 946 (Chapter 459, Statutes 2018). The provisions of this chapter allow the city to encourage small business activities by removing total prohibitions on portable food stands and certain forms of solicitation, while still permitting regulation and enforcement of unpermitted sidewalk vending activities in order to protect the public's health, safety and welfare.

- (a) The city council hereby finds that, to promote the health, safety and welfare of the community, restrictions on street vending are necessary to:
 - (1) Ensure no interference with:
 - (A) The performance of police, firefighter and emergency medical personnel services;
 - (B) The flow of pedestrian or vehicular traffic including ingress into, or egress from, any residence, public building, public park, or place of business, or from the street to the sidewalk, by persons exiting or entering parked or standing vehicles;
 - (2) Provide reasonable access for the use and maintenance of sidewalks, pathways (including pathways in public parks), poles, posts, traffic signs or signals, fire hydrants, restrooms, trash receptacles, firefighting apparatus and equipment, mailboxes, as well as access to locations used for public transportation services;
 - (3) Maximize public access to and along the main commercial districts of the city; and
 - (4) Reduce exposure to the city for personal injury or property damage claims and litigation.
- (b) The city council hereby finds that the unique characteristics of the city require certain restrictions on sidewalk vending as follows:
 - (1) Broadway between Balboa Avenue and Rollins Road is an extremely busy road with unusually high pedestrian and vehicular traffic volumes. Restrictions on sidewalk vending are necessary to protect the public from injury given the intense use of this space;
 - (2) Burlingame Avenue between 200 feet west of El Camino Real (State Route 82) and California Drive is an extremely popular tourist destination with unusually high pedestrian and vehicular traffic volumes. Restrictions on sidewalk vending are necessary to protect the public from injury given the popularity of these tourist destinations;
 - (3) The Central County Fire Department contains critical emergency infrastructure. Restrictions on sidewalk vending are necessary to ensure that fire equipment is easily accessible and critical infrastructure is maintained and accessible at all times;
 - (4) The Burlingame police department contains critical emergency infrastructure. Restrictions on sidewalk vending are necessary to ensure that police equipment is easily accessible and critical infrastructure is maintained and accessible at all times;
 - (5) Restrictions on sidewalk vending at active parks is necessary to protect the health, safety and welfare of those persons engaged in active sports activities as well as spectators of sporting activities;

- (6) Many of the sidewalks and pathways in the city are under eight feet wide and sidewalk vending in these areas would unreasonably interfere with the flow of pedestrians and disrupt access for persons with disabilities; and
- (7) Caltrain operates within city boundaries, and includes various vehicle and pedestrian crossings. Restrictions on sidewalk vending at and near these locations is necessary to ensure public safety.
- (Ord. 2008 § 5, (2022))

§ 6.25.020. Definitions.

- (a) If a term or phrase is not defined in this part, or elsewhere in this code, the most common dictionary definition is presumed to be correct.
- (b) As used in this chapter, the following terms and phrases shall have the meaning ascribed to them in this part, unless the context in which they are used clearly requires otherwise:
- "Alcohol" means an "alcoholic beverage" as defined in Section 25.108.020, or any successor section;
- "Certified farmers' market" means a location operated in accordance with Chapter 10.5 (commencing with Section 47000) of Division 17 of the Food and Agricultural Code and any regulations adopted pursuant to that chapter, or any successor chapter;
- "Fire station" means any facility where fire engines and other equipment of the Fire Department are housed;
- "Food" means any item provided in Health and Safety Code Section 113781, or any successor section;
- "Heating element" means any device used to create heat for food preparation;
- "Marijuana" means "cannabis" or "cannabis product" as defined in Section 25.48.060(C), or any successor section;
- "Merchandise" means any item(s) that can be sold and immediately obtained from a sidewalk vendor, which is not considered food. Items for rent shall not be considered merchandise;
- "Park" means each and every public park, recreation center, body of water, riding or hiking trail, parking lot and every other recreation facility owned, managed and/or controlled by the city and under the jurisdiction of the parks and recreation director. The city has both active parks and passive parks:
- "**A**ctive parks" contain one or more sporting fields or actively encourage physical activity;
- "**P**assive parks" are typically less developed than an active park, but may contain features such as walking tracks, gardens, seating, barbecues, and picnic areas. They do not usually contain sports infrastructure or encourage strenuous physical activity, although they may contain playground equipment;
- "Pathway" means a paved path or walkway owned by the city or other public entity that is specifically designed for pedestrian travel, other than a sidewalk;
- "Person" means and includes all domestic and foreign corporations, associations, syndicates, joint stock corporations, partnerships of every kind, clubs, business or common law trusts, societies, and individuals transacting and carrying on any business in the city;
- "Police station" means any facility where police vehicles and other equipment of the city's police department are housed;
- "Public property" means all property owned or controlled by the city, including, but not limited

to, buildings, alleys, public plaza or community open space, parks, pathways, streets, parking lots, sidewalks, and walking trails;

"Residential" means any area zoned exclusively as residential in Title 25 (Zoning Code) or residential overlay district or their equivalent;

"Roaming sidewalk vendor" means a sidewalk vendor who moves from place to place and stops only to complete a transaction;

"Sidewalk" means that portion of a highway, other than the roadway, set apart by curbs, barriers, markings or other delineation specifically designed for pedestrian travel and that is owned by the city or other public entity;

"Sidewalk vending receptacle" or "sidewalk vendor receptacle" means a pushcart, stand, display, pedal-driven cart, wagon, showcase, rack, or other nonmotorized conveyance used for sidewalk vending activities;

"Sidewalk vendor" or "vendor" means a person(s) who sells food or merchandise from a sidewalk vending receptacle or from one's person, upon a public sidewalk or pathway;

"Sidewalk vendor activities" or "sidewalk vending activity" means actions that qualify a person as a sidewalk vendor or actions done in anticipation of becoming a sidewalk vendor such as, but not limited to, placement or maintenance of any sidewalk vendor receptacles;

"Special event" means any special event described in Section 25.82.030(C), or any successor section;

"Stationary sidewalk vendor" means a sidewalk vendor who vends from a fixed location.

(Ord. 2008 § 5, (2022))

§ 6.25.030. Permit required.

- (a) No person, either for themselves or any other person, shall engage in any sidewalk vendor activities within the city without first applying for and receiving a permit from the finance director, or the finance director's designee, under this chapter.
- (b) A written application for a sidewalk vendor permit shall be filed with the finance director, or finance director's designee, on a form provided by the city, and shall contain the following information:
 - (1) The name, address, and telephone number of the person applying to become a sidewalk vendor;
 - (2) The name, address, and telephone number of the person who will be in charge of any roaming sidewalk vendors, sidewalk vending activity and/or be responsible for the person(s) working at the sidewalk vending receptacle;
 - (3) The name, address, and telephone number of all persons that will be employed as roaming sidewalk vendors or at a sidewalk vending receptacle;
 - (4) The number of sidewalk vending receptacles the sidewalk vendor will operate within the city under the permit;
 - (5) The location(s) in the city where the sidewalk vendor intends to operate;
 - (6) The day(s) and hours of operation the sidewalk vendor intends to operate at such location(s);
 - (7) Whether the vendor intends to operate as a stationary sidewalk vendor or a roaming sidewalk vendor and, if roaming, the intended path of travel;

- (8) The dimensions of the sidewalk vendor's sidewalk vending receptacle(s), including a picture of each sidewalk vending receptacle operating under the permit and any signs that will be affixed thereto;
 - (9) Whether the sidewalk vendor will be selling food, merchandise, or both;
 - (10) If the sidewalk vendor is selling food, a description of the type of food to be sold, whether such foods are prepared on site, whether such foods will require a heating element inside or on the sidewalk vending receptacle for food preparation, and the type of heating element, if any;
 - (11) If the vendor is selling merchandise, a description of the merchandise to be sold;
 - (12) A copy of the current San Mateo County Health Permit (required for any sidewalk vendors selling food);
 - (13) Proof the person possesses a valid California Department of Tax and Fee Administration seller's permit which notes the city as a location or sublocation, which shall be maintained for the duration of the sidewalk vendor's permit;
 - (14) An acknowledgment that the sidewalk vendor will comply with all other generally applicable local, state, and federal laws;
 - (15) A certification that, to their knowledge and belief, the information contained within the application is true;
 - (16) An agreement by the sidewalk vendor to defend, indemnify, release and hold harmless the city, its city council, boards, commissions, officers and employees from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including, without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to the permit or the vendor's sidewalk vending activities. This indemnification shall include, but not be limited to, damages awarded against the city, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, or proceeding whether incurred by the permittee, city, and/or the parties initiating or bringing such proceeding;
 - (17) An acknowledgement that use of public property is at the sidewalk vendor's own risk, the city does not take any steps to ensure public property is safe or conducive to the sidewalk vending activities, and the sidewalk vendor uses public property at their own risk;
 - (18) An acknowledgement that the sidewalk vendor will obtain and maintain throughout the duration of any permit issued under this chapter any insurance required by the city's risk manager;
 - (19) If the sidewalk vendor has operated in the city in the past, proof of prior sales tax allocation to the city; and
 - (20) Any other relevant information required by the finance director, or the finance director's designee.
- (c) Each application for a sidewalk vendor permit shall be accompanied by a nonrefundable application fee as established by resolution of the city council. The application and permit is only applicable to the individual(s) named on the application.
- (d) This sidewalk vendor permit is required in addition to, and not in place of, a Burlingame city business

license. Each sidewalk vendor conducting business within city limits must obtain and maintain a valid city of Burlingame business license.

(Ord. 2008 § 5, (2022))

§ 6.25.040. Issuance of permit.

- (a) Within 30 calendar days of receiving a complete application, the finance director, or the finance director's designee, may issue a sidewalk vendor permit, with appropriate conditions, as provided for herein, if he or she finds based on all of the relevant information that:
- (1) The conduct of the sidewalk vendor will not unduly interfere with traffic or pedestrian movement, or tend to interfere with or endanger the public peace or rights of nearby residents to the quiet and peaceable enjoyment of their property, or otherwise be detrimental to the public peace, health, safety or general welfare;
 - (2) The conduct of the sidewalk vendor will not unduly interfere with normal governmental or city operations, threaten to result in damage or detriment to public property, or result in the city incurring costs or expenditures in either money or personnel not reimbursed in advance by the vendor;
 - (3) The conduct of such sidewalk vending activity will not constitute a fire hazard, and all proper safety precautions will be taken;
 - (4) The conduct of such sidewalk vending activity will not require the diversion of police officers to properly police the area of such activity as to interfere with normal police protection for other areas of the city;
 - (5) The sidewalk vendor has paid all previous administrative fines, completed all community service, and completed any other alternative disposition associated in any way with a previous violation of this chapter;
 - (6) The sidewalk vendor has not had a permit revoked within the past 12 months;
 - (7) The sidewalk vendor's application contains all required information;
 - (8) The sidewalk vendor has not made a materially false, misleading or fraudulent statement of fact to the city in the application process;
 - (9) The sidewalk vendor has satisfied all the requirements of this chapter;
 - (10) The sidewalk vendor has paid all applicable fees as set by city council resolution;
 - (11) The sidewalk vendor's sidewalk vending receptacle and proposed activities conform to the requirements of this chapter;
 - (12) The sidewalk vendor has taken all necessary steps to obtain a San Mateo County mobile food facility permit;
 - (13) The sidewalk vendor has adequate insurance to protect the city from liability associated with the sidewalk vendor's activities, as determined by the city's risk manager, or the risk manager's designee, and, if required by the city, the city has been named as an additional insured; and
 - (14) The sidewalk vendor has satisfactorily provided all information requested by the finance director, or the finance director's designee, to consider the vendor's application.

- (b) A sidewalk vendor permit is nontransferable. Any change in ownership or operation of a sidewalk vendor or sidewalk vending receptacle requires a new permit under this chapter.
- (c) All permits issued under this chapter shall expire 12 months from date of issuance.
(Ord. 2008 § 5, (2022))

§ 6.25.050. Operating conditions.

All sidewalk vendors are subject to the following operating conditions when conducting sidewalk vending activities:

- (a) All food and merchandise shall be stored either inside or affixed to the sidewalk vendor receptacle or carried by the sidewalk vendor. Food and merchandise shall not be stored, placed, or kept on any public property. If affixed to the sidewalk vendor receptacle, the overall space taken up by the sidewalk vendor receptacle shall not exceed the size requirements provided in this section;
- (b) The sidewalk vendor permit shall be displayed conspicuously at all times on the sidewalk vending receptacle or the sidewalk vendor's person. If multiple sidewalk vendors are staffing a sidewalk vendor receptacle or working as roaming sidewalk vendors, each person shall wear their permit on their person in a conspicuous manner;
- (c) Sidewalk vendors shall not leave their sidewalk vending receptacle unattended to solicit business for their sidewalk vending activities;
- (d) All signage and advertising related in any way to the sidewalk vendor shall be attached to the sidewalk vending receptacle, if any, or the sidewalk vendor's person;
- (e) Sidewalk vendors shall not use any electrical, flashing, wind powered, or animated sign;
- (f) Sidewalk vending receptacles shall not be stored on public property and shall be removed when not in active use by a sidewalk vendor;
- (g) All sidewalk vendors shall allow a police officer, firefighter, life safety services officer, code enforcement officer, health inspector, or other government official charged with enforcing laws related to the street vendor's activities, at any time, to inspect their sidewalk vending receptacle for compliance with the size requirements of this chapter and to ensure the safe operation of any heating elements used to prepare food;
- (h) Sidewalk vending receptacles and any attachments thereto shall not exceed a total width of four feet, and a total length of four feet, and a total height, including a roof, umbrella or awning, of 10 feet; provided, that any umbrella or awning shall be no less than seven feet above the surface of the sidewalk;
- (i) No sidewalk vending receptacle shall contain or use natural gas or other explosive or hazardous materials unless authorized by the city in writing following review by appropriate authorities;
- (j) If a sidewalk vending receptacle requires more than one person to conduct the sidewalk vending activity, all sidewalk vendors associated with the sidewalk vending receptacle shall be within five feet of the sidewalk vending receptacle when conducting sidewalk vending activities;
- (k) Sidewalk vendors that sell food shall have in their possession at all times they are conducting sidewalk vending activities the required county health permit and grade (if given health grade by San Mateo County Health);

- (l) Sidewalk vendors shall comply with all applicable state and local laws, as amended from time to time, including the County Health Code, state food labeling and preparation requirements, fire codes and regulations, and the Americans with Disabilities Act of 1990 (Public Law 101-336) and other disability access standards (both state and federal);
- (m) Sidewalk vendors that sell food shall maintain a trash container in or on their sidewalk vending receptacle and shall not empty their trash into public trashcans. The size of the vendor's trash container shall be taken into account when assessing the total size limit of a sidewalk vending receptacle. Sidewalk vendors shall not leave any location without first picking up, removing, and disposing of all trash or refuse from their operation;
- (n) Sidewalk vendors shall immediately clean up any food, grease or other fluid or item related to sidewalk vending activities that falls on public property;
- (o) Sidewalk vendors shall maintain a minimum four foot clear accessible path free from obstructions, including sidewalk vending receptacles and customer queuing area;
- (p) Sidewalk vendors shall comply with the noise standards provided in Chapter 10.40 or any successor chapters, and no amplified music or loudspeakers are permitted;
- (q) In passive parks, sidewalk vendors shall not approach persons to sell food or merchandise;
- (r) In active parks, sidewalk vendors shall not interfere in any way with anyone engaged in a sporting activity and shall not approach spectators who are watching a sporting activity to sell food or merchandise; and
- (s) Sidewalk vendors shall ensure that all required insurance is in effect prior to conducting any sidewalk vendor activities and maintained for the duration of the permit.

(Ord. 2008 § 5, (2022))

§ 6.25.060. Prohibited activities and locations.

- (a) Sidewalk vendors shall comply with all operating conditions including those conditions set forth in Section 6.25.050, or any successor sections.
- (b) Sidewalk vending receptacles shall not touch, lean against or be affixed at any time to any building or structure including, but not limited to, lampposts, parking meters, mailboxes, traffic signals, fire hydrants, benches, bus shelters, newsstands, trashcans or traffic barriers.
- (c) Sidewalk vendors shall not engage in any of the following activities:
 - (1) Renting merchandise to customers;
 - (2) Displaying merchandise or food that is not available for immediate sale;
 - (3) Selling of alcohol, marijuana, adult oriented material, tobacco products, products that contain nicotine or any product used to smoke/vape nicotine or marijuana;
 - (4) Using an open flame on or within any sidewalk vending receptacle;
 - (5) Using an electrical outlet or power source that is owned by the city or another person other than the sidewalk vendor, unless given express permission to use this power source in writing by the owner of the power source, which will be provided to city officials immediately upon request;

- (6) Conducting sidewalk vending activities:
 - (A) Anywhere in the city between the hours of 9:00 p.m. and 7:00 a.m. daily;
 - (B) On sidewalks or pathways directly adjacent to or within residential areas, between the hours of 9:00 p.m. and 9:00 a.m. daily;
 - (7) Continuing to offer food or merchandise for sale, following, or accompanying any person who has been offered food or merchandise after the person has asked the sidewalk vendor to leave or after the person has declined the offer to purchase food or merchandise;
 - (8) Knowingly making false statements or misrepresentations during the course of offering food or merchandise for sale;
 - (9) Blocking or impeding the path of the person(s) being offered food or merchandise to purchase;
 - (10) Making any statement, gesture, or other communication which a reasonable person in the situation of the person(s) being offered food or merchandise to purchase would perceive to be a threat and which has a reasonable likelihood to produce in the person(s) a fear that the threat will be carried out;
 - (11) Touching the person(s) being offered food or merchandise without that person(s)' consent;
 - (12) Advertising any product or service that is not related to the food or merchandise being offered for immediate sale; or
 - (13) Placing their sidewalk vending receptacles outside of any pathway or sidewalk when engaging in sidewalk vending activities.
- (d) Sidewalk vendors shall not engage in sidewalk vending activities at the following locations:
- (1) Burlingame Avenue between 200 feet west of El Camino Real and California Drive;
 - (2) Broadway between Balboa Avenue and Rollins Road;
 - (3) Any public property that does not meet the definition of a sidewalk or pathway including, but not limited to, any alley, street, street end, or parking lot;
 - (4) Within 200 feet of:
 - (A) A police station;
 - (B) A fire station;
 - (C) A permitted certified farmers' market or swap meet during the limited operating hours of that certified farmers' market or swap meet;
 - (D) An area designated for a special event permit issued by the city, during the limited duration of the special event;
 - (5) Within 100 feet of:
 - (A) Another sidewalk vendor;
 - (B) A public or private school, a place of worship, or a large or general child day-care facility;

- (C) A Caltrain vehicle or pedestrian crossing;
 - (D) Any public picnic area, playground area or playground equipment;
 - (E) Any public community center, athletic field or court, softball/baseball diamond, basketball court, handball court, pickleball court, tennis court, soccer field, or volleyball court;
 - (F) The portion of any city facility that is renting merchandise or selling food to the public or where the rental merchandise is stored;
 - (G) Any police officer, firefighter or emergency medical personnel who are actively performing their duties or providing services to the public;
- (6) Within 25 feet of a:
- (A) Fire hydrant;
 - (B) Curb which has been designated as white, yellow, green, blue, or red zone, or a bus zone;
 - (C) Automated teller machine;
 - (D) Driveway, alley, or entrance to a parking lot or parking garage;
 - (E) Entrance or exit to a building, structure or facility;
 - (F) Trash receptacle, bike rack, bench, bus stop, restroom, or similar public use items;
 - (G) The intersection of a street and a sidewalk.
- (e) Stationary sidewalk vendors shall not sell food or merchandise or engage in any sidewalk vending activities:
- (1) On any sidewalk or pathway that is not a minimum width of eight feet;
 - (2) At any park where the city has signed an agreement for concessions or issued a city permit that allows the sale of food or merchandise by a concessionaire, for the period of time the concessionaire is permitted to operate; or
 - (3) On sidewalks or pathways directly adjacent to or within residential areas.

(Ord. 2008 § 5, (2022))

§ 6.25.070. Penalties.

Violations of this chapter shall not be prosecuted as infractions or misdemeanors and shall only be punished by the following administrative citation and revocation structure:

- (a) Except as otherwise provided in this chapter, any violation of this chapter shall be assessed administrative fines in the following amounts:
- (1) An administrative fine not exceeding \$100 for a first violation;
 - (2) An administrative fine not exceeding \$200 for a second violation within one year of the first violation;
 - (3) An administrative fine not exceeding \$500 for each additional violation within one year of the first violation;

- (b) If a sidewalk vendor violates any portion of this chapter and cannot present the citing officer with a proof of a valid permit, the sidewalk vendor shall be assessed administrative fines in the following amounts:
- (1) An administrative fine not exceeding \$250 for a first violation;
 - (2) An administrative fine not exceeding \$500 for a second violation within one year of the first violation;
 - (3) An administrative fine not exceeding \$1,000 for each additional violation within one year of the first violation;
- (c) Upon proof of a valid permit issued by the city, the administrative fines set forth in subsection (b) of this section shall be reduced to the administrative fines set forth in subsection (a) of this section, or any successor sections; and
- (d) The finance director, or the finance director's designee, may revoke a permit issued to a sidewalk vendor for the term of that permit upon the fourth violation or subsequent violations within one year of the first violation.

(Ord. 2008 § 5, (2022))

§ 6.25.080. Appeals.

- (a) Administrative citations shall be appealed in the following manner:
- (1) Any recipient of an administrative citation may request an ability-to-pay determination, contest that there was a violation of the code, and/or that he or she is the responsible person, through the procedure set forth in Chapter 1.14, or any successor section. Notwithstanding the time limits set forth in Chapter 1.14, any person requesting a hearing and ability-to-pay determination may file the request within the time frames set forth in Government Code Section 51039(f)(1), or any successor section;
 - (2) Any recipient of an administrative citation may file for a hardship waiver in accordance with Section 1.14.120, or any successor section;
 - (3) All appeals of administrative citations shall be heard by a hearing officer designated pursuant to Section 1.14.040, or any successor section;
 - (4) In addition to the powers set forth in Chapter 1.14, or any successor Chapter, the hearing officer shall have the power to:
 - (A) Reduce the fine based upon the person's ability to pay the fine;
 - (B) If the hearing officer finds the person meets the criteria described in subdivision (a) or (b) of Government Code Section 68632, or any successor section, the hearing officer shall order the city to accept, in full satisfaction, 20% of the administrative fine imposed pursuant to this chapter; and
 - (C) The hearing officer may allow the person to complete community service in lieu of paying the total administrative fine, may waive the administrative fine, or may offer an alternative disposition.
 - (5) All appeals of administrative citations shall be conducted in accordance with Section 1.14.120, or any successor section;

- (6) After considering all of the testimony and evidence submitted at the hearing, the hearing officer shall issue a written decision within 10 days of the hearing and shall list in the decision the reasons for that decision:
- (A) The hearing officer may uphold or deny the administrative citation or take any other action within the hearing officer's power;
 - (B) If the hearing officer determines that the administrative citation should be upheld and a fine assessed, then the amount of the fine assessed that is on deposit with the city shall be retained by the city and any remainder on deposit with the city, if any, shall be promptly returned;
 - (C) If the hearing officer determines that the administrative citation should be denied, or imposes an alternative disposition, and the fine was deposited with the city, then the city shall promptly refund the amount of the deposited fine;
 - (D) The decision of the hearing officer shall be final; and
 - (E) The recipient of the administrative citation shall be served with a copy of the hearing officer's written decision in the manner prescribed by Section 1.14.070, or any successor section.
- (b) Decisions of the finance director, or the finance director's designee, to revoke a permit shall be appealed in the following manner:
- (1) Appeals shall be initiated within 15 calendar days of service of notice of the decision;
 - (2) Appeals of decisions shall be made in writing on forms provided by the city;
 - (3) Decisions that are appealed shall not become effective until the appeal is resolved;
 - (4) All appeals of decisions shall be heard by a hearing officer designated by the city Manager or his/her designee;
 - (5) A hearing before the hearing officer may be set for a date that is not less than 15 and not more than 60 days from the date that the request for hearing is filed in accordance with the provisions of this chapter. The responsible person requesting the hearing shall be notified of the time and place set for the hearing at least 10 days prior to the date of the hearing. The city and responsible person may mutually agree to waive, modify or change the date of the proceeding;
 - (6) All appeals of decisions shall comply with the following additional procedures:
 - (A) At least 10 days prior to the hearing, the responsible person requesting the hearing shall be provided with copies of the citations, reports and other documents or evidence submitted or relied upon by the finance director, or the finance director's designee;
 - (B) No other discovery is permitted. Formal rules of evidence shall not apply. Administrative hearings are intended to be informal in nature. Any relevant evidence shall be admitted if it is the type of evidence on which reasonable persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rules, which might make improper the admission of such evidence over objection in civil actions in courts of competent jurisdiction in this state. Irrelevant and unduly repetitious evidence shall be excluded;

- (C) The failure of any responsible person who has filed an appeal to appear at the hearing shall constitute a failure to exhaust their administrative remedies;
- (7) After considering all of the testimony and evidence submitted at the hearing, the hearing officer shall issue a written decision within 10 days of the hearing and shall list in the decision the reasons for that decision:
- (A) The hearing officer may uphold or deny the decision and the decision of the hearing officer shall be final; and
- (B) The responsible person who has filed an appeal shall be served with a copy of the hearing officer's written decision.

(Ord. 2008 § 5, (2022))

§ 6.25.090. Administrative procedures.

The city manager may adopt reasonable administrative procedures necessary to implement this chapter.
(Ord. 2008 § 5, (2022))

§ 6.25.100. Conflict of laws.

In the event that any provision of this chapter is in conflict with state law or regulations, as may be amended from time to time, said state law or regulation shall control to the extent that said state law or regulation preempts local regulations. In the event of such preemption, all remaining portions of this ordinance shall remain valid and enforceable.

(Ord. 2008 § 5, (2022))

CHAPTER 6.30 VALET PARKING

§ 6.30.010. Fixed location valet parking and special event valet parking permits.

No corporation, partnership or other business entity or employee thereof shall solicit the storage or parking of any motor vehicle unless the corporation, partnership or business entity holds a valid and unrevoked valet parking permit. This chapter shall not apply to any business which provides such parking solely on its premises and does not use the public streets for pick-up, drop-off, or movement of vehicles.

- (a) A fixed location valet parking permit shall be required for any valet parking operator who performs valet parking services at a business or place of public assembly that utilizes valet parking services on a daily or regularly scheduled basis. Any location which uses valet parking services at least once each week requires a fixed location valet parking permit. Applications for fixed location valet parking permits shall include verification by the owner of an off-street parking garage or lot that a specified number of parking spaces will be guaranteed for the use of the applicant.
- (b) A special event valet parking permit shall be required of any valet parking operator who performs valet parking services at locations other than those defined as fixed locations in subdivision (a) of this section.

Special event valet parking permit holders shall provide the police department with seven days' advance written notice of the location, date, and hours of each special event valet parking operation which they may thereafter perform, or, if seven days' advance notice is impossible, the permit holders shall notify the police department as soon after the permit holder's services are engaged for an event as is possible. The police department shall have the right to prohibit the use of a special event valet parking permit at a given location if it finds that there are insufficient parking spaces in the locale and the permit holder has presented no adequate plan to park the vehicles legally.

There shall be no appeal from the department's denial unless the notice of an intended event at a particular location has been given 20 days before the event, in which case appeal shall be to the city manager.

- (c) A holder of valet parking permit may charge a fee for the use of the valet parking service up to the amount approved by the council.

(Ord. 1523 § 1, (1995); 1605 § 2, (1998))

§ 6.30.020. Application for permit.

Any person desiring a fixed location valet parking permit or a special event valet parking permit shall first make an application therefor by filing with the license collector a sworn application in writing on a form to be furnished by the license collector which shall give the following information:

- (a) Name, residence, and telephone number;
- (b) The previous address of the applicant during the five years immediately prior to the present address of the applicant;
- (c) Social security number and driver's license number, if any; whether the driver's license has been revoked or suspended and the reason therefor;
- (d) Birth certificate or other written proof acceptable to the police department that the applicant is at least 18 years of age;

- (e) Fingerprints (taken by the police department for criminal history information);
- (f) Business, occupation, or employment of the applicant for the five years immediately preceding the date of application;
- (g) The business license and permit history of the applicant; whether such person, in previously operating in this or another city or state, under license or permit has had such license or permit revoked or suspended, the reason therefor, and the business activity or occupation subsequent to such action of suspension or revocation;
- (h) Whether such person has ever been convicted of any crime, including misdemeanor traffic violations. If any person mentioned in this subsection has been so convicted, a statement must be made giving the place and court in which such conviction was had, the specific charge under which the conviction was obtained and the sentence imposed as a result of such conviction;
- (i) The location of the business or event at which the valet parking services will be performed, the location of the drop-off and pick-up site, the off-street parking location at which vehicles will be parked and the number of parking spaces available at that location;
- (j) Such other identification and information necessary to discover the truth of matters hereinbefore specified as required to be set forth in the application;
- (k) The application will also include a separately signed waiver and release authorizing the city of Burlingame, its agents, and employees to seek information and to conduct an investigation into the truth of the statements made on the application and qualifications and record of the applicant.

(Ord. 1523 § 1, (1995))

§ 6.30.030. Corporations and partnerships.

If the applicant is a corporation, the name of the corporation shall be set forth exactly as shown in its articles of incorporation together with the names and residence addresses of each of the officers, directors and each stockholder holding more than 10% of the stock of the corporation. The information hereinafter required shall be provided for each officer of the corporation. If the application is a partnership, the information hereinafter required shall be supplied for each of the partners, including limited partners. If one or more of the partners is a corporation, the provisions above pertaining to a corporate applicant apply. (Ord. 1523 § 1, (1995))

§ 6.30.040. Permit fee and investigation.

All applications shall be accompanied by an investigation fee a filing fee as established by resolution adopted by the city council from time to time, in addition to any charges for processing fingerprints which may be assessed by the State of California, and no part of either fee is refundable. Upon receipt of said application, the license collector shall refer the application to the police department which shall interview the applicant or any other person and make any other investigation necessary to approve or deny the permit. (Ord. 1523 § 1, (1995); Ord. 1823 § 3, (2008))

§ 6.30.050. Business license.

At the time of the application for permit, the applicant shall also apply for and furnish the information necessary to obtain a business license as required by Chapter 6.04 of this code. No business license shall be issued until the investigation is completed and the permit is approved. The business license shall be issued upon payment of the business license as provided in Chapter 6.04 of this code.

(Ord. 1523 § 1, (1995))

§ 6.30.060. Insurance.

The applicant shall meet the following insurance requirements throughout the term of any permit issued under this ordinance:

- (a) Workers' compensation, with employers liability limits not less than one million dollars (\$1,000,000.00) each accident, but only if permittee have employees as defined by the California Labor Code.
- (b) Comprehensive general liability insurance with limits not less than one million dollars (\$1,000,000.00) each occurrence combined single limit bodily injury and property damage, including contractual liability, personal injury, broadform property damage, products and completed operations coverage.
- (c) Comprehensive automobile liability insurance with limits not less than one million dollars (\$1,000,000.00) each occurrence combined single limit bodily injury and property damage, including owned, non-owned and hired auto coverage, as applicable.
- (d) Garagekeepers' legal liability insurance with limits not less than five hundred thousand (\$500,000.00) each occurrence, including coverage for fire and explosion, theft of the entire motor vehicle, riot, civil commotion, malicious mischief and vandalism, collision or upset.

Comprehensive general liability, comprehensive automobile liability and garagekeepers' legal liability insurance policies shall be endorsed to provide the following:

- (1) Name as additional insured the city of Burlingame, its officers, agents, and employees.
- (2) That such policies are primary insurance to any other insurance available to the additional insureds, with respect to any claims arising out of activities conducted under the permit, and that insurance applies separately to each insured against whom claim is made or suit is brought.

All policies shall be endorsed to provide that 30 days' advance written notice to the city of cancellation, nonrenewal or reduction in coverage. Certificates of insurance, satisfactory to the city, evidencing all coverage above shall be furnished to the city prior to issuance of a permit and renewal of a license or before commencing any operations under a permit, with complete copies of policies furnished to the city upon request.

(Ord. 1523 § 1, (1995))

§ 6.30.070. Issuance or denial of permit.

The police department shall issue a permit if all required information has been furnished and the report filed finds that:

- (a) The character of the applicant is satisfactory;
- (b) Any owner, officer or partner of the business entity within four years prior to the date of application, has not been convicted of burglary, robbery, theft, receipt of stolen property, breaking or removing parts from a vehicle, malicious mischief to a vehicle, unlawful use or tempering by bailee of a vehicle, altering a vehicle identification number, or any offense related to the use of alcohol, narcotics or controlled substances;

- (c) The number of proposed off-street parking spaces is sufficient to ensure that the valet parking operation will not be required to use public parking spaces, and such off-street spaces are not required parking for any other business or use during the time of proposed use for valet parking.
- (d) The applicant has not knowingly and with intent to deceive, made any false, misleading or fraudulent oral or written statements in his or her application or to any person investigating his or her application.

The permit shall be denied if all of the above findings cannot be made or if all of the information required is not supplied to the city. The permit may be granted subject to receipt of criminal history information. If denied, the reasons therefor shall be endorsed upon the application, and the police department shall notify the applicant of the disapproval with a copy of the application upon which the reasons have been endorsed by first class mail.

(Ord. 1523 § 1, (1995))

§ 6.30.080. Appeal.

In the event a fixed location permit has been denied, the applicant shall have 10 days from the date of mailing the notice within which to appeal to the city council by filing a written application for a public hearing with the clerk of the city. Notice and public hearing shall be given as follows:

- (a) Upon receipt of the appeal, the city clerk shall set the matter for hearing before the council, set a regular meeting thereof, within 30 days from the date of filing the appeal, and shall give written notice of such hearing to the applicant at his or her address set forth in the appeal by first class mail at least 10 days prior thereto.
- (b) On the date set, the council shall hear the matter, and may continue it from time to time before reaching a decision. If the council finds that the applicant has satisfactorily met all of the requirements of this chapter, it shall order the issuance of the permit and business license. If it finds that the requirements have not been met satisfactorily, it shall deny the permit and license.
- (c) All findings of the council shall be final and conclusive upon the applicant.

(Ord. 1523 § 1, (1995))

§ 6.30.090. Revocation or suspension of permits.

Any permit issued under this chapter shall be subject to suspension or revocation by the city manager for violation of, or for causing or permitting violation of, any provision of this code or for any grounds that would warrant the denial of such permits in the first instance.

Prior to the suspension or revocation of any permit issued under this chapter, the permittee shall be entitled to a hearing before the city manager or his or her designated representative, at which time evidence will be received for the purpose of determining whether or not such permit shall be suspended or revoked or whether the permit may be retained. In the event the permit is suspended or revoked, the notification of the reasons for such suspension or revocation shall be set forth in writing and sent to the permittee by means of first class mail.

In the event of suspension or revocation of any permit, the permittee may appeal to the city council in the manner as provided in Section 6.30.080.

(Ord. 1523 § 1, (1995))

§ 6.30.100. Rules and regulations—Additional requirements.

- (a) The chief of police is hereby authorized to promulgate rules and regulations after noticed hearing to implement this ordinance. Failure to comply with such rules and regulations, or with any other requirements imposed by this ordinance, shall constitute grounds for revocation of a permit.
- (b) The permittee shall have the permit(s) required by this ordinance in its possession at the place where it is conducting any valet parking activity under the permit(s), and shall exhibit such permit(s) on demand of any peace officer.
- (c) A drop-off and pick-up site upon a public street shall only be at the city approved passenger loading zone set forth in the permit. At no time shall vehicles be accepted for valet parking when stopped in a traffic lane, nor shall vehicles be returned to customers in a traffic lane.
- (d) At no time shall a valet parking permittee use any public parking space on any street for valet parking. Unless expressly approved by the council, no valet parking permittee shall use any public parking space located in a city parking lot for valet parking.
- (e) The permittee shall, upon the receipt of each motor vehicle accepted for valet parking, give to the owner or operator a claim check for said motor vehicle; said claim check shall show the corporate or business name of the permittee and shall explicitly state the terms and conditions under which the vehicle is being accepted.
- (f) The permittee shall, within 10 days of the change of location of its off-street parking location, or of the name of the permittee entity or the change in one or more partners or officers or in the ownership of 10% or more of the corporate stock, inform the police department, in writing, of such change.

(Ord. 1523 § 1, (1995); Ord. 1605 § 3, (1998))

§ 6.30.110. Requirements for permittee's employees.

- (a) Every corporation, partnership or other business entity holding a permit under this ordinance shall maintain a continuously updated list of the names and residence addresses and current driver's license numbers of all of its employees who perform valet parking. Such list shall be maintained at the business address listed on the permit application, and shall be exhibited on demand of any peace officer.
- (b) It is unlawful for any employee who has been convicted of any of the offenses listed in Section 6.30.070(b) to perform valet parking.
- (c) Every employee who performs valet parking shall wear conspicuously upon their person a badge to be provided by the permittee, of a type and design previously approved by the chief of police. Such badge shall contain the name or other individual identification of the employee. In addition, while performing valet parking services, each employee shall wear a brightly colored vest, shirt, or jacket that is readily visible to drivers of motor vehicles.

(Ord. 1523 § 1, (1995); 1605 § 4, (1998))

§ 6.30.120. Conformance with applicable laws.

Nothing in this chapter is intended to authorize, or authorizes, the parking of motor vehicles by valet parking operators in a manner contrary to applicable state laws and local parking and traffic regulations.
(Ord. 1523 § 1, 1995))

CHAPTER 6.36 TAXICABS

§ 6.36.010. Definitions.

"Driver" means every person in charge of, or operating, any taxicab as defined in this chapter, either as owner or employee or under the direction of owners or employees.

"Owner" means every person who in any manner has the proprietary use, ownership or control of any taxicab.

"Taxicab" means a motor-propelled passenger-carrying vehicle of a distinctive color or colors and which is of such a public appearance as is customary for taxicabs in common usage in this country, and which is operated at rates per mile or upon a waiting time basis or both, and is equipped with a taximeter, and which motor-propelled vehicle is used for the transportation of passengers for hire over and along public streets, not over a defined route, but as to route and destination in accordance with, and under the direction of the person hiring such vehicle.

"Taximeter" means a mechanical device attached to a vehicle for hire, by means of which device the authorized charge for hire of such vehicle is mechanically calculated on the basis of distance traveled, or for waiting time, or a combination of both, which charges shall be indicated upon such mechanical device by means of figures in dollars and cents.

(1941 Code § 1437, Ord. 417, (1945); Ord. 1269 § 1, (1984); Ord. 1484 § 2, (1993))

§ 6.36.020. Owner and driver permits required.

It is unlawful for any person to engage in the business of operating any taxicab company, where passenger pick-up is within the city, without first obtaining an owner's permit from the police department. It is unlawful for any person to drive a taxicab, where passenger pick-up is within the city, without first obtaining a driver's permit from the police department. All permits shall be non-transferable.

(Ord. 1484 § 2, (1993); Ord. 1540 § 1, (1996))

§ 6.36.030. Application for permit.

Any person desiring a permit to own or drive a taxicab shall first make an application therefor by filing with the license collector a sworn application in writing on a form to be furnished by the license collector which shall give the following information. An owner-driver may make a single application and pay a single fee.

- (a) Name, residence and telephone number;
- (b) The previous address of the applicant during the five years immediately prior to the present address of the applicant;
- (c) Social Security number and driver's license number, if any;
- (d) Birth certificate or other written proof acceptable to the police department that the applicant is at least 18 years of age;
- (e) Fingerprints (taken by the police department for criminal history investigation);
- (f) Business, occupation or employment of the applicant for the five years immediately preceding the date of application;

- (g) The business license and permit history of the applicant, including a list of other jurisdictions in which the applicant holds a current owner's or driver's permit; whether such person, in previously operating in this or another city or state, under license or permit has had such license or permit revoked or suspended, the reason therefor, and the business activity or occupation subsequent to such action of suspension or revocation;
- (h) Owner or owner-driver applications shall include license number, make, model and year of all vehicles the applicant proposes to operate, the location of any proposed depots and offices, and the color scheme or insignia to be used to designate the vehicle or vehicles of the applicant.
- (i) Whether such person has ever been convicted of any crime, except misdemeanor traffic violations. If any person mentioned in this subsection has been so convicted, a statement must be made giving the place and court in which such conviction was had, the specific charge under which the conviction was obtained and the sentence imposed as a result of such conviction;
- (j) Such other identification and information necessary to discover the truth of matters hereinbefore specified as required to be set forth in the application;
- (k) The application will also include a separately signed waiver and release authorizing the city of Burlingame, its agents, and employees to seek information and to conduct an investigation into the truth of the statements made on the application and the qualifications and record of the applicant.
- (l) The applicant shall provide two passport size photos taken within the last 30 days.
(Ord. 1484 § 2, (1993); Ord. 1522 § 1, (1995); Ord. 1540 § 1, (1996))

§ 6.36.035. Controlled substance testing.

No application for a new or renewed driver's permit shall be accepted without proof that the applicant has tested negative for controlled substances as set forth in Section 53.075.5(b)(3) of the Government Code.
(Ord. 1540 § 1, (1996))

§ 6.36.040. Corporations and partnerships.

If the applicant is a corporation, the name of the corporation shall be set forth exactly as shown in its articles of incorporation together with the names and residence addresses of each of the officers, directors and each stockholder holding more than 10% of the stock of the corporation. The information hereinafter required shall be provided for each officer of the corporation. If the application is a partnership, the information hereinafter required shall be supplied for each of the partners, including limited partners. If one or more of the partners is a corporation, the provisions above pertaining to a corporate applicant apply.
(Ord. 1484 § 2, (1993))

§ 6.36.050. Permit fee and investigation.

All applications shall be accompanied by a filing and investigation fee in an amount as established by resolution adopted by the city council from time to time, no part of which is refundable. Applications for an owner's permit shall include a certificate of insurance meeting the requirements of this chapter. Additional fees may be charged to cover costs of processing the applicant's fingerprints by the state of California. Upon receipt of said application, the license collector shall refer the application to the police department which within 30 days of filing the application shall interview the applicant or any other person and make any other investigation necessary to approve or deny the permit, provided that said 30 days may be extended for such period as may be necessary to obtain fingerprint records from the appropriate state agency.

(Ord. 1484 § 2, (1993); Ord. 1823 § 4, (2008))

§ 6.36.060. Business license.

At the time of the application for an owner's or owner-driver's permit, applicant shall also apply for and furnish the information necessary to obtain a business license as required by Chapter 6.04 of this code. No business license shall be issued until the investigation is completed and the permit is approved. The business license shall be issued upon payment of the business license as provided in Chapter 6.04 of this code. In addition, each owner or owner-driver shall pay an annual business license of \$25 for each vehicle operated under the permit.

(Ord. 1484 § 2, (1993); Ord. 1540 § 1, (1996))

§ 6.36.070. Issuance or denial of owner's permit.

The police department shall issue an owner's permit if all required information has been furnished and the report filed finds that:

- (a) The character of the applicant is satisfactory;
- (b) The applicant has not been convicted of any crime which would cause him or her to be unfit to operate a taxi company;
- (c) The applicant has not knowingly and with intent to deceive, made any false, misleading or fraudulent oral or written statements in his or her application or to any person investigating his or her application;
- (d) That the name, monogram or insignia to be used upon the vehicles is not in conflict with and does not imitate any other name, monogram, or insignia used by any other person heretofore licensed by the city in such manner as to be misleading or tend to deceive or defraud the public.

The permit shall be denied if all of the above findings cannot be made or if all of the information required is not supplied to the city. If denied, the reasons therefor shall be endorsed upon the application, and the police department shall notify the applicant of the disapproval with a copy of the application upon which the reasons have been endorsed by first class mail.

(Ord. 1484 § 2, (1993); Ord. 1540 § 1, (1996))

§ 6.36.080. Issuance or denial of driver's permit.

The police department shall issue a driver's permit if all required information has been furnished and the report filed finds that:

- (a) The character of the applicant is satisfactory;
- (b) If the applicant is over 18 years of age;
- (c) If the applicant possesses a valid driver's license issued by the state of California;
- (d) If within the five years preceding the application the applicant has not been convicted of reckless driving or driving under the influence of intoxicating liquors, drugs or narcotics;
- (e) If the applicant has not been convicted of a felony or crime involving moral turpitude; and

- (f) The applicant has not knowingly and with intent to deceive made any false, misleading or fraudulent oral or written statements in his or her application or to any person investigating his or her application.

The permit shall be denied if all of the above findings cannot be made or if all of the information required is not supplied to the city. If denied, the reasons therefor shall be endorsed upon the application, and the police department shall notify the applicant of the disapproval with a copy of the application upon which reasons have been endorsed by first class mail.

(Ord. 1484 § 2, (1993); Ord. 1832 § 2, (2008))

§ 6.36.090. Appeal.

In the event a permit has been denied, applicant shall have 10 days from the date of mailing the notice within which to appeal to the city council by filing a written application for a public hearing with the clerk of the city. Notice and public hearing shall be given as follows:

- (a) Upon receipt of the appeal, the city clerk shall set the matter for hearing before the council, set a regular meeting thereof, within 30 days from the date of filing the appeal, and shall give written notice of such hearing to the applicant at his or her address set forth in the appeal by first class mail at least 10 days prior thereto;
- (b) On the date set, the council shall hear the matter, and may continue it from time to time before reaching a decision. If the council finds that the applicant has satisfactorily met all of the requirements of this chapter, it shall order the issuance of the permit and business license. If it finds that the requirements have not been met satisfactorily, it shall deny the permit and license.
- (c) All findings of the council shall be final and conclusive upon the applicant.

(Ord. 1484 § 2, (1993))

§ 6.36.100. Revocation or suspension of permits.

Any permit issued under this chapter shall be subject to suspension or revocation by the city manager for violation of, or for causing or permitting violation of, any provision of this chapter or for any grounds that would warrant the denial of such permits in the first instance.

Prior to the suspension or revocation of any permit issued under this chapter, the permittee shall be entitled to a hearing before the city manager or his or her designated representative, at which time evidence will be received for the purpose of determining whether or not such permit shall be suspended or revoked or whether the permit may be retained. In the event the permit is suspended or revoked, the notification of the reasons for such suspension or revocation shall be set forth in writing and sent to the permittee by means of first class mail.

In the event of suspension or revocation of any permit, the permittee may appeal to the city council in the manner as provided in Section 6.36.090.

(Ord. 1484 § 2, (1993))

§ 6.36.110. Rates of fare.

- (a) Taximeter. It is unlawful for any owner or driver to operate any taxicab in the city unless and until such vehicle is equipped with a taximeter, and it shall be the duty of every owner operating a taxicab to maintain such taximeter in perfect condition so that it will at all times correctly and accurately indicate the correct charge for the distance traveled and waiting time. Such taximeter shall be at all

times subject to inspection by the San Mateo county sealer of weights and measures.

- (b) Dial of Taximeter. Every taximeter shall be equipped so as to register the cost of transportation of passengers in the city and the taximeter shall be so placed in the taxicab that the reading dial showing the amount to be charged may be readily seen by the passengers in the taxicab. It is unlawful for any owner, driver or operator of a taxicab in the city to charge any sum in excess of the amount shown on the dial for conveyance in the taxicab.
- (c) Taximeter Flag. It is unlawful for a taxicab driver while carrying passengers to display the flag or the device attached to the taximeter in such position as to denote that the vehicle is for hire or to cause the taximeter to record when the vehicle is not actually employed or to fail to cause the device on the taximeter to be placed into a nonrecording position at the termination of each and every service.
- (d) Rates. It is unlawful for the owner or driver of any taxicab in the city to fix, charge or collect for a service a rate more than the rate approved by resolution of the city council. Applications for any adjustment in rates shall first be filed in writing with the city clerk, setting forth justification for such adjustment and requesting a hearing thereon. The application shall include a comparison to rates being charged in other cities in San Mateo and Santa Clara Counties. The city council shall set the matter for hearing and any interested person may be heard concerning the requested adjustment.

(Ord. 1484 § 2, (1993); Ord. 1740 § 2, (2004))

§ 6.36.120. Safe maintenance of taxicabs—Inspection.

- (a) All public passenger vehicles for hire shall be under the supervision and control of the chief of police, and he or she shall not permit any driver to operate any taxicab in the city while the same or any equipment used thereon, or therewith, is unsafe, defective or in an unsanitary condition. Every taxicab shall be at all times subject to the inspection of any police officer of the city.
- (b) At least every 12 months every taxicab shall be safety checked by an independent state licensed auto service or repair facility which is an approved brake and lamp station. Written proof of the safety check shall be carried in each vehicle.
- (c) Before placing any taxicab in operation under a permit issued pursuant to this chapter, the taxicab operator shall present the taxicab to the police department for inspection to ensure that the taxicab complies with the requirements of this chapter. In addition, not more than 60 days before the annual renewal of the operator's permit, the operator shall present all of its taxicabs that are being operated by the taxicab operator under the operator's permit to the police department for inspection to ensure that the taxicab complies with the requirements of this chapter.
- (d) An inspection fee as established by resolution adopted by the city council from time to time shall be paid by the taxicab operator before the initial or annual city inspection is performed.

(Ord. 1484 § 2, (1993); Ord. 1522 § 2, (1995); Ord. 1823 § 5, (2008))

§ 6.36.130. Insurance.

Each owner shall carry liability insurance in the amount of not less than \$350,000 per accident for bodily injury and property damage. All insurance shall name the city as additional insured; such insurance shall be primary to all others and shall contain a provision that it will not be canceled except upon 30 days' written notice to the city. All insurance carriers shall be admitted in the state of California. Evidence of current insurance shall be on file with the city clerk at all times.

(Ord. 1484 § 2, (1993); Ord. 1505 § 1, (1994); Ord. 1540 § 1, (1996); Ord. 1708 § 2, (2003))

§ 6.36.132. Markings and decal required.

- (a) Each taxicab operated by the holder of an owner's permit shall be painted and marked in accordance with the application currently on file with the license collector.
- (b) No color, markings or insignia shall be allowed which is the same as or similar to the colors, markings or insignia then currently on file by any other permittee.
- (c) Each taxicab shall, in plain view on each side of its exterior, have the business name and telephone number of the owner printed in letters at least two inches high. Magnetic or other temporary signs shall not be allowed. Each taxicab shall also display in such area the identifying number for the taxicab which number shall be issued by the police department.
- (d) Each taxicab shall display a decal issued by the police department for that vehicle. A new decal shall be issued each year at the time of payment of the business license for the vehicle. No person shall alter, remove or transfer the decal to another vehicle.

(Ord. 1540 § 1, (1996))

§ 6.36.133. Replacing taxicabs.

If an owner desires to replace any taxicab for which he or she has a permit with another taxicab, he or she shall so inform the police department in writing. The notification shall be accompanied by all pertinent information and data to identify the vehicle and shall be accompanied by a policy of insurance as required herein. The decal from the replaced vehicle shall be returned to the police department or evidence provided that it has been destroyed. In the event the police department finds that such taxicab fulfills the requirements set forth in this chapter, it shall permit such replacement.

(Ord. 1540 § 1, (1996))

§ 6.36.135. Preferences prohibited.

It is unlawful for any person, having the ability or authority to control the selection of taxicabs for hire at any premises, to solicit a fee or other compensation or favor for the purpose of granting preference or priority rights to any taxi.

(Ord. 1505 § 2, (1994))

§ 6.36.140. Driver to take direct route to destination.

Any driver employed to transport passengers to a definite point shall take the most direct route that will take the passengers to their destination, safely and expeditiously.

(Ord. 1484 § 2, (1993))

§ 6.36.150. Failure to pay lawful fare.

It is unlawful for any person, except where credit is extended, to refuse to pay the lawful fare, as fixed in this chapter, for the use of any taxicab, after hiring the same.

(Ord. 1484 § 2, (1993))

§ 6.36.160. Refusal of service.

It is unlawful for any driver, operating under a permit issued pursuant to the terms of this chapter, to refuse, when the vehicle is in service and not otherwise engaged, to provide service to or from any location in the city or to refuse to transport any person who presents him or herself for carriage in a sober and orderly

manner and for a lawful purpose.

(Ord. 1484 § 2, (1993))

§ 6.36.170. Display of driver's permit.

The driver's permit shall be fixed in a conspicuous place in the taxicab so as to be seen from the passenger's compartment. It shall display a photo of the driver and shall set forth the name, address and telephone number of the owner of the taxicab and the name of the driver.

(Ord. 1484 § 2, (1993); Ord. 1522 § 3, (1995))

§ 6.36.180. Change of employment by driver.

The owner shall notify the city immediately upon termination of a driver's employment. The driver's permit shall become void upon such termination and shall be returned to the police department. It may be renewed upon reemployment under the procedures set forth in Section 6.36.190 hereof.

(Ord. 1484 § 2, (1993); Ord. 1540 § 1, (1996))

§ 6.36.190. Expiration and renewal of driver's permit.

- (a) Every operator's permit shall be renewed annually, no later than June 1st of each year. Any permit not renewed shall be null and void on July 31st of that year.
- (b) Every driver's permit shall be renewed annually, no less than 90 days prior to the anniversary date of its issuance. Any permit not renewed shall be null and void on such anniversary date.
- (c) The investigation fee for renewals shall be as established by resolution adopted by the city council from time to time, no part of which is refundable. Additional fees may be charged to cover costs such as processing fingerprints. Prior to permit renewal being granted the permittee must provide a new photograph and current information concerning any changes to the facts set forth in the original application. Failure to renew the permit in a timely manner shall be cause for requiring a completely new permit.

(Ord. 1484 § 2, (1993); Ord. 1540 § 1, (1996); Ord. 1823 § 6, (2008))

**CHAPTER 6.38
FORTUNETELLING AND PSYCHIC SERVICES**

§ 6.38.010. Fortunetelling and psychic services.

- (a) It is unlawful for any person to conduct, engage in, carry on, participate in or practice fortunetelling or psychic services or cause the same to be done for pay, without having first obtained a permit therefor and without having posted and maintained in full force and effect a surety bond as required by this chapter.
- (b) No person shall conduct a fortunetelling or psychic service business at a location that is not in accord with Title 25 of this code, nor shall any person conduct a fortunetelling or psychic service business at any address or location other than the address or location listed on the application and for which the permit is issued.

(Ord. 1310 § 1, (1985); Ord. 1484 § 2, (1993); Ord. 1753 § 3, (2005))

§ 6.38.020. Definitions.

For the purpose of this chapter the following words shall have the meanings as hereinafter set forth:

"For pay" means for a fee, reward, donation, loan or receipt of anything of value.

"Fortunetelling" means telling of fortunes, forecasting of futures or furnishing of any information not otherwise obtainable by the ordinary process of knowledge, by means of any occult, psychic power, faculty, force, clairvoyance, clairaudience, cartomancy, psychology, psychometry, phrenology, spirits, tea leaves or other such reading, mediumship, seership, prophecy, augury, astrology, palmistry, necromancy, mind-reading, telepathy or other craft, art, science, cards, talisman, charm, potion, magnetism, magnetized article or substance, gypsy cunning or foresight, crystal gazing, oriental mysteries or magic of any kind or nature.

(Ord. 1310 § 1, (1985); Ord. 1484 § 2, (1993))

§ 6.38.030. Application for license.

Any person desiring a fortuneteller's permit shall first make application therefor by filing with the license collector a sworn application in writing on a form to be furnished by the license collector which shall give the following information:

- (a) Name, residence and telephone number;
- (b) The previous address of the applicant for the five years immediately prior to the present address of the applicant;
- (c) Social Security number and driver's license number if any;
- (d) Birth certificate or other written proof acceptable to the police department that the applicant is at least 18 years of age;
- (e) Fingerprints (taken by the police department for criminal history investigation);
- (f) Applicant's height, weight, color of eyes and hair;
- (g) Business, occupation or employment of the applicant for the five years immediately preceding the date of application;

- (h) The business license and permit history of the applicant; whether such person, in previously operating in this or another city or state, under license or permit has had such license or permit revoked or suspended, the reason therefor, and the business activity or occupation subsequent to such action of suspensions or revocation;
- (i) Whether such person has ever been convicted of any crime, except misdemeanor traffic violations. If any person mentioned in this subsection has been so convicted, a statement must be made giving the place and court in which such conviction was had, the specific charge under which the conviction was obtained and the sentence imposed as a result of such conviction;
- (j) Such other identification and information necessary to discover the truth of matters hereinabove specified as required to be set forth in the application;
- (k) The application will also include a separately signed waiver and release authorizing the city of Burlingame, its agents, and employees to seek information and to conduct an investigation into the truth of the statements made on the application.

(Ord. 1310 § 1, (1985); Ord. 1484 § 2, (1993))

§ 6.38.040. Business license.

At the time of application for a permit applicant shall also apply for and furnish the information necessary to obtain a business license as required by Chapter 6.04 of this code. No business license shall be issued until the investigation is completed and the permit is approved. The business license shall be issued upon payment of the business license fee as provided in Chapter 6.04 of this code.

(Ord. 1310 § 1, (1985); Ord. 1484 § 2, (1993))

§ 6.38.050. Surety bond.

The applicant shall post with the city clerk, a surety bond in the principal sum amount of \$10,000 executed as surety by a good and sufficient corporate surety authorized to do a surety business in the state of California and as principal by the applicant. The form of the bond shall have been approved by the city attorney and shall have been given 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, theft or other unfair dealings suffered by an by patron of the applicant within the city during the term of the permit and for a period of five years from and after the date of the permit issued, or any renewal thereof.

(Ord. 1484 § 2, (1993))

§ 6.38.060. Permit fee and investigation.

All applications for permits shall be accompanied by an investigation fee as established by resolution adopted by the city council from time to time, no part of which is refundable, and a surety bond meeting the requirements of this chapter. Additional fees may be charged to cover costs of processing the applicant's fingerprints by the state of California. Upon receipt of said application, the license collector shall refer the application to the police department which shall make a written recommendation to the license collector within 30 days, provided that said 30 days may be extended for such period as may be necessary to obtain fingerprint records from the appropriate state agency.

(Ord. 1484 § 2, (1993); Ord. 1823 § 7, (2008))

§ 6.38.070. Issuance or denial of permit.

The police department shall issue such permit if all required information has been furnished and the report

filed finds that:

- (a) The character of the applicant is satisfactory;
- (b) The establishment as proposed, if permitted, would comply with all applicable laws, including, but not limited to, the city's zoning regulations;
- (c) The applicant has not been convicted of any violation of this chapter or of any law relating to fraud or moral turpitude.
- (d) The applicant has not knowingly and with intent to deceive made any false, misleading or fraudulent oral or written statements in his or her application or to any person investigating his or her application. The permit shall be denied if all of the above findings cannot be made or if all of the information required is not supplied to the city. If denied, the reasons therefor shall be endorsed upon the application, and the police department shall notify the applicant thereof by first class mail.

(Ord. 1484 § 2, (1993))

§ 6.38.080. Appeal.

In the event a permit has been denied, applicant shall have 10 days from the date of mailing the notice within which to appeal to the city council by filing a written application for a public hearing with the clerk of the city. Notice and a public hearing shall be given as follows:

- (a) Upon receipt of the appeal, the city clerk shall set the matter for hearing before the council, at a regular meeting thereof, within 30 days from the date of filing the appeal and shall give written notice such hearing to the applicant at his or her address set forth in the appeal by first class mail at 10 days prior thereto;
- (b) On the date set, the council shall hear the matter, and may continue it from time to time before reaching a decision. If the council finds that the applicant has satisfactorily met all of the requirements of this chapter, it shall order the issuance of the permit and business license. If it finds that the requirements have not been met satisfactorily, it shall deny the permit and license;
- (c) All findings of the council shall be final and conclusive upon the applicant.

(Ord. 1484 § 2, (1993))

§ 6.38.090. Revocation or suspension of permits.

Any permit issued under this chapter shall be subject to suspension or revocation by the city manager for violation of, or for causing or permitting violation of any provision of this chapter or for any grounds that would warrant the denial of such permits in the first instance or upon termination or revocation of the bond required by this chapter.

Prior to the suspension or revocation of any permit issued under this chapter, the permittee shall be entitled to a hearing before the city manager or his or her designated representative, at which time evidence will be received for the purpose of determining whether or not such permit shall be suspended or revoked or whether the permit may be retained. In the event the permit is suspended or revoked, the notification of the reasons for such suspension or revocation shall be set forth in writing and sent to the permittee by means of first class mail.

In the event of suspension or revocation of any permit, the permittee may appeal to the city council in the manner as provided in Section 6.38.080.

(Ord. 1484 § 2, (1993))

§ 6.38.100. License and permit not transferable.

No license or permit issued under the provisions of this chapter shall be used or worn at any time by any person other than the one to whom it is issued.

(Ord. 1484 § 2, (1993))

§ 6.38.110. Display of permit.

Each person issued a permit under this chapter shall have it in his or her possession, and it shall be displayed to any person upon request.

(Ord. 1484 § 2, (1993))

§ 6.38.120. Exceptions.

- (a) The provisions of this section shall not apply to any person solely by reason of the fact that he or she is engaged in the business of entertaining the public by demonstrations of mindreading, mental telepathy, thought conveyance or the giving of horoscopic readings at public places and in the presence of and within the hearing of other persons and within the hearing of other persons and at which no questions are answered, as part of such entertainment, except in a manner to permit all persons present at such public place to hear such answers.
- (b) No person shall be required to pay any fee or take out any permit for conducting or participating in any religious ceremony or service when such person holds a certificate of ordination as a minister, missionary, medium, healer or clairvoyant, hereinafter collectively referred to as minister, form any bona fide church or religious association maintaining a church and holding regular services and having a creed or set of religious principles that is recognized by all churches of like faith, provided that:
 - (1) Except as provided in subsection (b) of this section, the fees, gratuities, emoluments and profits here shall be regularly accounted for and paid solely to or for the benefit of the bona fide church or religious association as defined in this subsection (b);
 - (2) The minister holding a certificate of ordination from such bona fide church or religious association, as defined in this subsection (b) shall file with the license collector a certified copy of the minister's certificate of ordination with the minister's name, age, street address and phone number in this city where the activity set forth in this subsection (b) is to be conducted;
 - (3) Such bona fide church or religious association, as defined in this subsection (b), may pay to its ministers a salary or compensation based upon a percentage of basis pursuant to an agreement between the church and the minister which is embodied in a resolution and transcribed in the minutes of such church or religious association.

(Ord. 1484 § 2, (1993))

CHAPTER 6.39 MASSAGE ESTABLISHMENTS

Note: Editor's Note: Due to a typographical error, this chapter was originally assigned Chapter 6.50. To remedy the duplicative chapter assignment, this chapter has been renumbered to 6.39. All internal references have been revised, and no substantive changes

§ 6.39.010. Purpose.

It is the purpose and intent of the city council that the operation of massage services and persons offering services therein, wherein the principal function is giving of massages, as defined in this chapter, should be regulated in the interests of public health, safety and welfare by providing minimum sanitation and health standards for such establishments, and to ensure that persons offering services therein shall possess the minimum qualifications necessary to operate such businesses and to perform such services offered. It is the city's intent to rely upon the uniform statewide regulations set forth in California Business and Professions Code Section 4600 et seq. It is further intended that these provisions provide a framework that is consistent with regulations imposed by nearby communities on similar businesses.

(Ord. 1894 § 2, (2013); Ord. 1918 § 1, (2015); Ord. 1997 § 3, (2021))

§ 6.39.020. Definitions.

For the purpose of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

"Applicant" means any person or entity applying for registration from the city, including each of the following persons: the responsible managing officer/employee, a general partner, a limited partner, a shareholder, a sole proprietor, or any person who has a 5% or greater ownership interest in a massage business whether as an individual, corporate entity, limited partner, shareholder or sole proprietor.

"California Massage Therapy Council" means the message therapy organization formed pursuant to California Business and Professions Code Section 4600 et seq., as amended, and referred to as CAMTC herein.

"Certificate of registration" means a certificate issued by the police department upon submission of satisfactory evidence that an individual or business has a current and valid state certification and has satisfied all other requirements pursuant to the provisions of this chapter.

"Certified" means any person holding a current and valid state certificate issued by the CAMTC pursuant to California Business and Professions Code Section 4600 et seq., as amended.

"Certified massage business" means any business where the only persons employed or used by that business to provide massage services have current and valid state certifications.

"Certified massage practitioner" means any person holding a current and valid state certificate issued by the CAMTC pursuant to California Business and Professions Code Section 4600 et seq., as amended.

"Health officer" means the health officer of the county of San Mateo or the health officer's authorized representative.

"Massage" means any method of treating the external parts of the human body for any form of consideration. This includes, but is not limited to, bathing, rubbing, pressing, stroking, kneading, tapping, pounding, vibrating or stimulating with the hands, other parts of the human body, or any instrument, with or without the aid of any instruments or supplementary aids, such as oils and creams.

"Massage establishment" means any business where massages, baths or health treatments, involving massage, hot tubs, saunas, or baths as the principal function, are given, engaged in or carried on, or permitted to be given, engaged in or carried on in any manner described in this section.

"Massage practitioner" means any person who administers a massage within a massage establishment for any form of consideration.

"Off-premises massage business" means any massage business that is conducted at locations other than at specified business premises maintained by the business operator for the purpose of providing massage on the premises.

"Person" means any individual, partnership, firm, association, corporation, joint venture, or combination of individuals.

"Registered" means any individual or business having a current and valid certificate of registration from the city, unless otherwise noted.

(Ord. 1894 § 2, (2013); Ord. 1918 § 1, (2015); Ord. 1997 § 3, (2021))

§ 6.39.030. State certification and city registration required.

- (a) It is unlawful for any person to operate, engage in, conduct, carry on, or permit to be operated, engaged in, conducted or carried on (as the owner of the business premises or in any other capacity) in or upon any premises within the city, the business of a massage establishment or an off-premises massage business all as defined herein, unless the person has first been certified for such a business, and the certification remains in effect in accordance with the provisions of this chapter.
- (b) It is unlawful for any person to act as a massage practitioner unless that person has first registered with the city and the registration remains in effect in accordance with the provisions of this chapter.

(Ord. 1894 § 2, (2013); Ord. 1918 § 1, (2015); Ord. 1997 § 3, (2021))

§ 6.39.040. Grant of authority.

The police chief or designated representative shall have the power and authority to promulgate rules, regulations, and requirements consistent with provisions of this chapter and other law in connection with the issuance of a certificate of registration. The police chief may designate an employee of his or her department to make decisions and investigations and take actions under this chapter.

(Ord. 1894 § 2, (2013); Ord. 1918 § 1, (2015); Ord. 1997 § 3, (2021))

§ 6.39.050. Application for registration.

Any person, except as herein otherwise provided, desiring to operate a massage business, or to engage in the practice of giving massages, shall first file a registration application to the police department on forms provided by the city. This application shall contain all of the following:

- (a) State Certification Verification.
 - (1) The applicant and all massage practitioners currently employed or to be employed in the massage business shall produce in person all of the following:
 - (A) A valid and current state certification;
 - (B) A valid and current CAMTC issued identification card;
 - (C) A current and valid driver's license or identification card issued by a state, federal

governmental agency, or photographic identification bearing a bona fide seal by a foreign government;

- (D) With respect to the approved massage schools attended by the applicant and all certified massage practitioners, certified copies of transcripts, a true and correct copy of the diploma(s) issued, and current contact information of all school(s) the certified massage practitioners attended;
 - (E) If the applicant is the owner of the business and a certified massage practitioner, the applicant shall produce a sworn statement that the certified massage business shall employ only certified massage practitioners;
 - (F) A list of other jurisdictions where massage registration certificates or similar licenses are held, and a statement as to whether any of those certificates or licenses have been revoked or suspended along with a description of the reasons for such revocation or suspension.
- (2) An applicant who is not certified and owns 5% or more of the business shall produce in person all of the following:
- (A) Name, residence, and telephone number;
 - (B) Acceptable proof that the employee is at least 18 years of age;
 - (C) Social Security number and driver's license, if any;
 - (D) The previous address of the applicant for the 10 years immediately prior to the present address of the applicant;
 - (E) Business, occupation or employment of the applicant for the 10 years immediately preceding the date of application;
 - (F) Fingerprints (taken by the police department for criminal history investigation) and three portrait photographs at least two inches by two inches, taken within the last 60 days immediately prior to the date of the filing of the application, showing the head and shoulders of the applicant in a clear and distinct manner;
 - (G) Whether the applicant has ever been convicted of any crime, except misdemeanor traffic violations. For each such conviction, a statement shall be made giving the place and court in which the conviction occurred, the specific charge under which the conviction was obtained and the sentence imposed as a result of the conviction;
 - (H) Whether any previous person while employed by the applicant has been convicted in a court of competent jurisdiction of an offense involving conduct which requires registration under California Penal Code Section 290, or a violation of Sections 266(i), 311 through 311.7, 314, 315, 316, 318, 318.5, 318.6, or 647(a), (b), (d), (h), (i), or (k) of the Penal Code;
 - (I) A list of other jurisdictions where massage registration certificates or similar licenses are held, and a statement as to whether any of those certificates or licenses have been revoked or suspended along with a description of the reasons for such revocation or suspension.
- (b) General Business Information.
- (1) The full true name under which the business will be conducted.

- (2) The present or proposed address where the business is to be conducted. If the application is for an off-premises massage business, then the address at which the business itself is operated.
- (3) A complete description of all services to be provided.
- (4) The name and address of any massage business or other like business owned or operated by any person whose name is required to be given pursuant to this section.
- (5) A description of any other business to be operated on the same or adjoining premises, owned or controlled by the applicant.
- (6) The contact information of the owner and lessor of the real property, if any, upon or in which the business is to be conducted.
- (7) A true and complete copy of any lease associated with the premises.
- (8) If the applicant is a corporation, the applicant shall provide certified copies of the Articles of Incorporation and Bylaws, along with the name and residence addresses of each of its current officers and directors, stockholders holding more than 5% of the stock of that corporation, and its registered agent for receipt of process.
- (9) If the applicant is a partnership, the applicant shall provide the names and residence address of each of the partners, including limited partners. If the applicant is a limited partnership, it shall furnish a copy of its certificate of limited partnership as filed with the county clerk. If one or more partners is a corporation, the provisions of this subsection pertaining to corporate applicants shall apply to the corporate partner.
- (c) Such other identification and information necessary to discover the truth of matters hereinbefore specified as required to be set forth in the application.
- (d) A separately signed waiver and release authorizing the city and its authorized agents, and employees to obtain information and to conduct an investigation into the truth of the statements made on the application.
- (e) A signed statement that the owner/applicant shall be responsible for the conduct of all employees or independent contractors working on the premises of the business and that failure to comply with California Business and Professions Code Section 4600 et seq., with any local, state, or federal law, or with the provisions of this chapter may result in the suspension or revocation of the certificate of registration.
- (f) Payment of All Appropriate Fees. A registration fee, if applicable, shall be set by resolution of the city council and shall be required only for background check for those applicants of a certified massage business who are not state certified and own 5% or more of the certified massage business. A registration fee shall not be charged to certified applicants.
- (Ord. 1894 § 2, (2013); Ord. 1918 § 1, (2015); Ord. 1997 § 3, (2021))

§ 6.39.060. Registration process.

Registration with the city is required in order to conduct a massage business. Initial registration shall be for a period of two years, subject to renewal as described below.

- (a) The police department shall issue a certificate of registration to any certified sole proprietorship that demonstrates all of the following:

- (1) That the operation, as proposed by the applicant, if permitted, complies with all applicable laws, including, but not limited to, the city's building, zoning, business license, and health regulations. If a fixed location for the massage business is proposed, no registration certificate shall be granted for a new massage establishment opening within 300 feet of an existing massage establishment. (Registered massage establishments in existence as of the effective date of the ordinance codified in this chapter that are in compliance with the provisions of this chapter are permitted to remain in their current locations, subject to all otherwise-applicable restrictions.)
 - (2) The owner is the only person employed or used by that business to provide massage services.
 - (3) The owner holds a valid and current state certificate issued pursuant to Chapter 10.5 of the California Business and Professions Code and that the owner/applicant is the same person to whom the CAMTC issued a valid and current state certificate and identification card.
 - (4) That the applicant has not made a material misrepresentation in this application or with respect to any other document or information required by the city with respect to this application or for an application for a city massage permit under applicable law within the last 10 years.
- (b) The police department shall issue a certificate of registration to a certified massage business that demonstrates all of the following:
- (1) That the operation, as proposed by the applicant, if permitted, complies with all applicable laws, including, but not limited to, the city's building, zoning, business license, and health regulations. If a fixed location for the massage business is proposed, no registration certificate shall be granted for a new massage establishment opening within 300 feet of an existing massage establishment. (Registered massage establishments in existence as of the effective date of the ordinance codified in this chapter that are in compliance with the provisions of this chapter are permitted to remain in their current locations, subject to all otherwise-applicable restrictions.)
 - (2) The owner holds a valid and current state certificate issued pursuant to Chapter 10.5 of the California Business and Professions Code and that the owner/applicant is the same person to whom the CAMTC issued a valid and current state certificate and identification card.
 - (3) The massage business employs or uses only state certified massage practitioners whose certifications are valid and current and that owners of the state certificates are the same persons to whom CAMTC issued valid and current identification cards.
 - (4) That the applicant has not made a material misrepresentation in this application or with respect to any other document or information required by the city with respect to this application or for an application for a city massage permit under applicable law within the last five years.
 - (5) That the background check for any applicant/owner authorized by this chapter shows that such person has not been required to register under the provisions of Section 290 of the California Penal Code; within five years preceding the application had a conviction in court of competent jurisdiction for any of the crimes identified in Section 6.39.040(a)(2) of this chapter; has not had an individual or business permit or license with any agency, board, city, county, territory, or state, denied, revoked, restricted, or suspended within the last five years; and has not been subject to an injunction for nuisance under Penal Code Sections 11225 through 11235 within the last five years.

(Ord. 1894 § 2, (2013); Ord. 1918 § 1, (2015); Ord. 1997 § 3, (2021))

§ 6.39.070. Appeal.

If registration or renewal is denied, applicant has 13 calendar days from the date of mailing the denial notice within which to appeal by filing a written application for a public hearing with the clerk of the city. The written appeal application must state the grounds on which the applicant objects to the denial of the registration or renewal. Notice and a public hearing shall be given as follows:

- (a) Upon receipt of the appeal, the city clerk shall set the matter for hearing before a hearing officer, as designated by the city manager, who may be an independent hearing officer retained by the city or a city department head other than the city attorney or chief of police, as soon as is practicable and shall give written notice of the hearing to the applicant at the applicant's address set forth in the appeal by first class mail at least 30 days prior to the hearing date, unless an earlier date is set by mutual agreement of the city and appellant. The date for the appeal hearing may be modified upon the request of the applicant or upon consultation and agreement between the applicant and the city. The appeal hearing shall be public, and notice of the scheduled hearing shall be provided in the same manner as for appeals of decisions of the planning commission.
- (b) On the date set, the hearing officer shall hear the matter, and may continue it from time to time before reaching a decision. The proceedings before the hearing officer shall be informal and the rules of evidence shall not apply. However, the applicant and any interested parties may present such evidence as they deem appropriate, provided it complies with any procedures set forth by the council for appeals. If the hearing officer finds that the applicant has satisfactorily met all of the requirements of this chapter, she or he shall order the issuance of the registration and business license. If she or he finds that the requirements have not been met satisfactorily, she or he shall deny the registration.
- (c) All findings of the hearing officer shall be final and conclusive upon the applicant.

(Ord. 1894 § 2, (2013); Ord. 1918 § 1, (2015); Ord. 1967 § 1, (2019); Ord. 1997 § 3, (2021))

§ 6.39.080. Business license required.

At the time of an initial application for an operator's permit, applicant shall also apply for and furnish the information necessary to obtain a business license as required by Chapter 6.04 of this code. No business license shall be issued until the investigation under this chapter is completed. The business license shall then be issued upon payment of the business license fee as provided in Chapter 6.04 of this code. The business license fee shall be commensurate with the business license fee charged to other professionals as established by this code.

(Ord. 1894 § 2, (2013); Ord. 1918 § 1, (2015); Ord. 1997 § 3, (2021))

§ 6.39.090. Exemptions from massage practitioner permit requirements.

The massage practitioner registration required by this chapter shall not apply to the following:

- (a) Physicians, surgeons, chiropractors, osteopaths, acupuncturists, nurses and physical therapists, and occupational therapists duly licensed to practice in the state of California, but only when engaged in the practice for which they are so licensed and in accordance with the terms of the licensing.
- (b) Employees of hospitals, nursing homes, sanitariums, or other health care facilities duly licensed by the state of California, but only when engaged in the scope of their employment, and only at their place of employment at the health care facility, and only within the scope of and in conformance with the state license.
- (c) Cosmetologists or barbers who are licensed by the state of California, but only when engaged in the

practice for which they are so registered and in accordance with the terms of the registration.

- (d) Accredited elementary school, high school, or college coaches and trainers employed by a elementary, high school, or college, but only while acting within the scope of employment to the school.
 - (e) Trainers of semi-professional or professional athletic teams, but only while acting within the scope of employment to the team.
- (Ord. 1894 § 2, (2013); Ord. 1918 § 1, (2015); Ord. 1997 § 3, (2021))

§ 6.39.100. Registration not entitlement to violate other laws.

The issuance of a certificate under this chapter shall not entitle the registrant to engage in any business or practice which for any reason is in violation of any law or ordinance and shall not entitle the holder thereof to carry on any business or practice unless he or she has complied with all the requirements under the other ordinances of the city and all other applicable laws, nor shall it entitle the registrant to carry on any business in any building or on any premises designated in such permit in the event that such business or premises are situated in a zone or locality in which the conduct of such business is a violation of any law.

(Ord. 1894 § 2, (2013); Ord. 1918 § 1, (2015); Ord. 1997 § 3, (2021))

§ 6.39.110. Health and safety operating requirements.

Where applicable state laws, as they may be amended from time to time, directly conflict with the following, the state provisions shall prevail. Otherwise, all massage establishments shall be subject to periodic inspection by the city for compliance with the following:

- (a) A massage establishment shall post a list of services, including prices, in readily understood language in an open, public place on the premises of the establishment. No owner, operator, responsible managing employee, manager, employee, contractor, or registrant shall permit nor offer any massage services on the premises other than those posted on the list. A massage therapist for an off-premises massage business shall provide to clients and to the public upon request the list of services described in this paragraph.
- (b) All persons shall only provide massages between the hours of 7:00 a.m. and 9:00 p.m. The hours stated here are the maximum permitted hours, actual hours may be further limited by applicable zoning or use permit restrictions. All massage activities must be completed within business hours. Patrons and visitors shall be permitted in the massage business only during hours of operation. The hours of operation shall be displayed in a conspicuous public place in the reception area and in any front window clearly visible from outside of the massage business. Massages commenced prior to 9:00 p.m. must conclude at that hour, regardless of the duration of the massage.
- (c) No massage business shall place, publish, or distribute any advertising matter that depicts any portion of the human body that would reasonably suggest to prospective clients that any service is available other than those services listed pursuant to this section. Nor shall any massage business employ language in the text of such advertising that would reasonably suggest to a prospective client that any service is available other than those services listed pursuant to this section.
- (d) All employees in a massage establishment (including off-premises massage businesses) and massage practitioners shall perform their work fully clothed, be clean and wear clean outer garments whose use is restricted to the establishment. Massage practitioners shall wear CAMTC-provided identification while on the premises. If conducting an off-premises massage, the practitioner must

show their CAMTC-provided identification to the patron prior to conducting any massage activity. Doors to dressing rooms, bathing rooms, and treatment rooms shall open inward, and shall not be locked. Draw drapes, curtain enclosures, or accordion-pleated closures are acceptable on all inner dressing and treatment rooms in lieu of doors.

- (e) All establishments shall be provided with clean, laundered sheets and towels in sufficient quantity and shall be laundered after each use thereof and stored in closed, sanitary cabinets. Heavy white paper may be substituted for sheets provided that such paper is used only once for each person and then discarded into a sanitary receptacle. Sanitary approved receptacles shall be provided for the storage of all soiled linens.
- (f) At least one entrance door allowing access to the establishment and any building it may be in, shall remain unlocked during business hours; notwithstanding this provision, the facility shall also comply with exiting and entrance requirements of other applicable laws and regulations. Where there is only one employee or a sole proprietor on site, entrance doors may be locked. All premises and facilities shall be maintained in a clean and sanitary condition, and shall be thoroughly cleaned each day of operation. The premises and facilities shall meet all code requirements of the city as to safety of the structure.
- (g) Minimum lighting shall be at least one sixty (60) watt light in each enclosure where massage services are performed. The light switch for the interior lights in such enclosure will be within the enclosure. There shall be no light in the enclosure that is operated from outside the enclosure. There shall be no sound device (i.e., buzzer or bell) than can be operated from outside the massage enclosure.
- (h) Secure dressing and locker facilities shall be provided for patrons. Security deposit facilities for the protection of valuables of the patrons shall also be available.
- (i) No massage building located in a building or structure with exterior windows fronting a public street, highway, walkway, or parking area shall block visibility into the interior reception and waiting area through the use of curtains, closed blinds, tints, or any other material that obstructs, blurs, or darkens the view into the premises.
- (j) Each massage establishment shall keep a written record of the date and hour of each treatment; the name of the massage therapist administering the treatment; and the type of treatment administered recorded on a patron release form. Such written record shall be open to inspection only by officials charged with the enforcement of this chapter and for no other purpose. Such records will be kept on the premises of the massage establishment for a period of two years from the date of service. In the case of an off-premises massage business, the permittee shall maintain the above specified records at the business address provided by the permittee on the business permit application.
- (k) All establishments shall comply with the following minimum standards of conduct:
 - (1) No employee, contractor, or massage practitioner shall make any intentional, occasional, or repetitive contact with the mouth, genitals, anus, or breasts of another person in the massage establishment or while providing massage services.
 - (2) No person afflicted with an infection or parasitic infestation transmissible to a patron shall knowingly massage a patron, or remain on the premises of a certified massage business while so infected or infested.
 - (3) All persons on the massage establishment premises must be clothed in non-transparent clothing at all times that shall not expose their genitals, pubic area, or buttocks, or for any operator of a

massage business to allow prohibited dress. Massage clients currently receiving a massage shall have appropriate draping to cover female breasts and genital and pubic areas.

(Ord. 1894 § 2, (2013); Ord. 1918 § 1, (2015); Ord. 1997 § 3, (2021))

§ 6.39.120. Display of signs and permits.

No person registered pursuant to this chapter shall begin operations until a recognizable and legible sign has been posted at the main entrance to the business premises. All certificates of registration and shall be posted within the establishment in a location immediately available for inspection for representatives of the city. No person granted a registration pursuant to this chapter shall operate under any other name or at any other location than that specified in the certificate of registration, except that off-premises massage businesses may operate at other locations within the city subject to the regulations in this chapter. All signs must be in compliance with applicable sign ordinances.

(Ord. 1894 § 2, (2013); Ord. 1918 § 1, (2015); Ord. 1997 § 3, (2021))

§ 6.39.130. Inspection by officials.

The investigating officials of the city, including the health officer, shall have the right to enter the premises from time to time during regular business hours for the purpose of making reasonable inspections to observe and enforce compliance with the provisions of this chapter and building, fire, electrical, plumbing or health regulations.

(Ord. 1894 § 2, (2013); Ord. 1918 § 1, (2015); Ord. 1997 § 3, (2021))

§ 6.39.140. Revocation or suspension of permits.

- (a) Certificates of registration may be suspended or revoked or renewal may be denied upon any of the following grounds:
 - (1) A practitioner is no longer in possession of current and valid CAMTC certification. This subsection shall apply to a sole proprietor or a person employed or used by a massage business to provide massage.
 - (2) An owner or sole proprietor: is required to register under the provisions of California Penal Code Section 290 (sex offender registration); is convicted of California Penal Code Section 266i (pandering), 315 (keeping or residing in a house of ill-fame), 316 (keeping disorderly house), 318 (prevailing upon person to visit a place for prostitution), 647(b) (engaging in or soliciting prostitution), 653.22 (loitering with intent to commit prostitution), 653.23 (supervision of prostitute); has a business permit or license denied, revoked, restricted, or suspended by any agency, board, city, county, territory, or state; is subject to an injunction for nuisance pursuant to California Penal Code Sections 11225 through 11235 (red light abatement); is convicted of a felony offense involving the sale of a controlled substance; is convicted of any crime involving dishonesty, fraud, deceit, violence, or moral turpitude; or is convicted in any other state of an offense which, if committed in this state, would have been punishable as one or more referenced offenses in this subdivision.
 - (3) The city determines that a material misrepresentation was included on the application for a certificate of registration or renewal.
 - (4) Violations of any of the following occurred on the premises of a massage business, during an off-premises massage, or were committed by a practitioner: California Business and Professions Code Section 4600 et seq.; any local, state, or federal law; or the provisions of this chapter.

- (b) Prior to the suspension or revocation or refusal of renewal of any permit issued under this chapter, the registrant shall be entitled to a hearing before the city manager or the manager's designated representative, at which time evidence will be received for the purpose of determining whether or not the registration shall be suspended or revoked or renewal refused or whether the registration may be retained. In the event the registration is suspended or revoked or renewal refused, the notification of the reasons for such suspension or revocation shall be set forth in writing and sent to the registrant by means of first class mail. The manager may impose conditions or restrictions on the registration in lieu of suspension or revocation to attempt to eliminate violations or nuisances that have been found.
- (c) In the event of suspension or revocation of any registration, the registrant may appeal to the city council in the manner as provided in Section 6.39.070.

(Ord. 1894 § 2, (2013); Ord. 1918 § 1, (2015); Ord. 1997 § 3, (2021))

§ 6.39.150. Sale or transfer of establishment.

Upon sale, transfer or relocation of a massage establishment, the registration shall not be transferable without the written approval of the chief of police and the finance director. An application for such a change shall be accompanied by a nonrefundable filing and investigation fee as established by resolution adopted by the city council from time to time and provide all of the information required in Section 6.39.050.

(Ord. 1894 § 2, (2013); Ord. 1918 § 1, (2015); Ord. 1997 § 3, (2021))

§ 6.39.160. Notice of changes.

All persons registered pursuant to this chapter shall report immediately to the city finance department and the police department all changes of residence or business address or change of ownership of the establishment or service. Failure to give such notice within 15 days of the event shall render the registration null and void.

(Ord. 1894 § 2, (2013); Ord. 1918 § 1, (2015); Ord. 1997 § 3, (2021))

§ 6.39.170. Renewal of registration.

A registration certificate issued under this section shall be valid for two years from the date of issuance. Sixty days prior to the expiration of a current registration certificate, the certificate holder must submit a renewal request to the police department, updating any information from the last submission. If the police department is unable to make a determination on the renewal request within the remaining term of the certificate, the certificate shall not expire while the police department is in the process of evaluating the request.

If an application for renewal of a city registration certificate and all required information is not timely received and the certificate expires, no right or privilege to provide massage shall exist.

(Ord. 1894 § 2, (2013); Ord. 1918 § 1, (2015); Ord. 1997 § 3, (2021))

§ 6.39.180. Enforcement—Remedies cumulative.

The remedies provided for in this chapter are cumulative and are in addition to existing enforcement mechanisms, including those provided in Title 1 of this code and those available under applicable state and federal law.

(Ord. 1918 § 1, (2015); Ord. 1997 § 3, (2021))

CHAPTER 6.40 SPA AND BATHING ESTABLISHMENTS

§ 6.40.010. Purpose.

It is the purpose and intent of the city council that the operation of spa, bathing and other similar establishments and persons offering services therein, wherein the principal function is the provision of baths and spa services, as defined in this chapter, should be regulated in the interests of public health, safety and welfare by providing minimum building sanitation and health standards for such establishments, and to ensure that persons offering services therein shall possess the minimum qualifications necessary to operate such businesses and to perform such services offered. It is further intended that these provisions provide a framework that is consistent with regulations imposed by nearby communities on similar businesses.

(Ord. 988 § 1, (1973); Ord. 1426 § 2, (1990); Ord. 1431 § 1, (1991); Ord. 1484 § 2, (1993); Ord. 1750 § 2, (2005); Ord. 1894 § 1, (2013))

§ 6.40.020. Permit required.

- (a) It is unlawful for any person to operate, engage in, conduct, carry on, or permit to be operated, engaged in, conducted or carried on (as the owner of the business premises or in any other capacity) in or upon any premises within the city, the business of a spa, bathing or other similar establishment having baths or spa services as their principal function, all as defined herein, unless the person has first obtained an operator's permit for such a business from the city and the permit remains in effect in accordance with the provisions of this chapter.
- (b) It is unlawful for any person to act as a spa or bathing practitioner as defined in this chapter unless that person has first obtained a practitioner's permit from the city and the permit remains in effect in accordance with the provisions of this chapter.

(Ord. 988 § 1, (1973); Ord. 1426 § 2, (1990); Ord. 1431 § 1, (1991); Ord. 1484 § 2, (1993); Ord. 1750 § 2, (2005); Ord. 1894 § 1, (2013))

§ 6.40.030. Definitions.

For the purpose of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

"Health officer" means the health officer of the County of San Mateo or the health officer's authorized representative.

"Instrument" means any tool or instrument, but does not include physical agent modalities, including light/laser therapy, ultrasound, phonophoresis, microcurrent, TENS, neuromuscular electrical stimulation (NMES), iontophoresis, interferential current, or HiVolt. Heat or cold packs are not considered instruments under this chapter.

"Operator" means any person who owns or operates a spa, bathing or similar establishment.

"Person" means any individual, partnership, firm, association, corporation, joint venture, or combination of individuals.

"Practitioner" means any person who administers a bath or health treatment involving baths or spa services as a principal function to another person for any consideration whatsoever.

"Spa, bathing or other similar establishment" means any establishment having a fixed place of business where baths or health treatments, involving hot tubs, saunas, or baths as the principal function, are given, engaged in or carried on, or permitted to be given, engaged in or carried on in any manner described in

Section 6.40.030(g). "Spa, bathing, or other similar establishments" does not include massage services, or those services subject to independent regulation or certification under state or local law.

"Spa services" means any beauty and health treatment not subject to independent regulation or certification under state or local law.

(Ord. 988 § 1, (1973); Ord. 1426 § 2, (1990); Ord. 1431 § 1, (1991); Ord. 1484 § 2, (1993); Ord. 1750 § 2, (2005); Ord. 1821 § 2, (2008); Ord. 1894 § 1, (2013))

§ 6.40.035. Corporations and partnerships.

If the applicant is a corporation, the name of the corporation shall be set forth exactly as shown in its articles of incorporation together with the names and residence addresses of each of the officers, directors and each stockholder holding more than 10% of the stock of the corporation. Each officer of the corporation or each partner in a partnership must submit an application and comply with Section 6.40.040. If one or more of the partners is a corporation, the provisions above pertaining to a corporate applicant apply.

(Ord. 1431 § 1, (1991); Ord. 1484 § 2, (1993); Ord. 1750 § 2, (2005); Ord. 1894 § 1, (2013))

§ 6.40.040. Application for permit.

Any person, except as herein otherwise provided, desiring a permit to operate a spa, bathing or similar establishment having baths or spa services as their principal function shall first make application therefor for permit under this chapter by filing with the license collector a sworn application in writing on a form to be furnished by the license collector which shall give the following information; an operator-practitioner may make a single application and pay a single fee:

- (a) Name, residence, and telephone number;
- (b) The previous address of the applicant for the 10 years immediately prior to the present address of the applicant;
- (c) Social Security number and driver's license number, if any;
- (d) Birth certificate or other written proof acceptable to the police department that the applicant is at least 18 years of age;
- (e) Fingerprints (taken by the police department for criminal history investigation) and three portrait photographs at least two inches by two inches, taken within the last 60 days immediately prior to the date of the filing of the application, showing the head and shoulders of the applicant in a clear and distinct manner;
- (f) Applicant's height, weight, color of eyes and hair;
- (g) Business, occupation or employment of the applicant for the 10 years immediately preceding the date of application;
- (h) The business license and permit history of the applicant for similar businesses, whether individually or as a member or part of a corporation, partnership, or other business, wherever located. The history shall include a statement as to whether any previous permit or license in which the applicant was involved was revoked or suspended or any revocation or suspension is pending, and the reasons for the previous or proposed revocation or suspension;
- (i) If the application is for a practitioner permit, the name and address of the establishment where the

applicant is to be employed and the name of the operator of the same;

- (j) Whether the applicant has ever been convicted of any crime, except misdemeanor traffic violations. For each such conviction, a statement shall be made giving the place and court in which the conviction occurred, the specific charge under which the conviction was obtained and the sentence imposed as a result of the conviction;
- (k) Whether any previous employer or person while employed by or with the applicant has been convicted in a court of competent jurisdiction of an offense involving conduct which requires registration under California Penal Code subsection 290, or a violation of subsection 266(i), 311 through 311.7, 314, 315, 316, 318, 318.5, 318.6, or 647(a), (b), (d), (h), (i), or (k) of the Penal Code;
- (l) Proof of applicable certifications, if any, including, but not limited to, diplomas and transcripts from schools providing coursework in the fields of the spa and bathing therapy;
- (m) Such other identification and information necessary to discover the truth of matters hereinbefore specified as required to be set forth in the application;
- (n) A certificate executed under penalty of perjury from a medical doctor stating that the applicant has, within 30 days immediately prior to the filing of the application, been examined and found to be free from any infectious, contagious or communicable disease capable of being transmitted through bathing and spa therapy;
- (o) A separately signed waiver and release authorizing the city and its authorized agents, and employees to obtain information and to conduct an investigation into the truth of the statements made on the application and the qualifications and record of the applicant;
- (p) Current certification in cardiopulmonary resuscitation and first aid from the American Heart Association or the American Red Cross.
- (q) If the application is for an operator's permit, the name and address of the owner and lessor of the real property upon or in or from which the business is to be conducted. If the applicant is not the owner of the real property, the owner of the real property must sign and acknowledge the application.
- (r) If the application is for an operator's permit, a safety plan including, but not limited to, exterior lighting, parking lot security, and emergency access to the establishment.
(Ord. 988 § 1, (1973); Ord. 1426 § 2, (1990); Ord. 1431 § 1, (1991); Ord. 1484 § 2, (1993); Ord. 1750 § 2, (2005); Ord. 1755 § 2, (2005); Ord. 1894 § 1, (2013))

§ 6.40.050. Exemptions.

The permits required by this chapter for operators shall not apply to hospitals, nursing homes, sanitariums, or other healthcare facilities duly licensed by the state of California.

(Ord. 988 § 1, (1973); Ord. 1431 § 1, (1991); Ord. 1484 § 2, (1993); Ord. 1750 § 2, (2005); Ord. 1894 § 1, (2013))

§ 6.40.055. Exemptions from practitioner permit requirements.

The practitioner permit required by this chapter shall not apply to the following:

- (a) Physicians, surgeons, chiropractors, osteopaths, acupuncturists, and physical therapists, and occupational therapists duly licensed to practice in the state of California, but only when engaged in the practice for which they are so licensed and in accordance with the terms of the licensing.

- (b) Nurses duly registered by the state of California, but only when engaged in the practice for which they are so registered and in accordance with the terms of the registration.
 - (c) Employees of hospitals, nursing homes, sanitariums, or other health care facilities duly licensed by the state of California, but only when engaged in the scope of their employment, and only at their place of employment at the health care facility, and only within the scope of and in conformance with the state license.
 - (d) Cosmetologists or barbers who are licensed by the state of California, but only when engaged in the practice for which they are so registered and in accordance with the terms of the registration.
 - (e) Accredited elementary school, high school, or college coaches and trainers employed by an elementary, high school, or college, but only while acting within the scope of employment to the school.
 - (f) Trainers of semi-professional or professional athletic teams, but only while acting within the scope of employment to the team.
 - (g) Massage practitioners as defined and regulated under Chapter 6.39 of this code.
- (Ord. 1750 § 2, (2005); Ord. 1821 § 3, (2008); Ord. 1894 § 1, (2013))

§ 6.40.057. Permit not entitlement to violate other laws.

The issuance of a permit under this chapter shall not entitle the permittee to engage in any business or practice which for any reason is in violation of any law or ordinance and shall not entitle the holder thereof to carry on any business or practice unless he or she has complied with all the requirements under the other ordinances of the city and all other applicable laws, nor shall it entitle the permittee to carry on any business in any building or on any premises designated in such permit in the event that such business or premises are situated in a zone or locality in which the conduct of such business is a violation of any law. In particular, a permit issued under this chapter does not entitle any person to use physical agent modalities that require separate licensing by the state of California, including light/laser therapy, ultrasound, phonophoresis, microcurrent, TENS, neuromuscular electrical stimulation (NMES) iontophoresis, interferential current, or HiVolt.

(Ord. 1821 § 4, (2008); Ord. 1894 § 1, (2013))

§ 6.40.060. Permit fee and investigation.

- (a) All applications for initial permits shall be accompanied by a filing and investigation fee as established by resolution adopted by the city council from time to time, no part of which is refundable. Additional fees may be charged to cover costs of processing the applicant's fingerprints by the state of California and for the medical examiner's competency examination.
- (b) Upon receipt of a complete operator's application, the license collector shall refer the application to the director of community development, building official, the fire department and the police department, each of which within a period of 30 days from the date of filing the application shall inspect the premises proposed to be used as a spa or bathing establishment, interview the applicant or any other person and make any other investigation necessary to make a written recommendation to the police department; provided that the 30 days may be extended for such period as may be necessary to obtain fingerprint records from the appropriate state agency.
- (c) Applications for practitioner permits shall be referred only to the police and community development departments. The community development department shall provide its findings to the police

department within 30 days of the filing of a complete application.
(Ord. 988 § 1, (1973); Ord. 1431 § 1, (1991); Ord. 1484 § 2, (1993); Ord. 1750 § 2, (2005); Ord. 1806 § 5, (2007); Ord. 1823 § 8, (2008); Ord. 1894 § 1, (2013))

§ 6.40.070. Business license.

At the time of an initial application for an operator's permit, applicant shall also apply for and furnish the information necessary to obtain a business license as required by Chapter 6.04 of this code. No business license shall be issued until the investigation under this chapter is completed and the permit to operate is approved. The business license shall then be issued upon payment of the business license fee as provided in Chapter 6.04 of this code.

(Ord. 988 § 1, (1973); Ord. 1431 § 1, (1991); Ord. 1484 § 2, (1993); Ord. 1750 § 2, (2005); Ord. 1894 § 1, (2013))

§ 6.40.080. Issuance or denial of permit.

- (a) Upon receipt of the investigation reports from each of the departments to whom the application has been referred, the police department shall issue the requested permit if all required information has been furnished and the reports filed find that:
- (1) If the application is for an operator's permit, the establishment as proposed would comply with all and not violate any applicable laws, including, but not limited to, the city's building, fire, health and zoning regulations;
 - (2) The applicant has not been convicted in a court of competent jurisdiction of an offense involving:
 - (A) Conduct that requires registration under Penal Code Section 290, or
 - (B) Violations of Penal Code Sections 266(1), 311, 311.1, 311.2, 311.3, 311.4, 311.5, 311.6, 311.7, 311.10, 311.11, 314, 315, 316, 318, 318.5, 318.6, 459, 518, or 647(a), (b), (d) or (h), or comparable provisions of the laws of any other state, the United States, or any other country, or
 - (C) Any other offense involving sexual misconduct with a child;
 - (3) The applicant has not been convicted of the use of force or violence upon another, provided that misdemeanor convictions shall be a basis for denial for a period of five years from the date of conviction;
 - (4) The applicant has not knowingly and with intent to deceive made any false, misleading or fraudulent oral or written statements in the permit application or to any person investigating the application;
 - (5) The applicant does not have an infectious, contagious or communicable disease that could be transmitted through the provision of bathing or spa services, and is not in violation of any federal, state or local health law or regulation;
 - (6) The city has not denied a previous application by the applicant for an operator's or practitioner permit within the 12 months immediately preceding the date of the application.
- (b) The permit shall be denied if all of the above findings cannot be made or if all of the information required is not supplied to the city. If denied, the reasons therefor shall be endorsed upon the

application, and the police department shall notify the applicant of the disapproval with a copy of the application upon which the reasons have been endorsed by first class mail.

(Ord. 988 § 1, (1973); Ord. 1431 § 1, (1991); Ord. 1484 § 2, (1993); Ord. 1750 § 2, (2005); Ord. 1833 § 2, (2008); Ord. 1894 § 1, (2013))

§ 6.40.090. Appeal.

If a permit is denied, applicant has 10 days from the date of mailing the notice within which to appeal to the city council by filing a written application for a public hearing with the clerk of the city. Notice and a public hearing shall be given as follows:

- (a) Upon receipt of the appeal, the city clerk shall set the matter for hearing before the council, at a regular meeting thereof, within 30 days from the date of filing the appeal, and shall give written notice of the hearing to the applicant at the applicant's address set forth in the appeal by first class mail at least 10 days prior to the hearing date.
- (b) On the date set, the council shall hear the matter, and may continue it from time to time before reaching a decision. If the council finds that the applicant has satisfactorily met all of the requirements of this chapter, it shall order the issuance of the permit and business license. If it finds that the requirements have not been met satisfactorily, it shall deny the permit.
- (c) All findings of the council shall be final and conclusive upon the applicant.

(Ord. 988 § 1, (1973); Ord. 1431 § 1, (1991); Ord. 1484 § 2, (1993); Ord. 1750 § 2, (2005); Ord. 1894 § 1, (2013))

§ 6.40.100. Operating and sanitation requirements.

All spa, bathing or other similar establishments shall comply with the following operating and sanitation requirements:

- (a) Sanitation and Conduct. All establishments shall comply with the following minimum sanitation requirements:
 - (1) Employees and Practitioners. All employees in spa and/or bathing establishments shall perform their work fully clothed, be clean and wear clean outer garments whose use is restricted to the establishment. Doors to dressing rooms, bathing rooms, and treatment rooms shall open inward, and shall not be locked. Draw drapes, curtain enclosures, or accordion-pleated closures are acceptable on all inner dressing and treatment rooms in lieu of doors. Separate dressing rooms and toilet facilities complying with the city building codes shall be provided for each sex.
 - (2) Linens. All establishments shall be provided with clean, laundered linens in sufficient quantity and shall be laundered after each use thereof and stored in closed, sanitary cabinets. Heavy white paper may be substituted for sheets provided that such paper is used only once for each person and then discarded into a sanitary receptacle. Sanitary approved receptacles shall be provided for the storage of all soiled linens.
 - (3) Facilities. At least one entrance door allowing access to the establishment and any building it may be in; shall remain unlocked during business hours; notwithstanding this provision, the facility shall also comply with exiting and entrance requirements of other applicable laws and regulations. All premises and facilities shall be maintained in a clean and sanitary condition, and shall be thoroughly cleaned each day of operation. The premises and facilities shall meet all code requirements of the city as to safety of the structure, adequacy of plumbing, heating,

ventilation and waterproofing of rooms where showers, water or steam baths are given.

- (4) Patron Facilities. Patrons of the establishments shall be furnished with securable locker facilities, for which the patron has the control of the key or lock, and security deposit facilities for the protection of their valuables.
- (5) Hours. Spa and bathing establishment operations shall be carried on or conducted, and the premises shall be open, only between the hours of 7:00 a.m. and 9:00 p.m. The hours stated here are the maximum permitted hours; actual hours may be further limited by applicable zoning or use permit restrictions.
- (6) Disabled Access. Each establishment shall be disabled accessible with restrooms available with disabled access.
- (7) Changing Rooms. Each establishment shall provide separate restroom and changing rooms for male and female patrons.
- (8) No Residential Use. No part of the establishment shall be used for residential or sleeping purposes. No cooking or food preparation will be allowed on the premises unless a full service kitchen is installed. Such kitchen will be for the sole use of employees, and will be installed in an employees-only area. The full service kitchen will have a minimum of a sink with hot and cold running water, a refrigerator, a stove, and sufficient cabinets to store cooking utensils.

(Ord. 988 § 1, (1973); Ord. 1426 § 2, (1990); Ord. 1431 § 1, (1991); Ord. 1484 § 2, (1993); Ord. 1750 § 2, (2005); Ord. 1894 § 1, (2013))

§ 6.40.110. Inspection by officials.

The investigating officials of the city, including the health officer, shall have the right to enter the premises from time to time during regular business hours for the purpose of making reasonable inspections to observe and enforce compliance with the provisions of this chapter and building, fire, electrical, plumbing or health regulations.

(Ord. 988 § 1, (1973); Ord. 1431 § 1, (1991); Ord. 1484 § 2, (1993); Ord. 1750 § 2, (2005); Ord. 1894 § 1, (2013))

§ 6.40.115. Surety bond.

- (a) Each applicant for an operator's permit shall post with the city clerk, a surety in the principal sum amount of \$10,000 either in cash or executed as surety by good and sufficient corporate surety authorized to do a surety business in the state of California and as principal by the applicant. The form of the bond shall have been approved by the city attorney and shall provide that should the applicant be issued a permit under this chapter which is subsequently suspended or revoked, the city shall be reimbursed from such bond for all costs of any investigation or other proceedings related to the suspension or revocation.
- (b) If a holder of an operator's permit under this chapter successfully completes 24, consecutive months in actual operation under the permit without any suspension of the permit or the filing of any criminal or civil complaint regarding operations under the permit by either a city attorney, a district attorney, the California Attorney General, or a United States Attorney, the permitholder may request the city to release the surety bond, which the city shall do upon verification that no such suspension or complaint filing has occurred during the period. However, if at any time following such a release of the surety bond, the city determines that the permitholder is conducting its operations in violation of this chapter, the chief of police may order the posting of a surety bond in accordance with subsection

(a) above as a condition of continued operations under the permit.
(Ord. 1484 § 2, (1993); Ord. 1689 § 2, (2002); Ord. 1750 § 2, (2005); Ord. 1894 § 1, (2013))

§ 6.40.120. Sale or transfer of establishment.

- (a) Upon sale, transfer or relocation of a spa, bathing or similar establishment, the permit shall not be transferable without the written approval of the chief of police and the finance director. An application for such a change shall be accompanied by a nonrefundable filing and investigation fee as established by resolution adopted by the city council from time to time and provide all of the information required in Section 6.40.040.

(Ord. 1484 § 2, (1993); Ord. 1750 § 2, (2005); Ord. 1823 § 9, (2008); Ord. 1894 § 1, (2013))

§ 6.40.130. Revocation or suspension of permits.

- (a) Any spa, bathing or similar establishment permit, or practitioner permit issued under this chapter shall be subject to suspension or revocation by the city manager for violation of, or for causing or permitting violation of, any provision of this chapter or for any grounds that would warrant the denial of such permits in the first instance.
- (b) Prior to the suspension or revocation of any permit issued under this chapter, the permittee shall be entitled to a hearing before the city manager or the manager's designated representative, at which time evidence will be received for the purpose of determining whether or not the permit shall be suspended or revoked or whether the permit may be retained. In the event the permit is suspended or revoked, the notification of the reasons for such suspension or revocation shall be set forth in writing and sent to the permittee by means of first class mail. The manager may impose conditions or restrictions on the permit in lieu of suspension or revocation to attempt to eliminate violations or nuisances that have been found.
- (c) In the event of suspension or revocation of any permit, the permittee may appeal to the city council in the manner as provided in Section 6.40.090.

(Ord. 1484 § 2, (1993); Ord. 1750 § 2, (2005); Ord. 1894 § 1, (2013))

§ 6.40.140. Display of signs and permits.

No person granted an operator's permit pursuant to this chapter shall begin operations until a recognizable and legible sign has been posted at the main entrance to the permit premises. All permits granted shall be posted within the establishment in a location immediately available for inspection for representatives of the city. No person granted a permit pursuant to this chapter shall operate under any other name or at any other location than that specified in the permit.

(Ord. 1484 § 2, (1993); Ord. 1750 § 2, (2005); Ord. 1894 § 1, (2013))

§ 6.40.150. Notice of changes.

All persons granted permits pursuant to this chapter shall report immediately to the city finance department and the police department all changes of residence or business address or change of ownership of the establishment or service. Failure to give such notice within 15 days of the event shall render the permit null and void.

(Ord. 1484 § 2, (1993); Ord. 1750 § 2, (2005); Ord. 1894 § 1, (2013))

§ 6.40.160. Renewal of permits.

Each permit shall be renewed annually, no less than 90 days prior to the anniversary date of its issuance. Any permit not renewed shall be null and void on such anniversary date. The investigation fee for renewals shall be as established by resolution adopted by the city council from time to time, no part of which is refundable. Additional fees may be charged to cover costs such as processing fingerprints. Prior to permit renewal being granted the permittee shall:

- (1) Provide two photographs of passport size at least two inches by two inches showing the head and shoulders of the applicant in a clear and distinct manner taken with the 60 days immediately prior to filing the renewal application and current information concerning any changes to the facts set forth in the initial or immediately prior renewal application;
- (2) Provide a new certificate, dated within 30 days of the renewal, from a medical doctor stating that the licensee is free from infectious, contagious or communicable diseases capable of being transmitted through spa and bathing therapies and provide a current certification in cardiopulmonary resuscitation and first aid from the American Heart Association or the American Red Cross;
- (3) Obtain clearance from the police department that the permittee has had no arrests or convictions for violations listed in Section 6.40.080(a)(2) or (3) of this chapter since the permit was issued or last renewed;
- (4) Provide copies of applicable certifications consistent with industry customs. However, this requirement does not apply if the original permit was approved before March 22, 2005.

Upon complete submission of this information together with the required filing fee, the permit shall be renewed.

(Ord. 1484 § 2, (1993); Ord. 1750 § 2, (2005); Ord. 1755 § 3, (2005); Ord. 1823 § 10, (2008); Ord. 1833 § 3, (2008); Ord. 1894 § 1, (2013))

**CHAPTER 6.41
MODEL STUDIOS, ESCORT BUREAU, AND INTRODUCTORY SERVICES**

§ 6.41.010. Permit required.

It is unlawful for any person to operate, engage in, conduct or carry on, or permit to be operated, engaged in, conducted or carried on (as the owner of the business premises or in any other capacity) in or upon any premises within the city of Burlingame, the business of a model studio, escort bureau, introductory service, or to be employed as an escort as defined herein, unless a permit has first been obtained from the police department of the city and remains in effect in accordance with the provisions of this chapter.

(Ord. 993 § 1, (1973); Ord. 1484 § 2, (1993))

§ 6.41.020. Definitions.

For the purpose of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

"Escort" means a person who for pecuniary compensation or any consideration escorts or accompanies others to, from or about social affairs, entertainments, places of public assembly or places of amusement, or who may consort with others, for hire or reward, about any place of public or private resort or within any private quarters.

"Escort bureau" means any business or agency which, for pecuniary compensation or any consideration furnishes, or offers to furnish, escorts or persons who accompany others to, from or about social affairs, entertainments, places of public assembly or places of amusement, or who consorts with others, for hire or reward, about any place of public or private resort or within any private quarters.

"Figure model" means any person, male or female, who poses to be observed, viewed, sketched, painted, drawn, sculptured, photographed or otherwise similarly depicted.

"Introductory service" means a service offered or performed for any pecuniary compensation or other consideration by any person, the principal purpose of which is to aid individuals to become socially acquainted or to otherwise assist individuals to meet for social purposes, or which service is generally known by the offering or performing party to be used by the recipients thereof for the purpose of obtaining information about others to be used for social purposes.

"Model studio" means:

- (1) Any premises on which there is conducted the business of furnishing figure models who pose for the purpose of being observed or viewed by any person or being sketched, painted, drawn, sculptured, photographed or otherwise similarly depicted for persons who pay a fee, or other consideration or compensation, or a gratuity, for the right of opportunity so to depict the figure model, or for admission to, or for permission to remain upon, or as a condition of remaining upon the premises.
- (2) Any premises where there is conducted the business of providing or procuring for a fee or other consideration or compensation or gratuity, figure models to be observed or viewed by any person or to be sketched, painted, drawn, sculptured, photographed or otherwise similarly depicted.
- (3) The words "model studio" do not include:
 - (A) Any studio which is operated by any state college, or public community college or school wherein the persons, firm, association, partnership or corporation operating it has met

the requirements established in Division 21 of the Education Code for the issuance or conferring of, and is in fact authorized thereunder to issue and confer, a diploma or honorary diploma.

- (B) Any premises where there is conducted the business of furnishing, providing or procuring figure models solely for any studio described in paragraph (a) of this subsection.

Escort bureau or introductory service does not mean the lawful business of an employment agency licensed under the laws of the state of California.

(Ord. 993 § 1, (1973); Ord. 1484 § 2, (1993))

§ 6.41.025. Corporations and partnerships.

If the applicant is a corporation, the name of the corporation shall be set forth exactly as shown in its articles of incorporation together with the names and residence addresses of each of the officers, directors and each stockholder holding more than 10% of the stock of the corporation. The information hereinafter required shall be provided for each officer of the corporation. If the applicant is a partnership, the information hereinafter required shall be supplied for each of the partners, including limited partners. If one or more of the partners is a corporation, the provisions above pertaining to a corporate applicant apply. (Ord. 1484 § 2, (1993))

§ 6.41.030. Application for license.

Any person desiring a permit to operate a model studio, escort bureau, introductory service, or to be employed as an escort shall first make application therefor for permit under this chapter by filing with the license collector a sworn application in writing on a form to be furnished by the license collector which shall give the following information; an operator-escort may make a single application and pay a single fee:

- (a) Name, residence, and telephone number;
- (b) The previous address of the applicant for the five years immediately prior to the present address of the applicant;
- (c) Social security number and driver's license number if any;
- (d) Birth certificate or other written proof acceptable to the police department that the applicant is at least 18 years of age;
- (e) Fingerprints (taken by the police department for criminal history investigation) and three portrait photographs at least two inches by two inches, taken within the last 60 days immediately prior to the date of the filing of the application, which photographs shall show the head and shoulders of the applicant in a clear and distinct manner;
- (f) Applicant's height, weight, color of eyes and hair;
- (g) Business, occupation or employment of the applicant for the five years immediately preceding the date of application;
- (h) The business license history of the applicant; whether such person, in previously operating in this or another city or state, under license or permit has had such license or permit revoked or suspended, the reason therefor, and the business activity or occupation subsequent to such action of suspension or revocation;

- (i) Whether such person has ever been convicted of any crime, except misdemeanor traffic violations. If any person mentioned in this subsection has been so convicted, a statement must be made giving the place and court in which such conviction was had, the specific charge under which the conviction was obtained and the sentence imposed as a result of such conviction;
- (j) If the application is for an escort permit, the name and address of the establishment where the applicant is to be employed and the name of the operator of the same;
- (k) Whether any person while employed by the applicant has been convicted in a court of competent jurisdiction of an offense involving conduct which requires registration under California Penal Code subsection 290, or a violation of subsections 266(i), 311 through 311.7, 314, 315, 316, 318 or 645(a), (b);
- (l) Such other identification and information necessary to discover the truth of matters hereinbefore specified as required to be set forth in the application;
- (m) The application will also include a separately signed waiver and release authorizing the city of Burlingame, its agents, and employees to seek information and to conduct an investigation into the truth of the statements made on the application.

(Ord. 993 § 1, (1973); Ord. 1484 § 2, (1993))

§ 6.41.040. Permit fee and investigation.

All applications for initial permits shall be accompanied by a filing and investigation fee as established by resolution adopted by the city council from time to time, no part of which shall be refundable. Additional fees may be charged to cover costs of processing the applicant's fingerprints by the State of California. Upon receipt of an operator's application, the license collector shall refer the application to the director of community development, building official, the fire department, the police department and health officer, each of which within a period of 30 days from the date of filing the application shall inspect the premises proposed to be used as a model studio and shall make a written recommendation to the police department provided that said 30 days may be extended for such period as may be necessary to obtain fingerprint records from the appropriate state agency. Escort applications shall only be referred to the police department.

(Ord. 993 § 1, (1973); Ord. 1484 § 2, (1993); Ord. 1806 § 6, (2007); Ord. 1823 § 11, (2008))

§ 6.41.050. Business license.

At the time of application for a permit to operate, applicant shall also apply for and furnish the information necessary to obtain a business license as required by Chapter 6.04 of this code. No business license shall be issued until the investigation is completed and the permit to operate is approved. The business license shall be issued upon payment of the business license fee as provided in Chapter 6.04 of this code.

(Ord. 993 § 1, (1973); Ord. 1484 § 2, (1993))

§ 6.41.060. Issuance or denial of permit.

Upon receipt of the investigation reports from each of the departments to whom the application has been referred, the police department shall issue such permit if all required information has been furnished and the reports filed find that:

- (a) The character and responsibility of the applicant is satisfactory;
- (b) If the application is for an operator's permit, the operation of the establishment as proposed would

comply with all applicable laws, including, but not limited to, the city's building, fire, health and zoning regulations;

- (c) The applicant has not been convicted in a court of competent jurisdiction of an offense involving conduct which requires registration under California Penal Code Section 290, or violations of Sections 311 through 311.7, 314, 315, 316, 318 or 647(a), (b), (d) or (h) of the Penal Code;
- (d) The applicant has not been convicted of the use of force and violence upon another;
- (e) The applicant has not knowingly and with intent to deceive made any false, misleading or fraudulent statements of facts in his or her application or any other documents required by the city to be submitted in conjunction with the application.

The permit shall be denied if all of the above findings cannot be made or if all of the information required is not supplied to the city. If denied, the reasons therefor shall be endorsed upon the application, and the police department shall notify the applicant of the disapproval with a copy of the application upon which the reasons have been endorsed by first class mail.

(Ord. 993 § 1, (1973); Ord. 1484 § 2, (1993))

§ 6.41.070. Appeal.

In the event a permit has been denied, applicant shall have 10 days from the date of mailing the notice within which to appeal to the city council by filing a written application for a public hearing with the clerk of the city. Notice and a public hearing shall be given as follows:

- (a) Upon receipt of the appeal, the city clerk shall set the matter for hearing before the council, at a regular meeting thereof, within 30 days from the date of filing the appeal, and shall give written notice of such hearing to the applicant at his or her address set forth in the appeal by first class mail at least 10 days prior thereto.
- (b) On the date set, the council shall hear the matter, and may continue it from time to time before reaching a decision. If the council finds that the applicant has satisfactorily met all of the requirements of this chapter, it shall order the issuance of the permit and the business license. If it finds that the requirements have not been met satisfactorily, it shall deny the permit and license.
- (c) All findings of the council shall be final and conclusive upon the applicant.

(Ord. 993 § 1, (1973); Ord. 1484 § 2, (1993))

§ 6.41.080. Regulations—Model studios.

The following regulations shall be applicable to model studios:

- (a) Advertising and Signs. No person granted a permit under the provisions of this chapter shall place, publish or distribute or cause to be placed, published or distributed, any sign or other advertising matter that describes or depicts any portion of the human body in a manner, or with the use of descriptive language, which would reasonably suggest to prospective patrons that any service is available other than those services described in Section 6.41.020 of this chapter.
- (b) Hours. A person shall not conduct or operate a model studio between the hours of 12:00 p.m. and 10:00 a.m. of the following day.
- (c) Supervision. A person operating a model studio, or a manager previously fingerprinted and approved

by the police department, shall be present on the premises at all times when the establishment is in operation.

- (d) Visibility. A person operating a model studio shall not permit conditions to exist wherein the interior of the said model studio shall be visible from the outside of the premises.
- (e) Records. A person operating a model studio shall maintain a current file of all figure models employed by him or her or using the premises. This file shall contain true name and aliases used by the figure model, age, birth date, height, weight, color of hair and eyes, home address, phone numbers, Social Security number and the date of employment and termination. Inactive file cards shall be maintained on the premises for the period of one year following termination. Such person shall make all records available immediately upon demand of any peace officer.

(Ord. 993 § 1, (1973); Ord. 1484 § 2, (1993))

§ 6.41.085. Records—Escort bureaus and introductory services.

The permittee shall maintain a duplicate record of every transaction whereby any escort is employed or engaged, or whereby any introductions are arranged for or on behalf of any patron, customer or person. The duplicate of such record shall be filed with the police department within 24 hours after such transaction and shall include the following information:

- (a) The date and hour of the transaction;
- (b) The name, address and telephone number of the patron, customer or person requesting or employing the escort bureau or introductory service; and
- (c) The name of the escort furnished or other persons who were introduced or arranged to be introduced.

(Ord. 1484 § 2, (1993))

§ 6.41.090. Inspection by officials.

The investigating officials of the city, including the health officer, shall have the right to enter the premises from time to time during regular business hours for the purpose of making reasonable inspections to observe and enforce compliance with building, fire, electrical, plumbing or health regulations.

(Ord. 993 § 1, (1973); Ord. 1484 § 2, (1993))

§ 6.41.100. Sale or transfer of establishment.

Upon sale, transfer or relocation of a model studio, the permit and business license shall not be transferable without the written approval of the license collector. An application for such change shall be accompanied by a nonrefundable filing and investigation fee as established by resolution adopted by the city council from time to time and provide all of the information required in Section 6.41.030.

(Ord. 993 § 1, (1973); Ord. 1484 § 2, (1993); Ord. 1823 § 12, (2008))

§ 6.41.110. Revocation or suspension of permits.

Any permit issued under this chapter shall be subject to suspension or revocation by the city manager for violation of, or for causing or permitting violation of, any provision of this chapter or for any grounds that would warrant the denial of such permits in the first instance.

Prior to the suspension or revocation of any permit issued under this chapter, the permittee shall be entitled to a hearing before the city manager or his or her designated representative, at which time evidence will

be received for the purpose of determining whether or not such permit shall be suspended or revoked or whether the permit may be retained. In the event the permit is suspended or revoked, the notification of and reasons for such suspension or revocation shall be set forth in writing and sent to the permittee by means of first class mail.

In the event of suspension or revocation of any permit, the permittee may appeal to the city council in the same manner as provided in Section 6.41.070.

(Ord. 993 § 1, (1973); Ord. 1484 § 2, (1993))

§ 6.41.120. Notice of changes.

All persons granted permits pursuant to this chapter shall report immediately to the license collector all changes of address, or change of ownership of the establishment. Failure to give such notice within 15 days of the event shall render the permit null and void.

(Ord. 993 § 1, (1973); Ord. 1484 § 2, (1993))

§ 6.41.130. Renewal of permits.

Every permit shall be renewed annually, no less than 90 days prior to the anniversary date of its issuance. Any permit not renewed shall be null and void on such anniversary date. The filing and investigation fee for renewals shall be as established by resolution adopted by the city council from time to time, no part of which is refundable. Additional fees may be charged to cover costs such as processing fingerprints. Prior to permit renewal being granted, the permittee must:

- (a) Provide a new photograph and current information concerning any changes to the facts set forth in the application;
- (b) Obtain clearance from the police department signifying that the licensee has had no arrests or convictions for violations of those penal code sections listed in Section 6.40.080(a)(3) of this code since the permit was issued or last renewed.

(Ord. 993 § 1, (1973); Ord. 1484 § 2, (1993); Ord. 1823 § 13, (2008))

CHAPTER 6.42 TANNING FACILITIES

§ 6.42.010. Purpose.

It is the purpose and intent of the city council that the operation of tanning facilities, as defined in this chapter, should be regulated in the interests of public health, safety and welfare by providing minimum building sanitation and health standards for such establishments.

(Ord. 1514 § 1, (1994))

§ 6.42.020. Permit required.

It is unlawful for any person to operate, engage in, conduct, carry on, or permit to be operated, engaged in, conducted or carried on (as the owner of the business premises or in any other capacity) in or upon any premises within the city of Burlingame, the business of a tanning facility or other similar establishment, unless a permit for such business has first been obtained from the police department of the city and remains in effect in accordance with the provisions of this chapter.

(Ord. 1514 § 1, (1994))

§ 6.42.030. Definitions.

For the purpose of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

"Health officer" means the health officer of the county of San Mateo or his or her authorized representative.

"Tanning facility" means any establishment meeting the definition of Section 22702 of the Business and Professions Code of the State of California.

"Person" means any individual, copartnership, firm, association, corporation, joint venture or combination of individuals.

(Ord. 1514 § 1, (1994))

§ 6.42.035. Corporations and partnerships.

If the applicant is a corporation, the name of the corporation shall be set forth exactly as shown in its articles of incorporation together with the names and residence addresses of each of the officers, directors and each stockholder holding more than 10% of the stock of the corporation. Each officer of the corporation or each partner in a partnership must submit an application and comply with Section 6.42.040. If one or more of the partners is a corporation, the provisions above pertaining to a corporate applicant apply.

(Ord. 1514 § 1, (1994))

§ 6.42.040. Application for permit.

Except as otherwise herein provided, any person desiring a permit to operate a tanning facility or similar establishment or be employed in a tanning facility or similar establishment shall first make application therefor for permit under this chapter by filing with the license collector a sworn application in writing on a form to be furnished by the license collector which shall give the following information:

- (a) Name, residence and telephone number;
- (b) The previous address of the applicant for the five years immediately prior to the present address of

the applicant;

- (c) Social Security number and driver's license number if any;
 - (d) Fingerprints (taken by the police department for criminal history investigation) and three portrait photographs at least two inches by two inches, taken within the last 60 days immediately prior to the date of the filing of the application, which photographs shall show the head and shoulders of the applicant in a clear and distinct manner;
 - (e) Applicant's height, weight, color of eyes and hair;
 - (f) Business, occupation or employment of the applicant for the five years immediately preceding the date of application;
 - (g) The business license history of the applicant; whether such person, in previously operating in this or another city or state, under any license or permit, has had such license or permit revoked or suspended, the reason therefor, and the business activity or occupation subsequent to such action of suspension or revocation;
 - (h) If the application is for an employee permit, the name and address of the establishment where the applicant is to be employed and the name of the operator of the same;
 - (i) Whether such person has ever been convicted of any crime, except misdemeanor traffic violations. If any person mentioned in this subsection has been so convicted, a statement must be made giving the place and court in which such conviction was had, the specific charge under which the conviction was obtained and the sentence imposed as a result of such conviction;
 - (j) Whether any previous employer or person while employed by or with the applicant has been convicted in a court of competent jurisdiction of an offense involving conduct which requires registration under California Penal Code subsection 290, or a violation of subsections 266(i), 311 through 311.7, 314, 315, 316, 318 or 647(a), (b), (d) or (h) of the Penal Code;
 - (k) Such other identification and information necessary to discover the truth of matters hereinbefore specified as required to be set forth in the application;
 - (l) The application will also include a separately signed waiver and release authorizing the city of Burlingame, its agents, and employees to seek information and to conduct an investigation into the truth of the statements made on the application and the qualifications and record of the applicant;
 - (m) An applicant for an operator's permit shall provide proof of liability insurance in the amount of not less than \$500,000.
- (Ord. 1514 § 1, (1994))

§ 6.42.050. Exemptions.

The permits required by this chapter shall not apply to a tanning facility employing two or fewer persons on its premises at any one time.

(Ord. 1514 § 1, (1994))

§ 6.42.060. Permit fee and investigation.

All applications for initial permits shall be accompanied by a filing and investigation fee as established by resolution adopted by the city council from time to time, no part of which is refundable. Additional

fees may be charged to cover costs of processing the applicant's fingerprints by the state of California. Upon receipt of an operator's application, the license collector shall refer the application to the director of community development, building official, the fire department and the police department, each of which within a period of 30 days from the date of filing the application shall inspect the premises proposed to be used as a tanning facility, interview the applicant or any other person and make any other investigation necessary to make a written recommendation to the police department, provided that said 30 days may be extended for such period as may be necessary to obtain fingerprint records from the appropriate state agency. Employee applications shall be referred only to the police department.

(Ord. 1514 § 1, (1994); Ord. 1806 § 7, (2007); Ord. 1823 § 14, (2008))

§ 6.42.070. Business license.

At the time of the application for a permit to operate, applicant shall also apply for and furnish the information necessary to obtain a business license as required by Chapter 6.04 of this code. No business license shall be issued until the investigation is completed and the permit to operate is approved. The business license shall be issued upon payment of the business license fee as provided in Chapter 6.04 of this code.

(Ord. 1514 § 1, (1994))

§ 6.42.080. Issuance or denial of permit.

Upon receipt of the investigation reports from each of the departments to whom the application has been referred, the police department shall issue such permit if all required information has been furnished and the reports filed find that:

- (a) The character of the applicant is satisfactory;
- (b) If the application is for an operator's permit, the establishment as proposed, if permitted, would comply with all applicable laws, including, but not limited to, the city's building, fire, health and zoning regulations;
- (c) The applicant has not been convicted in a court of competent jurisdiction of an offense involving conduct which requires registration under California Penal Code subsection 290, or violations of subsections 266(i), 311 through 311.7, 314, 315, 316, 318, or 647(a), (b), (d) or (h) of the Penal Code;
- (d) The applicant has not knowingly and with intent to deceive made any false, misleading or fraudulent oral or written statements in his or her application or to any person investigating his or her application;
- (e) The applicant has a current cardiopulmonary resuscitation certificate and first aid card from the American Heart Association or the American Red Cross.

The permit shall be denied if all of the above findings cannot be made or if all of the information required is not supplied to the city. If denied, the reasons therefor shall be endorsed upon the application, and the police department shall notify the applicant of the disapproval with a copy of the application upon which the reasons have been endorsed by first class mail.

(Ord. 1514 § 1, (1994))

§ 6.42.090. Appeal.

In the event a permit has been denied, applicant shall have 10 days from the date of mailing the notice

within which to appeal to the city council by filing a written application for a public hearing with the clerk of the city. Notice and a public hearing shall be given as follows:

- (a) Upon receipt of the appeal, the city clerk shall set the matter for hearing before the council, at a regular meeting thereof, within 30 days from the date of filing the appeal, and shall give written notice of such hearing to the applicant at his or her address set forth in the appeal by first class mail at least 10 days prior thereto.
- (b) On the date set, the council shall hear the matter, and may continue it from time to time before reaching a decision. If the council finds that the applicant has satisfactorily met all of the requirements of this chapter, it shall order the issuance of the permit and business license. If it finds that the requirements have not been met satisfactorily, it shall deny the permit and license.
- (c) All findings of the council shall be final and conclusive upon the applicant.

(Ord. 1514 § 1, (1994))

§ 6.42.100. Operating and sanitation requirements.

All tanning facilities or other similar establishments shall comply with the following operating and sanitation requirements:

- (a) Advertising. No such establishment granted a permit under the provisions of this chapter shall place, publish or distribute or cause to be placed, published or distributed, any advertising matter that describes or depicts any portion of the human body or any service in a manner which would reasonably suggest to prospective patrons that any service is available other than those services described in Section 22700 et seq., of the Business and Professions Code.
- (b) Sanitation and other requirements. All establishments shall comply with the following minimum requirements:
 - (1) Employees. All employees shall perform their work fully clothed, be clean and wear clean outer garments. Doors to dressing rooms and tanning rooms shall open inward and shall not be closed if more than one person is present in the room. Draw drapes, curtain enclosures, or accordion-pleated closures are acceptable on all inner dressing and tanning rooms in lieu of doors.
 - (2) Each room and tanning bed shall be cleaned after each use and shall be sanitized in accordance with common health practices and prevailing local and state health laws.
- (c) Facilities. At least one entrance door, allowing access to the establishment and any building it may be in, shall remain unlocked during business hours. All premises and facilities shall be maintained in a clean and sanitary condition, and shall be thoroughly cleaned each day of operation. The premises and facilities shall meet all code requirements of the city as to safety of the structure, adequacy of plumbing, heating, and ventilation.
- (d) Hours. Business shall be carried on or conducted, and the premises shall be open, only between the hours of 7:00 a.m. and 10:00 p.m.
- (e) Handicapped Areas. Each establishment must have handicap access and restrooms equipped for handicapped patrons.
- (f) Records. Every establishment shall keep a written record of the name and address of each patron and the date and hour of service, and of all hours worked by employees. Such written record, as well as those required by Business and Professions Code Sections 22700 et seq., shall be open to inspection

only by officials charged with the enforcement of this chapter and for no other purpose. Such records will be kept on the premises of the establishment for a period of two years.

- (g) No Residential Use. No part of the establishment shall be used for residential or sleeping purposes. No cooking or food preparation will be allowed on the premises unless a full service kitchen is installed. Such kitchen will be for the sole use of employees, and will be installed in an employees only area. The full service kitchen will have a minimum of a sink with hot and cold running water, a refrigerator, a stove, and sufficient cabinets to store cooking utensils.
- (h) At no time shall employees apply tanning liquids or otherwise touch or come into physical contact with customers.
 - (i) No alcohol shall be allowed on the premises.

(Ord. 1514 § 1, (1994))

§ 6.42.110. Inspection by officials.

The investigating officials of the city, including the health officer, shall have the right to enter the premises from time to time during regular business hours for the purpose of making reasonable inspections to observe and enforce compliance with the provisions of this chapter and building, fire, electrical, plumbing or health regulations.

(Ord. 1514 § 1, (1994))

§ 6.42.115. Surety bond.

Every applicant for an operator's permit shall post with the city clerk, a surety in the principal sum amount of \$10,000 either in cash or executed as surety by a good and sufficient corporate surety authorized to do a surety business in the state of California and as principal by the applicant. The form of the bond shall have been approved by the city attorney and shall provide that should the applicant be issued a permit under this chapter which is subsequently suspended or revoked, the city shall be reimbursed from said bond for all costs of said any investigation or other proceedings related to said suspension or revocation.

(Ord. 1514 § 1, (1994))

§ 6.42.120. Sale or transfer of establishment.

Upon sale, transfer or relocation of a tanning facility, the permit and business license shall not be transferred without the written approval of the license collector. An application for such change shall be accompanied by a nonrefundable filing and investigation fee as established by resolution adopted by the city council from time to time and provide all of the information required in Section 6.42.040.

(Ord. 1514 § 1, (1994); Ord. 1823 § 15, (2008))

§ 6.42.130. Revocation or suspension of permits.

Any permit issued under this chapter shall be subject to suspension or revocation by the city manager for violation of, or for causing or permitting violation of, any provision of this chapter or for any grounds that would warrant the denial of such permits in the first instance.

Prior to the suspension or revocation of any permit issued under this chapter, the permittee shall be entitled to a hearing before the city manager or his or her designated representative, at which time evidence will be received for the purpose of determining whether or not such permit shall be suspended or revoked or whether the permit may be retained. In the event the permit is suspended or revoked, the notification of the reasons for such suspension or revocation shall be set forth in writing and sent to the permittee by means

of first class mail.

In the event of suspension or revocation of any permit, the permittee may appeal to the city council in the manner as provided in Section 6.42.090.

(Ord. 1514 § 1, (1994))

§ 6.42.140. Display of signs and permits.

No person granted a permit pursuant to this chapter shall begin operations until a recognizable and legible sign has been posted at the main entrance to the permit premises. All permits granted shall bear the picture of the permittee and shall be posted within the establishment in a location immediately available for inspection for representatives of the city, including the permits for employees. No person granted a permit pursuant to this chapter shall operate under any other name or at any other location than that specified in the permit.

(Ord. 1514 § 1, (1994))

§ 6.42.150. Notice of changes.

All persons granted permits pursuant to this chapter shall report immediately to the license collector and the police department all changes of residence or business address or change of ownership of the establishment or service. Failure to give such notice within 15 days of the event shall render the permit null and void.

(Ord. 1514 § 1, (1994))

§ 6.42.160. Renewal of permits.

Every permit shall be renewed annually, no less than 90 days prior to the anniversary date of its issuance. Any permit not renewed shall be null and void on such anniversary date. The filing and investigation fee for renewals shall be as established by resolution adopted by the city council from time to time, no part of which is refundable. Additional fees may be charged to cover costs such as processing fingerprints. Prior to permit renewal being granted the permittee must:

- (a) Provide a new photograph and current information concerning any changes to the facts set forth in the application;
- (b) Obtain clearance from the police department signifying that the permittee has had no arrests or convictions for violations of those penal code section listed in Section 6.42.080(c) of this code since the permit was issued or last renewed.

(Ord. 1514 § 1, (1994); Ord. 1823 § 16, (2008))

CHAPTER 6.43 BINGO

§ 6.43.010. Purpose.

It is the intention of the city council to authorize the licensing of bingo games in the city of Burlingame pursuant to Section 19 of Article IV of the Constitution of the State of California and Section 326.5 of the California Penal Code.

(Ord. 1318 § 1, (1986))

§ 6.43.020. Licenses—Issuance, renewal, suspension, revocation.

- (a) The license clerk shall issue licenses to conduct bingo games in the city to applying organizations which qualify for such licenses under Penal Code Section 326.5; provided, that no license shall be issued to any organization which has not submitted an application to the license clerk which is complete with the information required pursuant to Section 6.43.040 or which has submitted an application which indicates that the organization does not qualify for a license under state law.
- (b) Original licenses shall be valid from the date of issuance until the next following June 30th. Renewed licenses shall be valid for one year from July 1st until the next following June 30th. A license which is suspended or revoked pursuant to subsection (c) shall not be deemed valid. Each licensee shall pay a yearly license fee in an amount established by resolution of the city council.
- (c) The city council shall have the power to revoke a license or to suspend a license for periods up to its scheduled expiration date if the council finds that the licensee or any person functioning on behalf of the licensee has violated any provision of this chapter or any provision of state law pertaining to the operation of bingo games. No suspension or revocation shall take place unless and until the city council shall have conducted a hearing on the matter, with at least 10 days written notice to the licensee.

(Ord. 1318 § 1, (1986))

§ 6.43.030. License requirement.

No person or organization shall operate, conduct, carry on, or cause, allow, permit or suffer to be operated, conducted or carried on, any bingo game except pursuant to a valid license in full force and effect issued to an organization authorized to conduct such a game.

(Ord. 1318 § 1, (1986))

§ 6.43.040. Application for license to conduct bingo game.

Any organization desiring to conduct a bingo game in the city shall apply to the license clerk for a license to do so on a form provided by the license clerk. The applicant shall provide the following information:

- (a) Name, business address and business telephone of the organization;
- (b) The day of the week and hours of the day when the bingo games will be played;
- (c) The name, address and telephone number of the owner of the property at which it is proposed to conduct the bingo game;
- (d) If the organization which proposes to conduct the bingo games does not own the property where the games are to be played, whether the property is leased to the organization;

- (e) If the organization does not lease or own the property, whether its use is donated to the organization;
- (f) The functions of the organization which are conducted in the building where the bingo games are to be played, other than the bingo games themselves;
- (g) The type of organization which is going to conduct the bingo games (i.e., labor organization; agricultural or horticultural organization; fraternal organization; mobilehome park association; senior citizen organization; one of the following types of nonprofit organization: cemetery company; religious organization; charitable organization; organization for testing for public safety; literary organization; educational organization; amateur sports organization; organization for prevention of cruelty to animals; business league; chamber of commerce; or board of trade; civic league; club);
- (h) The section of the Revenue and Taxation Code under which the organization is exempt from the California bank and corporation tax, with documentation verifying the claim for exemption;
- (i) The name(s), address(es), and telephone number(s) of the individuals in charge of the bingo game, and how such person(s) can be reached during business hours.

(Ord. 1318 § 1, (1986))

§ 6.43.050. Number of days per week of operation—Limit.

No person or organization shall operate, conduct or carry on, or cause, allow, permit, or suffer to be operated, conducted or carried on, on behalf of any organization any bingo game in the city if, during any calendar week, such person or organization had already conducted a bingo game in the city during any previous day of such calendar week.

(Ord. 1318 § 1, (1986))

§ 6.43.060. Use of facilities for bingo—Limit per week.

No person or organization shall operate, conduct or carry on, or cause, allow, permit or suffer to be operated, conducted or carried on, on behalf of any organization any bingo game in the city within any building, structure, lot or premises within any calendar week if two bingo games have been conducted, carried on or operated within such building, structure, lot or premises during the same calendar week.

(Ord. 1318 § 1, (1986))

§ 6.43.070. Hours of operation—Limit.

No person or organization shall operate, conduct or carry on, or cause, allow, permit or suffer to be operated, conducted or carried on, on behalf of any organization any bingo game in the city between the hours of 11:00 p.m. of one day and 8:00 a.m. of the following day.

(Ord. 1318 § 1, (1986))

CHAPTER 6.44 PRIVATE PATROL OPERATORS

§ 6.44.010. Private patrol operator—Definition.

"Private patrol operator" means a street patrol system or business to keep under watch, inspection or periodic examination any persons or property in the city of Burlingame and licensed by the State of California pursuant to Chapter 11.5 of the Business and Professions Code.

(Ord. 1111 § 1, (1977); Ord. 1533 § 1, (1995))

§ 6.44.020. Permit required.

It is unlawful for any person to operate, engage in, conduct, carry on, or permit to be operated, engaged in, conducted or carried on within the city of Burlingame, the business of a private patrol operator or to be employed as a security guard or street patrol person by a private patrol operator unless such operator, security guard or street patrol person has registered with the police department and filed therewith a copy of their state identification card, provided that any employee of a private patrol operator not so registered shall obtain a local security guard permit as provided by this chapter.

(Ord. 1111 § 1, (1977); Ord. 1484 § 2, (1993); Ord. 1533 § 1, (1995))

§ 6.44.030. Business license.

At the time a private patrol operator registers with the police department it shall also apply for and furnish the information necessary to obtain a business license as required by Chapter 6.04 of this code. It shall also inform the police department of the areas of locations in the city of Burlingame in which it proposes to provide patrol services.

(Ord. 1533 § 1, (1995))

§ 6.44.040. Application for local security guard permit.

Any person desiring to be employed by a private patrol operator and not registered pursuant to Chapter 11.5 of the Business and Profession Code shall first make application for a local security guard permit by filing with the license collector a sworn application in writing on a form to be furnished by the license collector which shall give the following information:

- (a) Name, residence and telephone number;
- (b) The previous address of the applicant for the five years immediately prior to the present address of the applicant;
- (c) Social security number and driver's license number;
- (d) Birth certificate or other written proof acceptable to the police department that the applicant is at least 18 years of age;
- (e) Fingerprints (taken by the police department for criminal history investigation) and three portrait photographs at least two inches by two inches, taken within the last 60 days;
- (f) Applicant's height, weight, color of eyes and hair;
- (g) Business, occupation or employment of the applicant for the five years immediately preceding the date of application;

- (h) The private patrol or similar business license and permit history of the applicant; whether such person, in previously operating in this or another city or state, under license or permit, has had such license or permit revoked or suspended, the reason therefor, and the business activity or occupation subsequent to such action of suspension or revocation;
- (i) Whether such person has ever been convicted of any crime, except misdemeanor traffic violations. If any person mentioned in this subsection has been so convicted, a statement must be made giving the place and court in which such conviction was had, the specific charge under which the conviction was obtained and the sentence imposed as a result of such conviction;
- (j) Such other identification and information necessary to discover the truth of matters hereinbefore specified as required to be set forth in the application;
- (k) The application will also include a separately signed waiver and release authorizing the city of Burlingame, its agents, and employees to seek information and to conduct an investigation into the truth of the statements made on the application and the qualifications and record of the applicant.

(Ord. 1533 § 1, (1995))

§ 6.44.050. Permit fee and investigation.

All applications for initial permits shall be accompanied by a filing and investigation fee as established by resolution adopted by the city council from time to time, no part of which is refundable. Additional fees may be charged to cover costs of processing applicant's fingerprints by the State of California. Upon receipt of said application, the license collector shall refer the application to the police department which shall make a written recommendation to the license collector within 30 days, provided that said 30 days may be extended for such period as may be necessary to obtain fingerprint records from the appropriate state agency.

(Ord. 1533 § 1, (1995); Ord. 1823 § 17, (2008))

§ 6.44.060. Issuance or denial of permit.

The police department shall issue such permit if all required information has been furnished and the reports filed find that:

- (a) The character of the applicant is satisfactory;
- (b) The applicant has not knowingly and with intent to deceive made any false, misleading or fraudulent oral or written statements in his or her application or to any person investigating his or her application.

The permit shall be denied if all of the above findings cannot be made or if all of the information required is not supplied to the city. If denied, the reasons therefor shall be endorsed upon the application, and the police department shall notify the applicant of the disapproval with a copy of the application upon which the reasons have been endorsed by first class mail.

(Ord. 1533 § 1, (1995))

§ 6.44.070. Appeal.

In the event a permit has been denied, applicant shall have 10 days from the date of mailing the notice within which to appeal to the city council by filing a written application for a public hearing with the clerk of the city. Notice and a public hearing shall be given as follows:

- (a) Upon receipt of the appeal, the city clerk shall set the matter for hearing before the council, at a regular meeting thereof, within 30 days from the date of filing the appeal, and shall give written notice of such hearing to the applicant at his or her address set forth in the appeal by first class mail at least 10 days prior thereto.
- (b) On the date set, the council shall hear the matter, and may continue it from time to time before reaching a decision. If the council finds that the applicant has satisfactorily met all of the requirements of this chapter, it shall order the issuance of the permit. If it finds that the requirements have not been met satisfactorily, it shall deny the permit.
- (c) All findings of the council shall be final and conclusive upon the applicant.
(Ord. 1484 § 2, (1993) Ord. 1533 § 1, (1995))

§ 6.44.080. Renewal of permits.

Every permit shall be renewed annually, no less than 90 days prior to the anniversary date of its issuance upon approval of the chief of police. The filing and investigation fee for renewals shall be as established by resolution adopted by the city council from time to time, no part of which is refundable. Additional fees may be charged to cover costs such as processing fingerprints. Any permit not renewed shall be null and void on such anniversary date.

(Ord. 1484 § 2, (1993); Ord. 1823 § 18, (2008))

§ 6.44.090. Transfer of permit.

The holder of a local security guard permit may transfer employment from one private patrol operator to another without making reapplication.

(Ord. 1484 § 2, (1993) Ord. 1533 § 1, (1995))

§ 6.44.100. Revocation or suspension of permits.

Any permit issued under this chapter shall be subject to suspension or revocation by the city manager for violation of, or for causing or permitting violation of, any provision of this chapter or for any grounds that would warrant the denial of such permit in the first instance.

Prior to the suspension or revocation of any permit issued under this chapter, the permittee shall be entitled to a hearing before the city manager or his or her designated representative, at which time evidence will be received for the purpose of determining whether or not such permit shall be suspended or revoked or whether the permit may be retained. In the event the permit is suspended or revoked, the notification of the reasons for such suspension or revocation shall be set forth in writing and sent to the permittee by means of first class mail.

In the event of suspension or revocation of any permit, the permittee may appeal to the city council in the manner as provided in Section 6.44.070.

(Ord. 1484 § 2, (1993))

§ 6.44.110. Uniforms and badges.

All uniforms and badges of private patrol operators and their employees shall be approved by the chief of police and shall in no way resemble those of the Burlingame police department or other law enforcement agency having any jurisdiction in San Mateo County.

(Ord. 1484 § 2, (1993); Ord. 1533 § 1, (1995))

§ 6.44.120. Titles.

Private patrol operators and their employees are prohibited at all times from using the term or title "police," "police officer," "deputy sheriff," "peace officer," "law enforcement" or other term or title that would suggest to the public any official connection with the Burlingame police department or other law enforcement agency having any jurisdiction in San Mateo County.

(Ord. 1484 § 2, (1993) Ord. 1533 § 1, (1995))

§ 6.44.130. Operations.

No private patrol operator or its employee shall knowingly represent him or herself or another to be a member of the Burlingame police department or other law enforcement agency. No private patrol operator or its employee shall use any sign, word, language or device to induce a false or mistaken belief that he or she is acting or purporting to act on behalf of the Burlingame police department or any other law enforcement agency.

(Ord. 1484 § 2, (1993); Ord. 1533 § 1, (1995))

§ 6.44.140. Vehicles.

The chief of police may regulate the color, affixed signs, insignia and letter to be used on motor vehicles operated by a private patrol operator so as to eliminate confusion with those of the Burlingame police department, or any other law enforcement agency having any jurisdiction in San Mateo County. Knowingly using any vehicle which is colored or has affixed thereon any sign, badge, title or device that would reasonably induce the belief that the vehicle is being operated by the Burlingame police department or by any other law enforcement agency having any jurisdiction in San Mateo County is prohibited.

Vehicles shall comply with all mechanical and equipment regulations of the California Vehicle Code.
(Ord. 1484 § 2, (1993) Ord. 1533 § 1, (1995))

§ 6.44.150. Notice of termination of employees.

The person in charge of a private patrol operator shall notify the chief of police in writing within five days of the termination of any employee.

(Ord. 1484 § 2, (1993); Ord. 1533 § 1, (1995))

§ 6.44.160. Terminated employee delivering permit.

Any employee having a permit issued pursuant to this chapter whose employment is terminated with a private patrol operator shall deliver and surrender his or her permit to the chief of police. The permit shall be held by the chief of police until expiration, or until the person gains employment with another private patrol operator in the city of Burlingame, whichever occurs first. If the person gains employment prior to the expiration of the permit, the permit will, upon request, be returned to the person.

(Ord. 1484 § 2, (1993); Ord. 1533 § 1, (1995))

CHAPTER 6.50 VIDEO SERVICE PROVIDED BY STATE FRANCHISE HOLDERS

§ 6.50.010. Purpose and applicability.

The purpose of this chapter is to set forth regulations for the provision of video service by state franchise holders, in accordance with the Digital Infrastructure and Video Competition Act, California Public Utilities Code Sections 5800 through 5970 ("DIVCA"). This chapter shall apply to video service providers operating within the city of Burlingame pursuant to a valid state franchise.

(Ord. 1872 § 3, (2012))

§ 6.50.020. Definitions.

For the purposes of this chapter, the words set out in this section shall have the following meanings:

"City" means the city of Burlingame.

"City manager" means the city manager of the city of Burlingame, or designee.

"Franchise fee" shall have the meaning given that term by subdivision (g) of Public Utilities Code Section 5830 or its successor.

"Gross revenues" shall have the meaning given that term by the California Public Utilities Code Section 5860 or its successor.

"Holder" shall have the meaning given that term by subdivision (j) of Public Utilities Code Section 5830 or its successor.

"Material breach" shall have the meaning given that term by subdivision (j) of Public Utilities Code Section 5900 or its successor.

"Network" shall have the meaning given that term by subdivision (l) of Public Utilities Code Section 5830 or its successor.

"State franchise" shall have the meaning given that term by subdivision (p) of Public Utilities Code Section 5830.

"Video service" shall have the meaning given that term by the California Public Utilities Code Section 5830(s) or its successor.

(Ord. 1872 § 3, (2012))

§ 6.50.030. Franchise fee for state franchise holders.

Any state franchise holder shall remit to the city a franchise fee in the amount of 5% of the gross revenues of the state franchise holder in compliance with California Public Utilities Code Section 5840(q).

(Ord. 1872 § 3, (2012))

§ 6.50.040. Public, educational, and government channels.

- (a) In accordance with Public Utilities Code Section 5870(n), upon termination of all incumbent cable provider franchises, each state franchise holder shall remit to the city a fee to support PEG channel facilities in the amount of one percent of gross revenues. Each state franchise holder shall remit such fee to support PEG channel facilities quarterly, within 45 calendar days after the end of the quarter for the preceding calendar quarter. All revenue collected pursuant to this fee shall be deposited in a separate fund and shall only be expended for the purpose of supporting PEG channel facilities.

- (b) Each payment of the fee established in subsection (a) of this section delivered to the city shall be accompanied by a summary report: (1) explaining the basis for the calculation of the payment; (2) reflecting the total amount of gross revenues for the remittance period and all payments, deductions and computations used to determine the amount of the quarterly remittance; and (3) the fourth quarter payment shall include the total amount of gross revenues for the remittance period and a summary of the gross revenues submitted for the entire calendar year. The city manager may establish, and from time to time revise, such additional reporting requirements as are reasonably necessary to ensure that the basis for the calculation of the amount of remittance is adequately explained and documented, and each state franchise holder shall comply with such additional reporting requirements provided that each state franchise holder shall have agreed to such additional reporting requirements. Any additional reporting requirements must be mutually agreed upon by the city and the franchise holder.
- (c) Each state franchise holder shall designate a sufficient amount of capacity on its network to allow the provision of PEG channels in accordance with California Public Utilities Code Section 5870. Each state franchise holder shall have three months from the date the city requests the PEG channels to designate the capacity. The three month period shall be tolled by any period during which the designation or provision of PEG channel capacity is technically infeasible.
- (d) This section shall be enforced, and disputes regarding this section shall be resolved, pursuant to California Public Utilities Code Section 5870(p).

(Ord. 1872 § 3, (2012); Ord. 1951 § 2, (2018))

§ 6.50.050. Customer service penalties by state franchise holders.

- (a) Any state franchise holder shall comply with the customer service provisions set forth in Public Utilities Code Section 5900.
- (b) The city shall impose the following penalties against a state franchise holder for any material breach of the customer service provisions set forth in Section 6.50.050(a):
- (1) For the first occurrence of a material breach, a fine of \$500 shall be imposed for each day of each material breach, not to exceed \$1,500 for each occurrence of the material breach;
 - (2) For a second occurrence of a material breach of the same nature as the first material breach that occurs within twelve months, a fine of \$1,000 shall be imposed for each day of each material breach, not to exceed \$3,000 for each occurrence of the material breach;
 - (3) For a third or further occurrence of a material breach of the same nature as the previous material breaches that occurs within 12 months, a fine of \$2,500 shall be imposed for each day of each material breach, not to exceed \$7,500 for each occurrence of the material breach.
- (c) The city manager shall have the authority to assess penalties for any material breach by a holder of a state franchise. Prior to assessing penalties for a material breach, the city manager shall first have provided the state franchise holder with written notice of any alleged material breach of the customer service provisions set forth in California Public Utilities Code Section 5900 and shall allow the state franchise holder at least 30 days from receipt of the notice to remedy the specified material breach.
- (d) A material breach for the purposes of assessing penalties shall be deemed to have occurred for each day within the jurisdiction of the city, following the expiration of the period specified in this section that any material breach has not been remedied by the video provider, irrespective of the number of customers affected. No monetary penalties shall be assessed for a material breach if it is out of the reasonable control of the state franchise holder.

(e) The city shall submit one half of any penalty amounts it receives to the Digital Divide Account established by California Public Utilities Code Section 280.5.

(f) No monetary penalties shall be assessed for a material breach if it is out of the reasonable control of the state franchise holder.

(Ord. 1872 § 3, (2012))

§ 6.50.060. Authority to examine and audit business records.

The city shall ensure that it receives all franchise fee revenue to which it is entitled to at the times and in the amounts specified by Public Utilities Code Section 5860, and, to that end, the city manager is hereby authorized, either with or without the assistance of a duly authorized representative, to examine the business records of the holder of the state franchise in accordance with subdivision (i) of Public Utilities Code Section 5860.

(Ord. 1872 § 3, (2012))

CHAPTER 6.52 BROADWAY AREA IMPROVEMENT DISTRICT

§ 6.52.010. Definitions.

In order to distinguish between district businesses and for the purpose of calculating and applying the amount of assessments owed, the following definitions shall apply:

"District" is the Broadway Area Business Improvement District.

"Finance" shall mean a business that offers bank, savings and loan, thrift, or credit union financial services.

"Fiscal year" means July 1st to and including June 30th of the following year.

"Government" shall mean public, local, state or federal agencies.

"Professional" includes attorneys, architects, engineers, surveyors, physicians, dentists, optometrists, chiropractors and others in a medical/health service field, consultants, real estate brokers, laboratories (including dental and optical), hearing aid services, artists and designers.

"Restaurant" businesses include cafes, eating establishments, sandwich shops, dinner houses, restaurants, fast food services and other similar businesses.

"Retail" businesses include all businesses not covered by other definitions set out in this Section, at least 50% of whose gross income is derived from "retail sales" as that term is defined under the California Sales and Use Tax Law. The fact that a substantial part of its business consists of sales and other than retail sales does not exclude said business from this classification so long as such other business component does not account for more than 50% of said business' gross income.

"Service" businesses include general office, news and advertising media, printers, photographers, personal care facilities and outlets, contractors/builders, service stations, repairing and servicing businesses, renting and leasing businesses, utilities, vending machine businesses and other similar businesses not otherwise included in the other definitions of this Section.

(Ord. 1461 § 2, (1992))

§ 6.52.020. Establishment of boundaries.

A parking and business improvement district known as the "BROADWAY AREA BUSINESS IMPROVEMENT DISTRICT" is hereby established pursuant to the Parking and Business Improvement Area Law of 1989, Streets and Highways Code Section 36500 et seq. The boundaries of the district shall be as set forth on Exhibits "A" and "B", attached to Ordinance No. 1461.

(Ord. 1461 § 2, (1992); Ord. 1524 § 3, (1995); Ord. 1592 § 2, (1998); Ord. 1917 § 2, (2015))

§ 6.52.030. Advisory board.

There shall be an advisory board, which shall consist of seven members. Members shall be elected for a term of two years by the businesses participating in the district. Voting shall be based on the value of the benefit assessments. The members of the board shall be classified so that the terms of four members shall expire during one year, and the terms of the other three members shall expire the following year. The board shall be incorporated as a non-profit corporation. Board members shall represent businesses which have currently paid the annual benefit assessment. The board shall make recommendations to the city council on expenditure of district revenues, make an annual report for each fiscal year for which assessments are levied, and do those things required by the Streets and Highways Code to be performed by the advisory board.

(Ord. 1461 § 2, (1992); Ord. 1592 § 3, (1998))

§ 6.52.040. Establishment of benefit assessments.

All businesses, trades and professions located within the district boundaries shall pay an annual benefit assessment to the district for each fiscal year in the following amounts:

Business Types	Number of Employees	
Retail and	4+	\$450
Restaurant	1-3	300
Service	3+	250
	1-2	150
Professional	3+	\$200
	1-2	150
Financial		500

(Ord. 1461 § 2, (1992))

§ 6.52.050. Purpose and use of benefit assessments.

All funds derived from the assessment will be used for the enhancement and appearance of the district and promotion, advertising and image building for the businesses within the district. Funds derived from the district shall not be used to offset or diminish maintenance, capital improvement and/or business promotion programs currently sponsored by the city within the district. The types of improvements and activities proposed to be funded by the levy of assessments on businesses in the district are as follows:

- (a) Streetscape Beautification, Seasonal Decorations and Public Arts Programs.
 - (1) Erect a district sign on El Camino Real,
 - (2) Place kiosks for posting local events, public information, local business information, and for relocation of newspaper racks,
 - (3) Place benches along Broadway,
 - (4) Seasonal street plantings of flowers,
 - (5) Seasonal flags and banners and relocation of city signs,
 - (6) Sidewalk enhancement and maintenance;
- (b) Business Recruitment and Retention.
 - (1) Shopper preference survey to determine most desired new businesses,
 - (2) Develop strategy to fill commercial vacancies,
 - (3) Small business assistance workshops;
- (c) Parking.

- (1) Remove parking meters,
 - (2) Create more effective directional signage to lots,
 - (3) Sponsor parking maps and/or directories,
 - (4) Annual contribution to parking facility development and maintenance fund;
- (d) Commercial Marketing, Public Relations and Advertising.
- (1) Create cable T.V. and radio spots,
 - (2) Produce seasonal direct mail pieces,
 - (3) Organize special events throughout the year;
- (e) Shuttle. Establish a people mover system between the area and the hotel district, to be funded on a cooperative cost sharing basis.
- (Ord. 1461 § 2, (1992))

§ 6.52.060. Exclusions from benefit assessment.

No person or business shall be required to pay an assessment if it is:

- (a) A residential use of the property within the district, or
 - (b) A nonprofit organization, as defined by Section 6.04.040 of this code, located within the district.
- (Ord. 1461 § 2, (1992))

§ 6.52.070. Collection of benefit assessment.

The benefit assessment authorized by this chapter shall be billed and collected at the same time and manner as city business licenses. The city will make such collections without charge and will forward collected funds to the advisory board monthly.

(Ord. 1461 § 2, (1992))

§ 6.52.080. Late payment penalties and prorations.

Late payment penalties shall be applied to businesses that do not provide their respective assessment payments in the same time, manner, and amount as penalties upon late payment of city business licenses. Assessments shall be prorated for new business in the same manner as city business licenses.

(Ord. 1461 § 2, (1992))

§ 6.52.090. Annual budget process.

- (a) The advisory board shall present an annual budget for city council review and approval prior to the beginning of each fiscal year.
- (b) The city shall not adopt, modify or otherwise amend any fiscal year budget of the district that is inconsistent in any way with said fiscal year's budget as agreed to and presented by the advisory board, except in the case of a written majority protest (regarding elimination or modifications of any specific budget item) from business owners who will pay 50% or more of the assessments proposed to be levied as to any specific budget item pursuant to Government Code Section 36525(b). In such case the written protest regarding any specific budget item shall be grounds to eliminate or modify

said expenditure from the proposed budget.

- (c) The original assessment formula shall not be increased unless requested by a majority of the businesses located within the district.
- (d) Decisions of the advisory board regarding expenditures of all funds generated under these programs shall be final to the extent they are consistent with the district's fiscal year budget adopted by the city council.

(Ord. 1461 § 2, (1992))

**CHAPTER 6.54
BURLINGAME AVENUE AREA BUSINESS IMPROVEMENT DISTRICT**

§ 6.54.010. Definitions.

The following definitions shall apply to this chapter:

"District" means the Burlingame Avenue Area Business Improvement District.

"Financial" means a business that offers bank, savings and loan, thrift, title insurance, or credit union financial services.

"Fiscal year" means October 1st to and including September 30th of the following year.

"Government" means public, local, state or federal agencies.

"Professional" means attorneys, architects, engineers, surveyors, physicians, dentists, optometrists, chiropractors and others in a medical/health service field, consultants, real estate brokers, laboratories (including dental and optical), hearing aid services, artists, insurance brokers, and designers.

"Restaurant" means businesses that sell prepared food and/or drink and includes cafés, eating establishments, sandwich shops, dinner houses, restaurants, bars, fast food services, and other similar businesses.

"Retail" means businesses that buy and resell goods and includes all businesses not covered by other definitions set out in this section, at least 50% of whose gross income is derived from "retail sales" as that term is defined under the California Sales and Use Tax Law. The fact that a substantial part of its business consists of sales and other than retail sales does not exclude such business from this classification so long as such other business component does not account for more than 50% of such business' gross income.

"Service" means businesses that sell services, include general offices, news and advertising media, printers, photographers, personal care facilities and outlets, contractors/builders, service stations, repairing and servicing businesses, automobile repair shops, insurance brokers, renting and leasing businesses, utilities, vending machine businesses, beauty service, and other similar businesses not otherwise included in the other definitions of this section.

"Salons" mean personal service businesses which provide tanning, nail and hair personal services to individual customers on the premises.

(Ord. 1735 § 2, (2004); Ord. 1854 §§ 2—4, (2010))

§ 6.54.020. Establishment of boundaries.

A parking and business improvement district known as the "Burlingame Avenue Area Business Improvement District" is hereby established pursuant to the Parking and Business Improvement Area Law of 1989, Streets and Highways Code Section 36500 et seq. The boundaries of the district shall be as set forth in Exhibit "A," attached to Ordinance No. 1854, and located at the end of this chapter.

(Ord. 1735 § 2, (2004); Ord. 1854 § 5, (2010))

§ 6.54.030. Advisory board.

- (a) There shall be an advisory board, which shall consist of nine members. Members shall be nominated and elected for a term of two years by the businesses participating in the district.
- (b) Terms. The positions on the board shall be classified so that the initial terms of five board positions shall expire at the end of the first year (September 30, 2011), and the initial terms of the other four

positions shall expire at the end of the second year (September 30, 2012).

- (c) Qualifications. Board positions shall be filled with persons owning businesses within the district and who have currently paid the annual benefit assessment. At least three of the board members shall be owners of businesses in zone 1 and three of the board members shall be owners of businesses in zone 2. The advisory board should be composed of members representing different business sectors, including retail, restaurants, salons, and professional or service businesses.
- (d) A vacancy on the advisory board shall be filled by appointment by the city council, upon nomination by the remaining members of the advisory board. Appointments to fill vacancies shall be for the unexpired portion of the position vacated.
- (e) The board shall make recommendations to the city council on expenditure of district revenues, make an annual report for each fiscal year for which assessments are to be levied, and perform those functions required by the Streets and Highways Code to be performed by the advisory board.
- (f) The board shall elect a chair and shall make such rules and by-laws concerning their procedures as they deem necessary.

(Ord. 1854 § 6, (2010))

§ 6.54.040. Establishment of benefit assessments.

All businesses located within the district boundaries shall pay an annual benefit assessment to the district for each fiscal year as levied by the city council.

- (a) Assessments Zones. For assessment purposes, the district shall be divided into three zones:
 - (1) Zone 1 shall consist of all businesses located on the ground floor of buildings on Burlingame Avenue;
 - (2) Zone 2 shall consist of all businesses located on the ground floor of buildings on all streets within the district boundaries other than Burlingame Avenue;
 - (3) Zone 3 shall consist of all businesses located either below or above the ground floor of buildings on all streets within the district boundaries.
- (b) Assessment Amounts.
 - (1) Zone 1. All businesses in zone 1 shall be assessed each fiscal year, a basic assessment fee of \$125 and an additional assessment based upon the square foot measurement of their ground floor space as follows:
 - (A) Under 500 square feet, \$0;
 - (B) Five hundred square feet, \$100;
 - (C) For each additional 500 square feet or portion thereof above 500 square feet, an additional \$50;
 - (D) The additional square foot assessment shall be capped at the rate for 5,500 square feet.
 - (2) Zone 2. All businesses in zone 2 shall be assessed each fiscal year, a basic assessment fee of \$100 and an additional assessment based upon the square foot measurement of their ground floor space as follows:

- (A) Under 500 square feet, \$0;
 - (B) Five hundred square feet, \$80;
 - (C) For each additional 500 square feet or portion thereof, above 500 square feet, an additional \$40;
 - (D) The additional square foot assessment shall be capped at the rate for 5,500 square feet.
- (3) Zone 3. All businesses in zone 3 shall be assessed a basic assessment fee of \$100.

The annual amount of assessment for each of the businesses in each zone shall not exceed these amounts without notice, a public hearing and adoption of an ordinance amendment pursuant to state law. The total annual assessment shall be due and payable 30 days from receipt of invoice.

(Ord. 1854 § 7, (2010))

§ 6.54.050. Purpose and use of benefit assessments.

All funds derived from the assessments will be used for the enhancement and appearance of the district and for the promotion, advertising and image building of the businesses within the district. Funds derived from the district shall not be used to offset or diminish maintenance, capital improvement or business promotion programs currently sponsored by the city within the district. The types of improvements and activities proposed to be funded by the levy of assessments on businesses in the district are as follows:

- (a) Commercial marketing and advertising, including, but not limited to, signage; website design and maintenance; print, radio, television and electronic advertising; and publications for use with hotels and the San Mateo County Convention and Visitors Bureau.
- (b) Promotional, special, and seasonal events.
- (c) Streetscape beautification and seasonal decorations, including, but not limited to, plantings of flowers, seasonal decorations, and banners.
- (d) Shuttle service, including contributing to a shuttle operation connecting hotels and Burlingame's downtown.
- (e) Personnel, including the option to fund a salary for a person to administer district programs, organize events, and promote the district.

(Ord. 1854 § 8, (2010))

§ 6.54.055. Appeal of assessment amount.

Any business within the district may appeal the amount or computation of their annual assessment. The appeal must be in writing, must state the grounds and basis for the appeal and must be presented to the advisory board within 15 days of the date of the assessment billing statement. The advisory board shall appoint three of their members to serve as an adjustment board to hear the appeal. The adjustment board shall hear the appeal within 30 days of its receipt. At the appeal hearing, the appellant and the district may appear, submit evidence and present their case. The adjustment board shall render a decision in writing within 15 days of the conclusion of the hearing. The adjustment board's decision shall be final.

(Ord. 1854 § 9, (2010))

§ 6.54.060. Exclusions from benefit assessment.

No person or business shall be required to pay an assessment if it is:

- (a) A residential use of the property within the district; or
- (b) A nonprofit organization, as defined by Section 6.04.040 of this code, located within the district.
(Ord. 1735 § 2, (2004))

§ 6.54.070. Collection of benefit assessment.

The benefit assessment authorized by this chapter shall be billed in September of each year, shall be due on October 1st of each year and shall be delinquent on October 31st of each year. The city will make such collections in the same manner as it collects the business license fee. The city will forward collected funds to the advisory board monthly.

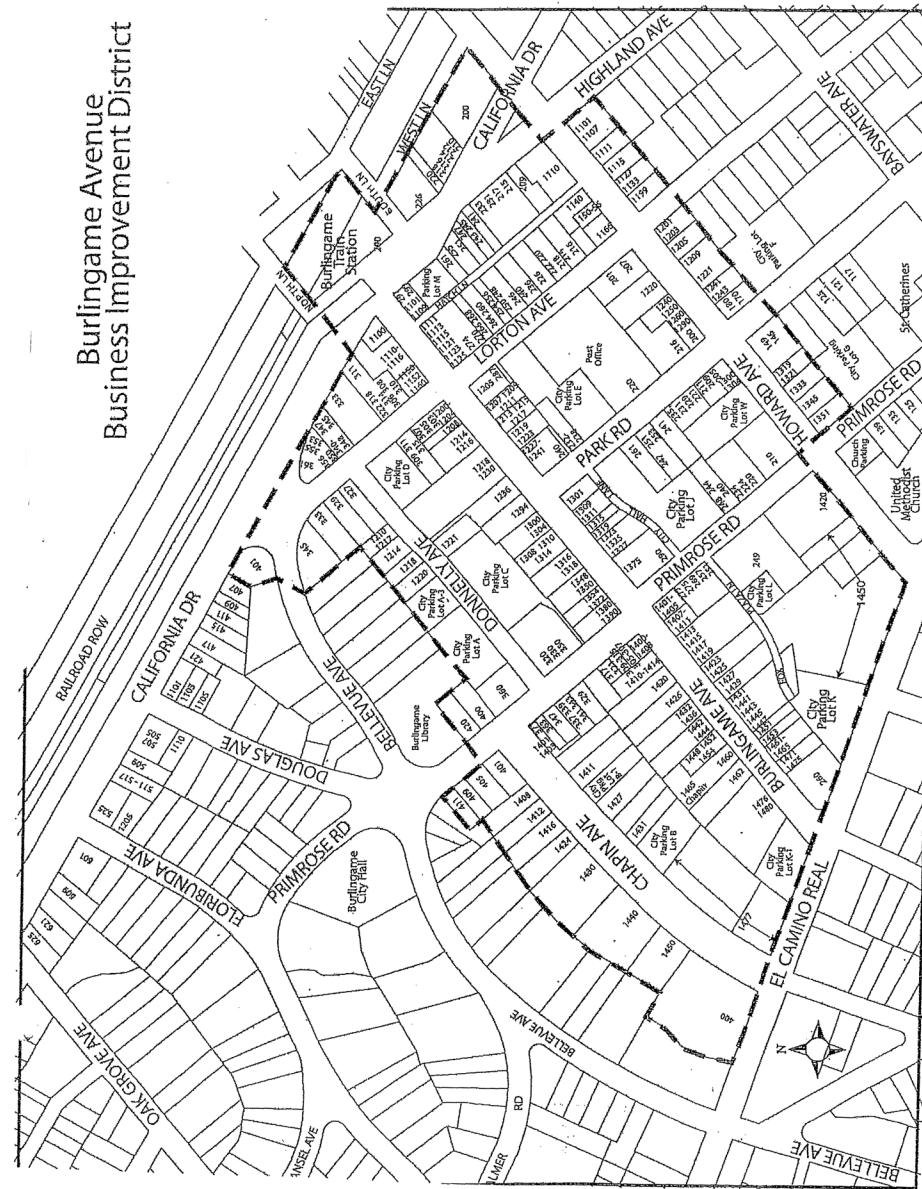
(Ord. 1854 § 10, (2010))

§ 6.54.080. Late payment penalties and prorations.

Businesses which do not timely provide their respective assessment payments shall be subject to late payment penalties in the same time, manner, and amount as penalties upon late payment of city business licenses. Assessments shall be prorated for new business in the same manner as city business licenses.
(Ord. 1854 § 11, (2010))

§ 6.54.090. Annual budget process.

- (a) The advisory board shall present an annual budget for city council review and approval prior to the beginning of each fiscal year.
- (b) The city shall not adopt, modify or otherwise amend any fiscal year budget of the district that is inconsistent in any way with the fiscal year's budget as agreed to and presented by the advisory board, except in the case of a written majority protest (regarding elimination or modifications of any specific budget item) from business owners who will pay 50% or more of the assessments proposed to be levied as to any specific budget item pursuant to Streets and Highways Code Section 36525. In such a case, the written protest regarding any specific budget item shall be grounds to eliminate or modify the expenditure from the proposed budget as provided by state law.
- (c) Decisions of the advisory board regarding expenditures of all funds generated under these programs shall be final to the extent they are consistent with the district's fiscal year budget adopted by the city council.



(Ord. 1735 § 2, (2004))

**CHAPTER 6.55
SAN FRANCISCO PENINSULA TOURISM MARKETING DISTRICT**

§ 6.55.010. Establishment.

The City of Burlingame created the San Francisco Peninsula Tourism Marketing District (SFPTMD), for a five year life, beginning January 1, 2024, or as soon as possible thereafter, and end five years from its start date, under the provisions of the Property and Business Improvement District Law of 1994, as set forth in the Streets and Highways Code of the state, Section 36600 et seq.

(Ord. 2018 § 1, (2023); Ord. 2025, 3/4/2024)

§ 6.55.020. Management district plan.

The management district plan (plan) dated January 3, 2024 reflecting the addition of Foster City is hereby adopted and approved.

(Ord. 2018 § 1, (2023); Ord. 2025, 3/4/2024)

§ 6.55.030. Activities and improvements—Findings.

The activities to be provided to benefit lodging businesses in the SFPTMD will be funded by the levy of the assessment. The revenue from the assessment levy shall not be used: to provide activities that directly benefit businesses outside the SFPTMD; to provide activities or improvements outside the SFPTMD; or for any purpose other than the purposes specified in this chapter, the Resolution of Intention, the Resolution of Formation, the Resolution of Modification, and the plan. Notwithstanding the foregoing, improvements and activities that must be provided outside the SFPTMD boundaries to create a specific benefit to the assessed lodging businesses may be provided, but shall be limited to marketing or signage pointing to the SFPTMD.

- (a) The city council finds as follows:
 - (1) The activities funded by the assessment will provide a specific benefit to assessed lodging businesses within the SFPTMD that is not provided to those not paying the assessment.
 - (2) The assessment is a charge imposed for a specific benefit conferred or privilege granted directly to the payor that is not provided to those not charged, and which does not exceed the reasonable costs to the local government of conferring the benefit or granting the privilege.
 - (3) The assessment is a charge imposed for a specific government service or product provided directly to the payor that is not provided to those not charged, and which does not exceed the reasonable costs to the local government of providing the service or product.
 - (4) Assessments imposed pursuant to the SFPTMD are levied solely upon the assessed lodging business, and the lodging business owner is solely responsible for payment of the assessment when due. If the owner chooses to collect any portion of the assessment from a transient or customer, that portion shall be specifically called out and identified for the transient or customer in any and all communications from the business owner as the "SFPTMD Assessment" or "Tourism Assessment" as specified in the plan.
- (b) The assessments levied for the SFPTMD shall be applied toward sales and marketing programs, and other improvements and activities as set forth in the plan.
- (c) Assessments levied on lodging businesses pursuant to this chapter shall be levied on the basis of

benefit. Because the services provided are intended to increase room rentals, an assessment based on gross short term sleeping room rental revenue is the best measure of benefit.

(Ord. 2018 § 1, (2023); Ord. 2025, 3/4/2024)

§ 6.55.040. (Reserved)

§ 6.55.050. Bonds.

Bonds shall not be issued to fund the SFPTMD.

(Ord. 2018 § 1, (2023); Ord. 2025, 3/4/2024)

§ 6.55.060. Boundaries.

The established SFPTMD includes all lodging businesses, existing and in the future, located within the boundaries of the cities of Belmont, Brisbane, Burlingame, East Palo Alto, Foster City, Half Moon Bay, Millbrae, Pacifica, Redwood City, San Bruno, San Carlos, San Mateo, South San Francisco, and the unincorporated area of San Mateo County, as described in the plan.

(Ord. 2018 § 1, (2023); Ord. 2025, 3/4/2024)

§ 6.55.070. Assessments.

The annual assessment rate is one and one-half percent of gross short-term sleeping room rental revenue for lodging businesses with 5,000 square feet or more of dedicated meeting space, and 0.75% for all other lodging businesses within the SFPTMD's boundaries. Based on the benefit received, assessments will not be collected on stays of more than 30 consecutive days; stays provided to airline cockpit and/or cabin crews pursuant to an agreement between a hotel and an airline, which is in furtherance of or to facilitate such crews' performance of their jobs for the airline, including layovers between flights; employees of the state or federal government if room charges are paid directly by their employing agency and copies of official travel orders are submitted as applicable; and any properly credentialed officer or employee of a foreign government who is exempt by reason of express provision of federal law or international treaty.

The assessments shall be used for the purposes set forth herein and any funds remaining at the end of any year may be used in subsequent years in which the SFPTMD assessment is levied as long as they are used consistent with the requirements set forth herein.

(Ord. 2018 § 1, (2023); Ord. 2025, 3/4/2024)

§ 6.55.080. Collections.

The city of Burlingame shall be responsible for collecting the assessments on a monthly basis (including any delinquencies, penalties and interest) from each lodging business located in the boundaries of the SFPTMD. The city shall take all reasonable efforts to collect the assessments from each lodging business.

(Ord. 2018 § 1, (2023); Ord. 2025, 3/4/2024)

§ 6.55.090. Owners' association.

The council through adoption of this chapter and the plan, has the right pursuant to Streets and Highways Code Section 36651, to identify the body that shall implement the proposed program, which shall be the Owners' Association of the SFPTMD as defined in Streets and Highways Code Section 36612. The city council has determined that SFP shall be the SFPTMD Owners' Association. Pursuant to the plan, SFP shall create a SFPTMD Committee tasked with determining how SFPTMD funds are spent, within the designated programs in the plan, subject to final approval by the SFP Board. The SFPTMD committee

shall include lodging business owners or representatives paying the SFPTMD assessment. Passage of the ordinance codified in this chapter authorizes the city council to contract with SFP to administer the SFPTMD.

(Ord. 2018 § 1, (2023); Ord. 2025, 3/4/2024)

§ 6.55.100. Annual report.

SFP, pursuant to Streets and Highways Code Section 36650, shall cause to be prepared a report for each fiscal year, except the first year, for which assessments are to be levied and collected to pay the costs of the improvement and activities described in the report. The first report shall be due after the first year of operation of the SFPTMD.

(Ord. 2018 § 1, (2023); Ord. 2025, 3/4/2024)

§ 6.55.110. Amendments to enabling legislation.

The SFPTMD formed pursuant to this chapter shall be subject to any amendments to the Property and Business Improvement District Law of 1994 (California Streets and Highways Code Section 36600 et seq.).

(Ord. 2018 § 1, (2023); Ord. 2025, 3/4/2024)

CHAPTER 6.56 SHORT-TERM RENTALS

§ 6.56.010. Purpose.

The purpose of this chapter is to:

- (a) Allow limited short-term rental uses while preventing the loss of housing stock;
- (b) Preserve residential character and establish operating standards to reduce potential noise, parking, traffic, property maintenance and safety impacts on adjacent neighbors; and
- (c) Provide a registration process for the city to track and enforce these requirements as needed and ensure appropriate collection of transient occupancy taxes.

(Ord. 1989 § 1, (2020))

§ 6.56.020. Definitions.

For purposes of this section, the following definitions shall apply:

"Adjacent properties" means the dwelling units located next to and immediately across the street from the dwelling unit in which the short-term rental is located.

"Authorized agent" means the person specifically authorized by a host of an un-hosted short-term rental to represent and act on behalf of the host and to act as an operator, manager and contact person of an un-hosted short-term rental, and to provide and receive any notices identified in this chapter on behalf of the host. The authority to operate and manage the short-term residential rental unit must include the authority to enter the unit at any time while rented for the purposes of verifying compliance with applicable laws. The authorized agent may include the host, or persons other than the host.

"Host" means any person who is the owner of record of residential real property or any person who is a lessee of residential real property pursuant to a written agreement for the lease of such real property, who offers a dwelling unit, or portion thereof, for short-term rental either through a hosting platform or individually as an operator. The host is the person to whom a short-term residential rental permit is issued pursuant to this section.

"Hosted short-term rental" means a short-term residential rental at which the host is present while it is being rented. A host is considered present when they are on the premises at all times between the hours of 10:00 p.m. and 6:00 a.m.

"Hosting platform" means a means through which a host may offer a dwelling unit, or portion thereof, for short-term rental. A hosting platform includes, but is not limited to, an internet-based platform that allows a host to advertise and potentially arrange for temporary occupation of the dwelling unit, or portion thereof, through a publicly searchable website, whether the short-term renter pays rent directly to the host or to the hosting platform.

"Listing" means the advertisement and agreement to rent a primary residence or portion of a primary residence to a short-term renter for designated dates. A single listing may not include multiple rental agreements with more than one individual renter, though multiple people may be included in an individual renter's party.

"Primary residence" means a dwelling unit where a person has been physically present and that the person regards as home. A person may only have one primary residence at any given time. Evidence of a person's primary residence includes, but is not limited to, documentation from income tax statements or a driver's license. If a property has multiple dwelling units, each dwelling unit shall be considered a separate

residence subject to the primary residence requirement.

"Short-term rental" means the use or possession of or the right to use or possess any room or rooms, or portions thereof in any dwelling unit for residing, sleeping or lodging purposes for less than 30 consecutive calendar days, counting portions of days as full calendar days.

"Short-term renter" means a 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 less than 30 consecutive calendar days, counting portions of calendar days as full calendar days.

"Un-hosted short-term rental" means a short-term residential rental that is not hosted.

(Ord. 1989 § 1, (2020))

§ 6.56.030. Permitted use.

Short-term rental uses shall be permitted in any primary residence subject to the requirements of this section, including compliance with the operating standards, registration, transient occupancy tax payments, and recordkeeping obligations. Short-term rentals are not permitted in accessory dwelling units, as described in Chapter 25.59 of the Burlingame Municipal Code. Except as provided for in this section, all other short-term rental uses shall be prohibited.

(Ord. 1989 § 1, (2020))

§ 6.56.040. Registration and annual renewal.

- (a) Application. Prior to advertising or making available the primary residence for renting, hosts shall register their primary residence as a short-term rental with the city. This registration shall be submitted on a form prepared by the city and shall include:
 - (1) The name and contact information of the host;
 - (2) The address of the primary residence being used for short-term rental;
 - (3) The number of off-street parking spaces on site;
 - (4) Proof of ownership of the proposed short-term residential rental unit, or proof of the property owner's consent to the property's use as a short-term residential rental;
 - (5) Documentation that establishes the proposed short-term residential rental unit is the applicant's primary residence;
 - (6) The contact information for the authorized agent;
 - (7) An acknowledgement of compliance with the requirements of the city's zoning ordinance, municipal codes, and applicable health and safety standards;
 - (8) A city of Burlingame business license for the short-term residential operation; and
 - (9) Other information as requested.
- (b) Fee. The registration form shall be accompanied by a filing fee in an amount established by resolution of the city council and updated from time to time.
- (c) Application Completeness. The submitted information shall be used to determine whether to register the short-term rental. The host will be notified if an application is incomplete. If the host fails to submit the required information or fees necessary to complete the application within one year, the

application shall expire and be deemed withdrawn.

- (d) Decision. The community development director or designee shall be responsible for acting on short-term rental registration applications. After an application is deemed complete, registration shall be approved where:
 - (1) The host demonstrates the ability to meet the requirements of this chapter;
 - (2) The subject primary residence is not the subject of an active code compliance order or administrative citation from the city in the past 12 months; and
 - (3) A short-term rental registration for the primary residence has not been denied or revoked in the prior 24 month period.
 - (e) Denial. The community development director or designee may deny a short-term rental registration application when the application does not meet the criteria listed in subsection (d) above.
 - (f) Validity. An approved registration shall be valid and payable on a fiscal year basis. An approved registration shall be personal to the host and shall automatically expire upon sale or transfer of the dwelling unit. No registration may be assigned, transferred, or loaned to any other person.
 - (g) Annual Renewal. A registration shall be renewed annually upon payment of registration renewal fees and all required transient occupancy tax remittance associated with the short-term rental. The host shall submit such information concerning the short-term rental activity as may be required to enable the tax collector to verify the amount of tax paid. Failure to renew prior to the expiration date will result in expiration of the registration.
 - (h) Requirements Not Exclusive. The issuance of a short-term rental registration shall not relieve any person of the obligation to comply with all other provisions of this code applicable to the use and occupancy of the property.
 - (i) Administrative Policy. The community development director or designee shall have the authority to develop administrative policies to implement the intent of this chapter.
- (Ord. 1989 § 1, (2020))

§ 6.56.050. Operating standards.

The following operating standards shall apply to short-term rentals:

- (a) Legal Dwelling. Short-term rentals may only occur within legal dwelling units.
- (b) Limitation on Listings. Short-term rentals shall not have more than one listing for the same primary residence on the same days.
- (c) Annual Limit. A primary residence may be occupied as an un-hosted short-term rental for no more than 120 days per calendar year per unit. There shall be no limit on the number of days a primary residence may be occupied as a hosted short-term rental.
- (d) Authorized Agent. Hosts shall identify to all guests and all occupants of adjacent properties an authorized agent to be available 24 hours per day, seven days per week during the term of any un-hosted short-term rental. The designated authorized agent shall be available under the following terms:
 - (1) When the short-term residential rental unit is rented, the host (for a hosted short-term rental) or

at least one authorized agent (for an un-hosted short-term rental) must respond to all telephone and e-mail messages relating to issues of permit compliance or the health, safety, or welfare of the public or the renter at the short-term residential rental unit within 30 minutes at all times, 24 hours per day.

- (2) The host (for a hosted short-term rental) or at least one authorized agent (for an un-hosted short term-rental) must be on the premises of the short-term residential rental unit within one hour of being notified of complaints regarding the condition or operation of the dwelling unit or the conduct of guests and take remedial action to resolve such complaints.
- (e) Parking. No additional parking shall be required for short-term rentals. Existing on-site parking spaces shall be made available to short-term renters.
- (f) Refuse and Recycling. The host must provide appropriate refuse and recycling service for the short-term residential rental unit. The property must be free of debris both on site and in the street. Disposal regulations outlined in Chapter 8.16 of the Burlingame Municipal Code shall apply to all short-term rentals.
- (g) Noise. Noise regulations outlined in Chapter 10.40 of the Burlingame Municipal Code shall apply to all short-term rentals.
- (h) Special Events. Weddings, corporate events, commercial functions, parties/congregations, and any other similar events which have the potential to cause traffic, parking, noise or other problems in the neighborhood are prohibited from occurring at the short-term rental property, as a component of short-term rental activities.

(Ord. 1989 § 1, (2020))

§ 6.56.060. Transient occupancy tax (TOT).

Transient occupancy taxes must be collected for short-term rentals and paid to the city pursuant to Title 4, Chapter 4.09 of the city of Burlingame Municipal Code. Collection and remittance of TOT is the responsibility of the host. The hosting platform shall collect TOT when they have signed a voluntary collection agreement (or equivalent) with the city. If booked on a hosting platform, collection and remittance of TOT for short-term rentals shall be the primary responsibility of the hosting platform. Collection and remittance of TOT for short-term rentals shall be the responsibility of the host if booked directly through an individual host with no hosting platform involvement.

(Ord. 1989 § 1, (2020))

§ 6.56.070. Enforcement.

- (a) Revocation of Registration. A short-term rental registration issued under the provisions of this section may be revoked by the community development director or designee after notice and hearing as provided for in this section, for any of the following reasons:
 - (1) Fraud, misrepresentation, or false statements contained in the application;
 - (2) Fraud, misrepresentation, or false statements made in the course of carrying on a short-term rental as regulated by this section;
 - (3) Any violation of any provision of this section or of any provision of this code; or
 - (4) Any violation of any provision of federal, state or local laws.

- (b) Revocation Hearing. Before revoking a short-term rental registration, the community development director or designee shall give the responsible host notice in writing of the proposed revocation and of the grounds thereunder, and also of the time and place at which the host will be given a reasonable opportunity to show cause why the registration should not be revoked. The notice may be served personally upon the host or may be mailed to the host at the last known address or at any address shown upon the application at least 10 days prior to the date of the hearing. Upon conclusion of the hearing, the community development director or designee may, for the grounds set forth herein, revoke the registration.
- (c) Appeal from Denial or Revocation of Registration. Any host whose application has been denied or registration has been revoked shall have the right to an administrative appeal before the city manager or a designated hearing officer. An appeal shall be filed in writing on a form provided by the city stating the grounds therefore within 10 days of the decision. The city manager or designated hearing officer shall hold a hearing thereon within a reasonable time and the decision shall be final.
- (d) Waiting Period. Any host whose registration has been revoked due to a violation may be ineligible from applying for a new registration for the following durations:
- (1) A six month period if listing limitation is exceeded (as described in Section 6.56.050(b)) or if the annual limit for un-hosted stays is exceeded (as described in Section 6.56.050(c)).
 - (2) A 12 month period if three or more nuisance or noise complaints are made and substantiated by the police department.
 - (3) A 24 month period for a single complaint made and substantiated by the police department related to a special event, as defined in Section 6.56.050(h)). More than one special-event related complaint shall fall under subsection (d)(4) below.
 - (4) Waiting periods for violations not defined by this section shall be determined by the community development director or designee.
- (e) Suspension. Pending code enforcement or criminal complaints brought by the city shall be grounds for immediate suspension of the registration.
- (f) Records of Compliance. The host shall retain records documenting the compliance with these requirements for a period of three years after each period of short-term rental, including, but not limited to, records showing payment of transient occupancy taxes by a hosting platform on behalf of a host. Upon reasonable notice, the host shall provide any such documentation to the city upon request for the purpose of inspection or audit to the city manager or designee.
- (g) Violations. Penalties may be imposed for failure to comply with the provisions of this chapter and Chapter 4.09; such penalties include those relating to revocation set forth in this chapter, Chapter 4.09, and Title 1 of this code.

(Ord. 1989 § 1, (2020))

§ 6.56.080. Amnesty period for short-term rentals.

Notwithstanding any other provision of law, short-term rentals operating on or before the enactment of the ordinance codified in this chapter shall be considered existing, unpermitted uses. An amnesty period of one year after the effective date of the ordinance codified in this chapter is being offered to allow these existing, unpermitted uses to be legalized by conforming to the requirements of this section, including compliance with operating standards, registration, and recordkeeping obligations. Transient occupancy tax payments

shall continue to be required at all times for short-term rentals, as of the effective date of the ordinance codified in this chapter, and must be collected and paid for the full duration of the amnesty period.

Applications to bring an existing, unpermitted short-term rental use into compliance shall be made on or before one year after the effective date of the ordinance codified in this chapter. Existing short-term rental uses that do not conform to the requirements of this section shall cease operation within one year of the effective date of the ordinance codified in this chapter and shall be prohibited from resuming unless and until the use conforms to the requirements of this chapter.

(Ord. 1989 § 1, (2020))

BUSINESS LICENSES AND REGULATIONS

Title 7

(RESERVED)

HEALTH AND SANITATION

Title 8**HEALTH AND SANITATION**

	Chapter 8.04 HEALTH NOTICES	§ 8.15.020.	Requirements for single-family generators.
§ 8.04.010.	Removal of health notices unlawful.	§ 8.15.030.	Requirements for commercial businesses.
		§ 8.15.040.	Waivers for generators.
		§ 8.15.050.	Requirements for tier one and tier two commercial edible food generators.
	Chapter 8.08 ENVIRONMENTAL HEALTH	§ 8.15.060.	Requirements for food recovery organizations and services.
§ 8.08.010.	Adoption of Environmental Health Code.	§ 8.15.070.	Requirements for haulers and facility operators.
§ 8.08.020.	Additional provisions concerning wells.	§ 8.15.080.	Self-hauler requirements.
§ 8.08.030.	Inspection fees and permit procedures.	§ 8.15.090.	Procurement requirements for city departments, direct service providers, and vendors.
§ 8.08.040.	Health officer defined.	§ 8.15.100.	Inspections and investigations by city.
	Chapter 8.10 REGULATING THE USE OF DISPOSABLE FOOD SERVICE WARE	§ 8.15.110.	Enforcement.
		§ 8.15.120.	Effective date.
		§ 8.15.130.	Resolution of conflict between Chapter and other provisions of the Burlingame Municipal Code.
	Chapter 8.12 RESTRICTION OF THE USE OF SINGLE-USE CARRY-OUT BAGS BY RETAILERS	§ 8.16.010.	Definitions.
		§ 8.16.020.	Solid waste accumulations and disposal.
§ 8.12.010.	Adoption of San Mateo County ordinance by reference.	§ 8.16.030.	Exemptions.
§ 8.12.020.	Authorization of enforcement by San Mateo County personnel.	§ 8.16.040.	Obligations of customers.
§ 8.12.030.	Violations.	§ 8.16.050.	Recyclable materials.
		§ 8.16.060.	Special provisions regarding method of disposal.
		§ 8.16.070.	Health officer to settle disputes.
	Chapter 8.15 ORGANIC WASTE DISPOSAL REDUCTION		
§ 8.15.010.	Definitions.		

Chapter 8.17
**RECYCLING AND DIVERSION OF DEBRIS
 FROM CONSTRUCTION AND
 DEMOLITION**

- § 8.17.010.** Definitions.
- § 8.17.020.** Deconstruction and salvage and recovery.
- § 8.17.025.** Construction site maintenance.
- § 8.17.030.** Diversion requirements.
- § 8.17.040.** Information required before issuance of permit.
- § 8.17.050.** Deposit required.
- § 8.17.060.** Administrative fee.
- § 8.17.070.** On-site practices.
- § 8.17.080.** Reporting.
- § 8.17.090.** Adjustment of values.
- § 8.17.100.** Application to additional projects.

Chapter 8.18
SMOKING

- § 8.18.010.** Findings and purpose.
- § 8.18.020.** Definitions.
- § 8.18.030.** Smoking limitations in city-owned or city-controlled facilities and vehicles.
- § 8.18.040.** Prohibition of smoking in public places.
- § 8.18.050.** Regulation of smoking in places of employment.
- § 8.18.055.** Multifamily housing.
- § 8.18.060.** Where smoking not regulated.
- § 8.18.070.** Posting of signs.
- § 8.18.080.** Violations.
- § 8.18.090.** Nondiscrimination and prohibition on retaliation.
- § 8.18.100.** Tobacco vending machines prohibited except in bars.
- § 8.18.110.** Enforcement of Section 6404.5.

§ 8.18.120. Sale of flavored tobacco products prohibited.

Chapter 8.19
TOBACCO RETAILER PERMIT

- § 8.19.100.** Definitions.
- § 8.19.110.** Requirement for a permit.
- § 8.19.120.** Permit is nontransferable.
- § 8.19.130.** Permit conveys a limited, conditional privilege.
- § 8.19.140.** Application, issuance and renewal procedure.
- § 8.19.150.** Display of permit.
- § 8.19.160.** Prohibitions regarding coupons, discounts, pharmacies, flavored tobacco, and electronic smoking devices.
- § 8.19.170.** Packaging and labeling.
- § 8.19.180.** Self-service displays prohibited; on-site, in-person sales required.
- § 8.19.190.** Notice of minimum age for purchase of tobacco products.
- § 8.19.200.** Positive identification required.
- § 8.19.210.** Minimum age for individuals selling tobacco products.
- § 8.19.220.** Display or offers to sell tobacco products without tobacco retailer permit prohibited.
- § 8.19.230.** Limits on eligibility for a permit.
- § 8.19.240.** Fees for permit.
- § 8.19.250.** Enforcement.
- § 8.19.260.** Public nuisance.
- § 8.19.270.** Compliance monitoring.
- § 8.19.290.** Suspension or revocation of permit.
- § 8.19.300.** Administrative fine.
- § 8.19.310.** Administrative regulations.

**CHAPTER 8.04
HEALTH NOTICES**

§ 8.04.010. Removal of health notices unlawful.

For the purpose of protecting the public health and keeping the public informed of rules, regulations and orders of the health officer or any orders of the health officer or any of his or her deputies, it is unlawful for any person to remove any notice posted by the health officer or his or her deputies on or about any premises under any of the ordinances of the city of Burlingame or the laws of the state of California, without permission of the health officer or one of his or her deputies.

(1941 Code § 1670, Ord. 376, (1941))

CHAPTER 8.08 ENVIRONMENTAL HEALTH

§ 8.08.010. Adoption of Environmental Health Code.

- (a) The following chapters of titles 4 and 5 of the San Mateo County Ordinance Code are adopted by reference:
- (1) Chapter 4.08 – Manure and Fertilizers;
 - (2) Chapter 4.12 – Mosquito Control;
 - (3) Chapter 4.16 – Rodents;
 - (4) Chapter 4.20 – Milk Regulations;
 - (5) Chapter 4.48 – Abatement of Nuisances;
 - (6) Chapter 4.52 – Environmental Health Code Generally;
 - (7) Chapter 4.56 – Food Establishments;
 - (8) Chapter 4.60 – Public Fresh Water Sports Areas;
 - (9) Chapter 4.68 – Wells;
 - (10) Chapter 4.72 – Backflow Prevention;
 - (11) Chapter 4.76 – Chemical Toilets
 - (12) Chapter 4.80 – Rodent and Insect Control;
 - (13) Chapter 4.84 – Individual Sewage Disposal Systems;
 - (14) Chapter 4.92 – Storage of Hazardous Substances;
 - (15) Chapter 4.108 – Prohibited Fuels; and
 - (16) Chapter 5.68 – Food Establishments.

(Ord. 1103 § 2, (1977); 1679 § 2, (2002))

§ 8.08.020. Additional provisions concerning wells.

The following additional provisions regarding wells shall apply within the city:

- (a) Double Check Valve Arrangement. Between the house or structure being served and the water meter box or distribution system, there shall be installed a double check valve arrangement approved jointly by the health officer and the city engineer.
- (b) As a part of the investigation required by Chapter 4.68 of Title 4 of the San Mateo County Ordinance Code as adopted by this title, the health officer shall consult the city engineer and shall not issue any well permit without the city engineer's concurrence.

(Ord. 1103 § 2, (1977); Ord. 1679 § 2, (2002))

§ 8.08.030. Inspection fees and permit procedures.

The inspection and application fees and the permit procedures established pursuant to Title 4 and Chapter 5.64 of the San Mateo County Ordinance Code, with the exception of the five year tobacco sales permit, are approved for use by the county health officer in administering this chapter. The penalties for violations of the provisions of this chapter shall be as provided in Chapter 1.12 of this code.

(Ord. 1103 § 2, (1977); Ord. 1679 § 2, (2002))

§ 8.08.040. Health officer defined.

Unless otherwise specified, "health officer" as used in this code means the county of San Mateo health officer appointed pursuant to Chapter 4.52 of the San Mateo County Ordinance Code as adopted by reference pursuant to this chapter.

(Ord. 1672 § 2, (2002))

**CHAPTER 8.10
REGULATING THE USE OF DISPOSABLE FOOD SERVICE WARE**

§ 8.10.010. Adoption of San Mateo County ordinance by reference.

Chapter 4.107 of Title 4 of the San Mateo County Code of Ordinances, entitled "Regulating the Use of Disposable Food Service Ware," and any amendment thereto, are hereby adopted by this reference and made part of the Burlingame Municipal Code and are, accordingly, effective in this city. Certified copies of Chapter 4.107 of Title 4, as adopted hereby, and any subsequent amendment, shall be deposited with the city clerk, and shall be at all times maintained by the clerk for use and examination by the public.
(Ord. 1976 § 1, (2020))

§ 8.10.020. Authorization of enforcement by San Mateo County personnel.

The county manager of the county of San Mateo or their designee is hereby authorized to enforce, on behalf of the city, Chapter 4.107 "Regulating the Use of Disposable Food Service Ware" of Title 4 of the San Mateo County Code of Ordinances, and any amendments thereto, within the city's jurisdiction. Such enforcement authority includes, but is not limited to, the authority to hold hearings, issue citations, and assess administrative fines on behalf of the city.
(Ord. 1976 § 1, (2020))

**CHAPTER 8.12
RESTRICTION OF THE USE OF SINGLE-USE CARRY-OUT BAGS BY RETAILERS**

§ 8.12.010. Adoption of San Mateo County ordinance by reference.

Chapter 4.114 of Title 4 of the San Mateo County ordinance code, entitled "Reusable Bags," and any amendment thereto, are hereby adopted by this reference and made part of the Burlingame Municipal Code and are, accordingly, effective in this city. Certified copies of Chapter 4.107 of Title 4, as adopted hereby, and any subsequent amendment, shall be deposited with the city clerk, and shall be at all times maintained by the clerk for use and examination by the public.

(Ord. 1883 § 2, (2013))

§ 8.12.020. Authorization of enforcement by San Mateo County personnel.

The county of San Mateo, its officers, employees and agents are hereby authorized to enforce, on behalf of the city, Chapter 4.114 "Reusable Bags" of Title 4 of the San Mateo County ordinance code, and any amendments thereto, as adopted by reference herein, within the jurisdiction areas of the city of Burlingame. Such enforcement authority includes, but is not limited to, the collection of fees and fines, expending such revenue in the enforcement of the regulation of single-use carry-out bags, holding hearings, suspending permits and issuing administrative fines.

(Ord. 1883 § 2, (2013))

§ 8.12.030. Violations.

- (a) It is unlawful for a retail establishment, and any person who is an agent, employee or owner of a retail establishment, to provide a single-use carry-out bag to a customer in violation of the chapter adopted by reference.
- (b) Violation of the chapter adopted by reference is an offense that may be charged as set forth in Chapter 1.12 or may be remedied by any means available to remedy a violation of this code.

(Ord. 1883 § 2, (2013))

CHAPTER 8.15 ORGANIC WASTE DISPOSAL REDUCTION

§ 8.15.010. Definitions.

"Blue container" has the same meaning as in 14 CCR Section 18982.2(a)(5) and shall be used for the purpose of storage and collection of source separated recyclable materials or source separated blue container organic waste.

"Black container" has the same meaning as in 14 CCR Section 18982.2(a)(28) and shall be used for the purpose of storage and collection of black container waste.

"Black container waste" means solid waste that is collected in a black container that is part of a three-container organic waste collection service that prohibits the placement of organic waste or source separated recyclables in the black container as specified in 14 CCR Sections 18984.1(a) and (b), or as otherwise defined in 14 CCR Section 17402(a)(6.5).

"CalRecycle" means California's Department of Resources Recycling and Recovery, which is the department designated with responsibility for developing, implementing, and enforcing SB 1383 Regulations on jurisdictions (and others).

"California Code of Regulations" or "CCR" means the state of California Code of Regulations. CCR references in this chapter are preceded with a number that refers to the relevant title of the CCR (e.g., "14 CCR" refers to Title 14 of CCR).

"Commercial business" or "commercial" means a firm, partnership, proprietorship, joint-stock company, corporation, or association, whether for-profit or nonprofit, strip mall, industrial facility, or a multifamily residential dwelling, or as otherwise defined in 14 CCR Section 18982(a)(6). A multifamily residential dwelling that consists of fewer than five units is not a commercial business for purposes of implementing this chapter.

"Commercial edible food generator" includes a tier one or a tier two commercial edible food generator as defined in this chapter. For the purposes of this definition, food recovery organizations and food recovery services are not commercial edible food generators pursuant to 14 CCR Section 18982(a)(7).

"Compliance review" means a review of records by a jurisdiction or its designated entity to determine compliance with this chapter.

"Community composting" means any activity that composts green material, agricultural material, food material, and vegetative food material, alone or in combination, and the total amount of feedstock and compost on-site at any one time does not exceed 100 cubic yards and 750 square feet, as specified in 14 CCR Section 17855(a)(4); or, as otherwise defined by 14 CCR Section 18982(a)(8).

"Compost" has the same meaning as in 14 CCR Section 17896.2(a)(4), which stated, as of the effective date of the ordinance codified in this chapter, that "compost" means the product resulting from the controlled biological decomposition of organic solid wastes that are source separated from the municipal solid waste stream, or which are separated at a centralized facility.

Compost eligible for meeting the city's annual recovered organic waste product procurement target must be produced at a compostable material handling operation or facility permitted or authorized under 14 CCR Chapter 3.1 of Division 7 or produced at a large volume in-vessel digestion facility that composts on site as defined and permitted under 14 CCR Chapter 3.2 of Division 7. Compost shall meet the state's composting operations regulatory requirements.

"Container contamination" or "contaminated container" means a container, regardless of color, that contains prohibited container contaminants, or as otherwise defined in 14 CCR Section 18982(a)(55).

"C&D" means construction and demolition debris.

"Designated source separated organic waste facility," as defined in 14 CCR Section 18982(14.5), means a solid waste facility that accepts a source separated organic waste collection stream as defined in 14 CCR Section 17402(a)(26.6) and complies with one of the following:

- (1) The facility is a "transfer/processor," as defined in 14 CCR Section 18815.2(a)(62), that is in compliance with the reporting requirements of 14 CCR Section 18815.5(d), and meets or exceeds an annual average source separated organic content recovery rate of 50% between January 1, 2022 and December 31, 2024 and 75% on and after January 1, 2025 as calculated pursuant to 14 CCR Section 18815.5(f) for organic waste received from the source separated organic waste collection stream.
 - (A) If a transfer/processor has an annual average source separated organic content recovery rate lower than the rate required in paragraph 1 of this definition for two consecutive reporting periods, or three reporting periods within three years, the facility shall not qualify as a "designated source separated organic waste facility."
- (2) The facility is a "composting operation" or "composting facility" as defined in 14 CCR Section 18815.2(a)(13), that pursuant to the reports submitted under 14 CCR Section 18815.7 demonstrates that the percent of the material removed for landfill disposal that is organic waste is less than the percent specified in 14 CCR Section 17409.5.8(c)(2) or 17409.5.8(c)(3), whichever is applicable, and, if applicable, complies with the digestate handling requirements specified in 14 CCR Section 17896.5. The definition of composting operation includes in-vessel digestion as regulated in 14 CCR Section 17896.
 - (A) If the percent of the material removed for landfill disposal that is organic waste is more than the percent specified in 14 CCR Section 17409.5.8(c)(2) or 17409.5.8(c)(3), for two consecutive reporting periods, or three reporting periods within three years, the facility shall not qualify as a "designated source separated organic waste facility." For the purposes of this chapter, the reporting periods shall be consistent with those defined in 14 CCR Section 18815.2(a)(49).

"Designee" means an entity that a jurisdiction contracts with or otherwise arranges to carry out any of the jurisdiction's responsibilities of this chapter as authorized in 14 CCR Section 18981.2. A designee may be a government entity, a hauler, a private entity, or a combination of those entities.

"Designee for edible food recovery" means the County of San Mateo's Office of Sustainability with which the city has a memorandum of understanding for the purposes of edible food recovery, including, but not limited to, inspection, investigation, and enforcement of the edible food recovery provisions of this chapter. Contact information for the designee for edible food recovery can be found on the County of San Mateo's Office of Sustainability website.

"Edible food" means food intended for and fit for human consumption and collected or received from a

tier one or tier two commercial edible food generator. For the purposes of this chapter, "edible food" is not solid waste if it is recovered and not discarded. Nothing in this chapter or in 14 CCR, Division 7, Chapter 12 requires or authorizes the recovery of edible food that does not meet the food safety requirements of the California Retail Food Code.

"Edible food recovery" means actions to collect, receive, and/or re-distribute edible food for human consumption from tier one and tier two commercial edible food generators that otherwise would be disposed.

"Enforcement action" means an action of the city or County of San Mateo's Office of Sustainability to address noncompliance with this chapter, including, but not limited to, issuing administrative citations, fines, penalties, or using other remedies.

"Excluded waste" means hazardous substance, hazardous waste, infectious waste, designated waste, volatile, corrosive, medical waste, infectious, regulated radioactive waste, and toxic substances. Excluded wastes also includes construction materials, dirt, rock and concrete, electronic waste and batteries, fluorescent lights, hazardous waste, liquids and grease, medicines and sharps and treated wood.

These include material that facility collectors and operator(s), which receive materials from the city and its generators, reasonably believe(s) would, as a result of or upon acceptance, transfer, processing, or disposal, be a violation of local, state, or federal law, regulation, or ordinance, including: land use restrictions or conditions, waste that cannot be disposed of in Class III landfills or accepted at the facility by permit conditions, waste that in city, or its designee's reasonable opinion would present a significant risk to human health or the environment, cause a nuisance or otherwise create or expose city, or its designee, to potential liability; but not including de minimis volumes or concentrations of waste of a type and amount normally found in single-family or multifamily solid waste after implementation of programs for the safe collection, processing, recycling, treatment, and disposal of batteries and paint in compliance with Sections 41500 and 41802 of the California Public Resources Code. Excluded waste does not include household batteries placed in a sealed clear plastic bag placed on top of the black can, or any other universal wastes if such materials are defined as allowable materials for collection through the city's collection programs and the generator or customer has properly placed the materials for collection pursuant to instructions provided by the city or its designee for collection services.

"Food distributor" means a company that distributes food to entities including, but not limited to, supermarkets and grocery stores.

"Food facility" has the same meaning as in Section 113789 of the Health and Safety Code.

"Food recovery" means actions to collect, receive and or re-distribute edible food for human consumption from tier one and tier two commercial edible food generators, that otherwise would be disposed.

"Food recovery organization" means an entity that engages in the collection or receipt of edible food from commercial edible food generators and distributes that edible food to the public for food recovery either directly or through other entities or as otherwise defined in 14 CCR Section 18982(a)(25), including, but not limited to:

- (1) A food bank as defined in Section 113783 of the Health and Safety Code;
- (2) A nonprofit charitable organization as defined in Section 113841 of the Health and Safety Code; and,
- (3) A nonprofit charitable temporary food facility as defined in Section 113842 of the Health and Safety Code.

A food recovery organization is not a commercial edible food generator for the purposes of this chapter and implementation of 14 CCR, Division 7, Chapter 12 pursuant to 14 CCR Section 18982(a)(7).

If the definition in 14 CCR Section 18982(a)(25) for food recovery organization differs from this definition, the definition in 14 CCR Section 18982(a)(25) shall apply to this chapter.

"Food recovery service" means a person or entity that collects and transports edible food from a tier one or tier two commercial edible food generator to a food recovery organization or other entities for edible food recovery. A food recovery service is not a commercial edible food generator for the purposes of this chapter and implementation of 14 CCR, Division 7, Chapter 12 pursuant to 14 CCR Section 18982(a)(7).

"Food scraps" means all food such as, but not limited to, fruits, vegetables, meat, poultry, seafood, shellfish, bones, rice, beans, pasta, bread, cheese, and eggshells. Food scraps excludes fats, oils, and grease when such materials are source separated from other food scraps.

"Food service provider" means an entity primarily engaged in providing food services to institutional, governmental, commercial, or industrial locations of others based on contractual arrangements with these types of organizations.

"Food-soiled paper" is compostable paper material that has come in contact with food or liquid, such as, but not limited to, compostable paper plates, paper coffee cups, napkins, pizza boxes, and milk cartons and should be placed in the green compost container with food scraps.

"Food waste" means food scraps, food-soiled paper, and bio-plastics labeled "BPI certified compostable."

"Green container" has the same meaning as in 14 CCR Section 18982.2(a)(29) and shall be used for the purpose of storage and collection of source separated green container organic waste.

"Greenhouse gas (GHG)" means carbon dioxide (CO₂), methane (CH₄), nitrous oxide (N₂O), sulfur hexafluoride (SF₆), hydrofluorocarbons (HFC), perfluorocarbons (PFC) and other fluorinated greenhouse gases.

"Greenhouse gas emission reduction" or "greenhouse gas reduction" means a calculated decrease in greenhouse gas emission relative to a project baseline over a specified period of time, resulting from actions designed to achieve such a decrease.

"Grocery store" means a store primarily engaged in the retail sale of canned food; dry goods; fresh fruits and vegetables; fresh meats, fish, and poultry; and any area that is not separately owned within the store where the food is prepared and served, including a bakery, deli, and meat and seafood departments, or as otherwise defined in 14 CCR Section 18982(a)(30).

"High diversion organic waste processing facility" means a facility that is in compliance with the reporting requirements of 14 CCR Section 18815.5(d) and meets or exceeds an annual average mixed waste organic content recovery rate of 50% between January 1, 2022 and December 31, 2024, and 75% after January 1, 2025, as calculated pursuant to 14 CCR Section 18815.5(e) for organic waste received from the "mixed waste organic collection stream" as defined in 14 CCR Section 17402(a)(11.5); or, as otherwise defined in 14 CCR Section 18982(a)(33).

"Inspection" means a site visit where a jurisdiction or its designee, reviews records, containers, and an entity's collection, handling, recycling, or landfill disposal of organic waste or edible food handling to determine if the entity is complying with requirements set forth in this chapter, or as otherwise defined in 14 CCR Section 18982(a)(35).

"Inspection" for the purposes of edible food recovery, means actions to review contracts and other records related to the recovery of edible food and may occur off-site via email and other forms of electronic communication, as well as the on-site review of an entity's records and collection, handling and other procedures for the recovery of edible food to determine if the entity is complying with the requirements of this chapter.

"City" is the entity responsible for ensuring solid waste, recycling and organics service is provided in accordance with SB 1383 guidelines.

"City enforcement official" means the city manager, county administrative official, chief operating officer, executive director, or other executive in charge or their authorized designee(s) who is/are partially or whole responsible for enforcing this chapter. See also "designee for edible food recovery."

"Large event" means an event, including, but not limited to, a sporting event or a flea market, that charges an admission price, or is operated by a local agency, and serves an average of more than 2,000 individuals per day of operation of the event, at a location that includes, but is not limited to, a public, nonprofit, or privately owned park, parking lot, golf course, street system, or other open space when being used for an event. If the definition in 14 CCR Section 18982(a)(38) differs from this definition, the definition in 14 CCR Section 18982(a)(38) shall apply to this chapter.

"Large venue" means a permanent venue facility that annually seats or serves an average of more than 2,000 individuals within the grounds of the facility per day of operation of the venue facility. For purposes of this chapter and implementation of 14 CCR, Division 7, Chapter 12, a venue facility includes, but is not limited to, a public, nonprofit, or privately owned or operated stadium, amphitheater, arena, hall, amusement park, conference or civic center, zoo, aquarium, airport, racetrack, horse track, performing arts center, fairground, museum, theater, or other public attraction facility. For purposes of this chapter and implementation of 14 CCR, Division 7, Chapter 12, a site under common ownership or control that includes more than one large venue that is contiguous with other large venues in the site, is a single large venue. If the definition in 14 CCR Section 18982(a)(39) differs from this definition, the definition in 14 CCR Section 18982(a)(39) shall apply to this chapter.

"Local education agency" means a school district, charter school, or county office of education that is not subject to the control of city or county regulations related to solid waste, or as otherwise defined in 14CCR Section 18982(a)(40).

"Mixed waste organic collection stream" or "mixed waste" means organic waste collected in a black container that is required by 14 CCR Sections 18984.1, 18984.2 or 18984.3 to be taken to a high diversion organic waste processing facility or as otherwise defined in 14 CCR Section 17402(a)(11.5). This definition is only applicable to select commercial and MF customers provided with a two container collection system. Three container collection system customers will use the black container waste definition instead.

"Multifamily residential dwelling" or "multifamily" means of, from, or pertaining to residential premises with five or more dwelling units. Multifamily premises do not include hotels, motels, or other transient occupancy facilities, which are considered commercial businesses. Under the SB 1383 Regulations and in this chapter, multifamily residential dwellings with five or more units are included under the definition of a commercial business per 14 CCR Section 18982(a)(6).

"MWELO" refers to the Model Water Efficient Landscape Ordinance (MWELO), 23 CCR, Division 2, Chapter 2.7.

"Non-compostable paper" includes, but is not limited to, paper that is coated in a plastic material that will not break down in the composting process, or as otherwise defined in 14 CCR Section 18982(a)(41).

"Non-local entity" means the following entities that are not subject to the city's enforcement authority, or as otherwise defined in 14 CCR Section 18982(a)(42):

- (1) Special district(s) located within the boundaries of the city, including Burlingame Elementary District, and San Mateo Union High School District.

"Non-organic recyclables" means non-putrescible and non-hazardous recyclable wastes, including, but not limited to, bottles, cans, metals, plastics and glass, or as otherwise defined in 14 CCR Section 18982(a)(43).

"Notice of violation (NOV)" means a notice that a violation has occurred that includes a compliance date to avoid an action to seek penalties, or as otherwise defined in 14 CCR Section 18982(a)(45) or further explained in 14CCR Section 18995.4.

"Organic waste" means solid wastes containing material originated from living organisms and their metabolic waste products, including, but not limited to, food, green material, landscape and pruning waste, organic textiles and carpets, lumber, wood, paper products, printing and writing paper, manure, biosolids, digestate, and sludges or as otherwise defined in 14 CCR Section 18982(a)(46). Biosolids and digestate are as defined by 14 CCR Section 18982(a).

"Organic waste generator" means a person or entity that is responsible for the initial creation of organic waste, or as otherwise defined in 14 CCR Section 18982(a)(48).

"Paper products" include, but are not limited to, paper janitorial supplies, cartons, wrapping, packaging, file folders, hanging files, corrugated boxes, tissue, and toweling, or as otherwise defined in 14 CCR Section 18982(a)(51).

"Printing and writing papers" include, but are not limited to, copy, xerographic, watermark, cotton fiber, off-set, forms, computer printout paper, white wove envelopes, manila envelopes, book paper, note pads, writing tablets, newsprint, and other uncoated writing papers, posters, index cards, calendars, brochures, reports, magazines, and publications, or as otherwise defined in 14 CCR Section 18982(a)(54).

"Prohibited Container Contaminants."

- (1) For those generators provided with a three container collection system (blue, green and black): "prohibited container contaminants" means the following: (A) discarded materials placed in the blue container that are not identified as acceptable source separated recyclable materials for the city's blue container; (B) discarded materials placed in the green container that are not identified as acceptable source separated green container organic waste for the city's green container; (C) discarded materials placed in the black container that are acceptable source separated recyclable materials and/or source separated green container organic wastes that belong in city's green or blue container; and (D) excluded waste placed in any container.
- (2) For those (limited commercial and MF) generators provided with two container (blue/black) collection service for source separated recyclable materials and mixed materials: "prohibited container contaminants" means the following: (A) discarded materials placed in a blue container that are not identified as acceptable source separated recyclable materials for city's blue container; (B) discarded materials placed in the black container that are identified as acceptable source separated recyclable materials, which are to be separately collected in city's blue container; and (C) excluded waste placed in any container.

"Recovered organic waste products" means products made from California, landfill-diverted recovered organic waste processed in a permitted or otherwise authorized facility, or as otherwise defined in 14 CCR Section 18982(a)(60).

"Recovery" means any activity or process described in 14 CCR Section 18983.1(b), or as otherwise defined in 14 CCR Section 18982(a)(49).

"Recycled-content paper" means paper products and printing and writing paper that consists of at least 30%, by fiber weight, postconsumer fiber, or as otherwise defined in 14 CCR Section 18982(a)(61).

"Regional agency" means the South Bayside Waste Management Authority (SBWMA) as a regional agency as defined in Public Resources Code Section 40181.

"Remote monitoring" means the use of the Internet of Things (IoT) and/or wireless electronic devices to visualize the contents of blue containers, green containers, and black containers for purposes of identifying the quantity of materials in containers (level of fill) and/or presence of prohibited container contaminants.

"Renewable gas" means gas derived from organic waste that has been diverted from a California landfill and processed at an invessel digestion facility that is permitted or otherwise authorized by 14 CCR to recycle organic waste, or as otherwise defined in 14 CCR Section 18982(a)(62).

"Restaurant" means an establishment primarily engaged in the retail sale of food and drinks for on-premises or immediate consumption, or as otherwise defined in 14 CCR Section 18982(a)(64).

"SB 1383" means Senate Bill 1383 of 2016 approved by the Governor on September 19, 2016, which added Sections 39730.5, 39730.6, 39730.7, and 39730.8 to the Health and Safety Code, and added Chapter 13.1 (commencing with Section 42652) to Part 3 of Division 30 of the Public Resources Code, establishing methane emissions reduction targets in a statewide effort to reduce emissions of short-lived climate pollutants as amended, supplemented, superseded, and replaced from time to time.

"SB 1383 Eligible Mulch" means mulch eligible to meet the annual recovered organic waste product procurement target, pursuant to 14 CCR Chapter 12 of Division 7. This SB 1383 Eligible Mulch shall meet the following conditions for the duration of the applicable procurement compliance year, as specified by 14 CCR Section 18993.1(f)(4):

- (1) Produced at one of the following facilities:
 - (A) A compostable material handling operation or facility as defined in 14 CCR Section 17852(a)(12), that is permitted or authorized under 14 CCR Division 7, other than a chipping and grinding operation or facility as defined in 14 CCR Section 17852(a)(10).
 - (B) A transfer/processing facility or transfer/processing operation as defined in 14 CCR Sections 17402(a)(30) and (31), respectively, that is permitted or authorized under 14 CCR Division 7; or,
 - (C) A solid waste landfill as defined in Public Resources Code Section 40195.1 that is permitted under 27 CCR Division 2.
- (2) Meet or exceed the physical contamination, maximum metal concentration, and pathogen density standards for land application specified in 14CCR Sections 17852(a)(24.5)(A)(1) through (3), as enforced with this chapter.

"SB 1383 Regulations" or "SB 1383 Regulatory" means or refers to, for the purposes of this chapter, the Short-Lived Climate Pollutants: Organic Waste Reduction regulations developed by CalRecycle and adopted in 2020 that created 14 CCR, Division 7, Chapter 12 and amended portions of regulations of 14 CCR and 27 CCR.

"SBWMA" means the South Bayside Waste Management Authority, a regional agency, as defined in Public Resources Section 40181, serving its member agencies on recycling and waste issues.

"Self-hauler" means a person, who hauls solid waste, organic waste or recyclable material he or she has generated to another person. Self-hauler also includes a person who back-hauls waste, or as otherwise defined in 14 CCR Section 18982(a)(66). Back-haul means generating and transporting organic waste to a destination owned and operated by the generator using the generator's own employees and equipment, or as otherwise defined in 14 CCR Section 18982(a)(66)(A). "Self-hauler" for the purposes of edible food recovery, means a commercial edible food generator who holds a contract with and hauls edible food to a food recovery organization or other site for redistribution according to the requirements of this chapter.

"Single-family" means of, from, or pertaining to any residential premises with fewer than five units.

"Solid waste" has the same meaning as defined in state Public Resources Code Section 40191, which defines solid waste as all putrescible and nonputrescible solid, semi-solid, and liquid wastes, including garbage, trash, refuse, paper, rubbish, ashes, industrial wastes, demolition and construction wastes, abandoned vehicles and parts thereof, discarded home and industrial appliances, dewatered, treated, or chemically fixed sewage sludge which is not hazardous waste, manure, vegetable or animal solid and semi-solid wastes, and other discarded solid and semi-solid wastes, with the exception that solid waste does not include any of the following wastes:

- (1) Hazardous waste, as defined in the state Public Resources Code Section 40141.
- (2) Radioactive waste regulated pursuant to the state Radiation Control Law (Chapter 8 (commencing with Section 114960) of Part 9 of Division 104 of the state Health and Safety Code).
- (3) Medical waste regulated pursuant to the state Medical Waste Management Act (Part 14 (commencing with Section 117600) of Division 104 of the state Health and Safety Code). Untreated medical waste shall not be disposed of in a solid waste landfill, as defined in state Public Resources Code Section 40195.1. Medical waste that has been treated and deemed to be solid waste shall be regulated pursuant to Division 30 of the state Public Resources Code.

"Source separated" means materials, including commingled recyclable materials, that have been separated or kept separate from the solid waste stream, at the point of generation, for the purpose of additional sorting or processing those materials for recycling or reuse in order to return them to the economic mainstream in the form of raw material for new, reused, or reconstituted products, which meet the quality standards necessary to be used in the marketplace, or as otherwise defined in 14 CCR Section 17402.5(b)(4). For the purposes of this chapter, source separated shall include separation of materials by the generator, property owner, property owner's employee, property manager, or property manager's employee into different containers for the purpose of collection such that source separated materials are separated from black container waste or other solid waste for the purposes of collection and processing.

"Source separated blue container organic waste" means source separated organic wastes that can be placed in a blue container including clean paper and cardboard.

"Source separated green container organic waste" means source separated organic waste that can be placed in a green container that is specifically intended for the separate collection of organic waste, excluding source separated blue container organic waste, carpets, non-compostable paper, and textiles. Acceptable materials include food scraps, food soiled paper, plants and bio-plastics labeled BPI certified compostable.

"Source separated recyclable materials" means source separated non-organic recyclables and source separated blue container organic waste and includes clean paper and cardboard, glass bottles, cans and plastic bottles, tubs and containers.

"State" means the state of California.

"Supermarket" means a full-line, self-service retail store with gross annual sales of two million dollars

(\$2,000,000.00), or more, and which sells a line of dry grocery, canned goods, or nonfood items and some perishable items, or as otherwise defined in 14 CCR Section 18982(a)(71).

"Tier one commercial edible food generator" means a commercial edible food generator that is one of the following:

- (1) Supermarket.
- (2) Grocery store with a total facility size equal to or greater than 10,000 square feet.
- (3) Food service provider.
- (4) Food distributor.
- (5) Wholesale food vendor.

If the definition in 14 CCR Section 18982(a)(73) of tier one commercial edible food generator differs from this definition, the definition in 14 CCR Section 18982(a)(73) shall apply to this chapter.

"Tier two commercial edible food generator" means a commercial edible food generator that is one of the following:

- (1) Restaurant with 250 or more seats, or a total facility size equal to or greater than 5,000 square feet.
- (2) Hotel with an on-site food facility and 200 or more rooms.
- (3) Health facility with an on-site food facility and 100 or more beds.
- (4) Large venue.
- (5) Large event.
- (6) A state agency with a cafeteria with 250 or more seats or total cafeteria facility size equal to or greater than 5,000 square feet.
- (7) A local education agency facility with an on-site food facility.

If the definition in 14 CCR Section 18982(a)(74) of tier two commercial edible food generator differs from this definition, the definition in 14 CCR Section 18982(a)(74) shall apply to this chapter.

"Wholesale food vendor" means a business or establishment engaged in the merchant wholesale distribution of food, where food (including fruits and vegetables) is received, shipped, stored, prepared for distribution to a retailer, warehouse, distributor, or other destination, or as otherwise defined in 14 CCR Section 189852(a)(76).

(Ord. 1999 § 3, (2021))

§ 8.15.020. Requirements for single-family generators.

Single-family organic waste generators shall comply with the following requirements except single-family generators that meet the self-hauler requirements in Section 8.15.080:

- (a) Shall subscribe to city's organic waste collection services for all organic waste generated as described below in Section 8.15.020(b). The city shall have the right to review the number and size of a

generator's containers to evaluate adequacy of capacity provided for each type of collection service for proper separation of materials and containment of materials; and, single-family generators shall adjust their service level for their collection services as requested by the city. Generators may additionally manage their organic waste by preventing or reducing their organic waste, managing organic waste on site, and/or using a community composting site pursuant to 14 CCR Section 18984.9(c).

- (b) Shall participate in the city's three container organic waste collection service(s) by placing designated materials in designated containers as described below, and shall not place prohibited container contaminants in collection containers.

Generators shall place source separated green container organic waste, including food waste, in the green container; source separated blue container organic waste and recyclable materials in the blue container; and black container waste in the black container, per city and collector guidelines. Generators shall not place materials designated for the black container into the green container or blue container.

(Ord. 1999 § 3, (2021))

§ 8.15.030. Requirements for commercial businesses.

Generators that are commercial businesses, which for purposes of this chapter includes multifamily residential dwellings of five or more units, shall:

- (a) Subscribe to city's three container collection services and comply with requirements of those services as described below in subsection (b), except commercial businesses that meet the self-hauler requirements in Section 8.15.080. City shall have the right to review the number and size of a generator's containers and frequency of collection to evaluate adequacy of capacity provided for each type of collection service for proper separation of materials and containment of materials; and, commercial businesses shall adjust their service level for their collection services as requested by the city.
- (b) Participate in the city's organic waste collection service(s) by placing designated materials in designated containers as described below. Commercial businesses that meet the self-hauler requirements in Section 8.15.080 are excluded from this requirement.
- (1) Generators shall place source separated green container organic waste, including food waste, in the green container; source separated blue container organic waste and source separated recyclable materials in the blue container; and black container waste in the black container. Generators shall not place materials designated for the black container into the green container or blue container.
- (2) Generators that are offered two container service (this will be limited to a specified number of commercial and MF generators on an invitation only basis, based on waste quantities and type, and availability of new organics to energy processing system) shall place only source separated blue container organic waste and source separated recyclable materials in a blue container and all other materials (mixed waste) in a black container.
- (c) Supply and allow access to an adequate number, size and location of collection containers with sufficient labels or colors (conforming with subsections (d)(1) and (d)(2) of this section) for employees, contractors, tenants, and customers, consistent with city's blue container, green container, and black container collection service or, if self-hauling, per the commercial businesses' instructions to support its compliance with its self-haul program, in accordance with Section 8.15.080.

- (d) Excluding multifamily residential dwellings, provide containers for the collection of source separated green container organic waste and source separated recyclable materials in all indoor and outdoor areas where disposal containers are provided for customers, for materials generated by that business. Such containers do not need to be provided in restrooms. If a commercial business does not generate any of the materials that would be collected in one type of container, then the business does not have to provide that particular container in all areas where disposal containers are provided for customers. Pursuant to 14 CCR Section 18984.9(b), the containers provided by the business shall have either:
- (1) A body or lid that conforms with the container colors provided through the collection service provided by the city, with either lids conforming to the color requirements or bodies conforming to the color requirements or both lids and bodies conforming to color requirements. A commercial business is not required to replace functional containers, including containers purchased prior to January 1, 2022, that do not comply with the requirements of the subsection prior to the end of the useful life of those containers, or prior to January 1, 2036, whichever comes first.
 - (2) Container labels that include language or graphic images, or both, indicating the primary material accepted and the primary materials prohibited in that container, or containers with imprinted text or graphic images that indicate the primary materials accepted and primary materials prohibited in the container. Pursuant 14 CCR Section 18984.8, the container labeling requirements are required on new containers commencing January 1, 2022.
- (e) Multifamily residential dwellings are not required to comply with container placement requirements or labeling requirement in subsection (d) of this section pursuant to 14 CCR Section 18984.9(b).
- (f) To the extent practical through education, training, inspection, and/or other measures, excluding multifamily residential dwellings, prohibit employees from placing materials in a container not designated for those materials per the city's blue container, green container, and black container collection service or, if self-hauling, per the commercial businesses' instructions to support its compliance with its self-haul program, in accordance with Section 8.15.080.
- (g) Excluding multifamily residential dwellings, annually inspect blue containers, green containers, and black containers for contamination and inform employees if containers are contaminated and of the requirements to keep contaminants out of those containers pursuant to 14 CCR Section 18984.9(b)(3).
- (h) Annually provide information to employees, contractors, tenants, and customers about organic waste recovery requirements and about proper sorting of source separated green container organic waste and source separated recyclable materials.
- (i) Provide education information before or within 14 days of occupation of the premises to new tenants that describes requirements to keep source separated green container organic waste and source separated recyclable materials separate from black container waste (when applicable) and the location of containers and the rules governing their use at each property.
- (j) Provide or arrange access for the city or its agent to their properties during all inspections conducted in accordance with Section 8.15.100 to confirm compliance with the requirements of this chapter.
- (k) Accommodate and cooperate with city's remote monitoring program for inspection of the contents of containers for prohibited container contaminants, which may be implemented at a later date, to evaluate generator's compliance with Section 8.15.030(b). Should a remote monitoring program be used by the city it shall involve installation of remote monitoring equipment on or in the blue containers, green containers, and black containers.

- (l) At commercial business's option and subject to any approval required from the city, implement a remote monitoring program for inspection of the contents of its blue containers, green containers, and black containers for the purpose of monitoring the contents of containers to determine appropriate levels of service and to identify prohibited container contaminants. Generators may install remote monitoring devices on or in the blue containers, green containers, and black containers subject to written notification to or approval by the city or its designee.
 - (m) If a commercial business wants to self-haul, meet the self-hauler requirements in Section 8.15.080.
 - (n) Nothing in this section prohibits a generator from preventing or reducing waste generation, managing organic waste on site, or using a community composting site pursuant to 14 CCR Section 18984.9(c).
 - (o) Commercial businesses that are tier one or tier two commercial edible food generators shall comply with edible food recovery requirements, pursuant to the edible food recovery provisions of Section 8.15.050.
- (Ord. 1999 § 3, (2021))

§ 8.15.040. Waivers for generators.

- (a) De Minimis Waivers. The city may waive a commercial business' obligation (including multifamily residential dwellings) to comply with some or all of the organic waste requirements of this chapter if the commercial business provides documentation that the business generates below a certain amount of organic waste material as described in Section 8.15.040(a)(2) below. Commercial businesses requesting a de minimis waiver shall:
 - (1) Submit an application specifying the services that they are requesting a waiver from and provide documentation as noted below in (2)(A) or (B).
 - (2) Provide documentation that either:
 - (A) The commercial business' total solid waste collection service is two cubic yards or more per week and organic waste subject to collection in the green container comprises less than 20 gallons per week per applicable container of the business' total waste; or,
 - (B) The commercial business' total solid waste collection service is less than two cubic yards per week and organic waste subject to collection in the green container comprises less than 10 gallons per week per applicable container of the business' total waste.
 - (3) Notify city if circumstances change such that commercial business's organic waste exceeds threshold required for waiver, in which case waiver will be rescinded.
 - (4) Provide written verification of eligibility for de minimis waiver every five years, if city has approved de minimis waiver.
- (b) Physical Space Waivers. City may waive a commercial business' or property owner's obligations (including multifamily residential dwellings) to comply with some or all of the recyclable materials and/or organic waste collection service requirements if the city has evidence from its own staff, a hauler, licensed architect, or licensed engineer demonstrating that the premises lacks adequate space for the collection containers required for compliance with the organic waste collection requirements of Section 8.15.030.

A commercial business or property owner may request a physical space waiver through the following process:

- (1) Submit an application form specifying the type(s) of collection services for which they are requesting a compliance waiver.
- (2) Provide documentation that the premises lacks adequate space for blue containers and/or green containers including documentation from its hauler, licensed architect, or licensed engineer.
- (3) Provide written verification to city that it is still eligible for physical space waiver every five years, if city has approved application for a physical space waiver.

(Ord. 1999 § 3, (2021))

§ 8.15.050. Requirements for tier one and tier two commercial edible food generators.

- (a) Tier one commercial edible food generators must comply with the requirements of this section commencing January 1, 2022, and tier two commercial edible food generators must comply commencing January 1, 2024, pursuant to 14 CCR Section 18991.3.
- (b) Large venue or large event operators not providing food services, but allowing for food to be provided by others, shall require food facilities operating at the large venue or large event to comply with the requirements of this section commencing January 1, 2024.
- (c) Tier one and tier two commercial edible food generators shall comply with the following requirements:
 - (1) Arrange to recover the maximum amount of edible food that would otherwise be disposed.
 - (2) Use the CalRecycle Model Food Recovery Agreement or the contractual elements contained in the requirements for food recovery organizations and food recovery services section of this chapter to contract with, or otherwise enter into a written agreement with food recovery organizations or food recovery services for:
 - (A) The collection of edible food for edible food recovery from the tier one or tier two commercial edible food generator's premises; or,
 - (B) The acceptance of edible food that the tier one or tier two commercial edible food generator self-hauls to the food recovery organization.
 - (3) Contract with food recovery organizations and food recovery services able to demonstrate a positive reduction in greenhouse gas emissions from their edible food recovery activity. A list of food recovery organizations and food recovery services is available on the County of San Mateo Office of Sustainability website.
 - (4) Shall not intentionally spoil edible food that is capable of being recovered by a food recovery organization or a food recovery service.
 - (5) Allow city's enforcement entity or their designee for edible food recovery to access the premises and inspect procedures and review records related to edible food recovery and/or provide them electronically if requested by the city or the designee for edible food recovery.
 - (6) Keep records that include the following information:
 - (A) A list of each food recovery organization or a food recovery service that collects or receives edible food from the tier one or tier two commercial edible food generator pursuant to a contract or written agreement as required by this chapter.

- (B) A copy of all contracts or written agreements established under the provisions of this chapter.
- (C) A record of the following information for each of those food recovery services or food recovery organizations:
- (i) The name, address and contact information of the food recovery service or food recovery organization.
 - (ii) The types of food that will be collected by or self-hauled to the food recovery service or food recovery organization.
 - (iii) The established schedule or frequency that food will be collected or self-hauled.
 - (iv) The quantity of food, measured in pounds recovered per month, collected or self-hauled to a food recovery service or food recovery organization for food recovery.
- (7) No later than June 30th of each year commencing no later than July 1, 2022 for tier one commercial edible food generators and July 1, 2024 for tier two commercial edible food generators, they shall provide an annual edible food recovery report to the designee for edible food recovery that includes, but is not limited to, the following information: a list of all contracts with food recovery organizations and food recovery services, the amount and type of edible food donated to food recovery organizations and food recovery services, the schedule of edible food pickup by food recovery organizations and food recovery services, a list of all types of edible food categories they generate, such as "baked goods," that are not accepted by the food recovery organizations and food recovery services with whom they contract, the contact information for the manager and all staff responsible for edible food recovery, and certification that all staff responsible for edible food recovery have obtained a food handler card through an American National Standards Institute (ANSI) accredited training provider that meets ASTM International E2659-09 Standard Practice for Certificate Programs, such as ServSafe. With the exception of the food safety and handling training certification, tier one and tier two commercial edible food generators may coordinate with their edible food recovery contractors to supply this information. The designee for edible food recovery will assist in the preparation of these reports by providing guidance and a template located on the County of San Mateo Office of Sustainability website.
- (8) Mandate their edible food recovery staff learn and follow the donation guidelines and attend trainings conducted by food recovery organizations or food recovery services with which they contract regarding best practices and requirements for the timely identification, selection, preparation, and storage of edible food to ensure the maximum amount of edible food is recovered and to avoid supplying food for collection that is moldy, has been improperly stored, or is otherwise unfit for human consumption.
- (9) Tier one and tier two commercial edible food generators who self-haul edible food shall require those transporting edible food for recovery to obtain a food handler card through an American National Standards Institute (ANSI) accredited training provider that meets ASTM International E2659-09 Standard Practice for Certificate Programs, such as ServSafe and follow the best practices and standards for proper temperature control, methods, and procedures for the safe handling and transport of food.
- (d) Nothing in this chapter shall be construed to limit or conflict with the protections provided by the California Good Samaritan Food Donation Act of 2017, the Federal Good Samaritan Act, or share

table and school food donation guidance pursuant to Senate Bill 557 of 2017 (approved by the Governor of the state of California on September 25, 2017, which added Article 13 [commencing with Section 49580] to Chapter 9 of Part 27 of Division 4 of Title 2 of the Education Code, and to amend Section 114079 of the Health and Safety Code, relating to food safety, as amended, supplemented, superseded and replaced from time to time).

(Ord. 1999 § 3, (2021))

§ 8.15.060. Requirements for food recovery organizations and services.

- (a) Food recovery services operating in the city and collecting or receiving edible food directly from tier one and/or tier two commercial edible food generators via a contract or written agreement established under the requirements of this chapter, shall maintain the following records:
 - (1) The name, address, and contact information for each tier one and tier two commercial edible food generator from which the service collects edible food.
 - (2) The quantity in pounds of edible food by type collected from each tier one and tier two commercial edible food generator per month.
 - (3) The quantity in pounds of edible food by type transported to each food recovery organization or redistribution site per month.
 - (4) The name, address, and contact information for each food recovery organization or redistribution site that the food recovery service transports edible food to for edible food recovery.
- (b) Food recovery organizations operating in the city and collecting or receiving edible food directly from tier one and/or tier two commercial edible food generators via a contract or written agreement established under the requirements of this chapter, or receiving edible food from food recovery services or from other food recovery organizations, shall maintain the following records:
 - (1) The name, address, and contact information for each tier one and tier two commercial edible food generator, food recovery service, or other food recovery organization from which the organization collects or receives edible food.
 - (2) The quantity in pounds of edible food by type collected or received from each tier one or tier two commercial edible food generator, food recovery service, or other food recovery organization per month.
 - (3) The name, address, and contact information for other food recovery organizations or redistribution sites that the food recovery organization transports edible food to for edible food recovery.
- (c) Food recovery organizations and food recovery services operating in the city shall inform tier one and tier two commercial edible food generators from which they collect or receive edible food about California and Federal Good Samaritan Food Donation Act protection in written communications, such as in their contract or agreement established as required by this chapter.
- (d) Commencing no later than July 1, 2022, food recovery organizations and food recovery services operating in the city and collecting or receiving edible food from tier one and tier two commercial edible food generators or any other source shall report to the designee for edible food recovery the following: (1) a detailed edible food activity report of the information collected as required under this chapter, including weight in pounds by type and source of edible food; (2) the schedule/frequency of

pickups/drop-offs of edible food from/to each edible food source or redistribution site, brief analysis of any necessary process improvements or additional infrastructure needed to support edible food recovery efforts, such as training, staffing, refrigeration, vehicles, etc.; (3) and an up to date list of tier one and tier two commercial edible food generators with whom they have contracts or agreements established as required under this chapter. The designee for edible food recovery will assist in the preparation of these reports by providing guidance and a template located on the County of San Mateo Office of Sustainability website. This edible food activity report shall be submitted quarterly, or at the discretion of the designee for edible food recovery, less frequently, and shall cover the activity that occurred since the period of the last submission.

- (e) Food recovery organizations and food recovery services operating in the city shall contact the designee for edible food recovery to discuss the requirements of this chapter before establishing new contracts or agreements with tier one or tier two commercial edible food generators and in order to maintain existing contracts or agreements for the recovery of edible food with tier one and tier two commercial edible food generators.
- (f) In order to provide the required records to the state, the city, or the designee for edible food recovery, and tier one or tier two commercial edible food generators, contracts between food recovery organizations and food recovery services operating in the city and tier one and tier two commercial edible food generators shall either:
 - (1) Use the Model Food Recovery Agreement developed by the state of California's Department of Resources Recycling and Recovery (CalRecycle), and include a clause requiring the food recovery organization or food recovery service to report to the tier one and tier two commercial edible food generators with whom they have contracts the annual amount of edible food recovered and to inform them of the tax benefits available to those who donate edible food to non-profits,
 - (2) Or include in their contracts the following elements:
 - (A) List/description of allowable foods the food recovery organization/food recovery service will receive.
 - (B) List/description of foods not accepted by the food recovery organization/food recovery service.
 - (C) Conditions for refusal of food.
 - (D) Food safety requirements, training, and protocols.
 - (E) Transportation and storage requirements and training.
 - (F) A protocol for informing the tier one or tier two commercial edible food generators of a missed or delayed pickup.
 - (G) Notice that donation dumping is prohibited.
 - (H) Provisions to collect sufficient information to meet the record-keeping requirements of this chapter.
 - (I) Fees/financial contributions/acknowledgement of terms for the pickup and redistribution of edible food.
 - (J) Terms and conditions consistent with the CalRecycle Model Food Recovery Agreement.

- (K) Information supplying the tier one or tier two commercial edible food generators with the annual amount of edible food recovered and informing them of the tax benefits that may be available to those who donate edible food to non-profits.
- (L) Contact name, address, phone number, and email for both responsible parties, including the current on-site staff responsible for edible food recovery.
- (M) Food recovery organizations accepting self-hauling of edible food from tier one and tier two commercial edible food generators must provide a schedule, including days of the week and acceptable times for drop-offs, and information about any limitation on the amount of food accepted, and/or the packaging requirements or other conditions of transport, such as, but not limited to, maintaining proper temperature control, and other requirements for the safe handling and transport of food, the self-hauler must follow for the edible food to be accepted.
- (g) Food recovery organizations and food recovery services operating in the city shall demonstrate that all persons, including volunteers and contracted workers using their own vehicle, involved in the handling or transport of edible food, have obtained a food handler card through an American National Standards Institute (ANSI) accredited training provider that meets ASTM International E2659-09 Standard Practice for Certificate Programs, such as ServSafe.
- (h) Food recovery organizations and food recovery services operating in the city shall use the appropriate temperature control equipment and methods and maintain the required temperatures for the safe handling of edible food recovered from tier one and tier two commercial edible food generators for the duration of the transportation of the edible food for redistribution, including edible food transported by private vehicles.
- (i) In order to ensure recovered edible food is eaten and to prevent donation dumping, food recovery organizations and food recovery services operating in the city shall provide documentation that all redistribution sites which are not themselves food recovery organizations to which they deliver edible food have a feeding or redistribution program in place to distribute, within a reasonable time, all the edible food they receive. Such documentation may include a website address which explains the program or pamphlets/brochures prepared by the redistribution site.
- (j) Food recovery organizations and food recovery services operating in the city unable to demonstrate a positive reduction in GHG emissions for their edible food recovery operational model cannot contract with tier one and tier two commercial edible food generators in the city for the purpose of recovering edible food as defined in this chapter. Food recovery organizations and food recovery services contracting to recover edible food from a tier one and tier two commercial edible food generator for redistribution shall consult with the city's designee for edible food recovery to document that their overall operational model will achieve a greenhouse gas emissions reduction. Such review may analyze route review, miles traveled for pick-up and redistribution, amount of food rescued, and the likelihood of consumption after redistribution.
- (k) Food recovery organizations and food recovery services operating in the city shall visually inspect all edible food recovered or received from a tier one and tier two commercial edible food generator. If significant spoilage is found, or if the food is otherwise found to be unfit for redistribution for human consumption, food recovery organizations and food recovery services shall immediately notify the designee for edible food recovery using the process found on the County of San Mateo Office of Sustainability's website. The notice shall include:
- (1) The type and amount, in pounds, of spoiled food or food unfit for redistribution for human

- consumption, or provide a photographic record of the food, or both.
- (2) The date and time such food was identified.
 - (3) The name, address and contact information for the tier one or tier two commercial edible food generator which provided the food.
 - (4) The date and time the food was picked up or received.
 - (5) A brief explanation of why the food was rejected or refused.
- (l) Contracts between tier one or tier two commercial edible food generators and food recovery organizations or food recovery services shall not include any language prohibiting tier one or tier two commercial edible food generators from contracting or holding agreements with multiple food recovery organizations or food recovery services listed on the County of San Mateo Office of Sustainability website.
 - (m) Food recovery organizations and food recovery services operating in the city shall conduct trainings and develop educational material such as donation guidelines and handouts to provide instruction and direction to tier one and tier two commercial edible food generators with whom they contract regarding best practices and requirements for the timely identification, selection, preparation, and storage of edible food to ensure the maximum amount of edible food is recovered and to avoid the collection of food that is moldy, has been improperly stored, or is otherwise unfit for human consumption.
 - (n) Edible Food Recovery Capacity Planning.
 - (1) Food Recovery Services and Food Recovery Organizations. In order to support edible food recovery capacity planning assessments or other such studies, food recovery services and food recovery organizations operating in the city shall provide information and consultation to the city and its designee for edible food recovery upon request, regarding existing, or proposed new or expanded, edible food recovery capacity that could be accessed by the city and its tier one and tier two commercial edible food generators. A food recovery service or food recovery organization contacted by the city or its designee for edible food recovery shall respond to such requests for information within 60 days.
 - (o) Allow city's enforcement entity or their designee for edible food recovery to access the premises and inspect procedures and review records related to edible food recovery and/or provide them electronically if requested by the city or the designee for edible food recovery.

(Ord. 1999 § 3, (2021))

§ 8.15.070. Requirements for haulers and facility operators.

- (a) Requirements for Haulers.

- (1) Exclusive Franchised Hauler. Exclusive franchised hauler providing residential, commercial, or industrial organic waste collection services to generators within the city's boundaries shall meet the following requirements and standards as a condition of approval of a contract, agreement, or other authorization with the city to collect organic waste:
 - (A) Through written notice to the city annually on or before January 31st identify, for customers with three container collection, the facilities to which they will transport organic waste including facilities for source separated recyclable materials and source separated

green container organic wastes and black container waste.

- (B) For customers with three container collection, transport source separated blue container waste to a facility that recovers those materials and source separated green container organic waste to a facility, operation, activity, or property that recovers organic waste as defined in 14 CCR, Division 7, Chapter 12, Article 2.

For customers with two container collection, transport source separated blue container waste to a facility that recovers those materials and black container waste to a high diversion organic waste processing facility.

- (C) Obtain approval from the city to haul organic waste, unless it is transporting source separated organic waste to a community composting site or lawfully transporting C&D in a manner that complies with 14 CCR Section 18989.1 and the city's C&D ordinance.
- (2) Franchised hauler with authorization to collect organic waste shall comply with education, equipment, signage, container labeling, container color, contamination monitoring, reporting, and other requirements contained within its franchise agreement, permit, license, or other agreement entered into with city.

(b) Requirements for Facility Operators and Community Composting Operations.

- (1) Owners of facilities, operations, and activities that recover organic waste, including, but not limited to, compost facilities, in-vessel digestion facilities, and publicly-owned treatment works shall, upon city request, provide information regarding available and potential new or expanded capacity at their facilities, operations, and activities, including information about throughput and permitted capacity necessary for planning purposes. Entities contacted by the city shall respond within 60 days.
- (2) Community composting operators, upon city request, shall provide information to the city to support organic waste capacity planning, including, but not limited to, an estimate of the amount of organic waste anticipated to be handled at the community composting operation. Entities contacted by the city shall respond within 60 days.

(Ord. 1999 § 3, (2021))

§ 8.15.080. Self-hauler requirements.

- (a) Self-haulers shall source separate all recyclable materials and organic waste (materials that the city otherwise requires generators to separate for collection in the city's organics and recycling collection program) generated on-site from solid waste in a manner consistent with 14 CCR Sections 18984.1 and 18984.2, or shall haul organic waste to a high diversion organic waste processing facility as specified in 14 CCR Section 18984.3.
- (b) Self-haulers shall haul their source separated recyclable materials to a facility that recovers those materials; and haul their source separated green container organic waste to a solid waste facility, operation, activity, or property that processes or recovers source separated organic waste. Alternatively, self-haulers may haul organic waste to a high diversion organic waste processing facility.
- (c) Self-haulers that are commercial businesses (including multifamily residential dwellings) shall keep a record of the amount of organic waste delivered to each solid waste facility, operation, activity, or property that processes or recovers organic waste; this record shall be subject to inspection by the

city. The records shall include the following information:

- (1) Delivery receipts and weight tickets from the entity accepting the waste.
- (2) The amount of material in cubic yards or tons transported by the generator to each entity.
- (3) If the material is transported to an entity that does not have scales on site, or employs scales incapable of weighing the self-hauler's vehicle in a manner that allows it to determine the weight of materials received, the self-hauler is not required to record the weight of material but shall keep a record of the entities that received the organic waste.
- (d) Self-haulers that are commercial businesses (including multifamily self-haulers) shall provide information collected in subsection (c) of this section to city if requested.
- (e) A residential organic waste generator that self-hauls organic waste is not required to record or report information in subsections (c) and (d).

(Ord. 1999 § 3, (2021))

§ 8.15.090. Procurement requirements for city departments, direct service providers, and vendors.

- (a) All vendors providing paper products and printing and writing paper shall:
 - (1) If fitness and quality are equal, provide recycled-content paper products and recycled-content printing and writing paper that consists of at least 30%, by fiber weight, postconsumer fiber instead of non-recycled products.
 - (2) Provide paper products and printing and writing paper that meet Federal Trade Commission recyclability standard as defined in 16 Code of Federal Regulations (CFR) Section 260.12.
 - (3) Certify in writing, under penalty of perjury, the minimum percentage of postconsumer material in the paper products and printing and writing paper offered or sold to the city. This certification requirement may be waived if the percentage of postconsumer material in the paper products, printing and writing paper, or both can be verified by a product label, catalog, invoice, or a manufacturer or vendor internet website.
 - (4) Certify in writing, on invoices or receipts provided, which may be electronic, that the paper products and printing and writing paper offered or sold to the city is eligible to be labeled with an unqualified recyclable label as defined in 16 Code of Federal Regulations (CFR) Section 260.12 (2013).
 - (5) Provide records to the city's recovered organic waste product procurement recordkeeping designee, in accordance with the city's recycled-content paper procurement policy(ies) of all paper products and printing and writing paper purchases within 30 days of the purchase (both recycled-content and non-recycled content, if any is purchased) made by any division or department or employee of the city. Records shall include a copy (electronic or paper) of the invoice or other documentation of purchase, written certifications as required in subsections (b)(3) and (b)(4) of this section for recycled-content purchases, purchaser name, quantity purchased, date purchased, and recycled content (including products that contain none), and if non-recycled content paper products or printing and writing papers are provided, include a description of why recycled-content paper products or printing and writing papers were not provided.
- (b) All vendors providing compost to the city shall:

Provide compost that meets the definition in Section 8.15.010(j) of this chapter.

- (c) All vendors providing mulch to the city shall:

Provide SB 1383 Eligible Mulch that meets the definition in Section 8.15.010(ggg) of this chapter.
(Ord. 1999 § 3, (2021))

§ 8.15.100. Inspections and investigations by city.

- (a) City representatives and/or its designated entity, including the designee for edible food recovery are authorized to conduct inspections and investigations, at random or otherwise, of any collection container, collection vehicle loads, or transfer, processing, or disposal facility for materials collected from generators, or source separated materials to confirm compliance with this chapter by organic waste generators, commercial businesses (including multifamily residential dwellings), property owners, tier one and tier two commercial edible food generators, haulers, self-haulers, food recovery services, and food recovery organizations, subject to applicable laws.

This section does not allow the city to enter the interior of a private residential property for inspection.

For the purposes of inspecting commercial business containers for compliance with Section 8.15.030(b), the city may conduct container inspections for prohibited container contaminants using remote monitoring, and commercial businesses shall accommodate and cooperate with the remote monitoring pursuant to Section 8.15.030(k).

- (b) Regulated entity shall provide or arrange for access during all inspections (with the exception of residential property interiors) and shall cooperate with the city's employee or its designated entity or designee for edible food recovery during such inspections and investigations. Such inspections and investigations may include confirmation of proper placement of materials in containers, edible food recovery activities, records, or any other requirement of this chapter described herein. Failure to provide or arrange for: (1) access to an entity's premises; (2) installation and operation of remote monitoring equipment; or (3) access to records for any inspection or investigation is a violation of this chapter and may result in penalties described.
- (c) Any records obtained by city or designee for edible food recovery during its inspections, remote monitoring, and other reviews shall be subject to the requirements and applicable disclosure exemptions of the Public Records Act as set forth in Government Code Section 6250 et seq.
- (d) City representatives, its designated entity, and/or designee for edible food recovery are authorized to conduct any inspections, remote monitoring, or other investigations as reasonably necessary to further the goals of this chapter, subject to applicable laws.
- (e) City and designee for edible food shall receive written complaints from persons regarding an entity that may be potentially non-compliant with SB 1383 Regulations, including receipt of anonymous complaints.

(Ord. 1999 § 3, (2021))

§ 8.15.110. Enforcement.

- (a) Violation of any provision of this chapter shall constitute grounds for issuance of a notice of violation and assessment of a fine by a city enforcement official, designee for edible food recovery, or representative. Enforcement actions under this chapter are issuance of an administrative citation and assessment of a fine. The city's procedures on imposition of administrative fines set forth in Chapter

1.12 of this code are hereby incorporated in their entirety, as modified from time to time, and shall govern the imposition, enforcement, collection, and review of administrative citations issued to enforce this chapter and any rule or regulation adopted pursuant to this chapter, except as otherwise indicated in this chapter.

- (b) Other remedies allowed by law may be used, including civil action or prosecution as misdemeanor or infraction. City or designee for edible food recovery may pursue civil actions in the California courts to seek recovery of unpaid administrative citations. City or designee for edible food recovery may choose to delay court action until such time as a sufficiently large number of violations, or cumulative size of violations exist such that court action is a reasonable use of city or designee for edible food recovery staff and resources.
- (c) Responsible Entity for Enforcement.
 - (1) Enforcement pursuant to this chapter may be undertaken by the city.
 - (2) Enforcement official, which may be the city manager or their designated entity, legal counsel, designee for edible food recovery, or combination thereof.
 - (3) Enforcement may also be undertaken by a regional agency enforcement official or designee for edible food recovery, designated by the city, in consultation with city enforcement official.
 - (A) City enforcement official(s) (and regional agency or designee for edible food recovery, if using) will interpret this chapter; determine the applicability of waivers, if violation(s) have occurred; implement enforcement actions; and, determine if compliance standards are met.
 - (B) City enforcement official(s) (and regional agency enforcement official, if using, or designee for edible food recovery) may issue notices of violation(s).
- (d) Process for Enforcement.
 - (1) City enforcement officials or regional enforcement officials and/or their designee for edible food recovery will monitor compliance with this chapter randomly and through compliance reviews, route reviews, investigation of complaints, and an inspection program (that may include remote monitoring). Section 8.15.100 establishes city's and designee for edible food recovery's right to conduct inspections and investigations.
 - (2) City or their designee for edible food recovery may issue an official notification to notify regulated entities of its obligations under this chapter.
 - (3) For incidences of prohibited container contaminants found in containers, city will issue a notice of violation to any generator found to have prohibited container contaminants in a container. Such notice will be provided via a cart tag or other communication immediately upon identification of the prohibited container contaminants or within 60 days after determining that a violation has occurred. If the city observes prohibited container contaminants in a generator's containers on more than three consecutive occasion(s), the city may assess contamination processing fees or contamination penalties on the generator.

The city or its designee for edible food recovery will issue a notice of violation to any tier one or tier two commercial edible food generator found to have edible food in any waste container or to any food recovery organization or food recovery service found to have edible food recovered from a tier one or tier two edible food generator in a waste collection container which has not

been documented by a notice of significant spoilage as required in this chapter. Such notice will be provided by email communication immediately upon identification of the violation or within three calendar days after determining that a violation has occurred. If the city or its designee for edible food recovery observes edible food in a tier one or tier two commercial edible food generator, or food recovery organization, or food recovery service waste container on more than two consecutive occasion(s), the city or its designee for edible food recovery may assess an administrative citation and fine, pursuant to the edible food recovery penalties provisions contained in this chapter, on the tier one or tier two commercial edible food generator, food recovery organization, or food recovery service.

- (4) With the exception of violations of generator contamination of container contents addressed under Section 17(d)(3), city shall issue a notice of violation requiring compliance within 60 days of issuance of the notice.
- (5) Absent compliance by the respondent within the deadline set forth in the notice of violation, city shall commence an action to impose penalties, via an administrative citation and fine, pursuant to Chapter 1.12 of the Burlingame Municipal Code.

For the purposes of edible food recovery, the designee for edible food recovery shall commence an action to impose penalties, via an administrative citation and fine, pursuant to the edible food recovery penalties provisions contained in this chapter.

Notices shall be sent to "owner" at the official address of the owner maintained by the tax collector for the city or if no such address is available, to the owner at the address of the dwelling or commercial property or to the party responsible for paying for the collection services, depending upon available information.

- (e) **Penalty Amounts for Types of Violations.** Consistent with Chapter 1.12 of this code, the penalty levels are as follows:
 - (1) For a first violation, the amount of the base penalty shall be \$100 per violation.
 - (2) For a second violation, the amount of the base penalty shall be \$200 per violation.
 - (3) For a third or subsequent violation, the amount of the base penalty shall be \$500 per violation.
- (f) **Compliance Deadline Extension Considerations.** The city or designee for edible food recovery may extend the compliance deadlines set forth in a notice of violation issued in accordance with this section if it finds that there are extenuating circumstances beyond the control of the respondent that make compliance within the deadlines impracticable, including the following:
 - (1) Acts of God such as earthquakes, wildfires, flooding, and other emergencies or natural disasters;
 - (2) Delays in obtaining discretionary permits or other government agency approvals; or
 - (3) Deficiencies in organic waste recycling infrastructure or edible food recovery capacity and the city is under a corrective action plan with CalRecycle pursuant to 14 CCR Section 18996.2 due to those deficiencies.
- (g) **Appeals Process.** Persons receiving an administrative citation containing a penalty for an uncorrected violation may request a hearing to appeal the citation. A hearing will be held only if it is requested within the time prescribed and consistent with the city or designee for edible food recovery's procedures in the city's or designee for edible food recovery's codes for appeals of administrative

citations. Evidence may be presented at the hearing. The city or designee for edible food recovery will appoint a hearing officer who shall conduct the hearing and issue a final written order.

- (h) Education Period for Noncompliance. Beginning January 1, 2022 and through December 31, 2023, city or designee for edible food recovery (for edible food generator and food recovery organization and service requirements) may conduct inspections, remote monitoring, route reviews or waste evaluations, and compliance reviews, depending upon the type of regulated entity, to determine compliance, and if city or designee for edible food recovery determines that organic waste generator, self-hauler, hauler, tier one commercial edible food generator, food recovery organization, food recovery service, or other entity is not in compliance, it shall provide educational materials and/or, for the purposes of edible food recovery, training to the entity describing its obligations under this chapter and a notice that compliance is required by January 1, 2022, and that violations may be subject to administrative civil penalties starting on January 1, 2024.
- (i) Civil Penalties for Noncompliance. Beginning January 1, 2024, if the city or designee for edible food recovery (designee for edible food determination only for tier one and tier two commercial edible food generator and food recovery organization and service requirements) determines that an organic waste generator, self-hauler, hauler, tier one or tier two commercial edible food generator, food recovery organization, food recovery service, or other entity is not in compliance with this chapter, it shall document the noncompliance or violation, issue a notice of violation, and take enforcement action pursuant to this section, as needed.

(Ord. 1999 § 3, (2021))

§ 8.15.120. Effective date.

This chapter shall be effective commencing on January 1, 2022.

(Ord. 1999 § 3, (2021))

§ 8.15.130. Resolution of conflict between Chapter 8.15 and other provisions of the Burlingame Municipal Code.

When conflicting provisions or requirements occur between this code and other codes or laws, the most restrictive shall govern. When this chapter directly conflicts with Chapter 8.16 of the Burlingame Municipal Code, the provisions or requirements of this chapter shall apply.

(Ord. 1999 § 3, (2021))

CHAPTER 8.16 **SOLID WASTE**

§ 8.16.010. Definitions.

Whenever the following defined words and phrases are used in this chapter, they shall have the definitions or meanings established by this section, unless it is clearly apparent from the context in which the word or phrase appears that a different definition or meaning is intended.

"Collection" means the scheduled pick up of solid waste but does not include the random picking up of loose litter from public places or places open to the public.

"Commercial and/or industrial property" means property upon which business activity is conducted, including, but not limited to, hotel, motel, trailer court, restaurant, cafeteria, market, hospital or any educational, professional, commercial or industrial establishment of any nature whatsoever where there is generation of solid wastes.

"Composting" means the controlled biological decomposition of organic wastes that are source separated from the solid waste stream. Such organic wastes include vegetable, animal, yard and wood wastes which are not hazardous wastes.

"Demolition and construction debris" means discarded materials resulting from construction, remodeling, repair and demolition activities on housing, commercial or governmental buildings and any other structure and pavement as defined in Chapter 8.17 of this code.

"Franchisee" means any solid waste collector authorized by the city council pursuant to the procedures established in this chapter.

"Garbage" includes, but is not restricted to, every accumulation of animal, vegetable or other matter:

- (1) Resulting from the preparation and consumption of edible foodstuffs; or
- (2) Resulting from decay or the storage of meats, fish, fowl, or vegetables, including the cans, containers or wrappers of such materials; or
- (3) Industrial, domestic and organic solid wastes or residue of animals sold for meat; or
- (4) Vegetable and animal matter from kitchens, dining rooms, markets, food establishments or any other place using, dealing in or handling meats, fish, fowl, vegetables or grains; or
- (5) Offal, animal excreta or carcasses of animals, fish or fowl; or
- (6) Any waste material for which there is not currently a feasible collection system available.

"Hazardous waste" means all substances defined as hazardous waste, acutely hazardous waste or extremely hazardous waste by the state of California, or identified as hazardous waste by the U.S. Environmental Protection Agency, under applicable laws or regulations.

"Non-combustible rubbish" means ashes, bottles, broken crockery, glass, tin cans, metal and metallic substances which will not incinerate through contact with flames of ordinary temperature.

"Owner or occupant" means and includes every owner of, every tenant or person who is in possession or an inhabitant of or has the care and control of a residential property or a commercial and/or industrial property located in the city.

"Person" means any individual, firm, corporation, association or group or any combination thereof acting as a unit.

"Recyclable materials" or "recyclables" means solid waste which may be reused or processed into a form suitable for reuse through reprocessing or remanufacture consistent with the requirements of the California Integrated Waste Management Act of 1989, including, without limitation, paper, newsprint, printed matter, pasteboard, paper containers, cardboard, glass, aluminum, PET, HDPE, and other plastics, beverage containers, compostable materials (including yard waste), and wood, brick and stone in reusable size and condition. Recyclable materials shall include those items of construction debris and demolition debris which are described in this definition.

"Recycling operator" means a person or persons, firm, partnership, joint venture, association or corporation engaged in the collection and recycling of recyclable materials.

"Residential property" means property used for residential purposes, irrespective of whether such dwelling units are rental units or are owner-occupied. A structure may have one or more residential dwelling units. No place used primarily for commercial or industrial purposes shall be considered as a residential dwelling unit.

"Rubbish" includes, but is not restricted to, all non-recyclable waste or debris, cardboard, tree or shrub trimmings, rugs, straw, clothing, wood or wood products, crockery, glass, rubber, metal, plastic, construction waste and debris and other similar materials.

"Solid waste" means all putrescible and non-putrescible solid, semi-solid and liquid wastes, including garbage, trash, refuse, paper, rubbish, ashes, demolition and construction wastes, discarded home and industrial appliances, dewatered, treated or chemically fixed sewage sludge which is not hazardous waste, manure, vegetable or animal solid and semi-solid wastes and other discarded solid and semi-solid wastes.

"Solid waste" does not include abandoned vehicles and parts thereof, hazardous waste or low-level radioactive waste, medical waste, recyclable materials, source-separated plant materials, or source-separated organic materials.

"Solid waste collector" means any person or persons, firm, partnership, joint venture, association or corporation engaged in the collection, transportation or disposal of solid waste generated in the city.

"Solid waste disposal" includes the collecting, transporting and disposal of solid waste generated within the city.

"Solid waste facility" means any licensed recycling center, materials recovery facility, intermediate processing center, incineration facility or landfill where solid waste may be taken for immediate processing or final disposal.

"Solid waste facility" includes a solid waste transfer or processing station and a composting, transformation or disposal facility.

"Streets" means the public streets, alleys and rights-of-way as the same now or may hereafter exist within the city.

"Yard wastes" means leaves, grass, weeds and wood materials from trees and shrubs.
(1941 Code § 1602, Ord. 696, (1959); Ord. 1535 § 1, (1995); Ord. 1828 § 2, (2008))

§ 8.16.020. Solid waste accumulations and disposal.

- (a) All occupied premises within the limits of the city shall have solid waste removal service as specified in this chapter.
- (b) No person shall, for another, collect, remove or dispose of any solid waste within the city, nor transport the same over any public street or rights-of-way, unless a franchise to do so has first been obtained from the city; provided, that any person who collects, removes, or disposes of only

recyclables shall only be required to obtain a city business license.

- (c) It is unlawful for any person to permit, allow or enter into any agreement whatsoever for the collection or transportation of solid waste or recyclable material with any person who does not possess a franchise or business license.
- (d) It is unlawful for any person to store or accumulate the following material for any length of time in violation of the following requirements:
 - (1) Solid waste shall be removed a minimum of at least once a week pursuant to this chapter, or more often as necessary or mandated by the San Mateo County Health Department; and
 - (2) Recyclable materials shall be removed a minimum of at least once every 30 days pursuant to this chapter, or more often as necessary or mandated by the San Mateo County Health Department;
- (d) No person shall place or cause to be placed any solid waste generated upon any property or by any residential, commercial or industrial use into any container other than those owned or controlled by such person, unless permission for such use is granted by the commercial, industrial or residential customer owning or controlling the container and approved by the city and its franchisee.
- (e) It is unlawful for any person owning, occupying or having control of any premises to set out or cause to be set out for collection any solid waste other than that originating on the premises.
- (f) It is unlawful for any person to dispose of solid waste in or near litter or recycling containers placed by the city or any other agency in public places for incidental use by pedestrian or vehicular traffic, or in recycling containers or enclosures maintained by the city in commercial zones.
- (g) It is unlawful for any person to accumulate, keep or deposit solid waste in such a manner that a public nuisance is created, including, but not limited to, allowing insects, or rodents to breed therein.
- (h) Other than as herein set forth, it is unlawful for any person to dump, bury, burn, incinerate or otherwise dispose of or store or accumulate any garbage, combustible or non-combustible rubbish, miscellaneous debris or combined rubbish or solid waste on any private or public property within the city; provided, however, that leaves, grass clippings and the like may be composted but only in accordance with state and county regulations governing composting.
- (i) No person shall cast, place, sweep or deposit any solid waste on any street, sidewalk, alley, sewer, storm drain, creek, parkway or other public place or into any occupied premises within the city except in an appropriately designated solid waste container.
- (j) No commercial, industrial, or residential customer owning, occupying or having the control of any premises or vacant lot or any person occupying a dwelling within the city shall permit any solid waste to become or remain offensive, unsightly or unsafe to the public health or safety or to deposit, keep or accumulate or permit to cause any solid waste to be deposited, kept, or accumulated, upon any property, lot, or parcel of land or upon any public or private place, street, lane, alley or driveway, except as allowed in this chapter.

(1941 Code § 1603, Ord. 696, (1959); Ord. 1535 § 1, (1995); Ord. 1828 § 2, (2008))

§ 8.16.030. Exemptions.

The following types of collection or transportation of solid waste are exempted from the requirements of this chapter:

- (a) Yard waste removed from a premises by a gardening, landscaping or tree trimming contractor having a city business license and as an incidental part of a total service offered by that contractor rather than as a disposal service, and tree trimmings, clippings and all similar materials generated at parks and other publicly maintained premises;
- (b) Demolition debris removed from a premises by a licensed contractor as an incidental part of a total service offered by that contractor rather than as a disposal service;
- (c) By-products of sewage treatment, including sludge, grit and screenings;
- (d) The collection of hazardous or dangerous waste as part of regular services, including, without limitation, liquid and dry caustics, acids, bio-hazardous, flammable or explosive materials, insecticides and similar substances;
- (e) Recyclable materials and yard wastes which are generated at any residential, commercial, or industrial property and which are transported personally by the owner or occupant of such premises (or by his or her full-time employees) to a licensed solid waste or recycling facility in a manner consistent with this chapter and other applicable laws;
- (f) Nothing in this chapter shall prohibit a person or the person's employees from transporting to a licensed transfer station or materials recovery facility any solid waste, garbage, rubbish, or yard waste that is incidental to the conduct of the person's individual business within the city or to the maintenance of the person's individual residence, so long as there is no spillage on city streets and the transport is conducted pursuant to applicable laws governing the transport of materials. However, any such transport does not relieve the person from the ongoing obligation to contract with a city franchisee pursuant to Section 8.16.040 of this chapter;
- (g) An exemption to the mandatory disposal requirements set forth above may be applied for under the condition that the individual or property owner shows proof of use of a city-approved solid waste collection alternative, including, but not limited to, on-site composting. Any such exemption shall be subject to approval of the city manager or the city manager's designee.

(1941 Code § 1604, Ord. 696, (1959); Ord. 1535 § 1, (1995); Ord. 1828 § 2, (2008))

§ 8.16.040. Obligations of customers.

- (a) Unless otherwise expressly excepted by this chapter, the owner, occupant or other person responsible for the day-to-day operation of any residential, commercial, or industrial property in the city shall contract with a city franchisee for the removal and disposal of solid waste generated from the use of the property.
- (b) The franchisee is authorized to charge all customers a fee for the collection and transportation of solid waste, subject to the approval by the city council of the fee. Such fees may include charges for collection, landfills, recovery or recyclables, composting and may include the cost of preparing and implementing source reduction, recycling elements and integrated waste management plans.
- (c) All solid waste shall be kept free of all hazardous materials and placed in a container or containers unless other acceptable arrangements are made with the franchisee.
- (d) Containers shall be made of metal or plastic, and of sufficient strength to prevent them from being broken under ordinary conditions.
- (e) Containers containing any solid waste except recyclable materials shall be maintained in a clean, safe, sanitary condition, and continuously enclosed by a solid tight-fitting cover secured from access by

insects, animals and rodents, except when solid waste is being dumped into or removed from the container.

- (f) Garbage or other refuse containing water or other liquids shall be drained before being placed in a container and the drainage properly disposed of to the sanitary sewer.
- (h) Animal waste shall not be placed directly in a container for regular collection and disposal, but shall be placed within a secondary containment (i.e., plastic bag) within the container for regular collection and disposal, as required by the franchisee and the San Mateo County Health Department.
- (i) Unless provisions to prevent litter are otherwise provided, no person shall so fill any container with garbage or rubbish above the top of the container to such extent as to permit the contents of any container to be blown or otherwise strewn about.
- (j) If solid waste from either residential, commercial, or industrial property is of such a nature that it cannot be placed in a container, it shall be carefully placed beside the container in securely tied bundles. Solid waste which exceeds size or type limitations set by the franchisee shall be scheduled for special collection, and special collection charges may be assessed by the franchisee for this service.
- (k) Any containers placed for collection along a street, roadway or alley shall be set out only on the day established for the collection on the particular route or after 5:30 p.m. on the day immediately prior to such collection, and shall not remain thereon for more than 18 hours after it has been emptied. Any containers placed for collection along a street, roadway or alley in the Burlingame Avenue Commercial Area and Broadway Commercial Area, as defined by the Burlingame Zoning Code, shall be removed from the streets and sidewalks by 1:00 p.m. on the day of garbage collection.
- (l) Any container placed for collection in any alley shall be placed as close to the property line as practicable.
- (m) No person, including a solid waste collector, shall place or cause to be placed any solid waste or solid waste container in any public street or roadway without an encroachment permit from the city or in any place or in any manner inconsistent with the regulations of this chapter.
- (n) Each owner or occupant of residential, commercial, or industrial property shall maintain supervision and surveillance over the solid waste containers on the premises and shall maintain the same in a sanitary condition. If the containers are not emptied and the contents removed on the date and time scheduled by the franchisee, the owner or occupant should immediately notify the franchisee and it shall be the duty of the franchisee to, within 24 hours thereafter, arrange for the collection and disposal of the solid waste.
- (o) Solid waste which exceeds the limitations hereinabove set forth may, in the discretion of the franchisee, be scheduled for special collection upon the application of the owner or occupant of the premises. Special collection charges may be assessed by the franchisee for this service.
- (p) No person, other than the owner thereof, owner's agents or employees or an officer or employee of the city or any person holding a franchise or license from the city for the collection or disposal of refuse or recyclables shall remove any materials set out for recycling collection or tamper or meddle with any solid waste or recycling container or the contents thereof, or remove the contents of any such container, or remove any such container from the location where the same shall have been placed by the owner thereof or owner's agent.

(1941 Code § 1605, Ord. 696, (1959); Ord. 1535 § 1, (1995); Ord. 1828 § 2, (2008); Ord. 1931 § 1,

(2016))

§ 8.16.050. Recyclable materials.

- (a) Recyclables placed at the curb of residential properties shall be separated from other solid waste in a manner approved by the city and shall be placed for collection in the container provided by the recycling operator for such material.
- (b) Recyclables placed at the curb of residential properties or placed for collection at other recycling locations for pick up by a franchisee or licensee shall become the property of the franchisee or licensee at the time of their placement in the recycling containers or otherwise set out for collection.
(1941 Code § 1606, Ord. 696, (1959); Ord. 1535 § 1, (1995); Ord. 1828 § 2, (2008))

§ 8.16.060. Special provisions regarding method of disposal.

- (a) Highly flammable or explosive or radioactive refuse shall not be placed in a container for regular collection and disposal but shall be removed under the supervision of the Central County Fire Department at the expense of the owner or possessor of such material.
- (b) No hazardous waste shall be mixed or placed with any rubbish, garbage or other solid waste which is to be collected, removed or disposed of by the city's franchisee. Hazardous waste or household hazardous waste may only be disposed of in a manner allowed by federal, state, and county regulations.
(1941 Code § 1607, Ord. 696, (1959); Ord. 1535 § 1, (1995); Ord. 1828 § 2, (2008))

§ 8.16.070. Health officer to settle disputes.

In all case of disputes or complaints arising from or concerning the place where receptacles for refuse shall be placed awaiting the removal of their contents, the quantities to be removed, and the times for removal, the health officer shall designate the place, the estimated quantity, the frequency and manner of removal.
(Ord. 1828 § 2, (2008))

CHAPTER 8.17
RECYCLING AND DIVERSION OF DEBRIS FROM CONSTRUCTION AND DEMOLITION

§ 8.17.010. Definitions.

For purposes of this chapter, the following definitions apply:

"ADC" or "alternative daily cover" means cover material in addition to at least six inches of earthen material placed on the surface of the active face of fill at the end of each operating day to control vectors, fires, odors, blowing litter, and scavenging.

"AIC" or "alternative intermediate cover" means cover material in addition to earthen material of at least 12 inches placed on all fill surfaces where additional cells are not to be constructed for 180 days or more to control vectors, fires, odors, blowing litter, scavenging, and drainage. AIC does not include final cover.

"Alteration" means, for the purposes of the recycling and diversion requirements in this chapter, any change, addition, or modification in construction or occupancy of a building or structure.

"Building" means any structure used or intended for supporting any use or occupancy that encompasses 200 square feet or more of area in any one plane. "Building" does not include decks, fences, balconies, machinery, equipment, or appliances installed for manufacture or process purposes only.

"Chief building official" means the city chief building official or the chief building official's designee.

"Contractor" means any person or entity holding, or required to hold, a contractor's license of any type under the laws of the State of California, or who performs (whether as contractor, subcontractor, owner-builder, or otherwise) any construction, alteration, demolition, or landscaping service relating to buildings or structures in the city.

"Demolition" means, for the purposes of the recycling and diversion requirements in this chapter, the intentional removal an existing building or structure.

"Demolition and construction debris" means and includes:

- (1) Discarded materials generally considered to be not water soluble and non-hazardous in nature, including, but not limited to, steel, glass, brick, concrete, asphalt material, pipe, gypsum, wallboard, and lumber from the construction or destruction of a structure or building as part of a construction or demolition project or from the renovation of a structure and/or landscaping, and including rocks, soils, tree remains, trees, and other vegetative matter that normally results from land clearing, landscaping and development operations for a construction or demolition project;
- (2) Clean cardboard, paper, plastic, wood, and metal scraps from any construction and/or landscape project;
- (3) Non-construction and demolition debris wood scraps.
- (4) Deminimis amounts of other non hazardous wastes that are generated at construction or demolition projects, provided such amounts are consistent with best management practices of the industry.
- (5) Mixing of construction and demolition debris with other types of solid waste will cause it to be classified as other than construction and demolition debris.

"Designated recyclable and reusable materials" means and includes:

- (1) Masonry building materials including all products generally used in construction including, but

not limited to asphalt, concrete, rock, stone, and brick;

- (2) Wood materials including any and all dimensional lumber, fencing or construction wood that is not chemically treated, creosoted, CCA pressure treated, contaminated or painted with lead paint.
- (3) Vegetative materials including trees, tree parts, shrubs, stumps, logs, brush or any other type of plants that are cleared from a site for construction or other use.
- (4) Metals including all metal scrap such as, but not limited to, pipes, siding, window frames, door frames and fences.
- (5) Roofing materials including wood shingles as well as asphalt, stone and slate based roofing material.
- (6) Salvageable materials including all salvageable materials and structures including, but not limited to wallboard, doors, windows, fixtures, toilets, sinks, bath tubs and appliances.
- (7) Any other materials that the chief building official determines can be diverted due to the identification of a recycling facility, reuse facility, or market accessible from the city.

"Final cover" means cover material that represents the permanently exposed final surface of a fill.

"New construction" means, for the purposes of the recycling and diversion requirements in this chapter, the construction of a completely new structure or building.

"Structure" means, for the purposes of the recycling and diversion requirements of this chapter, anything built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner that encompasses 200 square feet or more of area in any one plane, except decks, fences, or balconies.

"Total value" means the total value of new construction or an alteration as calculated and determined by the chief building official in the same manner as for permit and building plan review fees under Section 107.2 of the California Building Code as adopted by the city.

(Ord. 1645 § 2, (2000); Ord. 1661 § 2, (2001); Ord. 1704 § 2, (2003))

§ 8.17.020. Deconstruction and salvage and recovery.

- (a) This section shall apply to the following:
 - (1) Every building or structure planned for demolition; or
 - (2) Every building or structure planned for alteration, in which the alteration has a total value of \$50,000 or more.
- (b) No person shall begin such a demolition or alteration until a period of five working days has elapsed from the date of issuance of the demolition or construction permit, in order to facilitate that pre-demolition deconstruction, salvage and recovery. The owner, the general contractor and all subcontractors shall recover the maximum feasible amount of salvageable designated recyclable and reusable materials prior to demolition or alteration.
- (c) In the event that it is determined that no materials can be salvaged for reuse from a particular project, written documentation shall be provided to the city as to the reasons why salvaging cannot take place at least three working days before demolition or alteration begins.

- (d) Recovered and salvaged designated recyclable and reusable materials from the deconstruction phase shall qualify to be counted in meeting the diversion requirements of this chapter. Recovered or salvaged materials may be given or sold on or from the premises at which they were recovered or salvaged, or may be removed to reuse warehouse facilities for storage or sale. Title to reusable or recyclable materials forwarded to the operator of a recycling facility, land-fill, or other disposal facility will transfer to the service provider upon departure of the materials from the site.

(1645 § 2, (2000); Ord. 1661 § 2, (2001))

§ 8.17.025. Construction site maintenance.

Any property owner or person in charge of a construction site shall furnish covered litter containers for construction litter, including construction debris. All waste matter or litter from construction and related activities shall be picked up and placed in these covered containers at the end of each working day. Waste matter or litter receptacles of a sufficient number must be located on the construction site to receive construction debris, personal litter, and any other waste matter generated by the employees, workers, invitees, or other persons using the site.

(Ord. 1802 § 4, (2007))

§ 8.17.030. Diversion requirements.

The minimum percentages of waste tonnage of demolition and construction debris generated from every demolition, remodeling and construction project, as defined below, shall be diverted from going to landfills by using recycling, reuse and diversion programs as follows:

- (a) From demolition:

For each residential (single-family and multi-family) or nonresidential demolition in the city: At least 60% of all generated C&D tonnage from the project shall be diverted, excluding ADC and AIC. When total tonnage generated from a project includes source-separated soil, concrete and/or asphalt, the total diversion rate shall remain at 60% but at least 25% of the C&D tonnage that excludes source-separated soil, concrete, and asphalt shall be diverted. For example, if total tonnage generated is 100 tons, the total diverted tonnage shall be at least 60 tons, excluding ADC and AIC. Of this amount, the total tonnage diverted through materials excluding source-separated soil, concrete and asphalt, shall be at least 25 tons and the remainder (35 tons or more) can be obtained through diversion of source-separated soil, concrete and asphalt.

- (b) From new construction:

Each residential (single-family and multi-family) new construction and each nonresidential new construction shall comply with the same diversion requirements as for demolition: Sixty percent of total waste tonnage generated from the project shall be diverted, excluding ADC and AIC. When total tonnage generated from such a project includes source-separated soil, concrete and/or asphalt, the total diversion rate shall remain at 60%, excluding ADC and AIC, but at least 25% of the waste tonnage that excludes source-separated soil, concrete, and asphalt shall be diverted. For example, if total tonnage generated is 100 tons, the total diverted tonnage, excluding ADC and AIC, shall be at least 60 tons. Of this amount, the total tonnage diverted through materials excluding source-separated soil, concrete and asphalt, shall be at least 25 tons and the remainder (35 tons or more) can be obtained through diversion of source-separated soil, concrete and asphalt.

- (c) From alterations:

Each residential (single-family and multi-family) alteration with a total value of \$50,000 or more

and each nonresidential alteration with a total value of \$50,000 or more shall comply with the same diversion requirements as for demolition: Sixty percent of total waste tonnage generated from the project shall be diverted, excluding ADC and AIC. When total tonnage generated from such a project includes source-separated soil, concrete and/or asphalt, the total diversion rate shall remain at 60% but at least 25% of the waste tonnage that excludes source-separated soil, concrete, and asphalt shall be diverted. For example, if total tonnage generated is 100 tons, the total diverted tonnage shall be at least 60 tons. Of this amount, the total tonnage diverted through materials excluding source-separated soil, concrete and asphalt, shall be at least 25 tons and the remainder (35 tons or more) can be obtained through diversion of source-separated soil, concrete and asphalt.

(d) From roofing:

When the chief building official determines that material from roofing repair or replacement can be diverted to uses other than ADC or AIC, the chief building official is authorized to require diversion of those materials. Upon this determination, the roofing materials shall be delivered to a facility that diverts material to uses other than ADC or AIC.

- (e) Separate calculations and reports will be required for each portion of a project that involves demolition and alteration, demolition and new construction, or any combination of the three.

(Ord. 1645 § 2, (2000); Ord. 1661 § 2 (part, (2001); Ord. 1704 § 3, (2003))

§ 8.17.040. Information required before issuance of permit.

- (a) Every applicant shall submit a properly completed "Recycling and Waste Reduction Form," on a form as prescribed by the city as an integral part of the building or demolition permit application process. The applicant's submission shall include an accurate estimate of the tonnage or other specified units of construction and demolition debris to be generated from construction and demolition on the site. Approval of the form as complete and accurate shall be a condition precedent to issuance of any building or demolition permit.

- (b) The chief building official will review the Recycling and Waste Reduction Form for the purpose of confirming the accuracy of the estimated waste generation and gathering data on the amount of waste generated for the project in the city.

(Ord. 1645 § 2, (2000); Ord. 1661 § 2, (2001))

§ 8.17.050. Deposit required.

- (a) As a condition precedent to issuance of any permit for a building or a demolition permit that is subject to Section 8.17.030 above, the applicant shall post a cash deposit, surety bond, or irrevocable letter of credit in the following amounts:

- (1) For demolition, in the amount of \$50 for each ton of demolition and construction debris estimated to be generated by the demolition;
- (2) For alterations with a total value of \$50,000 or more, in an amount equal to 1.5% of the total value of the alteration, but not to exceed \$3,000 for an alteration to a structure or building that is a single-family residence or accessory to a single family building or structure, or \$10,000 for any other type of project; and
- (3) For new construction, in an amount equal to 1% of the total value of the new construction, but not to exceed \$7,500.

- (b) If a project involves demolition and alteration, demolition and new construction, or any combination of the three , a deposit shall be required for each portion of the project and be calculated pursuant to this section for each portion.
- (c) The deposit or cash bond shall be returned, without interest, in total or in proportion, upon proof to the satisfaction of the chief building official, that no less than the required percentages or proven proportion of those percentages of the tons of debris generated by the demolition, alteration, or new construction have been diverted from landfills and have been recycled or reused. If a lesser percentage of tons or cubic yards than required is diverted, a proportionate share of the deposit will be returned. The deposit shall be forfeited entirely or to the extent that there is a failure to comply with the requirements of this chapter for timely reporting or compliance with the percentage diversion.

(1645 § 2, (2000); Ord. 1661 § 2, (2001))

§ 8.17.060. Administrative fee.

As a condition precedent to issuance of any permit for a building or a demolition permit that involves the production of solid waste destined to be delivered to a landfill, the applicant shall pay to the city a fee as established by resolution to compensate the city for all expenses incurred in administering the permit.

(Ord. 1645 § 2, (2000); Ord. 1661 § 2, (2001))

§ 8.17.070. On-site practices.

During the term of the demolition or construction project, the contractor shall recycle or divert the required percentages of materials, and keep records of diversions in tonnage or in other measurements approved by the city that can be converted to tonnage. The chief building official will evaluate and monitor contractor reports from each project to gauge the percentage of materials recycled, salvaged, and disposed from the project. To the maximum extent feasible, on-site separation of scrap wood and clean green waste in a designated debris box or boxes shall be arranged, in order to permit chipping and mulching for soil enhancement or land cover purposes. In order to protect chipping and grinding machinery and personnel, metal and other materials which cannot be chipped or ground shall not be placed in such boxes. On-site separation for recycling and salvaging of other materials shall be undertaken to the extent feasible.

(1645 § 2, (2000); Ord. 1661 § 2, (2001))

§ 8.17.080. Reporting.

- (a) No later than 60 days following the completion of a demolition project or construction project, the contractor shall, and as a condition of final inspection and for issuance of any certificate of occupancy if applicable, submit documentation to the city that proves compliance with the requirements of Section 8.17.030. The documentation shall consist of a final completed "Recycling and Waste Reduction Form" showing the tonnage of materials recycled and diverted, supported by originals or certified photocopies of receipts and weight tags or other records of measurement from recycling companies, deconstruction contractors, and landfill and disposal companies. Receipts and weight tags will be used to verify whether materials generated from the site have been or are to be recycled, reused, salvaged or otherwise disposed of. If mixed debris is taken to a facility that provides both mixed C&D processing and disposal services, documentation shall be provided to show that the delivered materials were processed for recycling and also indicate the average diversion rate achieved by the facility from mixed load processing.
- (b) If a project involves demolition and alteration or new construction, the report and documentation for the demolition portion of the project shall be submitted no later than 60 days following the completion of the demolition portion of the project, and must be approved by the city before issuance of a

building permit for the alteration or new construction portion of the project. The permittee shall then submit the report and documentation for the alteration or new construction portion of the project no later than 60 days following completion of the alteration or new construction portion as specified in subsection (a) above.

- (c) As an alternative, a permittee may submit a declaration stating that no waste or recyclable materials were generated from the permittee's project or a particular portion of a project.
- (d) Any deposit posted pursuant to Section 8.17.050 shall be forfeited to the city if the permittee does not meet the time requirements for reporting pursuant to this section.
- (e) All reports, letters, and documentation submitted pursuant to this section are subject to verification by the city.
- (f) On an annual basis, the chief building official will compile a report that, at a minimum, describes the number and type of permits issued, the number and type of projects covered by diversion requirements, the total tonnage generated, and the estimated diversion resulting from these projects.
- (g) It is unlawful for any person to submit a report to the city under this section that the person knows to contain any false statement of tonnage of materials recycled or diverted, or any false or fraudulent receipt or weight tag or other record of measurement.

(1645 § 2, (2000); Ord. 1661 § 2, (2001))

§ 8.17.090. Adjustment of values.

In order to ensure that the values provided by this chapter that trigger requirements for reporting, diversion, and recovery remain fair and equitable, the values shall be adjusted by the chief building official according to the following formula:

On July 1 of each year, the values payment shall be increased or decreased by the percentage change in the Consumer Price Index – All Urban Consumers/All Items (CPI-U, 1982-84=100) for the San Francisco-Oakland-San Jose, CA Metropolitan Area between April 2001 (189.1) and April of the adjustment year.

The adjusted values shall be filed with the city clerk.
(Ord. 1661 § 2, (2001))

§ 8.17.100. Application to additional projects.

Notwithstanding any other provision of this chapter, the provisions of this chapter will apply to any construction project that the chief building official determines will generate five tons or more of construction or demolition debris.

(Ord. 1661 § 2, (2001))

CHAPTER 8.18 SMOKING

§ 8.18.010. Findings and purpose.

The city council of the city of Burlingame hereby finds that:

- (a) Numerous studies have found that tobacco smoke is a major contributor to indoor air pollution; and
- (b) Reliable studies have shown that breathing second-hand smoke, which has been classified as a carcinogen, is a significant health hazard for all persons; and
- (c) Health hazards induced by breathing second-hand smoke include heart disease, lung cancer, respiratory dysfunction, bronchoconstriction, bronchospasm, and death; and
- (d) Nonsmokers with allergies, respiratory diseases and those who suffer other ill effects of breathing second-hand smoke may experience a loss of job productivity or may be forced to take periodic sick leave because of adverse reactions to same; and
- (e) Smoking is a documented cause of fires, and cigarette and cigar burns and ash stains on merchandise and fixtures cause economic losses to businesses; and
- (f) Cigarette butts, left as litter, are toxic to small children and wildlife that may ingest them and contribute to the solid waste burden of public space maintenance and stormwater processing facilities; and
- (g) Accordingly, the city council finds and declares that the purpose of this chapter is to protect the public health and welfare by prohibiting smoking in public places and in places of employment, as set forth herein.

(Ord. 1481 § 1, (1993); Ord. 1901 § 1, (2014))

§ 8.18.020. Definitions.

The following words and phrases, whenever used in this chapter, shall be construed as defined in this section:

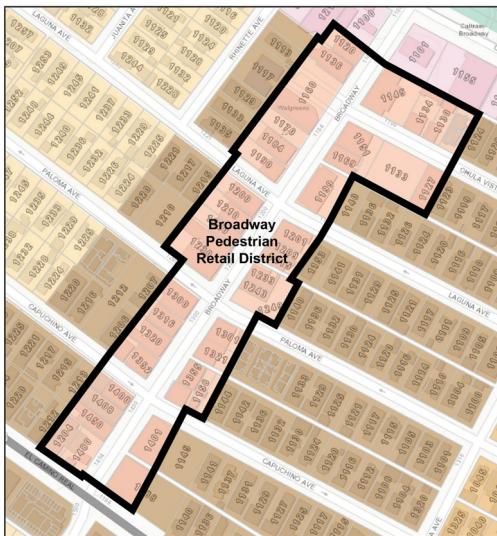
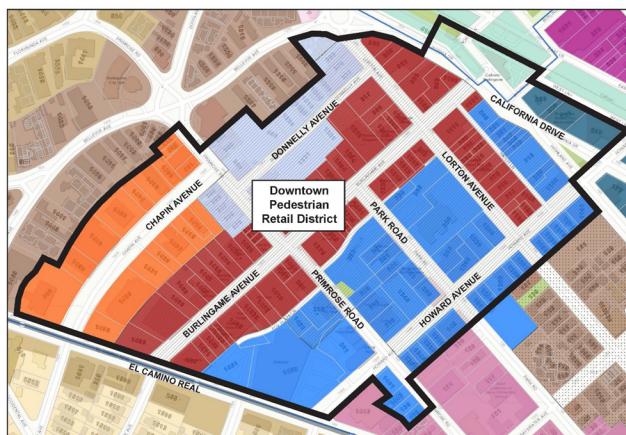
"Bar" means an area which is devoted to the serving of alcoholic beverages for consumption by patrons on the premises and in which the serving of food in that bar area is only incidental to the consumption of such beverages. Although a restaurant may contain a bar, the term "bar" shall not include the restaurant's primary dining area.

"Broadway Pedestrian Retail District" means the area within the Broadway Mixed Use (BRMU) Zoning District, as shown on Figure 8.18.020-1.

"Business" means any sole proprietorship, partnership, joint venture, corporation or other business entity formed for profit-making purposes, including retail establishments where goods or services are sold as well as professional corporations and other entities where legal, medical, dental, engineering, architectural or other professional services are delivered.

"California Clean Indoor Air Law" means the California State laws regarding smoking that are codified in Labor Code Section 6404.5, inclusive of any future amendments.

"Downtown Burlingame Pedestrian Retail District" means the area within the Burlingame Avenue Commercial (BAC), Chapin Avenue Commercial (CAC), Donnelly Avenue Commercial (DAC), and Howard Mixed Use (HMU) Zoning Districts, as shown on Figure 8.18.020-2.

Figure 8.18.020-1 Broadway Pedestrian Retail District**Figure 8.18.020-2 Downtown Burlingame Pedestrian Retail District**

"Employee" means any person who volunteers his or her services or who is employed by any employer in consideration for direct or indirect monetary wages or profit.

"Employer" means any person, partnership, corporation or nonprofit entity who employs the services of one or more persons.

"Enclosed" shall have the same definition as in the California Clean Indoor Air Law (Labor Code Section 6404.5), as may be amended, including any clarification through an opinion of the California Attorney General's Office or other applicable authority.

"Multifamily housing" means any structure containing two or more contiguous dwelling units that share a wall, floor, or roof.

"Nonprofit entity" means any corporation, unincorporated association or other entity created for charitable, educational, political, social or other similar purposes, the net proceeds from the operations of which are committed to the promotion of the objects or purposes of the organization and not to private financial gain.

A public agency is a "nonprofit entity" within the meaning of this section.

"Place of employment or workplace" shall have the same definition as in the California Clean Indoor Air Law (Labor Code Section 6404.5), as may be amended, including any clarification through an opinion by the California Attorney General's Office or other applicable authority.

"Public place" means any enclosed area to which the public is invited or in which the public is permitted, including, but not limited to: banks, educational facilities, health facilities, public transportation facilities, reception areas, restaurants, retail food production and marketing establishments, rail service establishments, retail stores, theaters and waiting rooms. Public place also means that city-owned or operated property—whether enclosed or open-air—described in Section 8.18.030.

"Restaurant" means any coffee shop, cafeteria, sandwich stand, soda fountain, private or public school cafeteria and any other eating establishment, organization, club, boardinghouse or guest house, which gives or offers food for sale to the public, guests, patrons or employees.

"Retail tobacco shop" shall have the same definition as in the California Clean Indoor Air Law (Labor Code Section 6404.5), as may be amended, including any clarification through an opinion of the California Attorney General's Office or other applicable authority. Generally, this describes any business establishment, the main purpose of which is the sale of tobacco products, including, but not limited to, cigars, pipe tobacco, and smoking accessories.

"Service line" means indoor line at which one or more persons are waiting for or receiving service of any kind, whether or not such service includes the exchange of money.

"Smokers' lounge," or "private smokers' lounge," shall have the same definition as in the California Clean Indoor Air Law (Labor Code Section 6404.5), as may be amended, including any clarification through an opinion of the California Attorney General's Office or other applicable authority. Generally, this describes any enclosed area in or attached to a retail tobacco shop that is dedicated to the use of tobacco products, including, but not limited to, cigars and pipes.

"Smoking" means inhaling, exhaling, burning or carrying any lighted pipe, cigar or cigarette of any kind, or any other combustible substance. For the purposes of this chapter, smoking shall also include the use of any electronic smoking device or "vaping."

"Sports arena" means sports pavilions, gymnasiums, health spas, boxing arenas, swimming pools, athletic fields, roller and ice rinks, bowling alleys and other similar places where members of the public assemble to engage in physical exercise, participate in athletic competition or witness sports events.

"Tobacco vending machine" means any electronic or mechanical device or appliance the operation of which depends upon the insertion of money, whether in coin or paper currency, or other things representative of value, which dispenses or releases a tobacco product.

(Ord. 1344 § 1, (1987); Ord. 1475 §§ 1, 2, (1993); Ord. 1481 § 1, (1993); Ord. 1901 § 1, (2014); Ord. 1919 § 1, (2015); Ord. 2016 § 5, (2023); Ord. 2021 § 5, (2023))

§ 8.18.030. Smoking limitations in city-owned or city-controlled facilities and vehicles.

In order to avoid the adverse effects of smoking on members of the public, employees, and property of the city, the city hereby bans smoking at city facilities as described in this section.

- (a) Enclosed Facilities. Smoking is prohibited in all enclosed facilities owned by the city. For the purpose of this chapter, the building known as the Burlingame Lions Hall shall not be considered a city-owned building.
- (b) Sports Fields and Courts. Smoking is prohibited at all times within 25 feet of the following:

- (1) Any bleachers, grandstands, playing fields, or dugouts of any city-owned sports field commonly used for activities such as baseball, softball, soccer, lacrosse, or football; and
 - (2) Any city-owned sports courts commonly used for activities such as tennis or basketball; and
 - (3) Players' benches or spectator gathering areas during any city-conducted or city-sponsored activity.
- (c) City Events. Smoking is prohibited during the performance or conduct of any city-conducted or city-sponsored event, including, but not limited to, sports, entertainment, plays, ceremonies, pageants, fairs, or training in any location that is close enough to the event that smoke is traveling to or over participants or spectators of the event. The director of parks and recreation is authorized, however, to designate smoking areas at such an event where smoking is to be allowed notwithstanding this subsection. This subsection does not apply to smoking by a person who is passing through the area to another destination, or to smoking by actors in a theatrical production if smoking is an integral part of the production.
- (d) Specific Areas. Smoking is further prohibited in, and within 25 feet of, the following locations:
- (1) City-owned parking lots;
 - (2) Burlingame Golf Center;
 - (3) Murray Field;
 - (4) Burlingame School District property, including fields and courts;
 - (5) San Mateo Union High School District property, including fields and courts;
 - (6) City-owned playgrounds;
 - (7) City-owned parks;
 - (8) City-owned and maintained bayfront trails; and
 - (9) Mills Canyon Park.
- (e) Posted Areas. In addition to the facilities described above, the city manager and the director of parks and recreation are authorized to post additional city-owned or city-controlled facilities for "no smoking," and smoking is prohibited in any such facility that is so posted.
- (f) City Vehicles. Smoking is prohibited in any city-owned or city-controlled vehicle.
(Ord. 1344 § 1, (1987); Ord. 1481 § 1, (1993); Ord. 1485 § 1, (1993); Ord. 1777 § 2, (2005); Ord. 1901 § 1, (2014))

§ 8.18.040. Prohibition of smoking in public places.

- (a) Smoking shall be prohibited in all enclosed public places, including, but not limited to, the following places:
- (1) Elevators and restrooms;
 - (2) Buses, taxicabs and other means of public transit under the authority of the city of Burlingame;
 - (3) Service lines;

- (4) Retail stores;
 - (5) Restaurants;
 - (6) All areas available to and customarily used by the general public in all businesses and nonprofit entities patronized by the public, including, but not limited to, business offices and banks;
 - (7) Public areas of aquariums, libraries and museums when open to the public;
 - (8) Any building not open to the sky which is used primarily for exhibiting any motion picture, stage drama, lecture, musical recital or other similar performance, except when smoking is part of any such production;
 - (9) Enclosed sports arenas;
 - (10) Doctors' offices, dentists' offices, waiting rooms, hallways, wards and semi-private rooms of health facilities, including, but not limited to, hospitals, clinics and physical therapy facilities;
 - (11) Every room, chamber, place of meeting or public assembly, including school buildings under the control of any board, council, commission, committee including joint committees, or agencies of the city or any political subdivision of the state during such time as a public meeting is in progress, to the extent such place is subject to the jurisdiction of the city;
 - (12) Lobbies, hallways, and other common areas in apartment buildings, condominiums, senior citizen residences, nursing homes, and other multiple-unit residential facilities;
 - (13) Lobbies, hallways, and other common areas in multiple-unit commercial facilities;
 - (14) Polling places;
 - (15) Warehouse facilities of any size.
- (b) In addition to, and not in place of, all other prohibitions in this chapter and under state and federal law, smoking shall also be prohibited within the public right-of-way in the following open spaces:
- (1) Throughout the Downtown Burlingame and Broadway Pedestrian Retail Districts. However, this prohibition shall expire at midnight on December 31, 2024.
- (Ord. 1344 § 1, (1987); Ord. 1481 § 1, (1993); Ord. 1517 § 1, (1995); Ord. 1901 § 1, (2014); Ord. 2016 § 5, (2023); Ord. 2021 § 5, (2023))

§ 8.18.050. Regulation of smoking in places of employment.

Smoking is prohibited in all places of employment.

(Ord. 1344 § 1, (1987); Ord. 1481 § 1, (1993); Ord. 1901 § 1, (2014))

§ 8.18.055. Multifamily housing.

Smoking is prohibited in multifamily housing. The use of medical marijuana with a valid prescription shall not be prohibited by this provision, but shall be subject to all other applicable regulations and prohibitions on creation of a nuisance.

(Ord. 1919 § 1, (2015))

§ 8.18.060. Where smoking not regulated.

- (a) Notwithstanding any other provisions of this chapter to the contrary, the following areas shall not be subject to the smoking restrictions of the chapter:
- (1) Private residences, other than those located in multifamily housing, except when used as a child care or a health care facility. Common areas or areas normally open to the public within residential apartments, residential co-ops, residential hotels, senior citizen projects, or other communal or similar facilities housing 12 or more persons shall be subject to smoking restrictions;
 - (2) Twenty percent of the guest room accommodations in a hotel, motel, or similar transient lodging establishment;
 - (3) Theatrical production sites, but only in a theatrical production itself when smoking is an integral part of the story to the theatrical production;
 - (4) Cabs of motortrucks, as defined in Section 410 of the Vehicle Code, or truck tractors, as defined in Section 655 of the Vehicle Code, if no nonsmoking employees are present;
 - (5) Retail tobacco shops and smokers' lounges;
 - (6) Medical research or treatment sites, if smoking is integral to the research and treatment being conducted. Such a site must have not less than 16 air changes per hour;
 - (7) Patient smoking areas in long-term health care facilities, as defined by Section 1418 of the Health and Safety Code. Such an area shall have not less than 16 air changes per hour.

- (b) The exception to smoking prohibitions contained in subsection (a)(4) above does not apply to city-owned or city-controlled vehicles or equipment.

(Ord. 1344 § 1, (1987); Ord. 1481 § 1, (1993); Ord. 1517 § 2, (1995); Ord. 1527 § 1, (1995); Ord. 1777 § 3, (2006); Ord. 1901 § 1, (2014); Ord. 1919 § 1, (2015); Ord. 2021 § 5, (2023))

§ 8.18.070. Posting of signs.

- (a) "No Smoking" signs with letters of not less than one inch in height or the international "No Smoking" symbol, consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it, shall be clearly and conspicuously posted in every building or other place where smoking is controlled by this chapter, by the owner, operator, manager or other person having control of such building or other place.
- (b) Every theater owner, manager or operator shall conspicuously post signs in the lobby stating that smoking is prohibited within the theater or auditorium, and in the case of motion picture theaters, such information shall be shown upon the screen for at least five seconds prior to the showing of each feature motion picture.

(Ord. 1344 § 1, (1987); Ord. 1481 § 1, (1993); Ord. 1901 § 1, (2014))

§ 8.18.080. Violations.

- (a) It is unlawful for any person to smoke in a place where smoking is prohibited.
- (b) It is unlawful for any person who owns, manages or otherwise controls the use of any premises subject to the prohibition of this chapter to fail to post signs as required by this chapter or to knowingly permit a violation of this chapter; provided, however, that employees are not required to designate their individual work areas.

- (c) Any person who violates this section may be subject to civil and criminal penalties, as defined in Chapters 1.12 and 1.14 of this municipal code.

(Ord. 1344 § 1, (1987); Ord. 1481 § 1, (1993); Ord. 1901 § 1, (2014))

§ 8.18.090. Nondiscrimination and prohibition on retaliation.

No person shall discharge, refuse to hire or in any manner discriminate against any employee or applicant for employment because such employee or applicant exercises any rights afforded by this chapter.

Further, no landlord, property manager, homeowners' association, business manager, or other person in authority shall discriminate or retaliate against any person for making a complaint to the person or entity in authority, the city's code enforcement or police departments, or to the county health department, regarding alleged violations of this chapter, unless such complaints have been determined by a competent court to be defamatory or malicious prosecution. Discrimination or retaliation against persons making complaints regarding alleged violations of this chapter shall themselves be deemed a violation of this code and shall be punishable and enforceable under its provisions.

(Ord. 1344 § 1, (1987); Ord. 1481 § 1, (1993); Ord. 1901 § 1, (2014); Ord. 1964 § 1, (2019))

§ 8.18.100. Tobacco vending machines prohibited except in bars.

No person, business, or tobacco retailer shall locate, install, keep, maintain or use, or permit the location, installation, keeping, maintenance or use on his, her or its premises any vending machine for the purpose of selling or distributing any tobacco product, except that vending machines shall be permitted in bars, provided the vending machines are not located adjacent or near any entrance of the bar.

(Ord. 1475 § 3, (1993); Ord. 1901 § 1, (2014))

§ 8.18.110. Enforcement of Labor Code Section 6404.5.

- (a) Authority. The provisions of Labor Code Section 6404.5 may be enforced by employees of the San Mateo County Health System, as designated by the chief of the health system, in addition to city employees, peace officers, and state employees and officers. However, employees designated by the county health system with the authority to enforce Labor Code Section 6404.5 may only issue citations to employers and not to patrons, customers, or other guests when exercising the authority conferred by this subsection.

- (b) San Mateo County Health System Employees as Public Officers. In the performance of their duties of monitoring and enforcing compliance with Labor Code Section 6404.5, and to the extent permitted by Labor Code Section 6404.5(j), the city confers all employees, as designated by the county health system to engage in those enforcement efforts, the power, authority, and immunity of a public officer to engage in that activity, and issue citations as provided in this section.

- (c) Training Program. In coordination with the sheriff of San Mateo County, the Chief of the San Mateo County Health System and/or designees will establish and cause to be administered an enforcement training program designed to instruct each of the health services employees designated to enforce under this section to exercise citation authority pursuant to state law.

(Ord. 1599 § 2, (1998); Ord. 1901 § 1, (2014))

§ 8.18.120. Sale of flavored tobacco products prohibited.

- (a) Definitions. For the purposes of this section, the following definitions shall govern unless the context clearly requires otherwise:

"Characterizing flavor" means a distinguishable taste or aroma or both, other than the taste or aroma of tobacco, imparted by a tobacco product or any byproduct produced by the tobacco product. Characterizing flavors include, but are not limited to, tastes or aroma relating to any fruit, chocolate, vanilla, honey, candy, cocoa, dessert, alcoholic beverage, menthol, mint, wintergreen, herb, or spice. A tobacco product shall not be determined to have a characterizing flavor solely because of the use of additives or flavorings or the provision of ingredient information. Rather, it is the presence of a distinguishable taste or aroma, or both, as described in the first sentence of this definition, that constitutes a characterizing flavor.

"Constituent" means any ingredient, substance, chemical, or compound, other than tobacco, water, or reconstituted tobacco sheet that is added by the manufacturer to a tobacco product during the processing, manufacture, or packing of the tobacco product.

"Distinguishable" means perceivable by either the sense of smell or taste.

"Flavored tobacco product" means any tobacco product that contains a constituent that imparts a characterizing flavor.

"Labeling" means written, printed, pictorial, or graphic matter upon any tobacco product or any of its packaging.

"Packaging" means a pack, box, carton, or container of any kind or, if no other container, any wrapping (including cellophane) in which a tobacco product is sold, or offered for sale, to a consumer.

"Tobacco product" means any product containing, made, or derived from tobacco or nicotine that is intended for human consumption, including any electronic device that delivers nicotine or other substances to the person inhaling from the device, including, but not limited to, an electronic cigarette, electronic cigar, electronic pipe, or electronic hookah and the nicotine-containing liquids manufactured for use in such devices.

"Tobacco retailer" means any store, stand, booth, concession or any other enterprise, including an online or e-commerce vendor, that engages in the retail sale of tobacco products, including, but not limited to, stores that engage in the retail sale of food items. This definition shall apply only to this section.

(b) Sale or Offer for Sale of Flavored Tobacco Products Prohibited.

(1) The sale or offer for sale within the city of Burlingame, including a sale transacted remotely with delivery to an address within Burlingame, by any person or tobacco retailer of any flavored tobacco product is prohibited and no person or tobacco retailer shall sell, or offer for sale, any flavored tobacco product.

(A) The sale of Hookah/Shisha tobacco for immediate on-site consumption by a tobacco retailer holding a valid and unexpired city of Burlingame Tobacco Retailer Permit that specifically permits on-site hookah sales is exempted from this prohibition, so long as the tobacco retailer is in compliance with the permit and Chapter 8.19 of this title, as may be amended.

(2) There shall be a rebuttable presumption that a tobacco product is a flavored tobacco product if a manufacturer or any of the manufacturer's agents or employees, in the course of their agency or employment, has made a statement or claim directed to consumers or to the public that the tobacco product has or produces a characterizing flavor including, but not limited to, text, color, and/or images on the product's labeling or packaging that are used to explicitly or implicitly communicate that the tobacco product has a characterizing flavor.

- (c) Enforcement — Violation a Public Nuisance. The provisions of this section shall be enforced through the mechanisms provided in Title 1 of this code, and violations may be subject to administrative, civil, or criminal remedies as determined within the discretion of the city attorney as prosecutor. Violation of the provisions of this section is deemed to constitute a public nuisance and may be abated as such. Further, violation of this section shall constitute grounds for revocation of a violator's business license under Section 6.04.280. These remedies are in addition to, and not in place of, all enforcement options available to the city through Chapter 8.19 of this title as may be amended.
- (d) No Conflict with State or Federal Law. Nothing in this chapter shall be interpreted or applied so as to create any requirement, power, or duty that is preempted by federal or state law.

(Ord. 1970 § 1, (2019); Ord. 2026, 3/18/2024)

CHAPTER 8.19 TOBACCO RETAILER PERMIT

§ 8.19.100. Definitions.

"Characterizing flavor" means a distinguishable taste or aroma, or both, other than the taste or aroma of tobacco, imparted by a tobacco product or any byproduct produced by the tobacco product. Characterizing flavors include, but are not limited to, tastes or aroma relating to any fruit, chocolate, vanilla, honey, candy, cocoa, dessert, alcoholic beverage, menthol, mint, wintergreen, herb, or spice. A tobacco product shall not be determined to have a characterizing flavor solely because of the use of additives or flavorings or the provision of ingredient information. Rather, it is the presence of a distinguishable taste or aroma, or both, as described in the first sentence of this definition, that constitutes a characterizing flavor.

"Constituent" means any ingredient, substance, chemical, or compound, other than tobacco, water, or reconstituted tobacco sheet that is added by the manufacturer to a tobacco product during the processing, manufacture, or packing of the tobacco product.

"Consumer" means a person who purchases a tobacco product for consumption.

"Coupon" means any voucher, rebate, card, paper, note, form, statement, ticket, image, or other issue, whether in paper, digital, or other form, used for commercial purposes to obtain an article, product, service, or accommodation without charge or at a discounted price.

"Director" means the chief of police, or his or her designee.

"Distinguishable" means perceptible by either the sense of smell or taste.

"Electronic smoking device" means any device that may be used to deliver any aerosolized or vaporized substance to the person inhaling from the device, including, but not limited to, an e-cigarette, e-cigar, e-pipe, or vape pen. Electronic smoking device includes any component, part, or accessory of the device, and also includes any substance that may be aerosolized or vaporized by such device, whether or not the substance contains nicotine, and whether natural or synthetic. "Electronic smoking device" does not include any product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product or for other therapeutic purposes where such product is marketed and sold solely for such an approved purpose.

"Flavored tobacco product" means any tobacco product that contains a constituent that imparts a characterizing flavor.

"Full retail price" means the price listed for a tobacco product on its packaging or on any related shelving, advertising, or display where the tobacco product is sold or offered for sale, plus all applicable taxes and fees if such taxes and fees are not included in the listed price.

"Hookah" means a type of waterpipe, used to smoke shisha or other tobacco products, with a flexible tube for drawing aerosol through water. Components of a hookah may include heads, stems, bowls, and hoses.

"Hookah tobacco retailer" means a tobacco retailer that is engaged in the retail sale of shisha tobacco products, hookah, and hookah smoking accessories that are to be consumed on site immediately after purchase. A hookah tobacco retailer is a type of tobacco retailer for purposes of this chapter.

"Labeling" means written, printed, pictorial, or graphic matter upon any tobacco product or any of its packaging.

"Packaging" means a pack, box, carton, or container of any kind or, if no other container, any wrapping (including cellophane) in which a tobacco product is sold, or offered for sale, to a consumer.

"Permit" or "tobacco retailer permit" means a valid permit issued by the director to a person to act as a

tobacco retailer.

"Person" means any natural person, partnership, cooperative association, corporation, personal representative, receiver, trustee, assignee, or any other entity.

"Pharmacy" means any retail establishment in which the profession of pharmacy is practiced by a pharmacist licensed by the state of California in accordance with the Business and Professions Code and where prescription pharmaceuticals are offered for sale, regardless of whether the retail establishment sells other retail goods in addition to prescription pharmaceuticals.

"Sale" or "sell" means transfer to, exchange, barter, or distribute for a commercial purpose.

"Self-service display" shall be defined as the open display or storage of tobacco products in a manner that is physically accessible to the general public without the assistance of the retailer or employee of the retailer and a direct face-to-face transfer between the purchaser and the retailer or employee of the retailer. A vending machine is a form of self-service display.

"Shisha tobacco product" means a tobacco product smoked or intended to be smoked in a hookah. "Shisha tobacco product" includes, and may be referred to as, hookah tobacco, waterpipe tobacco, maassel, narghile, and argileh. "Shisha tobacco product" does not include any electronic devices, such as an electronic hookah, electronic cigarette, or electronic tobacco product.

"Tobacco paraphernalia" means any item designed or marketed for the consumption, use, or preparation of tobacco products.

"Tobacco product flavor enhancer" means a product designed, manufactured, produced, marketed or sold to produce a characterizing flavor when added to a tobacco product.

"Tobacco retailer" means any person who sells, or offers for sale, tobacco products. This definition is without regard to the quantity of tobacco products sold or offered for sale.

"Tobacco" or "tobacco product(s)" means:

- (1) Any product containing, made of, or derived from tobacco or nicotine, whether natural or synthetic, that is intended for human consumption or is likely to be consumed, whether inhaled, absorbed, or ingested by any other means, including, but not limited to, a cigarette, a cigar, pipe tobacco, chewing tobacco, snuff, or snus;
- (2) Any electronic smoking device and any substances that may be aerosolized or vaporized by such device, whether or not the substance contains nicotine, and whether natural or synthetic; or
- (3) Any component, part, or accessory of Subsections (1) or (2), whether or not any of these contains tobacco or nicotine, whether natural or synthetic, including, but not limited to, filters, rolling papers, blunt or hemp wraps, hookahs, mouthpieces, and pipes.
- (4) "Tobacco product" does not include any product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product or for other therapeutic purposes where such product is marketed and sold solely for such an approved purpose.

"Youth-populated area" means a parcel of real property that is occupied, in whole or in part, by any of the following:

- (1) A private or public school that educates children in grades kindergarten through high school;
- (2) A library that is open to the public;
- (3) A playground that is open to the public;

- (4) A youth center, defined as a facility where children ages six to 17 come together for programs and activities;
- (5) A recreation facility open to the public, defined as an area, place, structure, or other facility that is used either permanently or temporarily for community recreation, even though it may be used for other purposes. "Recreation facility" includes, but is not limited to, a gymnasium, playing court, playing field, and swimming pool;
- (6) A public or private college or university that serves as an institution for education beyond the high school level;
- (7) A licensed child-care facility or preschool, other than a small-family day care home or a large-family daycare home as defined in California Health and Safety Code Section 1596.78.

(Ord. 2026, 3/18/2024)

§ 8.19.110. Requirement for a permit.

- (a) No tobacco retailer or other person shall sell or offer for sale any tobacco product without a current and valid tobacco retailer permit from the city of Burlingame for each location where such activities are conducted.
- (b) Permits are valid for one year and must be renewed annually by the permit holder in order to continue to sell or offer for sale any tobacco product. A retailer must obtain a separate permit for each location at which any tobacco product will be sold, offered for sale or distributed. A permit shall expire at the end of its term, unless renewed prior to its expiration, and the tobacco retailer must obtain a new permit prior to any further sale, offer for sale, or distribution of any tobacco product.
 - (1) The city will permit no more than two hookah tobacco retailers within the city limits. To become a hookah tobacco retailer, the applicant must specifically note this request upon their tobacco retailer permit application, and must otherwise comply with all other requirements of this chapter. This includes, but is not limited to, the additional requirements for the sale of hookah tobacco located in Section 8.19.160.
 - (i) A hookah tobacco retailer is also required to offer customers at least one non-tobacco, non-nicotine hookah alternative.
- (c) No tobacco retailer shall violate, or cause or allow the tobacco retailer's agents or employees to violate, any provision of this chapter or any other local, state, or federal law applicable to tobacco products or tobacco retailing.
- (d) Tobacco retailers are responsible for the actions of their employees and agents relating to the sale, offer to sell, and furnishing of tobacco products at the retail location. The sale of any tobacco product by a tobacco retailer employee shall be considered an act of the tobacco retailer, and the permit holder shall be responsible for any and all penalties levied.
- (e) Nothing in this chapter shall be construed to penalize the purchase, use, or possession of a tobacco product by any person not engaged in tobacco retailing.

(Ord. 2026, 3/18/2024)

§ 8.19.120. Permit is nontransferable.

- (a) Tobacco retailer permits are nontransferable as between persons, locations, or otherwise. Any attempted transfer shall render the permit null and void, and the permit shall automatically expire.

- (b) Notwithstanding any other provision of this chapter, prior violations of this chapter at a location shall continue to be counted against that location and permit ineligibility and suspension periods shall continue to apply to that location unless:
- (1) One hundred percent of the interest in the stock, assets, or income of the business, other than a security interest for the repayment of debt, has been transferred to the new owner(s); and
 - (2) The city is provided with clear and convincing evidence, including an affidavit, that the business has been acquired in an arm's length transaction. An arm's length transaction, for the purposes of this section, means a transaction in which two or more unrelated and unaffiliated parties agree on the transfer in question; the parties act independently and in their own self-interest; and the parties have equal bargaining power and symmetric information, leading the parties to agree upon fair-market terms.

(Ord. 2026, 3/18/2024)

§ 8.19.130. Permit conveys a limited, conditional privilege.

Nothing in this chapter shall be construed to grant any person or entity obtaining and maintaining a permit any status or right other than the limited, conditional privilege to sell tobacco products and act as a tobacco retailer at the location in the city identified on the face of the permit for the period of time shown on the permit. All permits are issued subject to the city's right to amend this chapter from time to time, and retailers shall comply with all provisions of this chapter, as amended.

(Ord. 2026, 3/18/2024)

§ 8.19.140. Application, issuance and renewal procedure.

- (a) Application for a tobacco retailer's permit or the renewal of a tobacco retailer permit shall be submitted in the name of the person proposing to conduct retail sales of tobacco products, referred to herein as the "applicant," and shall be signed by such person or an authorized agent thereof. All applications shall be submitted to the director on a form supplied by the director and contain, at a minimum, the following information:
- (1) The name, address, telephone number, and email address of the applicant;
 - (2) The business name, address, and telephone number of the location where tobacco products are proposed to be sold, offered for sale or distributed by the applicant; and
 - (3) Proof that the location for which a tobacco retailer's permit is sought has been issued a valid state license for the sale of tobacco products, if the tobacco retailer sells products that require such license;
 - (4) A statement whether or not the tobacco retailer or any agent of the retailer has been found to have violated this chapter or other applicable law governing tobacco products or tobacco retailing and, if so, the dates and locations of all such violations within the previous five years; and
 - (5) Such other information as the director determines is necessary for implementation of this chapter.
 - (6) An application for a new or renewal permit will be denied if there are any outstanding fines or late fees issued by the director, or during any period of suspension.
 - (7) It is the responsibility of each permit holder to be informed regarding all laws applicable to

tobacco retailing, including those laws affecting the issuance of a tobacco retailer permit. No permit holder may rely on the issuance of a permit as a determination by the city that the permit holder has complied with all laws applicable to tobacco retailing. A permit issued contrary to this chapter or any other law, or on the basis of false or misleading information supplied by the applicant, shall be revoked. Nothing in this chapter shall be construed to vest in any person or entity obtaining or maintaining a tobacco retailer's permit any status or right to act as a tobacco retailer in contravention of any provision of law.

(Ord. 2026, 3/18/2024)

§ 8.19.150. Display of permit.

Upon receipt of a complete application for a tobacco retailer permit in compliance with the requirements of this chapter, the director may issue a permit which, if issued, must be prominently displayed in a publicly visible location at the location where tobacco product sales are conducted and permitted.

(Ord. 2026, 3/18/2024)

§ 8.19.160. Prohibitions regarding coupons, discounts, pharmacies, flavored tobacco, and electronic smoking devices.

- (a) No tobacco retailer shall do any of the following:
 - (1) Honor or redeem, or offer to honor or redeem, a coupon to allow a consumer to purchase a tobacco product for less than full retail price;
 - (2) Sell any tobacco product to a consumer through a multiple package discount or otherwise provide any such product to a consumer for less than the full retail price in consideration for the purchase of any tobacco product or any other item; or
 - (3) Provide any free or discounted item to a consumer in consideration for the purchase of any tobacco product.
- (b) No person, tobacco retailer or other legal entity shall sell or distribute to a person any electronic smoking device that delivers natural or synthetic nicotine or any other substance(s) to the person inhaling from the device. This includes any component, part, or accessory intended or reasonably expected to be used with the electronic smoking device, whether or not sold separately.
- (c) No person or tobacco retailer shall sell or offer to sell any flavored tobacco product or tobacco product flavor enhancer. There shall be a rebuttable presumption that a tobacco product is a flavored tobacco product if a manufacturer or any of the manufacturer's agents or employees, in the course of their agency or employment, has made a statement or claim directed to consumers or to the public that the tobacco product has or produces a characterizing flavor including, but not limited to, text, color, and/or images on the product's labeling or packaging that are used to explicitly or implicitly communicate that the tobacco product has a characterizing flavor.
- (d) Subsection (c) does not apply to the sale of flavored shisha tobacco products for on-site consumption by a hookah tobacco retailer if all of the following conditions are met:
 - (1) The hookah tobacco retailer has a valid license to sell tobacco products issued pursuant to Chapter 2 (commencing with Section 22971.7) of Division 8.6 of the Business and Professions Code, and has a valid city of Burlingame Tobacco Retailer Permit noting permission to offer on-site hookah consumption.

- (2) The hookah tobacco retailer does not permit any person under 21 years of age to be present or enter the premises at any time.
 - (3) The hookah tobacco retailer shall operate in accordance with all relevant state and local laws relating to the sale of tobacco products.
 - (4) If consumption of tobacco products is allowed on the premises of the hookah tobacco retailer, the hookah tobacco retailer shall operate in accordance with all state and local laws relating to the consumption of tobacco products on the premises of a tobacco retailer, including, but not limited to, Section 6404.5 of the California Labor Code, which may be updated from time to time.
- (e) No pharmacy or pharmacy employee or agent shall sell or offer to sell any tobacco product. The director shall not issue any tobacco retailer permit to any pharmacy.

(Ord. 2026, 3/18/2024)

§ 8.19.170. Packaging and labeling.

No tobacco retailer or other person shall sell or offer for sale any tobacco product to any consumer unless the tobacco product: (1) is sold in the original manufacturer's packaging intended for sale to consumers; (2) conforms to all applicable federal labeling requirements; and (3) conforms to all applicable child-resistant packaging requirements.

(Ord. 2026, 3/18/2024)

§ 8.19.180. Self-service displays prohibited; on-site, in-person sales required.

- (a) Tobacco retailing by means of a self-service display is prohibited.
- (b) All sales of tobacco products and tobacco paraphernalia shall be conducted in-person, over the counter, in the permitted location.

(Ord. 2026, 3/18/2024)

§ 8.19.190. Notice of minimum age for purchase of tobacco products.

Tobacco retailers shall post conspicuously, at each point of purchase, a notice stating that selling tobacco products to anyone under 21 years of age is illegal and subject to penalties. The form and content of such notice shall be subject to the approval of the director.

(Ord. 2026, 3/18/2024)

§ 8.19.200. Positive identification required.

No tobacco retailer or other person shall sell or offer to sell a tobacco product to another person without first verifying by means of government-issued photographic identification that the recipient is at least the minimum legal sales age required under state law to purchase a tobacco product.

(Ord. 2026, 3/18/2024)

§ 8.19.210. Minimum age for individuals selling tobacco products.

No tobacco retailer shall allow, at its retail location, any individual who is younger than 21 years of age to sell or offer to sell tobacco products.

(Ord. 2026, 3/18/2024)

§ 8.19.220. Display or offers to sell tobacco products without tobacco retailer permit prohibited.

A tobacco retailer without a current valid permit:

- (a) Shall keep all tobacco products out of public view. The public display of tobacco products in violation of this provision shall constitute tobacco retailing without a permit.
- (b) Shall not display any advertisement relating to tobacco products that offers the sale of such products from the tobacco retailer's location.

(Ord. 2026, 3/18/2024)

§ 8.19.230. Limits on eligibility for a permit.

- (a) No tobacco retailer's permit may be issued to authorize tobacco retailing at or from other than a fixed location. For example, sales by persons on foot or from vehicles or other forms of mobile vending are prohibited.
- (b) No tobacco retailer's permit may be issued to authorize sales of tobacco products at a temporary event, such as flea markets and farmers' markets.
- (c) No new tobacco retailer permit may be issued to authorize tobacco product sales at any location within 1,000 feet of a youth-populated area, as measured by a straight line from the nearest point of the property line of any parcel on which a youth-populated area is located and any point along the property line of the parcel on which the permit applicant has or proposes to locate the business.
- (d) No new tobacco retailer's permit may be issued for a location which is within 500 feet of a location already occupied by another tobacco retailer, as measured by a straight line from the nearest point of the property line of the parcel on which the applicant's business is located to the nearest point of the property line of the parcel on which an existing tobacco retailer's business is located. A hookah tobacco retailer is exempt from this requirement solely for the sale of hookah (shisha) tobacco, but may not be located within 500 feet of another hookah tobacco retailer.
- (e) The sale of tobacco products and accessories is prohibited in city owned structures and in any area of a structure leased by the city, wherever located.
- (f) For purposes of this section, any tobacco retailer with a valid license to sell tobacco within the state of California will be permitted remain at their current location, so long as they obtain a city tobacco retailer permit within 12 months of the effective date of the ordinance codified in this chapter. To be eligible, the retailer must have a valid, unexpired tobacco license issued by the state of California that predates the effective date of the ordinance codified in this chapter, and must list the address at which the tobacco retailer wishes to continue to conduct business.

(Ord. 2026, 3/18/2024)

§ 8.19.240. Fees for permit.

Tobacco retailers shall pay all applicable fees at the rates set forth in the city's Master Fee Schedule, which may be updated from time to time. Fees shall be used by the director to administer and enforce this chapter.

(Ord. 2026, 3/18/2024)

§ 8.19.250. Enforcement.

- (a) The director or the director's designee shall enforce this chapter consistent with the provisions herein.

(b) Violations of this chapter may be criminally prosecuted as infraction(s) or misdemeanor(s) at the discretion of the prosecuting attorney as the interests of justice require.

(c) This section shall not be interpreted to limit the applicable civil or administrative remedies available under law.

(Ord. 2026, 3/18/2024)

§ 8.19.260. Public nuisance.

Any violation of this chapter is hereby declared a public nuisance, subject to all applicable civil, administrative, and criminal remedies and penalties according to the provisions and procedures of contained in this code and state law, including, but not limited to, an action for abatement or injunctive relief.

(Ord. 2026, 3/18/2024)

§ 8.19.270. Compliance monitoring.

(a) Compliance with this chapter shall be monitored by the director. In addition, any peace officer may enforce the provisions of this chapter. The director may designate additional persons to monitor and facilitate compliance with this chapter.

(b) Individuals designated to enforce the provisions of this chapter shall inspect each tobacco retailer at least two times during each 12-month period to determine if the tobacco retailer is complying with all applicable laws. Compliance checks shall take place during normal business hours, with or without notice. If a violation has occurred, the tobacco retailer shall be inspected again within three months. All permitted premises must be open to inspection by designated persons during regular business hours.

(c) Nothing in this section shall create a right of action in any tobacco retailer or other person or entity against the city or its agents.

(Ord. 2026, 3/18/2024)

§ 8.19.290. Suspension or revocation of permit.

(a) Grounds for Suspension or Revocation.

(1) A tobacco retailer permit may be suspended or revoked, as set forth below in subsection (b), if any court of competent jurisdiction determines, or the director finds, based on a preponderance of the evidence after notice and opportunity for the tobacco retailer to be heard, that either of the following violations have occurred:

(A) After the permit was issued it is determined that the application for the permit is incomplete or inaccurate.

(B) The tobacco retailer or tobacco retailer's agent has violated any of the requirements, conditions, or prohibitions of this chapter or any applicable local, state, or federal tobacco-related law.

(2) Notwithstanding the foregoing, a tobacco retailer permit shall be suspended or revoked, for the maximum time periods and as set forth in subsection (b), if any court of competent jurisdiction determines, or the director finds, based on a preponderance of evidence and after notice and opportunity for the tobacco retailer to be heard, that the tobacco retailer, or any agent or

employee of the tobacco retailer, has sold tobacco products to any person(s) under the age of 21 years.

(b) Time period of Suspension of Permit.

- (1) Upon the first violation within any 60 month period, the permit to sell tobacco products may be suspended for up to 30 days.
- (2) Upon the second violation within any 60 month period, the permit to sell tobacco products may be suspended for up to 90 days.
- (3) Upon the third violation within any 60 month period, the permit to sell tobacco products may be suspended for up to one year.
- (4) Upon the fourth violation within any 60 month period, the permit to sell tobacco products shall be revoked. If a permit is revoked, the retailer shall not be eligible for a new permit for a period of five years after the effective date of revocation.

(c) Effective Date of Suspension or Revocation.

Within 10 calendar days of the hearing, the director shall issue written findings and an order regarding the suspension or revocation, which order will be effective 10 calendar days from the date such order was sent by certified mail to the retailer, unless a timely appeal is filed in accordance with subsection (d).

(d) Appeal of Suspension or Revocation.

The decision of the director is appealable to city manager or his/her designee.

- (1) An appeal must be in writing, be addressed to the director and be hand-delivered to Burlingame Police Department Headquarters during ordinary business hours.
- (2) An appeal must be received by the director before the effective date of suspension or revocation provided by subsection (c) in order to be considered.
- (3) The filing of a timely appeal will stay a suspension or revocation pending a decision on the appeal by the city manager.
- (4) The decision of the city manager shall be a final administrative order, with no further administrative right of appeal.

(Ord. 2026, 3/18/2024)

§ 8.19.300. Administrative fine.

- (a) Grounds for Fine. A fine shall be imposed on a tobacco retailer upon findings made by the director, based on a preponderance of the evidence, that any tobacco retailer, or any agent or employee of the tobacco retailer, has violated any of the requirements, conditions, or prohibitions of this chapter. A fine shall be imposed in the maximum amounts set forth in subsection (b) of this section upon findings made by the director that the tobacco retailer, or any agent or employee of the tobacco retailer, has sold any tobacco product to any person(s) under the age of 21 years. Any administrative fine shall be imposed solely against the tobacco retailer, not the tobacco retailer's employees or agents.
- (b) Amount of Fine. Upon written findings made by the director under subsection (a), the person or entity

holding the tobacco retailer permit shall be subject to an administrative fine for each such violation as follows, notwithstanding any other provisions of the Burlingame Municipal Code:

- (1) A fine not exceeding \$500 for a first violation within a 60 month period; and
 - (2) A fine not exceeding \$1,000 for each subsequent violation within a 60 month period.
- (c) Each day that tobacco products are sold or offered for sale without a permit or otherwise in violation of this chapter shall constitute a separate violation. A finding of "offered for sale" in violation of this chapter will be made if tobacco products are either actually sold and/or displayed in the retail establishment, or if advertisements offering to sell tobacco products are visible to customers.
- (d) Fine Procedures. Notice of the fine shall be served on the tobacco retailer by certified mail. The notice shall contain a description of the facts upon which the asserted violation is based and an advisement of the right to request a hearing before the director contesting the imposition of the fine. Said hearing must be requested within 10 calendar days of the date appearing on the notice of the fine. The decision of the director shall be a final administrative order, with no administrative right of appeal.
- (e) Failure to Pay Fine. If a fine imposed pursuant to this chapter is not paid within 30 calendar days from the date appearing on the notice of the fine or of the notice of determination of the director after the review provided for under subdivision (c) of this section, the fine may be referred to a collection agency within or external to the city. In addition, any outstanding fines must be paid prior to the issuance of any new permit or renewal of a permit.

(Ord. 2026, 3/18/2024)

§ 8.19.310. Administrative regulations.

The director may promulgate regulations to administer this chapter.

(Ord. 2026, 3/18/2024)

HEALTH AND SANITATION

Title 9**ANIMALS**

	ANIMAL CONTROL		
§ 9.04.010.	Definitions.	§ 9.04.230.	Amount of administrative fines.
§ 9.04.020.	Animal control program.	§ 9.04.240.	Misdemeanor violations.
§ 9.04.030.	Rabies vaccinations.	§ 9.04.250.	Violation of chapter a public nuisance—Remedies cumulative.
§ 9.04.040.	Dog and cat licenses.		Service of documents and notices.
§ 9.04.050.	Public protection from dogs.	§ 9.04.270.	Field return fee.
§ 9.04.060.	Prohibited Conduct.	§ 9.04.280.	Redemption and spay/neuter fee.
§ 9.04.070.	Protection of animals in motor vehicles.	§ 9.04.290.	Quarantine fee.
§ 9.04.080.	Release from confinement.	§ 9.04.350.	Schedule of fees and charges.
§ 9.04.090.	Declaration of dangerous animal.	§ 9.04.360.	Severability.
§ 9.04.100.	Dangerous animal permit requirements.		Chapter 9.08 KEEPING
§ 9.04.110.	Revocation or modification of dangerous animal permit.	§ 9.08.010.	Conditions for keeping poultry and rabbits.
§ 9.04.120.	Possession of animals after revocation of dangerous animal permit.	§ 9.08.030.	Disturbance of peace.
§ 9.04.130.	Declaration of vicious animals.	§ 9.08.050.	Prohibited animals.
§ 9.04.140.	Providing false information.	§ 9.08.060.	Nuisances.
§ 9.04.150.	Administrative hearing procedures.	§ 9.08.070.	Exemptions.
§ 9.04.160.	Animals to be impounded.	§ 9.08.080.	Feeding prohibited on city property and property of others.
§ 9.04.170.	Stray animals.		Chapter 9.16 ANIMALS AS NOVELTIES
§ 9.04.180.	Epidemics.		
§ 9.04.190.	Bite reporting requirements.		
§ 9.04.200.	Administrative citations.	§ 9.16.010.	Sale of animals as novelties.
§ 9.04.210.	Appeal of administrative citation.	§ 9.16.020.	Business licensees exempt.
§ 9.04.220.	Payment of administrative fines.	§ 9.16.030.	Giving away animal, fish, reptile or bird.

CHAPTER 9.04 ANIMAL CONTROL

§ 9.04.010. Definitions.

The following words and phrases, when used in this chapter shall have the meaning set forth below:

"Animal control officer" means any person designated as the animal control program manager for the county, as well as the head of the county's animal control contractor and their duly authorized officers or deputies. In the event the county has no animal control contractor to provide animal control officers, or in cases of emergency in which additional animal control officers are needed, "animal control officer(s)" may include persons so designated by the animal control manager.

"Animal control program" means that program established by the county and participating cities, and the program's animal control contractor(s), if any, which contractor is specifically charged with regulating and enforcing laws dealing with animal control within the participating jurisdictions. Animal control program includes the licensing program.

"Animal control program manager" means that person employed by the county to oversee the animal control program or designee.

"Animal control shelter" means a San Mateo County facility operated by the county, or by another public entity, an accredited, tax-exempt humane non-profit organization contracted with the county, or a for-profit business contracted with the county for the purpose of impounding, sheltering, adopting, or euthanizing seized, stray, distressed, homeless, abandoned, or unwanted animals.

"Caretaker" means any person 18 years of age, or older, who has assumed responsibility for the care, custody, or control of an animal(s).

"Dangerous animal" means any animal, except a trained animal assisting a peace officer engaged in law enforcement duties, that constitutes a danger to persons or animals, and/or demonstrates any of the following behavior(s):

- (a) Behavior that results in bodily harm that is less serious than a "severe injury," or constitutes a substantial threat of bodily harm to a person; or
- (b) An attack on another animal which results in an injury that is sufficient to require veterinary care even if not received.

An animal which has been declared by an out of this county jurisdiction as "potentially dangerous," "dangerous," "vicious," or any other similar designation, may be deemed a dangerous or vicious animal for the purposes of this chapter, as determined by an animal control officer.

"Health officer" means that person so designated by the county of San Mateo.

"Humane officer" means any person who is qualified and appointed pursuant to California Corporations Code Section 14502, and who is an employee of the county and designated as such by the county or an employee of a society for prevention of cruelty to animals or humane society that has contracted with the county of San Mateo to provide animal control services.

"Licensing program" means that program within San Mateo County Health Department, including, but not limited to, any county contractor specifically charged with regulating and selling animal licenses in the county of San Mateo.

"Owner" means any person 18 years of age or older who:

- (a) Holds the license to the animal; or
- (b) If the animal is not licensed, is legally entitled to possession of the animal; or
- (c) Has exercised primary responsibility for the care of the animal for 30 or more consecutive calendar days.

"Person" means any individual, partnership, corporation, organization, trade or professional association, firm, limited liability company, joint venture, association, trust, estate, or any other legal entity, and any officer, member, shareholder, director, employee, agent, or representative thereof.

"Service animal" means any animal defined as such by federal or state law.

"Severe injury" means any physical injury to a human caused by an animal attack that involves tooth derived muscle tears, disfiguring wounds or laceration(s), multiple bites requiring sutures, broken bones and/or requires corrective surgery.

"Vicious animal" means any animal, except a trained animal assisting a peace officer engaged in law enforcement duties, which meets any or all of the following criteria:

- (a) Any animal that, at the time of the attack, is already designated as a dangerous animal and/or is the subject of a dangerous animal permit, and which is found to have engaged in any of the following:
 - (1) Behavior that results in bodily harm, or constitutes a substantial threat of bodily harm, to a person; or
 - (2) An attack on another animal which results in an injury that is sufficient to require veterinary care, whether or not received.
- (b) Any animal that inflicts severe injury to or kills a person.
- (c) Any animal which cannot be safely maintained with a dangerous animal permit.
- (d) Any animal designated by another governmental jurisdiction as, "dangerous", "vicious", or any other similar designation, if that prior designation is based on behavior which would meet the definition of vicious animal under this chapter, as determined by an animal control officer.

(Ord. 2022, 2/5/2024)

§ 9.04.020. Animal control program.

- (a) The animal control program is responsible for the enforcement of this chapter.

The duties of the animal control program shall include, but not be limited to, the following:

- (1) Provide animal control, sheltering services, and a rabies control program to carry out and enforce all provisions of this chapter and California Health and Safety Code Section 121690, and keep such records as may be required by law or contract.
- (2) Enforce the provisions of this chapter and all applicable state and local laws relating to the care, treatment, and impounding of animals, and specifically to issue citations and to make arrests for violations of the provisions of this chapter and related state laws, to the extent authorized by law.
- (3) Impound animals found to be in violation of this chapter in the interest of protecting public

health and safety.

- (4) Investigate animals pursuant to this chapter or applicable state law and, if deemed appropriate, designate any such animals as dangerous or vicious pursuant to this chapter.
 - (5) Impound animals which are in imminent or ongoing danger, or which are in need of safekeeping in order to protect the health and safety of the animal.
 - (6) Impound animals that are causing a threat to public safety.
 - (7) Where authorized under the law, to enter upon any premises upon which any animal is kept in order to seize or impound of any animal if reasonable cause exists to believe that such animal is being kept or has behaved in violation of the provisions of this chapter.
 - (8) To remove and dispose of the carcass of any animal(s) found on any public right of way, except freeways or other areas maintained by Caltrans.
 - (9) Quarantine animals under the direction of the County Health Officer to ensure public health and safety.
 - (10) Euthanize and/or dispose of animal(s) humanely and in accordance with the law.
 - (11) Place for adoption, when appropriate, properly impounded animals if such animals are not redeemed after due notice to known Owners in accordance with the law.
 - (12) Provide and hold vaccination clinics in strategic locations throughout the county pursuant to Health and Safety Code Section 121690.
 - (13) Provide or make available at low cost, spay/neuter surgeries to dogs, cats, and rabbits.
 - (14) Provide for issuance of an animal license for a period not to exceed the term of the anti-rabies vaccination, as provided by state law.
 - (15) To collect any fees or charges provided for in this chapter for the licensing, impounding and/or keeping of any animal, or for the enforcement of this chapter.
- (b) Animal control officers qualified under Penal Code Section 830.9, who are either employees of the county designated as such by the county, or employee(s) of and designated as such by a society for prevention of cruelty to animals or humane society which has contracted with the county to provide animal control services, shall have the authority to issue citations and/or notices to appear in court, and obtain and execute search warrants to the maximum extent allowed by law, for violations of state and local animal control laws. Animal control officers shall have the authority provided by state law including, but not limited to, that described by Penal Code Section 830.9. Animal control officers must complete Penal Code Section 832 training.
 - (c) Those employees of a society for prevention of cruelty to animals or humane society under contract with the county to provide animal control services, who have been appointed and qualify as humane officers under California Corporations Code Section 14502, or its successor statute, shall have the authority to issue citations and/or notices to appear in court, and obtain and execute search warrants, to the maximum extent allowed by law, for violations of state and local animal control laws.
 - (d) The county may contract for animal control services to be performed countywide, including within cities, provided agreement is made with the participating jurisdictions.

(Ord. 2022, 2/5/2024)

§ 9.04.030. Rabies vaccinations.

- (a) Every dog or cat owner shall ensure their animal is vaccinated for rabies by a licensed veterinarian in the manner prescribed or approved by state law and the state of California Department of Public Health, after the dog or cat attains the age of three months of age and/or within 10 calendar days of acquiring an unvaccinated animal. This vaccination shall be obtained prior to issuing a license for the dog or cat. In addition, proof of vaccination shall be provided by the owner or veterinarian to the licensing program or the county's animal control contractor.
- (b) Every veterinarian who vaccinates or causes or directs to be vaccinated in the county any dog, or cat with rabies vaccine shall certify that such animal has been vaccinated. Every veterinarian shall submit to the licensing authority a copy of the county-approved rabies vaccination form, within 10 calendar days of the beginning of each month, for any dog or cat which they vaccinate or direct to be vaccinated with anti-rabies during the previous month. An animal control officer or animal licensing staff shall have the right to inspect records of rabies vaccinations during normal business hours.
- (c) Upon receipt of a written request from a licensed veterinarian to exempt a microchipped pet from receiving a one or three-year vaccination, for medical reasons, the County Health Officer and/or designee shall review the basis for the request for exemption and approve or/deny said request.

(Ord. 2022, 2/5/2024)

§ 9.04.040. Dog and cat licenses.

- (a) Licensing requirements for dogs and cats shall be as follows:
 - (1) An annual license shall be obtained, and an annual license fee shall be paid by the owner for every dog or cat over the age of three months owned or kept in unincorporated San Mateo County, and all cities within the county which adopt this chapter. Said annual license fee shall be first due when the animal reaches three months of age or within 60 calendar days after the dog or cat is acquired, and due on the expiration date of the rabies vaccination and each year thereafter.
 - (2) New residents shall have 60 calendar days in which to acquire such license.
 - (3) Persons renewing their license shall have 30 calendar days following their due date before being found delinquent and assessed a late penalty.
 - (4) The fee for such license shall be as set forth in Section 9.04.350 of this chapter. The fee paid for the licensing of altered dogs and cats shall be less than said license fee for unaltered cats or dogs upon presentation of the proper certification. The license fee paid by persons over the age of 60 shall be at a discount.
 - (5) An owner may obtain a three-year license for a cat or dog by submitting to the licensing program adequate proof of a three-year rabies vaccination of the animal to be licensed and payment of the applicable fees, as set forth in Section 9.04.350 of this code.
 - (6) Any person who fails to pay such license fee after said fee is due or said dog or cat is required to be licensed, in addition to paying any past due license fee(s), may also be required to pay a late fee in accordance with Section 9.04.350 of this chapter or may receive an administrative citation.
 - (7) A license shall be obtained, but no license fee shall be payable, by the owner of any dog being raised, trained or used as a service animal, or for dogs that have served as a member of the

armed forces of the United States of America, or any dog used by a local law enforcement agency for the purposes of law enforcement.

- (8) Animals with microchip implants or other permanent identification acceptable to the animal control program are not exempt from the mandatory licensing requirements.
- (b) The licensing provisions in this chapter are not applicable to the following:
 - (1) Dogs or cats used for diagnostic purposes or research, the use having been approved by the California State Department of Health Services pursuant to Section 1666 of the Health and Safety Code.
 - (2) Dogs or cats used for teaching purposes in recognized educational institutions.
 - (3) Dogs or cats owned by veterinarians licensed by the state and kept on the premises used by said veterinarians in their practice.
- (c) Tags for dogs and cats shall be issued as follows:
 - (1) The licensing program shall procure and, when licensing fee is paid, issue a lifetime tag which shall bear the number of the license. A record shall be kept with the name of the owner together with a description of the dog or cat for which the license is issued and the number of the license, and a tag shall be provided to such person upon payment for such license as provided by this chapter.
 - (2) Whenever a tag has been lost or stolen, the owner of the animal may request a duplicate tag upon payment of the required fee.
 - (3) The owner of a licensed dog or cat shall affix such tag to a suitable collar, which collar shall remain on the dog or cat at all times.
 - (4) When an animal has been designated as a service animal, the owner may obtain a lifetime service tag and shall be required to follow the requirements in Section 9.04.030(a). Said tag will replace a regular dog license.
 - (5) The owner or operator of any kennel, animal breeding facility, pet shop, or any place or establishment where animals are sold, adopted, or given away shall keep a permanent record of the name, address, and phone number of the purchaser of any dog or cat, along with the breed, color, sex, and age of each animal sold, adopted, or given away and shall forward such information to animal control services within 30 calendar days thereafter. An animal control officer, county representative, or employee of the county's animal control contractor shall have the right to inspect such records during normal business hours, with 48 hours prior notice to the owner or operator.

(Ord. 2022, 2/5/2024)

§ 9.04.050. Public protection from dogs.

- (a) No owner or possessor of a dog shall cause or allow such dog to bite, or physically threaten or harass any person unless necessary to protect the physical safety of a person.
- (b) Every owner or possessor of a dog shall prevent such dog from causing injury to another animal while such animal is lawfully upon public or private property. The failure of the owner of a victim animal to have the animal on a leash shall not, in itself, constitute a mitigating factor in any attack.

- (c) No owner or possessor of a dog shall command or provoke such dog to attack, sic or threaten a person unless such action is necessary to protect the physical safety of a person.
- (d) No owner or possessor of a dog that resides in another county and is found to have violated this section shall thereafter allow such dog to be brought into San Mateo County unless the dog is fully enclosed in a vehicle and passing through to another location without stopping at any public or private premises within the county.

(Ord. 2022, 2/5/2024)

§ 9.04.060. Prohibited Conduct.

No owner or other person having care, custody or control of any animal shall cause or permit it to do any of following:

- (a) To be upon any public street, sidewalk, park, school ground, any public property, or upon any unenclosed premises in this jurisdiction unless:
 - (1) The animal is properly licensed, if such licensing is necessary hereunder; and
 - (2) The animal is controlled by a chain, lead rope, or leash, which is connected to the animal's collar, saddle, harness, or halter. This latter requirement is not applicable to cats, or to service animals under the complete control of the owner or caretaker.An electric or invisible fence does not constitute an enclosure for the purposes of this requirement.
- (b) To trespass upon any private property without the consent of the owner thereof, and to knowingly permit the animal to remain upon the property, or to habitually continue to trespass thereon.
- (c) To suffer or permit such animal to habitually bark or meow or otherwise act to disturb the peace of any citizen or to be a public nuisance.
- (d) To be without proper and adequate food, water, shelter, care, and attention.
- (e) No person shall possess within the city any animal designated by another jurisdiction as "potentially dangerous", "dangerous", or "vicious," or other designation based on the animal's potential danger to humans and/or animals, without previously notifying animal control and receiving express written permission from the animal control manager for the animal's presence or residence in the city. A failure to receive prior permission is in itself a sufficient basis for an animal control officer or peace officer to seize and impound such animal.
- (f) Subsection (a)(2) of this section shall not be applicable to cats.

(Ord. 2022, 2/5/2024)

§ 9.04.070. Protection of animals in motor vehicles.

- (a) No person shall leave or confine an animal in any unattended motor vehicle under conditions that endanger the health or well-being of said animal due to heat, cold, lack of adequate ventilation, lack of water, or other circumstances that could reasonably be expected to cause suffering, disability, or death of said animal.
- (b) An animal control officer, humane officer or peace officer may remove an animal from a motor vehicle if the animal's safety reasonably appears to be in immediate danger from heat, cold, lack of

adequate ventilation, lack of water, or other circumstances that could reasonably be expected to cause suffering, disability, or death to the animal. An animal control officer, humane officer or peace officer is authorized to take all steps that are necessary for the removal of such animal from the motor vehicle, including, but not limited to, breaking into the motor vehicle, after a reasonable effort has been made to locate the owner or other person responsible.

- (c) If an animal is removed from a motor vehicle as set forth herein, the removing officer shall, if deemed necessary by the officer, take it to an animal shelter, veterinary hospital, or other place of safekeeping.
- (d) An animal control officer or peace officer who removes an animal from a motor vehicle shall, in a conspicuous location on or within the motor vehicle, leave written notice bearing their name and office, and the address of the location where the animal can be claimed. The animal may be released to the owner only after payment of all fees that have accrued for the maintenance, care, medical treatment, or impoundment of the animal.
- (e) Nothing in this section shall preclude prosecution under both this section and California Penal Code Section 597 or any other provision of state or local law.

(Ord. 2022, 2/5/2024)

§ 9.04.080. Release from confinement.

No person other than the owner, or person authorized by the owner of the animal shall release any animal from any confinement, vehicle, or restraint unless such release is necessary for the immediate health and safety of the animal. This section shall not apply to animal control officers, humane officers, and/or peace officers.

(Ord. 2022, 2/5/2024)

§ 9.04.090. Declaration of dangerous animal.

- (a) No person shall knowingly keep, have, maintain, sell, trade, or let for hire an animal designated as dangerous under this chapter without obtaining a dangerous animal permit from the animal control officer. The animal owner shall comply with all conditions of the dangerous animal permit including, but not limited to, all requirements of Section 9.04.100 of this chapter. Any animal which is determined to be dangerous under this chapter and for which a permit has not been obtained shall be surrendered to an animal control officer, peace officer, or a county animal control contractor agency for appropriate disposition, which may include humane euthanasia.
- (b) In determining whether or not an animal shall be designated as dangerous, the animal control officer, peace officer, or hearing officer may consider any relevant facts and circumstances, including, but not limited to:
 - (1) The alleged attacking animal's prior history.
 - (2) The alleged attacking animal's owner(s) ability to comply with this chapter, and/or compliance with any prior dangerous animal permits held by the alleged attacking animal's owner(s).
 - (3) Whether any of the animals involved were previously deemed by a governmental jurisdiction as "potentially dangerous, "dangerous", "vicious" or any other similar designation.
- (c) In determining whether or not an animal shall be designated as dangerous, the animal control officer, peace officer, or hearing officer, may consider the following mitigating factors:
 - (1) Whether at the time of the injury, attack or molestation, the person or animal suffering the

injury, attack or molestation:

- (A) Provoked, tormented, teased, abused or assaulted the animal, thereby causing or contributing to the alleged behavior;
 - (B) Committed a willful trespass or other tort upon the private property of the owner or caretaker of the animal in the presence of the animal;
 - (C) Threatened or committed an unjustified attack or assault against the Owner, Caretaker or other Person in control of the animal in the presence of the animal.
- (2) Any other mitigating factor relevant to whether the animal poses a threat to public health or safety. The failure of the owner or person in control of a victim animal to have the victim animal on a leash shall not, in itself, constitute a mitigating factor in any attack.
- (d) The unwillingness of a victim or a particular witness to testify at a hearing shall not prevent designation of an animal as a dangerous animal, as long as sufficient evidence exists to support the designation.
- (e) In the event that animal control officer or peace officer determines it necessary to protect the health or safety of the public, or of any animal, they may immediately impound any animal according to the procedures set forth in this chapter.
- (f) If an animal control officer or peace officer has investigated and determined that an animal is dangerous, the animal control officer or peace officer shall deliver written notice of such determination to the owner of the animal pursuant to Section 9.04.260.
- (g) Should the owner of the animal wish to contest the dangerous animal designation, the owner may request a hearing, which hearing shall be conducted according to the procedures set forth in Section 9.04.150 of this chapter. The owner shall submit a written request for a dangerous animal hearing to the animal control officer within seven calendar days of the written notification by the animal control officer and/or peace officer that the animal has been declared dangerous.
 - (1) Should the animal owner not submit a request for an administrative hearing within the required timeframe, the administrative hearing process shall be deemed waived, the dangerous animal designation will be final, and the animal owner shall obtain a dangerous animal permit within seven calendar days of the written notification that the animal has been declared dangerous.
 - (2) If the animal owner requested a hearing and the hearing officer confirms the determination that the animal is dangerous, the owner must obtain the dangerous animal permit and meet the conditions required by such permit, within seven calendar days of notice of such decision, unless the time is extended by animal control officer.
 - (3) If an animal is designated as dangerous, but the owner fails to obtain a dangerous animal permit within the required timeframe, the animal will be deemed abandoned, and will be subject to disposition as deemed appropriate, including potential euthanasia by the county's animal control contractor, at the discretion of the animal control officer, peace officer or city or county representative. If not already impounded, the animal will be promptly impounded. The owner of the animal shall be responsible for all costs of impoundment of the animal incurred prior to such abandonment.
- (h) If after investigation by an animal control officer or peace officer, that officer determines that the animal is not dangerous, the victim or an owner of a victim animal may appeal that determination,

within seven calendar days of notice of the decision given pursuant to Section 9.04.260, by submitting to the animal control officer or peace officer a written request for a hearing and paying the required fee. The animal control officer or peace officer shall prepare a written report documenting its reasons for determining the animal not dangerous and shall include evidence it has considered for and against the designation in its report. The hearing shall be conducted according to the procedures set forth in Section 9.04.150 of this chapter.

- (i) No animal designated by the county as a dangerous animal may be transferred to a new place of residence or to a new owner or caretaker without prior written approval of the animal control program manager. Prior to the relocation, a written request for the relocation must be delivered to the animal control program manager and the county's animal control contractor, if any, at least 30 calendar days prior to the relocation.
- (j) If an animal control officer declares an animal as dangerous which has already been declared potentially dangerous or dangerous by another jurisdiction located outside of the county of San Mateo, the owner of such animal must obtain and comply with a dangerous animal permit at least seven calendar days prior to moving the animal into the county. The animal shall not reside in the county of San Mateo until the dangerous animal permit has been issued by the animal control program and the owner meets the conditions of said permit.
- (k) A permit issued under this section is subject to renewal annually. An annual inspection of the location where the animal resides will be performed by an animal control officer. Inspections may occur at any reasonable hour and will occur at least annually. The fee for such permit and inspection shall be as set forth in Section 9.04.350 of this chapter. Fees shall not be refundable. If the registered owner fails to pay the permit fee and/or comply with the requirements of the permit within 10 calendar days of the annual inspection date, the permit may be revoked and the animal may be impounded for appropriate disposition, as determined by an animal control officer, peace officer, county contracted agency or city designee, including humane euthanasia.
- (l) A dangerous animal designation is a designation that remains with that animal for its lifetime, unless terminated as provided by this subsection. A dangerous animal designation may be terminated if all of the following criteria have been met, as determined by an animal control officer or peace officer and the animal control program manager and/or city designee:
 - (1) The owner has complied with all dangerous animal permit requirements for a period of three years and the animal has not been found to have committed any violations of the requirements of the permit, or of this chapter, or any other applicable animal control laws, for the duration of that period.
 - (2) The animal has remained current on all rabies or similar required vaccinations and has remained current on its licensing and paid all fees for the duration of the three year period.

If an animal owner disputes a finding that the dangerous animal designation will not be terminated, the animal owner may request an administrative hearing to be held according to the procedures set forth in Section 9.04.150 of this chapter.

(Ord. 2022, 2/5/2024)

§ 9.04.100. Dangerous animal permit requirements.

- (a) Any owner of a dangerous animal shall ensure compliance with the following rules and regulations which shall be mandatory requirements for any dangerous animal permit:

- (1) When the animal is off the property of its owner, ensure that the animal is not kept upon any unenclosed premises unless said animal is leashed and muzzled with a cage or basket muzzle, or any other muzzle approved by the animal control officer. The leash shall not exceed four feet in length and having a minimum tensile strength of 300 pounds and shall be under the direct control and supervision of the owner or a person of such age, size, and strength as can easily control such animal. Extraordinary care shall be taken by the owner and/or caretaker to ensure that such restraint is sufficient to control the animal in a manner which it will not endanger other persons or animals.
- (2) Ensure said animal is never kept on any unenclosed premises even if tethered, tied or staked.
- (3) Ensure said animal is kept in a fenced yard, kennel, dog run or other enclosure, sufficient to prevent the escape of the animal or entry of young children, as approved by the animal control officer or peace officer. An electric or invisible fence is not an acceptable means of enclosure for the purpose of this requirement.
- (4) Maintain the animal so that it is not a threat to any mail carrier, sanitation worker, meter person, or other person who has the lawful right to enter the property.
- (5) Ensure that all structures used to confine the animals are locked with a key or combination lock when such animals are within the fenced yard, kennel, run or enclosure.
- (6) Regularly inspect the fenced yard, kennel, dog run or enclosure to ensure that it is secure to maintain the animal and keep young children out.
- (7) Allow inspections by any animal control officer or peace officer at any reasonable hour of the premises or premises upon which the animal is maintained.
- (8) Pay permit and property inspection fees as set forth in Section 9.04.350 of this chapter within 10 calendar days of the permit issuance or renewal.
- (9) Obtain and post approved sign(s) from the animal control program after payment of a non-refundable fee as set forth in Section 9.04.350 of this chapter. Sign(s) shall be conspicuously posted in a manner visible to the public at all entrances to the property where the animal is kept, warning persons of the presence of a dangerous animal as directed by the animal control officer or peace officer. Such sign(s) must be surrendered in the event of the revocation of the permit, death of animal, or approved relocation of the animal.
- (10) Advise all members who reside in the same household and on the same premises of the conditions established by the permit for keeping or maintaining said dangerous animal.
- (11) Ensure said animal wears, at all times, a separate dangerous animal tag issued by the animal control program in addition to complying with license requirements as defined in Section 9.04.040 of this chapter.
- (12) Ensure said animal be microchipped and inform the animal control officer with the microchip number within 30 calendar days from the date the dangerous animal permit was issued.
- (13) Within 45 calendar days from the date the dangerous animal permit was issued, unless this period is extended by the animal control program manager or city representative at their sole discretion, said animal shall be spayed or neutered by a California licensed veterinarian, at owner expense, and within those 45 days, the owner shall also present written proof to the animal control officer that the surgery was performed. In the event an animal cannot be safely

altered, due to a medical reason, the owner shall present the animal control program manager and animal control officer with a written request from a California licensed veterinarian stating the medical reason(s) that the animal should not be altered. The County Health Officer or designee will approve or deny the request. If said request is denied, the animal shall be altered by a California licensed veterinarian within 15 calendar days from the date of notification that the request was not approved, and within those 15 calendar days provide such written proof to the animal control officer that the surgery was performed.

- (14) Notify an animal control officer and the animal control program manager of the animal's death within 24 hours and produce the animal's body for verification upon request.
 - (15) Notify an animal control officer and the animal control program manager immediately in the event the animal becomes lost, stolen, or escapes from its fenced yard, kennel run, or enclosure.
 - (16) Pay all reoccurring of additional fees within 10 calendar days of service of the invoice or annual permit. Non-payment of fee may result in the permit being revoked unless a payment plan has been approved by the county or city.
 - (17) Comply with all other permit conditions or requirements imposed by an animal control officer, peace officer, or hearing officer pursuant to this chapter.
 - (18) Comply with all local and state laws regarding the care, use, control, and maintenance of animals.
- (b) Any owner of a dangerous animal shall ensure compliance with the following additional requirements, if directed to do so by an animal control officer, peace officer and/or hearing officer:
- (1) Prove financial responsibility by posting a bond or certificate of insurance for an amount of \$300,000 per animal within 30 calendar days from the date of the dangerous designation. Bond or certificate of insurance will be provided to the animal control program manager annually prior to expiration of said bond or certificate.
 - (2) Provide private behavioral and obedience training to the animal, at the owner's expense and within the time set forth by the hearing officer or an animal control officer following the issuance of a dangerous animal permit. Proof of participation, a report of behavioral assessment, and/or a certificate of satisfactory completion from an animal behaviorist or organization approved by an animal control officer shall be provided to the animal control officer and animal control program manager within seven calendar days following the completion of the mandatory training, but not more than 90 calendar days from the date of the dangerous designation.
 - (3) Comply with any other permit requirements determined to be reasonably necessary to protect the public's health or safety and/or the health or safety of other animals.
- (c) No more than two dangerous animals may be kept by any person(s) at any one household, residence, business, or other location, without prior written approval of the designee of the appropriate jurisdiction.

(Ord. 2022, 2/5/2024)

§ 9.04.110. Revocation or modification of dangerous animal permit.

- (a) Any dangerous animal permit issued pursuant to this chapter may be revoked or modified by the inclusion of additional requirements or otherwise, if the animal control officer or peace officer has reasonable cause to believe any of the following to be true:

- (1) The dangerous animal owner or any person to whom the owner has given care, custody, or control of the animal has violated any local or state laws relating to the keeping, care or use of any animals.
 - (2) The owner or any person to whom the owner has given care, custody, or control of the animal has violated any dangerous animal permit conditions, or any requirement imposed by the animal control officer, peace officer, or hearing officer.
 - (3) The owner or any person to whom the owner has given care, custody, or control changed the location of his/her residence or his/her place of business or sells, assigns, transfers, donates, leases, or otherwise disposes of the animal for which the permit was issued without first notifying an animal control officer as outlined in Section 9.04.090.
 - (4) The owner or any person to whom the owner has given care, custody or control of the animal has changed the residence or premises where the animal is maintained without first complying with the guidelines set forth in Section 9.04.090.
 - (5) The owner or any person to whom the owner has given care, custody, or control of the animal is unable or unwilling to comply with the conditions of the dangerous animal permit.
- (b) In the event that it is reasonably necessary to protect the public or an animal's health and safety, the animal control officer or peace officer may impound or cause to be impounded the animal while an investigation is taking place.
- (c) If, after investigation, the animal control officer or peace officer concludes that there is probable cause to believe that one or more of the above conditions for revocation or modification of the permit has occurred, the officer shall deliver written notice of revocation or modification to the owner. Said notice shall specify the grounds of revocation or modification of the permit. Should the owner of the animal wish to contest the revocation or modification of the permit, the owner may request an administrative hearing to be held before a hearing officer, as designated by the animal control program manager, within seven calendar days of receiving the notice of revocation. Said administrative hearing date shall be not less than seven calendar days or no more than 20 calendar days after the date the request for hearing is received by the animal control manager. The administrative hearing shall be conducted as set forth in Section 9.04.150 of this chapter. The hearing officer conducting the hearing may either modify the terms of the permit or revoke the permit.

Any party to the hearing has the right to appeal the administrative hearing decision to the San Mateo County Superior Court by filing a Petition for a Writ of Administrative Mandate pursuant to California Code of Civil Procedure, Section 1094.5 and 1094.6.

- (d) Upon written notice by the animal control officer, peace officer, or hearing officer, if a hearing was held, if any modifications to a dangerous animal permit are made, the owner shall immediately comply with such modified permit requirements.
- (e) Upon written notice from an animal control officer, peace officer or hearing officer of the revocation of a dangerous animal permit, the owner of such animal shall within two calendar days of such notification, surrender said animal to an animal control officer. The dangerous animal shall be impounded and humanely euthanized unless the county designee or city designee has approved a different disposition. At the sole discretion of the appropriate city or county representative, such animal may be permanently removed from the county of San Mateo to another jurisdiction with written approval from that jurisdiction.

(Ord. 2022, 2/5/2024)

§ 9.04.120. Possession of animals after revocation of dangerous animal permit.

No person who has been determined to be in possession of or had ownership of a dangerous animal for which a permit has been revoked under this chapter shall be granted any dangerous animal permit for a period of three years following such determination or revocation.

(Ord. 2022, 2/5/2024)

§ 9.04.130. Declaration of vicious animals.

- (a) No person shall keep, have, maintain, sell, trade, or let for hire an animal which has been designated as vicious under the provisions of this chapter.
- (b) If an animal control officer and/or peace officer has investigated and determined that an animal is vicious, the animal control officer or peace officer shall deliver written notice of such determination to the owner of the animal. Service of notice shall be made in accordance with Section 9.40.260(a) of this chapter. An animal control officer and/or peace officer shall immediately impound the animal, or cause to be impounded, the animal according to the procedures set forth in Section 9.04.160 of this chapter. The animal shall be deemed abandoned and shall be humanely euthanized unless the county designee or city designee has approved a different disposition or unless the owner timely requests an administrative hearing.
- (c) In determining whether an animal shall be designated vicious, in addition to any other facts and circumstances of the incident(s), the applicable decision-maker may consider the following potentially mitigating factors.
 - (1) Whether at the time of the injury, attack or molestation, the person or animal suffering the injury, attack, or molestation:
 - (A) Provoked, tormented, teased, abused, or assaulted the animal, thereby causing or contributing to the alleged behavior.
 - (B) Committed a willful trespass or other tort upon the private property of the owner or caretaker of the animal; and/or
 - (C) Threatened or committed an unjustified attack or assault against the owner, caretaker, or other person in control of the charged animal.
 - (2) Whether the owner is willing and able to comply with the conditions of a dangerous animal permit, and whether the animal can be safely maintained on a dangerous animal permit considering the nature of the attack and cooperativeness and abilities of the owner.

The failure of the owner or other person in control of a victim animal to have the animal on a leash shall not, in itself, constitute a mitigating factor in any attack.

- (d) The decision-maker may also consider, among any other relevant facts and circumstances, the following factors:
 - (1) Whether any of the animals involved were previously deemed by any governmental jurisdiction as, "dangerous", "vicious", or any other similar designation, and/or the animal owner's prior compliance or lack thereof with any applicable dangerous animal permit requirements or this chapter;
 - (2) The attacking animal's history of attacks, bites or threatening behavior;

- (3) Whether the animal demonstrated such aggressive behavior that it is reasonable to conclude that the animal cannot be safely maintained with a dangerous animal permit; and
 - (4) Whether the owner is unable or unwilling to comply with the conditions of a dangerous animal permit.
- (e) Should the owner of the animal wish to contest the vicious animal designation, the owner may request an administrative hearing to be conducted according to the procedures set forth in Section 9.04.150 of this chapter. The owner shall submit a written request for a vicious animal hearing to the animal control officer within seven calendar days of the written notification by the animal control officer and/or peace officer that the animal has been declared vicious.
- (f) Should the owner not submit a request for an administrative hearing within the required timeframe, the administrative hearing process shall be deemed waived, the vicious animal designation will be considered final for purposes of exhaustion of administrative remedies, and the animal will be subject to disposition by the animal control officer, peace officer, or city or county designee. The owner shall lose all rights of ownership and control of the animal, and the animal will be subject to humane euthanasia, unless another disposition is deemed appropriate by a city and/or county designee, without further notice to the owner.
- (g) The unwillingness of a victim or a particular witness to testify at a hearing shall not prevent designation of an animal as vicious as long as sufficient evidence exists to support the designation.
- (h) If after investigation, an animal control officer and/or peace officer determines that the animal is not vicious, the officer will prepare a written decision upon request by any victim suffering physical injury or an owner of a victim animal, either of whom may appeal that determination. Any victim suffering physical injury as a result of the attack, or owner of a victim animal, may appeal the determination that an animal is not vicious by submitting, within seven calendar days of the service of the decision pursuant to Section 9.04.260, a written request to the animal control officer for an administrative hearing and paying the required fee as set forth in Section 9.04.350 of this chapter. The administrative hearing shall be conducted according to the procedures set forth in Section 9.04.150 of this chapter.

(Ord. 2022, 2/5/2024)

§ 9.04.140. Providing false information.

It shall be unlawful for a person to willfully and knowingly provide false or misleading information to animal control program staff, including, but not limited to, an animal control officer, peace officer, animal control program manager, and/or hearing officer regarding animal ownership, licensing, rabies vaccination, medical treatment and condition, and/or any other matter pertaining to the enforcement of state or local law.

(Ord. 2022, 2/5/2024)

§ 9.04.150. Administrative hearing procedures.

- (a) Administrative hearings held under this chapter shall be conducted by a hearing officer or designated representative appointed by the director or designee of the San Mateo County Health Department. The city may contract with the county for animal control services and may elect to utilize the services of any San Mateo County designated hearing officer to conduct hearings on behalf of the city pursuant to this chapter. The hearings shall be scheduled no less than seven calendar days and no more than 15 calendar days from the receipt of the request for the hearing unless the hearing officer

finds good cause for continuance.

- (b) The animal control officer or peace officer conducting the investigation shall provide their investigation report and any evidence gathered by the officer to the animal control program manager or designee no less than 72 hours prior to said administrative hearing. The animal control program manager or designee will promptly provide the report to the parties to the case, including the owner of the subject dog and the owner of the victim dog.
- (c) The administrative hearing shall be conducted in an informal manner consistent with due process of law. Any party may be represented by counsel. The parties may present relevant evidence including witnesses. The strict rules of evidence shall not be applicable. Any relevant evidence, including, but not limited to, hearsay evidence, may be admitted if it is the sort of evidence on which reasonable persons are accustomed to rely on in the conduct of serious affairs. The hearing officer shall decide the matter based on preponderance of the evidence presented at the hearing. The administrative hearing shall be recorded, and all documentary evidence submitted at the administrative hearing shall be preserved by the animal control program manager for a period of no less than two years. Any party may arrange for a court reporter to be present. Any party desiring the presence of a court reporter shall make all necessary arrangements and shall be responsible for payment of all costs.
- (d) The hearing officer may exclude disorderly or disruptive persons from the hearing or make other orders as necessary to ensure the fair and orderly conduct of the administrative hearing.
- (e) The hearing officer may decide all issues for or against the owner(s) of the involved animal(s) even if the owner(s) fail to appear at the hearing.
- (f) Within seven calendar days of the administrative hearing, the hearing officer shall render a written decision, which shall be final for the purposes of exhaustion of administrative remedies upon the date of mailing. The animal control program manager or designee shall mail the written decision and affidavit/certificate of mailing showing the date of mailing, on behalf of the hearing officer, by first class mail, postage prepaid. The decision will be mailed to the owner of the alleged dangerous or vicious animal, the victim or owner of the victim animal, and the investigating animal control officer or peace officer.
- (g) If the animal is designated dangerous, the owner must apply for and obtain a dangerous animal permit as provided by this chapter within seven calendar days of the decision letter in order to maintain the animal and the owner must comply with all mandatory dangerous animal permit rules and regulations as defined in Section 9.04.120 of this chapter. A hearing officer may impose additional permit requirements as set forth in this chapter.
- (h) If the animal is designated vicious, the owner of such animal shall lose all rights of ownership and control of the animal, and the animal will be subject to humane euthanasia, unless another disposition is deemed appropriate by a city and/or county designee, without further notice to the owner. An animal designated as vicious will be held at the animal shelter for a minimum of seven calendar days from the date of the hearing officer's decision, prior to any proposed euthanasia.
- (i) Unless the hearing officer for good cause otherwise determines, the party requesting the administrative hearing is liable for all costs related to such hearing. A determination by the hearing officer that the animal is not dangerous or vicious shall constitute good cause.
- (j) Hearing officer decisions are appealable to the San Mateo County Superior Court by filing a Petition for Writ of Administrative Mandate pursuant to California Code of Civil Procedure, Section 1094.5 and 1094.6.

- (k) The procedures and/or definitions pertaining to potentially dangerous and vicious dogs set forth in the California Food and Agricultural Code Chapter 9, beginning with Section 31601, are not adopted and do not apply within the city. As authorized by Food and Agricultural Code Section 31683, the city has adopted its own program for regulation of dangerous and vicious dogs as contained in this chapter.

(Ord. 2022, 2/5/2024)

§ 9.04.160. Animals to be impounded.

- (a) The animal control program may impound any animal kept or found under conditions that constitute a violation of this chapter or other state or local law. The animal's owner shall be responsible for all costs incurred or fees applicable with respect to such impoundment and maintenance in the shelter.
- (b) An animal control officer or peace officer may impound or cause to be impounded an animal when there is reasonable cause to believe that such animal posed, or poses, a threat to the public's health and safety, or the health and safety of another animal. The animal may remain impounded for a period not to exceed 15 calendar days in order to investigate, and to determine whether or not said animal is dangerous or vicious as defined by this chapter. In calculating the 15 calendar days, the first day of impoundment is not included. If an animal is not impounded within 15 calendar days after an investigation began, the animal control officer or peace officer shall make a determination whether or not the animal is vicious or dangerous and shall notify the owner of said animal as soon as reasonably practical thereafter.
- (c) Within 24 hours of the impoundment of any animal, the impounding animal control officer shall serve the owner of the animal with notice of the impoundment.
- (d) No impounded animal may be redeemed unless and until any required license fee and/or other applicable charges and fees have been paid. In the event such animal is not redeemed within the time set forth by state law, it shall be deemed abandoned and may be adopted, transferred to a rescue, or disposed of in the manner determined by the animal control program. The animal control program shall issue to the owner or person responsible of the care, custody, and control of said animal a receipt showing an itemized description and the amount of the fee(s) paid.
- (e) The animal control program shall keep a record of all animals impounded, which record shall include a description of the animal, the date of its receipt, the date and manner of disposal, the name of the person redeeming, adopting, or purchasing, the fees, and/or charges related to the animal. Said records shall be kept for a period of seven years.

(Ord. 2022, 2/5/2024)

§ 9.04.170. Stray animals.

Any person who finds or picks up a stray or lost animal shall report the same to the animal control shelter within 24 hours thereafter and shall release such animal to the animal control shelter upon demand.

(Ord. 2022, 2/5/2024)

§ 9.04.180. Epidemics.

The San Mateo County Health Officer may determine and declare that rabies or other contagious diseases are epidemic or that other health and safety hazards exist among dogs or other animals within the county. Upon the making of such a declaration, the health officer shall prepare and promulgate such orders, rules, and regulations as are necessary for appropriate control of all the animals concerned within the county. Said

rules and regulations of the health officer may include, but are not limited to, impoundment, quarantine, vaccination, or destruction. It shall be the duty of the animal control officers to assist the health officer in carrying out such rules and regulations.

(Ord. 2022, 2/5/2024)

§ 9.04.190. Bite reporting requirements.

- (a) Any owner or other person who is responsible for the care, custody, or control of an animal that bites a human or other animal shall provide their name and current residence address and telephone number and shall present their driver's license or other form of identification and any information regarding any rabies vaccination for the biting animal to the person bitten or the owner of the animal bitten. If the person bitten is a minor, the owner or person in control of the biting animal shall provide the required information to the parent or guardian of the minor.
- (b) In addition to the above requirements, it shall be the duty of any person having knowledge of any animal which has bitten a human being or other animal within the county to immediately, in no case later than the end of the next calendar day, report the bite to an animal control officer or peace officer and to furnish as much information as possible, including date, time and location of bite, description of animal or person bitten, name and license number of the biting animal, and rabies vaccination history of the biting animal.

(Ord. 2022, 2/5/2024)

§ 9.04.200. Administrative citations.

- (a) Should an animal control officer, humane officer or peace officer determine that a person has violated any provision this chapter, that enforcement officer shall have authority to issue and serve notice of an administrative citation as set forth in Section 9.04.260, to the person violating the chapter.
- (b) Each administrative citation shall contain the following information:
 - (1) The name and address of the owner or other person to be cited.
 - (2) The date(s) of the violation.
 - (3) The address or a specific description of the location where the violation occurred.
 - (4) The section, subsection, and/or provision of this chapter violated by the person cited and a description of that violation.
 - (5) A prohibition of the continuation or repetition of the violation described in the administrative citation.
 - (6) If applicable a description of the potential consequence(s) should the violation continue or be repeated.
 - (7) Either:
 - (A) The amount of the administrative fine charged and to be paid by the person cited as a result of the violation; or
 - (B) A notice to correct a certain violation within a reasonable time, and the amount of an administrative fine that may occur if the violation is not corrected or remedied by the date specified.

- (8) A description of the procedure to pay the fine, to include the time period for and place of payment, and the process by which the county may collect any unpaid amount owed.
 - (9) A description of the administrative citation review process, including the time within which the administrative citation may be appealed and how to appeal the administrative citation, including any form to do so.
 - (10) The name and signature of the citing animal control officer, humane officer or peace officer or county designee.
- (c) An administrative citation may be any format, including letter, which conveys the information set forth above.

(Ord. 2022, 2/5/2024)

§ 9.04.210. Appeal of administrative citation.

- (a) A recipient of an administrative citation may contest the citation including, but not limited to, on the basis that the underlying violation did not occur, or that recipient is not the party responsible for the violation and thus was the improper recipient of the administrative citation. The recipient must contest the citation on the form provided by the animal program manager or animal control officer and file the appeal with the animal control program manager within 12 calendar days from the date of service of the administrative citation. Any appeal not timely filed will be rejected.
- (b) The appeal shall contain the following provided by the person appealing the citation:
 - (1) The name, mailing address, and telephone number of the party requesting the appeal;
 - (2) A copy of the administrative citation or a reference number thereto;
 - (3) A statement of the grounds for the contest, including a description of the evidence to be presented in support of the contest and copies of any statements or documents to be submitted at the hearing in support of the appeal.
 - (4) The signature of the appealing party;
 - (5) A deposit of the fine assessed as set forth in the citation(s), to be refunded if the appeal is successful.
- (c) Should an appeal be properly and timely requested, the requesting party shall be provided a hearing before a hearing officer to be held pursuant to the procedures set forth in Section 9.04.150 as applicable. The animal control program shall notify the person requesting the appeal hearing of the time and place set for the hearing pursuant to Section 9.04.260.

(Ord. 2022, 2/5/2024)

§ 9.04.220. Payment of administrative fines.

- (a) In the absence of an appeal by the recipient of the administrative citation the person cited shall pay the administrative fine in full within 30 calendar days from the date of service of the notice of citation. In the event of an appeal, after which the violation is upheld, if not already paid, the fine shall be paid in full within 10 calendar days after the date that the decision of the hearing officer was served on the recipient.
- (b) Payment of any fine shall not excuse the failure to correct the violation, nor shall it bar further

enforcement of the same or any similar violation or any other violation by any applicable means.

- (c) Failure to pay any fines assessed within the guidelines set forth in this chapter will result in a late charge pursuant to Section 9.04.230, which will be collected by the animal control program manager.
(Ord. 2022, 2/5/2024)

§ 9.04.230. Amount of administrative fines.

- (a) Any person issued an administrative citation for a violation of, and pursuant to, this chapter shall be assessed and pay a fine as follows:
- (1) One hundred dollars for a first citation.
 - (2) Two hundred dollars for a second citation for the same violation within a one-year period.
 - (3) Five hundred dollars for each additional citation for the same violation within a one-year period.
- (Ord. 2022, 2/5/2024)

§ 9.04.240. Misdemeanor violations.

- (a) A person violating any provision of this chapter shall be guilty of an infraction except as otherwise specifically provided.
- (b) A person violating any provision of Section 9.04.050, subsection (a) of Section 9.04.090 or subsection (a) of Section 9.04.130 of this chapter shall be guilty of a misdemeanor.
- (c) This section shall not limit any other available criminal, civil or administrative remedies. Any or all applicable remedies shall remain available for violation of the provisions of this chapter.
- (Ord. 2022, 2/5/2024)

§ 9.04.250. Violation of chapter a public nuisance—Remedies cumulative.

- (a) Violation of this chapter is a public nuisance subject to any and all applicable civil, administrative, and criminal remedies, according to the provisions and procedures set forth in this chapter and other applicable state and local law.
- (b) This section is not intended to limit any other available criminal, civil or administrative remedies. Any or all applicable administrative, civil and/or criminal remedies shall be available for violation of the provisions of this chapter.
- (c) Each day a violation continues shall constitute a separate violation.
- (Ord. 2022, 2/5/2024)

§ 9.04.260. Service of documents and notices.

- (a) Unless otherwise specified herein, the appropriate representative of the animal control program shall provide any required notice or service of documents in one of the following manners: (1) by personal delivery to the person to be notified or served; or (2) by posting on the property at the address where the subject animal is licensed or the owner of such animal resides; or (3) by depositing in the United States Mail, in a sealed envelope, first class postage prepaid, and addressed to such person to be notified or served at their last-known business or residence address or as the same appears in the last equalized county assessment roll. Service by mail shall be deemed complete at the time of deposit in the United States Mail receptacle and shall include a declaration or affidavit of service which shall

include notice of the date mailed. If agreed in writing by the person to be served, notices or documents may be served electronically at the address provided by the person to be served, to be effective upon being sent.

- (b) Failure to receive any notice specified herein does not affect the validity of proceedings conducted hereunder.

(Ord. 2022, 2/5/2024)

§ 9.04.270. Field return fee.

A fee shall be charged for any animal impounded by a representative of the animal control program and returned by an animal control officer in the field to the owner or person who is responsible for the care, custody, or control of the animal. The fee charged shall be paid by the owner or person who is responsible for the care, custody, or control of said animal. Such fee shall be set forth in Section 9.04.350.

(Ord. 2022, 2/5/2024)

§ 9.04.280. Redemption and spay/neuter fee.

- (a) Upon redemption of any impounded unaltered animal, the person responsible for the care, custody or control of any animal will be required to pay a spay or neuter fee in the amount of \$100 in addition to the impound fees imposed under Section 9.04.350 of this chapter. Such fee shall be refundable upon proof of spay and neuter of the animal within 30 calendar days following the date of redemption.
- (b) Any unaltered animal impounded twice or more within a three-year period shall be altered at a cost to be paid by the owner/caretaker or person responsible for the care, custody, or control of said animal prior to redemption. At the option of the owner/caretaker or person responsible for the care, custody, or control of said animal, required spaying or neutering may be performed by a private veterinarian within 30 calendar days.
- (c) Any owner or caretaker of an impounded animal subject to mandatory spay/neuter under subsection (b) of this section may appeal this requirement by submitting a written request for an administrative hearing to the animal control program manager. The administrative hearing will be conducted according to the provisions of Section 9.04.150 of this chapter.
- (d) The animal control program manager may waive any county or city fee for county or city spay/neuter, vaccination or impoundment of an animal, if the animal is a feral or stray cat and the person bringing the animal to the shelter agrees that the person shall have no rights in the animal or any right to direct or control treatment or disposition of the animal by the animal control program which will retain sole discretion in determining the disposition of the animal, which may include, but not be limited to, treatment and/or adoption, or euthanasia.

(Ord. 2022, 2/5/2024)

§ 9.04.290. Quarantine fee.

A quarantine fee, as set forth in Section 9.04.350, shall be paid by the owner or caretaker of any animal involved, or potentially involved, in a bite. Such quarantine fee is in addition to any other fees charged set forth in Section 9.04.350 of this chapter to recover costs incurred by the animal control program for the sheltering and caring for the quarantined animal.

(Ord. 2022, 2/5/2024)

§ 9.04.350. Schedule of fees and charges.

This Section 9.04.350 sets forth the fees for the animal control program and licensing program. No animal shall be released to its owner, or other person responsible for the care, custody, or control of the animal, unless applicable fees have been paid.

Animal control and licensing fees and charges established by this code are as follows:

(a) License fees.

Dogs	
Unaltered dog	
1-year license	\$55.00
3-year license	\$160.00
Unaltered dog Senior Pet Owner (over 60 yrs.)	
1-year license	\$23.00
3-year license	\$64.00
Altered dog	
1-year license	\$25.00
3-year license	\$70.00
Altered dog Senior Pet Owner (over 60 yrs.)	
1-year license	\$10.00
3-year license	\$25.00
Misc. dog fees	
Late fee	\$20.00
Duplicate tag	\$10.00
Cats	
Unaltered cat	
1-year license	\$20.00
3-year license	\$55.00
Unaltered cat Senior Pet Owner (over 60 yrs.)	
1-year license	\$12.00
3-year license	\$31.00
Altered cat	
1-year license	\$8.00
3-year license	\$19.00
Altered cat/Senior Pet Owner (over 60 yrs.)	

1-year license	\$5.00
3-year license	\$12.00
Misc. cat fees	
Late fee	\$7.00
Duplicate tag	\$5.00

(b) Redemption charges.

Type A & B (large or medium size animals — horses, cows, hogs, sheep, etc.)	
Impound cost	\$100.00
Board cost per day	\$30.00
Trailering cost (per use)	\$100.00
Type C (dogs, and cats)	
Impound Costs — First Impound	
Altered — licensed, wearing tag	\$40.00
Unaltered — licensed, wearing tag	\$65.00
Altered — unlicensed, no tag	\$55.00
Unaltered — unlicensed, no tag	\$85.00
Impound Costs — Second Impound	
Altered — licensed, wearing tag	\$90.00
Unaltered — licensed, wearing tag	\$125.00
Altered — unlicensed, no tag	\$105.00
Unaltered — unlicensed, no tag	\$140.00
Impound Costs — Third Impound	
Altered — licensed, wearing tag	\$135.00
Unaltered — licensed, wearing tag	\$155.00
Altered — unlicensed, no tag	\$155.00
Unaltered — unlicensed, no tag	\$180.00
Impound Costs — Fourth Impound	
Altered — licensed, wearing tag	\$180.00
Unaltered — licensed, wearing tag	\$215.00
Altered — unlicensed, no tag	\$200.00
Unaltered — unlicensed, no tag	\$240.00
Impound Costs — Fifth Impound and up	

Altered — licensed, wearing tag	\$225.00
Unaltered — licensed, wearing tag	\$260.00
Altered — unlicensed, no tag	\$245.00
Unaltered — unlicensed, no tag	\$285.00
Board Charges (per day)	
Altered — dogs	\$25.00
Unaltered — dogs	\$35.00
Altered — cats	\$16.00
Unaltered — cats	\$22.00
Type D (small size animals, e.g., birds, hamsters, or other)	
Impound cost	\$20.00
Board cost	\$10.00

(c) Surrender, Euthanasia and DOA (Dead on Arrival) Disposal Fees.

Dog — Licensed or unlicensed	
Surrender	\$60.00
Euthanasia	\$50.00
DOA Disposal	\$30.00
Cat — Licensed or unlicensed	
Surrender	\$60.00
Euthanasia	\$50.00
DOA Disposal	\$30.00
Rabbit/Small Animal	
Surrender	\$40.00
Euthanasia	\$30.00
DOA Disposal	\$15.00
Litter of Three or more	
Surrender	\$50.00
Euthanasia	\$40.00
DOA Disposal	\$20.00
Bird/Fowl	
Surrender	\$20.00
Euthanasia	\$15.00

DOA Disposal	\$20.00
All Other Companion Animals (Reptiles, Amphibians, etc.)	
Surrender	\$25.00
Euthanasia	\$25.00
DOA Disposal	\$20.00
Farm Animals	
Surrender	\$60.00
Euthanasia:	
Under 100 pounds	\$60.00
Over 100 pounds	\$125.00
DOA Disposal:	
Under 100 Pounds	\$30.00
Over 100 pounds	\$100.00

(d) Other Animal Control Fees.

Quarantine Fee	\$60.00
Dangerous Animal Permit (DAP) Fee	\$300.00
DAP Inspection Fee	\$100.00
DAP Signage	\$15.00
Field Retrieval/Return Fee	\$40.00
Breeding Permit Fee	\$150.00
Fancier Permit and/or Exotic Pet Fee	\$100.00
Return Check Fee	\$25.00
Service Dog Application Processing Fee	\$50.00

(e) Miscellaneous Fee Provisions.

- (1) The animal control program, and/or licensing program, may establish license discounts for recognized animal rescue organizations.
- (2) License fees include a one dollar annual surcharge on all licenses for the animal population trust fund.
- (3) At the discretion of the animal control program manager, a payment plan for all fees outstanding may be permitted upon a showing of good cause. If a person is in compliance with an agreed upon payment plan, their outstanding balance shall never be considered "nonpayment" as that term is used in this chapter.
- (4) The animal control fees for any animal related service not specified in this section shall be reviewed by the health officer or their designee for reimbursement of costs. The health officer or their designee shall have the authority to determine the fee charged for said services. The fee

charged shall be paid by the owner or caretaker of the animal(s) for which said service(s) have been provided.

- (5) Each calendar year, the animal control program manager shall designate one month as an amnesty period for payment of cat and dog license late fees and for compliance with Section 9.04.020 of this chapter, as provided herein. During the amnesty period, applicants for cat and dog licenses shall not be assessed any late penalty fee or any other penalty for failure to obtain such license or pay any applicable license fee, notwithstanding Sections 9.04.040 and 9.04.350 of this chapter.
- (6) All revenue derived from the fees, fines, forfeitures, and penalties related to the enforcement of this ordinance shall be used to offset the cost of enforcement and administration of this chapter.
- (7) If the animal control program manager determines that payment of any fees by the owner or caretaker for an impounded animal would cause extreme financial difficulty to the owner or caretaker, and that it is in the best interests of the county to allow release of the animal upon these terms, the animal control program manager may, at their discretion, set up a payment plan or waive all or part of the fees incurred for the animal.

(Ord. 2022, 2/5/2024)

§ 9.04.360. Severability.

If any section, subsection, sentence, clause, phrase, or word of this chapter should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality thereof shall not affect the validity or constitutionality of any other section, subsection, clause, phrase, or word of this chapter.

(Ord. 2022, 2/5/2024)

CHAPTER 9.08 KEEPING

§ 9.08.010. Conditions for keeping poultry and rabbits.

It is unlawful to keep or maintain or cause to be kept or maintained within the city any live chickens, ducks, geese, turkeys, pigeons, doves, squabs or other fowl, or any rabbits, except under the following conditions, namely:

- (a) Cannot Run at Large. Such poultry or rabbits shall under no circumstances be permitted to run or be at large, upon any premises other than those of the person in the immediate possession or control of such poultry or rabbits.
- (b) Location of Enclosures. Such poultry or rabbits must at all times be kept within the confines of a yard or enclosure to be located on the rear half of the lot, which shall be enclosed on all sides by a good and substantial fence. The yard or enclosure shall not be within 35 feet of any dwelling or within 35 feet of any street lines.
- (c) Enclosure to be Kept Clean. All yards, cages, coops, cotes, warrens or similar structures or enclosures for such poultry or rabbits shall be cleaned once each week and otherwise kept in a sanitary condition and free from offensive odors.
- (d) Roosters. No rooster of over four months of age shall be kept, enclosed, maintained or allowed within the city.
- (e) Limitation upon Number of Poultry or Rabbits. It is unlawful for any person in any event to keep or maintain more than a total number of 12 poultry or rabbits upon any single lot, parcel or piece of land within the city.

(1941 Code § 1334, Ord. 1088 § 1, (1976))

§ 9.08.030. Disturbance of peace.

It is unlawful to keep, maintain or permit within the city any animal or fowl which by any sound or cry disturbs the peace and quiet of any person or neighborhood.

(1941 Code § 1335)

§ 9.08.050. Prohibited animals.

It is unlawful to keep or maintain or cause to be kept or maintained within the city any horse, mule, cow, sheep, goat or exotic animal.

"Exotic animal" means any of the following:

- (a) Following members of the class reptilia: order ophidia (such as, but not limited to, racers, boas, water snakes and pythons) over six feet in length, and order loricata (such as, but not limited to, alligator, caymans and crocodiles) over two feet in length;
- (b) Following members of the class aves: order falconiformes (such as, but not limited to hawks, eagles and vultures which are not kept pursuant to federal or state permit), and subdivision ratitae (such as, but not limited to, ostriches, rheas, cassowaries and emus);
- (c) Following members of the class mammalia: order carnivora, expressly excepting the domestic dog (*canis familiaris*) and the domestic cat (*felis catus*) but including, but not limited to, the family felidae

(such as ocelots, margays, tigers, jaguars, leopards and cougars), the family canidae (such as wolves, dingos, coyotes and jackals), and order marsupialia (such as kangaroos and common opossums (*didelphis marsupialia*)), and order chiroptera (bats), and order edentata (such as sloths, anteaters and armadillos), and order proboscidea (elephants), and order primata (including, but not limited to, monkeys, chimpanzees and gorillas), and order ungulata (including, but not limited to, antelope, deer, bison and camels);

- (d) Any species of animal when kept, maintained or harbored in such numbers or in such a manner as to constitute the likelihood of danger to the animals themselves, to human beings or to the property of human beings;
 - (e) Any species of animal which is venomous to human beings whether its venom is transmitted by bite, sting, touch or other means, except bees.
- (1941 Code § 1337, Ord. 1088 § 3, (1976))

§ 9.08.060. Nuisances.

The keeping or maintaining of any animal or bees otherwise than as provided in this chapter shall constitute a nuisance.

(1941 Code § 1338, Ord. 1088 § 4, (1976))

§ 9.08.070. Exemptions.

The provisions of this chapter are not applicable to the following:

- (a) Owners who use animals for diagnostic purposes or research, and who have a valid permit issued by a governmental agency and whose animals are kept on the premises specified in the permit;
 - (b) Owners who use animals for teaching purposes in recognized educational institutions and whose animals are kept on the premises of the institution or other authorized place;
 - (c) Owners of establishments which treat or board animals on the premises and which are owned or operated by veterinarians licensed by the state of California;
 - (d) Owners of establishments licensed to keep animals for the purpose of resale whose animals are kept on the premises of such establishment or other authorized place.
- (Ord. 1088 § 5, (1976))

§ 9.08.080. Feeding prohibited on city property and property of others.

- (a) Except at feeding stations that are expressly authorized by the city manager or the manager's designee, it is unlawful for any person to do the following on any city property or city right-of-way:
 - (1) To feed any bird or animal that is not legally owned by that person; or
 - (2) To place any feed of any kind that is intended for consumption by any animal or bird of any kind or to attract any animal or bird of any kind.
- (b) It is unlawful for any person to feed or to place any feed of any kind that is intended for consumption by any animal or bird of any kind or to attract any animal or bird of any kind on any property owned or controlled by another person without the express permission of the owner or person in control of the property.

(c) For purposes of this section, the following terms have the following meanings:

(1) "Feed" means any material, including, but not limited to,, birdseed, bird feed, corn, bread pieces, food scraps, domestic animal food, or any similar substance that can be utilized for consumption by animals or birds to provide nourishment.

(2) "To feed" means to spread, cast, lay, deposit, or dump feed.

(Ord. 1701 § 2, (2002))

CHAPTER 9.16 ANIMALS AS NOVELTIES

§ 9.16.010. Sale of animals as novelties.

It is unlawful for any person to display, sell, offer for sale or barter any live rabbit, baby chick, duckling or other fowl, fish, turtle, snake, lizard, chameleon or other reptile, bird, cat, dog, guinea pig, rodent or other animal, as novelties, whether or not dyed, colored or otherwise artificially treated.

(1941 Code § 1335.1, Ord. 649, (1957))

§ 9.16.020. Business licensees exempt.

This chapter shall not be construed to prohibit the display in proper facilities or the sale of any animal, fish, reptile or bird by any person carrying on any business in which animals, fish, reptiles or birds are the stock in trade when such person is possessed of a valid business license under the provisions of Title 6 of the Burlingame Ordinance Code, as such provisions now exist or as they may be hereafter amended.

(1941 Code § 1335.1, Ord. 649, (1957))

§ 9.16.030. Giving away animal, fish, reptile or bird.

It is unlawful for any person required to procure a business license under the provisions of Title 6 of the Burlingame Ordinance Code, as such provisions now exist or as they may be hereafter amended, to give away any animal, fish, reptile or bird unless such person is possessed of a valid business license to carry on the business of a pet shop, kennel, aviary or fish hatchery.

(1941 Code § 1335.1, Ord. 649, (1957))

Title 10**PUBLIC PEACE, MORALS AND SAFETY**

<p>Chapter 10.04 HANDBILLS, DODGERS AND BILLPOSTING</p> <p>§ 10.04.010. Billposting unlawful—Public notices and permitted banners excepted.</p> <p>§ 10.04.020. Private property excepted.</p> <p>§ 10.04.030. Distribution of dodgers.</p> <p>§ 10.04.040. Permission required to post or distribute on private property.</p>	<p>§ 10.10.170. Alarm businesses.</p> <p>§ 10.10.180. Notice of change.</p>	<p>Chapter 10.12 TRESPASS BY PEDDLERS AND SOLICITORS</p> <p>§ 10.12.010. Entering premises without permission unlawful.</p>
<p>Chapter 10.08 AUTOMATIC TELEPHONE ALARM</p> <p>§ 10.08.010. Prohibited uses.</p>		<p>Chapter 10.14 TRESPASS IN ALLEYS AND EASEMENTS</p> <p>§ 10.14.010. Trespassing in alleys and easements in residential districts.</p>
<p>Chapter 10.10 ALARM SYSTEMS</p> <p>§ 10.10.010. Installation.</p> <p>§ 10.10.020. Audible alarm standards for cessation of audible alarms.</p> <p>§ 10.10.030. Repair.</p> <p>§ 10.10.040. Alarm telephone devices.</p> <p>§ 10.10.050. Audible alarms similar to sirens prohibited.</p> <p>§ 10.10.060. Alarm systems which constitute a hazard to responding public safety officers.</p> <p>§ 10.10.070. Notice of repair.</p> <p>§ 10.10.080. Notice of false alarm.</p> <p>§ 10.10.090. False alarm charges.</p> <p>§ 10.10.100. Permit.</p> <p>§ 10.10.110. Applications—Forms.</p> <p>§ 10.10.120. Application—Investigation and denial.</p> <p>§ 10.10.130. Duration of permit.</p> <p>§ 10.10.140. Grounds for revocation.</p> <p>§ 10.10.150. Denial or revocation of permit.</p> <p>§ 10.10.160. Suspension of responses.</p>	<p>§ 10.20.010. Consumption of alcoholic beverages upon public property or private property without permission.</p> <p>§ 10.20.020. Presence of persons under 21 years on certain premises; posting of notice.</p>	<p>Chapter 10.20 LIQUOR</p>
		<p>Chapter 10.22 GAMBLING DEVICES</p> <p>§ 10.22.010. Possession of gambling device unlawful.</p>
		<p>Chapter 10.24 CURFEW FOR MINORS</p> <p>§ 10.24.010. Definitions.</p> <p>§ 10.24.020. Curfew hours.</p> <p>§ 10.24.030. Exemptions.</p> <p>§ 10.24.040. Enforcement procedures.</p>

<p style="text-align: center;">Chapter 10.25 DAYTIME CURFEW FOR MINORS</p>	<p>§ 10.25.010. Definitions.</p> <p>§ 10.25.020. Curfew hours.</p> <p>§ 10.25.030. Exemptions.</p> <p>§ 10.25.040. Enforcement procedures.</p>	<p>§ 10.30.070. Liability for city's cost of abatement.</p>
<p style="text-align: center;">Chapter 10.28 PROPERTY DAMAGE</p>	<p>§ 10.28.010. Damaging garden or orchard.</p> <p>§ 10.28.020. Defacing public buildings—Destroying trees or plants—Reward for information leading to conviction.</p> <p>§ 10.28.030. Urinating, expectorating or defecating in public place or view.</p> <p>§ 10.28.040. Fires on pavement.</p> <p>§ 10.28.050. Lime, mortar or plaster on streets.</p> <p>§ 10.28.060. Tacks, glass, nails, oil or grease on streets.</p> <p>§ 10.28.070. Operation of vehicle without oil pan.</p> <p>§ 10.28.080. Unlawful to move building over streets without permit.</p> <p>§ 10.28.090. Traction engines, etc.</p> <p>§ 10.28.100. Drags.</p> <p>§ 10.28.110. Petroleum carrying vehicle leaking contents.</p> <p>§ 10.28.120. Liability for damage to streets.</p>	<p>§ 10.30.070. Liability for city's cost of abatement.</p>
<p style="text-align: center;">Chapter 10.30 GRAFFITI CONTROL</p>	<p>§ 10.30.010. Purpose.</p> <p>§ 10.30.020. Graffiti defined.</p> <p>§ 10.30.030. Graffiti prohibited.</p> <p>§ 10.30.040. Notice.</p> <p>§ 10.30.050. Service of notice.</p> <p>§ 10.30.060. Removal by city.</p>	<p>§ 10.30.070. Liability for city's cost of abatement.</p>
<p style="text-align: center;">Chapter 10.32 OBSTRUCTING SIDEWALKS BY OBJECTS</p>	<p>§ 10.32.010. Sidewalk defined.</p> <p>§ 10.32.020. Obstruction of free passage unlawful.</p> <p>§ 10.32.030. Exceptions.</p>	<p>§ 10.30.070. Liability for city's cost of abatement.</p>
<p style="text-align: center;">Chapter 10.34 OBSTRUCTING SIDEWALKS BY PERSONS</p>	<p>§ 10.34.010. Prohibited.</p>	<p>§ 10.30.070. Liability for city's cost of abatement.</p>
<p style="text-align: center;">Chapter 10.36 OBSTRUCTING WATERWAYS AND DRAINS</p>	<p>§ 10.36.010. Obstructing waterway.</p> <p>§ 10.36.020. Obstructing gutters.</p> <p>§ 10.36.030. Sanchez Lagoon and Channel.</p>	<p>§ 10.30.070. Liability for city's cost of abatement.</p>
<p style="text-align: center;">Chapter 10.37 OBSTRUCTION OF ACCESS TO BUSINESSES</p>	<p>§ 10.37.010. Obstruction of access to businesses.</p> <p>§ 10.37.020. Definitions.</p>	<p>§ 10.30.070. Liability for city's cost of abatement.</p>
<p style="text-align: center;">Chapter 10.40 RADIO INTERFERENCE, LOUDSPEAKERS, ETC.</p>	<p>§ 10.40.005. Definitions.</p> <p>§ 10.40.010. Interference with radio reception.</p> <p>§ 10.40.020. Loudspeakers disturbing peace.</p> <p>§ 10.40.030. Broadcasting stations.</p> <p>§ 10.40.035. General noise regulations.</p> <p>§ 10.40.037. Powered equipment.</p> <p>§ 10.40.038. Leaf blowers.</p> <p>§ 10.40.039. Loading and unloading limited.</p> <p>§ 10.40.040. Violation deemed nuisance.</p>	<p>§ 10.30.070. Liability for city's cost of abatement.</p>

PUBLIC PEACE, MORALS AND SAFETY

	Chapter 10.48	
FIREARMS, AIR GUNS, SLINGSHOTS AND FIREWORKS		
§ 10.48.010.	Firing or possession of firearms or guns.	§ 10.58.040. Permit denial.
§ 10.48.020.	Exceptions to prohibited firing or possession of firearms or guns.	§ 10.58.042. Permit expiration and renewal.
§ 10.48.030.	Slingshots.	§ 10.58.045. Transfer of adult-oriented business regulatory permits.
§ 10.48.040.	Shooting gallery excepted.	§ 10.58.048. Adult-oriented business performer permit required.
§ 10.48.050.	Projectile weapons—Sale to minors.	§ 10.58.050. Adult-oriented business performer permit process.
§ 10.48.060.	Fireworks—Seizure.	§ 10.58.055. Investigation and action on application.
	Chapter 10.55	
	REGULATIONS FOR PARK AND RECREATIONAL AREAS	
§ 10.55.005.	Definitions.	§ 10.58.065.
§ 10.55.010.	Trespassing prohibited.	§ 10.58.070.
§ 10.55.015.	Hours.	
§ 10.55.020.	Exceptions.	§ 10.58.075.
§ 10.55.025.	Use of parks and recreational areas.	§ 10.58.080.
§ 10.55.028.	General rules and regulations.	
§ 10.55.030.	Additional rules and regulations.	§ 10.58.085.
§ 10.55.035.	Enforcement of rules and regulations.	§ 10.58.090.
§ 10.55.040.	Special events and group use.	§ 10.58.095.
§ 10.55.045.	Closing parks and recreational areas.	§ 10.58.100.
	Chapter 10.58	
	ADULT-ORIENTED BUSINESSES	
§ 10.58.010.	Legislative purpose.	
§ 10.58.015.	Definitions.	§ 10.60.010. Chapter 10.60
§ 10.58.020.	Permits required.	PROHIBITION OF NUDITY IN PUBLIC PLACES
§ 10.58.025.	Adult-oriented business regulatory permit application submittal.	§ 10.60.020. Legislative authorization.
§ 10.58.030.	Application contents.	§ 10.60.030. Theater—Definition.
§ 10.58.035.	Investigation and action on application.	§ 10.60.040. Prohibition—All persons.
		§ 10.60.050. Prohibition—Female.
		Accessories.

§ 10.60.060. Exceptions.

Chapter 10.65

DRUG PARAPHERNALIA—SALE TO MINORS

- § 10.65.010. Purpose.**
- § 10.65.020. Sale to minors prohibited.**
- § 10.65.030. Minors' purchase prohibited.**
- § 10.65.040. Sign prohibiting sale to minors.**
- § 10.65.050. Violations—Nuisance.**

Chapter 10.66

DRUG PARAPHERNALIA—DISPLAY

- § 10.66.010. Purpose.**
- § 10.66.020. Minors.**
- § 10.66.030. Minors—Excluded.**
- § 10.66.040. Sale and display rooms.**
- § 10.66.050. Violations—Nuisance.**

Chapter 10.68

PROHIBITED DISPLAYS ON COVERS OF PUBLICATIONS IN BUSINESSES

- § 10.68.010. Definitions.**
- § 10.68.020. Display prohibited.**
- § 10.68.030. Establishments with "adult only" areas.**
- § 10.68.040. Opaque displays.**

Chapter 10.70

RESPONSE TO UNRULY GATHERINGS

- § 10.70.010. Authority and purpose.**
- § 10.70.020. Definitions.**
- § 10.70.030. Nuisance declared.**
- § 10.70.040. Notification of liability for costs of second response.**
- § 10.70.050. Persons responsible for costs of second response.**
- § 10.70.060. Second response deemed to be special security assignment.**
- § 10.70.070. Calculation of charges.**
- § 10.70.080. Recovery of costs.**
- § 10.70.090. Billing.**
- § 10.70.100. Nonpayment.**
- § 10.70.111. Other remedies.**

Chapter 10.72

SPECTATORS PROHIBITED AT ILLEGAL SPEED CONTESTS, EXHIBITIONS OF SPEED, OR SIDESHOWS

- § 10.72.010. Purpose.**
- § 10.72.020. Definitions.**
- § 10.72.030. Spectator at illegal speed contest, exhibitions of speed, or sideshow—Violation.**
- § 10.72.040. Relevant circumstances to prove a violation.**
- § 10.72.050. Admissibility of prior acts.**

**CHAPTER 10.04
HANDBILLS, DODGERS AND BILLPOSTING**

§ 10.04.010. Billposting unlawful—Public notices and permitted banners excepted.

It is unlawful for any person, firm or corporation to place or cause to be placed along or about any street, lane, avenue, alley, court or highway within the city, by posting or causing to be posted, affixing or causing to be affixed, lettering or writing or causing to be lettered or written, onto any tree, pole, post, hydrant, pipe, tank, stand, curb, sidewalk, structure or public building or other thing, any bill, placard, poster, hanger card or sign, or other thing, or advertising; excepting, however, notices of public improvement or public work or other legal notices required or permitted by law, and excepting, also, temporary banners stretched across the public street, for which a permit has been issued by the city council. Any such bill, placard, poster, hanger card or sign or other printed matter or advertising shall be a public nuisance.

(1941 Code § 1457)

§ 10.04.020. Private property excepted.

Section 10.04.010 of this code shall only apply to that part of the public street, lane, avenue, alley, court or highway extending from property line to property line, and in no case to private property.

(1941 Code § 1458)

§ 10.04.030. Distribution of dodgers.

It is unlawful for any person to throw, deposit or distribute or cause to be thrown, deposited or distributed, in or on any street, alley, gutter, highway, park, vacant lot or other place in the city, or in any vehicle parked or standing upon any such place, any dodger or other similarly written or printed matter.

(1941 Code § 1459)

§ 10.04.040. Permission required to post or distribute on private property.

It is unlawful to post, stick, stamp, paint, place or otherwise affix, any notice, placard, bill, poster or advertisement to or upon any sidewalk, crosswalk, curbing, hydrant, shade tree or box tree, fence enclosure or builds or upon any telegraph, telephone, electric lighting or electric railway pole, or motor vehicle in the city, without first obtaining the permission of the owner, agent or occupant thereof, or to distribute or cause to be distributed or thrown upon any street, square or sidewalk, or, without first obtaining the permission of the owner, agent or occupant thereof, upon any private premises, in the city, any handbill, dodger, circular or any other advertisement.

(1941 Code § 1460)

**CHAPTER 10.08
AUTOMATIC TELEPHONE ALARM**

§ 10.08.010. Prohibited uses.

No person shall use, or cause to be permitted to be used, or engage in the business of providing, any alarm, telephone device or telephone attachment that automatically selects a public primary telephone trunk line of the police or fire department of the city, and then reproduces any prerecorded message to report any robbery, burglary, fire or other emergency.

(Ord. 1105 § 1, (1977))

CHAPTER 10.10 ALARM SYSTEMS

§ 10.10.010. Installation.

All alarm systems sold, leased, contracted for or otherwise maintained and operated by any person within the city shall be installed in accordance with all applicable standards and requirements of the building codes and other applicable established standards as required by the city. All alarm systems shall be equipped with an uninterruptible power supply or installed in such a manner that the failure or interruption of normal electrical utility power shall not activate the alarm system. Such power supply shall be capable of at least four hours of operation. Required fire alarm systems shall have battery back up sufficient to provide 24-hour stand-by and five-minute continuous alarm capacity. All alarm systems installed within the city may be inspected by police, fire, or building inspection representatives during usual business hours.
(Ord. 1120 § 1, (1978); Ord. 1480 § 1, (1993); Ord. 1480, (1993))

§ 10.10.020. Audible alarm standards for cessation of audible alarms.

- (a) Any and all audible alarm systems shall be installed or activated to automatically cease transmitting the audible signal within 10 minutes, provided that required fire alarm systems must sound continuously until the arrival of the fire department. Only a fire department representative may reset such an alarm.
 - (b) Upon request of a city police officer, a user or his or her designated representative shall respond within one hour to the premises whereon the alarm system is located.
- (Ord. 1480 § 1, (1993))

§ 10.10.030. Repair.

After any false alarm caused by a mechanical malfunction of the alarm system, the user shall cause the alarm system to be repaired so as to eliminate such malfunction before reactivating the alarm. A person shall not reactivate such alarm until such repairs have been made. In buildings with a required fire alarm, a fire watch may be required until repairs have been made.

(Ord. 1480 § 1, (1993))

§ 10.10.040. Alarm telephone devices.

It shall be unlawful for any person to use or cause to be used any electrical or mechanical device or attachment to a telephone that automatically reports a taped or otherwise recorded message to report a police or fire emergency to the police or fire department.

(Ord. 1480 § 1, (1993))

§ 10.10.050. Audible alarms similar to sirens prohibited.

It is unlawful to install on the exterior or interior of a building an intrusion detective device or alarm which upon activation emits a sound exceeding 80 decibels (when measured from outside the premises), which is similar to sirens in use on emergency vehicles or for civil defense purposes.

(Ord. 1480 § 1, (1993))

§ 10.10.060. Alarm systems which constitute a hazard to responding public safety officers.

No person shall operate or permit an alarm system to be operated which, due to the nature of its

construction, installation and/or location, constitutes an unreasonable hazard to life and limb of responding public safety officers, as determined by the chief of police or fire chief.

(Ord. 1480 § 1, (1993))

§ 10.10.070. Notice of repair.

The alarm business, alarm agent, user, or permittee shall notify the police dispatcher of the city prior to any service, test, repair, maintenance adjustment or installation which might activate a false alarm on a particular alarm system. No subsequent recording of a "false alarm" for the purpose of charge for a police response shall occur if the police dispatcher has been appropriately notified of the repair period.

(Ord. 1480 § 1, (1993))

§ 10.10.080. Notice of false alarm.

Users of any alarm system who set off a false alarm shall inform the police dispatcher of the error as soon as the user has knowledge of such false alarm. Permittee may avoid charges for a false alarm if the police dispatcher is notified prior to the actual dispatching of police units.

(Ord. 1480 § 1, (1993))

§ 10.10.090. False alarm charges.

The operator of a business or occupant of a residential premises shall pay such charges as may be assessed by the city for false alarms. Such charges and permit fees shall be established by resolution of the city council.

(Ord. 1480 § 1, (1993))

§ 10.10.100. Permit.

It shall be unlawful for any alarm system to be installed, possessed, operated, used, serviced or maintained without a valid, unrevoked and unexpired permit therefor in accordance with the provisions of this chapter or for an alarm business or alarm agent to make operable, service, maintain or repair an alarm system for a user unless said user has obtained a valid, unrevoked and unexpired permit from the city.

(Ord. 1480 § 1, (1993))

§ 10.10.110. Applications—Forms.

Applications for all permits required hereunder shall be filed with the police department and shall be accompanied by the fee established by the city council. The department shall prescribe the form of the application and request such information as is necessary to evaluate permit applicants. The applicant for any permit shall include but not be limited to the name, address and telephone number of the person who will render service or repairs during any hour of the day or night. The application may be made by a user or an alarm business or agent for the user. If approved, the permit shall be issued in the name of the user only.

(Ord. 1120 § 1, (1978); Ord. 1267 § 1, (1984); Ord. 1480 § 1, (1993))

§ 10.10.120. Application—Investigation and denial.

(a) Processing—Grounds for Denial. An application for a permit shall be processed in a timely manner. The permit may be denied by the chief of police on the following grounds:

(1) The alarm system is deficient in that it does not comply with standards adopted pursuant to this

chapter and/or results in excessive false alarms as defined by said standards; or

- (2) The applicant, his or her employee or agent has knowingly made any false, misleading or fraudulent statement of a material fact in the application for a permit, or in any report or record required to be filed with any city agency; or
- (3) That the applicant has had a similar type permit previously revoked for good cause within the past year unless the applicant can show a material change in circumstances since the date of revocation; permits shall be issued to the user; or
- (4) The violation of any of the provisions of this chapter.

(b) Procedure. The chief of police shall inform the applicant in writing of the denial stating the reasons for such denial.

(Ord. 1480 § 1, (1993))

§ 10.10.130. Duration of permit.

Permits issued pursuant to this chapter shall be renewed annually after issuance. Applications for renewals of permits shall be processed in the same manner as applications for the initial permit. Initial issuance of a permit or transfer of a permit shall be valid until the annual renewal period which shall be July 1 of each subsequent year.

(Ord. 1480 § 1, (1993))

§ 10.10.140. Grounds for revocation.

Permits for required fire alarms shall not be revoked. The following shall constitute grounds for revocation of all other alarm permits:

- (a) The violation of any of the provisions of this chapter;
- (b) When an alarm system is deficient in that it actuates excessive false alarms, as defined in the rules and regulations prescribed by the city council;
- (c) When the applicant or permittee, or his or her employee or agent has knowingly made any false, misleading or fraudulent statement of a material fact in the application for a permit or in any report or record required to be filed with any city agency;
- (d) If, immediately following an alarm activation, the permittee or his or her designated representative fails to respond within one hour to a request for access to the protected premises, upon request to do so by a city police officer, or dispatcher who deems a response necessary to ensure the security of the premises or persons where the system is installed;
- (e) Failure to pay fees for responses to false alarms within 30 days of billing.

(Ord. 1480 § 1, (1993))

§ 10.10.150. Denial or revocation of permit.

In the case of denial or revocation of a permit, the chief of police shall notify the permittee in writing of the reasons for such denial or revocation. The applicant or permittee shall have 10 days from and after the service of said notice to offer evidence to the chief showing why the permit should not be revoked. The chief may grant the permit or withdraw the revocation if satisfactory and sufficient evidence is presented.

(Ord. 1480 § 1, (1993))

§ 10.10.160. Suspension of responses.

In addition to those measures or in lieu of those measures outlined above, the chief of police may, at his or her discretion, order:

- (a) Except where the sole violation is the failure to obtain a permit, non-response to the permittee alarm if in the chief's judgment the response to a routinely false alarm call is outweighed by the danger to the public or city employees.
- (b) Response, but continued assessment of response charges.
- (c) Prosecution for violation either by complaint to city attorney or citation for operating an alarm without a valid permit.

(Ord. 1480 § 1, (1993))

§ 10.10.170. Alarm businesses.

- (a) No person shall engage in, conduct, or carry on an alarm business within the city without filing with the police department a copy of a valid, unrevoked and unexpired state alarm company operator license therefor in accordance with the provisions of Sections 7590 et seq., of the Business and Professions Code and any subsequent amendments thereto.
- (b) In the event said license(s) is/are suspended, revoked, or otherwise rendered invalid by the issuing authority, the alarm business shall notify the police department in writing of such state action within three days thereof.
- (c) Every person engaged in, conducting, or operating an alarm business within the city shall post on the premises where the alarm business is located a copy of a valid state alarm company operator's license.
- (d) No person shall engage in, conduct, or carry on an alarm business within the city without a valid business license issued pursuant to this code.
- (e) Each alarm business, alarm agent, or user shall keep an accurate record of inspection or repair of any installed alarm system and shall display such record to the chief of police when required to do so.
- (f) Each alarm business, alarm agent or user who installs, services, possesses, maintains, operates or uses an alarm system has the sole responsibility for instruction of all appropriate persons in the proper use and operation of such system, as frequently as necessary, especially those factors which can cause false alarms. Such appropriate persons shall include but not be limited to agents, employees, family members, or customers.

(Ord. 1480 § 1, (1993))

§ 10.10.180. Notice of change.

Whenever any change occurs relating to the written information required by this chapter, the applicant or permittee shall give written notice thereof to the department within 10 days after such change. The applicant or permittee is solely responsible for the correctness of the information submitted to the police department.

(Ord. 1480 § 1, (1993))

**CHAPTER 10.12
TRESPASS BY PEDDLERS AND SOLICITORS**

§ 10.12.010. Entering premises without permission unlawful.

It is unlawful for any agent, solicitor or peddler to enter upon any premises of any person, firm or corporation within the city, upon which is conspicuously displayed a sign or notice that no peddler, agent or solicitor is allowed upon the premises, unless however, permission for such entry is first obtained from or granted by the owner, lessee, agent or occupant of said premises.

(1941 Code § 1493)

**CHAPTER 10.14
TRESPASS IN ALLEYS AND EASEMENTS**

§ 10.14.010. Trespassing in alleys and easements in residential districts.

It is unlawful for any person to be present in or upon a public or private alley or utility easement in a residential district between the hours of 7:00 p.m. and 7:00 a.m. without permission of the owner or occupant of the adjacent property or unless such person is an authorized representative of a public utility or public agency.

Notwithstanding the provisions of Section 1.12.010 of this code, any violation of this section shall be punishable as a misdemeanor.

(Ord. 1332 § 1, (1986))

CHAPTER 10.20
LIQUOR

§ 10.20.010. Consumption of alcoholic beverages upon public property or private property without permission.

- (a) No person shall drink any alcoholic beverage:
 - (1) On any street, sidewalk, lawn, alley, park or other public place, except as provided in subsections (b) and (c) hereof;
 - (2) While on private property open to public view without the express permission of the owner, his or her agent, or the person in lawful possession thereof.
- (b) Beer or wine may be consumed upon public places as a part of a specific event or occasion when such consumption is specifically approved by the city council and subject to the following conditions:
 - (1) Beer or wine may only be dispensed upon such public places by organizations having approval to do so from the city council.
 - (2) Beer or wine may only be dispensed by such organizations in paper or plastic cups or containers of similar materials.
 - (3) Consumption of such beer shall only be allowed within the areas specified by the city council.
 - (4) All other laws shall be complied with, including the prohibition of sales of alcoholic beverages by bars, restaurants and stores for consumption upon such public places.
- (c) Alcoholic beverages may be served and consumed upon a public place specifically defined in a city encroachment permit for such service and consumption in direct connection with the operation of a bona fide public eating place as defined in the State Alcoholic Beverage Control Act subject to the following conditions:
 - (1) The service and consumption conforms to the terms of the encroachment permit and permit regulations; and
 - (2) The service and consumption is specifically allowed for the public place under a current on-sale license for the bona fide public eating place issued by the State Alcoholic Beverage Control Department.

(1941 Code § 1278, Ord. 382, (1942); Ord. 1165 § 1, (1980); Ord. 1360 § 1, (1988); Ord. 1453 § 1, (1992); Ord. 1465 § 1, (1992); Ord. 1579, (1997))

§ 10.20.020. Presence of persons under 21 years on certain premises; posting of notice.

No owner or operator of a premises operating under an on-sale license issued for public premises, as defined in Section 23039 of the Business and Professions Code, or of any business required by state or local regulation or permit to prohibit persons under the age of 21 years from its premises during all or certain hours shall permit such a person not having lawful business therein to enter and remain on said premises during such hours. No person under the age of 21 years shall enter or remain upon such premises without lawful business therein during such hours. The owner or operator of such a premises shall post a sign at every entrance stating that persons under the age of 21 are so prohibited. If such prohibition applies only during certain hours such signs shall clearly so state.

(Ord. 1556 § 1, (1996))

**CHAPTER 10.22
GAMBLING DEVICES**

§ 10.22.010. Possession of gambling device unlawful.

It is unlawful for any person to have in his or her possession or under his or her control, either as owner, lessee, agent, employee, mortgagee or otherwise, or to permit to be placed, maintained or kept, in any room, space, enclosure or building, owned, leased or occupied by him, or which is under his or her management or control, any slot or card machine, contrivance, appliance or mechanical device, upon the result or action of which money or other valuable thing is staked or hazarded, and which is operated, or played, by placing or depositing therein any coins, checks, slugs, balls or other articles or device, or in any other manner and by means whereon, or as a result of the operation of which any merchandise, money, representative or articles of value, checks or tokens, redeemable in, or exchangeable for money, or any other thing of value, is won or lost, or taken from, or obtained from such machine when the result of action or operation of such machine, contrivance, appliance or mechanical device is dependent upon hazard or chance.

(1941 Code § 1430)

CHAPTER 10.24 CURFEW FOR MINORS

§ 10.24.010. Definitions.

The following definitions shall apply to this chapter:

"Emergency" means an unforeseen circumstance or circumstances or the resulting situation that calls for immediate action to prevent serious injury, loss of life, or serious property damage. The term includes, but is not limited to, a fire, natural disaster, or vehicle accident.

"Guardian" means:

- (1) A person who is the guardian of the person of a minor pursuant to a court order; or
- (2) A public or private entity with whom a minor has been placed by a court order; or
- (3) A person who is at least 18 years of age and authorized by a parent or guardian to have the care and custody of a minor.

"Minor" means a person under the age of 18 years.

"Parent" means a person who is a natural parent, adoptive parent, or step-parent of a minor.

"Public place" means:

- (1) Any out-of-door 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
- (2) The out-of-doors common areas, such as entry ways and parking lots, of businesses to which the public is invited, including, but not limited to,, any place of amusement, entertainment, or recreation.

(1941 Code § 1279(a), Ord. 399, (1943); Ord. 1606 § 2, (1999); Ord. 1607 § 2, (1999))

§ 10.24.020. Curfew hours.

- (a) It is unlawful for any minor under the age of 16 years to be in any public place within the city between the hours of 10:00 p.m. and 5:00 a.m., except as provided in Section 10.24.030 below.
- (b) It is unlawful for any minor under the age of 18 years to be in any public place within the city between the hours of 11:30 p.m. and 5:00 a.m., except as provided in Section 10.24.030 below.

(1941 Code § 1279(b), Ord. 399, (1943); Ord. 1606 § 2, (1999); Ord. 1607 § 2, (1999))

§ 10.24.030. Exemptions.

A minor shall not be in violation of Section 10.24.020 if at the time that the minor was detained by peace officer, the minor was:

- (a) Accompanied by the minor's parent or guardian; or
- (b) On an errand at the direction of the minor's parent or guardian, without unnecessary detour or stop; or
- (c) Driving or riding in a motor vehicle or publicly owned transportation; or

- (d) Engaged in lawful volunteer or paid employment activity, or going to or returning home from a lawful volunteer or paid employment activity, without unnecessary detour or stop; or
- (e) Acting in response to an emergency; or
- (f) On the sidewalk abutting the minor's residence or abutting the residence that is immediately adjacent to the minor's residence; or
- (g) Attending or going to or returning home, without unnecessary detour or stop, from a school, religious, cultural, sports, amusement, entertainment, or recreation activity, or any organized rally, demonstration, meeting, or similar activity; or
- (h) Waiting at a train or bus station or stop for transportation; or
- (i) Emancipated in accordance with California law.

(1941 Code § 1279(c), Ord. 399, (1943); Ord. 533, (1953); Ord. 1606 § 2, (1999); Ord. 1607 § 2, (1999))

§ 10.24.040. Enforcement procedures.

- (a) Nothing in this chapter shall be construed to preclude minors from being in a public place for the purpose of exercising the rights guaranteed by the First Amendment of the United States Constitution or by the California Constitution, including the free exercise of religion, freedom of speech, right of assembly, freedom of association, right to petition, and right to privacy as applied by decisional law to minors of a particular age.
- (b) Before taking enforcement action under this chapter, a peace officer shall ask the apparent offender's age and reason for being in the public place.
- (c) A peace officer may take enforcement action under this chapter only when the peace officer has probable cause to believe that neither subsection (a) above nor any exemption under Section 10.24.030 applies to the offender's reasons for being present in the public place.

(1941 Code § 1279(d), Ord. 399, (1943); Ord. 1606 § 2, (1999); Ord. 1607 § 2, (1999))

**CHAPTER 10.25
DAYTIME CURFEW FOR MINORS**

§ 10.25.010. Definitions.

The following definitions shall apply to this chapter:

"Emergency" means an unforeseen circumstance or circumstances or the resulting situation that calls for immediate action to prevent serious injury, loss of life, or serious property damage. The term includes, but is not limited to, a fire, natural disaster, or vehicle accident.

"Guardian" means:

- (1) A person who is the guardian of the person of a minor pursuant to a court order; or
- (2) A public or private entity with whom a minor has been placed by a court order; or
- (3) A person who is at least 18 years of age and authorized by a parent or guardian to have the care and custody of a minor.

"Minor" means a person under the age of 18 years.

"Parent" means a person who is a natural parent, adoptive parent, or step-parent of a minor.

"Public place" means:

- (1) Any out-of-door 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
- (2) The out-of-doors common areas, such as entry ways and parking lots, of businesses to which the public is invited, including, but not limited to,, any place of amusement, entertainment, or recreation.

"School" means an elementary school, junior high school, four-year high school, senior high school, opportunity school, continuation high school, regional occupational center, or technical high school that is either a public school as created under the Education Code or a private full-time day school operating pursuant to Education Code Section 48222.

(Ord. 1624 § 2, (2000))

§ 10.25.020. Curfew hours.

It is unlawful for any minor under the age of 17 years to be in any public place within the city between the hours of 8:30 a.m. and 2:00 p.m., Monday through Friday, except as provided in 10.25.030 below.

(Ord. 1624 § 2, (2000))

§ 10.25.030. Exemptions.

A minor shall not be in violation of Section 10.25.020 if at the time that the minor was detained by a peace officer, the minor was:

- (a) Not obligated to be in the school at which the minor may be enrolled because the school is on holiday or vacation period; or
- (b) Accompanied by the minor's parent or guardian; or

- (c) Attending or going to or returning home, without unnecessary detour or stop, from a school, religious, cultural, sports, amusement, entertainment, or recreation activity, or any organized rally, demonstration, meeting, or similar activity; or
- (d) Driving or riding in a motor vehicle or publicly owned transportation; or
- (e) Engaged in lawful volunteer or paid employment activity, or going to or returning home from a lawful volunteer or paid employment activity, without unnecessary detour or stop; or
- (f) Acting in response to an emergency; or
- (g) On the sidewalk abutting the minor's residence or abutting the residence that is immediately adjacent to the minor's residence; or
- (h) On an errand at the direction of the minor's parent or guardian, without unnecessary detour or stop; or
- (i) Waiting at a train or bus station or stop for transportation; or
- (j) Emancipated in accordance with California law; or
- (k) In possession of written permission or a permit from the school in which the minor is enrolled to leave the school campus, or a written leave of absence to be away from the school; or
- (l) On a lunch period for which the school at which the minor may be enrolled authorizes absence from campus.

(Ord. 1624 § 2, (2000))

§ 10.25.040. Enforcement procedures.

- (a) Nothing in this chapter shall be construed to preclude minors from being in a public place for the purpose of exercising the rights guaranteed by the First Amendment of the United States Constitution or by the California Constitution, including the free exercise of religion, freedom of speech, right of assembly, freedom of association, right to petition, and right to privacy as applied by decisional law to minors of a particular age.
- (b) Before taking enforcement action under this chapter, a peace officer shall ask the apparent offender's age and reason for being in the public place.
- (c) A peace officer may take enforcement action under this chapter only when the peace officer has probable cause to believe that neither subsection (a) above nor any exemption under Section 10.25.030 applies to the offender's reasons for being present in the public place.

(Ord. 1624 § 2, (2000))

CHAPTER 10.28 PROPERTY DAMAGE

§ 10.28.010. Damaging garden or orchard.

It shall be unlawful for any person to enter into or upon any enclosed or unenclosed vegetable garden or orchard, or land under cultivation, without the consent of the owner or tenant thereof, or to cut down, injure, damage, destroy, eat or carry away from any portion of any such garden or orchard or land under cultivation, any crop, tree, shrub, plant, grass, seed, soil, fertilizer, water supply, tool, implement, fence or any protective device, or anything useful for the development, cultivation, maintenance and use of the said garden or orchard, or land under cultivation.

(1941 Code § 1276.1, Ord. 394, (1943))

§ 10.28.020. Defacing public buildings—Destroying trees or plants—Reward for information leading to conviction.

It shall be unlawful for any person to mar or deface any public building or structure belonging to the city; or to take, destroy, dig up or carry away, without first having obtained permission from the park superintendent, or without authority of the city council, any plants, shrubs or flowers in any public park, court, street or square within the city.

Any person furnishing the city council any information that will lead to the arrest and conviction of any person violating this section will be rewarded for so doing in the sum of \$100.

(1941 Code § 1276)

§ 10.28.030. Urinating, expectorating or defecating in public place or view.

It is unlawful for any person to urinate, expectorate or defecate on any public property, or upon any private property open to the public or in open view from public property.

(1941 Code § 1277, Ord. 1233 § 1, (1982); Ord. 1542 § 1, (1996))

§ 10.28.040. Fires on pavement.

It shall be unlawful for any person to kindle any fire upon any paved street in the city or throw or deposit any burning material of any description thereon.

(1941 Code § 1367)

§ 10.28.050. Lime, mortar or plaster on streets.

It shall be unlawful for any person to mix or cause to be mixed any lime, mortar or plaster upon any asphaltum street in the city or cause or permit any lime, mortar or plaster to be placed upon or come in contact with any street.

(1941 Code § 1368)

§ 10.28.060. Tacks, glass, nails, oil or grease on streets.

It shall be unlawful for any person to place or deposit or suffer to be placed or deposited upon any street in the city any glass, tacks or nails, or, on any asphaltum or paved streets in the city, any oil or grease, or any oily or greasy substance or material, and no person operating or having under his or her charge or control any automobile, motor car, motorcycle or other vehicle shall permit to escape, flow or drip therefrom upon any asphaltum street in the city, any oil or grease, or oily or greasy substance.

(1941 Code 1369)

§ 10.28.070. Operation of vehicle without oil pan.

It shall be unlawful for any person to operate, drive or use upon any asphaltum street in the city any automobile, motor car, motorcycle, or other motor vehicle unless said automobile, motor car, motorcycle or other motor vehicle shall be equipped with a drip pan or other suitable contrivance which will prevent the dripping or flowing of oil from said automobile, motor car, motorcycle or other vehicle upon the surface of said asphaltum street.

(1941 Code § 1370)

§ 10.28.080. Unlawful to move building over streets without permit.¹

It shall be unlawful for any person, firm or corporation to move or cause to be moved through the streets of the city, any building or structure, without first having obtained a permit from the building inspector so to do. The building inspector shall have full power in the granting or denying of permits.

(1941 Code § 1240)

§ 10.28.090. Traction engines, etc.

It shall be unlawful for any person to operate upon the streets of the city any traction engine, road engine, hauling engine, trailer, road roller, automobile truck, motor or other vehicle the faces of the wheels of which are fitted with flanges, ribs, clamps, cleats, lugs or spikes. This applies to all rings or flanges upon guiding or steering wheels of any such vehicles. In case of traction engines, road engines or hauling engines which are equipped or provided with flanges, ribs, clamps, cleats, lugs or spikes, such vehicles shall be permitted to pass over said streets provided that cleats are fastened upon all wheels of such vehicles, not less than two and one half (2-1/2) inches wide and not more than one and one half inches high, and so placed that not less than two cleats on each wheel shall touch the ground at all times, and the width shall be the same on all parts of said vehicles.

(1941 Code § 1241)

§ 10.28.100. Drags.

It shall be unlawful for any person to operate upon, over or across any street of the city any sled, drag or other object which is not carried entirely upon wheels.

(1941 Code § 1242)

§ 10.28.110. Petroleum carrying vehicle leaking contents.

It shall be unlawful to operate any vehicle carrying naphtha, kerosene or any other product of petroleum upon or over any street of the city, unless such vehicle is so constructed as to prevent the leakage of its contents upon the pavement.

(1941 Code § 1243)

§ 10.28.120. Liability for damage to streets.

The owner, driver, operator or mover of any vehicle on any street in the city shall be responsible for all damages which said street may sustain as a result of a violation of any provisions of this chapter, and the amount thereof may be recovered in an action by the city.

1. Editor's Note: For permit — See Section 18.07.030 of this code.

City of Burlingame, CA

§ 10.28.120

PUBLIC PEACE, MORALS AND SAFETY

§ 10.28.120

(1941 Code § 1244)

CHAPTER 10.30 GRAFFITI CONTROL

§ 10.30.010. Purpose.

The purpose of this chapter is to provide a program for removal of graffiti from walls and structures on both public and private property and to provide regulations designed to prevent and control the further spread of graffiti in the city of Burlingame. The increase of graffiti on both public and private buildings, structures and places is creating a condition of blight within the city which results in a deterioration of property and business values for adjacent and surrounding properties, all to the detriment of the city. The city council finds and determines that graffiti is obnoxious and a public nuisance which must be abated so as to avoid the detrimental impact of such graffiti on the city and to prevent the further spread of graffiti.

(Ord. 1433 § 1, (1991))

§ 10.30.020. Graffiti defined.

For the purpose of this chapter, "graffiti" shall mean the unauthorized spraying of paint or marking of paint, ink, chalk, dye or other similar substances on public or private buildings, structures and places.

(Ord. 1433 § 1, (1991))

§ 10.30.030. Graffiti prohibited.

- (a) No person shall place graffiti or other writing upon any public or privately owned permanent structure or personal property located on publicly or privately owned real property within the city of Burlingame.
- (b) No person owning or otherwise in control of any real or personal property within the city shall permit or allow any graffiti to be placed upon or remain on any structure or any personal property located on such real property or upon his or her personal property when the graffiti is visible from the street or other public place or private property, for a period in excess of that described in this chapter for notice and removal of graffiti.

(Ord. 1433 § 1, (1991))

§ 10.30.040. Notice.

Whenever the city attorney or his or her designee determines that graffiti exists on any permanent structure in the city of Burlingame and is visible from the street or other public or private property, he or she shall cause a notice to be issued to abate such nuisance. The property owner shall have 15 days after the date of the notice to remove the graffiti or the property will be subject to abatement by the city.

(Ord. 1433 § 1, (1991))

§ 10.30.050. Service of notice.

The notice to abate graffiti shall be served upon the owner(s) of the affected premises, as such owner's name and address appears on the last equalized property tax assessment rolls of the county of San Mateo. In addition if there is a tenant of the premises, the notice shall also be served on said tenant. If there is no known address for the owner, the notice shall be sent in care of the property address. If there is no person occupying said property, the notice shall be posted thereon. The notice required by this chapter may be served in any one of the following manners:

- (a) By personal service on the owner, occupant or person in charge of the property;

(b) By registered or certified mail addressed to the owner at the last known address of said person.
(Ord. 1433 § 1, (1991))

§ 10.30.060. Removal by city.

Upon failure of persons to comply with the notice to abate by the designated date, or such continued date thereafter as the city attorney or his or her designated representative approves, the city attorney is authorized to cause the graffiti to be abated by city forces or private contract, and the city or its private contractor is expressly authorized to enter upon the premises for such purposes. All reasonable efforts to minimize damage from such entry shall be taken by the city. Any paint used to obliterate graffiti shall be as close as practicable to background color(s).

(Ord. 1433 § 1, (1991))

§ 10.30.070. Liability for city's cost of abatement.

The owner shall reimburse the city for the actual cost of the removal of the graffiti. The costs to be reimbursed include labor, material preparation of specifications and contracts and inspection. Notice of the costs of abatement shall be given to the property owner by the city attorney, in the same manner as provided for giving notice in Section 10.30.060 hereof. The property owner may appeal said costs to the city manager by filing a written appeal within 15 days of the service of said notice. He or she may appeal the city manager's determination by written appeal to the city council within 15 days after receipt of the city manager's decision. The decision of the city council shall be final. Unless said costs are paid within 30 days of notice or in the case of an appeal, the determination of the appeal, a notice of lien shall be recorded in the office of the San Mateo county recorder and shall constitute a lien on the property.

(Ord. 1433 § 1, (1991))

CHAPTER 10.32 OBSTRUCTING SIDEWALKS BY OBJECTS

§ 10.32.010. Sidewalk defined.

For the purpose of this chapter, "sidewalk" means all space or area between the property line of any lot and the outer curbline along the area used for street purposes, including any curbing, bulkheads, retaining walls or other works put for the protection of the sidewalk or of any parking strip.

(Ord. 1175 § 1, (1980); 1941 Code § 1351)

§ 10.32.020. Obstruction of free passage unlawful.

It is unlawful to place or cause to be placed upon any public way, street or sidewalk, or for the person owning, occupying or having control of any premises to suffer to remain upon the sidewalk next to such premises, anything which shall obstruct the free passage over any portion of such street or sidewalk.

(Ord. 1175 § 2, (1980); 1941 Code § 1350)

§ 10.32.030. Exceptions.

Section 10.32.020 shall not apply:

- (a) To lighting fixtures or water hydrants erected by permission of the city council, or ornamental trees planted along the outer line of the sidewalk and within the curb and barriers for the protection of the same, and other trees maintained by the permission of the city council;
- (b) To materials used in the construction or repair of any building during the existence of and subject to the terms of any permit issued by the building inspector;
- (c) To receipt, delivery or removal of goods, wares or merchandise between the hours of 6:00 p.m. and 9:00 a.m. on the following morning;
- (d) To merchandise displays, ornamental plantings, trash receptacles, privately maintained bicycle racks or other objects (excluding signs of any kind) for which an encroachment permit has been obtained pursuant to Chapter 12.10 of this code; or
- (e) To any individual legally operating as a permitted sidewalk vendor, as defined and regulated by Chapter 6.25.

(Ord. 2008 § 6, (2023); Ord. 1175 § 3, (1980); 1941 Code § 1360)

**CHAPTER 10.34
OBSTRUCTING SIDEWALKS BY PERSONS**

§ 10.34.010. Prohibited.

No person shall:

- (a) Wilfully and maliciously stand, sit, lie or sleep in or under any street, sidewalk, passageway or other public place in such a manner as to obstruct, hinder or delay the free passage or use in the customary manner of such street, sidewalk, passageway or other public place;
- (b) Wilfully and maliciously stand, sit, lie or sleep in or upon any doorway or way of ingress or egress of any building or other structure.

(Ord. 1313 § 2, (1986))

**CHAPTER 10.36
OBSTRUCTING WATERWAYS AND DRAINS**

§ 10.36.010. Obstructing waterway.

It shall be unlawful to deposit, erect or maintain in any natural or artificial waterway or course, or creek or drain open or covered, carrying off the stormwaters or sanitary sewerage within the city anything which may obstruct the free flow of water therein.

(1941 Code § 1361)

§ 10.36.020. Obstructing gutters.

It is unlawful to obstruct any gutter, so as to prevent the free flow of water therein. Driveways from the street to private premises shall be so constructed as not to interfere with the free flow of water in the gutters of the street.

(1941 Code § 1362)

§ 10.36.030. Sanchez Lagoon and Channel.

- (a) Sanchez Lagoon is that area of wetlands, creek and banks between Bayshore Freeway on the south, Sanchez Creek on the west, Anza Airport Park No. 6 and the Burlingame landfill on the north, and Anza Airport Park No. 2 on the east. Sanchez Channel is that waterway connecting Sanchez Lagoon and San Francisco Bay.
- (b) It is unlawful to use Sanchez Lagoon and Sanchez Channel except in accordance with all local, state and federal laws.
- (c) No person shall enter in or upon the banks or waters of Sanchez Lagoon west of the Anza Boulevard Bridge for any purpose whatsoever, except in cases of emergency to protect life and/or property.
- (d) No person shall launch a motorized watercraft from the banks of Sanchez Lagoon or Sanchez Channel or operate a motorized watercraft upon the waters of Sanchez Lagoon or Sanchez Channel, except in cases of emergency to protect life and/or property.

(Ord. 1392 § 2, (1989))

**CHAPTER 10.37
OBSTRUCTION OF ACCESS TO BUSINESSES**

§ 10.37.010. Obstruction of access to businesses.

- (a) No person shall wilfully and maliciously block, obstruct or otherwise impede access to or exit from any building, place or facility at which a lawful business is conducted.
- (b) No person shall wilfully and maliciously block, obstruct or interfere with the movement of any persons on any street, sidewalk, driveway or other area which is open to the public and is adjacent to a lawful business.
- (c) No person shall wilfully and maliciously remain on any portion of the premises of a lawful business which is open to the public, after being requested to leave by the person in charge of the premises or by a peace officer.

(Ord. 1406 § 1, (1990))

§ 10.37.020. Definitions.

The following definitions shall apply for the purposes of this chapter:

"Business" shall mean any person, firm, association, partnership, business trust, corporation, company or any other organization which lawfully provides or makes available goods or services to members of the public, including entities organized for profit, nonprofit or charitable entities, or governmental entities.

"Maliciously," when applied to the intent with which an act is done or omitted, means an intent to do an unlawful act, with knowledge of its unlawfulness; or, in the alternative, to vex, annoy or injure another person.

"Wilfully," when applied to the intent with which an act is done or omitted, means a purpose or willingness to commit the act, or to make the omission referred to. It does not require any intent to violate the law, or to injure another, or to acquire any advantage.

(Ord. 1406 § 1, (1990))

CHAPTER 10.40 RADIO INTERFERENCE, LOUDSPEAKERS, ETC.

§ 10.40.005. Definitions.

For the purposes of this chapter, the following terms are defined as follows:

"Emergency" means an essential activity necessary to restore, preserve, protect or save lives or property from imminent danger of loss or harm or to restore essential services.

"Holiday" means those days set forth in Section 13.04.100 of this code.

"Leaf blower" means any portable machine used to blow leaves, dirt and other debris off sidewalks, driveways, lawns or other surfaces.

"Local ambient" means the lowest sound level repeating itself during a 15 minute period as measured with a precision sound level meter, using slow response and "A" weighting. The minimum sound level shall be determined with the noise source at issue silent, and in the same location as the measurement of the noise level of the source or sources at issue. If a significant portion of the local ambient is produced by one or more individual identifiable sources which would otherwise be operating continuously during the 15 minute measurement period and contributing significantly to the ambient sound level, determination of the local ambient shall be accomplished with these separate identifiable noise sources silent.

"Noise level" means the maximum continuous sound level or repetitive peak sound level, produced by a source or group of sources as measured with a precision sound level meter. In order to measure a noise level, the controls of the precision sound level meter should be arranged to the setting appropriate to the type of noise being measured.

"Precision sound level meter" means a device for measuring sound level in decibel units within the performance specifications in the American National Standards Institute Standard S1.4, "Specification for Sound Level Meters."

"Residential district" means a district that is zoned R-1, R-2, R-3, or R-4 pursuant to Title 25, but does not include a district that is zoned C-R.

"Sound level," expressed in decibels (dB), means a logarithmic indication of the ratio between the acoustic energy present at a given location and the lowest amount of acoustic energy audible to sensitive human ears and weighted by frequency to account for characteristics of human hearing, as given in the American National Standards Institute Standard S1.1, "Acoustic Terminology," paragraph 2.9, or successor reference. All references to dB in this chapter utilize the A-level weighting scale, abbreviated dBA, measured as set forth in this section.

(Ord. 1681 § 2, (2002))

§ 10.40.010. Interference with radio reception.

It is unlawful for any person, firm or corporation to operate or cause to be operated any machine, device, apparatus or instrument of any kind whatsoever within the city, the operation of which shall cause reasonably preventable electrical interference with radio reception.

(1941 Code § 1340)

§ 10.40.020. Loudspeakers disturbing peace.

It is unlawful for any person, firm or corporation to use or operate or cause to be used or operated any mechanical device, machine, apparatus or instrument for intensification or amplification of the human

voice or any sound or noise, in any public or private place in such a manner that the peace and good order of the neighborhood is disturbed, or that persons owning, using or occupying the property in the neighborhood are disturbed or annoyed.

(1941 Code § 1341)

§ 10.40.030. Broadcasting stations.

It is unlawful to operate any broadcasting station used for commercial purposes and gain in any other district in the city than in the commercial or industrial zones or districts.

(1941 Code § 1342)

§ 10.40.035. General noise regulations.

Notwithstanding any other provisions of this code, and in addition thereto, it is unlawful for any person wilfully to make or continue, or cause to be made or continued, any loud, unnecessary or unusual noise which disturbs the peace and quiet of any neighborhood or which causes discomfort or annoyance to any reasonable person of normal sensitiveness residing in the area.

The standards which shall be considered in determining when a violation of the provisions of this section exists shall include, but not be limited to, the following:

- (a) The level of the noise;
- (b) The intensity of the noise;
- (c) Whether the nature of the noise is usual or unusual;
- (d) Whether the origin of the noise is natural or unnatural;
- (e) The level and intensity of the background noise, if any;
- (f) The proximity of the noise to residential sleeping facilities;
- (g) The nature and zoning of the area within which the noise emanates;
- (h) The density of the inhabitation of the area within which the noise emanates;
- (i) The time of the day or night the noise occurs;
- (j) The duration of the noise;
- (k) Whether the noise is recurrent, intermittent or constant; and
- (l) Whether the noise is produced by a commercial or noncommercial activity.

(Ord. 1060 § 1, (1976))

§ 10.40.037. Powered equipment.

- (a) No person shall operate any lawnmower, lawn edger, riding tractor or any other mechanical or electrical machinery, equipment or device which creates a loud, raucous or impulsive sound, within any residential district except between the hours of 8:00 a.m. and 7:00 p.m. on Monday through Saturday, or 10:00 a.m. and 6:00 p.m. on Sunday and holidays.
- (b) Sweeping of city parking lots or city streets and emergency work or repairs by public agencies or

utilities shall be exempt from these regulations.
(Ord. 1333 § 1, (1986); Ord. 1508 § 1, (1994); Ord. 1681 § 3, (2002))

§ 10.40.038. Leaf blowers.

- (a) On and after July 1, 2024, combustion engine powered leaf blowers are prohibited from operation within the city of Burlingame, and all leaf blowers shall be electric powered.
- (b) On and after July 1, 2012, electric powered leaf blowers operated within the city of Burlingame shall only be operated during the times, on the days and in the areas as follows:
 - (1) Area A. Peninsula and Barrolet Drives north to Sanchez and Toyon Drives. Permitted only on Tuesday from 8:00 a.m. to 6:00 p.m.
 - (2) Area B. Sanchez and Toyon Drives north to Adeline and Cambridge Avenues. Permitted only on Friday from 8:00 a.m. to 6:00 p.m.
 - (3) Area C. Adeline and Cambridge Avenues north to Burlingame city limits. Permitted only on Thursday from 8:00 a.m. to 6:00 p.m.

A diagram displaying these times, days and locations is attached to the ordinance codified this section.

It is unlawful to operate a leaf blower during a time, on a day or in an area which is not in conformance with this subsection.

- (c) Exemptions and Exceptions. The restrictions of subsection (b) shall not apply in the following circumstances:
 - (1) Personnel operating electric powered leaf blowers to maintain nonresidential properties east of the Caltrain tracks and north of Toyon Drive and all properties east of Highway 101 between the hours of 8:00 a.m. and 6:00 p.m. every day except Sunday.
 - (2) Residents operating electric powered leaf blowers between the hours of 9:00 a.m. and 2:00 p.m. on Saturday and 10:00 a.m. and 2:00 p.m. on Sunday.
 - (3) Use of electric powered leaf blowers will be allowed to operate between the hours of 8:00 a.m. and 6:00 p.m. on Tuesday and Friday in the following areas:
 - (A) Parcels zoned R-3 and R-4 located in Areas A and B as described in subsection (b) above;
 - (B) Publicly owned parks and landscaped areas as well as public and private schools, under four acres in size.
 - (4) When a designated day for a particular area to use electric powered leaf blowers occurs on a holiday, that area shall be allowed to use electric powered leaf blowers on the next designated weekday for the use of leaf blowers. For example:
 - (A) If the holiday were to fall on a Tuesday, Area A would not be allowed to blow on Tuesday of that week but would be allowed to blow on Thursday of that week.
 - (B) If the holiday were to fall on a Friday, Area B would not be allowed to blow on Friday of that week but would be allowed to blow on Tuesday of the following week.

- (C) If the holiday were to fall on a Thursday, Area C would not be allowed to blow on Thursday of that week but would be allowed to blow on Friday of that week.
- (d) Notwithstanding other provisions in this section and in addition to the hours of operation permitted in this chapter, authorized city employees may operate electric powered leaf blowers as part of their tree trimming or removal activities between the hours of 8:00 a.m. and 6:00 p.m., Monday through Friday, 9:00 a.m. and 2:00 p.m. on Saturday and holidays, and 10:00 a.m. and 2:00 p.m. on Sunday.
- (e) Notwithstanding other provisions in this section, electric powered leaf blowers may be operated on properties greater than four acres in size between the hours of 8:00 a.m. and 6:00 p.m., Monday through Friday, 9:00 a.m. and 2:00 p.m. on Saturday and holidays, and 10:00 a.m. and 2:00 p.m. on Sunday.
- (f) Persons operating electric powered leaf blowers are encouraged to ensure that leaves, dirt and other debris are not blown onto adjoining private or public properties. All leaves, dirt and other debris gathered by the leaf blower should be deposited in appropriate recycling containers.
- (g) Emergencies. During a period of emergency as determined by the city manager, the enforcement of this section may temporarily be suspended.
- (h) Penalty. Any person, including a property owner, who violates any provision of this section shall be guilty of an infraction and shall be subject to a fine in the amount of \$50.

(Ord. 1871 § 3, (2012); Ord. 2023, 2/20/2024)

§ 10.40.039. Loading and unloading limited.

- (a) Standard. It is unlawful to unload, load, open, close, or handle boxes, crates, containers, building materials, or similar objects in such a manner as to cause a noise disturbance across a property line into property located in a residential district between the following hours:
- (1) Between the hours of 10:00 p.m. on a Sunday, Monday, Tuesday, Wednesday, or Thursday and 7:00 a.m. of the following day; and
 - (2) Between the hours of 10:00 p.m. on a Friday and 8:00 a.m. on the following Saturday; and
 - (3) Between the hours of 10:00 p.m. on a Saturday and 8:00 a.m. on the following Sunday; and
 - (4) Between the hours of 10:00 p.m. on a day before a holiday and 8:00 a.m. on the holiday.
- (b) Exceptions. Subsection (a) does not apply to the following so long as the delivery does not cause any louder noise disturbance than necessary:
- (1) An emergency delivery necessary to the health and safety of the occupants of the property to which the delivery is made; or
 - (2) Deliveries of medical equipment or consumable medical supplies that are required for usage during the following 24 hours; or
 - (3) Deliveries of fresh produce to grocery stores or food establishments that are required for usage or sale during the following 24 hours; or
 - (4) Deliveries made at a time required by a permit approved pursuant to Title 25 and made in conformance with that permit approval.

- (5) Collection of solid waste by a city franchisee pursuant to Chapter 8.16 and in conformance with the terms of the franchisee's franchise from the city.

(c) Variance.

- (1) Any person may apply for a variance to subsection (a) by applying in writing to the director of public works. Applications shall be in writing upon such forms, and accompanied by such data, as may be prescribed by the director, so as to assure the full presentation of the facts involved. An application fee shall be required as established by resolution. The application shall contain a description of the property on which the loading or unloading is to occur and the relief sought. The application shall be signed by the applicant and the property owner.
- (2) The director may grant an application for a variance if the director finds all of the following:
- (A) The variance is required because there is no other time of day in which the loading or unloading can occur due to the nature of the delivery and the nature of the use of the property to which the delivery is being made; and
- (B) The increase in ambient L10 noise level shall not be more than five dBA above existing; and
- (C) The proposed loading and unloading will not unreasonably awaken any residents.
- (3) If the director determines to grant the variance application, the director shall condition the approval with those conditions that the director believes are necessary to ensure that the restrictions of subsection (c)(1) above are met including noise monitoring programs, and in any event, shall specify the exact time periods, location, and mode of loading and unloading during which the deliveries may occur. Upon approval, the director shall mail notice of approval of the variance to owners of property within 300 feet of the exterior boundaries of the property to which the deliveries are to be made.

The property owners shall be informed of their right of appeal.

- (4) Appeals from the decision of the director may be made to the planning commission within seven days after the public notice of the action of the director is mailed. Any member of the planning commission or council may request a review of a variance under this section by making such request to the director within seven days of the date of mailing of the public notice. Upon receipt of an appeal, or a request for review by a commissioner or council member, the director shall forward the records on the matter to the planning commission at the earliest available date and cause notice of such hearing to be given as set forth in Chapter 25.16. The planning commission shall consider the matter in the same manner as the standards set for the director. The decision of the director shall be final seven days after the mailing of the public notice of the director's action, if no appeal is filed by any person or if no council member or commissioner requests review of the decision within that time. Any decision of the planning commission under this subsection is subject to appeal under the same process and within the same time periods as set forth in Chapter 25.16.

(Ord. 1677 § 2, (2002); Ord. 1681 § 5, (2002))

§ 10.40.040. Violation deemed nuisance.

Any person, firm or corporation who operates or maintains any machine, device, apparatus or instrument mentioned in, and which is in violation of the provisions of, this chapter shall be deemed to be committing

§ 10.40.040

PUBLIC PEACE, MORALS AND SAFETY

§ 10.40.040

and maintaining a nuisance.
(1941 Code § 1343)

**CHAPTER 10.48
FIREARMS, AIR GUNS, SLINGSHOTS AND FIREWORKS**

§ 10.48.010. Firing or possession of firearms or guns.

Except as otherwise provided in this chapter, it is unlawful for any person to have in his or her possession within the city, or fire or discharge, or cause to be fired or discharged within the city, any firearm, cannon, fireworks (as classified in accordance with Title 19, California Code of Regulations, Division 1, Chapter 6), gun, pistol, revolver, anvil, firecracker or explosive of similar nature, rifle, air rifle, air gun, BB gun or pellet gun.

Except as otherwise provided in this chapter, it is unlawful for any parent, guardian or person having the care, custody or control of any minor to permit such minor to have in his or her possession within this city, or to fire or discharge, or cause to be fired or discharged, within this city, any firearm, cannon, fireworks (as classified in accordance with Title 19, California Code of Regulations, Division 1, Chapter 6), gun, pistol, revolver, anvil, firecracker or explosive of similar nature, rifle, air rifle, air gun, BB gun or pellet gun, all referred to in Section 10.48.020 as firearms.

Safe storage of firearms in a residence required: except when carried on the person, during use for cleaning and maintenance, or during use for lawful self defense, no person shall keep a firearm, as defined in California Penal Code Section 16520, in any residence unless the firearm is stored in a locked container or disabled with a trigger lock or similar mechanism appearing on the California Department of Justice's roster of approved firearm safety devices. Violations of this safe storage requirement shall be enforced under Chapter 1.14 of this code. A suspected violation of this safe storage requirement shall not, on its own, constitute probable cause for entry into a residence by city personnel.

(1941 Code § 1305, Ord. 603, (1955); Ord. 1891 § 1, (2013); Ord. 1968 § 1, (2019))

§ 10.48.020. Exceptions to prohibited firing or possession of firearms or guns.

The provisions of Section 10.48.010 as to the use of any firearms or fireworks mentioned therein shall not apply to any of the following cases:

- (a) To police, peace officers or persons in military service in the discharge of their duties and using reasonable care;
- (b) To persons using firearms in necessary self defense;
- (c) To the possession of such firearms for keeping at the place of residence or business of the person otherwise in lawful possession thereof, or while traveling to or from a legal firing, shooting or target range or hunting ground;
- (d) To the discharging or firing of such firearms or causing them to be discharged or fired, at a legal firing, shooting or target range or hunting ground;
- (e) To cannon or anvils discharged upon occasions of public parades, processions or other public gatherings, after a permit is first obtained from the council pursuant to Section 10.44.030 of this code.

All acts done under the provisions of subsection (e) shall be performed in a careful manner, and the permit granted by the council shall not exempt the permittee from any liability for damage done under such permit to person or property;

- (f) Public displays of fireworks after prior approval by the city council and issuance of a fire permit by the fire department.

(1941 Code § 1306, Ord. 603, (1955); Ord. 1891 § 1, (2013))

§ 10.48.030. Slingshots.

It is unlawful for any person to make use of or have in his or her possession any slingshot or other instrument or device by which missiles of any kind or description are hurled or projected; or in any manner use the same to the danger or annoyance of any person or injury of any property.

(1941 § 1307, Ord. 603, (1955); Ord. 1891 § 1, (2013))

§ 10.48.040. Shooting gallery excepted.

Nothing in this chapter shall be construed so as to prohibit any person from shooting in a licensed shooting gallery.

(1941 Code § 1308, Ord. 603, (1955); Ord. 1891 § 1, (2013))

§ 10.48.050. Projectile weapons—Sale to minors.

- (a) It is unlawful for any person to sell, give, or loan to any person under the age of 18 years any device or instrument capable of launching a non-metallic projectile by or from such a device or instrument with a muzzle or exit velocity of 100 feet per second or faster by any means other than combustion.
- (b) This section does not apply to the transfer of such a device or instrument to a minor by the minor's parent or legal guardian.

(Ord. 1712 § 2, (2003); Ord. 1891 § 1, (2013))

§ 10.48.060. Fireworks—Seizure.

Fire department or police department representatives may seize, remove or cause to be removed at the expense of the owner all stocks of fireworks offered or exposed for sale, stored or held in violation of this code.

(Ord. 1891 § 1, (2013))

**CHAPTER 10.55
REGULATIONS FOR PARK AND RECREATIONAL AREAS**

§ 10.55.005. Definitions.

For purpose of this chapter, the following definitions apply:

"Director" or "director of parks and recreation" means the city director of parks and recreation or the director's authorized designee.

"Park" or "recreation area" means any property, grounds, or facilities under the supervision of the department of parks and recreation. This includes, but is not limited to, city parks, pools, recreation centers, golf center, playgrounds, fields, open spaces, and all parking lots and structures involved in these facilities, and school facilities when scheduled or programmed by the city.

(Ord. 1741 § 2, (2004))

§ 10.55.010. Trespassing prohibited.

- (a) It is unlawful for any person to trespass upon the grounds and facilities of any park or recreational area of the city which are restricted to the exclusive use of such persons as may be permitted thereon by the rules and regulations governing the use thereof by the general public or as may be engaged in the recreational programs of the city, and the employees assigned thereto.
- (b) The city manager or the director of parks and recreation is authorized to have excluded from any park any person violating the provisions of this chapter or any of the rules and regulations. Any person thus excluded who fails to leave the park forthwith, or who thereafter enters therein or thereupon, except with the consent of the city manager or director of parks and recreation, is guilty of a misdemeanor or infraction as determined pursuant to this code.

(Ord. 918 § 1, (1970); Ord. 1741 § 2, (2004))

§ 10.55.015. Hours.

Except as provided in Section 10.55.020, the parks, recreational areas and all facilities located therein, including the parking lots serving the parks and recreational areas, shall be closed to the public between the hours of 9:00 p.m. and 6:00 a.m. the following morning.

In addition to all city owned facilities, the provisions of this section shall also apply to that area known as Wooley Park, located between 150 Anza Boulevard and the entrance to Anza Lagoon, except it shall not apply to the adjacent parking lot or to persons traversing the bayfront pathway between that parking lot and the bridge at Anza Lagoon.

(Ord. 918 § 1, (1970); Ord. 1205 § 1, (1981); Ord. 1515 § 1, (1994); Ord. 1741 § 2, (2004))

§ 10.55.020. Exceptions.

The hours established by Section 10.55.015 hereof shall not apply to:

- (a) The parking lots serving and immediate area of any municipal recreation building during the time the building is being used with permission and for one hour after the closing thereof;
- (b) Any recreation program conducted or authorized by the parks and recreation department and for one hour after the completion thereof.

(Ord. 918 § 1, (1970); Ord. 1741 § 2, (2004))

§ 10.55.025. Use of parks and recreational areas.

It is unlawful for any unauthorized person to use, cross or remain in any park or recreational area and the parking lots adjacent thereto except during the hours such park or recreational area and parking lot is open to the public as provided in Sections 10.55.015 and 10.55.020.

(Ord. 918 § 1, (1970); Ord. 1741 § 2, (2004))

§ 10.55.028. General rules and regulations.

It is unlawful for any person, group, or organization to do any of the following in any city park or recreational area without the express permission of the director of parks and recreation, or the director's authorized designee:

- (a) Open, expose or interfere with any water or gas pipe, hydrant, stopcock, sewer, basin or other construction, or any natural or artificial drainage;
- (b) Remove turf, soil, grass, rock, sand or gravel, tree, shrub or wood or portion thereof;
- (c) Make or kindle a fire for any purpose, except in places provided therefor or in a portable barbecue in an area designated for such purpose;
- (d) Play or practice golf or archery or fly or operate motor-driven models, except in areas specifically designated and posted for such purposes;
- (e) Take into, exhibit or use any firearm, air gun, slingshot, firecracker, torpedo, rocket or weapon of any sort, whether manufactured or improvised. This prohibition includes the use of any item or utensil in such a manner as to approximate a weapon or to cast fear into another;
- (f) Cut, break, injure, deface or disturb any tree, shrub, plant, rock, building, cage, pen, monument, fence, bench, path, walk or other structure, apparatus or property, or mark or write thereon;
- (g) Practice, carry on, conduct or solicit for any trade, occupation, business or profession without a permit therefor endorsed by the director of parks and recreation;
- (h) Sell or offer for sale, any merchandise, article or thing, whatsoever, without a permit therefor endorsed by the director of parks and recreation;
- (i) Use or attempt to use or interfere with the use of any table, space or facility which at the time is reserved for any other person or group;
- (j) Enter any area which is posted by the city as being closed to the public;
- (k) Operate or park any vehicle except upon areas designated or as may be permitted by the director of parks;
- (l) Place litter or debris elsewhere than in container designed to receive such litter or debris;
- (m) Play any game of chance or carry on betting of any kind;
- (n) Fish, wade, swim or bathe except in the places designated therefor;
- (o) Set up or use a volleyball net so as to exceed a maximum of two such nets in a park at any time;
- (p) Have in his or her possession or control any exotic animal, as defined by Section 9.08.050 of this code, regardless of size, or to release any such animal in a park or recreational area;

- (q) Operate any of the following equipment, without express written permit from the director of parks and recreation:
- (1) Generator for producing electrical voltage, or
 - (2) Sound amplification equipment, or
 - (3) Any radio or sound reproduction equipment which causes any noise that disturbs the peace and quiet of the neighborhood or other users of the park or facility, or
 - (4) Inflatable play equipment, such as astro-jumps and similar items, or
 - (5) Batting machines, except on designated lighted ballfields between the hours of 9:00 a.m. and 9:00 p.m. on Mondays through Saturdays and between 10:00 a.m. and 9:00 p.m. on Sundays, and on designated unlighted ballfields between the hours of 9:00 a.m. and dusk on Mondays through Saturdays and between 10:00 a.m. and dusk on Sundays. However, for Ray Park on Sundays, batting machines are only permitted on the designated ballfields between 11:00 a.m. and 5:00 p.m.;
- (r) Gather in groups of 15 persons or more without specific written permission from the director of parks and recreation in the following locations:
- (1) Cuernavaca Park at any time, or
 - (2) Village Park on weekdays between 10:00 a.m., and 3:00 p.m., or
 - (3) Pershing Park on weekdays between 10:00 a.m. and 3:00 p.m.;
- (s) Engage in any activity involving batted balls in any park or recreational area, except on a designated ballfield at Bayside Park, Cuernavaca Park, Ray Park, or Washington Park;
- (t) Possess, serve or sell alcoholic beverages at any park or recreational area, except by the city's authorized golf center operator at the Burlingame Golf Center; or
- (u) Allow dogs in or around any playground as designated by the surface material at the playground equipment in Cuernavaca Park, Pershing Park, Ray Park, Trenton Park, Victoria Park, Village Park, or Washington Park, or as designated by the fenced area surrounding the City's tot lots at Alpine Park, "J" Lot, Laguna Playground and Paloma Playground.

(Ord. 1741 § 2, (2004))

§ 10.55.030. Additional rules and regulations.

In addition to the general rules and regulations contained in this chapter, the director of parks and recreation may propose and submit to the parks and recreation commission for approval, rules and regulations governing the administration, operation, use and maintenance of each park and recreational area, provided that such rules and regulations are consistent with the provisions of this chapter. The approval of such rules and regulations shall be acted on at a duly noticed public meeting of the commission, and council shall be provided notice by the director of parks and recreation of the upcoming commission agenda item. If the commission declines to approve or modifies proposed rules or regulations, the director of parks and recreation may seek review by the council by notifying the city clerk in writing within 10 calendar days of the commission's action. Additionally, any member of the city council who wishes to do so may call up the commission's action for review by notifying the city clerk in writing within 10 calendar days of the commission's action. If no such review has been initiated, the rules and regulations as approved by the

commission shall go into effect on the eleventh (11th) day following the commission's action.
(Ord. 1962 § 1, (2019))

§ 10.55.035. Enforcement of rules and regulations.

- (a) It is unlawful for any person, group, or organization to violate any rule or regulation adopted pursuant to Sections 10.55.030 of this chapter.
- (b) In addition to the other remedies provided by this code and state law, the city manager or the director of parks and recreation may suspend the privilege of a person, group, or organization that violates the provisions of this chapter or the terms and conditions of any permit issued pursuant to this chapter to obtain any further permit for use of any park or recreational area for such time as the manager or director determines is an appropriate suspension. Any person, group, or organization whose privilege is suspended under this subsection may appeal the suspension to the city council by filing a written appeal together with an appeal fee with the city clerk within 10 days of the written notice of suspension. The city council will then hear the appeal within a reasonable period of time and render a decision on the suspension. The decision of the city council shall be final and conclusive.

(Ord. 918 § 1, (1970); Ord. 1380 § 1, (1988); Ord. 1493 § 1, (1993); Ord. 1741 § 2, (2004))

§ 10.55.040. Special events and group use.

The city manager and the director of parks and recreation shall provide a permit process for group reservations of park areas and recreational areas, special events, and circumstances not covered by this chapter or the rules and regulations. In so doing the city manager or director shall ensure that the parks and recreational areas are available and provided for the comfort and convenience of all.

(Ord. 918 § 1, (1970); Ord. 1741 § 2, (2004))

§ 10.55.045. Closing parks and recreational areas.

The city manager or the director of parks and recreation may close any park or recreational area and remove all persons therefrom when in his judgment such closing will best preserve the public peace, prevent damage to public property or quell riots, mobs or violence. The city manager or the director may also cause any and all persons whose presence on the premises is disruptive to the normal and safe use and enjoyment thereof by the greatest number of people to be removed.

(Ord. 918 § 1, (1970); Ord. 1741 § 2, (2004))

CHAPTER 10.58 ADULT-ORIENTED BUSINESSES

§ 10.58.010. Legislative purpose.

It is the purpose of this chapter to regulate adult-oriented businesses in order to promote the health, safety, morals, and general welfare of the citizens of the city. The provisions of this chapter have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including adult-oriented materials. Similarly, it is not the intent nor effect of this chapter to restrict or deny access by adults to adult-oriented materials protected by the First Amendment of either the State or Federal Constitution, or to deny access by the distributors and exhibitors of adult-oriented entertainment to their intended market. Neither is it the intent nor effect of this chapter to condone or legitimize in any way the distribution of obscene material.

(Ord. 1727 § 3, (2004))

§ 10.58.015. Definitions.

For the purpose of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Adult-oriented businesses. "Adult-oriented businesses" or "Adult-oriented business" means any one of the following, or combination thereof:

Adult arcade. "Adult arcade" means an establishment where, for any form of consideration, one or more still or motion picture projectors, or similar machines, for viewing by five or fewer persons each, are used to show films, computer generated images, motion pictures, video cassettes, slides or other photographic reproductions 30% or more of the number of which are distinguished or characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas; or

Adult bookstore. "Adult bookstore" means an establishment that has 30% or more of its stock in books, magazines, periodicals or other printed matter, or of photographs, films, motion pictures, video cassettes, slides, tapes, records, disks, or other forms of visual or audio representations which are distinguished or characterized by an emphasis upon the depiction or description of specified sexual activities and/or specified anatomical areas; or

Adult cabaret. "Adult cabaret" means a nightclub, restaurant, or similar business establishment that:

- (A) Regularly features live performances which are distinguished or characterized by an emphasis upon the display of specified anatomical areas or specified sexual activities; or
- (B) Regularly features persons who appear semi-nude; or
- (C) Shows films, computer generated images, motion pictures, video cassettes, slides, or other photographic or graphic reproductions 30% or more of the number of which are distinguished or characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas; or

Adult hotel/motel. "Adult hotel/motel" means a hotel or motel or similar business establishment offering public accommodations for any form of consideration that:

- (A) Provides patrons with closed-circuit television transmissions, films, computer generated images, motion pictures, video cassettes, slides, or other photographic reproductions 30%

or more of the number of which are distinguished or characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas; and

- (B) Rents, leases, or lets any room for less than a six hour period, or rents, leases, or lets any single room more than twice in a 24-hour period; or

~~Adult~~ motion picture theater. "Adult motion picture theater" means a business establishment where for any form of consideration, films, computer generated images, motion pictures, video cassettes, slides or similar photographic reproductions are shown, and 30% or more of the number of which are distinguished or characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas; or

~~Adult~~ theater. "Adult theater" means a theater, concert hall, auditorium, or similar establishment that for any form of consideration, regularly features live performances which are distinguished or characterized by an emphasis on the display of specified anatomical areas or specified sexual activities; or

~~Modeling~~ studio. "Modeling studio" means a business that provides, for pecuniary compensation, monetary or other consideration, hire or reward, figure models who, for the purposes of sexual stimulation of patrons, display "specified anatomical areas" to be observed, sketched, photographed, painted, sculpted or otherwise depicted by persons paying such consideration. "Modeling studio" does not include schools maintained pursuant to standards set by the State Board of Education. "Modeling studio" further does not include a studio or similar facility owned, operated, or maintained by an individual artist or group of artists, and which does not provide, permit, or make available "specified sexual activities."

Adult material. "Adult material" means books, magazines, periodicals, or other printed matter, or photographs, films, motion pictures, video cassettes, slides, tapes, records, disks, or other forms of visual or audio representations which are distinguished or characterized by an emphasis upon the depiction or description of specified sexual activities and/or specified anatomical areas.

Adult-oriented business operator or operator. "Adult-oriented business operator" or "operator" means a person who supervises, manages, inspects, directs, organizes, controls or in any other way is responsible for or in charge of the premises of an adult-oriented business or the conduct or activities occurring on the premises thereof.

Adult-oriented business performer or performer. "Adult-oriented business performer" or "performer" means a person who, with or without compensation, publicly performs specified sexual activities or publicly displays specified anatomical parts in adult-oriented businesses.

Applicant. "Applicant" means a person who is required to file an application for a permit under this chapter, including an individual owner, managing partner, officer of a corporation, or any other operator, manager, employee, or agent of an Adult-Oriented Business.

Bar. "Bar" means any commercial establishment licensed by the State Department of Alcoholic Beverage Control to serve any alcoholic beverages on the premises.

Chief of police. "Chief of police" means the chief of police of the city or the chief's authorized representative.

Distinguished or characterized by an emphasis upon. "Distinguished or characterized by an emphasis upon" shall mean and refer to the dominant or essential theme of the object described by the phrase. For example, when the phrase refers to films that are "distinguished or characterized by an emphasis upon" the depiction or description of specified sexual activities or specified anatomical areas, the films so described are those

whose dominant or predominant character and theme are the depiction of the enumerated sexual activities or anatomical areas.

Entertainer. "Entertainer" means any person who is an employee or independent contractor of the adult-oriented business, or any person who, with or without any compensation or other form of consideration, performs live entertainment for patrons of an adult-oriented business. The term "entertainer" also includes all adult-oriented business performers.

Figure model. The term "figure model" means any person who, for pecuniary compensation, consideration, hire or reward, poses in a modeling studio to be observed, sketched, painted, drawn, sculptured, photographed or otherwise depicted.

Health officer. "Health officer" means the chief of police of the city or his or her duly authorized representative.

Nudity or a state of nudity. "Nudity" or a "state of nudity" means the showing of the human male or female genitals, pubic area, or buttocks with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering of any part of the nipple, or the showing of the covered male genitals in a discernible turgid state.

Operate an adult-oriented business. "Operate an adult-oriented business" means the supervising, managing, inspecting, directing, organizing, controlling or in any way being responsible for or in charge of the conduct of activities of an adult-oriented business or activities within an adult-oriented business.

Person. "Person" means any individual, partnership, co-partnership, firm, association, joint stock company, corporation, or combination of the above in whatever form or character.

Regularly features. "Regularly features" with respect to an adult theater, adult motion picture theater, or adult cabaret means a regular and substantial course of conduct. The fact that live performances which are distinguished or characterized by an emphasis upon the display of specified anatomical areas or specified sexual activities occurs on two or more occasions within a 30 day period; three or more occasions within a 60 day period; or four or more occasions within a 180 day period, shall to the extent permitted by law be deemed to be a regular and substantial course of conduct.

Semi-nude. "Semi-nude" means a state of dress in which clothing covers no more than the genitals, pubic region, buttocks, areola of the female breast, as well as portions of the body covered by supporting straps or devices.

Specified anatomical areas. "Specified anatomical areas" means any of the following:

- (i) Less than completely and opaquely covered human (A) genitals or pubic region; (B) buttocks; or (C) female breast below a point immediately above the top of the areola; or
- (ii) Human male genitals in a discernibly turgid state, even if completely and opaquely covered; or
- (iii) Any device, costume or covering that simulates any of the body parts included in subsection (i) or (ii) above.

Specified sexual activities. "Specified sexual activities" means any of the following, whether performed directly or indirectly through clothing or other covering:

- (i) The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breast; or
- (ii) Sex acts, actual or simulated, including intercourse, oral copulation, or sodomy; or
- (iii) Masturbation, actual or simulated; or

- (iv) Excretory functions as part of or in connection with any of the other activities described in subdivision (i), (ii), or (iii) of this subsection.

(Ord. 1727 § 3, (2004))

§ 10.58.020. Permits required.

- (a) It is unlawful for any person to engage in, conduct or carry on, or to permit to be engaged in, conducted or carried on, in or upon any premises in the city, the operation of an adult-oriented business unless the person first obtains and continues to maintain in full force and effect an adult-oriented business regulatory permit ("business permit") from the city as required by this chapter.
- (b) It is unlawful for any person to engage in or participate in any live performance depicting specified anatomical areas or involving specified sexual activities in an adult-oriented business unless the person first obtains and continues in full force and effect an adult-oriented business performer permit ("performer permit") from the city as required by this chapter.

(Ord. 1727 § 3, (2004))

§ 10.58.025. Adult-oriented business regulatory permit application submittal.

Any person who proposes to maintain, operate, or conduct an adult-oriented business in the city shall file an original and two copies of an application with the chief of police upon a form provided by the city and shall pay a filing fee, as established by resolution adopted by the city council from time to time, which shall not be refundable.

(Ord. 1727 § 3, (2004))

§ 10.58.030. Application contents.

- (a) Adult-oriented business regulatory permits are nontransferable, except in accordance with Section 10.58.045. All applications shall include the following information:
- (1) If the applicant is an individual, the individual shall state his or her legal name, including any aliases, address, and submit satisfactory written proof that he or she is at least 18 years of age.
 - (2) If the applicant is a partnership, the partners shall state the partnership's complete name, address, the names of all partners, whether the partnership is general or limited, and attach a copy of the partnership agreement, if any.
 - (3) If the applicant is a corporation, the corporation shall provide its complete name, the date of its incorporation, evidence that the corporation is in good standing under the laws of its state of incorporation, the names and capacity of all officers and directors, the name of the registered corporate agent and the address of the registered office for service of process.
- (b) If the applicant is an individual, he or she shall sign the application. If the applicant is other than an individual, a duly authorized officer of the business entity or an individual with a 10% or greater interest in the business entity shall sign the application.
- (c) If the applicant intends to operate the adult-oriented business under a name other than that of the applicant, the applicant shall file the fictitious name of the adult-oriented business and show proof of registration of the fictitious name.
- (d) A description of the type of adult-oriented business for which the business permit is requested and the proposed address where the adult-oriented business will operate, plus the names and addresses of

the owners and/or lessors of the adult-oriented business site.

- (e) The address to which notice of action on the application and all further notices regarding the application or permit are to be mailed.
- (f) The names of all employees, independent contractors, and other persons who will perform at the adult-oriented business, who are required by Section 10.58.020 to obtain an adult-oriented business performer permit.
- (g) A sketch or diagram showing the interior configuration of the premises, including a statement of the total floor area occupied by the adult-oriented business. The sketch or diagram need not be professionally prepared, but must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches.
- (h) A certificate and straight-line drawing prepared within 30 days prior to the application that depicts the geographic location of the adult-oriented business with the following:
 - (1) The building and the portion thereof to be occupied by the adult-oriented business; and
 - (2) The property lines of any other adult-oriented business within 1,000 feet of the primary entrance of the adult-oriented business for which the business permit is being requested; and
 - (3) The property lines of any school, athletic field, residential zone, or residential use within 1,000 feet of the primary entrance of the adult-oriented business for which the business permit is being requested.
- (i) A diagram of the off-street parking areas and premises entries of the adult-oriented business, including the location of the lighting systems required by Section 10.58.070 below.
- (j) If the chief of police determines that the application is incomplete, the chief of police shall promptly notify the applicant of such a fact and, on request of the applicant, grant the applicant an extension of time of 10 days or less to complete the application properly. In addition, the applicant may request an extension, not to exceed 10 days, of the time for the chief of police to act on the application. The time period for granting or denying a business permit shall be stayed during the period in which the applicant is granted an extension of time.
- (k) The fact that an applicant possesses other types of federal, state, or city permits, licenses, or other approvals does not exempt the applicant from the requirement of obtaining an adult-oriented business regulatory permit under this chapter.

(Ord. 1727 § 3 (2004); Ord. 1757 § 2, (2005))

§ 10.58.035. Investigation and action on application.

- (a) Upon receipt of a completed application and payment of the application and permit fees, the chief of police shall immediately stamp the application as received and promptly investigate the information contained in the application to determine whether the applicant shall be issued an adult-oriented business regulatory permit.
- (b) Within 30 days of receipt of the completed application, the chief of police shall complete the investigation, grant or deny the application in accordance with the provisions of this section, and so notify the applicant as follows:
 - (1) The chief of police shall write or stamp "Granted" or "Denied" on the application and date and

- sign such notation.
- (2) If the application is denied, the chief of police shall attach to the application a statement of the reasons for denial.
- (3) If the application is granted, the chief of police shall attach to the application an adult-oriented business regulatory permit.
- (4) The application as granted or denied and the business permit, if any, shall be placed in the United States mail, first class postage prepaid, addressed to the applicant at the address stated in the application.
- (c) The chief of police shall grant the application and issue the adult-oriented business regulatory permit if the chief finds:
- (1) The proposed business meets the locational criteria of Chapter 25.76; and
- (2) The applicant has met all of the development and performance standards and requirements of Section 10.58.070 below; and
- (3) The application is not otherwise denied pursuant to Section 10.58.040 below. The permittee shall post the business permit conspicuously in the adult-oriented business premises.
- (d) If the chief of police grants the application or if the chief neither grants nor denies the application within 30 days after it is stamped as received (except as provided in Section 10.58.030), the applicant may begin operating the adult-oriented business for which the business permit was sought, subject to strict and continuous compliance with the development and performance standards and requirements of this chapter.

(Ord. 1727 § 3 (2004))

§ 10.58.040. Permit denial.

The chief of police shall deny the application if the chief finds any of the following:

- (a) The building, structure, equipment, or location used by the business for which an adult-oriented business regulatory permit is required does not comply with the requirements and standards of the health, zoning, fire and safety laws of the city as set forth in this code, San Mateo County, or the state of California; or
- (b) The applicant or the applicant's employee, agent, partner, director, officer, shareholder or manager has knowingly made any false, misleading or fraudulent statement of material fact in the application for an adult business regulatory permit; or
- (c) The applicant is under 18 years of age; or
- (d) The required application fee has not been paid; or
- (e) The adult-oriented business does not comply with the locational standards of Chapter 25.76 of this code; or
- (f) The adult-oriented business does not comply with the performance standards and requirements of these regulations.

(Ord. 1727 § 3, (2004))

§ 10.58.042. Permit expiration and renewal.

- (a) Each adult-oriented business regulatory permit shall expire one year from the date of issuance, and may be renewed only by filing with the chief of police a written request for renewal, accompanied by the annual permit fee and a copy of the permit to be renewed. The written request for renewal shall update all information contained in the original application, such as additional performers.
- (b) The request for renewal shall be made at least 30 days before the expiration date of the business permit. When made less than 30 days before the expiration date, the expiration of the business permit will not be stayed.
- (c) Applications for renewal shall be acted on as provided herein for action upon applications for permits. (1727 § 3, (2004))

§ 10.58.045. Transfer of adult-oriented business regulatory permits.

- (a) A permittee shall not operate an adult-oriented business under the authority of an adult-oriented business regulatory permit at any place other than the address of the adult-oriented business as stated in the permit approved by the chief of police.
- (b) A permittee shall not transfer ownership or control of an adult-oriented business or transfer an adult-oriented business regulatory permit to another person unless and until the transferee obtains an amendment to the business permit from the chief of police stating that the transferee is now the permittee. To apply for such an amendment, the permittee and the transferee shall file an application for transfer in the form and containing the information described in Section 10.58.030 above together with the signature of the permittee and accompanied by a transfer fee in an amount set by resolution of the city council. The amendment application shall be processed and reviewed by the chief of police in accordance with Sections 10.58.030 to 10.58.040 as if the transferee were applying for an original business permit.
- (c) No business permit may be transferred when the chief of police has notified the permittee in writing that the permit has been suspended or revoked.
- (d) Any attempt to transfer a permit either directly or indirectly in violation of this section is hereby declared void, and the business permit shall be deemed revoked.

(Ord. 1727 § 3, (2004))

§ 10.58.048. Adult-oriented business performer permit required.

- (a) No person shall engage in or participate in any live performance depicting specified anatomical areas or involving specified sexual activities in an adult-oriented business, without a valid adult-oriented business performer permit ("performer permit") issued by the city.
- (b) No operator shall employ or allow a performance at an adult-oriented business by any person as a performer or entertainer who is required to obtain a performer permit under this chapter unless that performer or entertainer has first obtained approval of a performer permit pursuant to this chapter.
- (c) Any person who has been issued an adult-oriented business regulatory permit pursuant to this chapter shall promptly supplement the information provided as part of the application for the adult-oriented business permit required by this chapter with the name of each performer required to obtain a performer permit pursuant to this chapter within 30 days of any change in the information originally submitted. Failure to submit such changes within this time period shall be grounds for suspension of

the adult-oriented business regulatory permit, and if the failure is repeated, shall be grounds for revocation of the permit.

(Ord. 1727 § 3, (2004))

§ 10.58.050. Adult-oriented business performer permit process.

- (a) Any person who wishes to be an adult-oriented business performer in the city shall file an original and two copies of an application with the chief of police upon a form provided by the city and shall pay a filing fee, as established by resolution adopted by the city council from time to time, which shall not be refundable.
- (b) The completed application shall contain the following information and be accompanied by the following documents:
 - (1) The applicant's legal name and any other names (including "stage names" and aliases) used by the applicant; and
 - (2) Age, date and place of birth; and
 - (3) Height, weight, hair and eye color; and
 - (4) Present residence address and telephone number; and
 - (5) Whether the applicant has ever been convicted:
 - (i) Any of the offenses set forth in Sections 243.4, 266a, 266b, 266c, 266e, 266f, 266g, 266h, 266i, 266j, 267, 311.10, 311.11, 313.1, 314, 315, 316, 647(a), 647(b), 647(d), 653.22 and 653.23 of the California Penal Code as those sections now exist or may hereafter be amended or renumbered; or
 - (ii) The equivalent of the aforesaid offenses outside the State of California; and
 - (6) Whether such applicant is or has ever been licensed or registered as a prostitute, or otherwise authorized by the laws of any other jurisdiction to engage in prostitution in such other jurisdiction. If the applicant has ever been licensed or registered as a prostitute, or otherwise authorized by the laws of any other state to engage in prostitution, a statement shall be submitted giving the place of such registration, licensing or legal authorization, and the inclusive dates during which such person was so licensed, registered, or authorized to engage in prostitution; and
 - (7) Driver's license number or other identification number; and
 - (8) Satisfactory written proof that the applicant is at least 18 years of age; and
 - (9) The applicant's fingerprints on a form provided by the police department, and a color photograph clearly showing the applicant's face. Any fees for the photographs and fingerprints shall be paid by the applicant.
- (c) If the chief of police determines that the application is incomplete, the chief of police shall promptly notify the applicant of such a fact and, on request of the applicant, grant the applicant an extension of time of 10 days or less to complete the application properly. In addition, the applicant may request an extension, not to exceed 10 days, of the time for the chief of police to act on the application. The time period for granting or denying a performer permit shall be stayed during the period in which the applicant is granted an extension of time.

- (d) The fact that an applicant possesses other types of federal, state, or city permits, licenses, or other approvals does not exempt the applicant from the requirement of obtaining an adult-oriented business performer permit under this chapter.

(Ord. 1727 § 3, (2004))

§ 10.58.055. Investigation and action on application.

- (a) Within 10 days after receipt of the properly completed application for a performer permit, the chief of police shall grant or deny the application and so notify the applicant as follows:
- (1) The chief of police shall write or stamp "Granted" or "Denied" on the application and date and sign such notation.
 - (2) If the application is denied, the chief of police shall attach to the application a statement of the reasons for denial.
 - (3) If the application is granted, the chief of police shall attach to the application an adult-oriented business performer permit.
 - (4) The application as granted or denied and the permit, if any, shall be placed in the United States mail, first class postage prepaid, addressed to the applicant at the residence address stated in the application.
- (b) The chief of police shall grant the application and issue the performer permit unless the application is denied for one or more of the reasons set forth in subsection (d) below.
- (c) If the chief of police grants the application or if the Chief of police neither grants nor denies the application within five business days after it is stamped as received (except as provided in Section 10.58.050), the applicant may begin performing in the capacity at the business for which the performer permit was sought.
- (d) The chief of police shall deny the application if the chief finds any of the following:
- (1) The applicant has knowingly made any false, misleading, or fraudulent statement of a material fact in the application for a permit or in any report or document required to be filed with the application; or
 - (2) The applicant is under 18 years of age; or
 - (3) The performer permit is to be used for performing in a business prohibited by State, County, or city law; or
 - (4) The applicant has been registered or licensed in any state or country as a prostitute during the last five years; or
 - (5) The applicant has been convicted of any of the offenses enumerated in Section 10.58.050 above or convicted of an offense outside the State of California that would have constituted any of the described offenses if committed within the State of California. However, a performer permit may be issued to any person convicted of the described crimes if the conviction occurred more than five years prior to the date of the application and the applicant has successfully completed all terms and conditions of the offense's probation or parole and is no longer on probation or parole.

(Ord. 1727 § 3, (2004))

§ 10.58.057. Expiration and renewal of performer permit.

- (a) Each performer permit shall expire one year from the date of issuance, and may be renewed only by filing with the chief of police a written request for renewal, accompanied by the annual permit fee and a copy of the permit to be renewed. The written request for renewal shall update all information contained in the original application.
- (b) The request for renewal shall be made at least 30 days before the expiration date of the performer permit. When made less than 30 days before the expiration date, the expiration of the performer permit will not be stayed.
- (c) Applications for renewal shall be acted on as provided herein for action upon applications for permits. (Ord. 1727 § 3, (2004))

§ 10.58.060. Suspension or revocation of adult-oriented business regulatory permits and adult-oriented business performed permits.

- (a) An adult-oriented business regulatory permit or performer permit may be suspended or revoked in accordance with the procedures and standards of this section.
- (b) On determining that grounds for permit suspension or revocation exist, the chief of police shall furnish written notice of the proposed suspension or revocation to the permittee. Such notice shall set forth the time and place of a hearing, and the ground or grounds upon which the hearing is based, the pertinent code sections, and a brief statement of the factual matters in support thereof. The notice shall be mailed, postage prepaid, addressed to the address of the permittee on file with the chief of police, or shall be delivered to the permittee personally, at least 10 days prior to the hearing date. Hearings shall be conducted in accordance with procedures established by the chief of police, but at a minimum shall include the following:
 - (1) All parties involved shall have a right to offer testimonial, documentary, and tangible evidence bearing on the issues; may be represented by counsel; and shall have the right to confront and cross-examine witnesses.
 - (2) Any relevant evidence may be admitted that is the sort of evidence upon which reasonable persons are accustomed to rely in the conduct of serious affairs.
 - (3) Any hearing under this section may be continued for a reasonable time for the convenience of a party or a witness as determined by the chief of police.
- (c) A permittee may be subject to suspension or revocation of the permit, or be subject to other appropriate regulatory action, for any of the following causes arising from the acts or omissions of a business regulatory permittee, or an employee, agent, partner, director, stockholder, or manager of the permittee business:
 - (1) The permittee has knowingly made any false, misleading or fraudulent statement of material facts in the application for a permit, or in any report or record required to be filed with the city or County of San Mateo; or
 - (2) The permittee, employee, agent, partner, director, stockholder, or manager of the permittee adult-oriented business has knowingly allowed or permitted, and has failed to make a reasonable effort to prevent the occurrence of any of the following on the premises of the adult-oriented Business, or in the case of an adult-oriented business performer, the permittee has engaged in one of the activities described below while on the premises of an adult-oriented business:

- (A) Any act of unlawful sexual intercourse, sodomy, oral copulation, or masturbation; or
 - (B) Use of the establishment as a place where unlawful solicitations for sexual intercourse, sodomy, oral copulation, or masturbation openly occur; or
 - (C) Any conduct constituting a criminal offense which requires registration under Section 290 of the California Penal Code; or
 - (D) The occurrence of acts of lewdness, assignation, or prostitution, including any conduct constituting violations of Sections 315, 316, or 318 or Subdivision b of Section 647 of the California Penal Code; or
 - (E) Any act constituting a violation of provisions in the California Penal Code relating to obscene matter or distribution of harmful matter to minors, including, but not limited to, Sections 311 through 313.4; or
 - (F) Any conduct prohibited by this chapter; or
- (3) Failure to comply with any condition imposed on the permittee related to use of the business permit or performer permit by government action whether under this chapter or another provision of federal, state, county, or city law, ordinance, or regulation.
- (d) After holding the hearing in accordance with the provisions of this section, if the chief of police finds and determines that there are grounds for disciplinary action, the chief of police shall impose one of the following as measured by the chief against the severity, longevity, and repetition of the violations:
 - (1) A warning; or
 - (2) Imposition of conditions that directly relate to and correct the violations involved; or
 - (3) Suspension of the permit for a specified period not to exceed six months; or
 - (4) Revocation of the permit.

The chief may combine a suspension with imposition of conditions as the chief may determine is appropriate. The chief's decision is final unless timely appealed pursuant to section 10.58.065.

(Ord. 1727 § 3, (2004))

§ 10.58.065. Appeal of denial, suspension or revocation.

- (a) Upon denial of an application for an adult-oriented business regulatory permit or a performer permit, or after denial of renewal of such a permit, or after suspension or revocation of such a permit, the applicant or the permittee may seek review of this administrative action within 15 days after notice thereof by filing with the city clerk a written notice of appeal.
- (b) To be effective, the notice of appeal shall briefly state the grounds relied upon for appeal.
- (c) The city clerk shall cause the matter to be set for hearing before the city manager within 15 days from the date of receipt of the notice of appeal, giving the appellant not less than five working days' notice in writing of the time and place of hearing.
- (d) The hearing before the city manager shall be conducted in the same manner as the hearing provided pursuant to section 10.58.060 above, and the city manager affirm, modify, or reverse the decision of

the chief of police. The findings and determination of the city manager made following this hearing shall be final and conclusive. Within five working days after the hearing, the city manager shall give written notice of the manager's findings and decision.

- (e) If the denial, suspension or revocation is affirmed on review, the applicant or permittee may seek prompt judicial review of such administrative action pursuant to California Code of Civil Procedure Section 1094.5. The city shall make all reasonable efforts to expedite judicial review if sought by the applicant or permittee.

(Ord. 1727 § 3, (2004))

§ 10.58.070. Adult-oriented business development and performance standards.

The following provisions apply to all adult-oriented businesses unless otherwise specified, and shall be deemed conditions of any approved adult-oriented business regulatory permit. Failure to comply with these requirements shall be grounds for revocation of an adult-oriented business permit:

- (a) Maximum occupancy load, fire exits, aisles and fire equipment shall be regulated, designed and provided in accordance with the fire code and building regulations and standards adopted by the city.
- (b) No adult-oriented business shall be operated in any manner that permits the observation of any material or activities depicting, describing or relating to specified sexual activities or specified anatomical areas from any public way or from any location outside the building or area of such establishment. This provision shall apply to any display, decoration, sign, show window, or other opening. No exterior door or window on the premises shall be propped or kept open at any time while the business is open, and any exterior windows shall be covered with opaque covering at all times.
- (c) All off-street parking areas and premises entries of the adult-oriented business shall be illuminated from dusk to closing hours of operation with a lighting system that provides an average horizontal illumination of one foot candle of light is maintained on the parking surface and walkways. The required lighting level is established in order to provide sufficient illumination of the parking areas and walkways serving the adult-oriented business for the personal safety of patrons and employees and to reduce the incidence of vandalism and criminal conduct. The lighting shall be shown on the required sketch or diagram of the premises.
- (d) The premises within which the adult-oriented business is located shall provide sufficient sound-absorbing insulation so that noise generated inside said premises shall not be audible anywhere on any adjacent property or public right-of-way or within any other building or other separate unit within the same building.
- (e) Except for those businesses also regulated by the California Department of Alcoholic Beverage Control, an adult-oriented business shall be open for business only between the hours of 8:00 a.m. and 12:00 a.m. on any particular day.
- (f) The building entrance to an adult-oriented business shall be clearly and legibly posted with a notice indicating that persons under 18 years of age are precluded from entering the premises. This notice shall be constructed and posted to the satisfaction of the chief of police or designee. No person under the age of 18 years shall be permitted within the premises at any time. The permittee may elect to restrict entry to persons of greater ages than 18 years, particularly if other laws or regulations require such a restriction, and shall legibly post the restrictions in accordance with this subsection.
- (g) All indoor areas of the adult-oriented business within which patrons are permitted, except rest rooms, shall be open to view by the management at all times.

(h) Any adult-oriented business that is also or includes an adult arcade, shall comply with the following provisions:

- (1) The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose, excluding restrooms. Restrooms may not contain video reproduction equipment. If the premises has two or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one of the manager's stations. The view required in this subsection must be direct line of sight from the manager's station; and
 - (2) The view area specified in this section shall remain unobstructed by any doors, walls, merchandise, display racks, or other materials at all times. No patron is permitted access to any area of the premises that has been designated as an area in which patrons will not be permitted; and
 - (3) No viewing room may be occupied by more than one person at any one time; and
 - (4) The walls or partitions between viewing rooms or booths shall be maintained in good repair at all times, with no holes between any two such rooms such as would allow viewing from one booth into another or such as to allow physical contact of any kind between the occupants of any two such booths or rooms; and
 - (5) Customers, patrons, or visitors shall not be allowed to stand idly by in the vicinity of any such video booths, or to remain in the common area of such business, other than the restrooms, who are not actively engaged in shopping for or reviewing the products available on display for purchaser viewing. Signs prohibiting loitering shall be posted in prominent places in and near the video booths; and
 - (6) The floors, seats, walls and other interior portions of all video booths shall be maintained clean and free from waste and bodily secretions. Presence of human excrement, urine, semen or saliva in any such booths shall be evidence of improper maintenance and inadequate sanitary controls; repeated instances of such conditions are grounds for suspension or revocation of the adult-oriented business Permit.
- (i) All interior areas of the adult-oriented business shall be illuminated at a minimum of the following footcandles, minimally maintained and evenly distributed at ground level:

Area	Foot-Candles
Bookstores and other retail establishments	20
Theaters and cabarets	5 (except during performances, at which times lighting shall be at least 1.25 foot-candles)
Arcades	10
Motels/Hotels	20 (in public areas)
Modeling studios	20

- (j) The adult-oriented business shall provide and maintain separate rest room facilities for male patrons,

customers, visitors, and employees and for female patrons, customers, visitors, and employees. Male patrons, customers, visitors, and employees shall be prohibited from using the rest rooms designated for females, and female patrons, customers, visitors, and employees shall be prohibited from using the rest rooms for males, except to carry out duties of repair, maintenance, and cleaning of the rest room facilities. The rest rooms shall be free from any adult material. Rest rooms shall not contain television monitors or other motion picture or video projection, recording, or reproduction equipment. The provisions of this subsection (k) shall not apply to an adult-oriented business that exclusively sells or rents adult material that is not used or consumed on the premises, such as an adult bookstore or adult video store, and that does not provide rest room facilities to its patrons, customers, visitors, or the general public.

- (k) The following additional requirements apply to adult-oriented businesses providing live entertainment depicting specified anatomical areas or involving specified sexual activities. These provisions are not intended to conflict but only to supplement regulations or conditions applied by the State Alcohol Beverage Control Commission when such regulations or conditions are applied to the business:
- (1) No entertainer shall perform live entertainment for patrons of an adult-oriented business except upon a stage at least 18 inches above the level of the floor which is separated by a distance of at least 10 feet from the nearest area occupied by patrons, and no patron shall be permitted within 10 feet of the stage while the stage is occupied by an entertainer.
 - (2) The adult-oriented business shall provide separate dressing room facilities for entertainers that are exclusively dedicated to the entertainers' use.
 - (3) The adult-oriented business shall provide an entrance/exit for entertainers that is separated by at least 30 feet from the entrance/exit used by patrons.
 - (4) The adult-oriented business shall provide access for entertainers between the stage and the dressing rooms which is completely and physically separated from the patrons. If such separate access is not physically feasible, the adult-oriented business shall provide a minimum three foot wide walk aisle for entertainers between the dressing room area and the stage, with a railing, fence or other barrier separating the patrons and the entertainers capable of and which actually results in preventing any physical contact between patrons and entertainers.
 - (5) No entertainer, either before, during or after performances, shall have physical contact with any patron and no patron shall have physical contact with any entertainer either before, during or after performances by such entertainer. This subsection (5) shall only apply to physical contact on the premises of the adult-oriented business.
 - (6) Fixed rails at least 30 inches in height shall be maintained establishing the separations between entertainers and patrons required by this subsection (l).
 - (7) No patron shall directly pay or give any gratuity to any entertainer and no entertainer shall solicit any pay or gratuity from any patron.
 - (8) No owner or other person with managerial control over an adult-oriented business shall permit any person on the premises of the adult-oriented business to engage in a live showing of the human male or female genitals, pubic area or buttocks with less than a fully opaque coverage, and/or the female breast with less than a fully opaque coverage over any part of the nipple or areola and/or covered male genitals in a discernibly turgid state. This provision may not be complied with by applying an opaque covering simulating the appearance of the specified

anatomical part required to be covered.

- (l) Adult-oriented businesses shall employ security guards in order to maintain the public peace and safety, based upon the following standards:
 - (1) Adult-oriented businesses featuring live entertainment shall provide at least one security guard at all times while the business is open. If the occupancy limit of the premises is greater than 25 persons, at least one additional security guard shall be on duty for each increment of 25 persons.
 - (2) Security guards for other adult-oriented businesses may be required if it is determined by the chief of police that their presence is necessary in order to prevent any of the conduct listed in this section from occurring on the premises.
 - (3) Security guards shall be charged with and expressly authorized to prevent violations of law and enforce compliance by patrons, customers, and visitors of the requirements of this chapter and the business permit. Security guards shall be uniformed in such a manner so as to be readily identifiable as a security guard by the public and shall be duly licensed as a security guard as required by applicable provisions of state law. Security guards shall promptly report any violation of law to the Burlingame Police Department. No security guard required pursuant to this section shall act as a door person, ticket seller, ticket taker, admittance person, or sole occupant of the manager's station while acting as a security guard.

(Ord. 1727 § 3, (2004))

§ 10.58.075. Register and permit number of employees.

Every permittee of an adult-oriented business that provides live entertainment depicting specified anatomical areas or involving specified sexual activities shall maintain a register of all persons so performing on the premises and their performer permit numbers. This register shall be available for inspection on the business premises at all times during regular business hours by any peace officer or the health officer.

(Ord. 1727 § 3, (2004))

§ 10.58.080. Display of permit and identification cards.

- (a) Every adult-oriented business shall display at all times during business hours, the business permit issued to the business together with any conditions place on the permit pursuant to this chapter in a conspicuous place so that the permit may be readily seen by all persons upon entering the business.
- (b) The chief of police shall provide each adult-oriented business performer required to have a performer permit pursuant to this chapter with an identification card containing the name, address, photograph and permit number of such performer. An adult-oriented business performer shall have such card available for inspection by a peace officer or the health officer at all times during which the person is on the premises of an adult-oriented business.

(Ord. 1727 § 3, (2004))

§ 10.58.085. Employment of and services rendered to persons under the age of 18 years prohibited.

- (a) It shall be unlawful for any permittee, operator, or other person in charge of any adult-oriented business to employ or provide any service for which it requires such permit to any person who is not at least 18 years of age.
- (b) It shall be unlawful for any permittee, operator or other person in charge of any adult-oriented

business to permit any person who is not at least 18 years of age to enter or remain within the adult-oriented business.

(Ord. 1727 § 3, (2004))

§ 10.58.090. Inspection.

An applicant or permittee shall permit representatives of the police department, health department, fire department, community development department, or other city departments or state or county agencies to inspect the premises of an adult-oriented business for the purpose of insuring compliance with the law and the development and performance standards applicable to adult-oriented business, at any time it is occupied or opened for business. A person who operates an adult-oriented business or the business's agent or employee is in violation of the provisions of this section if permission for such lawful inspection of the premises is refused at any time it is occupied or open for business.

(Ord. 1727 § 3, (2004); Ord. 1806 § 8, (2007))

§ 10.58.095. Regulations nonexclusive.

The provisions of this chapter are not intended to be exclusive and compliance with this chapter shall not excuse noncompliance with any other regulations pertaining to the location, operation, or conduct of businesses adopted by the city, County of San Mateo, State of California, or United States.

(Ord. 1727 § 3, (2004))

§ 10.58.100. Employment of persons without permits unlawful.

It is unlawful for any owner, operator, manager, permittee or other person in charge of or in control of an adult-oriented business to allow any person to perform any live entertainment depicting specified anatomical areas or involving specified sexual activities who is not in possession of a valid, unrevoked and unsuspended adult-oriented business performer permit.

(Ord. 1727 § 3, (2004))

§ 10.58.105. Time limit for filing application for permit.

All persons who possess an outstanding business license heretofore issued for the operation of an adult-oriented business and all persons required by this chapter to obtain an adult-oriented business performer permit, must apply for and obtain such a permit within 90 days of the effective date of this chapter. Failure to do so and continued operation of an adult-oriented business, or the continued performances depicting specified anatomical areas or specified sexual activities in an adult-oriented business after such time without a permit shall constitute a violation of this chapter.

(Ord. 1727 § 3, (2004))

§ 10.58.110. Severability.

If any section, subsection, subdivision, paragraph, sentence, clause, or phrase in 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 one or more subsections, subdivisions, paragraphs, sentences, clauses, or phrases be declared unconstitutional, or invalid, or ineffective.

(Ord. 1727 § 3, (2004))

**CHAPTER 10.60
PROHIBITION OF NUDITY IN PUBLIC PLACES**

§ 10.60.010. Legislative authorization.

This chapter is adopted pursuant to Sections 318.5 and 318.6 of the Penal Code. All words used in this chapter which also are used in said Sections 318.5 and 318.6, are used in the same sense and mean the same as the same respective words used in the said Sections 318.5 and 318.6 of the Penal Code.
(Ord. 991 § 1, (1973))

§ 10.60.020. Theater—Definition.

As used in this chapter and in Sections 318.5 and 318.6 of the Penal Code, "theater" means a building, playhouse, room, hall or other place having a permanent stage with movable scenery upon which theatrical or vaudeville or similar performances are given, and permanently affixed seats so arranged that a body of spectators can have an unobstructed view of the stage and for which a city license for a theater is in full force and effect. This definition does not supersede the provisions of Section 10.60.010 of this chapter.
(Ord. 991 § 1, (1973))

§ 10.60.030. Prohibition—All persons.

Every person is guilty of a misdemeanor who:

- (a) Exposes his or her private parts or buttocks or employs any device or covering which is intended to simulate the private parts or pubic hair while participating in any live act, demonstration or exhibition in any public place, place open to the public or place open to public view, or while serving food or drink or both to any customer; or
- (b) Permits, procures or assists any person to so expose him or herself, or to employ any such device.
(Ord. 991 § 1, (1973))

§ 10.60.040. Prohibition—Female.

Every female is guilty of a misdemeanor who, while participating in any live act, demonstration or exhibition in any public place, place open to the public or place open to public view, or while serving food or drink or both to any customer:

- (a) Exposes any portion of either breast at or below the areola thereof; or
- (b) Employs any device or covering, which is intended to simulate such portions of the breast; or
- (c) Wears any type of clothing so that any portion of such part of the breast may be observed.
(Ord. 991 § 1, (1973))

§ 10.60.050. Accessories.

Every person is guilty of a misdemeanor who permits, counsels or assists any person to violate any provision of this chapter.
(Ord. 991 § 1, (1973))

§ 10.60.060. Exceptions.

This chapter does not apply to:

- (a) A theater, concert hall or similar establishment which is primarily devoted to theatrical performance;
- (b) Any act authorized or prohibited by any state statute.
- (c) An adult-oriented business operating in conformance with Chapters 10.58 and 25.76 of this code.
(Ord. 991 § 1, (1973); Ord. 1727 § 4, (2004))

**CHAPTER 10.65
DRUG PARAPHERNALIA—SALE TO MINORS**

§ 10.65.010. Purpose.

The sale of drugs and narcotics paraphernalia in business establishments, open to the public and frequented by minors, tends to induce acquisition and use by minors for smoking, injecting or consumption of controlled substances. Possession and use of controlled substances are prohibited or limited, by the Controlled Substances Act, California Health and Safety Code Sections 11000, et seq. It is the intent and purpose of this chapter to prohibit the sale of such devices to minors, and, thereby, curb the use of illicit and harmful drugs and narcotics by minors in the interests of their mental and physical health.

(Ord. 1169 § 1, (1980))

§ 10.65.020. Sale to minors prohibited.

No owner, manager, proprietor or other person in charge of any room in any place of business selling, or displaying for the purpose of sale, any opium pipe, device, contrivance, instrument or paraphernalia for smoking, injecting or consuming any controlled substance, as specified in the California Health and Safety Code, other than prescription drugs and devices to ingest or inject prescription drugs, shall offer to sell or give to any person under the age of 18 years such paraphernalia.

(Ord. 1169 § 1, (1980))

§ 10.65.030. Minors' purchase prohibited.

A person under the age of 18 years shall not buy, offer to buy or accept as a gift any opium pipe, device, contrivance, instrument or paraphernalia for unlawfully smoking or injecting or consuming any controlled substance, prohibited under the Controlled Substances Act, other than devices to ingest or inject prescription drugs.

(Ord. 1169 § 1, (1980))

§ 10.65.040. Sign prohibiting sale to minors.

Each owner, manager, proprietor or other person in charge of any room in any place of business selling, or displaying for the purpose of sale, any opium pipe, device, contrivance, instrument or paraphernalia for smoking, injecting or consuming any controlled substance as specified in the California Health and Safety Code, shall prominently display a sign therein, in letters not less than two inches in height, words to the effect that offering to sell or give to any person under the age of 18 years any such paraphernalia, or offering to buy, buying or accepting as a gift by a person under the age of 18 years of any such paraphernalia, is prohibited. Such sign shall cite this chapter of the code as the basis for the prohibition.

(Ord. 1169 § 1, (1980))

§ 10.65.050. Violations—Nuisance.

A violation of any of the provisions of this chapter is declared to be a public nuisance, and may be abated pursuant to the provisions of Section 731 of the California Code of Civil Procedure. This remedy is in addition to any other remedy provided by law, including the criminal penalty provisions applicable for violation of the terms and provisions of this code.

(Ord. 1169 § 1, (1980))

**CHAPTER 10.66
DRUG PARAPHERNALIA—DISPLAY**

§ 10.66.010. Purpose.

The display of drugs and narcotics paraphernalia in business establishments, open to the public and frequented by minors, tends to induce acquisition and use by minors for smoking, injecting or consumption of controlled substances. Possession and use of controlled substances are prohibited or limited by the Controlled Substances Act, California Health and Safety Code, Section 11000, et seq. It is the intent and purpose of this chapter to eliminate the exposure of minors to such devices and, thereby, curb the sale to and use of illicit and harmful drugs and narcotics to and by minors in the interest of their mental and physical health.

(Ord. 1170 § 1, (1980))

§ 10.66.020. Minors.

No owner, manager, proprietor or other person in charge of any room in any place of business selling or displaying for the purpose of sale, any device, contrivance, instrument or paraphernalia for smoking or injection, or consuming marijuana, hashish, PCP or any controlled substance, as defined in the California Health and Safety Code, as well as roach clips, and cigarette papers and rollers designed for the smoking of the foregoing, other than prescription drugs and devices to ingest or inject prescription drugs, shall allow or permit any person under the age of 18 years to be, remain in, enter or visit such room unless such minor person is accompanied by one of his or her parents, or by his or her legal guardian.

(Ord. 1170 § 1, (1980))

§ 10.66.030. Minors—Excluded.

A person under the age of 18 years shall not be, remain in, enter or visit any room in any place used for the sale, or displaying for sale, devices, contrivances, instruments or paraphernalia for smoking or injecting or consuming marijuana, hashish, PCP or any controlled substance, including roach clips and cigarette papers and rollers designed and used for smoking the foregoing, other than prescription drugs and devices to ingest or inject prescription drugs, unless such person is accompanied by one of his or her parents, or his or her legal guardian.

(Ord. 1170 § 1, (1980))

§ 10.66.040. Sale and display rooms.

A person shall not maintain in any place of business to which the public is invited the display for sale, or the offering to sell, of devices, contrivances, instruments or paraphernalia for smoking or injecting or consuming marijuana, hashish, PCP or any controlled substance, including roach clips, and cigarette papers and rollers designed and used for smoking the foregoing, other than prescription drugs and devices, unless within a separate room or enclosure to which minors not accompanied by a legal guardian are excluded. Each entrance to such a room shall be sign posted in letters not less than two inches in height with words to the effect that narcotic paraphernalia are being offered for sale in such a room, and minors unless accompanied by a parent or legal guardian are excluded.

(Ord. 1170 § 1, (1980))

§ 10.66.050. Violations—Nuisance.

A violation of any of the provisions of this chapter is declared to be a public nuisance, and may be abated pursuant to the provisions of Section 731 of the California Code of Civil Procedure. This remedy is in

addition to any other remedy provided by law, including the criminal penalty provisions applicable for violation of the terms and provisions of this code.

(Ord. 1170 § 1, (1980))

**CHAPTER 10.68
PROHIBITED DISPLAYS ON COVERS OF PUBLICATIONS IN BUSINESSES**

§ 10.68.010. Definitions.

The words and phrases used in this chapter shall be defined as follows:

"Commercial establishment" means any place of business in which minors are permitted.

"Explicit sexual depictions" means any picture, photograph, drawing, decoration or other illustration depicting:

- (1) Stimulation of human genitals, or otherwise emphasizing the genitals;
- (2) Acts of human masturbation, sexual intercourse, sodomy, bestiality, buggery, cunnilingus, fellatio, pederasty, homosexuality, sadomasochism or similar acts;
- (3) Fondling or other erotic touching of human genitals, pubic regions or female breasts.

"Person" means any individual, partnership, firm, association, corporation or other legal entity.

"Publication" means any book, magazine, pamphlet, video or audio cassette, or record, offered for sale in a commercial establishment.

(Ord. 1290 § 1, (1984))

§ 10.68.020. Display prohibited.

No person shall display publications having covers with explicit sexual depictions in any commercial establishment except as provided herein.

(Ord. 1290 § 1, (1984))

§ 10.68.030. Establishments with "adult only" areas.

Publications having covers with explicit sexual depictions may be displayed in a commercial establishment in an area set aside and clearly posted for adults only. "Adults only" areas shall be visible from the cash register or sales center of the store. No items frequently purchased by children shall be located in the vicinity of the "adults only" area, and the material with sexually explicit covers shall be displayed in such a manner that sexually explicit depictions are not readily visible to patrons in other areas of the store. Minors shall not be permitted to enter an "adults only" area.

(Ord. 1290 § 1, (1984))

§ 10.68.040. Opaque displays.

Publications having covers with explicit sexual depictions may be displayed in an area open to the general public in a commercial establishment only if the covers are not visible. Such cover depictions shall be obscured by opaque display units or other methods which completely conceal any sexual depictions from public view.

(Ord. 1290 § 1, (1984))

CHAPTER 10.70 RESPONSE TO UNRULY GATHERINGS

§ 10.70.010. Authority and purpose.

This chapter is enacted pursuant to the authority of Sections 38771 through 38773.5 of the Government Code and pursuant to the police powers of the city of Burlingame. The purpose of this chapter is to identify activity which constitutes a public nuisance, to provide for the summary abatement of such a nuisance at the expense of persons creating, causing, committing or maintaining it, and to promote the public peace, health, safety and welfare by minimizing the frequency of return calls to unruly gatherings.

(Ord. 1395 § 1, (1989))

§ 10.70.020. Definitions.

An "unruly gathering" is a party or other gathering which occurs on or adjacent to private property in the city (hereinafter "premises") and which a police officer at the scene determines is a threat to the public peace, health, safety or general welfare.

(Ord. 1395 § 1, (1989))

§ 10.70.030. Nuisance declared.

It is hereby declared that unruly gatherings which create a threat to the public peace, health, safety or welfare constitute a public nuisance. No person, firm, corporation, association or other legal entity owning, leasing or occupying a premises in the city of Burlingame shall create, cause, commit, maintain or permit such a public nuisance to occur on said premises.

(Ord. 1395 § 1, (1989))

§ 10.70.040. Notification of liability for costs of second response.

When the police department is called to the scene of an unruly gathering and a police officer at the scene determines that there is a threat to the public peace, health, safety or general welfare due to the gathering, the police officer shall contact one of the following: the owner of the premises, the tenants of the premises, the person in lawful custody of the premises or the person responsible for committing, creating, causing, maintaining or permitting said gathering. The officer shall notify such person that the gathering constitutes a public nuisance and that such persons (or, if that person is a minor, the parents or guardians of that minor person) shall be held jointly and severally liable for the costs incurred for providing police personnel for a second or subsequent response to the same premises within 24 hours due to a continuation of the same conduct. If, after a good faith effort, no such responsible party can be found, the warning may be given to any person in attendance at the unruly gathering.

The police department shall develop a written warning document to provide information concerning this section and shall deliver a copy of such warning document to the person described herein during the first visit to the unruly gathering.

(Ord. 1395 § 1, (1989))

§ 10.70.050. Persons responsible for costs of second response.

The costs incurred by the police department for a second or subsequent response to an unruly gathering when such conduct is continuing at the time of the second or subsequent response, shall be charged to and borne by the owner of the premises, the tenants of the premises, the person in lawful custody of the premises or the person or persons who created, committed, caused, maintained or permitted said unruly

gathering (or, in the event that person is a minor, that person's parents or guardians).
(Ord. 1395 § 1, (1989))

§ 10.70.060. Second response deemed to be special security assignment.

The first response and warning shall be deemed to be normal police service. Personnel utilized on a second or subsequent response shall be deemed to be on special security assignment. The costs incurred from such special assignment are declared to be beyond normal services provided by the city.

(Ord. 1395 § 1, (1989))

§ 10.70.070. Calculation of charges.

The charge for providing such special security assignment during the second call shall be calculated by the police department utilizing the hourly pay rates for each member of the public safety forces, including fire department personnel when utilized, and shall be adjusted from time to time to reflect changes in such hourly rates. Said charge may include the cost of providing equipment to the scene of the unruly gathering and the cost of repairing or replacing equipment damaged at the scene. The total charges payable under this section shall be the cost of providing the services but not less than \$100 and not more than \$1,000, plus the cost of actual damages or injury to city property or personnel, if any, for a single response. Additional visits to the same gathering shall be separately charged.

(Ord. 1395 § 1, (1989))

§ 10.70.080. Recovery of costs.

The person who created, caused, committed or maintained the nuisance, the person or persons in charge of the premises and the person or persons in charge of the unruly gathering, or if any such person is a minor, then the parent or guardians of such person, shall be jointly and severally liable for the cost of providing the special security assignment. In addition, the costs of such special assignment may be made a lien against the property on which the nuisance was maintained and shall be a personal obligation against the property owner as herein set forth.

(Ord. 1395 § 1, (1989))

§ 10.70.090. Billing.

When the city has incurred response costs as set forth in this chapter, the actual cost thereof, plus accrued interest at the rate of 10% per year from the date of the billing shall be charged to the person or persons liable therefor. Such person or persons shall be billed by mail and the bill shall apprise the owner that failure to pay the bill may result in a lien on the property.

(Ord. 1395 § 1, (1989))

§ 10.70.100. Nonpayment.

When the full amount due to the city for second or subsequent response costs as set forth in this chapter is not paid by the person or persons responsible therefor within 30 days of the date of the billing for such costs, the police chief shall file with the city clerk a declaration showing the response costs incurred, the date costs were incurred and the location of the property to which the response was made. The recordation of such declaration with the county recorder shall constitute a lien on the property.

(Ord. 1395 § 1, (1989))

§ 10.70.111. Other remedies.

The charges established by this section are cumulative in nature and shall not be construed to limit or replace any other remedies or penalties, civil or criminal, which may be available.

(Ord. 1395 § 1, (1989))

**CHAPTER 10.72
SPECTATORS PROHIBITED AT ILLEGAL SPEED CONTESTS, EXHIBITIONS OF SPEED,
OR SIDESHOWS**

§ 10.72.010. Purpose.

- (a) The city council finds and declares that motor vehicle speed contests and exhibitions of speed conducted on public streets and highways are illegal under California Vehicle Code Section 23109. Motor vehicle speed contests and exhibitions of speed are commonly known as street races or drag races. Streets within the city have been the site of illegal street racing over the past several years. Such street racing threatens the health and safety of the public, interferes with pedestrian and vehicular traffic, creates a public nuisance, violates the rights of persons to peacefully use and enjoy the city and its facilities, parks, and walkways, and interferes with the right of business owners to enjoy the use of their property within the city. Illegal street racers accelerate to high speeds without regard to vehicular traffic, pedestrians, or vehicles parked or moving nearby. The racers drive quickly from street to street, race for several hours, and then move to other locations upon the arrival of the police. In addition, the Bay Area has witnessed a variation on speed contests called sideshows, where drivers of vehicles engage in reckless stunts and maneuvers on streets, sidewalks, and other public places in the presence of spectators. These sideshows constitute a public nuisance.
- (b) Those who participate in this illegal activity can be very sophisticated, using their cell phones, police scanners, and other electronic devices to communicate with each other to avoid detection or arrest. They also use the Internet to provide information on where to race, and give advice on how to avoid detection and prosecution. Traffic accidents, property crimes, and calls for police service can increase dramatically. The mere presence of spectators at these events fuels the illegal street racing and sideshows and creates an environment in which these illegal activities can flourish.
- (c) This chapter is adopted to prohibit spectators at illegal street races and sideshows with the aim of significantly curbing and inhibiting this criminal activity. The chapter gives proper notice to citizens as to what activities are lawful and what activities are unlawful. In discouraging spectators, the act of organizing and participating in illegal street races and sideshows will be discouraged.

(Ord. 1775 § 2, (2006))

§ 10.72.020. Definitions.

For purposes of this chapter, the following definitions shall apply:

"Illegal motor vehicle speed contest" or "illegal exhibition of speed" means any speed contest or exhibition of speed referred to in California Vehicle Code Sections 23109(a) and 23109(c).

"Preparations for the illegal motor vehicle speed contest, exhibition of speed, or sideshow" include, but are not limited to, situations in which:

- (1) A group of motor vehicles or individuals has arrived at a location for the purpose of participating in or being spectators at the event; or
- (2) A group of individuals has lined one or both sides of a public street or highway for the purpose of participating in or being a spectator at the event; or
- (3) A group of individuals has gathered on private property open to the general public without the consent of the owner, operator, or agent thereof for the purpose of participating in or being a spectator at the event; or

- (4) One or more individuals has impeded the free public use of a public street or highway by actions, words, or physical barriers for the purpose of conducting the event; or
- (5) Two or more vehicles have lined up with motors running for an illegal motor vehicle speed contest, exhibition of speed, or sideshow; or
- (6) One or more drivers is revving his engine or spinning his tires in preparation for the event; or
- (7) An individual is stationed at or near one or more motor vehicles serving as a race starter.

"Sideshow" means a gathering, procession, or assemblage of vehicles on highways where vehicles in motion are used to exhibit stunts and maneuvers in the presence of spectators.

"Spectator" means any individual who is present at an illegal motor vehicle speed contest, exhibition of speed, or sideshow or at a location where preparations are being made for such activities, for the purpose of viewing, observing, watching, or witnessing the event as it progresses. "Spectator" includes any individual at the location of the event without regard to whether the individual arrived at the event by driving a vehicle, riding as a passenger in a vehicle, walking, or arriving by some other means.

(Ord. 1775 § 2, (2006))

§ 10.72.030. Spectator at illegal speed contest, exhibitions of speed, or sideshow—Violation.

- (a) It is unlawful for any individual to be knowingly present as a spectator, either on a public street or highway, or on private property open to the general public without the consent of the owner, operator, or agent thereof, at an illegal motor vehicle speed contest or exhibition of speed.
- (b) It is unlawful for any individual to be knowingly present as a spectator, either on a public street or highway, or on private property open to the general public without the consent of the owner, operator, or agent thereof, where preparations are being made for an illegal motor vehicle speed contest or exhibition of speed.
- (c) It is unlawful for any individual to be knowingly present as a spectator, either on a public street or highway, or on private property open to the general public without the consent of the owner, operator, or agent thereof, at a sideshow.
- (d) It is unlawful for any individual to be knowingly present as a spectator, either on a public street or highway, or on private property open to the general public without the consent of the owner, operator, or agent thereof, where preparations are being made for a sideshow.
- (e) An individual is present at the illegal motor vehicle speed contest or exhibition of speed if that individual is within 200 feet of the location of the event, or within 200 feet of the location where preparations are being made for the event.
- (f) Exemption. Nothing in this section prohibits law enforcement officers, a medical professional, or a firefighter from being present at illegal motor vehicle speed contests, exhibitions of speed, or sideshows in the course of their official duties.

(Ord. 1775 § 2, (2006))

§ 10.72.040. Relevant circumstances to prove a violation.

Notwithstanding any other provision of law, to prove a violation of Section 10.72.030 admissible evidence may include, but is not limited to, any of the following:

- (a) The time of day;

- (b) The nature and description of the scene;
- (c) The number of people at the scene;
- (d) The location of the individual charged in relation to any individual or group present at the scene;
- (e) The number and description of motor vehicles at the scene;
- (f) The activities in which the motor vehicles are engaged;
- (g) Whether the individual charged drove, walked, or was transported to the scene;
- (h) How long the individual charged was present at the scene of the event;
- (i) Whether the individual charged has previously participated in an illegal motor vehicle speed contest, exhibition of speed, or sideshow;
- (j) Whether the individual charged has previously aided and abetted an illegal motor vehicle speed contest, exhibition of speed, or sideshow;
- (k) Whether the individual charged has previously attended an illegal motor vehicle speed contest, exhibition of speed, or sideshow;
- (l) Whether the individual charged previously was present at a location where preparations were being made for an illegal speed contest, exhibition of speed, or sideshow, or where an exhibition of speed, illegal motor vehicle speed contest, or sideshow was in progress.

(Ord. 1775 § 2, (2006))

§ 10.72.050. Admissibility of prior acts.

The list of circumstances set forth in Section 10.72.040 is not exclusive. Evidence of prior acts may be admissible to show the propensity of the defendant to be present at or attend an illegal motor vehicle speed contest, exhibition of speed, or sideshow, if the prior act or acts occurred within three years of the presently charged offense. These prior acts may always be admissible to show knowledge on the part of the defendant that a speed contest, exhibition of speed, or sideshow was taking place at the time of the presently charged offense. Prior acts are not limited to those that occurred within the city.

(Ord. 1775 § 2, (2006))

TREES AND VEGETATION

Title 11

TREES AND VEGETATION

	Chapter 11.04		
	STREET TREES	§ 11.06.070.	Decision by director.
§ 11.04.010.	Definitions.	§ 11.06.080.	Appeal.
§ 11.04.020.	Duties of director.	§ 11.06.090.	Tree requirements and reforestation.
§ 11.04.030.	Planting in streets or public areas.	§ 11.06.100.	Penalty.
§ 11.04.035.	Actions by others.		Chapter 11.08
§ 11.04.040.	Public nuisances defined.		WEED AND RUBBISH ABATEMENT
§ 11.04.045.	Abatement of public nuisances.	§ 11.08.010.	Weeds and rubbish deemed nuisance—Abatement.
§ 11.04.050.	Trimming by public utility corporations.	§ 11.08.020.	Resolution declaring nuisance—Notice of abatement.
§ 11.04.055.	Paving of planting strips.	§ 11.08.030.	Form of notice—Posting.
§ 11.04.060.	Approval of plant varieties.	§ 11.08.040.	Hearing—Action by council.
§ 11.04.065.	Street tree master plan.	§ 11.08.050.	Order to abate nuisance—Abatement by property owner.
§ 11.04.070.	Responsibility of city for tree damaged sidewalks.	§ 11.08.060.	Account and report of cost.
§ 11.04.080.	Appeal from order of director.	§ 11.08.070.	Notice of hearing on report and assessment list.
	Chapter 11.06	§ 11.08.080.	Hearing and confirmation of assessments—Lien against property.
	URBAN REFORESTATION AND TREE PROTECTION	§ 11.08.090.	Collection on tax roll.
§ 11.06.010.	Purpose and intent.		Chapter 11.12
§ 11.06.020.	Definitions.		OBSTRUCTING VIEW AT INTERSECTIONS
§ 11.06.030.	Nomination and listing of protected trees.	§ 11.12.010.	Height of trees, hedges, walls, at intersections.
§ 11.06.040.	Emergencies.		
§ 11.06.050.	Prohibitions and protections.		
§ 11.06.060.	Notices and permits required for removal or work significantly affecting protected trees.		

CHAPTER 11.04 STREET TREES

§ 11.04.010. Definitions.

"Director" means the director of parks of the city of Burlingame.

"Hedge" means any plant material or shrub when planted in a dense, continuous line or area, so as to form a thicket or barrier.

"Objectionable trees" mean trees which by reason of decay, neglect or disease may become a hazard to persons or property; those which may impair the progress or vision of anyone traveling in a public street; those which by their nature drop fruit, seed pods or debris which create hazards to pedestrians or vehicular travel.

"Person" means individuals, firms and corporations, and agents, employees and representatives thereof.

"Plant" means all other plant material, nonwoody, annual or perennial in nature, not necessarily hardy.

"Planting strip" means the portion of the street paralleling the curb or sidewalk intended for tree planting or landscaping.

"Public areas" mean parks, playgrounds, areas around public buildings and all other public areas in the possession of or under the supervision, maintenance or control of the city of Burlingame.

"Shrub" means any woody perennial plant normally low, several-stemmed, adaptable to shaping, trimming and pruning without injury.

"Street" means all land lying between abutting properties dedicated for, or condemned for, or established by, use as a public thoroughfare. Street includes avenue, boulevard, road, highway, walk or lane but does not include freeway.

"Street tree" means any woody perennial plant having a single main axis or stem commonly achieving 10 feet or more in height.

(Ord. 944 § 1, (1971))

§ 11.04.020. Duties of director.

It shall be the duty of the director to plant, trim, prune, spray and care for any trees, shrubs or plants and to remove any tree, shrub or plants which in his or her opinion are objectionable or hazardous in or upon any street, alley or public place in the city.

(Ord. 944 § 1, (1971))

§ 11.04.030. Planting in streets or public areas.

It is unlawful for anyone other than the director or his or her authorized representative to place or plant any tree, shrub or plant in any of the streets or public places in the city until the director shall have first approved the kind and variety to be planted, the location therefor, and granted a permit for planting the same.

(Ord. 944 § 1, (1971))

§ 11.04.035. Actions by others.

It is unlawful for any person to cut down, trim, prune, plant, remove, injure or destroy any tree, shrub or plant in or upon any street or public place in the city without a permit therefor from the director, who is

hereby authorized to grant such a permit in his or her discretion.

It is unlawful to fasten any sign, wire, rope or any device to any street tree; to permit any fire to burn where the heat thereof will injure any portion of the tree; to place or maintain any stone, cement, or other substance so that it will impede the free access of air and water to the roots of any street tree.

(Ord. 944 § 1, (1971))

§ 11.04.040. Public nuisances defined.

The following are defined and declared to be public nuisances:

- (a) Any dead, dying, diseased or infested tree in any street or on any private property so near to any street as to constitute a danger to street trees, public utility services or streets or portions thereof, or to persons;
- (b) Any tree or shrub on any private property of a type or species apt to destroy, impair or interfere with any street improvements, sidewalks, curbs, gutters, sewers, utility mains or services;
- (c) Vines or climbing plants growing into or over any street tree or fire hydrant, pole or electrolier;
- (d) Branches or foliage which interfere with visibility on, or free use of, or access to, any portion of any street improved for vehicular or pedestrian travel;
- (e) Hedges or dense thorny shrubs on any planting strip or extending beyond a property line into any portion of the sidewalk or street;
- (f) Shrubs, plants or hedges more than three feet in height in that portion of a corner lot at the intersection of two streets which is a triangle measured for 15 feet in each direction from the external corner of the lot.

(Ord. 944 § 1, (1971))

§ 11.04.045. Abatement of public nuisances.

- (a) Whenever any public nuisance as defined herein exists on private property, the director shall cause a written notice to be sent by United States mail or delivered personally to the owner of the property or the person in possession of the property. Such notice shall describe the condition, state the work necessary to remedy the condition, and the time within which the work must be performed.
- (b) If, at the end of the time specified, the work has not been done, the director shall cause a report thereof to be made to the city council.
- (c) The city council may adopt a resolution which shall preliminarily declare the condition to be a public nuisance, order the director to give notice of the passage of the resolution, and state therein that, unless the nuisance is abated without delay, the work of abatement will be done by the city authorities and chargeable as a lien against the private property. The resolution and notice shall fix the time and place for hearing any objections to the proposed abatement of the public nuisance or to the declaration that a public nuisance exists.
- (d) The amount of the cost of abating the nuisance upon the property referred to or described in the resolution and notice shall constitute a special assessment against such property, and after it is confirmed by the city council, shall constitute a lien on such property for the amount of such assessment, until paid. Such amounts shall be collected at the same time and in the same manner as general city taxes are collected, and shall be subject to the same interest and penalties, and the same

procedure and sale in case of delinquency. All laws and ordinances applicable to the levy, collection and enforcement of property taxes are hereby made applicable to such special assessments.

(Ord. 944 § 1, (1971))

§ 11.04.050. Trimming by public utility corporations.

Any public utility corporation maintaining overhead wires may be given a permit by the director, valid for one year from date of issuance, to allow such public utility corporation to trim or brace any trees growing upon the street or which grow upon private property to the extent that they encroach upon the street. Permission to trim or brace trees by the public utility corporation shall be granted where it can be shown that the trees or portions thereof will interfere with the safety of the overhead wires or the transmission of electrical current or telephone messages.

(Ord. 944 § 1, (1971))

§ 11.04.055. Paving of planting strips.

- (a) In all residential districts where planting strips exist between sidewalk and curb, permission may be granted by the director, with the assent of the director of public works, for paving or covering by the adjoining property owner of all or part of the strip except for unpaved spaces with a minimum of four square feet for the planting of a street tree. Such unpaved spaces shall be at approximate intervals of fifty feet. Where driveways are so located as to make an interval of fifty feet impractical, the director may designate an appropriate location.
- (b) The director is hereby authorized to prepare regulations to apply to the issuance of permits for paving or covering planting strips such as, but not limited to: width of planting strip; previous practices on the block of which the subject property is a part; on-street vehicle parking; number of existing or proposed trees; location of driveways; location of public utility services; proximity to commercially zoned districts.

(Ord. 944 § 1, (1971))

§ 11.04.060. Approval of plant varieties.

The director is authorized to approve varieties of trees which may be planted in planting strips and no trees which do not receive such approval shall be planted. The director shall prepare a list of such trees and said list may be amended and revised from time to time.

(Ord. 944 § 1, (1971))

§ 11.04.065. Street tree master plan.

- (a) The director shall develop a comprehensive plan of official street trees for all streets of the city where planting areas are available and provided for trees. The plan may be revised from time to time and shall be reviewed each year.
- (b) In accordance with the plan, the director shall proceed each year to plant trees or replace trees to the extent of such funds as may be allocated by the council for that purpose.
- (c) Where the condition of a tree, or the unfitness of a tree, or the condition of other public improvements adjacent to a tree make replacement necessary or desirable, the director is authorized to remove such tree and replace it with one in accordance with the master tree plan.

(Ord. 944 § 1, (1971))

§ 11.04.070. Responsibility of city for tree damaged sidewalks.

Periodically, the director of public works shall prepare a list of particular trees which have caused a present and immediate danger to pedestrian travel by causing damage to the contiguous sidewalk or have interfered with drainage flow in gutters or created traffic hazards in adjacent streets. The list shall be delivered to the director for comment or revision. After agreement by the director of public works and the director upon such list, a request for necessary funds shall be made by the director of public works in his or her annual budget to the city council for the repair or replacement of the listed damaged public improvements, and such repairs or replacements shall be made to the extent of the funds approved in the annual budget.
(Ord. 944 § 1, (1971))

§ 11.04.080. Appeal from order of director.

Any person aggrieved by any act of the director may appeal, in writing, to the city manager. The city manager shall hear the appellant, the director and any others, and shall decide the matter and make such order as he or she may find necessary.

In the event that the appellant or any person is dissatisfied with the decision of the city manager, the matter may be appealed to the city council by a written request of the aggrieved party. The action of the city council after review shall be final and conclusive.

(Ord. 944 § 1, (1971))

CHAPTER 11.06 URBAN REFORESTATION AND TREE PROTECTION

§ 11.06.010. Purpose and intent.

The city of Burlingame is endowed and forested with a variety of healthy and valuable trees which must be protected and preserved. The preservation of these trees is essential to the health, welfare and quality of life of the citizens of the city because these trees preserve the scenic beauty of the city, maintain ecological balance, prevent erosion of top soil, counteract air pollution and oxygenate the air, absorb noise, maintain climatic and microclimatic balance, help block wind, and provide shade and color. For these same reasons, the requirement of at least one tree, exclusive of cityowned trees, on every residential lot in the city should be part of the permit process for any construction or remodeling.

It is the intent of this chapter to establish conditions and regulations for the removal and replacement of existing trees and the installation of new trees in new construction and development consistent with these purposes and the reasonable economic enjoyment of private property.

(Ord. 1057 § 1, (1975); Ord. 1470 § 1, (1992); Ord. 1598 § 1, (1998))

§ 11.06.020. Definitions.

Terms used in this chapter shall be defined as follows:

"Commission" means the Beautification Commission of the city of Burlingame.

"Department" means the parks and recreation department of the city of Burlingame.

"Development or redevelopment" means any work upon any property in the city of Burlingame which requires a subdivision, variance, use permit, building permit or other approval or which involves excavation, landscaping, or construction in the vicinity of a protected tree.

"Director" means the director of parks and recreation of the city of Burlingame.

"Landscape tree" means a generally recognized ornamental tree and shall exclude fruit, citrus, or nut-bearing trees.

"Protected tree" means:

- (1) Any tree with a circumference of 48 inches or more when measured 54 inches above natural grade; or
- (2) A tree or stand of trees so designated by the city council based upon findings that it is unique and of importance to the public due to its unusual appearance, location, historical significance or other factor; or
- (3) A stand of trees in which the director has determined each tree is dependent upon the others for survival.

"Pruning" means the removal of more than one third of the crown or existing foliage of the tree or more than one third of the root system. Pruning done without a permit or which does not conform to the provisions of a permit shall be deemed a removal.

"Removal" means cutting to the ground, extraction, killing by spraying, girdling, or any other means.

(Ord. 1057 § 1, (1975); Ord. 1470 § 1, (1992); Ord. 1492 § 1, (1993); Ord. 1598 § 1, (1998))

§ 11.06.030. Nomination and listing of protected trees.

Nomination for protected tree status under Section 11.06.020(f)(2) may be made by any citizen. The commission shall review such nominations and present its recommendations to the city council for designation.

A listing of trees so designated, including the specific locations thereof, shall be kept by the department and shall be available for distribution to interested citizens.

The city council may remove a designated tree from the list upon its own motion or upon request. Requests for such action may originate in the same manner as nominations for protected tree status.

(Ord. 1057 § 1, (1975); Ord. 1470 § 1, (1992); Ord. 1598 § 1, (1998))

§ 11.06.040. Emergencies.

In the event that an emergency condition arises whereby immediate action is necessary because of disease, or danger to life or property, a protected tree may be removed or altered by order of the director or, if the director is unavailable, a responsible member of the police, fire, parks and recreation, or public works department. In such event, a report shall be made to the commission describing the conditions and necessity of such an order.

(Ord. 1057 § 1, (1975); Ord. 1470 § 1, (1992); Ord. 1598 § 1, (1998))

§ 11.06.050. Prohibitions and protections.

- (a) No protected tree shall be removed from any parcel without a permit except as provided in Section 11.06.040.
- (b) The following conditions shall be observed during construction or development of property:
 - (1) Protected trees are to be protected by a fence which is to be maintained at all times;
 - (2) Protected trees that have been damaged or destroyed by construction shall be replaced or the city shall be reimbursed, as provided in Section 11.06.090;
 - (3) Chemicals or other construction materials shall not be stored within the drip line of protected trees;
 - (4) Drains shall be provided as required by the director whenever soil fill is placed around protected trees; and
 - (5) Signs, wires or similar devices shall not be attached to protected trees.

(Ord. 1057 § 1, (1975); Ord. 1470 § 1, (1992); Ord. 1598 § 1, (1998))

§ 11.06.060. Notices and permits required for removal or work significantly affecting protected trees.

- (a) Removal or Pruning. Owners, or their authorized representative, of protected trees on public or private property shall obtain a permit to remove or prune a protected tree. The application shall be on a form furnished by the department and shall state, among other things, the number and location of the tree(s) to be removed or pruned by type(s) and the reason for removal or pruning of each. The application shall also include a photograph with correct botanical identification of the subject tree or tree(s). An authorized representative of the department shall make an inspection of the tree(s) and shall file a written report and his or her recommendations to the director.

- (b) Educational Conference before Work Commences. After receipt of an application, the director may require an educational conference to inform the owner of potential alternatives to the proposed removal or pruning.
- (c) Removal or Pruning of Protected Trees on Undeveloped or Redeveloped Property. When an application for development or redevelopment of a property containing one or more protected trees is filed in any office or department of the city, the person making such an application shall file a site plan showing the location of buildings or structures or of proposed site disturbances, and the location of all trees. The director shall determine if all protected trees are shown. An authorized representative of the department shall make an inspection and shall file a report of his or her findings and recommendations to the director.

Subject to the replacement provisions of Section 11.06.090, the director shall approve the removal of protected trees within the footprint of approved construction in the R-1 zone, which construction does not require a variance, conditional use permit, or special permit under Title 25 of this code. The notice and appeal provisions of Sections 11.06.070 and 11.06.080 shall not apply to such approvals.

- (d) Review. In reviewing applications, the director shall give priority to those based on hazard or danger of disease. The director may refer any application to another department, committee, board or commission of the city for a report and recommendation, and may require the applicant to provide an arborist's report. In reviewing each application, the director shall determine:
- (1) The condition of the tree(s) with respect to disease; danger of falling; proximity to existing or proposed structures, yards, driveways and other trees; and interference with public utility services;
 - (2) The necessity to remove the tree(s) in order to construct any proposed improvements to allow economic enjoyment of the property;
 - (3) The topography of the land and the effect of the removal of the tree(s) on erosion; soil retention; and diversion or increased flow of surface waters;
 - (4) The number of trees existing in the neighborhood on improved property and the effect the removal would have on the established standard of the area and property value. Neighborhood is defined as the area within a 300-foot radius of the property containing the tree(s) in question;
 - (5) The number of trees the particular parcel can adequately support according to good arboricultural practices;
 - (6) The effect tree removal would have on wind protection, noise and privacy; and
 - (7) The economic consequences and obligations of requiring a tree to remain.

(Ord. 1057 § 1, (1975); Ord. 1470 § 1, (1992); Ord. 1492 § 2, (1993); Ord. 1598 § 1, (1998); Ord. 1603 § 9, (1998))

§ 11.06.070. Decision by director.

A decision shall be rendered by the director for each application. If an application is approved, it shall include replacement conditions in accordance with Section 11.06.090. The director shall give written notification of the decision to the applicant and all property owners within 100 feet of the property containing the tree(s) in question, and include a copy of the city Urban Reforestation and Tree Protection Ordinance (Chapter 11.06).

(Ord. 1057 § 1, (1975); Ord. 1470 § 1, (1992); Ord. 1598 § 1, (1998))

§ 11.06.080. Appeal.

Any person may appeal the decision of the director to the commission by filing an appeal in writing with the director no later than 5:00 p.m. of the tenth calendar day after the decision. The director shall set the matter for review by the commission at its next regular meeting and provide notice by mail of the commission hearing to the appellant and applicant at least five days prior thereto.

The determination of the commission shall become final and conclusive in 10 days if no appeal is filed. Destruction, removal or other work on a protected tree shall not commence until after the 10-day period has passed, or, if any appeal is filed, until the decision of the city council. During the period between the action of the commission and the end of the 10-day appeal period, any person may appeal such action to the city council. Such appeal shall be in writing and shall be filed with the city clerk. During the same period the city council, on its own motion, may suspend the order of the commission for the purpose of reviewing the action of the commission. A permit shall be valid for six months after the date it is issued. Under exceptional circumstances, the director may issue one six (6)-month extension.

(Ord. 1470 § 1, (1992); Ord. 1598 § 1, (1998))

§ 11.06.090. Tree requirements and reforestation.

(a) Whenever the development or redevelopment of a single family home, duplex, apartment house or condominium results in any increase in lot coverage or habitable space (as defined by Chapter 25 of this code), the property shall be required to meet the following requirements:

- (1) One landscape tree for every One thousand square feet of lot coverage or habitable space for single family homes or duplexes;
- (2) One landscape tree for every 2,000 square feet of lot coverage for apartment houses or condominiums.

Lot coverage and habitable space shall include both existing and new construction. The director shall determine the number of existing trees which are of an acceptable size, species and location to be counted toward this requirement. Any additional trees which are required shall meet the standards for replacement trees set forth in subsection (b) below.

(b) Permits for removal of protected tree(s) shall include replanting conditions with the following guidelines:

- (1) Replacement shall be three 15-gallon size, one twenty-four (24)-inch box size, or one thirty-six (36)-inch box size landscape tree(s) for each tree removed as determined below.
- (2) Any tree removed without a valid permit shall be replaced by two 24-inch box size, or two 36-inch box size landscape trees for each tree so removed as determined below.
- (3) Replacement of a tree be waived by the director if a sufficient number of trees exists on the property to meet all other requirements of the Urban Reforestation and Tree Protection ordinance.
- (4) Size and number of the replacement tree(s) shall be determined by the director and shall be based on the species, location and value of the tree(s) removed.
- (5) If replacement trees, as designated in subsection (b)(1) or (2) above, as applicable, cannot be planted on the property, payment of equal value shall be made to the city. Such payments shall be deposited in the tree planting fund to be drawn upon for public tree planting.

(Ord. 1470 § 1, (1992); Ord. 1492 § 3, (1993); Ord. 1598 § 1, (1998))

§ 11.06.100. Penalty.

In addition to any other penalties allowed by law, any person removing or pruning a tree in violation of this ordinance is liable to treble damages as set forth in Section 733 of the Code of Civil Procedure of the State of California. Damages for this purpose shall be replacement value of the tree as determined by the International Society of Arboriculture Standards.

(Ord. 1470 § 1, (1992); Ord. 1598 § 1, (1998))

CHAPTER 11.08 WEED AND RUBBISH ABATEMENT

§ 11.08.010. Weeds and rubbish deemed nuisance—Abatement.

All weeds growing upon any private property or in any public street, lane, way or alley, within the city, and bearing seeds of a wingy or downy nature or which because of having attained such a large growth and being dry shall have become a fire menace or which are otherwise noxious or dangerous, and all rubbish, refuse or dirt on parkways, sidewalks or private property, are hereby declared to be a public nuisance, and shall be abated by the owner of the property, who is hereby required to remove or destroy such weeds, rubbish, refuse or dirt from his or her property, and in the abutting one-half of the street in front, and the alley, if any, behind his or her property, and between the lot lines thereof extended.

(1941 Code § 1399, Ord. 469, (1948))

§ 11.08.020. Resolution declaring nuisance—Notice of abatement.

Whenever any such weeds are growing or any rubbish, refuse or dirt exists upon any private property or in any street or alley within the city, the city council shall pass a resolution declaring the same to be a public nuisance, and order the city engineer to give notice of the passage of such resolution as herein provided, and stating therein that, unless such nuisance be abated without delay, the work of doing so will be done by the city authority and the expense thereof assessed upon the property from which the nuisance is removed. Such resolution shall fix the time and place for hearing any objections to the proposed destruction or removal.

(1941 Code § 1399.1, Ord. 469, (1948))

§ 11.08.030. Form of notice—Posting.

Such notice shall be substantially as follows:

Notice To Destroy and Remove Weeds and Rubbish

NOTICE IS HEREBY GIVEN that on _____, 20_____, pursuant to the provisions of the Ordinance Code, city of Burlingame, the city council of said city passed a resolution declaring that all weeds growing, or rubbish existing, upon any private property or in any public street or alley, of such character as to be a fire menace, or otherwise noxious or dangerous, constitute a public nuisance and must be abated by destruction or removal thereof.

NOTICE IS FURTHER GIVEN that property owners shall without delay destroy and remove all such weeds or rubbish from their property, and the abutting one half of the street in front, and alley, if any, behind, such property, and between the lot lines extended, or such weeds and rubbish will be destroyed and the nuisance removed by the city authority, in which case the cost of destruction or removal will be assessed upon the land from which, or from the front or rear of which, such weeds or rubbish shall have been destroyed or removed; and such cost will constitute a lien upon such land until paid, and will be collected upon the next tax roll upon which general municipal taxes are collected.

All property owners having any objection to the proposed destruction or removal of such weeds or rubbish are hereby notified to attend a meeting of the council of said city, to be held at the chambers in the city hall in said city on _____, 20_____, at _____ o'clock, p.m., when and where objections will be heard and given due consideration.

Dated _____, 20_____

City Engineer of the City of Burlingame.

Such notice shall be conspicuously posted in front of the property on which or in front or behind which, the nuisance exists, at least 10 days prior to the time fixed by the council for hearing objections, and shall also be posted not less than 300 feet in distance apart throughout the city.

(1941 Code § 1399.2, Ord. 469, (1948); Ord. 1345 § 1, (1987))

§ 11.08.040. Hearing—Action by council.

At the time stated in the notice, the city council shall hear and consider any and all objections to the proposed destruction or removal of such weeds or rubbish, and may continue the hearing from time to time.

Upon the conclusion of such hearing, the council, by motion shall allow or overrule any or all objections, if any, after which the council shall thereupon be deemed to have acquired jurisdiction to proceed and perform the work of destruction or removal of such weeds or rubbish. The action of the council at the conclusion of such hearing shall be final and conclusive.

(1941 Code § 1399.3, Ord. 469, (1948))

§ 11.08.050. Order to abate nuisance—Abatement by property owner.

After final action shall have been taken by the council in the disposition of all objections, or in case no objections shall have been received, the city council shall by resolution order the city engineer to abate or cause to be abated, such nuisance, by having the weeds or rubbish referred to destroyed or removed, and the city engineer and his or her assistants, employees, contracting agents or other representatives are hereby authorized to enter upon private property for that purpose.

Any property owner shall have the right to destroy or remove such weeds or rubbish himself or herself, or have the same destroyed or removed at his or her own expense, provided that such weeds or rubbish shall have been removed prior to the arrival of the city engineer or his or her representatives to remove them. However, it shall be unlawful for any property owner or other person to burn any such weeds or rubbish without first having obtained written permission so to do from the chief of the fire department.

(1941 Code § 1399.4, Ord. 469, (1948))

§ 11.08.060. Account and report of cost.

The city engineer shall keep an account of the cost of abating such nuisance upon each separate lot or parcel of land, and the abutting one half of the street in front and the alley, if any, in the rear thereof and embody such account in a report and assessment list to the city council, which shall be filed with the clerk. Such report shall refer to each separate lot or parcel of land by description to be assessed against each separate lot or parcel of land therefor respectively.

(1941 Code 1399.5, Ord. 469, (1948))

§ 11.08.070. Notice of hearing on report and assessment list.

The city clerk shall post a copy of such report and assessment list at or near the entrance to the city hall, together with a notice of the filing thereof and of the time and place when and where it will be submitted to the city council for hearing and confirmation, therein notifying property owners that they may appear at such time and place, and object to any matter contained therein. A like notice shall also be published twice in a newspaper of general circulation printed and published within the city of Burlingame. The posting and first publication of said notice shall be made and completed at least 10 days before the time such report

shall have been submitted to the city council. Such notice, as so posted and published shall be substantially in the following form:

NOTICE OF HEARING ON REPORT AND ASSESSMENT FOR WEED AND RUBBISH ABATEMENT

NOTICE IS HEREBY GIVEN that on the _____ day of _____, 20____ the city engineer of the City of Burlingame filed with the city clerk of said city a report and assessment on the abatement of weeds and rubbish within said city a copy of which is posted near the entrance to the Burlingame City Hall.

NOTICE IS FURTHER GIVEN that on Monday, the _____ day of _____, 20____, at the hour of ____ o'clock p.m. in the council chambers in the city hall of said city, said report and assessment list will be presented to the city council of said city for consideration and confirmation, and all persons interested, having any objections to said report and assessment list, or to any matter or thing contained therein, may appear at said time and place to be heard.

Dated _____, 20 _____

City Clerk of the City of Burlingame.

(1941 Code § 1399.6, Ord. 469, (1948); Ord. 1345 § 2, (1987))

§ 11.08.080. Hearing and confirmation of assessments—Lien against property.

At the time and place fixed for receiving and considering such report, the city council shall hear the same together with any objections which may be filed by any of the property owners liable to be assessed for the work of abating the nuisance mentioned in this chapter, and the city engineer shall attend such meeting with his or her record thereof, and at such hearing, the city council may make such modifications in the proposed assessments therefor it may deem just and proper, after which, such report and assessment list shall be confirmed by resolution.

The amount of the cost of abating the nuisance upon the property referred to in the report of the city engineer and as finally concluded by resolution of the city council shall constitute a special assessment against each respective lot or parcel of land, and after thus made and confirmed, shall constitute a lien on such property for the amount of such assessments, until paid.

(1941 Code, § 1399.7, Ord. 469, (1948))

§ 11.08.090. Collection on tax roll.

A certified copy of the report shall be filed with the county controller on or before August 10th. Thereafter, such amounts shall be collected at the same time and in the same manner as general city taxes are collected, and shall be subject to the same interest and penalties, and the same procedure and sale in case of delinquency. All laws and ordinances applicable to the levy, collection and enforcement of city taxes are made applicable to such special assessments.

(1941 Code § 1399.8, Ord. 469, (1948); Ord. 1345 § 3, (1987))

CHAPTER 11.12 OBSTRUCTING VIEW AT INTERSECTIONS

§ 11.12.010. Height of trees, hedges, walls, at intersections.²

It is unlawful to construct, grow, maintain or permit to exist upon or adjacent to any lot or parcel of real property in the city at a place within a distance of fifteen(15) feet from that point of the intersection of any streets, lanes, avenues, roads or highways, any tree, hedge, brush or shrub, or fence, wall or like structure, over three feet in height measured from the level of the street, lane, avenue, road or highway in front of or to the side or rear of such real property, whichever is nearest to the structure or plant in question; provided, however, that this section shall not apply to any tree within such distance the lowest branches or foliage of which are not less than seven feet above the level of such street, lane, avenue, road, or highway in front of or to the side or rear of said real property, whichever is nearest to said tree, or to any tree or sapling the leaves, branches or foliage of which do not obstruct the clear view by the driver of any vehicle or traffic approaching from any direction the intersection of any streets, lanes, avenues, roads or highways.

(1941 Code § 1403, Ord. 1075 § 1, (1976))

2. Editor's Note: For zoning regulation of hedges and fences on corner lots, see Section 25.78.040 of this code.

TREES AND VEGETATION

Title 12**STREETS AND SIDEWALKS**

Chapter 12.04
**CONSTRUCTION AND REPAIR OF
SIDEWALKS, CURBS AND DRIVEWAYS**

- § 12.04.010. Permit required.
- § 12.04.020. Application for permit—Information required.
- § 12.04.030. Fees.
- § 12.04.040. Exemptions.
- § 12.04.050. Standard specifications and designs.
- § 12.04.060. Location and width of driveways.
- § 12.04.065. Abandoned driveways.
- § 12.04.070. Variances by planning commission.
- § 12.04.080. State highways.

Chapter 12.05
**SPECIAL CONSTRUCTION
REQUIREMENTS WITHIN THE PUBLIC
RIGHT-OF-WAY OF DOWNTOWN
BURLINGAME AVENUE**

- § 12.05.010. Purpose.
- § 12.05.020. Scope.
- § 12.05.030. Definitions.
- § 12.05.040. Construction moratorium.
- § 12.05.050. Construction allowed for purposes of emergency repairs, to protect the public health and safety, or special circumstances as determined by the public works department.
- § 12.05.060. Permit and fee.
- § 12.05.070. Downtown Burlingame Avenue special conditions, provisions, specifications, and details.
- § 12.05.080. Restoration of public right-of-way.
- § 12.05.090. Exercise of franchise.

Chapter 12.08
EXCAVATIONS

- § 12.08.010. Permit required.
- § 12.08.020. Application and fee.
- § 12.08.030. Inspection of work—Barriers.
- § 12.08.040. Distance open at one time limited.
- § 12.08.050. Restoration of street.
- § 12.08.060. Iron or steel pipes.
- § 12.08.070. Exercise of franchise to lay pipes or conduits.

Chapter 12.10
ENCROACHMENT PERMITS

- § 12.10.010. Policy.
- § 12.10.020. Paving or structures—Permit required.
- § 12.10.025. Midblock vehicle access—Permit required.
- § 12.10.030. Permit—Application.
- § 12.10.040. Permit—Issuance—Revocation.
- § 12.10.050. Permit—Decision—Appeal.
- § 12.10.060. Appeal—Hearing.
- § 12.10.070. Investigative fees and administrative penalty.

Chapter 12.11
**WIRELESS FACILITIES IN PUBLIC
RIGHTS-OF-WAY**

- § 12.11.010. Purpose.
- § 12.11.020. Definitions.
- § 12.11.030. Scope.
- § 12.11.040. Administration.
- § 12.11.050. General standards for wireless facilities in the public rights-of-way.
- § 12.11.060. Applications—Consultants.
- § 12.11.070. Findings—Decisions—Noticing—Waivers.

STREETS AND SIDEWALKS

§ 12.11.080.	Conditions of approval.	§ 12.16.050.	Notice to property owners and utility companies and CATV companies.
§ 12.11.090.	Breach—Termination of permit.		Responsibility of utility companies.
§ 12.11.100.	Infrastructure controlled by city.	§ 12.16.055.	Responsibility of property owners.
§ 12.11.110.	Nondiscrimination.	§ 12.16.060.	Responsibility of city.
		§ 12.16.070.	New developments and subdivisions.
	Chapter 12.12 SIDEWALK AND PARKWAY MAINTENANCE	§ 12.16.075.	Underground installation.
§ 12.12.010.	Maintenance by property owners.	§ 12.16.076.	Extension of time.
§ 12.12.020.	Notice to repair—Duty to repair.	§ 12.16.080.	Prior designation.
§ 12.12.030.	Notice to repair—Service.	§ 12.16.085.	Penalty for violation.
§ 12.12.040.	Repairs performed by owner.		Chapter 12.17 STREET NUMBERING AND RENAMING
§ 12.12.050.	Repairs performed by city.	§ 12.17.010.	System of building numbering established.
§ 12.12.060.	Costs—Assessment—Lien when.	§ 12.17.020.	Starting points and base lines.
§ 12.12.070.	Filing of notice of lien with county recorder.	§ 12.17.030.	Allocation of numbers.
§ 12.12.080.	Effect of recordation of lien notice.	§ 12.17.040.	Maintenance of record maps by the city engineer.
§ 12.12.090.	Collection of lien with regular taxes.	§ 12.17.050.	Use and maintenance of numbers.
§ 12.12.100.	Time and manner of collection—Penalties—Foreclosure procedure.	§ 12.17.060.	Limitation on numbers.
§ 12.12.110.	Proof of service of notice.	§ 12.17.070.	Changes from existing numbers.
§ 12.12.120.	Legality of charge.	§ 12.17.080.	Street name change procedure.
		§ 12.17.085.	Notification to board of supervisors.
	Chapter 12.16 UNDERGROUND UTILITY DISTRICTS		Chapter 12.20 PUBLIC TELEPHONES
§ 12.16.010.	Definitions.		
§ 12.16.020.	Public hearings by council.	§ 12.20.010.	Public telephones.
§ 12.16.025.	Council may designate underground utility districts by resolution.	§ 12.20.020.	Insurance requirements.
§ 12.16.030.	Unlawful acts.		Chapter 12.22 PROHIBITED DISPLAYS IN PUBLICATIONS
§ 12.16.035.	Exception, emergency or unusual circumstances.		
§ 12.16.040.	Other exceptions.	§ 12.22.010.	Prohibited displays.

BURLINGAME CODE

	Chapter 12.23 NEWSRACKS	§ 12.23.070.	Standards for placement and location of newsracks.
§ 12.23.010.	Purpose—Scope.	§ 12.23.080.	Special newsrack areas.
§ 12.23.020.	Definitions.	§ 12.23.090.	Blinder racks required.
§ 12.23.030.	Permit required.	§ 12.23.100.	Violation—Enforcement.
§ 12.23.040.	Obtaining a permit.	§ 12.23.110.	Nuisance.
§ 12.23.050.	Standards for maintenance and display of newsracks.	§ 12.23.120.	Removal and hearing.
§ 12.23.060.	Size and design standards.	§ 12.23.130.	Abandoned newsracks.

**CHAPTER 12.04
CONSTRUCTION AND REPAIR OF SIDEWALKS, CURBS AND DRIVEWAYS**

§ 12.04.010. Permit required.

No person, firm or corporation shall construct, reconstruct, repair, alter or grade any sidewalk, curb, curb-cut, driveway or street on the public streets without first obtaining a permit for such work from the city engineer.

(1941 Code § 1380, Ord. 641, (1957))

§ 12.04.020. Application for permit—Information required.

An application for a permit for such work shall be filed with the city engineer showing:

- (a) Name and address of the owner or managing agent of the property abutting the proposed work area;
- (b) Name and address of the person or firm doing the work;
- (c) Location of the work area, including lot, block and subdivision;
- (d) Attached plans or drawings showing details of the proposed alteration;
- (e) Such other information as the city engineer shall find reasonably necessary to the determination of whether a permit shall issue.

(1941 Code § 1380.1, Ord. 641, (1957))

§ 12.04.030. Fees.

Fees for sidewalk, driveway and curb installation and abandonment shall be those provided from time to time by resolution of the city council. The city council shall also establish by resolution such other fees, charges and procedures as may be necessary for maintenance and installation of sidewalks, driveways and curbs.

(1941 Code § 1380.2, Ord. 641, (1957); Ord. 890 § 1, (1968); Ord. 1127 § 1, (1978))

§ 12.04.040. Exemptions.

Fees as outlined above in this chapter will not be charged when sidewalks, curbs and driveways are a part of public improvements constructed under any special assessment district proceeding or are a part of a land subdivision where such work is required under a subdivision agreement to which the city of Burlingame is a party.

No permit or fee shall be required of any person holding a franchise to use the city streets granted by the city council of the city of Burlingame pursuant to the provisions of the Franchise Act of 1937.

(1941 Code § 1380.3, Ord. 641, (1957))

§ 12.04.050. Standard specifications and designs.

The city engineer shall prepare and keep on file in his or her office standard specifications for materials and quantities of materials and shall also prepare and keep on file in his or her office details of required designs for curbs, gutters, sidewalks and streets and all curb-cuts, driveways and sidewalks shall meet these specifications and designs.

(1941 Code § 1381, Ord. 641, (1957))

§ 12.04.060. Location and width of driveways.

- (a) Distance from Other Driveway or from Curb Return. No driveway shall be constructed or reconstructed which is less than 22 feet from another driveway, except that this requirement may be waived by the city engineer in the event that an existing driveway is so located that this requirement would create a hardship or where a single curb-cut is made to provide driveways for contiguous lots or parcels of land.

No driveway shall be constructed or reconstructed which is less than five feet from any point on a curb return. "Curb return" is defined as the curved section of curb used at street intersections in joining the curbs of the intersecting streets.

- (b) Limitation of Width of Driveways. The total width of any or all driveways in districts classified by this code as residential, commercial or industrial shall not exceed 25% of the width of the lot, except that when driveways are constructed on a lot with street frontage on more than one city street, the total width of the driveways shall not exceed 20% of the total street frontage of the lot.
- (c) Permits. The city engineer, if the health safety and general welfare of the public will not be unreasonably impaired, may grant a permit for the construction of driveways, having widths in excess of those hereinabove provided for in this section as follows:
- (1) In districts classified for multiple-dwellings he or she may grant a special permit for a driveway or driveways exceeding 25% of the street frontage where such excess can be shown to be essential and necessary but such driveway or driveways may not exceed 70% of the street frontage.
 - (2) In commercial districts he or she may grant a special permit for a driveway not exceeding 70% of the street frontage including the frontage on each street in the case of a corner lot or in the case of lots fronting on two streets, in order to give access to areas used for the off-street parking of vehicles, for off-street loading zones or for gasoline service stations.
 - (3) In industrial districts he or she may grant a special permit for a driveway or driveways not exceeding 70% of the entire street frontage where off-street parking facilities or loading ramps are installed between the property line and the building.
 - (4) In districts classified for single family or two family dwellings, he or she may grant a special permit for:
 - (A) A driveway width of up to 16 feet for two covered parking stalls where lot frontage is less than 64 feet;
 - (B) A driveway width of up to 12 feet for one covered parking stall where lot frontage is less than 48 feet.

(1941 Code § 1382, Ord. 641, (1957); Ord. 644, (1957); Ord. 890 § 2, (1968); Ord. 1047 § 1, (1975); Ord. 1603 § 10, (1998))

§ 12.04.065. Abandoned driveways.

No driveway curb-cuts shall be allowed to remain once the driveway use is abandoned. The city engineer shall require the adjacent property owner to restore the full height curb and gutter across the driveway opening and restore the sidewalk to its normal grade. The city engineer shall use the provisions of Chapter 12.12 of this title, when necessary, to insure compliance with this provision.

(Ord. 1074 § 1, (1976))

§ 12.04.070. Variances by planning commission.

When a variance, conditional use permit or special permit is granted by the planning commission and additional driveways or parking areas are required by the commission, then the commission may increase the allowable driveway percentage as a condition for the permitted use.

(1941 Code § 1383, Ord. 641, (1957); Ord. 1603 § 11, (1998))

§ 12.04.080. State highways.

No person, firm or corporation shall construct, reconstruct, repair, alter or grade any sidewalk, curb, curb-cut, driveway or surface of any state highway as the phrase "state highway" is defined in the Streets and Highways Code of the state of California without first obtaining a permit for such work from the state highway engineer in addition to the permit required by this chapter.

(1941 Code § 1384, Ord. 641, (1957))

**CHAPTER 12.05
SPECIAL CONSTRUCTION REQUIREMENTS WITHIN THE PUBLIC RIGHT-OF-WAY OF
DOWNTOWN BURLINGAME AVENUE**

§ 12.05.010. Purpose.

The purpose of this chapter is to preserve, maintain, and to protect improvements made by the city and its Downtown Burlingame Avenue property owners as part of the Downtown Burlingame Avenue Streetscape Project. More importantly, the purpose of this chapter is to insure any work done within the public right-of-way in Downtown Burlingame Avenue is restored completely and to the satisfaction of the city in accordance with the Downtown Burlingame Avenue special conditions, provisions, specifications, and details.

(Ord. 1908 § 2, (2015))

§ 12.05.020. Scope.

This chapter includes special conditions, provisions, specifications, and details necessary to ensure compliance with city council direction to preserve, maintain, and protect the city's Downtown Burlingame Avenue Streetscape improvements. The requirements include, but are not limited to, a five year construction moratorium, special conditions and provisions for restoration if work is approved for emergency repairs, to preserve public health and safety, or under special circumstances as determined by the department of public works, and minimizing as best as possible any impacts to Downtown Burlingame Avenue.

(Ord. 1908 § 2, (2015))

§ 12.05.030. Definitions.

Whenever in this chapter the words or phrases hereinafter defined are used, they shall have the respective meanings assigned to them in the following definitions:

"Downtown Burlingame Avenue" is the entire length of Burlingame Avenue from El Camino Real to California Drive and extensions along side streets such as El Camino Real, Primrose Road, Park Road, Lorton Avenue, Hatch Lane, and California Drive, and as shown on the map attached to this ordinance.

"Downtown Burlingame Avenue Streetscape Improvements" completed as part of the Downtown Burlingame Avenue Streetscape Project, include, but are not limited to, new widened sidewalks with their associated pattern-laid pavers; pavers in the parking areas, crosswalks and intersections; concrete bands; curb and gutter; asphalt concrete roadway; trees; tree grates; landscaping; planter pots; hanging baskets; decorative tree lights; benches; kiosks; gateway monuments; bike racks; retractable bollards; news racks; trash receptacles; smart parking meters; historic markers; decorative streetlights; electrical conduits; upgrades of the city's traffic signal; and utility upgrades to the city's potable water, sanitary sewer, and storm drainage systems and all associated appurtenances.

"Public works department" means the city of Burlingame public works department.

"Moratorium" is a temporary prohibition of any construction or work in the public right-of-way of Downtown Burlingame Avenue within the timeframe identified herein.

"Downtown Burlingame Avenue special conditions, provisions, specifications, and details" is a set of documents providing requirements with which any construction, reconstruction, repair, alteration or grading, opening, excavation in any sidewalk concrete and pavers, curb and gutter, planter, parking area concrete and pavers, roadway; crosswalk, or intersection, or operation of construction equipment, within the area identified in this chapter, must comply.

(Ord. 1908 § 2, (2015))

§ 12.05.040. Construction moratorium.

Effective 30 days from the adoption of the ordinance codified in this chapter, a five year construction moratorium is implemented for Downtown Burlingame Avenue. The construction moratorium will end on March 1, 2020. No person, firm or corporation shall construct, reconstruct, repair, alter or grade, open or cause to be opened, or make any excavation in any sidewalk concrete and pavers; curb and gutter; planter; parking area concrete and pavers; roadway; crosswalk; or intersection; or to operate construction equipment within Downtown Burlingame Avenue during the construction moratorium, except as permitted under the exceptions set forth herein.

(Ord. 1908 § 2, (2015))

§ 12.05.050. Construction allowed for purposes of emergency repairs, to protect the public health and safety, or special circumstances as determined by the public works department.

Any person, firm or corporation desiring to request permission to construct, reconstruct, repair, alter or grade, open or cause to be opened, or make any excavation in any sidewalk concrete and pavers; curb and gutter; planter; parking area concrete and pavers; roadway; crosswalk; or intersection; or to operate construction equipment within Downtown Burlingame Avenue shall make a written request to the public works department setting forth the purpose and extent of such work to be performed or caused to be performed by such person. Following the review of request, the public works department may grant special permission if the proposed work is deemed necessary for emergencies, public health and safety, and special circumstances. Such a written request shall include:

- (a) Drawings showing location of work area, details of proposed work, and restoration of public right-of-way per Downtown Burlingame Avenue special conditions, provisions, specifications, and details.
- (b) Such other information as the public works department shall find necessary to the determination of whether permission shall be granted.

Permission for construction work shall be granted or denied within the discretion of the director of public works or designee, which determination shall be final. In the case of an emergency or immediate and serious threat to the public health and safety, a property owner or business tenant may make only such repairs or take such actions as necessary to avoid serious and substantial harm to property or risk to persons without following the application procedure identified here. Further repairs or work beyond that necessary to contain or stabilize an emergency situation must be approved through the process identified in this section.

(Ord. 1908 § 2, (2015))

§ 12.05.060. Permit and fee.

Any person, firm or corporation submitting a written request to the public works department for permission to construct, reconstruct, repair, alter or grade, open or cause to be opened, or make any sidewalk concrete and pavers; curb and gutter; planter; parking area concrete and pavers; roadway; crosswalk; or intersection; or to operate construction equipment within Downtown Burlingame Avenue shall provide a minimum plan review deposit at the time of the request. The actual cost charged for the plan review shall be based on actual city staff time and material spent in, assessing and evaluating the request, plan review, preliminary site visit(s), meeting(s), and any other such work directly related and necessary to the processing of the request. The city may request additional deposits based on the size and scope of the proposed work. Any

remaining deposit funds shall be either applied towards an application for an encroachment permit, if required and the applicant chooses to go forward with such permit, or refunded to the applicant.

The public works department may grant the request to perform work in whole or in part, subject to the Downtown Burlingame Avenue special conditions, provisions, specifications, and details and conditions as the public works department may determine are necessary for the health, safety and general welfare of the public. If the requested work is approved, the applicant shall file with the public works department an application for an encroachment permit prior to starting work. Applicable permit fees and bonds will be based on fees approved by the city council.

(Ord. 1908 § 2, (2015))

§ 12.05.070. Downtown Burlingame Avenue special conditions, provisions, specifications, and details.

The public works department shall prepare the Downtown Burlingame Avenue special conditions, provisions, specifications, and details for construction method and materials. These materials shall be available for review upon request at the public works department. The public works department may modify these conditions, provisions, specifications, and details as deemed necessary.

(Ord. 1908 § 2, (2015))

§ 12.05.080. Restoration of public right-of-way.

All construction work, openings, excavations, and damage caused by construction to the city infrastructure shall be restored in compliance with the Downtown Burlingame Avenue special conditions, provisions, specifications, and details and to the satisfaction of the public works department.

(Ord. 1908 § 2, (2015))

§ 12.05.090. Exercise of franchise.

No person, firm or corporation shall exercise any franchise or privilege to construct, reconstruct, repair, alter or grade, open or cause to be opened, or make any excavation in, any sidewalk concrete and pavers; curb and gutter; planter; parking area concrete and pavers; roadway, crosswalk; or intersection for the purpose of laying or maintaining any pipes for the transmission of gas, water, heat, steam, high speed internet or wireless access, or other substances without having obtained permission from the public works department in accordance with this chapter.

(Ord. 1908 § 2, (2015))

CHAPTER 12.08 EXCAVATIONS

§ 12.08.010. Permit required.

No person, firm or corporation shall open or cause to be opened, or make any excavation in, any street, lane, alley, court or highway within the city, for the purpose of laying or connecting pipe, pipes or conduits therein, or for any other purpose, without first having obtained written permission from the city engineer therefore.

(1941 Code § 1373)

§ 12.08.020. Application and fee.

Any person, firm or corporation desiring such permission shall make a written application to the city engineer setting forth the purpose and extent of such work to be performed or caused to be performed by such person. Accompanying such application shall be such fee or deposit as shall be provided from time to time by resolution of the city council as security for performance of the work.

(1941 Code § 1374, Ord. 1127 § 2, (1978))

§ 12.08.030. Inspection of work—Barriers.

All work to be done under this chapter shall at all times be open to the inspection of the city engineer, and such suitable safeguards shall be placed around said work as will best insure public protection.

(1941 Code § 1375)

§ 12.08.040. Distance open at one time limited.

Not more than 100 yards of any street, lane, alley, court or highway in the city shall be opened or remain open at any one time during the progress of the work to be done under this chapter.

(1941 Code § 1376)

§ 12.08.050. Restoration of street.

All openings or excavations made in the street, lane, alley, court or highway shall, upon the completion of the work, be forthwith refilled, and such street, lane, alley, court or highway shall be restored as nearly as possible to its former condition of base and surface by the party or parties doing the work under this division and to the satisfaction of the city engineer.

(1941 Code § 1377)

§ 12.08.060. Iron or steel pipes.

Whenever any public street, lane, alley, court or highway in the city is about to be improved by the paving thereof and pipe, pipes or conduits are to be lowered or replaced, such pipe, pipes or conduits so lowered or replaced shall be of such materials as the city engineer may determine.

(1941 Code § 1378, Ord. 1049 § 8, (1975))

§ 12.08.070. Exercise of franchise to lay pipes or conduits.

No person, firm or corporation shall exercise any franchise or privilege to lay or maintain any pipes or conduits in or under any street of the city for the transmission of gas, water, heat, steam or other substance without having obtained a grant therefor from the city in accordance with law.

City of Burlingame, CA

§ 12.08.070

BURLINGAME CODE

§ 12.08.070

(1941 Code § 1379)

CHAPTER 12.10 ENCROACHMENT PERMITS

§ 12.10.010. Policy.

It is the policy of the city of Burlingame that established street and sidewalk rights-of-way of the city shall be used for public purposes, and that midblock rights-of-way, being substandard in width, should not become developed as streets, and that permission to encroach thereon shall be given only when exceptional or unusual circumstances are presented, or when there is no reasonably foreseeable requirement for city use of the right-of-way.

(Ord. 1053 § 1, (1975); Ord. 1171 § 1, (1980))

§ 12.10.020. Paving or structures—Permit required.

No person without first obtaining a permit shall construct or place an encroachment within, on, over or under a right-of-way of the city. Encroachment shall include any paving, tower, pole, pipe, fence, building or any other structure or object of any kind. This chapter shall apply if a permit other than a building permit is not otherwise required by this code.

(Ord. 1053 § 1, (1975); Ord. 1171 § 2, (1980))

§ 12.10.025. Midblock vehicle access—Permit required.

No person without first obtaining a permit shall allow vehicle access to or from adjacent property over or across an alley or other similar midblock right-of-way.

(Ord. 1171 § 3, (1980))

§ 12.10.030. Permit—Application.

Any person, firm or corporation desiring such a permit shall make a written application to the city engineer setting forth the purpose and extent of the work to be performed or caused to be performed by such person. Accompanying such application shall be deposited with the city engineer such fee as shall be provided from time to time by resolution of the city council.

(Ord. 1053 § 1, (1975); Ord. 1127 § 3, (1978))

§ 12.10.040. Permit—Issuance—Revocation.

- (a) The city engineer will grant the request for an encroachment permit in whole or in part, subject to such conditions as the engineer may determine are necessary for the health, safety and general welfare of the public.
- (b) Any privately owned figure allowed in the public right-of-way in Subarea A of the Burlingame Avenue Commercial Area shall conform at a minimum to the following criteria:
 - (1) The applicant shall be either the owner or a tenant of the private property immediately adjacent to the sidewalk area on which the figure is to be located and the application shall be signed by both the tenant owning the figure and the property owner from whom the adjacent site is leased;
 - (2) The figure shall be made only of wood, stone or metal;
 - (3) The figure shall not be lit from the inside or outside, contain any wiring, motorized or moving parts or make any sound, and no balloons, banners, streamers or similar items shall be attached to the figure;

- (4) The items listed in Section 25.76.020(3) Adult Entertainment shall not be depicted in any figure;
 - (5) The figure shall contain no letters, words, or characters;
 - (6) The figure shall be no taller than six and one half (6-1/2) feet as measured from the adjacent level of the sidewalk and no wider than three feet at any point;
 - (7) The placement shall not interfere with or cause damage to existing public improvements;
 - (8) The figure shall be structurally stable with respect to tipping, wind load, sharp objects or other potential hazards so that it is and determined to be safe for the public;
 - (9) The figure shall be maintained by the private owner who shall be responsible for inspecting and immediately repairing any damage to the figure;
 - (10) The owner of the figure shall assume all liability for any theft, injuries and property damage caused by or to the figure;
 - (11) The figure shall be placed at least 10 feet from the outside edge of any pedestrian crosswalk, unless the figure is attached to the wall of a structure and does not extend more than two feet into the public right-of-way;
 - (12) The figure shall be placed against the wall of a structure or permanent city planter box and located so that there is a minimum of five feet of clearance on the adjacent sidewalk for unobstructed pedestrian movement;
 - (13) The figure shall not be permanently attached to the public right-of-way or any improvement in the public right-of-way;
 - (14) The figure shall be securely attached to a private structure or shall be removed daily from the public right-of-way and shall not be put in place before 8:00 a.m. and shall be removed before 6:00 p.m.; and
 - (15) Upon notice of the city engineer, the figure shall be removed from the public right-of-way for the duration of any sidewalk and infrastructure cleaning and repair work, civic events, street fairs or other activities which cause the street to be closed.
- (c) An encroachment permit for a privately owned figure in the public right-of-way may be revoked by the city engineer for failure to comply with any of the criteria listed in subsection (b) of this section within 48 hours of receipt of a warning notice. If the owner fails to comply with the criteria within the 48 hour period, the city may remove the figure and permanently dispose of it at the owner's expense;
- (d) If a figure has become a threat to the public's health and safety it shall be removed immediately at the owner's expense.
- (e) Any encroachment permit issued under this chapter shall be revocable by the city upon written notice. (Ord. 1053 § 1, (1975); Ord. 1587 § 3, (1998))

§ 12.10.050. Permit—Decision—Appeal.

Any decision of the city engineer concerning an encroachment permit may be appealed by the applicant to the city council. Such appeal shall be made in writing within five days after written notice of the decision of the city engineer is sent to the applicant. Additionally, all decisions of the city engineer shall be reported

to city council and shall not be final until the conclusion of the city council meeting at which such report is received.

(Ord. 1053 § 1, (1975))

§ 12.10.060. Appeal—Hearing.

In the event that an appeal is taken, the matter shall be referred to the city council for hearing. At the conclusion of the hearing the city council shall make its order approving, modifying or reversing the action of the city engineer. The decision of the city council shall be final and conclusive. All permits shall be recorded with the San Mateo county recorder.

(Ord. 1053 § 1, (1975))

§ 12.10.070. Investigative fees and administrative penalty.

- (a) Whenever construction, work, or placement for which a permit is required by this chapter has been commenced without first obtaining a permit, any application for approval of the construction, work, or placement shall be accompanied by:
 - (1) The permit fees adopted pursuant to Section 12.10.030 above; and
 - (2) An investigation fee in the amount of \$100; and
 - (3) An administrative penalty equal to the permit fees calculated pursuant to subsection (a) of this section.
- (b) Any person assessed an investigation fee and administrative penalty may file an appeal with the city clerk within 10 days after written notice to such person of the assessment. A hearing upon such appeal shall thereafter be held by the city council; its decision thereon shall be final. Nothing in this section shall relieve any persons from fully complying with the requirements of this chapter and any other applicable laws and regulations, or from any other fees or penalties prescribed by law.

(Ord. 1634 § 2, (2000))

**CHAPTER 12.11
WIRELESS FACILITIES IN PUBLIC RIGHTS-OF-WAY**

§ 12.11.010. Purpose.

The purpose of this chapter is to establish a process for managing, and uniform standards for acting upon, requests for the placement of wireless facilities within the public rights-of-way of the city consistent with the city's obligation to promote the public health, safety, and welfare, to manage the public rights-of-way, and to ensure that the public is not incommoded by the use of the public rights-of-way for the placement of wireless facilities. The city recognizes the importance of wireless facilities to provide high-quality communications service to the residents and businesses within the city, and the city also recognizes its obligation to comply with applicable federal and state law regarding the placement of personal wireless services facilities in its public rights-of-way. This chapter shall be interpreted consistent with those provisions.

(Ord. 1993 § 3, (2021))

§ 12.11.020. Definitions.

The terms used in this chapter shall have the following meanings:

"Application" means a formal request, including all required and requested documentation and information, submitted by an applicant to the city for a wireless encroachment permit.

"Applicant" means a person filing an application for placement or modification of a wireless facility in the public right-of-way.

"Eligible facilities request" shall have the meaning as set forth in 47 C.F.R. Section 1.6100(b)(3), or any successor provision.

"FCC" means the Federal Communications Commission or its lawful successor.

"Municipal infrastructure" means city-owned or controlled property structures, objects, and equipment in the ROW, including, but not limited to, street lights, traffic control structures, banners, street furniture, or other poles, lighting fixtures, or electroliers located within the ROW.

"Permittee" means any person or entity granted a wireless encroachment permit pursuant to this chapter.

"Personal wireless services" shall have the same meaning as set forth in 47 U.S.C. Section 332(c)(7)(C)(i).

"Personal wireless services facility" means a wireless facility used for the provision of personal wireless services.

"Public rights-of-way, or ROW" means any portion of any land dedicated, condemned or established and improved for use as a public thoroughfare for vehicular use and owned, maintained or managed by the city. Public right(s)-of-way includes public streets, roads, lanes, and alleys (including portions used for sidewalks, medians, and parkways). For the purposes of this chapter, the public right(s)-of-way includes public utility easements and does not include private streets.

"Small cell facility" shall have the same meaning as "small wireless facility" in 47 C.F.R. Section 1.6002(l), or any successor provision (which is a personal wireless services facility that meets the following conditions that, solely for convenience, have been set forth below):

(a) The facilities:

- (1) Are mounted on a structure 50 feet or less in height including their antennas as defined in 47 C.F.R. Section 1.1320(d), or

- (2) Are mounted on a structure no more than 10% taller than other adjacent structures, or
- (3) Do not extend an existing structure on which it are located to a height of more than 50 feet or by more than 10%, whichever is greater;
- (b) Each antenna associated with the deployment, excluding associated antenna equipment (as defined in the definition of antenna in 47 C.F.R. Section 1.1320(d)), is no more than three cubic feet in volume;
- (c) All other wireless equipment associated with the structure, including the wireless equipment associated with the antenna and any pre-existing associated equipment on the structure, is no more than 28 cubic feet in volume;
- (d) The facility does not require antenna structure registration under 47 C.F.R. Part 17;
- (e) The facility is not located on Tribal lands, as defined under 36 C.F.R. Section 800.16(x); and
- (f) The facility does not result in human exposure to radiofrequency radiation in excess of the applicable safety standards specified in 47 C.F.R. Section 1.1307(b).

"Support Structure" means any structure capable of supporting a base station.

"Underground areas" means those areas where there are no electrical facilities or facilities of the incumbent local exchange carrier in the right-of-way; or where the wires associated with the same are or are required to be located underground; or where the same are scheduled to be converted from overhead to underground. Electrical facilities are distribution facilities owned by an electric utility and do not include transmission facilities used or intended to be used to transmit electricity at nominal voltages in excess of 35,000 volts.

"Utility pole" means a structure in the ROW designed to support electric, telephone and similar utility lines. A tower is not a utility pole.

"Wireless encroachment permit" means a permit issued pursuant to this chapter authorizing the placement or modification of a wireless facility of a design specified in the permit at a particular location within the ROW; and the modification of any existing support structure to which the wireless facility is proposed to be attached.

Wireless facility, or "facility" means the transmitters, antenna structures and other types of installations used for the provision of wireless services at a fixed location, including, without limitation, any associated tower(s), support structure(s), and base station(s).

"Wireless infrastructure provider" means a person that owns, controls, operates or manages a wireless facility or portion thereof within the ROW.

"Wireless regulations" means those regulations adopted pursuant to Section 5 and implementing the provisions of this chapter.

"Wireless service provider" means an entity that provides personal wireless services to end users.
(Ord. 1993 § 3, (2021))

§ 12.11.030. Scope.

- (a) In General. There shall be a type of encroachment permit entitled a "wireless encroachment permit," which shall be subject to all of the same requirements as an encroachment permit would under Chapter 12.10 of this code in addition to all of the requirements of this chapter. Unless exempted, every person who desires to place a wireless facility in the public rights-of-way or modify an existing wireless facility in the public rights-of-way must obtain a wireless encroachment permit authorizing

the placement or modification in accordance with this chapter. Except for small cell facilities, facilities qualifying as eligible facilities requests, or any other type of facility expressly allowed in the public right-of-way by state or federal law, no other wireless facilities shall be permitted pursuant to this chapter.

(1) Exemptions. This chapter does not apply to:

- (A) The placement or modification of facilities by the city or by any public agency solely for public safety purposes.
 - (B) Installation of a "cell on wheels," "cell on truck" or a similar facility for a temporary period in connection with an emergency or a non-emergency event, but no longer than required for the emergency or the non-emergency event, provided: (i) that installation does not involve excavation, movement, or removal of existing facilities; (ii) that the public works director is notified in writing by the owner of the temporary facility at least two business days prior to the installation, or if advance notice is not possible in an emergency, within 48 hours after installation; and (iii) the owner of the installation complies with all reasonable directives of the public works director regarding the placement or relocation of placed temporary facilities.
 - (C) Installation of a wireless facility on the strand between two utility poles, provided that the cumulative volume of all wireless facilities on the strand shall not exceed one cubic foot and provided further that the installation does not require replacement of the strand, or excavation, modification or replacement of the utility poles.
- (b) Other Applicable Requirements. In addition to the wireless encroachment permit required herein, the placement of a wireless facility in the ROW requires the persons who will own or control those facilities to obtain all permits required by applicable law, and to comply with applicable law, including, but not limited to, applicable law governing radio frequency (RF) emissions.
- (c) Pre-Existing Facilities in the ROW. Any wireless facility already existing in the ROW as of the date of this chapter's adoption shall remain subject to the standards and conditions of this code in effect prior to this chapter, unless and until a renewal of such facility's then-existing permit is granted, at which time the provisions of this chapter shall apply in full force going forward as to such facility. The review of any request for a renewal of a permit for such preexisting facilities shall be conducted pursuant to this chapter, rather than the portion(s) of this code that it was previously reviewed under.
- (d) Public Use. Except as otherwise provided by California law, any use of the public right-of-way authorized pursuant to this chapter will be subordinate to the city's use and use by the public.

(Ord. 1993 § 3, (2021))

§ 12.11.040. Administration.

- (a) Reviewing Authority. The public works director or its designee (director) is responsible for administering this chapter. As part of the administration of this chapter, the director may:
- (1) Interpret the provisions of this chapter;
 - (2) Develop and implement standards governing the placement and modification of wireless facilities consistent with the requirements of this chapter, including regulations governing collocation and resolution of conflicting applications for placement of wireless facilities;
 - (3) Develop and implement acceptable designs and development standards for wireless facilities in

the public rights-of-way, taking into account the zoning districts bounding the public rights-of-way;

- (4) Develop forms and procedures for submission of applications for placement or modification of wireless facilities, and proposed changes to any support structure consistent with this chapter;
- (5) Determine the amount of and collect, as a condition of the completeness of any application, any fee or deposit established by the city;
- (6) Establish deadlines for submission of information related to an application, and extend or shorten deadlines where appropriate and consistent with state and federal laws and regulations;
- (7) Issue any notices of incompleteness, requests for information, or conduct or commission such studies as may be required to determine whether a permit should be issued;
- (8) Require notice to members of the public that may be affected by the placement or modification of the wireless facility and proposed changes to any support structure in accordance with this chapter;
- (9) Subject to appeal as provided herein, determine whether to approve, approve subject to conditions, or deny an application; and
- (10) Take such other steps as may be required to timely act upon applications for placement of wireless facilities, including issuing written decisions and entering into agreements to mutually extend the time for action on an application.

(b) Appeal.

- (1) Any person adversely affected by the decision of the director pursuant to this chapter may appeal the director's decision to a hearing officer appointed by the city manager. The hearing officer may decide the issues de novo, and their written decision will be the final decision of the city. An appeal by a wireless infrastructure provider must be taken jointly with the wireless service provider that intends to use the personal wireless services facility.
- (2) Where the director grants an application based on a finding that denial would result in a prohibition or effective prohibition under applicable federal law, the decision shall be automatically appealed to a hearing officer appointed by the city manager. All appeals must be filed within five days of the written decision of the director, unless the director extends the time therefore. An extension may not be granted where extension would result in approval of the application by operation of law.
- (3) Any appeal shall be conducted so that a timely written decision may be issued in accordance with applicable law.

(Ord. 1993 § 3, (2021))

§ 12.11.050. General standards for wireless facilities in the public rights-of-way.

- (a) Generally. Wireless facilities in the ROW shall meet the minimum requirements set forth in this chapter and the wireless regulations, in addition to the requirements of any other applicable law.
- (b) Minimum Standards. Wireless facilities shall be installed and modified in a manner that minimizes risks to public safety, avoids placement of new aboveground facilities in underground areas, avoids installation of new support structures or equipment cabinets in the public rights-of-way, and

otherwise maintains the integrity and character of the neighborhoods and corridors in which the facilities are located; ensures that installations are subject to periodic review to minimize the intrusion on the rights-of-way; and ensures that the city bears no risk or liability as a result of the installations, and that such use does not inconvenience the public, interfere with the primary uses of the rights-of-way, or hinder the ability of the city or other government agencies to improve, modify, relocate, abandon, or vacate the public rights-of-way or any portion thereof, or to cause the improvement, modification, relocation, vacation, or abandonment of facilities in the public rights-of-way.

- (c) **Design and Location Standards.** All applicants shall design and locate the wireless facilities in accordance with the standards and wireless regulations set forth separately through the resolution adopted by the city council. The director may propose updates to the standards for city council approval from time to time, in order to consider the inclusion of new technologies, innovations and materials which would further the goal of reducing the aesthetic impacts of facilities.

(Ord. 1993 § 3, (2021))

§ 12.11.060. Applications—Consultants.

- (a) **Submission.** Unless the wireless regulations provide otherwise, applicant shall submit a paper copy and an electronic copy of any application, amendments, or supplements to an application, or responses to requests for information regarding an application to: director, at the address posted on the city's website or listed in the applicable form.
- (b) **Pre-Application Meeting.** Prior to filing an application for a wireless encroachment permit, an applicant is encouraged to schedule a pre-application meeting with the director to discuss the proposed facility, the requirements of this chapter, and any potential impacts of the proposed facility.
- (c) **Content.** An applicant shall submit an application on the form approved by the director, which may be updated from time to time, but in any event shall require the submission of all required fee(s), documents, information, and any other material necessary to allow the director to make required findings and ensure that the proposed facility will comply with applicable federal and state law, the Municipal Code, and will not endanger the public health, safety, or welfare. If no form has been approved, applications must contain all information necessary to show that applicant is entitled to the wireless encroachment permit requested, and must specify whether the applicant believes state or federal law requires action on the application within a specified time period.
- (d) **Fees.** Application fee(s) shall be required to be submitted with any application for a wireless encroachment permit. The city council is hereby authorized to determine, or cause to be determined, the amount, type, and other terms of such fee(s) from time to time by means of resolution. Notwithstanding the foregoing, no application fee shall be refundable, in whole or in part, to an applicant for a wireless encroachment permit unless paid as a refundable deposit.
- (e) **Incompleteness.** For personal wireless facilities and eligible facilities requests, applications will be processed, and notices of incompleteness provided, in conformity with state, local, and federal law. If such an application is incomplete, the director may notify the applicant in writing, and specifying the material omitted from the application.
- (f) **Consultants.** The director or hearing officer, as the case may be, is authorized, in its discretion, to select and retain consultant(s) with expertise in telecommunications in connection with the review of any application under this chapter. Such consultant review may be retained on any issue that involves specialized or expert knowledge in connection with an application, including, but not limited to, application completeness or accuracy, structural engineering analysis, or compliance with FCC radio

frequency emissions standards.
(Ord. 1993 § 3, (2021))

§ 12.11.070. Findings—Decisions—Noticing—Waivers.

- (a) Findings Required for Approval.
 - (1) Except for eligible facilities requests, the director or hearing officer, as the case may be, shall approve an application if, on the basis of the application and other materials or evidence provided in review thereof, it finds the following:
 - (A) The facility is not detrimental to the public health, safety, and welfare;
 - (B) The facility complies with this chapter and all applicable design and development standards;
 - (C) The facility meets applicable requirements and standards of state and federal law; and
 - (b) For eligible facilities requests, the director or hearing officer, as the case may be, shall approve an application if, on the basis of the application and other materials or evidence provided in review thereof, it finds the following:
 - (1) That the application qualifies as an eligible facilities request; and
 - (2) That the proposed facility will comply with all generally-applicable laws.
 - (c) Decisions. Decisions on an application by the director or hearing officer shall be in writing and include the reasons for the decision.
 - (d) Noticing. Once the application and all supporting information and documentation have been received and reviewed by the public works department, notice of the proposed decision shall be given to the applicant and all owners of property which lies within a radius of 300 feet of the proposed facilities and any alternative sites identified by the applicant. The following information shall be provided:
 - (1) Project description and site plan as provided in the application.
 - (2) Map which accurately and clearly depicts location of entire project as provided in the application.
 - (3) A summary of the proposed decision.
 - (4) The effective date of the proposed decision, and how to submit an appeal.More detailed information, including, but not limited to, photo simulations and elevations, as provided in the application, shall be placed on the city's website and this information shall be referenced in the notice.
 - (e) Waivers. The reviewing authority may grant waivers of the requirements for wireless communications facilities subject to this chapter, if it is determined that the applicant has established that denial of an application or strict adherence to the location and design standards would:
 - (1) Prohibit or effectively prohibit the provision of personal wireless services, within the meaning of federal law; or

- (2) Otherwise violate applicable laws or regulations; or
- (3) Require a technically infeasible design or installation of a wireless facility.

If that determination is made, said requirements may be waived, but only to the minimum extent required to avoid the prohibition, violation, or technically infeasible design or installation.

(Ord. 1993 § 3, (2021))

§ 12.11.080. Conditions of approval.

Generally. In addition to any supplemental conditions imposed by the director or hearing officer, as the case may be, all permits under this chapter shall be subject to the standard conditions adopted by resolution of the city council, unless modified by the director or hearing officer.

§ 12.11.090. Breach—Termination of permit.

- (a) For Breach. A wireless encroachment permit may be revoked for failure to comply with the conditions of the permit or applicable law. Upon revocation, the wireless facility must be removed; provided that removal of a support structure owned by City, a utility, or another entity authorized to maintain a support structure in the right-of-way need not be removed, but must be restored to its prior condition, except as specifically permitted by the city. All costs incurred by the city in connection with the revocation and removal shall be paid by entities who own or control any part of the wireless facility.
- (b) For Installation Without a Permit. A wireless facility installed without a wireless encroachment permit (except for those exempted by this chapter) must be removed; provided that removal of support structure owned by city, a utility, or another entity authorized to maintain a support structure in the right-of-way need not be removed, but must be restored to its prior condition, except as specifically permitted by the city. All costs incurred by the city in connection with the revocation and removal shall be paid by entities who own or control any part of the wireless facility.
- (c) Municipal Infraction. Any violation of this chapter will be subject to the same penalties as a violation of the Chapter 1.12.

(Ord. 1993 § 3, (2021))

§ 12.11.100. Infrastructure controlled by city.

The city, as a matter of policy, will negotiate agreements for use of municipal infrastructure. The placement of wireless facilities on those structures shall be subject to the agreement. The agreement shall specify the compensation to the city for use of the structures. The person seeking the agreement shall additionally reimburse the city for all costs the city incurs in connection with its review of, and action upon the person's request for, an agreement.

(Ord. 1993 § 3, (2021))

§ 12.11.110. Nondiscrimination.

In establishing the rights, obligations and conditions set forth in this chapter, it is the intent of the city to treat each applicant or public right-of-way user in a competitively neutral and nondiscriminatory manner, to the extent required by law, and with considerations that may be unique to the technologies, situation and legal status of each particular applicant or request for use of the public rights-of-way.

City of Burlingame, CA

§ 12.11.110

STREETS AND SIDEWALKS

§ 12.11.110

(Ord. 1993 § 3, (2021))

CHAPTER 12.12 SIDEWALK AND PARKWAY MAINTENANCE

§ 12.12.010. Maintenance by property owners.

The owners of properties adjacent to or fronting on any portion of an improved street or place, or a street whose area between the property line of the adjacent property and the street line is maintained as a park or parking strip, shall have a duty to maintain and shall maintain any sidewalk in such condition that the sidewalk will not endanger persons or property and in such condition that the sidewalk will not interfere with the public convenience in the use of those works or areas except as to those conditions created or maintained in, on, along or in connection with such sidewalk by any person other than the owner, under and by virtue of any permit or right granted to him or her by law or by the city authorities in charge thereof, and such persons shall be in a like duty in relation thereto.

(Ord. 1858 § 2, (2010))

§ 12.12.020. Notice to repair—Duty to repair.

When any portion of any sidewalk is defective, out of repair or pending reconstruction and/or in condition to endanger persons or property, or to interfere with the public convenience in the use thereof, the director of public works or designee shall notify the owner or person in possession of the property abutting or fronting on that defective or out of repair portion of the sidewalk, to repair the sidewalk in the manner provided in this chapter and as approved by the public works director or designee in accordance with public works standards.

(Ord. 1858 § 2, (2010); Ord. 1949 § 1, (2018))

§ 12.12.030. Notice to repair—Service.

The public works director or designee may notify the affected property owner of the need to repair sidewalk in accordance with the Streets and Highway Code. Notice to repair may be given by delivering a written notice personally to the owner or to the person in possession of the property abutting or fronting on that portion of the sidewalk so out of repair or by mailing a written notice to the person in possession of such property, or to the owner thereof at the last known address as the same appears on the last equalized assessment roll or to the name and address of the person owning such property as shown in the records of the San Mateo County Recorder's Office.

(Ord. 1858 § 2, (2010); Ord. 1949 § 1, (2018))

§ 12.12.040. Repairs performed by owner.

Upon receiving a notice to repair, the property owner, within 14 days after receipt of the notice to repair, shall: (1) obtain an encroachment permit from the public works department; (2) commence performance of the work, and diligently and without interruption prosecute the work to completion; (3) be responsible for the full cost of the repair. If the property owner fails to timely obtain an encroachment permit and to commence and diligently prosecute the work without interruption, the director of public works shall make such repair, and the cost of that repair shall be a lien on the property pursuant to the provisions of this chapter.

(Ord. 1858 § 2, (2010); Ord. 1949 § 1, (2018))

§ 12.12.050. Repairs performed by city.

Notwithstanding the above provisions of this chapter, the city council may authorize the director of public works or designee to identify sidewalk repairs and implement a sidewalk repair program to address

pedestrian safety concerns and to address compliance with the Americans with Disabilities Act as part of the Capital Improvement Program. The focus of the work performed by the public works department shall consist of sidewalk repairs to address pedestrian safety concerns in the public pedestrian path of travel, and Americans with Disabilities Act improvements, and excludes all private driveway approaches and private walkways. Continuation of the sidewalk repair program by the public works director is contingent upon availability of funding, and may terminate at any time as determined by the city council. The implementation of the sidewalk repair program by the public works director does not relieve the adjoining private property owners of their responsibility for maintenance of sidewalks as specified in Section 5600 of the Streets and Highway Code, and in Section 12.12.010 of this chapter.

(Ord. 1949 § 1, (2018))

§ 12.12.060. Costs—Assessment—Lien when.

For any repair for which notice was given under Section 12.12.040 of this chapter and the costs of repair were borne by the city, the city council shall conduct a public hearing at which the director of public works shall submit the notice and costs associated with the repair, and the property owner against whom such repairs may be charged shall have the opportunity to appear, dispute the charges, and submit argument or evidence in support of the property owner's position. The affected property owner shall be provided notice at the address as provided in Section 12.12.030 via certified mail or hand delivery and registered mail at least 14 calendar days prior to the meeting at which the item is to be heard. If, following the public hearing, the city council determines the charges to be proper, the city council shall assess the cost of repair against the parcel of property fronting upon the sidewalk upon which such repair was made. Such cost so assessed, if not paid within 30 days of mailing the invoice, shall constitute a special assessment against that parcel of property, and shall be a lien on the property for the amount thereof. Such lien shall continue until the assessment and all interest thereon are paid, or until it is discharged of record.

(Ord. 1858 § 2, (2010); Ord. 1949 § 1, (2018))

§ 12.12.070. Filing of notice of lien with county recorder.

The director of public works may file in the office of the county recorder a certificate substantially in the following form:

NOTICE OF LIEN

Pursuant to the authority vested in me by the Improvement Act of 1911, I did, on the _____ day of _____, 20_____, cause the sidewalk, curb, or park or parking strip, bulkheads, retaining walls or other works (as the case may be) in front of the real property hereinafter described, to be repaired and improved, and the City Council of the City of Burlingame did, on the _____ day of _____, 20_____, by Resolution No. _____ assess the cost of such repair upon the real property hereinafter described, and the same has not been paid nor any part thereof, and the said City of Burlingame does hereby claim a lien on said real property in the sum of _____ DOLLARS (\$_____), and the same shall be a lien upon said real property, with interest at the rate of 7 percent per annum, from the said _____ day of _____, 20_____, has been paid in full and discharged of record. The real property hereinbefore mentioned and upon which a lien is claimed, is that certain piece or parcel of land lying and being in the City of Burlingame, the County of San Mateo, State of California, and particularly described as follows, to wit:

(DESCRIPTION OF PROPERTY)

Dated this _____ day of _____, 20_____.

Director of Public Works

(Ord. 1858 § 2, (2010); Ord. 1949 § 1, (2018))

§ 12.12.080. Effect of recordation of lien notice.

- (a) From and after the date of the recording of the notice of lien, all persons shall be deemed to have had notice of the contents thereof. The notice of lien may include claims against one or more separate parcels of property, whether contiguous or not, together with the amount due, respectively, from each such parcel.
- (b) The statute of limitations shall not run against the right of the city to enforce the payment of the lien.
- (c) If any such lien is not paid, the city may file and maintain an action to foreclose such lien in the same manner and under the same procedure, so far as applicable, as that under which delinquent bonds are foreclosed under Division 6 of the Streets and Highways Code.

(Ord. 1858 § 2, (2010); Ord. 1949 § 1, (2018))

§ 12.12.090. Collection of lien with regular taxes.

As an alternative method of collecting the amount of the lien, the city council, after confirmation of the report of the director of public works, may order the notice of lien to be delivered to the county auditor. The county auditor shall enter the amount thereof on the county assessment book opposite the description of the particular property and the amount shall be collected together with all other taxes thereon against the property. The notice of lien shall be delivered to the county auditor before the date fixed by law for the delivery of the assessment book to the county board of equalization.

(Ord. 1858 § 2, (2010); Ord. 1949 § 1, (2018))

§ 12.12.100. Time and manner of collection—Penalties—Foreclosure procedure.

Thereafter, the amount of the lien shall be collected at the same time and in the same manner as ordinary city taxes are collected, and shall be subject to the same penalties and interest and to the same procedure under foreclosure and sale in case of delinquency as provided for ordinary city taxes. All laws applicable to the levy, collection, and enforcement of city taxes are hereby made applicable to such special assessment taxes.

(Ord. 1858 § 2, (2010); Ord. 1949 § 1, (2018))

§ 12.12.110. Proof of service of notice.

Proof of the posting or mailing of any notice, order, or determination provided for in this chapter may be made by the affidavit of the person posting or mailing such document annexed to a copy thereof. The affidavit shall specify the date when or at which the document was posted or mailed, as the case may be. The director of public works shall keep the affidavits of posting or mailing. No error in the name or address shall affect in any manner the validity of the procedure or any lien imposed hereunder.

(Ord. 1858 § 2, (2010); Ord. 1949 § 1, (2018))

§ 12.12.120. Legality of charge.

No charge, or any act relating to such charge, or the collection of the same hereunder shall be illegal on account of informality or because the same was not completed within the time required by law.

(Ord. 1858 § 2, (2010); Ord. 1949 § 1, (2018))

CHAPTER 12.16 UNDERGROUND UTILITY DISTRICTS

§ 12.16.010. Definitions.

Whenever in this chapter the words or phrases hereinafter in this section defined are used, they shall have the respective meanings assigned to them in the following definitions:

"Cable television company," sometimes referred to as "cable communications company," means a holder of a cable television franchise issued by the city.

"Cable television underground facilities" means electronic cable and any appurtenances thereto which distribute CATV related signals, e.g., audio-visual, digital and voice.

"City" means the city of Burlingame, a municipal corporation of the state of California.

"Commission" means the Public Utilities Commission of the state of California.

"Council" means the city council of the city of Burlingame.

"Person" means and includes individuals, firms, corporations, partnerships and their agents and employees.

"Poles, overhead wires and associated overhead structures" means 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, cable antenna television or similar or associated service.

"Underground utility district" or "district" means that area in the city within which poles, overhead wires and associated overhead structures are prohibited as such area is described in a resolution adopted pursuant to the provisions of Section 12.16.025 of this chapter.

"Utility" includes all persons or entities supplying electric communication, except for cable television (CATV) carried communications, or similar or associated service by means of electrical material or devices.

(Ord. 880 § 1, (1968); Ord. 1180 § 1, (1980))

§ 12.16.020. 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 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.

(Ord. 880 § 1, (1968))

§ 12.16.025. 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 with 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 must be ready to receive underground service. A reasonable time shall be allowed for such removal and underground installation, having due regard for the availability of labor, materials and equipment necessary for such removal and for the installation of such underground facilities as may be occasioned thereby.

(Ord. 880 § 1, (1968))

§ 12.16.030. 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 12.16.025 hereof, 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 the overhead facilities are required to be removed by such resolution, except as the 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 12.16.060 hereof, and for such reasonable time required to remove facilities after the work has been performed, and except as otherwise provided in this chapter.

(Ord. 880 § 1, (1968))

§ 12.16.035. Exception, emergency or unusual circumstances.

Notwithstanding the provisions of this chapter, overhead facilities may be installed and maintained for a period, not to exceed 10 days, without authority of the council, in order to provide emergency service. The city engineer may grant special permission, on such terms as the council may deem appropriate, in cases of unusual circumstances, without discrimination to any person or utility, to erect, construct, install, maintain and use or operate poles, overhead wires and associated overhead structures.

(Ord. 880 § 1, (1968))

§ 12.16.040. Other exceptions.

This chapter and any resolution adopted pursuant to Section 12.16.025 hereof shall not, unless otherwise provided in such resolution, apply to the following types of facilities:

- (1) Any municipal facilities or equipment installed under the supervision and to the satisfaction of the city engineer;
- (2) Poles or electroliers used exclusively for street lighting;
- (3) Overhead wires (exclusive of supporting structures) crossing any portion of a district within which overhead wires have been prohibited, or connecting to buildings on the perimeter of a district, when such wires originate in an area from which poles, overhead wires and associated structures are not prohibited;
- (4) Poles, overhead wires and associated overhead structures used for the transmission of electric energy at nominal voltages in excess of 34,500 volts;
- (5) Overhead wires attached to the exterior surface of a building by means of a bracket or other fixture and extending from one location of the building to another location on the same building or to an adjacent building without crossing any public street;
- (6) Antennae, associated equipment and supporting structures, used by a utility for furnishing

communication services;

- (7) Equipment appurtenant to underground facilities, such as surface mounted transformers, pedestal mounted terminal boxes and meter cabinets, and concealed ducts;
- (8) Temporary poles, overhead wires and associated overhead structures used or to be used in construction with construction projects.

(Ord. 880 § 1, (1968))

§ 12.16.050. Notice to property owners and utility companies and CATV companies.

Within 10 days after the effective date of a resolution adopted pursuant to Section 12.16.025 hereof, the city clerk shall notify all affected utility and CATV companies and all persons owning real property within the district created by the resolution of the adoption thereof. The city clerk shall further notify the affected property owners of the necessity that, if they or any person occupying such property desire to continue to receive electric, communication, CATV or similar or associated services, they or such occupant shall provide all necessary facility changes on their premises so as to receive such services from the lines of the supplying utility, utilities or CATV companies at a new location, subject to applicable rules, regulations and tariffs of the respective utility, utilities or CATV companies on file with the commission or city.

Notification by the city clerk shall be made by mailing a copy of the resolution adopted pursuant to Section 12.16.025, together with a copy of this chapter, to affected property owners as such are shown on the last equalized assessment roll and to the affected utilities or CATV companies.

(Ord. 880 § 1, (1968); Ord. 1180 § 2, (1980))

§ 12.16.055. Responsibility of utility companies.

If underground construction is necessary to provide utility service within a district created by any resolution adopted pursuant to Section 12.16.025, the supplying utility shall furnish that portion of the conduits, conductors and associated equipment required to be furnished by it under its applicable rules, regulations and tariffs on file with the commission.

(Ord. 880 § 1, (1968))

§ 12.16.060. Responsibility of property owners.

- (a) Every person owning, operating, leasing, occupying or renting a building or structure within a district shall perform construction and provide that portion of the service connection on his or her property between the facilities referred to in Section 12.16.055 and the termination facility on or within the building or structure being served, all in accordance with applicable rules, regulations and tariffs of the respective utility or utilities on file with the commission. If the above is not accomplished within the time provided for in the resolution enacted pursuant to Section 12.16.025, the director of public works shall give notice in writing to the person in possession of such premises, and a notice in writing to the owner thereof as shown on the last equalized assessment roll, to provide the required underground facilities within 10 days after receipt of such notice.
- (b) The notice to provide the required underground facility may be given either by personal service or by mail. If notice is given by mail, such notice shall be deemed to have been received by the person to whom it has been sent within 48 hours after the mailing thereof. If notice is given by mail to either the owner or occupant of such premises, the city engineer shall, within 48 hours after the mailing thereof, cause a copy thereof, printed on a card not less than eight inches by 10 inches in size, to be posted in a conspicuous place on the premises.

- (c) The notice given by the city engineer to provide the required underground facilities shall particularly specify what work is required to be done, and shall state that if the work is not completed within 30 days after receipt of such notice, the city engineer will provide such required underground facilities, in which case the cost and expense thereof will be assessed against the property benefitted and become a lien upon such property.
- (d) If upon the expiration of the 30-day period the required underground facilities have not been provided, the director of public works will forthwith proceed to do the work; provided, however, if such premises are unoccupied and no electric or communication services are being furnished thereto, the director of public works may, in lieu of providing the required underground facilities, order the disconnection and removal of any and all overhead service wires and associated facilities supplying utility and/or CATV service to the property. Upon completion of the work, the director of public works shall file a written report with the city council setting forth the fact that the required underground facilities have been provided and the cost thereof, together with a legal description of the property against which such cost is to be assessed. The council shall thereupon fix a time and place for hearing protests against the assessment of the cost of such work upon such premises, which time shall not be less than 10 working days thereafter.
- (e) The city engineer shall give notice in writing to the person in possession of such premises and to the owner thereof, in the manner hereinabove provided for the giving of the notice to provide the required underground facilities, of the time and place that the council will pass upon such report and will hear protests against such assessment. Such notice shall also set forth the amount of the proposed assessment.
- (f) Upon the date and hour set for the hearing of protests, the council shall hear and consider the report and all protests, if there are any, and then proceed to affirm, modify or reject the assessment.
- (g) If any assessment is not paid within five days after it is confirmed by the council, the amount of the assessment shall become a lien upon the property against which the assessment is made by the city engineer, and the city engineer is directed to file with the county controller a notice of lien on each of the properties on which the assessment has not been paid. The amount of the assessment shall be added to the next regular bill for taxes levied against the premises. The assessment shall be due and payable at the same time as the property taxes are due and payable, and if not paid when due and payable, shall bear interest at the rate of 6% per year.

(Ord. 880 § 1, (1968); Ord. 1110 § 1, (1977); Ord. 1180 §§ 3, 4, (1980))

§ 12.16.070. Responsibility of city.

City shall remove at its own expense all city-owned equipment from all poles required to be removed hereunder in ample time to enable the owner or user of such poles to remove the same within the time specified in the resolution enacted pursuant to Section 12.16.025.

(Ord. 880 § 1, (1968))

§ 12.16.075. New developments and subdivisions.

- (a) For new developments and subdivisions the builder, developer or subdivider is responsible for complying with the requirements of this chapter, and he or she shall make the necessary arrangements with each of the serving utilities, and the franchised CATV operators, for the underground installation and for relocation of any existing overhead facilities. The builder, developer or subdivider will be responsible for performing all trenching and backfilling, including furnishing of any imported backfill material required, for underground installation of distribution and service lateral conduit and

substructures to receive utility and CATV services, and necessary installation of CATV vaults, pedestals and other appropriate appurtenances.

- (b) The affected utility and CATV companies shall provide plans and specifications to the builder, developer or subdivider and shall inspect the facilities required hereunder, and certify to the city prior to final approval of the development or subdivision that the facilities required herein are properly installed. The city shall have the right to review and require its approval of the maps and specifications provided by the utility and CATV companies.
- (c) The builder, developer or subdivider is expected to subcontract with the utility and CATV companies or other competent sources for prewiring of development or subdivision structures.

(Ord. 1180 § 5, (1980))

§ 12.16.076. Underground installation.

In those areas and portions of the city heretofore designated by council as underground utility districts and where certain utility service transmission and/or distribution facilities are presently underground, other utility and CATV distribution and/or transmission facilities hereafter located in those areas and portions of the city will be installed underground. The utility or CATV company providing the required underground facilities shall be responsible for the performance of all necessary trenching and backfilling of main line and service trenches, including furnishing of any imported backfill material required.

(Ord. 1180 § 6, (1980))

§ 12.16.080. Extension of time.

In the event that any act required by this chapter or by a resolution adopted pursuant to Section 12.16.025 cannot be performed within the time provided on account of shortage of materials, war, restraint by public authorities, strikes, labor disturbances, civil disobedience, or any other circumstances beyond the control of the actor, then the time within which such act will be accomplished shall be extended for a period equivalent to the time of such limitation.

(Ord. 880 § 1, (1968))

§ 12.16.085. Prior designation.

The area particularly described as follows: California Drive from Burlingame Avenue to Peninsula Avenue, and Howard Avenue between California Drive and Lorton Avenue; previously designated an "Underground Utility District" by Ordinance 803, adopted April 20, 1964, is declared an "Underground Utility District" in conformity with the provisions of this chapter.

(Ord. 880 § 1, (1968))

§ 12.16.090. Penalty for violation.

It is unlawful for any person to violate any provision or to fail to comply with any of the requirements of this chapter. Any person violating any provision of this chapter or failing to comply with any of its requirements is guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not exceeding \$500 or by imprisonment not exceeding six months, or by both such fine and imprisonment. Each such person is 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.

(Ord. 880 § 1, (1968))

**CHAPTER 12.17
STREET NUMBERING AND RENAMING**

§ 12.17.010. System of building numbering established.

A system for the numbering of buildings and structures in this city is established and shall be maintained in and for the city.

(Ord. 907 § 1, (1970))

§ 12.17.020. Starting points and base lines.

The base line for all numbering shall be Barroilhet Avenue, Peninsula Avenue, Humboldt Avenue, the easterly leg of Airport Boulevard as it extends northerly, and an extension of a line northerly along Airport Boulevard to the city limit line. Numbering shall increase in a westerly and northerly direction from the base line.

(Ord. 907 § 1, (1970))

§ 12.17.030. Allocation of numbers.

One hundred numbers shall be allotted to each normal block and shall be evenly divided in units of street frontage. In the event that a street is not intersected at regular intervals by other streets and is not therefore a normal block, numbers shall be allotted in the same manner as if it were intersected at such regular intervals. Numbers on the right side of the street from the point of beginning shall be even numbers, and the numbers on the left side shall be odd numbers.

(Ord. 907 § 1, (1970))

§ 12.17.040. Maintenance of record maps by the city engineer.

It shall be the duty of the city engineer to prepare and maintain a map or maps showing all premises, the fronts of all structures thereon and the entrances thereto required to be numbered, the number assigned to each entrance, and sufficient numbers to be reserved for lots or parcels not built upon.

(Ord. 907 § 1, (1970))

§ 12.17.050. Use and maintenance of numbers.

- (a) No owner, tenant or occupant may place, maintain or allow to remain on a property any number other than such numbers as herein assigned and/or required, or permit any building or structure having an entrance from a public street to remain unnumbered. A street number shall be assigned and recorded by the city engineer before it may be used as the designation for a property.
- (b) It shall be the duty of the owner, tenant or occupant of any building or structure to place at each street entrance thereto the proper number for each entrance as assigned by the city engineer. Such number shall be so placed and shall be of such material, color and dimensions as to be readily observed and easily read from the street by persons approaching such entrance.
- (c) No person shall paint or otherwise place address numbers upon streets, gutters or curbs without prior written approval of the owner of the property served by the number. Such written approval shall create no obligation to pay for such work unless specifically set forth therein.

(Ord. 907 § 1, (1970); Ord. 1343 § 1, (1987))

§ 12.17.060. Limitation on numbers.

Only one number may be allotted to each single-family dwelling and one number to each dwelling unit in a duplex. Apartments and multiple dwellings shall be allotted one street number and may use any convenient internal numbering system. In commercial and industrial zones, numbers may be assigned each entrance facing on the street.

(Ord. 907 § 1, 1970))

§ 12.17.070. Changes from existing numbers.

Whenever, by reason of new buildings being erected or new entrances being added to existing buildings, it becomes necessary to change allocated numbers on a block, the city engineer may request such change or changes. When such a change is proposed, the city engineer shall notify all property owners affected at least 30 days prior to the date of the proposed change. Comments of the building official and the fire chief shall be requested. If it appears that the change or changes are essential, the changed numbers shall be recorded on the map. The change may be effected at that time or at a future date to be determined.

(Ord. 907 § 1, (1970))

§ 12.17.080. Street name change procedure.

When a request for a change in the name of a public street previously recorded is made by any city department or by a property owner, the request shall be referred to the city council which shall set the matter for public hearing. The request shall include a name or a choice of names proposed to be substituted for the existing name.

Notification of the hearing shall be mailed by the city clerk to all property owners of record on the street. In addition, requests for comments shall be made to the planning commission, fire chief and postmaster, and any others whose advice is desired by the city council. The hearing shall be set for the second succeeding regular meeting.

At that time, or at such further time to which the matter may be continued, the council shall make its decision and its decision shall be final.

(Ord. 907 § 1, (1970))

§ 12.17.085. Notification to board of supervisors.

Any action taken by the city council to change the name of any public street shall be done by resolution. Upon adoption, a certified copy of any such resolution shall be forwarded to the board of supervisors of San Mateo county by the city clerk.

(Ord. 907 § 1, (1970))

**CHAPTER 12.20
PUBLIC TELEPHONES**

§ 12.20.010. Public telephones.

The city manager is authorized to issue permits from time to time to the serving telephone company for the installation and maintenance of public telephones on the public sidewalks of the city of Burlingame. The city manager shall approve the number and location of such public telephones so as to best serve the public interest. Such permits shall include the following provisions:

- (a) The permittee shall maintain the public telephones and any associated booths in good repair and safe and sightly condition at permittee's expense and to the satisfaction of city manager;
- (b) The permittee shall save the city of Burlingame harmless from any and all losses, claims or judgments for damages to any person or property arising from the installation or maintenance of the public telephones;
- (c) The permit shall be revocable on 30 days' prior notice to the permittee from the city manager, in which event the permittee shall at its own expense remove the public telephone or telephones installed pursuant to the permit and shall restore the sidewalk as nearly as practicable to its condition prior to such installation.

(Ord. 905 § 2, (1970))

§ 12.20.020. Insurance requirements.

The city engineer may require any person applying for a building or encroachment permit to provide such liability insurance, guarantees, endorsements, bonds or other security, as may be appropriate to the permit. (Ord. 1337 § 1, (1987))

**CHAPTER 12.22
PROHIBITED DISPLAYS IN PUBLICATIONS**

§ 12.22.010. Prohibited displays.

No person shall sell, offer for sale or keep or maintain any publication in any newsrack on any public right-of-way in such a manner as to expose to the public view any of the following:

- (a) Any statements or words describing explicit sexual acts, sexual organs or excrement where such statements or words have as their purpose or effect sexual arousal, gratification or affront;
- (b) Any picture or illustration of genitals, pubic hair, perineums, anuses or anal regions of any person where such picture or illustration has as its purpose or effect sexual arousal, gratification or affront;
- (c) Any picture or illustration depicting explicit sexual acts where such picture or illustration has as its purpose or effect sexual arousal, gratification or affront.

"Explicit sexual acts," as used in this section, means depictions of sexual intercourse, oral copulation, anal intercourse, oral-anal copulations, bestiality, sadism, masochism or excretory functions in conjunction with sexual activity, masturbation or lewd exhibition of the genitals, whether any of the above conduct is depicted or described as being performed alone or between members of the same or opposite sex or between humans and animals, or other act of sexual arousal involving any physical contact with a person's genital, pubic region, pubic hair, perineum, anus or anal region.

(Ord. 1288 § 1, (1984))

CHAPTER 12.23 NEWSRACKS

§ 12.23.010. Purpose—Scope.

The purpose and scope of the regulations in this chapter are as follows:

- (a) The provisions of this chapter shall apply to all newsracks located in public places within the city of Burlingame; provided, that certain provisions, as specified, shall apply only to newsracks located on public property.
- (b) It is in the public interest to establish regulations that balance the right to distribute information through newsracks with the right of persons to reasonably access and use public property.
- (c) The public health, safety, welfare and convenience require that: interference with vehicular, bicycle, wheelchair or pedestrian traffic be avoided; obstruction of sight distance and views of traffic signs and street-crossing pedestrians be eliminated; damage done to sidewalks or streets be minimized and repaired; the good appearance of public property be maintained; trees and other landscaping be allowed to grow without disturbance; access to emergency and other public facilities be maintained; and ingress and egress from, and the enjoyment of store window displays on, properties adjoining public property be protected.
- (d) Newsracks placed and maintained on public property, absent some reasonable regulation, may unreasonably interfere with the use of such property, and may present hazards to persons or property.
- (e) The regulations on the time, place and manner of the placement, location and maintenance of newsracks set forth in this chapter are carefully tailored to ensure that the purposes stated in this section are implemented while still providing ample opportunities for the distribution of news to the public.

(Ord. 1887 § 1, (2013))

§ 12.23.020. Definitions.

For the purposes of this chapter, the following words and phrases are defined and shall be given the meaning set out in this section unless it is apparent from the context that a different meaning is intended.

"Abandoned newsrack" means any newsrack which remains empty for 10 business days; provided, that a newsrack remaining empty due to labor strike or any temporary and extraordinary interruption of distribution or publication by the newspaper or other publication sold or distributed from that newsrack shall not be deemed abandoned.

"Director of public works" means the director of public works or designee.

"Harmful matter" means and is defined as in California Penal Code Section 313, as may from time to time be amended.

"Minor" means any natural person under 18 years of age.

"Newsrack" means any self-service or coin-operated box, container, storage unit, or other dispenser installed, used or maintained for the display and sale or distribution of newspapers, periodicals or other publications.

"Person" means any individual, partnership, firm, association, corporation, limited liability company, or other legal entity.

"Public place(s)" means and includes any public property owned or controlled by the city of Burlingame or any other public agency, or any outdoor private property which is open to the public.

"Public property" means any public right-of-way or any property owned or controlled by the city of Burlingame, including, without limitation, streets, sidewalks, alleys, and rights-of-way.

"Special newsrack area" means any area of the city of Burlingame so designated by the city council upon findings that the special circumstances of the area require special design, placement and other standards for newsracks.

"Special newsrack container" means a specially designed permanently affixed container provided by the vendor, within which shall be the exclusive location for the placement of newsracks in a special newsrack area.

(Ord. 1887 § 1, (2013))

§ 12.23.030. Permit required.

It is unlawful to install, place, maintain or cause to be placed, installed or maintained a newsrack on, or projecting on, any public property without first receiving a permit therefor from the director of public works and unless such newsrack is in compliance with the provisions of this chapter; provided that, except for newsracks proposed to be located within a special newsrack area, a newsrack located on public property as of November 7, 2013 may continue to remain in such location, under the following conditions:

- (a) The newsrack is in compliance with the requirements for the installation and maintenance of newsracks contained in this chapter; and
- (b) A permit application for such newsrack has been filed as of that date with the director of public works by the duly authorized representative of both the publisher and, if applicable, any independent distributor authorized to service the publisher's newsrack; and
- (c) A permit pursuant to such application has not been denied with respect to any such newsrack.

If no permit application has been filed by that date by the duly authorized representative of both the publisher and, if applicable, any independent distributor authorized to service the publisher's newsrack, or such permit is denied, such newsrack shall be deemed to be in violation of the provisions of this chapter. Holders of permits for existing newsracks shall be required to re-register such newsracks with the city by July 1, 2014, and each year thereafter, on a form provided by the city.

(Ord. 1887 § 1, (2013))

§ 12.23.040. Obtaining a permit.

- (a) Exclusive Requirements. The provisions of this chapter shall be the exclusive requirements for newsrack encroachments onto public property in the city.
- (b) Application. Application for a newsrack permit for each location sought shall be submitted to the director of public works on a form prescribed by the director of public works, which shall include, without limitation:
 - (1) The name, street and mailing address, and telephone number of the applicant, which shall be the duly authorized representative of both the publisher and, if applicable, any independent distributor authorized to service the publisher's newsrack for which the permit is sought;
 - (2) The name, street and mailing address and telephone number of the distributor or other responsible person whom the city may notify or contact at any time concerning the applicant's

newsrack(s);

- (3) A description of the exact proposed location (including a map or site plan, drawn to scale, with adequate locational information to verify conformance with this chapter) and the proposed means of affixing the proposed newsrack;
 - (4) A description of the proposed newsrack, including its dimensions, the number of publication spaces it will contain, and whether it contains a coin-operated mechanism;
 - (5) The name and frequency of publication of each publication proposed to be contained in the newsrack;
 - (6) A statement signed by the applicant that the applicant agrees to indemnify, defend and hold harmless, the city and its representatives from all claims, demands, loss, fines or liability to the extent arising out of or in connection with the installation, use or maintenance of any newsrack on public property by or on behalf of any such person, except such injury or harm as may be caused solely and exclusively by the negligence of the city or its authorized representatives; and
 - (7) A statement signed by the applicant that the applicant agrees, upon removal of a newsrack, to repair any damage to the public property caused by the newsrack or its removal.
- (c) Issuance of Permit. A permit shall be issued within 15 working days from the date of filing the application with the director of public works if the application is properly completed and the type of newsrack and location proposed for each newsrack meet the standards set forth in this chapter. A single permit shall be issued for each newsrack location applied for by an applicant which meet the standards of this chapter. An applicant may submit more than one application, in order to apply for additional locations. A permit shall not be transferable.
- (d) Period of Permit Validity. Permits shall remain valid if re-registered with the city by June 30th of each year, on a form provided by the director of public works. Failing to re-register or explicit cancellation by a permit holder will void the permit and it will be ineffective thereafter. Unregistered newsracks may be treated as abandoned under Section 12.23.130 or other applicable enforcement mechanism.
- (e) Issuance of Permit Sticker. Each permittee shall be issued a pre-printed sticker for each permitted newsrack, which shall be affixed to the lower right corner of the front of each newsrack.
- (f) Denial of Permit. If a newsrack permit is disapproved, in whole or in part, the director of public works shall notify the applicant within 15 working days from the date of filing a complete application with the director of public works, explaining the reasons for the denial of the permit. The applicant shall have 10 calendar days within which to appeal the decision to the city manager in accordance with the appeal provisions set forth in subsection (g) of this section.
- (g) Appeal of Permit Denial. After receiving a notice of appeal, the city manager or the designee of the city manager shall conduct a hearing within 30 days of the receipt of the applicant's appeal, unless otherwise agreed to by the applicant. Written notice of the time and place of the hearing shall be given to the applicant, and shall be posted in the official posting locations of the city. The hearing shall be informal, but oral and written evidence may be given by both sides. The city manager or designee shall render a written decision within 20 days after the date of the hearing. The decision of the city manager shall be final.
- (h) Amendment to Permit. In the event of a change in any of the information contained in the application, the permittee shall submit such change in writing to the director of public works. A permittee may

install and maintain additional newsracks by an amendment to the permit. The rules and procedures of this section shall also apply to the review and approval of any such amendment.

(Ord. 1887 § 1, (2013))

§ 12.23.050. Standards for maintenance and display of newsracks.

- (a) Every person placing or maintaining a newsrack on public property shall comply with the following requirements:
- (1) Every newsrack shall be maintained in a neat and clean condition, and in good repair at all times. For example, without limitation, every newsrack shall be reasonably free of dirt and grease, be reasonably free of chipped, faded, peeling or cracked paint, be reasonably free of rust and corrosion, have no broken or cracked plastic or glass parts, and have no broken structural parts.
 - (2) Every newsrack shall be constructed, installed and maintained in a safe and secure condition.
 - (3) Every newsrack shall be made of solid material on all sides, so as to contain the material inside the newsrack in a manner as to prevent it from blowing away or otherwise becoming litter. No wire or other open form of newsrack shall be permitted.
 - (4) Every newsrack shall be kept free of graffiti.
 - (5) Every newsrack that sits on legs shall be kept free of dirt and litter under the newsrack.
 - (6) Every newsrack shall be painted or covered with a protective coating, so as to keep it free from rust, and shall be cleaned and repainted on a regular basis.
 - (7) Every coin-operated newsrack shall be equipped with a coin-return device that is maintained in good repair and working order.
 - (8) Every coin-operated newsrack shall display information on how to secure a refund in the event of coin return malfunction. Such information shall be placed in a visible location on the front or top of the newsrack, and shall be legible.
 - (9) Other than the display of the publication contained therein, no newsrack shall display or be affixed with any words or pictures except for the identifying information, and the coin return information, if applicable, required by subsection (e) of Section 12.23.040 and subsections (a)(8) and (b), respectfully, of this section; provided that, except as provided in Section 12.23.080 (Special newsrack areas), each side of a newsrack may display, in characters no more than four inches high, the name and/or logo of the publication contained in the newsrack, and the front of each newsrack may be affixed with a single sign or decal, no larger than three inches by 10 inches, containing only information relating to the display, sale or distribution of the publication contained in the newsrack. If the newsrack contains a built-in sign holder, the newsrack may be affixed with a sign that fits within that holder, not to exceed 11 inches by 17 inches.
 - (10) Old or out-of-date material removed from any newsrack by any person who owns, maintains, or stocks the newsrack shall be recycled or disposed of in a lawful manner. Such material shall not be disposed of in any trash receptacle owned or rented by others, without the express written consent of the owner or renter of such receptacle. Such material shall be disposed of in a manner that does not cause the material to become litter.
- (b) Every newsrack located in a public place shall be affixed with identifying information, which shall

contain the name, address and telephone number of the newsrack owner and of the distributor of the publication(s) contained therein. Such information shall be placed in a visible location on the front or top of the newsrack, and shall be legible. The size of the identifying information shall be no larger than three inches by five inches.

(Ord. 1887 § 1, (2013))

§ 12.23.060. Size and design standards.

Except as provided in Section 12.23.080 (Special newsrack areas), no newsrack shall be placed, installed or maintained on any public property except in compliance with the following standards:

- (a) No newsrack shall be more than 50 inches high (including the pedestal in the case of modular newsracks) measured from the ground to the top surface of the newsrack, nor more than two feet deep, nor more than 24 inches wide.
- (b) The highest operable part of the coin slot, if provided, and all controls, dispensers and other operable components of a newsrack shall be no higher than 48 inches above the ground, and no lower than 15 inches above the ground.
- (c) The design of a newsrack shall not create a danger to the persons using the newsrack in a reasonably foreseeable manner. All newsracks shall comply with all applicable federal, state and local laws and regulations including, without limitation, the Americans with Disabilities Act and other laws and regulations relating to barrier-free design.

(Ord. 1887 § 1, (2013))

§ 12.23.070. Standards for placement and location of newsracks.

- (a) Except as otherwise set forth in Section 12.23.080 (Special newsrack areas), no newsrack shall be placed, installed or maintained on any public property when such installation, use or maintenance endangers the safety of persons or property. No newsrack shall be placed, installed or maintained on any public property except in compliance with the following standards:
 - (1) Newsracks shall be placed only on a sidewalk, in one of the following locations:
 - (A) Near a curb, in which case, the back of the newsrack shall be placed no less than 18 inches (12 inches along El Camino Real) nor more than 24 inches from the face of the curb; or
 - (B) Adjacent to the wall of a building, in which case, the back of the newsrack shall be placed parallel to such wall and not more than six inches from the wall.
 - (2) Every newsrack shall be placed so as to open toward the sidewalk.
 - (3) Every newsrack shall be affixed to the sidewalk or to another newsrack, in a manner approved by the permit therefor; provided, no newsrack shall be chained to another newsrack. Newsracks shall not be chained or otherwise attached to any bus shelter, bench, street light, utility pole or device or sign pole, or to any tree, shrub or other plant, nor situated upon any landscaped area.
 - (4) No newsrack shall be placed, installed or maintained:
 - (A) Within 10 feet of any marked or unmarked crosswalk as measured from the curb return;
 - (B) Within five feet of any fire hydrant, call box, or other emergency facility; bus bench; or utility pole or box;

- (C) At any location where the clear space for the passage of pedestrians is reduced to less than six feet (five feet along El Camino Real);
 - (D) Within five feet of any driveway;
 - (E) Within five feet of any red curb of a bus stop zone;
 - (F) Within five feet of the curb return of any wheelchair curb ramp not in a marked crosswalk;
 - (G) In such a manner as to impede or interfere with the reasonable use of any commercial window display or access to or from any building;
 - (H) In such a manner as to impede or interfere with the reasonable use of any bicycle rack;
 - (I) In such a manner as to block or cover any portion of an underground utility vault, manhole, or other sidewalk underground access location.
- (5) Any newsrack placed on El Camino Real must be approved by CalTrans in addition to the approvals required under this section, unless CalTrans waives such approval right.
- (b) Newsracks may be placed or joined together; however, no group of newsracks placed along a curb shall extend for a distance of more than 10 feet (i.e., the combined width of five newsracks); and no group of newsracks shall be closer than four feet to another group of newsracks along a curb.
- (c) The director of public works may allow a permittee to place a newsrack in a location in variance of the standards otherwise required by this section if the director of public works finds that such variance will not be detrimental to the public safety and that, due to the existing physical constraints at that location, imposition of the standards would make placement impossible and would cause a hardship to the permittee and its patrons. The written findings and the variance shall be made part of the permit. Prior to considering whether or not to grant a variance, the director of public works shall provide written notice of the requested variance to the owner(s) of the real property adjacent to or abutting the proposed newsrack location.
- (d) If sufficient space does not exist to accommodate all newsracks sought to be placed at one location without violating the standards set forth in this chapter, the director of public works shall give priority as to that location to publications on a historical "first come first served" basis to permit applicants as follows:
- (1) First priority shall be publications that are published two or more times a week;
 - (2) Second priority shall be given to publications that are published once per week;
 - (3) Third priority shall be given to publications that are published less than once per week but more than once per month;
 - (4) Fourth priority shall be given to publications that are published monthly or less frequently than monthly.
- In the event the director of public works is required to utilize the priority system described in subsections (d)(1) through (4), he or she shall permit only one rack per publication or distributor in a single location.
- (e) The provisions of this section shall apply as of the effective date of the ordinance codified in this chapter to new installations or applications. These provisions shall not require removal or

modification of permitted, existing newsracks in existence prior to November 7, 2013, until June 30, 2015. At such time, any pre-existing newsracks or publication placements within them must be brought into compliance with this section in order to continue as a valid, permitted newsrack within the city.

(Ord. 1887 § 1, (2013))

§ 12.23.080. Special newsrack areas.

(a) The city council hereby finds that special circumstances require special design, placement and other standards for newsracks located in the certain areas of the city and such areas are hereby designated as "special newsrack areas." Newsracks and publication placements therein existing as of the effective date of the ordinance codified in this chapter are allowed to remain in their current configuration. When a publication or distributor controlling such existing newsracks seeks to substantially change or modify such newsracks or submit a new application in connection with them, the existing newsracks must be brought into compliance with this section. Regardless of the preceding, all existing newsracks within the designated special newsrack areas must be brought into compliance with the requirements of this section by July 1, 2020. The following areas are hereby designated as special newsrack areas:

(1) The Burlingame Avenue Downtown Commercial Area and the Broadway Commercial Area.

(A) The city council hereby designates the "Burlingame Avenue Downtown Commercial Area," bounded by and including both sides of the following streets: California Drive to El Camino Real and Howard Avenue to Chapin Avenue between El Camino Real and Primrose Road and Bellevue Avenue between Primrose Road and California Drive, inclusive of that portion of Primrose Road running between Chapin Avenue and Bellevue Avenue, as a special newsrack area. The city council hereby designates the "Broadway Commercial Area," including both sides of the following streets: Broadway between California Drive and El Camino Real and California Drive from Lincoln Avenue to Carmelita Avenue, as a special newsrack area.

(B) The council finds that the Burlingame Avenue Downtown Commercial Area and the Broadway Commercial Area have become very congested, with street furniture and other sidewalk encroachments, automobiles and other means of travel competing with pedestrians for the public space; and that special standards for the design and location of newsracks, in conjunction with a program for the furnishing and installation of street furniture, and the enforcement of existing regulations for other encroachments in these commercial areas, will help to create a sense of order out of chaos and provide a friendly environment for those who come to the area.

(b) Notwithstanding any contrary provisions in this chapter, the following special standards shall apply to newsracks and the placement of publications in newsracks within any special newsrack area so designated pursuant to subsection (a) of this section:

(1) No newsrack shall be located in a special newsrack area except within a special newsrack container. All newsracks in a special newsrack container shall meet the following specifications:

- (A) Every newsrack shall be a modular design, 49-16 or TK-97 style (as manufactured by "Sho-Rack") or the equivalent, as determined by the director of public works.
- (B) All newsracks installed in a designated special newsrack area shall be black in the Burlingame Avenue Downtown Commercial Area and green in the Broadway Commercial

Area.

- (C) The name and/or logo otherwise permitted pursuant to subsection (a)(9) of Section 12.23.050 may be placed only on the front face of the box, inclusive of the window area, and shall be limited to the dimension of three inches vertically by 10 inches horizontally.
- (D) Permittees of double high racks may be required to provide devices commonly known as "spacers" for the newsracks adjacent to each double high rack, to ensure that all newsracks in a single location group of racks are the same height. Permittees who use newsracks of a brand other than Sho-Rack may be required to furnish spacers to achieve height uniformity.
- (2) Placement of Newsracks Within a Special Newsrack Area. No newsrack shall be located in a special newsrack area unless a permit has been obtained in accordance with this section and with Sections 12.23.040 and 12.23.070.

(Ord. 1887 § 1, (2013))

§ 12.23.090. Blinder racks required.

- (a) Newsracks located in public places, other than public places from which minors are excluded, and which display to the public view harmful matter, shall be equipped with devices commonly known as blinder racks in front of the material so that the lower two-thirds of the material is not exposed to public view.
- (b) Newsracks located in public places, other than public places from which minors are excluded, and which display to the public view material depicting or describing specified sexual activities, as defined in subdivision (1) of this subsection, or which contain material depicting or describing specified anatomical areas, as defined in subdivision (2) of this subsection, where such picture, or illustration, or statement has as its purpose or effect sexual arousal, gratification or affront, shall be equipped with blinder racks in front of the material so that the lower two-thirds of the material is not exposed to public view.
 - (1) "Specified sexual activities" means:
 - (A) Human genitals in a state of sexual stimulation or arousal;
 - (B) Acts of human masturbation, sexual intercourse or sodomy; or
 - (C) Fondling or other erotic touching of human genitals, pubic region, buttock or female breast.
 - (2) "Specified anatomical areas" means:
 - (A) Less than completely and opaquely covered human genitals, pubic hair, buttocks, perineum, anal region, or female breast at or below the areola thereof; or
 - (B) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

(Ord. 1887 § 1, (2013))

§ 12.23.100. Violation—Enforcement.

- (a) It shall be illegal to place, install, or maintain any newsrack or any material in a newsrack in a manner

contrary to any provision of this chapter.

- (b) Any person who violates any provision of this chapter shall be guilty of an infraction and upon conviction thereof shall be punished as provided in Section 1.12.010 of this code.

- (c) The provisions contained in this chapter shall be subject to the code enforcement authority of the city as provided in Title 1 of this code.

(Ord. 1887 § 1, (2013))

§ 12.23.110. Nuisance.

Any newsrack or any material in a newsrack placed, installed or maintained in violation of this chapter shall constitute a public nuisance and may be abated in accordance with applicable provisions of law.

(Ord. 1887 § 1, (2013))

§ 12.23.120. Removal and hearing.

In addition to the enforcement remedies available to the city, which are set forth in Title 1 and in Sections 12.23.100 and 12.23.110 of this chapter, any newsrack placed, installed or maintained in violation of this chapter may be removed by the city, subject to the notice and hearing procedures set forth in this section.

- (a) Notice of Violation. Before removal of any newsrack, the city shall notify the owner or distributor of the violation. Written notification by first class mail to the address or addresses shown on the offending newsrack shall constitute adequate notice. The city may, but need not, affix an additional notice tag onto the offending newsrack. If no identification is shown on the newsrack, posting of the notice on the newsrack alone shall be sufficient. The notice shall state the nature of the violation, shall specify actions necessary to correct the violation, and shall give the owner or distributor 10 business days from the date appearing on the notice to either remedy the violation or to request a meeting before the community development director or designee of the community development director. The date on the notice shall be no earlier than the date on which the notice is mailed or affixed to the newsrack, as the case may be.
- (b) Meeting and Decision. Any owner or distributor notified under subsection (a) may request meeting with the community development director or designee by making a written request therefor within 10 business days from the date appearing on the notice. The meeting shall be informal, but oral and written evidence may be given by both sides. The community development director or designee shall give his or her decision within 10 business days after the date of the meeting. Any action by the city to remove the newsrack shall be stayed pending the written decision of the community development director or designee following the meeting.
- (c) Removal and Impoundment. The city may remove and impound a newsrack or newsracks in accordance with this section following the written decision of the community development director or designee upholding the determination of a violation, or if the owner or distributor has neither requested a meeting nor remedied the violation within 10 business days from the date on the notice. An impounded newsrack shall be retained by the city for a period of at least 90 calendar days following the removal, and may be recovered by the permittee upon payment of a fee as set forth in the municipal fee schedule. An impounded newsrack and its contents may be disposed of by the city after 90 calendar days.
- (d) Summary Abatement. Notwithstanding the provisions of subsections (a) and (b), prior notice and an opportunity to be heard shall not be required prior to removal of any newsrack that is installed or maintained in such a place or manner as to pose an immediate or clear and present danger to persons,

vehicles or property or any newsrack that is placed in any location without a permit. In such case, the city shall proceed in the following manner:

- (1) Within the next working day following removal, the city shall notify by telephone the permittee or, in the case of an unpermitted newsrack, the owner of the newsrack or a person whose name is shown on the required identification. Within three business days, the city shall send written confirmation of the telephoned notice. The written confirmation shall contain the reasons for the removal and information supporting the removal, and shall inform the recipient of the right to request, in writing or in person, a post-removal meeting within four business days of the date of such written notice and the person to whom such request shall be made.
- (2) Upon timely request, the city shall provide a meeting within 48 hours of the request, unless the requesting party agrees to a later date. The proceeding shall be informal, but oral and written evidence may be given by both sides. The city designee hearing the matter shall give his or her decision in writing to the requesting party within 48 hours after such meeting. If the city hearing officer finds that the removal was proper, he or she shall notify the requesting party to pay any applicable penalties and costs and recover the newsrack. If the city hearing officer finds that the removal was improper and that placement of the newsrack was lawful, he or she shall order that the newsrack be released and reinstalled without charge.
- (3) If the owner of an unpermitted rack cannot be determined and the rack does not contain the required identification, no notice of the removal shall be required.

(Ord. 1887 § 1, (2013))

§ 12.23.130. Abandoned newsracks.

An abandoned newsrack may be removed by the city and impounded, pursuant to the notice and hearing procedures set forth in Section 12.23.120. The city may dispose of the newsrack if the permittee does not claim the newsrack and pay any required fees within 90 days of its removal.

(Ord. 1887 § 1, (2013))

STREETS AND SIDEWALKS

Title 13**VEHICLES AND TRAFFIC**

	Chapter 13.04 DEFINITIONS	§ 13.08.040.	Traffic regulations apply to persons riding bicycles or animals.
§ 13.04.010.	Definitions of words and phrases.	§ 13.08.050.	Obstruction or interference with police or authorized officers.
§ 13.04.020.	Motor definitions to be used.	§ 13.08.060.	Public employees to obey traffic regulations.
§ 13.04.030.	Central traffic district.	§ 13.08.070.	Exemption of certain vehicles.
§ 13.04.040.	Coach.	§ 13.08.080.	Report of damage to certain property.
§ 13.04.050.	Commercial, business or residence districts.	§ 13.08.090.	When vehicles may be removed from streets and public parking lots or facilities.
§ 13.04.060.	Council.	§ 13.08.100.	Authority of police in crowds.
§ 13.04.070.	Curb.		
§ 13.04.080.	Divisional island.		
§ 13.04.085.	Dump truck.		
§ 13.04.090.	Freight.		
§ 13.04.100.	Holidays.		
§ 13.04.110.	Loading zone.		
§ 13.04.120.	Official time standard.		
§ 13.04.125.	Parking lots or facilities, city, municipal or public.		
§ 13.04.130.	Parking meter.	§ 13.12.010.	Authority to install traffic-control devices, signs and markings.
§ 13.04.140.	Passenger loading zone.	§ 13.12.020.	Traffic-control signs required for enforcement purposes.
§ 13.04.150.	Police officer.	§ 13.12.030.	Obedience to traffic-control devices, signs and markings.
§ 13.04.160.	Stop.	§ 13.12.040.	Traffic-control devices—Hours of operation.
§ 13.04.165.	Tow truck.	§ 13.12.050.	Unauthorized painting of curbs.
§ 13.04.170.	.		

Chapter 13.08
ENFORCEMENT AND OBEDIENCE TO TRAFFIC REGULATIONS

	Authority of police and fire department officials.		Chapter 13.16 DRIVING RULES
§ 13.08.015.	Authority of parking enforcement officers.	§ 13.16.010.	Authority to place restricted turn signals.
§ 13.08.020.	Persons other than officials shall not direct traffic.	§ 13.16.020.	Signal controlled intersections—Right turns.
§ 13.08.030.	Obedience to police or authorized officers.	§ 13.16.030.	Driving through funeral procession.
		§ 13.16.040.	Clinging to moving vehicle.

VEHICLES AND TRAFFIC

§ 13.16.050.	Commercial vehicles using private driveways.	Chapter 13.28 ONE-WAY TRAFFIC
§ 13.16.060.	Riding or driving on sidewalk.	
§ 13.16.070.	New pavement and markings.	
§ 13.16.080.	Obedience to barriers and signs.	
§ 13.16.090.	No entrance into intersection that would obstruct traffic.	Chapter 13.32 STOPPING, STANDING AND PARKING
§ 13.16.100.	Advertising vehicles.	
§ 13.16.110.	Emerging from alley, driveway or building.	
§ 13.16.120.	U-turn restrictions.	
§ 13.16.125.	Turns into parking spaces.	
§ 13.16.130.	Excessive acceleration of motor vehicles.	
Chapter 13.18 PEDESTRIAN REGULATIONS		
§ 13.18.010.	City engineer to establish marked crosswalks.	
§ 13.18.020.	When pedestrians must use crosswalks.	
§ 13.18.030.	Pedestrians to obey special pedestrian traffic signals.	
Chapter 13.20 INTERSECTION STOPS, THROUGH HIGHWAYS AND YIELD RIGHT-OF-WAY INTERSECTIONS		
§ 13.20.010.	Stop intersections.	
§ 13.20.020.	Through highways.	
§ 13.20.030.	Yield right-of-way intersections.	
Chapter 13.24 SPEED LIMITS		
§ 13.24.005.	Forty miles per hour.	Chapter 13.36 PARKING LIMITATIONS
§ 13.24.010.	Thirty-five miles per hour.	
§ 13.24.015.	Thirty miles per hour.	
§ 13.24.020.	Twenty-five miles per hour for certain vehicles.	
§ 13.24.025.	Twenty-five miles per hour.	
§ 13.28.010.	One-way streets and alleys designated.	
§ 13.32.010.	Application of regulations.	
§ 13.32.015.	Repeat violations.	
§ 13.32.020.	Extended parking permits.	
§ 13.32.030.	City engineer to maintain no stopping zones and no parking areas.	
§ 13.32.040.	No parking areas.	
§ 13.32.050.	Use of streets for storage of vehicles prohibited.	
§ 13.32.060.	Parking for demonstration.	
§ 13.32.070.	Parking adjacent to schools.	
§ 13.32.090.	Parking prohibited on narrow streets.	
§ 13.32.100.	Parking on grades.	
§ 13.32.110.	Emergency parking signs.	
§ 13.32.120.	Taxicab stands.	
§ 13.32.130.	Parking on city property.	
§ 13.32.140.	Moving parked vehicle to avoid parking time limit.	
§ 13.32.150.	Repairing or greasing vehicles on public streets.	
§ 13.32.160.	Washing or polishing vehicles.	
§ 13.32.170.	Vehicles of excessive length.	
§ 13.32.180.	Overnight parking of recreation vehicles and trailers.	
§ 13.32.190.	Living in vehicles prohibited.	
§ 13.36.010.	No parking at any time.	
§ 13.36.020.	No parking during specified hours.	
§ 13.36.030.	One-hour parking.	
§ 13.36.040.	Two-hour parking.	
§ 13.36.042.	Four-hour parking.	

§ 13.36.043.	Ten-hour parking.	§ 13.40.040.	Operational procedure to be followed.
§ 13.36.044.	Parking parallel on one-way streets.	§ 13.40.050.	Parking meters and parking meter standards not to be used for certain purposes.
§ 13.36.045.	Angle parking.	§ 13.40.060.	Unlawful to extend time beyond limit.
§ 13.36.046.	Parking space markings.	§ 13.40.070.	Improper use of meter.
§ 13.36.047.	Limited height parking zones.	§ 13.40.080.	Deposit of coins in meter by unauthorized person.
§ 13.36.048.	Motorcycle zones.	§ 13.40.090.	Commercial vehicles loading or unloading exempt for thirty-minute limit.
§ 13.36.049.	Moving vehicles in public parking lots or facilities and use of public parking lots or facilities for storage of vehicles.	§ 13.40.100.	Unlawful to park after meter time has expired.
§ 13.36.050.	Municipal parking lots.	§ 13.40.105.	Parking permits.
§ 13.36.051.	Litter and refuse.	§ 13.40.110.	Rules of evidence.
§ 13.36.052.	Application of other chapters.	§ 13.40.120.	Use of funds collected.
§ 13.36.065.	Parking of commercial vehicles prohibited in residential districts.	§ 13.40.130.	Application of other chapters.
§ 13.36.070.	Preferential parking zones.		

Chapter 13.38

STOPPING FOR LOADING OR UNLOADING

§ 13.38.010.	Authority to establish loading zones.
§ 13.38.020.	Curb markings to indicate stopping and parking regulations.
§ 13.38.030.	Effect of permission to load or unload.
§ 13.38.040.	Standing for loading or unloading only.
§ 13.38.050.	Standing in passenger loading zone.
§ 13.38.055.	Handicapped zones.
§ 13.38.060.	Standing in any alley.
§ 13.38.065.	Limited time parking.
§ 13.38.070.	Coach zones to be established.

Chapter 13.40

PARKING METERS

§ 13.40.010.	Parking meter zones.
§ 13.40.020.	Manner of installation.
§ 13.40.030.	Time of operation of parking meters.

Chapter 13.44
DRIVING OR PARKING ON PROPERTY WITHOUT CONSENT

§ 13.44.010.	Driving or parking on property without consent unlawful.
§ 13.44.020.	Removal of illegally parked vehicles.

Chapter 13.48
TRAINS BLOCKING STREETS

§ 13.48.010.	Unlawful to block street for longer than five minutes.
---------------------	--

Chapter 13.52
BICYCLES

§ 13.52.015.	Police exempt.
§ 13.52.100.	Keeping to right—Two abreast—Riding on sidewalks.
§ 13.52.110.	One person only—Passengers.
§ 13.52.120.	Pulling other vehicle.
§ 13.52.130.	Obedience to traffic signs and signals—Signaling intention to turn.

VEHICLES AND TRAFFIC

§ 13.52.140.	Lights at night.	§ 13.60.080.	Application—Filing fee.
§ 13.52.150.	Parking in racks—Impounding bicycles lying on sidewalks.	§ 13.60.090.	Application—Copies.
§ 13.52.160.	Impoundment of bicycles for violations.	§ 13.60.100.	Findings prior to granting permit.
§ 13.52.170.	Clinging to moving vehicles.	§ 13.60.110.	Deposit.
§ 13.52.180.	Riding on park or playground.	§ 13.60.120.	Permit fee.
		§ 13.60.130.	Surety bond.
		§ 13.60.140.	Insurance.
		§ 13.60.150.	Restricted streets—Designation of limited truck routes.
		§ 13.60.160.	Further specifications for permit.
		§ 13.60.170.	Right to appeal.
§ 13.54.010.	Rights and duties on streets.	§ 13.60.180.	Notice of appeal.
§ 13.54.020.	Keeping to right and other regulations.	§ 13.60.190.	Evidence on appeal.
§ 13.54.030.	Clinging to other skates or vehicles.	§ 13.60.200.	Revocation or suspension of permit.
§ 13.54.040.	Obedience to traffic signs and signals.	§ 13.60.210.	Revocation—Notice.
§ 13.54.050.	Night riding prohibited.	§ 13.60.220.	Expiration of permits—Issuance of supplemental permits.
		§ 13.60.230.	Denial of supplemental permit—Right to appeal.
		§ 13.60.240.	Permit does not excuse compliance with other ordinance provisions.
§ 13.56.010.	Purpose and intent.	§ 13.60.250.	Designation of prohibited streets.
§ 13.56.020.	Definitions.	§ 13.60.260.	Permitted trucking.
§ 13.56.030.	Operation of electric micromobility devices.	§ 13.60.270.	Permitted trucking conditions.
		§ 13.60.280.	Penalty for violations.
§ 13.60.010.	Designating truck traffic routes.		Chapter 13.62 INTERSTATE TRUCKS
§ 13.60.020.	Designating prohibited truck traffic routes.	§ 13.62.010.	Definitions.
§ 13.60.030.	Destination points—Outside origin.	§ 13.62.015.	Purpose.
§ 13.60.040.	Destination points—Inside origin.	§ 13.62.020.	Application.
§ 13.60.050.	Weighing at public scale may be required.	§ 13.62.030.	Fees and costs.
§ 13.60.060.	Designation of truck traffic routes.	§ 13.62.040.	Retrofitting.
§ 13.60.070.	Permit.	§ 13.62.050.	Revocation of route.
		§ 13.62.060.	Appeal process.

Chapter 13.65
**ABANDONED, WRECKED, DISMANTLED
OR INOPERATIVE VEHICLES**

- § 13.65.010. **Findings.**
- § 13.65.012. **Definitions.**
- § 13.65.015. **Exceptions.**
- § 13.65.020. **Additional remedies.**
- § 13.65.025. **Enforcement officer.**
- § 13.65.030. **Entry.**
- § 13.65.035. **Administrative costs.**
- § 13.65.040. **Abatement and removal.**
- § 13.65.045. **Notice of intention.**
- § 13.65.050. **Hearing.**
- § 13.65.055. **Decision.**
- § 13.65.060. **Appeal.**
- § 13.65.065. **Removal.**
- § 13.65.070. **Notice to Department of Motor Vehicles and Department of Justice.**

§ 13.65.075. Assessment.

Chapter 13.70
**REGULATION OF VEHICULAR TRAFFIC
ON PRIVATE ROADS**

- § 13.70.010. **Finding and declaration.**
- § 13.70.020. **Vehicle code.**

Chapter 13.75
**TRANSPORTATION SYSTEM
MANAGEMENT**

- § 13.75.010. **Definitions.**
- § 13.75.020. **TSM coordinator.**
- § 13.75.030. **TSM requirements.**
- § 13.75.040. **Fees.**
- § 13.75.050. **Enforcement.**

CHAPTER 13.04 DEFINITIONS

§ 13.04.010. Definitions of words and phrases.

The following words and phrases when used in this title shall for the purpose of this title have the meanings respectively ascribed to them in this chapter.

(Ord. 1136 § 1, (1978))

§ 13.04.020. Motor Vehicle Code definitions to be used.

Whenever any words or phrases used herein are not defined, but are defined in the Vehicle Code of the state of California and amendments thereto, such definitions shall apply.

(Ord. 1136 § 1, (1978))

§ 13.04.030. Central traffic district.

"Central traffic district" includes all streets and portions of streets within the area described as follows:

(1) Burlingame Avenue Central District.

Burlingame Avenue from El Camino Real to California Drive;

Chapin Avenue from El Camino Real to Primrose Road;

Donnelly Avenue;

Howard Avenue from El Camino Real to West Lane;

South Lane;

Primrose Road from Bellevue Avenue to 250 feet easterly of Howard Avenue;

Park Road from Burlingame Avenue to 350 feet easterly of Howard Avenue;

Lorton Avenue from Bellevue Avenue to one hundred feet (100) easterly of Howard Avenue;

Highland Avenue from California Drive to 105 feet easterly of Howard Avenue;

California Drive from 100 feet westerly of Bellevue Avenue to 326 feet easterly of Howard Avenue;

West Lane.

(2) All of Broadway between the most northeasterly right-of-way line of El Camino Real and the most northeasterly line of Rollins Road; and all those portions of Capuchino Avenue, Paloma Avenue, Laguna Avenue, Chula Vista Avenue, Carolan Avenue and Rollins Road within 200 feet of the centerline of Broadway.

(Ord. 1136 § 1, (1978))

§ 13.04.040. Coach.

"Coach" means any motor bus, motor coach, trackless trolley or passenger stage used as a common carrier of passengers.

(Ord. 1136 § 1, (1978))

§ 13.04.050. Commercial, business or residence districts.

"Commercial, business or residence districts" includes those certain districts, zones of the city as defined and delimited in Title 25 of this code. Business district shall include commercial district.

(Ord. 1136 § 1, (1978))

§ 13.04.060. Council.

"Council" means the city council of the city of Burlingame.

(Ord. 1136 § 1, (1978))

§ 13.04.070. Curb.

"Curb" means the lateral boundary of the roadway whether such curb be marked as curbing, construction or not so marked; the word "curb" as herein used shall not include the line dividing the roadway of a street from parking strips in the center of a street, nor from tracks or rights-of-way of public utility companies.

(Ord. 1136 § 1, (1978))

§ 13.04.080. Divisional island.

"Divisional island" means a delineated or raised island located in the roadway and separating opposing or conflicting streams of traffic.

(Ord. 1136 § 1, (1978))

§ 13.04.085. Dump truck.

"Dump truck" means a motor vehicle which has been altered or designed and equipped for transporting and dumping loose materials.

(Ord. 1425 § 1, (1990))

§ 13.04.090. Freight.

"Freight" means property, goods or merchandise carried for hire or picked up or delivered as a part of the commercial use of a vehicle by the owner or operator thereof.

(Ord. 1136 § 1, (1978))

§ 13.04.100. Holidays.

For purposes of this title, "holidays" are:

- (a) January 1;
- (b) The third Monday in January;
- (c) The third Monday in February;
- (d) The last Monday in May;
- (e) June 19;
- (f) July 4;
- (g) The first Monday in September;

- (h) The second Monday in October;
- (i) November 11;
- (j) The fourth Thursday in November; and
- (k) December 25.

Whenever a holiday defined above falls on a Sunday, the Monday following is also a holiday. Whenever a holiday defined above falls on a Saturday, the Friday preceding is also a holiday.

(Ord. 1136 § 1, (1978); Ord. 1430 § 1, (1991); Ord. 1640 § 2, (2000); Ord. 1794 § 2, (2006); Ord. 2007 § 2, (2022))

§ 13.04.110. Loading zone.

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

(Ord. 1136 § 1, (1978))

§ 13.04.120. Official time standard.

Whenever certain hours are named herein, they shall mean standard time or daylight saving time as may be in current use in this city.

(Ord. 1136 § 1, (1978))

§ 13.04.125. Parking lots or facilities, city, municipal or public.

"City parking lot," "city parking facility," "municipal parking lot," "municipal parking facility," "public parking lot," or "public parking facility" means an off-street area or structure that is owned, leased by, operated by, or operated on behalf of the city for the purpose of parking by the general public, with or without compensation. A parking lot or parking facility in the city that is controlled by a public agency other than the city shall be treated as a private off-street parking facility under this title.

(Ord. 1688 § 2, (2002))

§ 13.04.130. Parking meter.

"Parking meter" means a mechanical device installed within or upon the curb, sidewalk or pavement immediately adjacent to a parking space for the purpose of controlling the period of time of occupancy of such parking meter space by any vehicle.

(Ord. 1136 § 1, (1978))

§ 13.04.140. Passenger loading zone.

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

(Ord. 1136 § 1, (1978))

§ 13.04.150. Police officer.

"Police officer" means every member of the police department of this city, or any person authorized to direct or regulate traffic or to make arrest for violations of traffic regulations.

(Ord. 1136 § 1, (1978))

§ 13.04.160. Stop.

"Stop" means complete cessation of movement.

(Ord. 1136 § 1, (1978))

§ 13.04.165. Tow truck.

"Tow truck" means a tow car as defined by Section 615 of the Vehicle Code, and shall include an automobile dismantlers' tow vehicle.

(Ord. 1425 § 2, (1990))

§ 13.04.170. Vehicle Code.

"Vehicle Code" means the Vehicle Code of the state of California.

(Ord. 1136 § 1, (1978))

CHAPTER 13.08 ENFORCEMENT AND OBEDIENCE TO TRAFFIC REGULATIONS

§ 13.08.010. Authority of police and fire department officials.

Officers of the police department and such officers as are assigned by the chief of police are authorized to direct all traffic by voice, hand, audible or other signal in conformance with traffic laws, except that in the event of a fire or other emergency or to expedite traffic or to safeguard pedestrians, officers of the police department or members of the fire department may direct traffic as conditions may require notwithstanding the provisions to the contrary contained in this title or the Vehicle Code.

(Ord. 1136 § 2, (1978))

§ 13.08.015. Authority of parking enforcement officers.

Parking enforcement officers and such other persons as may be authorized by the chief of police, including employees of other public agencies, shall have the authority to issue notices to appear for the violation of any section of this title or the Vehicle Code governing the standing or parking of vehicles.

(Ord. 1142 § 1, (1979); Ord. 1532 § 1, (1995))

§ 13.08.020. Persons other than officials shall not direct traffic.

No person other than an officer of the police department or members of the fire department or a person authorized 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 herein provided, any mechanical pushbutton signal erected by order of the city engineer.

(Ord. 1136 § 2, (1978))

§ 13.08.030. Obedience to police or authorized officers.

No person shall fail or refuse to comply with or to perform any act forbidden by any lawful order, signal or direction of a traffic or police officer, or a member of the fire department, or a person authorized by the chief of police or by law.

(Ord. 1136 § 2, (1978))

§ 13.08.040. Traffic regulations apply to persons riding bicycles or animals.

Every person riding a bicycle or riding or driving an animal upon a highway has all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by this title, except those provisions which by their very nature can have no application.

(Ord. 1136 § 2, (1978))

§ 13.08.050. Obstruction or interference with police or authorized officers.

No person shall interfere with or obstruct in any way any police officers or other officers or employees of this city in their enforcement of the provisions of this title. The removal, obliteration or concealment of any chalk mark or other distinguishing marks used by any police officer or other employee or officer of this city in connection with the enforcement of the parking regulations of this title shall, if done for the purpose of evading the provisions of this title, constitute such interference or obstruction.

(Ord. 1136 § 2, (1978))

§ 13.08.060. Public employees to obey traffic regulations.

The provisions of this title shall apply to the operator of any vehicle owned by or used in the service of the United States Government, this state or any county or city, and it shall be unlawful for any said operator to violate any of the provisions of this title except as otherwise permitted in this title or by the Vehicle Code. (Ord. 1136 § 2, (1978))

§ 13.08.070. Exemption of certain vehicles.

- (a) The provisions of this title regulating the operation, parking and standing of vehicles shall not apply to vehicles operated by the police or fire department, any public ambulance or any public utility vehicle or any private ambulance, which public utility vehicle or private ambulance has qualified as an authorized emergency vehicle, when any vehicle mentioned in this section is operated in the manner specified by the Vehicle Code in response to an emergency call.
- (b) The foregoing exemptions shall not, however, relieve the operator of any such vehicle from obligation to exercise due care for the safety of others or the consequences of his or her willful disregard of the safety of others.
- (c) The provisions of this title regulating the parking or standing of vehicles shall not apply to any vehicle of a city department or public utility while necessarily engaged in city business or any vehicle owned or operated by the United States Postal Service while in use for the collection, transportation or delivery of United States mail.

(Ord. 1136 § 2, (1978))

§ 13.08.080. Report of damage to certain property.

- (a) The operator of a vehicle or the person in charge of any animal involved in any accident resulting in damage to any property publicly owned or owned by a public utility, including, but not limited to, any fire hydrant, parking meter, lighting post, telephone pole, electric light or power pole, or resulting in damage to any tree, traffic-control device or other property of a like nature located in or along any street shall, within 24 hours after such accident, make a written report of such accident to the police department of this city.
- (b) Every such report shall state the time when and the place where the accident took place, the name and address of the person owning, and of the person operating or in charge of, such vehicle or animal, the license number of every such vehicle, and shall briefly describe the property damage in such accident.
- (c) The operator of any vehicle or person in charge of any animal involved in an accident shall not be subject to the requirements or penalties of this section if and during the time he or she is physically incapable of making a report, but in such event he or she shall make a report as required in subdivision (a) within 24 hours after regaining ability to make such report.

(Ord. 1136 § 2, (1978))

§ 13.08.090. When vehicles may be removed from streets and public parking lots or facilities.

Any police officer may remove or cause to be removed:

- (a) Any vehicle that has been parked or left standing upon a street, highway, or public parking lot or facility for 72 or more consecutive hours;
- (b) Any vehicle which is parked or left standing upon a street, highway, or public parking lot or facility

when such parking or standing is prohibited by ordinance or resolution of this city or upon any designated fire lane and signs are posted giving notice of such removal. Signs upon fire lanes on private property shall be prepared and posted at the owner's expense;

- (c) Any vehicle which is parked or left standing upon a street, highway, or public parking lot or facility where the use of such street, highway, or public parking lot or facility or a portion thereof is necessary for cleaning, repair or construction of the street, highway, or public parking lot or facility, or for the installation of underground utilities or where the use of the street or highway or any portion thereof is authorized for a purpose other than the normal flow of traffic, or where the use of the street or highway or any portion thereof is necessary for the movement of equipment, articles or structures of unusual size, and the parking of such vehicles would prohibit or interfere with such use or movement, provided that signs giving notice that such vehicle may be removed are erected or placed at least 24 hours prior to the removal.

(Ord. 1136 § 2, (1978); Ord. 1268 § 1, (1984); Ord. 1688 § 3, (2002))

§ 13.08.100. Authority of police in crowds.

At places where large numbers of people and vehicles are to gather or have gathered, nothing in this title shall be construed to prevent any police officer from prohibiting any person from parking any vehicle upon or using any street or sidewalk, or from prohibiting any pedestrian from using any street or sidewalk, and said police officer shall have authority to direct the parking of vehicles in any reasonable manner, way or direction, and it is unlawful for any person to fail to obey promptly the police officer's order, signal or command, regardless of any other provision of this title.

(Ord. 1136 § 2, (1978))

CHAPTER 13.12 TRAFFIC-CONTROL DEVICES, SIGNALS AND MARKINGS

§ 13.12.010. Authority to install traffic-control devices, signs and markings.

- (a) The city engineer shall have the power and duty to place and maintain or cause to be placed and maintained official traffic-control devices, signs and markings when and as required to make effective the provisions of this title. He or she shall also install and maintain traffic signals as directed by the council.
- (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 city engineer is hereby authorized to install or cause to be installed the necessary devices subject to any limitations or restrictions set forth in the law applicable thereto.
- (c) The city engineer may also place and maintain, or cause to be placed and maintained, such additional trafficcontrol devices, signs and markings as he or she may deem necessary or proper to regulate traffic or to guide or warn traffic, but he or she 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 this title or as may be determined by ordinance or resolution of the council. He or she shall be custodian of all records regarding trafficcontrol, including special surveys.

(Ord. 1136 § 3, (1978))

§ 13.12.020. Traffic-control signs required for enforcement purposes.

No provision of the Vehicle Code or of this title for which signs are required shall be enforced against an alleged violator unless appropriate legible signs are in place giving notice of such provisions of the traffic laws.

(Ord. 1136 § 3, (1978))

§ 13.12.030. Obedience to traffic-control devices, signs and markings.

The operator of any vehicle shall obey authorized signs, markings and traffic-control devices placed in accordance with this title unless otherwise directed by a police officer or other authorized person subject to the exceptions granted the operator of an authorized emergency vehicle when responding to emergency calls.

(Ord. 1136 § 3, (1978))

§ 13.12.040. Traffic-control devices—Hours of operation.

The city 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 title.

(Ord. 1136 § 3, (1978))

§ 13.12.050. Unauthorized painting of curbs.

No person, unless authorized by this city, shall paint any street or curb surface.

(Ord. 1136 § 3, (1978))

CHAPTER 13.16 DRIVING RULES

§ 13.16.010. Authority to place restricted turn signals.

The city engineer is authorized to determine intersections, driveways, and other entrances to streets at which drivers of vehicles shall not make a right, left or U-turn, and shall cause to be placed proper signs at such intersections, driveways, or other entrances. 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 the signs may be removed during the hours when such turns are permitted.

(Ord. 1136 § 4, (1978); Ord. 1680 § 2, (2002))

§ 13.16.020. Signal controlled intersections—Right turns.

- (a) No driver of a vehicle shall make a right turn against a red or stop signal at any intersection which is signposted giving notice of such restriction as hereinafter provided in this section.
- (b) The city engineer shall post appropriate signs giving effect to this section where he or she determines that the making of right turns against traffic signal "stop" indication would seriously interfere with the safe and orderly flow of traffic.

(Ord. 1136 § 4, (1978))

§ 13.16.030. Driving through funeral procession.

No operator of any vehicle shall drive between the vehicles comprising a funeral procession or a parade, provided that such vehicles are conspicuously so designated. The directing of all vehicles and traffic on any street over which such funeral procession or parade wishes to pass shall be subject to the orders of the police department.

(Ord. 1136 § 4, (1978))

§ 13.16.040. Clinging to moving vehicle.

No person shall attach himself or herself with his or her hands, or catch on, or hold on to with his or her hands or by other means, to any moving vehicle or train for the purpose of receiving motive power therefrom.

(Ord. 1136 § 4, (1978))

§ 13.16.050. Commercial vehicles using private driveways.

No person shall operate or drive a commercial vehicle in, on or across any private driveway approach or sidewalk area or the driveway itself without the consent of the owner or occupant of the property if a sign or markings are in place indicating that the use of such driveway is prohibited.

(Ord. 1136 § 4, (1978))

§ 13.16.060. Riding or driving on sidewalk.

No person shall ride, drive, propel or cause to be propelled any vehicle or animal across or upon any sidewalk, excepting over permanently constructed driveways; when it is necessary for any temporary purpose to drive a loaded vehicle across a sidewalk, written permission shall be previously obtained from the city engineer. Any protective device required by the city engineer shall not be permitted to remain upon such sidewalk area during the hours from 6:00 p.m. to 6:00 a.m.

(Ord. 1136 § 4, (1978))

§ 13.16.070. New pavement and markings.

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

(Ord. 1136 § 4, (1978))

§ 13.16.080. Obedience to barriers and signs.

No person, public utility or department in the city shall erect or place any barrier or sign on any street unless of a type approved by the city engineer, or disobey the instructions, remove, tamper with or destroy any barrier or sign lawfully placed upon any street by any person, public utility or by any department of this city.

(Ord. 1136 § 4, (1978))

§ 13.16.090. No entrance into intersection that would obstruct traffic.

No operator of any vehicle shall enter any intersection or a marked crosswalk unless there is sufficient space on the other side of the intersection or crosswalk to accommodate the vehicle he or she is operating without obstructing the passage of other vehicles or pedestrians, notwithstanding any traffic-control signal indication to proceed.

(Ord. 1136 § 4, (1978))

§ 13.16.100. Advertising vehicles.

No person shall operate or drive any vehicle used primarily for advertising purposes or any advertising vehicle equipped with sound amplifying or loud speaking device upon any street or alley at any times unless with the permission of the city council.

(Ord. 1136 § 4, (1978))

§ 13.16.110. Emerging from alley, driveway or building.

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 or driveway.

(Ord. 1136 § 4, (1978))

§ 13.16.120. U-turn restrictions.

No vehicle in the central traffic district shall be turned so as to proceed in the opposite direction except at intersections; provided, however, that no such turn, or U-turn, shall be made at the intersection of the following streets:

- (a) Burlingame Avenue and Primrose Road;
- (b) Burlingame Avenue and Park Road;
- (c) Burlingame Avenue and Lorton Avenue;
- (d) Burlingame Avenue and California Drive;

- (e) Broadway and Capuchino Avenue;
 - (f) Broadway and Paloma Avenue;
 - (g) Broadway and Laguna Avenue.
- (Ord. 1142 § 2, (1979))

§ 13.16.125. Turns into parking spaces.

No vehicle traveling on a two-way street in the central traffic district shall be turned or operated so as to enter a parking space upon the side of the street opposite from the vehicle's original direction of travel.
(Ord. 1342 § 1, (1987))

§ 13.16.130. Excessive acceleration of motor vehicles.

No person shall operate or drive a motor vehicle within the city to so accelerate the same as to cause audible noise by tire friction on pavement or to cause the tires of said vehicle to leave skid marks upon the pavement, except when such acceleration is reasonably necessary to avoid a collision.
(Ord. 1207 § 1, (1981))

**CHAPTER 13.18
PEDESTRIAN REGULATIONS**

§ 13.18.010. City engineer to establish marked crosswalks.

- (a) The city engineer shall establish, designate and maintain crosswalks by appropriate devices, marks or lines upon the surface of the roadway at intersections, and at other locations, subject to the limitations contained in subsection (b) of this section, where he or she determines that there is particular hazard to pedestrians crossing the roadway.
- (b) Crosswalks may be established within any block which is more than four (400) hundred feet in length. Such a crosswalk shall be located as nearly as practicable to midblock.
- (c) The city engineer may place signs at or adjacent to an intersection in respect to any unmarked crosswalk directing that pedestrians shall not cross in the crosswalk so indicated.

(Ord. 1136 § 5, (1978))

§ 13.18.020. When pedestrians must use crosswalks.

No pedestrian shall cross a roadway other than by a crosswalk in a central traffic district or in any business district.

(Ord. 1136 § 5, (1978))

§ 13.18.030. Pedestrians to obey special pedestrian traffic signals.

Pedestrians shall obey the indication of special traffic signals installed for pedestrians only and shall disregard the indication of a vehicular traffic signal at any location where special pedestrian traffic signals are in place.

(Ord. 1136 § 5, (1978))

**CHAPTER 13.20
INTERSECTION STOPS, THROUGH HIGHWAYS AND YIELD RIGHT-OF-WAY
INTERSECTIONS**

§ 13.20.010. Stop intersections.

The operator of any vehicle entering any of the following designated intersections shall bring the vehicle being driven to a full stop:

- (a) Adeline Drive approaching Alvarado Avenue;
Adeline Drive approaching Balboa Avenue;
Adeline Drive approaching Bernal Avenue;
Adeline Drive approaching Cabrillo Avenue;
Adeline Drive approaching Columbus Avenue;
Adeline Drive approaching Poppy Drive;
Adrian Court approaching Adrian Road;
Alcazar Drive approaching Hunt Drive;
Albermarle Way approaching Ray Drive;
Alturas Drive approaching Hillside Drive;
Alvarado Avenue approaching Hillside Drive, while travelling south (northern end);
Alvarado Avenue approaching Hillside Drive, while travelling south (southern end);
Anita Road approaching Bayswater Avenue;
Anita Road approaching Howard Avenue;
Ansel Road approaching Oak Grove Avenue;
Arguello Drive approaching Sebastian Drive;
Arguello Drive approaching Toledo Avenue;
Arundel Road approaching Bayswater Avenue;
Arundel Road approaching Howard Avenue;
South Ashton Drive approaching Trousdale Drive;
Atwater Drive approaching Hunt Drive.
- (b) Balboa Drive approaching Davis Drive;
Balboa Way approaching Ray Drive;
Barroilhet Avenue approaching Cypress Avenue;

Bayswater Avenue approaching Anita Road;
Bayswater Avenue approaching Arundel Road;
Bayswater Avenue approaching Bloomfield Road;
Bayswater Avenue approaching Dwight Road;
Bayswater Avenue approaching Humboldt Road;
Bayswater Avenue approaching Lorton Avenue;
Bayswater Avenue approaching Park Road;
Bellevue Avenue approaching Lorton Avenue;
Bellevue Avenue approaching Primrose Road, including City Hall Circle;
Bernal Drive approaching Devereux Drive;
Bloomfield Road approaching Bayswater Avenue;
Broadway approaching Vancouver Avenue;
Broadway Avenue approaching Cortez;
Burlingame Avenue approaching Anita Road;
Burlingame Avenue approaching Bloomfield Road;
Burlingame Avenue approaching Carolan Avenue and East Lane;
Burlingame Avenue approaching Dwight Road;
Burlingame Avenue approaching Lorton Avenue;
Burlingame Avenue approaching Park Road.

- (c) Carmelita Avenue approaching Cortez Avenue;
Carmelita Avenue approaching Vancouver Avenue;
Canyon Road approaching Easton Drive;
Carolan Avenue approaching North Lane;
Castenada Drive approaching Trousdale Drive and Martinez Drive;
Chula Vista Avenue approaching Majilla Avenue;
Clarice Lane approaching Quesada Way;
Columbus Avenue approaching Easton Drive;
Corbitt Drive approaching Winchester Drive;
Coronado Drive approaching Davis Drive;

- Cortez Avenue approaching Carmelita Avenue;
- Cortez Avenue approaching Hillside Drive;
- Cortez Avenue approaching Sherman Avenue;
- Cypress Avenue approaching Barriolhet Avenue.
- (d) Davis Drive approaching Quesada Drive;
- Devereux Drive approaching Balboa Way;
- Douglas Avenue approaching Lorton Avenue;
- Douglas Avenue approaching Primrose Road.
- (e) East Lane approaching Burlingame Avenue and Carolan Avenue while traveling west;
- East Lane approaching North Lane;
- Easton Drive approaching Canyon Road;
- Easton Drive approaching Cabrillo Avenue;
- Easton Drive approaching Columbus Avenue;
- Easton Drive approaching Cortez Avenue;
- Easton Drive approaching Montero Avenue;
- Easton Drive approaching Vancouver Avenue;
- Edgehill Drive approaching Paloma Drive;
- El Prado Road approaching Canyon Road;
- El Prado Road approaching Summit Drive;
- Escalante Drive approaching Rivera Drive.
- (f) Fairfield Road approaching Edgehill Drive;
- Fairfield Road approaching Palm Drive;
- East Frontage Road of El Camino Real approaching Murchison Drive;
- East Frontage Road of El Camino Real approaching Trousdale Drive;
- West Frontage Road of El Camino Real approaching Murchison Drive;
- West Frontage Road of El Camino Real approaching Trousdale Drive;
- Frontera Way approaching Sebastian Drive;
- Frontera Way approaching Loyola Drive.
- (g) [Reserved for future use].

- (h) Hale Drive approaching Columbus Avenue;
Highway Road approaching Mills Avenue;
Highway Road approaching Oxford Road/Cambridge Road;
Hillside Circle approaching Hillside Drive;
Hillside Drive approaching Vancouver Avenue;
Hillside Drive approaching Alvarado Avenue, while travelling west;
Hillside Drive departing Alvarado Avenue, while travelling west;
Hillside Drive approaching Cortez Avenue;
Hillside Drive approaching Skyline Boulevard;
Hillside Lane approaching Skyline Boulevard;
Hinckley Road approaching Gilbreth Road;
Howard Avenue approaching Anita Road;
Howard Avenue approaching Arundel Avenue;
Howard Avenue approaching Dwight Road;
Howard Avenue approaching Humboldt Street;
Howard Avenue approaching Lorton Avenue;
Howard Avenue approaching Occidental Avenue;
Howard Avenue approaching Primrose Road;
Howard Avenue approaching Victoria Road;
Humboldt Street approaching Howard Avenue;
Hunt Drive approaching Alcazar Drive;
Hunt Drive approaching Frontera Way;
Hunt Drive approaching Rivera Drive;
Hunt Drive approaching Trousdale Drive.
- (i) [Reserved for future use].
- (j) [Reserved for future use].
- (k) [Reserved for future use].
- (l) La Mesa Drive approaching Hillside Drive;
Larkspur Drive approaching Linden Avenue;

Lexington Way approaching Bloomfield;
Loma Vista Drive approaching Skyline Boulevard;
Private Road at the most northerly end of Loma Vista Drive approaching Loma Vista Drive;
Lorton Avenue approaching Bayswater Avenue;
Lorton Avenue approaching Burlingame Avenue;
Los Altos Drive approaching Hillside Drive;
Los Montes Drive approaching Hillside Drive;
Loyola Drive approaching Trousdale Drive.

- (m) Magnolia Drive approaching Murchison Drive;
Majilla Avenue approaching Chula Vista Avenue;
Malcolm Road approaching Gilbreth Road;
Marco Polo Way approaching Davis Drive;
Marco Polo Way approaching Trousdale Drive;
Margarita Avenue approaching Skyline Boulevard;
Mariposa Drive approaching Frontera Way;
Marsten Road approaching Rollins Road;
Martinez Drive approaching Trousdale Drive and Castenada Drive;
Mitten Road approaching Gilbreth Road;
Montecito Way approaching Frontera Way;
Montero Avenue approaching Easton Drive;
Murchison Drive approaching California Drive;
Murchison Drive approaching Magnolia Drive;
Murchison Drive approaching Ogden Drive while traveling east.

- (n) North Lane approaching Carolan Avenue while traveling west;
North Carolan Avenue approaching Rollins Road.

- (o) Oak Grove Avenue approaching Ansel Road;
Oak Grove both directions approaching Winchester;
Occidental Avenue approaching Howard Avenue;
Ogden Drive approaching Murchison Drive;

- Ogden Drive approaching Trousdale Drive.
- (p) Palm Drive approaching Fairfield Road;
Palm Drive approaching Paloma Avenue;
Paloma Avenue approaching Sanchez Avenue;
Paloma Drive approaching Easton Drive;
Paloma Drive approaching Palm Drive;
Park Road approaching Burlingame Avenue;
Plymouth Way approaching Bloomfield Road;
Poppy Drive approaching Columbus Avenue;
Primrose Road approaching Bellevue Avenue;
Primrose Road approaching Douglas Avenue.
- (q) Quesada Drive approaching Davis Drive;
Quesada Way approaching Ray Drive;
Quesada Way approaching Trousdale Drive.
- (r) Ralston Avenue approaching Pepper Avenue;
Ray Drive approaching Balboa Avenue;
Ray Drive approaching Davis Drive;
Ray Drive approaching Devereux Drive;
Rivera Drive approaching Sebastian Drive;
Rivera Drive approaching Skyline Boulevard;
Rollins Road approaching Marsten Road and North Carolan Avenue;
Rollins Road approaching Toyon Drive.
- (s) Sanchez Avenue approaching Cortez Avenue;
Sanchez Avenue approaching Paloma Avenue;
Sebastian Drive approaching Arguello Drive;
Sebastian Drive approaching Frontera Way;
Sebastian Drive approaching Mariposa Drive;
Sebastian Drive approaching Trousdale Drive;
Sequoia Avenue approaching Murchison Drive;

Sequoia Avenue approaching Trousdale Drive;
Sherman Avenue approaching Cortez Avenue;
Skyline Boulevard approaching Trousdale Drive;
Skyview Drive approaching Skyline Boulevard;
Stanton Road approaching Gilbreth Road;
Summit Drive approaching El Prado Road;
Summit Drive approaching Hillside Circle.

(t) Toledo Avenue and Court approaching Martinez Drive;

Toledo Drive approaching Trousdale Drive;
Trousdale Drive approaching California Drive;
Trousdale Drive approaching Castenada Drive and Martinez Drive;
Trousdale Drive approaching Hunt Drive;
Trousdale Drive approaching Loyola Drive while traveling west;
Trousdale Drive approaching Marco Polo Drive;
Trousdale Drive approaching Ogden Drive;
Trousdale Drive approaching Quesada Drive;
Trousdale Drive approaching Sebastian Drive;
Trousdale Drive approaching Sequoia Avenue;
Trousdale Drive approaching Toledo Drive while traveling east.

(u) [Reserved for future use].

(v) Vancouver Avenue approaching Broadway;

Vancouver Avenue approaching Hillside Drive;
Victoria Road approaching Howard Avenue.

(w) Walnut Avenue approaching Willow Avenue;

Westmoor Road approaching Rosedale Avenue;
Winchester Drive approaching Oak Grove Avenue.
(1941 Code § 1211, Ord. 508, (1951); Ord. 543, (1954); Ord. 544, (1954); Ord. 577, (1955); Ord. 584, (1955); Ord. 604, (1955); Ord. 632, (1956); Ord. 683, (1959); Ord. 685, (1959); Ord. 693, (1959); Ord. 720, (1969); Ord. 722, (1960); Ord. 734, (1961); Ord. 740, (1961); Ord. 743, (1961); Ord. 751, (1962); Ord. 776, (1963); Ord. 798, (1964); Ord. 802, (1964); Ord. 805, (1964); Ord. 814, (1964); Ord. 819, (1965); Ord. 850 § 1, (1966); Ord. 860 § 1, (1966); Ord. 874 § 1, (1968); Ord. 878 § 1, (1968); Ord. 893 § 1, (1969); Ord. 900 § 1, (1969); Ord. 912 § 1, (1970); Ord. 919 §§ 1, 2, (1970); Ord. 925 § 1, (1970);

Ord. 931 § 1, (1971); Ord. 951 § 1, (1972); Ord. 972 § 1, (1972); Ord. 997 § 1, (1973); Ord. 998 § 1, (1973); Ord. 1005 § 1, (1974); Ord. 1204 § 1, (1974); Ord. 1042 § 1, (1975); Ord. 1063 § 1, (1976); Ord. 1072 § 1, (1976); Ord. 1087 § 1, (1976); Ord. 1099 § 1, (1977); Ord. 1116 § 1, (1977); Ord. 1119 § 1, (1978); Ord. 1144 § 1, (1979); Ord. 1154 § 1, (1979); Ord. 1156 § 1, (1979); Ord. 1158 § 1, (1979); Ord. 1160 § 1, (1979); Ord. 1196 § 1, (1981); Ord. 1224 § 1, (1982); Ord. 1241 §§ 1, 2, (1983); Ord. 1247 § 1, (1983); Ord. 1265 § 1, (1984); Ord. 1275 § 1, (1984); Ord. 1309 § 1, (1985); Ord. 1336 § 1, (1987); Ord. 1340 § 1, (1987); Ord. 1358 § 1, (1988); Ord. 1367 § 1, (1988); Ord. 1385 § 1, (1989); Ord. 1387 § 1, (1989); Ord. 1414 § 1, (1990); Ord. 1427 § 1, (1990); Ord. 1428 § 1, (1991); Ord. 1497 § 1, (1994); Ord. 1502 § 1, (1994); Ord. 1537 § 1, (1996); Ord. 1559 § 3, (1996); Ord. 1562 § 1, (1996); Ord. 1574 § 2, (1997); Ord. 1581 § 2, (1997); Ord. 1582 § 2, (1997); Ord. 1590 § 2, (1998); Ord. 1594 § 2, (1998); Ord. 1608 § 2, (1999); Ord. 1635 §§ 2, 3, (2000); Ord. 1643 § 2, (2000); Ord. 1651 § 1, (2001); Ord. 1659 § 2, (2001); Ord. 1665 § 2, (2001); Ord. 1683 § 2, (2002); Ord. 1726 § 2, (2004); Ord. 1729 § 2, (2004); Ord. 1787 §§ 2, 3, (2006); Ord. 1799 §§ 2, 3, (2007); Ord. 1898 § 2, (2014); Ord. 1922 § 2, (2015); Ord. 1948 § 2, (2017); Ord. 1965 § 2, (2019); Ord. 2004 § 5 (2022))

§ 13.20.020. Through highways.

Except at any intersection with El Camino Real, the following streets are designated through highways within the meaning of and in conformity to the provisions of Section 21354 of the Vehicle Code of the state of California. The operator of any vehicle entering the intersections from any direction shall bring his or her vehicle to a full stop.

- (1) Rollins Road;
- (2) Bayshore Highway;
- (3) Airport Boulevard;
- (4) California Drive, Dufferin Avenue to southeasterly city limits;
- (5) Adeline Drive;
- (6) Hillside Drive from Alvarado Avenue to El Camino Real;
- (7) Easton Drive;
- (8) Sherman Avenue from Cortez Avenue to El Camino Real;
- (9) Broadway;
- (10) Carmelita Avenue;
- (11) Sanchez Avenue;
- (12) Oak Grove Avenue;
- (13) Carolan Avenue from Cadillac Way to Park Avenue;
- (14) Burlingame Avenue from Myrtle to Rollins Road;
- (15) Howard Avenue;
- (16) Bayswater Avenue;
- (17) Peninsula Avenue;

- (18) Barroilhet Avenue;
- (19) Grove Avenue;
- (20) Lincoln Avenue;
- (21) Ralston Avenue;
- (22) Occidental Avenue;
- (23) Primrose Road from Donnelly Avenue to Douglas Avenue;
- (24) Palm Drive from California Drive through Acacia Drive.
(1941 Code § 1125, Ord. 627, (1956); Ord. 794, (1964); Ord. 795, (1964); Ord. 820, (1965); Ord. 846, (1966); Ord. 858, (1966); Ord. 864, (1967); Ord. 1063 § 1, (1976); Ord. 1156 § 2, (1979); Ord. 1414 § 2, (1990))

§ 13.20.030. Yield right-of-way intersections.

The operator of any vehicle entering any of the following designated intersections shall yield the right-of-way:

- Almer Road approaching Bellevue Avenue;
- Almer Road approaching Floribunda Avenue;
- Ansel Avenue approaching Bellevue Avenue;
- Bellevue Avenue approaching Primrose Road after entering the center islands from either direction;
- California Drive approaching Bellevue Avenue;
- California Drive northerly turn onto eastbound Oak Grove Avenue;
- Chapin Lane approaching Pepper Avenue;
- Clarendon approaching Dwight;
- Concord Way approaching Bloomfield Road;
- Lexington Way approaching Dwight Road;
- Primrose Road approaching Floribunda Avenue;
- Vernon Way approaching Bloomfield.
(1941 Code § 1222.15, Ord. 684, (1958); Ord. 865 § 1, (1967); Ord. 1063 § 1, (1976); Ord. 1116 § 2, (1977); Ord. 1144 § 2, (1979); Ord. 1156 § 3, (1979); Ord. 1241 § 3, (1983); Ord. 1244 § 1, (1983); Ord. 1314 § 1, (1986); Ord. 1427 § 2, (1990); Ord. 1429 § 2, (1991); Ord. 1438 § 1, (1991); Ord. 1559 § 4, (1996); Ord. 1568 § 2, (1997); Ord. 1590 § 3, (1998))

CHAPTER 13.24 SPEED LIMITS

§ 13.24.005. Forty miles per hour.

- (a) No person shall drive a vehicle upon any of the following designated streets at a speed greater than 40 miles per hour; it is determined that the speed limitation hereby established is most appropriate to facilitate the orderly movement of traffic and is reasonable and safe:
- (1) Skyline Boulevard from 600 feet north of Rivera Drive south to the city limits.
(Ord. 1902 § 2, (2014))

§ 13.24.010. Thirty-five miles per hour.

- (a) No person shall drive a vehicle upon any of the following designated streets at a speed greater than 35 miles per hour; it is determined that the speed limitation hereby established is most appropriate to facilitate the orderly movement of traffic and is reasonable and safe:
- (1) Airport Boulevard between Old Bayshore Highway and Lang Road;
 - (2) Adrian Road between Millbrae city limits and David Road;
 - (3) Old Bayshore Highway;
 - (4) California Drive between Oak Grove Avenue and Murchison Drive;
 - (5) Carolan Avenue between Broadway and Oak Grove Avenue;
 - (6) Peninsula Avenue between California Drive and Humboldt Road;
 - (7) Rollins Road between southern city limits to northern city limits;
 - (8) Skyline Boulevard from 600 feet north of Rivera Drive south to the city limits; and
 - (9) Trousdale Drive between El Camino Real and Skyline Boulevard.

(1941 Code § 1221-A, Ord. 455, (1947); Ord. 585, (1955); Ord. 715, (1960); Ord. 732, (1961); Ord. 755, (1962); Ord. 849 § 1, (1966); Ord. 1080 § 1, (1976); Ord. 1124 § 1, (1978); Ord. 1662 § 2, (2001); Ord. 1902 § 2, (2014); Ord. 1971 § 2, (2020))

§ 13.24.015. Thirty miles per hour.

- (a) No person shall drive a vehicle upon any of the following designated streets at a speed greater than 30 miles per hour; it is determined that the speed limitation hereby established is most appropriate to facilitate the orderly movement of traffic and is reasonable and safe:
- (1) Peninsula Avenue between El Camino Real and California Drive; and
 - (2) Hillside Drive between Alvarado Avenue and El Camino Real.
(Ord. 1067 § 1, (1976); Ord. 1084 § 1, (1976); Ord. 1124 § 2, (1978); Ord. 1249 § 1, (1983); Ord. 1561 § 1, (1996); Ord. 1697 § 2, (2002); Ord. 1902 § 2, (2014); Ord. 1971 § 3, (2020))

§ 13.24.020. Twenty-five miles per hour for certain vehicles.

No person shall drive any motor truck or truck-tractor having three or more axles or any motor truck or

truck-tractor drawing any other vehicle at a speed in excess of 25 miles per hour in descending the grade on all portions of Trousdale Drive; it is determined that the speed limitation hereby established is most appropriate to facilitate the orderly movement of traffic and is reasonable and safe. This section does not apply to any bus having three or more axles.

(Ord. 862 § 1, (1967); Ord. 1902 § 2, (2014))

§ 13.24.025. Twenty-five miles per hour.

No person shall drive a vehicle upon any of the streets not identified in Sections 13.24.005, 13.24.010, and 13.24.015 at a speed greater than 25 miles per hour; it is determined that the speed limitation hereby established is most appropriate to facilitate the orderly movement of traffic and is reasonable and safe.

(Ord. 1902 § 2, (2014))

**CHAPTER 13.28
ONE-WAY TRAFFIC**

§ 13.28.010. One-way streets and alleys designated.

- (a) It is unlawful for any person to drive any vehicle on Alvarado Avenue from Hillside Drive to Hillside Circle except in a southerly direction.
- (b) It is unlawful for any person to drive any vehicle on Capuchino Avenue between Broadway and Carmelita Avenue except in a southerly direction.
- (c) It is unlawful for any person to drive any vehicle on Capuchino Avenue between Lincoln Avenue and Broadway except in a southerly direction.
- (d) It is unlawful for any person to drive any vehicle on Chula Vista Avenue between Broadway and Carmelita Avenue except in a southerly direction.
- (e) It is unlawful for any person to drive any vehicle on lands of the City and County of San Francisco paralleling California Drive between North Lane and the northerly curbline of Bellevue Avenue, extended, except in a northerly direction.
- (f) It is unlawful for any person to drive any vehicle on City Hall Lane between Primrose Road and Park Road except in an easterly direction, such traffic to enter on Primrose Road and exit on Park Road.
- (g) It is unlawful for any person to drive any vehicle on East Lane from North Lane to Burlingame Avenue except in a southerly direction.
- (h) It is unlawful for any person to drive any vehicle on Hatch Alley except in a southerly direction.
- (i) It is unlawful for any person to drive any vehicle on Highland Avenue between California Drive and Howard Avenue except in a southerly direction.
- (j) It is unlawful for any person to drive any vehicle on Hillside Circle except in a clockwise direction.
- (k) It is unlawful for any person to drive any vehicle on Laguna Avenue between Carmelita Avenue and Broadway except in a northerly direction.
- (l) It is unlawful for any person to drive any vehicle on North Lane between Carolan Avenue and East Lane except in an easterly direction.
- (m) It is unlawful for any person to drive any vehicle on Paloma Avenue between Broadway and Lincoln Avenue except in a northerly direction.
- (n) It is unlawful for any person to drive any vehicle on Paloma Avenue between Carmelita Avenue and Broadway except in a northerly direction.
- (o) It is unlawful for any person to drive any vehicle on the alley from Parking Lot 'P' to Laguna Avenue except in an easterly direction; provided, no vehicle having a manufacturer's gross vehicle weight of five tons or more shall drive on said alley in any direction, refuse collection and emergency vehicles excepted.
- (p) It is unlawful for any person to drive any vehicle on the Service Road between Dufferin Avenue and Murchison Drive except in a northerly direction.
- (q) It is unlawful for any person to drive any vehicle on South Lane between California Drive and the

railroad tracks except in an easterly direction.

- (r) It is unlawful for any person to drive any vehicle on West Lane except in a southerly direction.

The director of public works is authorized and directed to procure and install appropriate signs giving notice of the provisions of this section.

(1941 Code § 1427, Ord. 474, (1948); Ord. 569, (1954); Ord. 578, (1955); Ord. 579, (1955); Ord. 587, (1955); Ord. 733, (1961); Ord. 791, (1964); Ord. 941, (1971); Ord. 978 § 1, (1972); Ord. 1052 § 1, (1975); Ord. 1071 § 1, (1976); Ord. 1139 §§ 1, 2, (1978); Ord. 1194 § 1, (1981); Ord. 1261 § 1, (1984); Ord. 1520 § 1, (1995); Ord. 1559 § 1, 2, (1996); Ord. 1820 § 2, (2008))

**CHAPTER 13.32
STOPPING, STANDING AND PARKING**

§ 13.32.010. Application of regulations.

- (a) The provisions of this title prohibiting the stopping, standing or parking of a vehicle shall apply at all times or at those times herein specified, except when it is necessary to stop a vehicle to avoid conflict with other traffic or in compliance with the directions of a police officer or official traffic-control device.
- (b) The provisions of this title imposing a time limit on standing or parking shall not relieve any person from the duty to observe other and more restrictive provisions of the Vehicle Code or the ordinances of this city prohibiting or limiting the standing or parking of vehicles in specified places or at specified times.

(Ord. 1136 § 6, (1978))

§ 13.32.015. Repeat violations.

If a vehicle receives a second citation for the violation of the same parking regulation or limitation within the same calendar day, and the vehicle was not moved between citations, or is stationary pursuant to Section 13.32.140, the bail for the second citation shall be increased to such amount as may be established upon the schedule of bail for violation of this section.

(Ord. 1276 § 1, (1984))

§ 13.32.020. Extended parking permits.

- (a) The city engineer may issue cards, meter covers or appropriate indicia to allow contractors and tradesmen to park beyond the time periods specified in this title or without operation of parking meters, or both. A fee may be established in lieu of parking meter fees and a deposit shall be established to insure the return of any indicia.
- (b) The city manager may issue cards or other appropriate indicia to allow a city employee to park during the employee's city working hours in specified city municipal parking facilities beyond the time periods specified in this title or without operation of parking meters, or both.

(Ord. 1136 § 6, (1978); Ord. 1642 § 2, (2000))

§ 13.32.030. City engineer to maintain no stopping zones and no parking areas.

The city engineer is authorized to maintain, by appropriate signs or by paint upon the curb surface, all no stopping zones, no parking areas and restricted parking areas, as defined and described in this title.

When said curb markings or signs are in place, no operator of any vehicle shall stop, stand or park such vehicle adjacent to any such legible curb marking or sign in violation of any of the provisions of this title.
(Ord. 1136 § 6, (1978))

§ 13.32.040. No parking areas.

No operator of any vehicle shall stop, stand, park or leave standing such vehicle in any of the following places, except when necessary to avoid conflict with other traffic or in compliance with the direction of a police officer or other authorized officer, or traffic sign or signal:

- (a) Within any divisional island unless authorized and clearly indicated with appropriate signs or

markings;

- (b) In any area where the city engineer determines that the parking or stopping of a vehicle would constitute a traffic hazard or would endanger life or property, when such area is indicated by appropriate signs or by red paint upon the curb surface;
- (c) In any area established as a no parking area, when such area is indicated by appropriate signs or by red paint upon the curb surface;
- (d) Upon, along or across any railway track in such manner as to hinder, delay or obstruct the movement of any rail or light rail vehicle traveling upon such track;
- (e) In any area where the parking or stopping of any vehicle would constitute a traffic hazard or would endanger life or property;
- (f) On any street or highway where the use of such street or highway or a portion thereof is necessary for the cleaning, repair or construction of the street or highway or the installation of underground utilities, or where the use of the street or highway or any portion thereof is authorized for a purpose other than the normal flow of traffic, or where the use of the street or highway or any portion thereof is necessary for the movement of equipment, articles or structures of unusual size, and the parking of such vehicle would prohibit or interfere with such use or movement; provided, that signs giving notice of such no parking are erected or placed at least 24 hours prior to the effective time of such no parking.

(Ord. 1136 § 6, (1978))

§ 13.32.050. Use of streets for storage of vehicles prohibited.

No person who owns or has possession, custody or control of any vehicle shall park such vehicle upon any street, alley or public parking facility for more than a consecutive period of 72 hours.

(Ord. 1136 § 6, (1978); Ord. 1338 § 1, (1987))

§ 13.32.060. Parking for demonstration.

No operator of any vehicle shall park such vehicle upon the right-of-way of any street or upon any publicly owned property in the city for the principal purpose of advertising or displaying it for sale or for selling merchandise from said vehicle unless authorized by the city council.

(Ord. 1136 § 6, (1978))

§ 13.32.070. Parking adjacent to schools.

- (a) The city engineer is authorized to erect signs indicating no parking upon that side of any street adjacent to any school property when such parking would, in his or her opinion, interfere with traffic or create a hazardous situation.
- (b) When official signs are erected prohibiting parking upon that side of a street adjacent to any school property, no person shall park a vehicle in any such designated place.

(Ord. 1136 § 6, (1978); Ord. 1154 § 3, (1979))

§ 13.32.090. Parking prohibited on narrow streets.

- (a) The city engineer is authorized to place signs or markings indicating no parking upon any street when the width of the roadway does not exceed 20 feet, or upon one side of a street as indicated by such signs or markings when the width of the roadway does not exceed 30 feet.

- (b) When official signs or markings prohibiting parking are erected upon narrow streets as authorized herein, no person shall park a vehicle upon any such street in violation of any such sign or marking.
(Ord. 1136 § 6, (1978))

§ 13.32.100. Parking on grades.

No person shall park or leave standing any vehicle unattended on a highway when upon any grade exceeding 3% without blocking the wheels of said vehicle by turning them against the curb or by other means.

(Ord. 1136 § 6, (1978))

§ 13.32.110. Emergency parking signs.

- (a) Whenever the police chief or city engineer determines 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 police chief or city 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 police chief or city 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 city 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.
(Ord. 1136 § 6, (1978))

§ 13.32.120. Taxicab stands.

- (a) The city engineer shall establish taxicab stands and determine the locations thereof.
- (b) The curb surface within each taxicab stand shall be painted white and marked "Taxicab Stand" in red lettering, or shall be designated by signs of a type and size approved by the city engineer.
- (c) No operator of any vehicle, other than a taxicab or automobile for hire, shall park such vehicle in such taxicab stand.
(Ord. 1136 § 6, (1978))

§ 13.32.130. Parking on city property.

- (a) Whenever the city manager determines that the orderly and efficient conduct of the city's business requires that parking or standing of vehicles on parking facilities maintained for city buildings, city parks or other such municipal operation, be prohibited, limited or restricted, the city manager shall have the power and authority to order signs to be erected or posted indicating that the parking of vehicles is thus prohibited, limited or restricted.
- (b) When signs authorized by the provisions of this section are in place giving notice thereof, no person shall park or stand any vehicle contrary to the directions or provisions of such signs.
(Ord. 1136 § 6, (1978))

§ 13.32.140. Moving parked vehicle to avoid parking time limit.

For the purpose of the regulations contained in this title relating to limitations on stopping, standing and parking, any vehicle moved a distance of less than one-tenth of a mile during the limited parking period

shall be deemed to have remained stationary. A vehicle parked with the odometer obscured from view from without the vehicle shall be presumed to have remained stationary.

(Ord. 1136 § 6, (1978))

§ 13.32.150. Repairing or greasing vehicles on public streets.

No person shall construct or cause to be constructed, repair or cause to be repaired, grease or cause to be greased, or dismantle or cause to be dismantled, any vehicle or any part thereof upon any public street in this city. Temporary emergency repairs may be made upon a public street.

(Ord. 1136 § 6, (1978))

§ 13.32.160. Washing or polishing vehicles.

No person shall wash or cause to be washed, or polish or cause to be polished, any vehicle or any part thereof upon any public street in this city when a charge is made for such service.

(Ord. 1136 § 6, (1978))

§ 13.32.170. Vehicles of excessive length.

No vehicle, including a truck, tractor, trailer, camping vehicle or combination thereof that exceeds 20 feet in overall length shall be parked at any time upon a public municipal parking facility or in an angle street parking space. This prohibition shall not apply to trucks or delivery vehicles which are stopped or parked temporarily for loading or unloading merchandise and materials.

(Ord. 1142 § 5, (1979); Ord. 1680 § 3, (2002))

§ 13.32.180. Overnight parking of recreation vehicles and trailers.

No person shall permit any trailer, semitrailer, camper, camp trailer, house car, trailer coach or mobilehome to park or remain upon any street, park or other public place within the city, other than the RR zone, between the hours of 7:00 p.m. of any day and 7:00 a.m. of the following day.

(Ord. 1259 § 1, (1983); Ord. 1793 § 5, (2006))

§ 13.32.190. Living in vehicles prohibited.

No person shall use any trailer, semitrailer, camper, camp trailer, house car, trailer coach, mobile home or any other vehicle for the purpose of sleeping or living quarters whether on public or private property.

(Ord. 1259 § 2, (1983))

**CHAPTER 13.36
PARKING LIMITATIONS**

§ 13.36.010. No parking at any time.

It is unlawful for the driver of any vehicle to park such vehicle at any time on:

- (1) Airport Boulevard, both sides from Bayshore Highway/Broadway to 150 feet east of Beach Road;
- (2) Arc Way, southwesterly side;
- (3) Bayshore Boulevard;
- (4) Beach Road, cul-de-sac only;
- (5) Broadway, both sides from Rollins Road to the Southern Pacific right-of-way; south side from California Drive to Chula Vista Avenue; south side from El Camino Real to Vancouver Avenue;
- (6) California, east side from North Lane to Oak Grove Avenue; east side Carmelita Avenue to Murchison Drive;
- (7) Anza Boulevard;
- (8) Chatham Road, at the north side intersection with Plymouth Way;
- (9) Cortez Avenue, west side from Hillside Drive to Easton Drive;
- (10) Donnelly Avenue north side;
- (11) Easton Drive, from Cortez Avenue to El Camino Real;
- (12) El Camino Real;
- (13) El Camino Real, east service road, east side from Trousdale Boulevard to Murchison Drive;
- (14) Gilbreth Road, north side from Mitten Road, south 200 feet;
- (15) Hatch Lane;
- (16) Laguna Avenue, east side from Broadway to Rhinette Avenue;
- (17) Lang Road, cul-de-sac and south side;
- (18) Rollins Road, east side from Humboldt Street to Marsten Road;
- (19) Victoria Station Place;
- (20) Carolan Avenue, westerly side, from Broadway to Sanchez Creek and from the prolongation of the centerline of Larkspur Drive to Oak Grove Avenue;
- (21) Adeline Drive, north side from Alvarado Avenue to Hoover Avenue;
- (22) Hillside Circle, west side from Summit Drive to Hillside Drive;
- (23) Peninsula Avenue, north side, from California Drive to the Southern Pacific Railroad right-of-way; and

(24) Burlway Road, east of Bayshore Highway.
(Ord. 1136 § 7, (1978); Ord. 1284 § 1, (1984); Ord. 1323 1, (1986); Ord. 1336 § 2, (1987); Ord. 1427 § 3, (1990); Ord. 1435 § 1, (1991); Ord. 1451 § 1, (1992); Ord. 1479 § 1, (1993); Ord. 1580 § 2, (1997); Ord. 2020 § 5, (2023); Ord. 2024, 3/4/2024)

§ 13.36.020. No parking during specified hours.

It is unlawful for the operator of any vehicle to park the vehicle on the following streets on the designated hours and days as follows:

- (1) Adrian Road, east side between 8:00 a.m. and 6:00 p.m., Sundays and holidays excepted;
- (2) Airport Boulevard, from 150 feet east of Beach Road to Lang Road, between 10:00 p.m. and 6:00 a.m.
- (3) Broadway, both sides from El Camino Real to California Drive, 4:00 a.m. to 6:00 a.m., Sundays and holidays excepted, unless otherwise prohibited or limited;
- (4) Burlingame Avenue, north side, from El Camino Real to Occidental Avenue between 8:00 a.m. and 6:00 p.m.;
- (5) Burlingame Avenue, both sides, from El Camino Real to California Drive between 4:00 a.m. and 6:00 a.m., Monday through Saturday;
- (6) California Drive, west side from Juanita Avenue to Broadway between 7:00 a.m. and 9:00 a.m., and between 4:00 p.m. and 6:00 p.m.; west side from Trousdale Drive to Dufferin Avenue, between 5:00 p.m. and 7:00 p.m., Monday through Friday; east side from Carmelita Avenue to Oak Grove Avenue between 12:00 a.m. and 6:00 a.m.;
- (7) Capuchino Avenue, from Broadway to Carmelita Avenue between 4:00 a.m. and 6:00 a.m., east side on Wednesdays; west side on Thursdays;
- (8) Carmelita Avenue, south side, from California Drive to El Camino Real, between 7:00 a.m. and 9:00 a.m.; north side, from California Drive to El Camino Real, between 4:00 p.m. and 6:00 p.m.;
- (9) Carolan Avenue, east side, from Burlingame Avenue to Oak Grove Avenue between 3:00 p.m. and 6:00 p.m.; east side between Broadway and a point 225 feet southerly from the southeasterly right-of-way line of Broadway from 8:00 a.m. to 9:00 a.m.; west side from Sanchez Creek to the centerline of Larkspur Drive from 10:00 p.m. to 7:00 a.m.;
- (10) Chula Vista Avenue, both sides, from Broadway to Carmelita between 4:00 a.m. and 6:00 a.m.; east side on Mondays; west side on Tuesdays;
- (11) El Camino Real West Service Road from Trousdale to Murchison from 2:00 a.m. to 6:00 a.m.;
- (12) Gilbreth Road, both sides, from Cowan Road to Mahler Road, between 12:30 a.m. and 6:00 a.m.;
- (13) Howard Avenue, north side, from El Camino Real to Crescent Avenue, between 8:00 a.m. and 6:00 p.m., Sundays and holidays excepted;
- (14) Laguna Avenue, both sides, from Broadway to Carmelita between 4:00 a.m. and 6:00 a.m.; east side on Mondays; west side on Tuesdays;
- (15) North Carolan Avenue, both sides, from Edwards Avenue to 150 feet north of Whitehorn Way,

between 2:00 a.m. and 5:00 a.m.;

- (16) Paloma Avenue, both sides, from Broadway to Carmelita between 4:00 a.m. and 6:00 a.m.; east side on Wednesdays; west side on Thursdays;
- (17) Peninsula Avenue, north side from the Southern Pacific right-of-way to Humboldt Street, between 8:00 a.m. and 6:00 p.m., Sundays and holidays excepted;
- (18) Rhinette Avenue, south side, between 9:00 a.m. and 6:00 p.m., Sundays and holidays excepted; and
- (19) Rollins Road, west side from North Carolan Avenue to Broadway from 4:00 p.m. to 6:00 p.m.
(Ord. 1136 § 7, (1978); Ord. 1168 § 1, (1980); Ord. 1187 § 1, (1980); Ord. 1283 § 3, (1984); Ord. 1323 § 2, (1986); Ord. 1408 § 1, (1990); Ord. 1451 § 2, (1992); Ord. 1564 § 1, (1996); Ord. 1580 § 3, (1997); Ord. 1585 § 2, (1998); Ord. 1597 § 2, (1998); Ord. 1611 § 2, (1999); Ord. 1696 § 2, (2002); Ord. 1734 § 2, (2004); Ord. 1798 § 3, (2007); Ord. 1925 § 2, (2016); Ord. 1953 § 2, (2018); Ord. 1959 § 2, (2019); Ord. 2020 § 6, (2023); Ord. 2024, 3/4/2024)

§ 13.36.030. One-hour parking.

Except where prohibited or otherwise designated for shorter term time periods, it is unlawful for any person to park a vehicle for a period longer than one hour between the hours of 8:00 a.m. and 6:00 p.m. on any day, excepting Sundays and holidays, upon any part of the following streets or portions of streets:

- (a) California Drive, west side, from Douglas to Bellevue Avenue and from Carmelita Avenue to Broadway;
- (b) Ingold Road, north side, 48 feet west from the curb return of Rollins Road to 128 feet west from that same curb return;
- (c) Magnolia Avenue, east side, from the intersection of Magnolia Avenue to 300 feet north of the center line of Trousdale Drive;
- (d) Primrose Road, from Bellevue Avenue to Floribunda Avenue.
(Ord. 1136 § 7, (1978); Ord. 1200 § 1, (1981); Ord. 1349 § 1, (1987); Ord. 1371 § 1, (1988); Ord. 1397 § 1, (1989); Ord. 1434 § 1, (1991); Ord. 1496 § 1, (1994); Ord. 1558 § 1, (1996); Ord. 1573 § 2, (1997); Ord. 1580, § 4, (1997); Ord. 1674, § 4, (2001); Ord. 1684 § 2, (2002); Ord. 1690 § 2, (2002); Ord. 1696 § 3, (2002); Ord. 1972 § 2, (2020))

§ 13.36.040. Two-hour parking.

It is unlawful for the driver of any vehicle to park such vehicle, unless elsewhere in this title otherwise provided, for a longer period than two hours between the hours designated any day, excepting Sundays and holidays, upon any part of the following streets, or portions of streets:

- (a) 8:00 a.m. to 6:00 p.m.:
 - (1) Adrian Road, west side, 155 feet southerly from the southeast end of the curb return of David Road;
 - (2) Anita Road, west side, from Peninsula Avenue 145 feet north toward Bayswater Avenue;
 - (3) Bayswater Avenue from El Camino Real to Park Road; south side, from California Drive to the Southern Pacific Railroad right-of-way;

- (4) Bellevue Avenue, except the south side from Primrose Road to Almer Road;
- (5) Broadway from El Camino Real to California Drive;
- (6) Burlingame Avenue, from Myrtle to Carolan Avenue; south side from Occidental to El Camino Real and El Camino Real to California Drive;
- (7) California Drive, west side, from Carmelita Avenue to Palm Drive; from Burlingame Avenue to Peninsula Avenue; from Oak Grove Avenue 400 feet northwards to 755 California Drive, except areas designated for 30 minute parking;
- (8) Capuchino Avenue from 400 feet southerly of the centerline of Broadway to Lincoln Avenue;
- (9) Carmelita Avenue, south side, from El Camino Real to Chula Vista Avenue;
- (10) Carolan Avenue, east side, from 100 feet northerly of Toyon Drive to 460 feet northerly of Toyon Drive; and east side, from Cadillac Way to Broadway;
- (11) Chapin Avenue, from Chapin Lane to El Camino Real;
- (12) Chula Vista Avenue from the centerline of Broadway to four hundred ten feet (410) southerly of the centerline of Broadway;
- (13) Douglas Avenue;
- (14) East Lane, east side, from Burlingame Avenue to Howard Avenue;
- (15) El Camino Real service road between Dufferin Avenue and Murchison Drive;
- (16) Howard Avenue, south side, from Crescent Avenue to El Camino Real and from California Drive to the Southern Pacific Railroad right-of-way, and from El Camino Real to California Drive;
- (17) Laguna Avenue from two hundred eighty feet (280) southerly to 510 feet northerly of the centerline of Broadway;
- (18) Lorton Avenue, west side, from Bayswater Avenue to Howard Avenue; east side, from Howard Avenue 120 feet south toward Bayswater and 40 feet north toward Burlingame Avenue;
- (19) Magnolia, west side, from Trousdale Drive to Plaza Lane;
- (20) North Carolan Avenue with three parking spaces along the lot front of 1361 North Carolan Avenue;
- (21) Occidental Avenue, from El Camino Real to Ralston Avenue;
- (22) Paloma Avenue from 310 feet southerly of the centerline of Broadway to Lincoln Avenue;
- (23) Park Road, except the west side, from Howard Avenue to Bayswater Avenue;
- (24) Primrose Road, west side, from Howard Avenue to El Camino Real;
- (25) Ralston Avenue, from Occidental Avenue to El Camino Real;
- (26) Rollins Road from 90 feet northerly of Toyon Drive to 460 feet northerly of Toyon Drive;

- (27) South Lane, both sides;
- (28) Trousdale Drive, north side, from the curb return of Trousdale Drive and California Drive to 90 feet west of said curb return;
- (29) Trousdale Drive, south side, from the curb return of Marco Polo Way to 40 feet east of said curb return;
- (30) Marco Polo Way, east side, from the curb return of Trousdale Drive to 40 feet south of said curb return;
- (31) Crescent Avenue, both sides, from the curb return of Ralston Avenue to the curb return of Howard Avenue;
- (32) 1600 block of Howard Avenue, both sides, from the curb return of Crescent Avenue to the curb return of Occidental Avenue;
- (33) Newlands Avenue, both sides;
- (34) Cypress Avenue, both sides, from El Camino Real to 20 feet southerly of the centerline of Central Avenue (between the addresses of 1500 and 5141);
- (35) Carol Avenue, both sides, from El Camino Real to Barroilhet Avenue; and
- (36) East Carol Avenue, both sides, from Carol Avenue to Barroilhet Avenue.

(b) 9:00 a.m. and 4:00 p.m.:

- (1) Carmelita Avenue, north side, between Chula Vista Avenue and El Camino Real;
- (2) Magnolia Avenue, east side, from 300 feet north of the center line of Trousdale Drive to Murchison Drive.

(c) 2:00 p.m. to 6:00 p.m.:

- (1) Carolan Avenue, from Oak Grove Avenue to North Lane.

(Ord. 1136 § 7, (1978); Ord. 1150 § 1, (1979); Ord. 1195 § 1, (1981); Ord. 1200 § 3, (1981); Ord. 1212 § 1, (1981); Ord. 1274 § 1, (1984); Ord. 1283 § 4, (1984); Ord. 1349 §§ 2, 3, (1987); Ord. 1353 § 1, (1987); Ord. 1371 § 2, (1988); Ord. 1420 § 1, (1990); Ord. 1434 § 2, (1991); Ord. 1440 § 1, (1991); Ord. 1467 § 1, (1992); Ord. 1491 § 1, (1993); Ord. 1496 § 2, (1994); Ord. 1524 § 1, (1995); Ord. 1554 § 1, (1996); Ord. 1604 § 2, (1998); Ord. 1638 § 2, (2000); Ord. 1674 § 5, (2001); Ord. 1684, (2002); Ord. 1690 § 3, (2002); Ord. 1734 § 3, (2004); Ord. 1771 § 2, (2005); Ord. 1804 § 2, (2007); Ord. 1860 §§ 2, 3, (2011); Ord. 1882 § 2, (2013); Ord. 1886 § 2, (2013); Ord. 1893 § 2, (2013); Ord. 1895 § 2, (2013); Ord. 1904 § 2, (2014); Ord. 1926 § 2, (2016); Ord. 1938 § 2, (2017); Ord. 1972 § 3, (2020); Ord. 1992 § 5, (2021))

§ 13.36.042. Four-hour parking.

It is unlawful for the driver of any vehicle to stop, stand or park such vehicle for a period of more than four hours between the hours of 8:00 a.m. and 6:00 p.m. of any day, Sundays and holidays excepted, upon any part of the following streets or portions of streets:

- (a) Adrian Court, both sides;
- (b) Adrian Road, on the west side of the 1600 and 1700 blocks;

- (c) California Drive, west side, between Trousdale Drive and Murchison Drive; and
- (d) West side of Gilbreth Road, between Cowan Road and Mahler Road.
(Ord. 1136 § 7, (1978); Ord. 1150 § 2, (1979); Ord. 1611 § 3, (1999); Ord. 1771 § 3, (2005); Ord. 1850 § 3, (2010); Ord. 1992 § 6, (2021))

§ 13.36.043. Ten-hour parking.

Except where prohibited or otherwise designated for shorter term time periods, it is unlawful for the driver of any vehicle to park such vehicle, unless elsewhere in this title otherwise provided, for a longer period than 10 hours on any day, excepting Sundays and holidays, upon any part of the following streets or portions of streets:

- (1) Bellevue Avenue, south side, from Primrose Road to Almer Road;
- (2) Carolan Avenue from North Lane to South Lane;
- (3) Chapin Avenue, north side, from El Camino Real to 500 feet west of Primrose Road; south side, from El Camino Real to 470 feet west of Primrose Road;
- (4) Donnelly Avenue, south side, from 210 feet east of Primrose Road to 434 feet east of Primrose Road;
- (5) East Lane from North Lane to Burlingame Avenue;
- (6) Lorton Avenue, east side, from 120 feet south of Howard Avenue to Bayswater Avenue;
- (7) North Lane from Carolan Avenue to East Lane;
- (8) Park Road, west side, from Howard Avenue to Baywater Avenue; and
- (9) Primrose Road, east side, from 100 feet south of Howard Avenue to Bayswater Avenue.
(Ord. 1200 § 2, (1981); Ord. 1232 § 1, (1982); Ord. 1353 § 2, (1987); Ord. 1397 § 2, (1989); Ord. 1491 § 2, (1993); Ord. 1674 § 6, (2001); Ord. 1992 § 7, (2021))

§ 13.36.044. Parking parallel on one-way streets.

- (a) Subject to other and more restrictive limitations, a vehicle may be stopped or parked within 18 inches of the left-hand curb facing in the direction of traffic movement upon any one-way street unless signs are in place prohibiting such stopping or standing.
- (b) In the event a highway includes two or more separate roadways and traffic is restricted to one direction upon any such roadway, no person shall stand or park a vehicle upon the left-hand side of such one-way roadway unless signs are in place permitting such standing or parking.
- (c) The city engineer is authorized to determine when standing or parking shall be prohibited upon the left-hand side of any one-way street or when standing or parking may be permitted upon the left-hand side of any one-way road-way or a highway having two or more separate roadways, and shall erect signs giving notice thereof.
- (d) The requirement of parallel parking imposed by this section shall not apply in the event any commercial vehicle is actually engaged in the process of loading or unloading freight or goods, in which case such vehicle may be backed up to the curb, provided that such vehicle does not extend beyond the centerline of the street and does not block traffic thereby.

(Ord. 1136 § 7, (1978))

§ 13.36.045. Angle parking.

- (a) The following streets are designated as streets on which the city engineer may place angle parking:
 - (1) Burlingame Avenue between California Drive and El Camino Real;
 - (2) California Drive between Burlingame Avenue and Highland Avenue;
 - (3) Chapin Avenue between Primrose Road and El Camino Real;
 - (4) East Lane between North Lane and Burlingame Avenue;
 - (5) The 1800 block of the Frontage Road to El Camino Real;
 - (6) Howard Avenue from Highland Avenue to Primrose Road;
 - (7) Magnolia Avenue from Trousdale Drive to Murchison Avenue; and
 - (8) Oak Grove Avenue from North Carolan Avenue to Linden Avenue.
- (b) On any of the streets or portions of streets established as angle parking zones, when signs or pavement markings are in place indicating such diagonal parking, it is unlawful for the operator of any vehicle to park such vehicle except:
 - (1) At the angle to the curb or wheel stop indicated by signs or pavement markings allotting space to parked vehicles and entirely within the limits of such allotted space;
 - (2) With the front wheel nearest the curb or wheel stop within six inches of the curb or wheel stop; however, an operator of a motorcycle who parks a motorcycle with either a front or rear wheel within six inches of the curb or wheel stop shall be considered to be in compliance with this subsection.
- (c) The provisions of subsection (b)(2) shall not apply when a vehicle is actually engaged in the process of loading or unloading freight.
- (d) Angle parking includes both diagonal and perpendicular parking.
(Ord. 1136 § 7, (1978); Ord. 1680 § 4, (2002); Ord. 1826 § 2, (2008))

§ 13.36.046. Parking space markings.

- (a) Whenever parking space markings are placed on a street or parking lot, subject to other and more restrictive limitations, no vehicle shall be stopped, left standing or parked:
 - (1) So as to impede or block the flow of traffic on the traveled way; nor
 - (2) Other than entirely within a single space as defined by the parking space markings.
- (b) Whenever parking space markings are placed on a street or parking lot, no more than one vehicle may be parked within a single space.
(Ord. 1136 § 7, (1978); Ord. 1202 § 1, (1981); Ord. 1680 § 5, (2002))

§ 13.36.047. Limited height parking zones.

- (a) Limited height parking zones, not in excess of 100 feet of any intersection, or on certain streets or highways or portions thereof, may be established by the city engineer. Limited height parking zones

may also be established by the city engineer for or any portion within any city off-street parking facility.

(b) It is unlawful for any vehicle, more than six feet in height to park in an area designated as a limited height parking zone.

(c) The city engineer shall provide for the placement of signs marking such parking zones.
(Ord. 1243 § 1, (1983); Ord. 1547 § 1, (1996); Ord. 1680 § 6, (2002))

§ 13.36.048. Motorcycle zones.

Whenever parking spaces on a street or parking lot are marked or designated for the use of motorcycles, it is unlawful for any other vehicle to be parked in said spaces.

(Ord. 1366 § 1, (1988))

§ 13.36.049. Moving vehicles in public parking lots or facilities and use of public parking lots or facilities for storage of vehicles.

(a) It is unlawful for any person to move a vehicle within a municipal parking lot so that it remains therein for a period of time in violation of Section 13.36.050. Any vehicle observed at two or more parking spaces in the parking facility within such a period of time and having an observed odometer change of less than one-tenth miles shall be presumed to have remained within such lot; a vehicle observed at two or more parking spaces in the parking facility within such a period of time and with the odometer obscured from view from without the vehicle shall be rebuttably presumed to have remained stationary.

(b) It is unlawful for any person who owns or has possession, custody, or control of any vehicle, to park or leave such vehicle upon any municipal parking lot for a period of 72 consecutive hours or more. For purposes of this subsection, a vehicle shall be considered to have been parked or left standing for 72 or more consecutive hours if it has not been moved at least one-tenth of a mile during the 72 hour period. A vehicle with the odometer obscured from view from without the vehicle shall be rebuttably presumed to have remained stationary.

(Ord. 1136 § 7, (1978); Ord. 1142 § 7, (1979); Ord. 1680 § 7, (2002); Ord. 1688 § 4, (2002))

§ 13.36.050. Municipal parking lots.

(a) It is unlawful for any person to park any vehicle on any property owned, possessed or maintained by the city as a municipal parking facility in violation of time limitations or any other regulations which may be fixed or determined by resolution or ordinance of the city council.

(b) It is unlawful for any person to park or operate any vehicle on any property owned, possessed or maintained by the city as a municipal parking facility in violation of any regulations which may be fixed or determined pursuant to this title.

(c) No such regulation shall be enforceable prior to installation of appropriate signs giving notice of the provisions of the regulation.

(Ord. 1136 § 7, (1978); Ord. 1142 § 8, (1979); Ord. 1176 § 1, (1980); Ord. 1680 § 8, (2002))

§ 13.36.051. Litter and refuse.

It is unlawful to throw, place or deposit any trash, litter, paper or any refuse upon the pavement or in the landscaped area of any property owned, possessed or maintained by the city as a municipal parking lot.

(Ord. 1136 § 7, (1978))

§ 13.36.052. Application of other chapters.

All provisions of this title, including, but not limited to, those regarding parking meters, stopping, standing, and parking vehicles, insofar as they are applicable, shall apply to public off-street parking facilities owned or operated by the city.

(Ord. 1136 § 7, (1978); Ord. 1680 § 9, (2002))

§ 13.36.065. Parking of commercial vehicles prohibited in residential districts.

- (a) No person shall park or leave standing a vehicle having a manufacturer's gross vehicle weight rating of 10,000 pounds or more that is a commercial vehicle, a tow truck, or a dump truck either:
 - (1) On a street in a residential district or upon any private property in a residential district at any time; or
 - (2) In city parking lot "F" or "H" between the hours of 6:00 p.m. and 8:00 a.m.
- (b) This section shall not apply to a commercial vehicle parking or standing while making pickups or deliveries of goods, wares or merchandise, or for the purpose of delivering materials to be used in the actual and bona fide landscaping, grading, repair, alteration, remodeling or construction of any building or structure for which a building permit has been obtained.
- (c) This section shall not apply to parking upon private property of such vehicles by a licensed contractor, or of one such vehicle by an owner-builder, for a period not to exceed 30 continuous days, when such vehicle or vehicles are used during the course of landscaping, grading, repair, alteration, remodeling or construction of any building or structure upon such property for which a building permit has been obtained.

(Ord. 1136 § 7, (1978); Ord. 1142 § 9, (1979); Ord. 1425 § 2, (1990); Ord. 1449 § 1, (1992); Ord. 1674 § 7, (2001))

§ 13.36.070. Preferential parking zones.

- (a) The city council may establish by resolution preferential parking zones that would exempt the motor vehicles of residents and the residents' guests on designated streets from the restrictions of time-limited parking contained in Section 13.36.030, 13.36.040, 13.36.042, or 13.36.043, or any combination thereof that the council may deem appropriate that applies on the designated streets.
- (b) However, nothing contained in such a resolution shall allow or be construed to allow any motor vehicle of a resident or a resident's guest to be exempt from any parking meter, no parking designation, 72 hour parking limit, or any other parking limitation or curb marking except as specifically listed in the preferential parking zone policy for the specified streets.
- (c) Preferential parking zone permits will be issued on a calendar year basis, and a fee as established by resolution of the city council shall be paid for each permit, permit renewal, and permit reissuance.
- (d) It is unlawful for any person to:
 - (1) Alter, forge, counterfeit, or falsify any parking permit relating to a preferential parking program or display or cause or permit to be displayed any such altered, forged, counterfeited or false permit with intent to represent the permit has been issued by the city.

- (2) Transfer, loan, sell, or otherwise provide a parking permit relating to a preferential parking program to a person who is not eligible for such a permit under the terms of the preferential parking program, or to display or cause or permit to be displayed any such unlawfully transferred permit.
- (3) Display or cause or permit to be displayed any parking permit relating to a preferential parking program when the person knows or has reason to know that the person is not eligible or is no longer eligible to display or cause or permit the permit to be displayed.

(Ord. 1819 § 2, (2008))

**CHAPTER 13.38
STOPPING FOR LOADING OR UNLOADING**

§ 13.38.010. Authority to establish loading zones.

- (a) The city engineer is authorized to determine and to mark freight zones and passenger loading zones as follows:
 - (1) At any place in the central traffic district or any business or commercial district;
 - (2) Elsewhere in front of the entrance to any place of business or in front of any hall or place used for the purpose of public assembly.
- (b) In no event shall more than one-half of the total curb length in any block be reserved for loading zone purposes.

(Ord. 1136 § 8, (1978); Ord. 1142 § 10, (1979))

§ 13.38.020. Curb markings to indicate stopping and parking regulations.

- (a) The city engineer is authorized, subject to the provisions and limitations of this title, to place, and when required herein shall place, the following curb markings to indicate parking or standing regulations, and such curb markings shall have the meanings as herein set forth:
 - (1) "Red" shall mean no stopping, standing or parking at any time except as permitted by the Vehicle Code or this title, and except that a bus may stop in a red zone marked or signed as a bus stop.
 - (2) "Yellow" shall mean no stopping, standing or parking at any time between eight a.m. and 6:00 p.m. of any day except Sundays and holidays for any purpose other than the loading or unloading of passengers or freight. The city engineer may apply these restrictions for longer hours or on Sundays and holidays, or both, for particular yellow zones, and such additional restrictions shall be effective when signs are posted giving notice of the restrictions.
 - (3) "White" shall mean no stopping, standing or parking for any purpose other than loading or unloading or passengers, or for the purpose of depositing mail in an adjacent mail box, which shall not exceed three minutes, and such restrictions shall apply between 8:00 a.m. and 6:00 p.m. of any day except Sundays and holidays and except that when such zone is in front of a hotel, theater or public building, or in front of a mailbox, the restrictions shall apply at all times.
 - (4) "Green" shall mean no standing or parking for longer than 30 minutes, unless some other period of time is indicated, between 8:00 a.m. and 6:00 p.m. on any day except Sundays and holidays. The city engineer may apply these restrictions for longer hours or on Sundays and holidays, or both, for particular green zones, and such additional restrictions shall be effective when signs are posted giving notice of the restrictions.
 - (5) "Blue" shall mean no stopping, standing or parking for any purpose by any vehicle except those displaying a distinguishing plate or placard issued to disabled persons or disabled veterans.
- (b) The city engineer is authorized to mark the pavement or to post signs, or both, in addition to or in place of such curb markings as the city engineer may determine and as provided by state law and regulations.
- (c) The city engineer is authorized to establish zones combining any of the above markings and signage

for such hours and days as may be determined.
(Ord. 1136 § 8, (1978); Ord. 1142 § 11, (1979); Ord. 1159 § 1, (1979); Ord. 1526 § 1, (1995); Ord. 1583 § 2, (1997); Ord. 1680 § 10, (2002))

§ 13.38.030. Effect of permission to load or unload.

- (a) Permission herein granted to stop or stand a vehicle for purposes of loading or unloading of freight shall apply only to commercial vehicles as defined in Vehicle Code Section 260 and shall not extend beyond the time necessary therefore, and in no event for more than 30 minutes.
- (b) The loading or unloading of freight shall apply only to the pickup or delivery of freight in the ordinary course of business.
- (c) Permission herein granted to stop or park for purposes of loading or unloading passengers shall include the loading or unloading of personal baggage, but shall not extend beyond the time necessary therefor and in no event for more than three minutes.
- (d) Within the total time limits specified above the provisions of this section shall be enforced so as to accommodate necessary and reasonable loading or unloading, but without permitting abuse of the privileges hereby granted.

(Ord. 1136 § 8, (1978))

§ 13.38.040. Standing for loading or unloading only.

No person shall stop, stand or park a vehicle in any yellow loading zone for any purpose other than loading or unloading passengers or freight as defined herein for such time as is permitted in Section 13.38.030.
(Ord. 1136 § 8, (1978))

§ 13.38.050. Standing in passenger loading zone.

No person shall stop, stand or park a vehicle for any purpose other than the loading or unloading of passengers for such time as is specified in Section 13.38.030.
(Ord. 1136 § 8, (1978))

§ 13.38.055. Handicapped zones.

No person shall stop, stand or park a vehicle for any purpose in a blue handicapped zone unless the vehicle displays a distinguishing license plate or a placard issued to disabled persons or disabled veterans pursuant to the Vehicle Code.
(Ord. 1159 § 2, (1979))

§ 13.38.060. Standing in any alley.

No person shall stop, stand or park a vehicle for any purpose other than the loading or unloading of persons or freight in any alley.
(Ord. 1136 § 8, (1978))

§ 13.38.065. Limited time parking.

When authorized signs, parking meters or curb markings are in place giving notice thereof, no operator of any vehicle shall stop, stand or park said vehicle adjacent to any such legible curb marking or sign or parking meter in violation of such signs, parking meters or curb markings.

(Ord. 1142 § 12, (1979))

§ 13.38.070. Coach zones to be established.

The city engineer is authorized to establish bus zones opposite curb space for the loading and unloading of buses or common carriers of passengers and to determine the location thereof.

(Ord. 1136 § 8, (1978))

**CHAPTER 13.40
PARKING METERS**

§ 13.40.010. Parking meter zones.

- (a) The streets hereinafter described are defined and established as parking meter zones. The parking of vehicles along such portions of these streets, and at such times as may be designated by the city council, shall be controlled, regulated, and inspected with the aid of parking meters:
- (1) Broadway from El Camino Real to California Drive;
 - (2) Burlingame Avenue from El Camino Real to California Drive;
 - (3) California Drive, west side, from Broadway to Carmelita Avenue and Bellevue Avenue to Howard Avenue; and east side from North Lane to 270 feet south of Howard Avenue;
 - (4) Capuchino Avenue from 140 feet north of the centerline of Broadway to 233 feet south of the centerline of Broadway;
 - (5) Carolan Avenue from South Lane to North Lane;
 - (6) Chapin Avenue, from Primrose Road to El Camino Real;
 - (7) Chula Vista Avenue from Broadway to 282 feet south of the centerline of Broadway;
 - (8) City Hall Lane from Primrose Road to Park Road;
 - (9) Donnelly Avenue from Primrose Road to Lorton Avenue;
 - (10) East Lane from Burlingame Avenue to North Lane;
 - (11) Highland Avenue from Howard Avenue to California Drive and one parking space on the southwest corner of Highland at Howard;
 - (12) Howard Avenue from El Camino Real to Highland Avenue;
 - (13) Laguna Avenue from Broadway to 136 feet south of the centerline of Broadway;
 - (14) Lorton Avenue from Bellevue Avenue to Howard Avenue, and the east side of Lorton Avenue from Howard Avenue to Bayswater Avenue;
 - (15) North Lane from Carolan Avenue to East Lane;
 - (16) Paloma Avenue from 100 feet north of the centerline of Broadway to 120 feet south of the centerline of Broadway;
 - (17) Park Road, from Burlingame Avenue to Howard Avenue, and the west side of Park Road from Howard Avenue to Bayswater Avenue;
 - (18) Primrose Road from Bellevue Avenue to Howard Avenue; and the east side of Primrose Road from Howard Avenue to Bayswater Avenue; and the west side of Primrose Road from Howard Avenue to 200 feet south of the centerline of Howard Avenue;
 - (19) South Lane from Carolan Avenue/East Lane to California Drive; and
 - (20) West Lane from South Lane to 200 feet south of South Lane.

(b) The following parking meter rates are established in the city:

(1) 24-Minute Parking Limit

On the following streets:

Broadway from El Camino Real to Rollins Road;
Capuchino Avenue from Broadway to Carmelita Avenue; and
Chula Vista Avenue from Broadway to Carmelita Avenue:

20 cents for 24 minutes

On the following streets:

California Drive from Bellevue Avenue to Howard Avenue;
Chapin Avenue from Primrose Road to El Camino Real;
Highland Avenue from California Drive to Howard Avenue;
Howard Avenue from El Camino Real to Highland Drive;
Lorton Avenue from Bellevue Avenue to Bayswater Avenue;
Park Road from Burlingame Avenue to Howard Avenue; and
Primrose Road from Bellevue Avenue to Bayswater Avenue:

40 cents for 24 minutes

All other areas:

5 cents for each 12 minutes

(2) 2-Hour Parking Limit

On the following street:

Burlingame Avenue from El Camino Real to California Drive:

\$1.00 the first hour; \$2.00 the second hour

On the following streets:

California Drive from Bellevue Avenue to Bayswater Avenue;
Chapin Avenue from Primrose Road to El Camino Real;
Donnelly Avenue from Primrose Road to Lorton Avenue;
Highland Avenue from California Drive to Bayswater Avenue;
Howard Avenue from Primrose Road to Highland Avenue;
Lorton Avenue from Bellevue Avenue to Howard Avenue;
Park Road from Burlingame Avenue to Howard Avenue;
Primrose Road from Bellevue Avenue to Howard Avenue:

\$2.00 for two hours

On the following streets:

Broadway from El Camino Real to California Drive;
Capuchino Avenue from Lincoln Avenue to Carmelita Avenue;
Chula Vista Avenue from Broadway to Carmelita Avenue;
Laguna Avenue from Lincoln Avenue to Carmelita Avenue; and
Paloma Avenue from Lincoln Avenue to Carmelita Avenue:

\$1.00 for two hours

All other areas:

75 cents for each hour

(3) 4-Hour Parking Limit

On the following street:

Howard Avenue from Primrose Road to Highland Avenue:

\$1.00 for each hour

(4) 10-Hour Parking Limit

On the following streets:

California Drive from Howard Avenue to Bellevue Avenue;
Chapin Avenue from Primrose Road to El Camino Real;
City Hall Lane from Primrose Road to Park Road;
Donnelly Avenue from Primrose Road to Lorton Avenue;
Highland Avenue from Howard Avenue to California Drive; and
Howard Avenue from El Camino Real to California Drive:

\$3.00 for 10 hours

On the following streets:

Lorton Avenue from Bayswater Avenue to Howard Avenue;
Park Road from Bayswater Avenue to Howard Avenue;
Primrose Road from Bayswater Avenue to Howard Avenue;
South Lane from Carolan Avenue/East Lane to California Drive; and
West Lane from South Lane to 200 feet south of South Lane:

\$3.00 for 10 hours

All other areas:

25 cents for each 2-1/2 hours

(Ord. 1136 § 9, (1978); Ord. 1200 § 4, (1981); Ord. 1201 § 1, (1981); Ord. 1434 § 1, (1991); Ord. 1560 § 1, (1996); Ord. 1576 § 2, (1997); Ord. 1604 § 3, (1998); Ord. 1674 § 2, (2001); Ord. 1719 § 2, (2003); Ord. 1798 § 2, (2007); Ord. 1873 § 3, (2012); Ord. 1952 § 2, (2018); Ord. 1972 §§ 4, 5 (2020))

§ 13.40.020. Manner of installation.

The city engineer shall cause parking meters to be installed and maintained in all parking meter zones.

Parking meters shall be installed upon the curb or sidewalk area immediately adjacent to each parking space. Each meter shall be placed in such manner as to show or display by a sign or signal that the parking space adjacent thereto is or is not legally in use.

Each parking meter shall be set to display, after the operational procedure has been completed, a sign or signal indicating legal parking for that period of time conforming to the limit of parking time as indicated on the meter. Each parking meter shall indicate the limit of parking time in the parking space adjacent to the parking meter, and shall continue to operate from the time of the completion of the operational procedure until the expiration of the time fixed as the parking limit or a portion thereof for the part of the street upon which the meter is placed. Each meter shall also be so arranged that upon the expiration of the legal parking time it will indicate by a mechanical operation and by proper signal that the lawful parking period has expired.

(Ord. 1136 § 9, (1978))

§ 13.40.030. Time of operation of parking meters.

The provisions of this title relating to the operation of parking meters shall be effective between the hours of 8:00 a.m. and 6:00 p.m. on every day except Sunday and holidays.

(Ord. 1136 § 9, (1978); Ord. 1733 § 2, (2004))

§ 13.40.040. Operational procedure to be followed.

Immediately after occupancy of a parking meter space, the operator of a vehicle shall deposit a coin of the United States in the parking meter and if necessary turn a crank, knob or handle in accordance with the instructions posted on the face of the parking meter.

(Ord. 1136 § 9, (1978))

§ 13.40.050. Parking meters and parking meter standards not to be used for certain purposes.

No person shall attach anything to or allow a bicycle, newsrack or any other article or thing to lean against a parking meter or a parking meter standard without the approval of the city engineer.

(Ord. 1136 § 9, (1978))

§ 13.40.060. Unlawful to extend time beyond limit.

No person shall follow the operational procedure or any part of the operational procedure for the purpose of increasing or extending the parking time of any vehicle beyond the legal parking time which has been established for the parking space adjacent to which said parking meter is placed.

(Ord. 1136 § 9, (1978))

§ 13.40.070. Improper use of meter.

No person shall deposit or cause to be deposited in any parking meter any defaced or bent coin, or any slug, device or metallic substitute for a coin of the United States, or deface, injure, tamper with, open or wilfully break, destroy or impair the usefulness of any parking meter.

(Ord. 1136 § 9, (1978))

§ 13.40.080. Deposit of coins in meter by unauthorized person.

No person other than the owner or operator of a vehicle shall deposit any coin in any parking meter without the knowledge or consent of the owner or operator of the vehicle using the parking space immediately adjacent to the meter.

(Ord. 1136 § 9, (1978))

§ 13.40.090. Commercial vehicles loading or unloading exempt for thirty-minute limit.

Commercial vehicles may park in parking zones to load or unload freight without depositing coins for a period not to exceed 30 minutes. Should any truck or delivery vehicle be parked longer than 30 minutes, it shall be classed as a violation hereof and the regular penalty herein provided imposed.

(Ord. 1136 § 9, (1978))

§ 13.40.100. Unlawful to park after meter time has expired.

No operator of any vehicle shall permit such vehicle to remain parked in any parking space during any time that the meter is showing a signal indicating that such space is illegally in use other than such time immediately after the original occupancy as is necessary to operate the meter to show legal parking.

(Ord. 1136 § 9, (1978))

§ 13.40.105. Parking permits.

- (a) The city manager is authorized to issue parking permits subject to a payment of \$40 per month for use in lieu of the deposit of coins in the parking meters at meters designating 10 hour parking spaces on the following streets:
 - (1) Bellevue Avenue from El Camino Real to Primrose Road;
 - (2) Chapin Avenue from El Camino Real to Primrose Road;
 - (3) City Hall Lane from Primrose Road to Park Road;
 - (4) Donnelly Avenue from Primrose Road to Lorton Avenue;
 - (5) East Lane from Burlingame Avenue to North Lane;
 - (6) Howard Avenue from El Camino Real to Primrose Road;
 - (7) Lorton Avenue from Bayswater Avenue to Howard Avenue;
 - (8) North Lane from Carolan Avenue to East Lane;
 - (9) Park Road from Bayswater Avenue to Howard Avenue; and
 - (10) Primrose Road from Bayswater Avenue to Howard Avenue.
- (b) Parking permits issued pursuant to this section do not assure the owner of a particular parking space of any kind nor at any particular location, but are a one-time payment for a calendar month in lieu of the hourly payment otherwise required for occupancy of an otherwise metered space.
- (c) No parking permit issued pursuant to this section shall be used or interpreted to extend the maximum amount of time allowed for parking at any parking space pursuant to the time limits established by this title.

- (d) In order to ensure orderly and efficient use of the parking supply, the city manager is authorized to limit the number of permits which may be issued, in which case priority shall be based on the order in which requests for such permits are received.
- (e) The city manager is authorized to collect deposits, require the submission of application forms, and to establish other administrative procedures for the parking permit program as may be necessary from time to time. The parking permits issued pursuant to this section may also be used as may be provided by council resolution in designated municipal parking lots.

(Ord. 1779 § 2, (2006))

§ 13.40.110. Rules of evidence.

The parking or standing of any motor vehicle in a parking space, at which space the parking meter displays the sign or signal indicating illegal parking, shall constitute a *prima facie* presumption that the vehicle has been parked or allowed to stand in such space for a period longer than permitted by this title.

(Ord. 1136 § 9, (1978))

§ 13.40.120. Use of funds collected.

The specified coin or coins required to be deposited in parking meters as herein provided are hereby levied and assessed as fees to provide for the proper regulation and control of traffic upon the public streets, and also the cost of supervision and regulating the parking of vehicles in the parking meter zones hereby created, and to cover the cost of purchase, acquiring, installation, operation, maintenance, supervision, regulation and control of the parking meters herein described and to provide for off-street parking.

(Ord. 1136 § 9, (1978))

§ 13.40.130. Application of other chapters.

No section of this chapter shall be construed as permitting any parking in violation of any other provision of this title.

(Ord. 1136 § 9, (1978))

**CHAPTER 13.44
DRIVING OR PARKING ON PROPERTY WITHOUT CONSENT**

§ 13.44.010. Driving or parking on property without consent unlawful.

It is unlawful for any person to drive upon, or across, or to park, or leave standing, or to cause, or permit to drive, park or leave standing, any vehicle upon any property in the city without the consent of the owner or person in control of such property.

(Ord. 677 § 1, (1958))

§ 13.44.020. Removal of illegally parked vehicles.

The owner or person in control of any public or private property upon which a vehicle has been parked or left standing may remove, or cause the removal of, such vehicle pursuant to the provisions of Sections 22658 or 22658.2 of the Vehicle Code.

(Ord. 677 § 2, (1958); Ord. 1454 § 1, (1992))

**CHAPTER 13.48
TRAINS BLOCKING STREETS**

§ 13.48.010. Unlawful to block street for longer than five minutes.

It is unlawful for the operator of any steam, interurban or street railway train or car to operate the same in such a manner as to prevent the use of any street for the purpose of travel for a period of time longer than five minutes.

(1941 Code § 1239)

CHAPTER 13.52 BICYCLES

§ 13.52.015. Police exempt.

The provisions of this chapter shall not apply to a member of the police department while operating a bicycle in the course and scope of his or her duties.

(Ord. 1487 § 1, (1993))

§ 13.52.100. Keeping to right—Two abreast—Riding on sidewalks.

- (a) Any person operating a bicycle upon a roadway at a speed less than the normal speed of traffic moving in the same direction at that time shall ride as close as practicable to the right-hand curb or edge of the roadway except under any of the following situations:
 - (1) When overtaking and passing another bicycle, pedestrian, or vehicle proceeding in the same direction.
 - (2) When preparing for a left turn at an intersection or into a private road or driveway.
 - (3) When reasonably necessary to avoid conditions (including, but not limited to, fixed or moving objects, vehicles, bicycles, pedestrians, animals, surface hazards, or substandard width lanes) that make it unsafe to continue along the right-hand curb or edge, subject to the provisions of California Vehicle Code Section 21656. For purposes of this section, a "substandard width lane" is a lane that is too narrow for a bicycle and a vehicle to travel safely side by side within the lane.
 - (4) When approaching a place where a right turn is authorized.
- (b) Any person operating a bicycle upon a roadway of a highway, which highway carries traffic in one direction only and has two or more marked traffic lanes, may ride as near the left-hand curb or edge of that roadway as practicable.
- (c) It is unlawful for two or more bicycles to travel abreast when motorized vehicle traffic is present except when riding in a Class II bike lane of at least seven feet wide with a three feet wide buffer.
- (d) It is unlawful for any person to ride or operate a bicycle on the sidewalk in any of the business districts of the city, and no bicycle shall be operated on the sidewalk in any of the residential districts when and where the sidewalk is being used by pedestrians. Bicycles on sidewalks shall be walked in any business district or in any residential district when pedestrians are present.
- (e) If any of the above provisions of this section become inconsistent with the California Vehicle Code due to subsequent amendments to that Code, the state law provisions then in effect shall supersede the inconsistent provisions of this section.

(Ord. 1950 § 1, (2018))

§ 13.52.110. One person only—Passengers.

Bicycles designed and constructed to carry only one person shall not be used to carry any additional person or persons either on the handlebars thereof or elsewhere thereon, unless equipment that has been designed and manufactured for transportation of additional passengers in a safe manner has been properly affixed to the bicycle and is used as designed.

(1941 Code § 1476; Ord. 1950 § 1, (2018))

§ 13.52.120. Pulling other vehicle.

Bicycles shall only be allowed to pull another vehicle/trailer that has been manufactured and designed for transportation of additional passengers or equipment. In order to comply with this provision, any vehicle/trailer must be properly and safely affixed to the bicycle in a manner that is consistent with the manufacturer's instructions.

(Ord. 1950 § 1, (2018))

§ 13.52.130. Obedience to traffic signs and signals—Signaling intention to turn.

Every person riding and operating a bicycle shall obey all traffic signals and signs, and before making turns shall give the same signals as required of the operators of motor vehicles.

(1941 Code § 1479)

§ 13.52.140. Lights at night.

No rider of a bicycle shall ride the same at night without an adequate white headlight on the front thereof and a red light or red reflector on the rear, as required by the Vehicle Code of the state of California.

(1941 Code § 1480)

§ 13.52.150. Parking in racks—Impounding bicycles lying on sidewalks.

The city shall provide and set up suitable racks adjacent to the curb or gutter at such places in the business districts of the city as may be deemed advisable for the parking of bicycles by persons who have occasion to stop temporarily in such districts. All bicycles found lying on the sidewalk may be taken up and impounded by the police department, from whence they may be recovered by proving property and obtaining an order from the chief of police or designee.

(1941 Code § 1481; Ord. 1950 § 1, (2018))

§ 13.52.160. Impoundment of bicycles for violations.

In addition to or in lieu of any other penalty to be imposed for the violation of any of the provisions of this chapter, the court may prohibit the operation upon the streets, alleys and public places of the city for a period of not to exceed 30 days, of the bicycle used in such violation, in which event the bicycle so used shall be impounded with the police department and retained there for the prohibited period.

(Ord. 1950 § 1, (2018))

§ 13.52.170. Clinging to moving vehicles.

It is unlawful for any person traveling upon any bicycle, motorcycle or any toy vehicle to cling to or attach himself or herself or his or her vehicle to any other moving vehicle or street car upon the roadway.

(1941 Code § 1245)

§ 13.52.180. Riding on park or playground.

Bicycles operated on any path in any public park or playground within the city shall yield right-of-way when and where the path is being used by pedestrians. Bicyclists shall obey all posted park rules and speed limits, and may be cited for failure to do so. It is unlawful for any person to ride, drive or operate a motorcycle or motor scooter in or on any public park or playground within the city.

(Ord. 1950 § 1, (2018))

CHAPTER 13.54

SKATEBOARD, ROLLER BLADES, IN LINE SKATES, ROLLER SKATES AND COASTERS

§ 13.54.010. Rights and duties on streets.

Every person riding a skateboard, in line skate, roller blade, or roller skate, coaster or similar device, referred to in this chapter as a "skate," upon a city street has all the rights and is subject to all duties applicable to the driver of a bicycle by Section 21200 of the Vehicle Code, except those provisions which by their very nature can have no application. Such persons shall also be subject to the additional regulations set forth in this chapter.

(Ord. 1316 § 1, (1986); Ord. 1483 § 1, (1993))

§ 13.54.020. Keeping to right and other regulations.

- (a) Every person riding or operating a skate on any public street in the city shall keep to the extreme right of the traffic lane.
- (b) Two or more skaters shall not travel abreast.
- (c) No person shall ride or operate a skate on the sidewalk or street in any of the business districts of the city.
- (d) No skate shall be operated on the sidewalk in any of the residential districts when and where the sidewalk is being used by pedestrians.
- (e) Only one person shall ride upon a skate.
- (f) No person shall ride a skate in or on any public park or city parking lot.
- (g) No person shall ride on a skate except in a standing position.

(Ord. 1316 § 1, (1986); Ord. 1483 § 1, (1993))

§ 13.54.030. Clinging to other skates or vehicles.

No person traveling on a skate shall hold onto, pull, cling to or attach himself or herself or his or her skate to any other moving skate or vehicle.

(Ord. 1316 § 1, (1986); Ord. 1483 § 1, (1993))

§ 13.54.040. Obedience to traffic signs and signals.

Every person riding and operating a skate shall obey all traffic signals and signs and before making turns give the same signals as required by the operators of motor vehicles.

(Ord. 1316 § 1, (1986); Ord. 1483 § 1, (1993))

§ 13.54.050. Night riding prohibited.

No person shall ride a skate at night upon any street, alley or sidewalk.

(Ord. 1316 § 1, (1986); Ord. 1483 § 1, (1993))

**CHAPTER 13.56
ELECTRIC MICROMOBILITY DEVICES**

§ 13.56.010. Purpose and intent.

The purpose and intent of this chapter is to regulate electric micromobility devices within the City of Burlingame. The city supports the use of electric micromobility devices as an alternative mode of transportation. At the same time, the city recognizes the need to balance the use and operation of electric micromobility devices against safety concerns of other users of public spaces.

(Ord. No. 2031, 10/7/2024)

§ 13.56.020. Definitions.

"Electric micromobility device" includes the following, each as defined in the California Vehicle Code, as it may be amended from time to time.

- (1) "Bicycle" has the same meaning as California Vehicle Code Section 231.
- (2) "Code" means the Burlingame Municipal Code.
- (3) "Electric bicycle" or "E-Bike" has the same meaning as in California Vehicle Code Section 312.5, and includes all classes of electric bicycle defined in that section.
- (4) "Electric personal assistive motorized device" or "EPAMD" has the same meaning as California Vehicle Code Section 313.
- (5) "Electrically motorized board" or "electrically motorized skateboard" or "E-Skateboard" has the same meaning as California Vehicle Code Section 313.5.
- (6) "Motorized scooter" has the same meaning as California Vehicle Code Section 407.5.
- (7) "Operator" means a person who owns, operates and/or controls an electric micromobility device.
- (8) "Park" or "recreation area" mean any city-owned or city-operated parks, pools, recreation centers, playgrounds, fields, or open spaces. For purposes of this chapter only, all city-owned portions of the San Francisco Bay Trail, as defined by the Metropolitan Transportation Commission (MTC), are not considered a "park" or "recreation area."
- (9) "Vehicle" has the same meaning as California Vehicle Code Section 670.

(Ord. No. 2031, 10/7/2024)

§ 13.56.030. Operation of electric micromobility devices.

- (a) Prohibition of Electric Micromobility Devices in Designated Areas.
 - (1) No person shall operate or ride an electric micromobility device in public areas where bicycles are prohibited in this code.
 - (2) No person shall operate or ride an electric mobility device in any park or recreation area.
- (b) Duty to Operate Electric Micromobility Devices with Due Care.
 - (1) The operator shall exercise all due care while operating said device and shall reduce the speed

of the device, obey all traffic control regulations, and take all other actions relating to the operation of the device as necessary to safeguard the safety of the operator, passengers, and any other persons or other vehicles or devices in the immediate area.

- (2) It shall be unlawful to transport a passenger on an electric micromobility device designed for a single person, or to cling to or attach one's self to an electric micromobility devices with an operator or rider on board, to any moving vehicle or motorized or non-motorized wheeled device.
 - (3) Operators shall obey all applicable California Vehicle Code and Burlingame Municipal Code provisions.
 - (4) Operators shall allow the inspection of electric micromobility devices upon lawful contact with a peace officer to determine if the rider is legally allowed to operate said device.
- (c) Violations.
- (1) In addition to any other penalty authorized by law, violations of this chapter are subject to citations and penalties as described in Chapter 1.12 of this code. Furthermore, any violation of this chapter shall be deemed a public nuisance and may be abated as such by the city, and each such day of violation shall constitute a new and separate offense.
- (d) Exemptions.
- (1) Public Agency Personnel. Notwithstanding any other provision of this chapter, city and public agency personnel may operate electric micromobility devices at any place in the city in the performance of their duties.
 - (2) Disability. This chapter does not apply to or otherwise restrict persons with physical disabilities from utilizing electric micromobility devices in accordance with the Americans with Disabilities Act (42 USC Section 12101 et seq.) and Section 36.311 of Title 28 of the Code of Federal Regulations.

(Ord. No. 2031, 10/7/2024)

CHAPTER 13.60 TRUCK TRAFFIC

§ 13.60.010. Designating truck traffic routes.

Whenever any ordinance, or provision thereof, of the city designates or describes any street or streets, or portions thereof as a street or streets, the use of which is permitted by any commercial vehicle, or by any vehicle exceeding the maximum gross weight, including the load thereon, of eight tons, the city manager is authorized to designate such street or streets, or portions thereof, by approaching signs as "truck traffic routes" for the movement of commercial vehicles and vehicles exceeding the weight limit of eight tons. No such ordinance shall prohibit any commercial vehicles coming from an unrestricted street having ingress or egress by direct route to and from a restricted street when necessary for the purpose of making pickups or deliveries of goods, wares and merchandise from or to any building or structure located on such restricted street, or for the purpose of delivering material to be used in the actual and bona fide repair, alteration, remodeling or construction of any building or structure upon such restricted street for which a building permit has previously been obtained therefor. No such ordinance shall apply to any vehicle owned by a public utility while necessarily in use for the construction, installation or repair of any public utility.

(Ord. 843 § 1, (1966))

§ 13.60.020. Designating prohibited truck traffic routes.

Whenever any ordinance, or provision thereof, of the city designates or describes any street or streets, or portions thereof as a street or streets, the use of which is prohibited by any commercial vehicle, or by any vehicle exceeding the maximum gross weight, including the load thereon, of eight tons, the city manager is authorized to designate such street or streets, or portions thereof, by erecting and installing appropriate signs in appropriate places to indicate the restriction against the movement of commercial vehicles and vehicles exceeding the weight limit of eight tons. No such ordinance shall prohibit any commercial vehicles coming from an unrestricted street having ingress or egress by direct route to and from a restricted street when necessary for the purpose of making pickups or deliveries of goods, wares and merchandise from or to any building or structure located on such restricted street, or for the purpose of delivering materials to be used in the actual and bona fide repair, alteration, remodeling or construction of any building or structure upon such restricted street for which a building permit has previously been obtained therefor. No such ordinance shall apply to any vehicle owned by a public utility while necessarily in use for the construction, installation or repair of any public utility.

(Ord. 843 § 1, (1965))

§ 13.60.030. Destination points—Outside origin.

- (a) Outside Destination. All trucks entering the city for a destination point outside the city shall operate only over a truck traffic route as established by Section 13.60.050 of this chapter.
- (b) One Inside Destination Point. All trucks entering the city for a destination point in the city shall enter the city only on an established truck route and shall proceed only over an established truck route and shall deviate only at the intersection with the street nearest to the destination point. Upon leaving the destination point, the deviating truck shall return to the nearest truck route by the shortest route.
- (c) Multiple Inside Destination Points. All trucks entering the city for multiple destination points shall enter the city only on established truck routes, shall proceed only over established truck routes and shall deviate only at the intersection with the street nearest to the first destination point. Upon leaving the first destination point a deviating truck shall proceed to all other destination points by the shortest route. Upon leaving the last destination point the deviating truck shall return to the nearest truck route

by the shortest route.
(Ord. 843 § 2, (1966))

§ 13.60.040. Destination points—Inside origin.

- (a) Outside Destination Point. All trucks on a trip originating in the city and traveling in the city for a destination point outside the city shall proceed by the shortest route to the nearest truck route as herein established.
 - (b) Inside Destination Points. All trucks on a trip originating in the city and traveling in the city for destination points in the city shall proceed to such destination points by the shortest route.
- (Ord. 843 § 3, (1966))

§ 13.60.050. Weighing at public scale may be required.

Any police officer shall have the authority to require any person driving or in control of any truck on any public street or highway in the city to proceed to any public or private scale available for the purpose of weighing and determining whether this chapter has been complied with.

(Ord. 843 § 4, (1966))

§ 13.60.060. Designation of truck traffic routes.

The following streets or highways are hereby declared to be truck traffic routes for the movement of vehicles exceeding a maximum gross weight, including load, of eight tons, hereinafter sometimes called "trucks," and the city manager is hereby authorized and directed to designate such street or highway by appropriate signs as "Truck Route."

Said streets or highways are particularly designated as follows:

- (1) Bayshore Freeway within the limits of the city;
 - (2) El Camino Real within the limits of the city;
 - (3) Skyline Boulevard within the limits of the city.
- (Ord. 843 § 5, (1966))

§ 13.60.070. Permit.

Any person, firm or corporation desiring to haul earth and fill and/or other material along any restricted street shall file an application, in triplicate, for a permit so to do with the city manager, the original of which shall be verified. The application shall set forth the following information:

- (1) A full identification, and the residence and business address of the applicant, including all members of any firm or partnership, and the president and secretary of any corporation applying; if the applicant is the agent or employee of any person for whose benefit the permit is requested, this fact, with the full identification of such person and his or her business and residence address;
- (2) The facts constituting the necessity for hauling the fill and/or other material;
- (3) The amount of fill and/or other material intended to be hauled;
- (4) The dates on which the hauling is intended to be commenced and completed, and the times of day during which hauling is intended to be done;

- (5) The route within the city which applicant proposes to use over public streets and/or private property transporting the fill and/or other material;
 - (6) The time interval between vehicles, and the number of vehicles per hour, which will travel over the route for which the permit is applied;
 - (7) The locations of the place or places of destination and origin; provided, however, that if delivery is to be made in small quantities to numerous places, a general description satisfactory to the city manager of the locations of the contemplated deliveries will be sufficient;
 - (8) Such further information as the city manager may require.
- (Ord. 843 § 5, (1966))

§ 13.60.080. Application—Filing fee.

At the time of filing the application, applicant shall pay to the city, at the office of the city treasurer, a minimum filing fee of \$35 to cover the cost of the city's investigation of such application.

(Ord. 843 § 5, (1966))

§ 13.60.090. Application—Copies.

Immediately upon the filing of an application for a permit to haul, two copies of such application shall be delivered to the city manager. The city manager shall have made an investigation of the facts stated in the application, and within five days from the date of filing such application shall either grant a permit with or without modification, as hereinafter set forth, or deny the same in whole or in part.

(Ord. 843 § 5, (1966))

§ 13.60.100. Findings prior to granting permit.

The application shall be granted by the city manager only if he or she finds as follows:

- (1) That the public health, safety or welfare require the hauling and deposit of the fill and/or other material and the use of the route applied for, or such modification thereof as he or she may deem advisable;
 - (2) That the hauling over the route specified will not be injurious to the public health, safety or welfare; and that the vehicles used are in conformance with the safety maintenance and inspection requirements of the state of California;
 - (3) That the city will be duly protected from liability for injury to persons and property;
 - (4) That the city will be indemnified from injury to its public streets and other places by reason of the use thereof for such hauling.
- (Ord. 843 § 5, (1966))

§ 13.60.110. Deposit.

The city manager shall require, as a condition to the granting of such permit, that the applicant, prior to the issuance of the permit, deposit with the city treasurer, as security for the payment of fees specified in subsection (f) hereof, a sum of money to be fixed by the city manager, which shall be based upon the charges set forth in subsection (f) hereof; provided, however, as follows:

- (1) That said security shall be applied to the progress payments, or if none be required, then to the sole

payment on the permit fee required under subsection (f) hereof as and when such payments become due;

- (2) That within 35 days after the hauling shall have been completed, permittee shall pay to city at the office of the city treasurer the difference between the amount deposited pursuant to this subsection and the fee due the city under subsection (f) hereof, if the fee due under subsection (f) hereof be greater than the sum deposited under this subsection;
- (3) That within 35 days after the hauling shall have been completed, the city treasurer shall return to permittee the difference between the fee due under subsection (f) hereof and the amount deposited under this subsection, if the fee due under subsection (f) hereof be less than the sum deposited under this subsection;
- (4) That the amount deposited under this subsection shall be returned to applicant if, prior to the commencement of any hauling operation, pursuant to such application, applicant shall have notified the city manager of his or her intention not to engage in any such hauling operation and demanded the return of the deposit.

All notices required under these provisions shall be in writing and delivered personally to the city manager or transmitted by United States registered or certified mail, postage prepaid, and addressed to him or her at the City Offices, City Hall, Burlingame, California.

The amount demanded by applicant shall be returned to him or her within 10 days after such notice shall have been received by the city manager.

(Ord. 843 § 5, (1966))

§ 13.60.120. Permit fee.

In the event a permit be granted, the permittee shall pay to the city at the office of the city treasurer a fee for the privilege of such permit at the rate of one cent per ton mile hauled; such material shall be weighed and measured by the city from time to time at the time and place and in the manner specified by the city manager, and the amount due hereunder shall be paid by permittee to the city at the end of each week of haul, if the hauling shall consume more than one week; otherwise, at the end of the hauling period. The moneys collected from such fees shall be deposited in the "limited truck route fund," and shall be used primarily for the repair and maintenance of limited truck routes and thereafter for general street repair and maintenance. The limited truck route fund is hereby created, and shall be kept by the city treasurer.

(Ord. 843 § 5, (1966))

§ 13.60.130. Surety bond.

The city manager shall require, as a condition to the granting of any permit hereunder for the hauling of earth, fill or any other material, that the applicant deposit with the city manager a surety bond in an amount to be fixed and form to be specified by the city manager inuring to the benefit of the city, guaranteeing that applicant will faithfully perform all of the conditions and requirements specified in the permit, and will repair to the satisfaction of the city engineer or superintendent of streets, or at the option of the city manager, reimburse the city for any damage caused to city streets or other city property by the proposed hauling or transportation of material or equipment. Such bond shall be executed by a surety or sureties approved by the city manager as being sufficient in financial responsibility.

(Ord. 843 § 5, (1966))

§ 13.60.140. Insurance.

The city manager shall also require, as a condition to the granting of any such permit, that the applicant deposit with the city manager a certificate or policy of a responsible insurance company, showing that the city, its elective and appointive boards, officers, agents and employees are insured, in amounts hereinafter specified, against any loss or damage arising directly from the operations of the applicant or any firm, person or corporation acting in his, their or its behalf in carrying on any operation connected directly or indirectly with the hauling for which such permit is issued. Such policies of insurance shall be as follows:

- (1) Public Liability Insurance. In an amount not less than \$100,000 for injuries, including, but not limited to, accidental death to any one person and, subject to the same limit for each person, in an amount of not less than \$300,000 on account of one accident.
- (2) Property Damage Insurance. In an amount of not less than twenty thousand dollars (\$20,000.00).

With the approval of the manager the applicant may deposit the aforesaid surety bonds and policies of insurance on an annual or continuing basis, to cover one or more permits for hauling in the same or different locations.

(Ord. 843 § 5, (1966))

§ 13.60.150. Restricted streets—Designation of limited truck routes.

The following restricted streets or highways or portions thereof within the limits of the city are hereby declared and designated limited truck routes for the movement of vehicles exceeding the maximum gross weight, including load, of eight tons, subject to and in accordance with the provisions of this section, and the city manager is hereby authorized and directed to designate such streets or highways or portions thereof by appropriate signs such as "Limited Truck Route — Permit Required":

- (1) Bayshore Highway;
- (2) California Drive;
- (3) Peninsula Avenue;
- (4) Trousdale Drive;
- (5) Bayshore Boulevard.

(Ord. 843 § 5, (1966))

§ 13.60.160. Further specifications for permit.

The city manager shall also specify, in granting the permit, the following:

- (1) The gross weight limit of each truck or vehicle which shall be authorized to haul under the permit;
- (2) The time interval between vehicles, and the number of trucks per hour, which shall be permitted to travel over the route specified;
- (3) The hours of the day and the days of the week during which such trucks shall be permitted to travel over said route;
- (4) The total number of yards of fill which may be hauled subject to the permit;

(5) The period during which the permit is effective.
(Ord. 843 § 5, (1966))

§ 13.60.170. Right to appeal.

In the event the application be denied, or the permit be issued on modified terms, on any application for a permit as provided for in this section, within five days of such action, the city manager shall notify applicant, in writing by registered United States mail, of such modification or denial stating the reasons therefor.

(Ord. 843 § 5, (1966))

§ 13.60.180. Notice of appeal.

In the event the city manager modifies or denies in whole or in part any application for a permit as provided for in this section, applicant may file with the city clerk a written notice of appeal to the city council from such decision. Such notice of appeal must be filed within five days of the mailing of the notice provided for in Section 13.60.170. In such event, the city clerk shall set the hearing on such appeal before the city council for the second succeeding regular meeting after the date of filing such notice.

(Ord. 843 § 5, (1966))

§ 13.60.190. Evidence on appeal.

At the time set for the hearing the council may summon witnesses and hearing evidence relating to the application. The council may continue the hearing from time to time. At the conclusion thereof, the council shall make its findings thereon and may grant or deny the application, or make such modifications with reference thereto as it may deem fit. The findings and order of the council shall be final and conclusive on applicant, and no application for substantially the same purpose may be made by applicant for one year after the date of such findings and order.

(Ord. 843 § 5, (1966))

§ 13.60.200. Revocation or suspension of permit.

Any permit granted hereunder may be revoked only by the council as it, in its discretion, may deem reasonable and just for any reason for which the issuance of such permit might lawfully be denied, or for any failure to comply with any of the terms of this chapter or of such permit. Revocation of such permit shall be made only upon a hearing before the council, after at least five days notice to permittee. Such notice shall be in writing mailed by United States mail addressed to permittee at his or her business or residence address as stated in his or her application for a permit.

(Ord. 843 § 5, (1966))

§ 13.60.210. Revocation—Notice.

All provisions of Sections 13.60.170, 13.60.180 and 13.60.190 for hearings, findings, orders and conclusiveness of such findings and orders shall apply to this section; provided, however, that the minimum time for any notice required by this section shall be five days.

The city manager or council may suspend any permit granted hereunder pending the hearing herein provided, where, in his or her opinion, the public health, safety or welfare require it.
(Ord. 843 § 5, (1966))

§ 13.60.220. Expiration of permits—Issuance of supplemental permits.

In the event that any hauling for which a permit has been granted hereunder is not commenced within five days from the date of issuance of such permit, or in the event that such hauling is at any time abandoned for a period of five consecutive days, such permit shall automatically expire, without notice, and no further hauling shall be made; however, the conditions expressed in such permit shall remain binding upon the person to whom such permit was issued, and all legal and equitable remedies shall be available against him or her for any breach thereof. When the amount of material hauled equals the number of cubic yards which such permit authorizes to be hauled, or if haulings vary from terms of the permit, no further hauling may be made until a new or a supplemental permit to haul has been issued. In either event herein set forth, an application for a supplemental permit to continue the hauling may be filed, setting forth all the information required for the original application and not contained therein. No further filing fee shall be required, but if such supplemental permit is issued, the applicant shall pay the fee prescribed in subsection (f) of this section and the fee so paid shall be subject to the provisions of subsection (f). The city manager may dispense with any further investigation or hearing, if, in his or her opinion, the information furnished him or her by the original investigation is sufficient to enable him or her to determine whether the supplemental permit should be issued and upon what condition, if any.

(Ord. 843 § 5, (1966))

§ 13.60.230. Denial of supplemental permit—Right to appeal.

In the event a supplemental permit be refused, permittee may appeal to the council in the manner provided in Sections 13.60.170, 13.60.180 and 13.60.190 hereof for an appeal from a denial of a permit, and all provisions of said subsections for giving of notices, hearings, findings, orders and conclusiveness of such findings and orders shall apply to this subsection.

(Ord. 843 § 5, (1966))

§ 13.60.240. Permit does not excuse compliance with other ordinance provisions.

Nothing in this section, or in any permit granted hereunder, shall be deemed to authorize the doing or omission of any act contrary to any term or provision of any ordinance or license of this city or without any license or permit otherwise required by such term, provision, ordinance or license.

(Ord. 843 § 5, (1966))

§ 13.60.250. Designation of prohibited streets.

The following street, streets or highways, or portion thereof, are hereby declared to be prohibited as a route or routes for the movement of vehicles exceeding the maximum gross weight, including load, of eight tons, and the city manager is hereby authorized and directed to erect appropriate signs at appropriate places signifying the restrictions and prohibitions set forth herein:

- (1) Easton Drive, (2) Hillside Drive, (3) Ralston Avenue and (4) Dwight Rd., city streets for their entire lengths within the limits of the city.

(Ord. 843 § 6, (1966))

§ 13.60.260. Permitted trucking.

Notwithstanding any other provisions of this or any other ordinance of the city, trucks exceeding the maximum gross weight limits herein set forth, the operation of which is not otherwise permitted hereunder, may be permitted on restricted streets of the city designated as "limited truck routes," under the conditions and provisions as set forth in Section 13.60.170.

(Ord. 843 § 7, (1966))

§ 13.60.270. Permitted trucking conditions.

Prior to the adoption of this chapter the city council, as the legislative body of the city, did duly and regularly comply with the provisions of Section 35705 of the California Vehicle Code. In accordance with Section 35705, the city council, after notice given and published as provided in said section, conducted the hearing referred to therein and received the presentation of all oral and written objections of interested parties to the reduction of the weight limit referred to in this chapter. The hearing was duly held before the city council and all objections were considered and all interested parties were afforded an adequate opportunity to be heard in respect to their objections.

(Ord. 843 § 8, (1966))

§ 13.60.280. Penalty for violations.

Any person, firm or corporation violating any of the provisions of this chapter is guilty of a misdemeanor, and each such person shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provisions of this chapter is committed, continued or permitted, and upon conviction of any such violation such person shall be punishable by a fine of not more than \$500, or by imprisonment for not more than 180 days, or by both such fine and imprisonment.

(Ord. 843 § 9, (1966))

CHAPTER 13.62 INTERSTATE TRUCKS

§ 13.62.010. Definitions.

The following words and phrases shall have the meanings set forth, and if any word or phrase used in this chapter is not defined in this section, it shall have the meanings set forth in the California Vehicle Code; provided, that if any such word or phrase is not defined in the Vehicle Code, it shall have the meaning attributed to it in ordinary usage.

"Caltrans" means the state of California Department of Transportation or its successor agency.

"City" means the city of Burlingame.

"Director" means the director of public works of the city of Burlingame or his or her authorized representative.

"Interstate truck" means a truck tractor and semitrailer or truck tractor, semitrailer and trailer with unlimited length as regulated by the Vehicle Code.

"Terminal" means any facility at which freight is consolidated to be shipped or where full load consignments may be loaded and off loaded or at which the vehicles are regularly maintained, stored or manufactured.

(Ord. 1291 § 1, (1984))

§ 13.62.015. Purpose.

The purpose of this chapter is to establish procedures for terminal designation and truck route designation to terminals for interstate trucks operating on a federally designated highway system and to promote the general health, safety and welfare of the public.

(Ord. 1291 § 1, (1984))

§ 13.62.020. Application.

- (a) Any interested person requiring terminal access for interstate trucks from the federally designated highway system shall submit an application, on a form as provided by the city, together with such information as may be required by the director and appropriate fees to the city.
- (b) Upon receipt of the application, the director will cause an investigation to be made to ascertain whether or not the proposed terminal facility meets the requirements for an interstate truck terminal. Upon his or her approval of that designation, he or she will then determine the capability of the route requested and alternate routes, whether requested or not. Determination of route capability will include, without limitation, a review of adequate turning radius and lane widths of ramps, intersections and highways and general traffic conditions such as sight distance, speed and traffic volumes. No access off a federally designated highway system will be approved without the approval of Caltrans.
- (c) Should the requested route pass through the city to a terminal located in another jurisdiction, the applicant shall comply with that jurisdiction's application process. Coordination of the approval of the route through the city will be the responsibility of the entity which controls the terminal's land use. Costs for trailblazer signs shall be provided in Section 13.62.030(b).

(Ord. 1291 § 1, (1984))

§ 13.62.030. Fees and costs.

- (a) The applicant shall pay a nonrefundable application fee, as established by the city by resolution, sufficient to pay the cost of the review of the terminal designation and the review of the route and alternate route.
- (b) Upon the approval of the terminal designation and route by the city and by Caltrans the applicant shall deposit with the city sufficient funds as estimated by the director to pay for the purchase and installation of terminal trailblazer signs. Trailblazer signs will be required at every decision point in the city on route to the terminal. Upon completion of the installation of the signs, the actual cost shall be computed and any difference between the actual and the estimated cost shall be billed or refunded to the applicant, whichever the case may be. No terminal or route may be used until such signs as may be required are in place. Costs for trailblazer signs may be proportioned in accordance with the procedures in Section 13.62.040(c).

(Ord. 1291 § 1, (1984))

§ 13.62.040. Retrofitting.

- (a) If all feasible routes to a requested terminal are found unsatisfactory by the director, the applicant may request retrofitting the deficiencies. All costs of engineering, construction and inspection will be the responsibility of the applicant. Except when the retrofitting of deficiencies is within the jurisdiction of Caltrans, the actual construction will be done by the city or by a contractor acceptable to it.
- (b) When the work is to be done by the city, the applicant shall deposit with the city the estimated cost of retrofitting. Adjustments between the estimated and actual cost shall be made after completion of the work and any difference between the actual and the estimated cost shall be billed or refunded to the applicant as the case might be. When the work is done by the applicant, the applicant may file with the director, on a form satisfactory to the director, a statement detailing the actual costs of the retrofitting.
- (c) If at any time within five years from the date of completion of the retrofitting by the applicant, should any applicant seek terminal approval which could use the route upon which such retrofitting was accomplished, any such applicants' fee may include the applicants proportionate share of the retrofitting, as determined by the director, which fee shall be disbursed by the city to the applicant who paid for the retrofitting as well as to any applicant who contributed to the cost of retrofitting under this subsection. Nothing herein shall require the payment of a proportionate fee if the applicant doing the work failed to file the report with the director required by subsection (b) above.

(Ord. 1291 § 1, (1984))

§ 13.62.050. Revocation of route.

The director may revoke any approved terminal or route if the terminal or route becomes a traffic hazard for vehicular traffic. A safety hazard includes the inability of interstate trucks to negotiate the route or said vehicles causing unsafe driving conditions for other vehicular traffic or pedestrians.

(Ord. 1291 § 1, (1984))

§ 13.62.060. Appeal process.

- (a) If the director denies terminal designation, route feasibility or revokes a previously approved terminal or route, the applicant/terminal owner, within 10 days following the date of receipt of the decisions

of the director may appeal the decision to the city council in writing. The appeal shall be filed with the city clerk. The appeal shall state specifically wherein there was an error or abuse of discretion by the director or wherein the decision is not supported by the evidence in the record.

- (b) The city council shall set a hearing at which time it shall make its order approving, modifying or reversing the decision of the director.
- (c) If Caltrans and not the director denies or revokes terminal access from federally designated highways, no appeal may be made to the city council, but must be made to Caltrans as may be permitted by Caltrans.

(Ord. 1291 § 1, (1984))

**CHAPTER 13.65
ABANDONED, WRECKED, DISMANTLED OR INOPERATIVE VEHICLES**

§ 13.65.010. Findings.

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 of the city of Burlingame 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, 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 insects and to be injurious to the health, safety and general welfare. Therefore, the presence of an abandoned, wrecked, dismantled or inoperative vehicle or parts thereof, on private or public property, 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. (Ord. 937 § 1, (1971); Ord. 1478 § 1, (1993))

§ 13.65.012. Definitions.

As used in this chapter:

"Highway" means a way or place of whatever nature, publicly maintained and open to the use of the public for purposes of vehicular travel. Highway includes street.

"Owner of the land" means the owner of the land on which the vehicle, or parts thereof, is located, as shown on the last equalized assessment roll.

"Owner of the vehicle" means the last registered owner and legal owner of record.

"Vehicle" means a device by which any person or property may be propelled, moved or drawn upon a highway, except a device moved by human power or used exclusively upon stationary rails or tracks. (Ord. 1478 § 2, (1993))

§ 13.65.015. Exceptions.

This chapter shall not apply to:

- (a) A vehicle or parts thereof which is completely enclosed within a building in a lawful manner where it is not visible from the street or other public or private property; or
- (b) A vehicle or parts thereof which is stored or parked in a lawful manner 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 shall authorize the maintenance of a public or private nuisance as defined under the provisions of law other than Chapter 10 (commencing with Section 22650) of Division 11 of the Vehicle Code and this chapter.

(Ord. 937 § 1, (1971))

§ 13.65.020. Additional remedies.

This chapter is not the exclusive regulation of abandoned, wrecked, dismantled or inoperative vehicles within the city. It shall supplement and be in addition to the other regulatory codes, statutes and ordinances heretofore or hereafter enacted by the city, the state or any other legal entity or agency having jurisdiction. (Ord. 937 § 1, (1971))

§ 13.65.025. Enforcement officer.

Except as otherwise provided herein, the provisions of this chapter shall be administered and enforced by the chief of police. In the enforcement of this chapter such officer and his or her deputies may enter upon private or public property to examine a vehicle or parts thereof, or 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.

(Ord. 937 § 1, (1971))

§ 13.65.030. Entry.

When the city council has contracted with or granted a franchise to any person or persons, such person or persons shall be authorized to enter upon private property or public property to remove or cause the removal of a vehicle or parts thereof declared to be a nuisance pursuant to this chapter.

(Ord. 937 § 1, (1971))

§ 13.65.035. Administrative costs.

The city council 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.

(Ord. 937 § 1, (1971))

§ 13.65.040. Abatement and removal.

Upon discovering the existence of an abandoned, wrecked, dismantled or inoperative vehicle, or parts thereof, on private property or public property within the city, the chief of police shall have the authority to cause the abatement and removal thereof in accordance with the procedure prescribed herein.

(Ord. 937 § 1, (1971))

§ 13.65.045. Notice of intention.

A 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 owner of the vehicle, unless the vehicle is in such condition that identification numbers are not available to determine ownership. The notices of intention shall be in substantially the following forms:

Notice of Intention to Abate and Remove an Abandoned, Wrecked, Dismantled, or Inoperative Vehicle or Parts Thereof as a Public Nuisance

(Name and address of owner of land)

As owner shown on the last equalized assessment roll of the land located at (address), you are hereby notified that the undersigned, pursuant to Section 13.65.040 of the Burlingame Municipal Code, has determined that there exists upon said land an (or parts of an) abandoned, wrecked, dismantled or inoperative vehicle registered to _____, license number _____ which constitutes a public nuisance pursuant to the provisions of Title 13.65 of the Burlingame 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, and the costs thereof, assessed to you as owner of the land on which said vehicle (or said parts of a vehicle) is located.

As owner of the land on which said vehicle (or said parts of a vehicle) is located, you are hereby notified that you may, within 10 days after the mailing of this notice of intention, request a public hearing and if such a request is not received by the Commission of Public Health and Safety within such 10 day period, the Chief of Police shall have the authority to abate and remove said vehicle (or said parts of a vehicle) as a public nuisance and assess the costs as aforesaid without a public hearing. You may submit a sworn written statement within such 10 day period denying responsibility for the presence of said vehicle (or said parts of a vehicle) on said land, with your reasons for denial, and such statement shall be construed as a request for hearing at which your presence is not required. You may appear in person at any hearing requested by you or the owner of the vehicle or, in lieu thereof, may present a sworn, written statement, as aforesaid, in time for consideration at such hearing.

Notice mailed: _____

s/ _____
Chief of Police

Notice of Intention to Abate and Remove an Abandoned, Wrecked, Dismantled or Inoperative Vehicle or Parts Thereof as a Public Nuisance

(Name and address of last registered and/or legal owner of record of vehicle — notice should be given to both, if different.)

As last registered (and/or) legal owner of record of (description of vehicle — make, model, license, etc.), you are hereby notified that the undersigned, pursuant to Section 13.65.040 of the Burlingame Municipal Code has determined that said vehicle (or parts of a vehicle) exists as an abandoned, wrecked, dismantled or inoperative vehicle at (describe location on public or private property) and constitutes a public nuisance pursuant to the provisions of Chapter 13.65 of the Burlingame Municipal Code.

You are hereby notified to abate said nuisance by the removal of said vehicle (or parts of said vehicle) within 10 days from the date of mailing of this note.

As registered (and/or legal) owner of record of said vehicle (or said parts of a vehicle), you are hereby notified that you may, within 10 days after the mailing of this notice of intention, request a public hearing and if such a request is not received by the Commission of

Public Health and Safety within such 10 day period, the Chief of Police shall have the authority to abate and remove said vehicle (or said parts of a vehicle) without a hearing.

Notice mailed: _____

(date)
s/ _____
Chief of Police

(Ord. 937 § 1, (1971))

§ 13.65.050. Hearing.

Upon request by the owner of the vehicle or owner of the land received by the commission of public health and safety within 10 days after the mailing of the notices of intention to abate and remove, a public hearing shall be held by the commission of public health and safety 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.

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 10 day period, the statement shall be construed as a request for a hearing which does not require his or her presence. Notice of the hearing shall be mailed, by registered mail, at least 10 days before hearing to the owner of the land and to the owner of the vehicle unless the vehicle is in such condition that identification numbers are not available to determine ownership. If such a request for hearing is not received within 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.

(Ord. 937 § 1, (1971))

§ 13.65.055. Decision.

All hearings under this chapter shall be held before the commission of public health and safety which shall hear all facts and testimony it deems pertinent. The facts and testimony may include testimony on the condition of the vehicle or parts thereof and the circumstances concerning its location on the private property or public property. The commission of public health and safety 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.

The commission of public health and safety may impose such conditions and take such other action as it deems appropriate under the circumstances to carry out the purpose of this chapter. It may delay the time for removal of the vehicle or parts thereof if, in its opinion, the circumstances justify it. At the conclusion of the public hearing, the commission of public health and safety 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 to be charged against the owner of the land. The order requiring removal shall include a description of the vehicle or parts thereof and the correct identification number and license number of the vehicle if available at the site.

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 he or she has not subsequently acquiesced in its presence, the commission of public health and safety shall not assess the costs of administration or removal of the vehicle against the property upon which the vehicle is located or otherwise attempt to collect such costs from such owner of the land.

If the owner of the land submits a sworn written statement denying responsibility for the presence of the vehicle on his or her land but does not appear, or if an interested party makes a written presentation to the commission of public health and safety but does not appear, he or she shall be notified in writing of the decision.

(Ord. 937 § 1, (1971))

§ 13.65.060. Appeal.

Any interested party may appeal the decision of the commission of public health and safety by filing a written notice of appeal with the city clerk within five days after its decision.

Such appeal shall be heard by the city council which may affirm, amend or reverse the order or take other action deemed appropriate.

The clerk shall give written notice of the time and place of the hearing to the appellant and those persons specified in Section 13.65.045.

In conducting the hearing the city council shall not be limited by the technical rules of evidence.

(Ord. 937 § 1, (1971))

§ 13.65.065. Removal.

Five days after adoption of the order declaring the vehicle or parts thereof to be a public nuisance, five days from the date of mailing of the notice of the decision if such notice is required by Section 13.65.055, or 15 days after such action of the governing body authorizing removal following appeal, the vehicle or parts thereof may be disposed of by removal to a scrapyard or automobile dismantler's yard. After a vehicle has been removed it shall not thereafter be reconstructed or made operable.

(Ord. 937 § 1, (1971))

§ 13.65.070. Notice to Department of Motor Vehicles and Department of Justice.

Within five days after the date of removal of the vehicle or parts thereof, notice shall be given to the Department of Motor Vehicles and the Stolen Vehicle System of the Department of Justice identifying the vehicle or parts thereof removed. At the same time there shall be transmitted to the Department of Motor Vehicles any evidence of registration available, including registration certificates, certificates of title and license plates.

(Ord. 937 § 1, (1971); Ord. 1478 § 3, (1993))

§ 13.65.075. Assessment.

If the administrative costs and the costs of removal which are charged against the owner of a parcel of land pursuant to Section 13.65.055 are paid within 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 38773.5 of the Government Code and shall be transmitted to the tax collector for collection. The assessment shall have the same priority as other city taxes.

(Ord. 937 § 1, (1971))

**CHAPTER 13.70
REGULATION OF VEHICULAR TRAFFIC ON PRIVATE ROADS**

§ 13.70.010. Finding and declaration.

The city council does hereby find and declare that the following privately owned and maintained road:

- (1) Portion of Airport Boulevard which is particularly described in Exhibit A, attached to Ordinance 929 and made a part hereof by reference, is generally held open for use of the public for purposes of vehicular travel, and said road so connects with public streets or highways that the public cannot determine that such private road is not a public street or highway.

(Ord. 929 § 1, (1971))

§ 13.70.020. Vehicle code.

The provisions of the Vehicle Code of the state of California shall apply to the private roads specifically designated in Section 13.70.010 of this chapter.

(Ord. 929 § 1, (1971))

**CHAPTER 13.75
TRANSPORTATION SYSTEM MANAGEMENT**

§ 13.75.010. Definitions.

As used in this ordinance, the following words and phrases have the meanings respectively ascribed thereto in this section:

"Alternative work hours program" shall mean any system for shifting the work day of an employee so that the work day starts or ends outside of the peak periods. Such programs include but are not limited to: (1) compressed work weeks; (2) staggered work hours involving a shift in the set work hours of employees at the work place; (3) flexible hours involving individually determining work hours within guidelines established by the employer.

"Carpool" shall mean a motor vehicle occupied by two or more employees commuting together.

"Complex" shall mean any multi-tenant, non-residential building or group of buildings that houses employees. A complex may have more than one but not necessarily all of the following characteristics:

- (1) It is known by a common name;
- (2) It is governed by a common set of covenants, conditions, and restrictions;
- (3) It was approved, or is to be approved, as an entity by the city;
- (4) It is covered by a single subdivision or parcel map;
- (5) It is operated by a single management;
- (6) It shares common parking.

"Employee" shall mean any person hired by an employer for work at the work place, working 20 hours or more per week on a regular full-time basis, including independent contractors, but excluding field construction workers, field personnel, seasonal/temporary employees (working less than 90 days consecutively) and volunteers.

"Employee Transportation Coordinator (ETC)" shall mean a person, who could be an employee or an employer or sponsor, designated to implement a TSM trip-reduction program and to carry out any other requirements of this ordinance at a work place.

"Employer" shall mean any public or private employer, including the city, who has a permanent place of business in the city. "Employer" shall not include contractors or other business entities with no permanent place of business in the city.

"Inter-City Agreement" shall mean the agreement approved by the city and one or more other cities to establish an organization and procedures for governing a joint TSM program.

"Joint Powers Authority" shall mean that agency created under the "Joint Powers Agreement Establishing the Inter-City Transportation Systems Management (TSM) Authority."

"Peak traffic periods," "peak hour," and "peak periods" shall mean the periods of highest traffic volume and congestion which are from 6:00 a.m. to 10:00 a.m. and 3:00 p.m. to 7:00 p.m., Monday through Friday, inclusively. A peak period trip shall mean an employee commute trip to or from a work place when the employee's work day begins or ends within a peak period.

"Public transit" shall mean publicly provided transportation, usually either by bus or rail.

"Ridesharing" shall mean the transportation of persons in a motor vehicle for commute purposes where the driver is not employed for that purpose. The term includes arrangements known as carpools and vanpools.

"Single occupant vehicle" shall mean a vehicle occupied by one employee.

"Sponsor" shall mean the owner(s) or developer(s) or manager(s) of a commercial development project or complex.

"Telecommuting" shall mean a system of working at home or at an off-site, non-home telecommute facility for the full work day on a regular basis at least one day per week.

"Transportation Systems Management (TSM)" shall mean a program to improve the movement of persons through better and more efficient use of the existing transportation system.

"TSM Board of Directors" shall mean the group responsible for policy direction of the TSM organization, with membership and responsibilities as defined in the Inter-City Agreement. Responsibilities also include the general direction of the TSM Coordinator and program as set forth in the Inter-City Agreement.

"TSM trip-reduction program" shall mean a group of measures developed and implemented by an employer to provide transportation information, commute alternatives assistance and incentives to employees.

"Vanpool" shall mean a van occupied by seven or 15 employees (of the same or multiple employers) including the driver who travel together during the majority of their individual commute distance.

"Work site" shall mean any real property, real or personal, which is being operated, utilized maintained, or owned by an employer as part of an identifiable enterprise. All property on contiguous, adjacent, or proximate sites separated only by a private or public roadway or other private or public right-of-way, served by a common circulation or access system, and not separated by an impassable barrier to bicycles or pedestrian travel such as a freeway or flood control channel is included as part of the work site.

(Ord. 1518 § 3, (1995))

§ 13.75.020. TSM coordinator.

The TSM coordinator shall be employed by the Joint Powers Authority and shall serve as staff in administering the TSM provisions of this ordinance as provided in the Inter-City Agreement. Duties shall include, but are not limited to, assisting employers in carrying out TSM responsibilities, providing commute alternatives assistance, preparing summary reports, and developing incentives for employer participation in the TSM program.

(Ord. 1518 § 3, (1995))

§ 13.75.030. TSM requirements.

- (a) Each employer within the city subject to the Bay Area Air Quality Management District's (BAAQMD) Regulation 13, Rule 1 (regional employer-based trip-reduction rule), shall conform to the employer-based trip-reduction program requirements established and enforced by the BAAQMD.
- (b) Each employer of 25 or more employees, and every sponsor of 25 or more employees, is encouraged to distribute to its employees on a regular basis, commute alternatives information on ridesharing, transit, bicycling, etc.; and participate when possible in programs, sponsored by the Joint Powers Authority, that may contribute to the reduction of single occupant vehicle commute trips.

(Ord. 1518 § 3, (1995))

§ 13.75.040. Fees.

- (a) Impact Fees. To the extent that available funding is not adequate, the TSM Board of Directors is authorized to determine and levy annual fees upon all public and private employers with 25 or more employees. The amount of the fee shall be fixed annually by the Board and shall be presented for approval to each participating city.
- (b) Collection. The finance director or other designated city staff shall be responsible for collecting fees levied against private employers and/or sponsors. The amounts may be billed and collected with the annual business license fee or such other manner as deemed necessary and appropriate, and the total amount collected shall be transmitted with a collection report to the TSM Board of Directors or its designated agent. Public agencies may be billed directly by the TSM Board of Directors.

(Ord. 1518 § 3, (1995))

§ 13.75.050. Enforcement.

An employer or sponsor, except for those subject to Regulation 13, Rule 1, who fails to comply with the provisions of this ordinance shall, after their 30 days written notice to remedy the failure, be guilty of an infraction.

(Ord. 1518 § 3, (1995))

(RESERVED)

Title 14

(RESERVED)

Title 15**WATER AND SEWERS**

<p style="text-align: center;">Chapter 15.04</p> WATER CONNECTIONS AND FEES	<p>§ 15.08.020. Capacity charges.</p> <p>§ 15.08.030. Number of laterals per lot.</p> <p>§ 15.08.040. Application for lateral rearrangement of lot frontage.</p> <p>§ 15.08.050. No sublaterals permitted.</p> <p>§ 15.08.060. Sewer rental—Definitions.</p> <p>§ 15.08.070. Sewer rental—Service charges.</p> <p>§ 15.08.072. New customers in single-family or duplex classification.</p> <p>§ 15.08.090. Sewer rental—Industrial sampling.</p> <p>§ 15.08.100. Sewer rental—Charges payable bimonthly.</p> <p>§ 15.08.110. Sewer enterprise fund.</p>
<p style="text-align: center;">Chapter 15.06</p> WATER SHORTAGE EMERGENCIES	<p style="text-align: center;">Chapter 15.10</p> SANITARY SEWER USE REGULATIONS
<p>§ 15.06.010. Implementation of chapter.</p> <p>§ 15.06.020. Definitions.</p> <p>§ 15.06.030. Allocations.</p> <p>§ 15.06.040. Regulations and restrictions.</p> <p>§ 15.06.050. Exceptions.</p> <p>§ 15.06.060. Penalties for excess water consumption.</p> <p>§ 15.06.070. Enforcement.</p>	<p>§ 15.10.005. Purpose and policy.</p> <p>§ 15.10.007. Conflicts with other provisions.</p> <p>§ 15.10.010. Violation unlawful.</p> <p>§ 15.10.015. Definitions.</p> <p>§ 15.10.017. Abbreviations.</p> <p>§ 15.10.020. Sewer required.</p> <p>§ 15.10.021. Occupancy prohibited.</p> <p>§ 15.10.024. Planning, design, and construction standards.</p> <p>§ 15.10.025. Construction permit required.</p> <p>§ 15.10.028. Construction requirements.</p> <p>§ 15.10.029. Installation of backwater protection.</p> <p>§ 15.10.030. Inspection.</p> <p>§ 15.10.032. Maintenance of sewer laterals.</p> <p>§ 15.10.034. Limitation on point of discharge.</p> <p>§ 15.10.036. Prohibited activities.</p> <p>§ 15.10.038. Generally prohibited wastes.</p> <p>§ 15.10.040. Specifically prohibited wastes.</p> <p>§ 15.10.042. Prohibition on trucked and hauled wastes.</p>
<p style="text-align: center;">Chapter 15.07</p> WASTEFUL WATER USE RESTRICTIONS	
<p>§ 15.07.010. Purpose.</p> <p>§ 15.07.020. Definitions.</p> <p>§ 15.07.030. Water use restrictions.</p> <p>§ 15.07.040. Enforcement.</p> <p>§ 15.07.050. Water shortage emergency.</p>	
<p style="text-align: center;">Chapter 15.08</p> SEWER CONNECTIONS AND CHARGES	
<p>§ 15.08.010. Application for sewer connection.</p>	

WATER AND SEWERS

§ 15.10.044.	Prohibition on garbage.	§ 15.10.110.	Disposal of unacceptable waste.
§ 15.10.046.	Prohibition on use of diluting waters.	§ 15.10.112.	Protection of streams and watercourses.
§ 15.10.048.	Suspended solids—Dissolved matter.	§ 15.10.113.	Illegal sewer uses.
§ 15.10.050.	Limitations on wastewater strength.	§ 15.10.114.	Agreements in exceptional cases.
§ 15.10.052.	Limitation on other pollutants.	§ 15.10.116.	Civil penalties.
§ 15.10.054.	Holding tank wastes.	§ 15.10.118.	Show cause hearing.
§ 15.10.056.	Stormwaters, surface water, groundwater.	§ 15.10.120.	Abatement.
§ 15.10.058.	Medical wastes.	§ 15.10.122.	Correction of violation and emergency action.
§ 15.10.060.	Quantity of wastes.	§ 15.10.124.	Injunction.
§ 15.10.062.	Protection from accidental and slug discharges.	§ 15.10.126.	Falsifying information or tampering with processes.
§ 15.10.064.	Pretreatment of industrial waste.	§ 15.10.128.	Compliance with federal pretreatment regulations.
§ 15.10.066.	Interceptors required.		Chapter 15.11
§ 15.10.068.	Screened industrial wastes.		LIEN PROCEDURES FOR UNPAID CHARGES
§ 15.10.070.	Wastewater discharge permit required.		
§ 15.10.072.	Permit application.	§ 15.11.010.	Definitions.
§ 15.10.074.	Determination on permit application.	§ 15.11.020.	Owner responsibility for water and sewer service charges.
§ 15.10.076.	Permit denial.	§ 15.11.030.	Collection of delinquent service charges as a special assessment lien.
§ 15.10.078.	Non-transferability.	§ 15.11.040.	Additional request for payment—Warning notice.
§ 15.10.080.	Permit amendment.	§ 15.11.050.	Report and notice.
§ 15.10.081.	Reclassification from significant industrial user.	§ 15.11.060.	Recordation—Charges.
§ 15.10.082.	New sources.	§ 15.11.070.	Filing with controller and tax collector—Distribution of proceeds.
§ 15.10.084.	Compliance schedules.	§ 15.11.080.	Release of lien.
§ 15.10.088.	Revocation, suspension, or modification of permit.		
§ 15.10.090.	Appeal of decision of director.		Chapter 15.12
§ 15.10.092.	Public access and confidentiality of information.		ABATEMENT OF IMPROPER SEWER CONNECTIONS
§ 15.10.094.	Reporting requirements.		
§ 15.10.096.	Water conservation.		
§ 15.10.098.	Monitoring.	§ 15.12.010.	Improper sewer connections.
§ 15.10.100.	Self-monitoring.	§ 15.12.020.	Resolution declaring nuisance—Notice of abatement.
§ 15.10.102.	Inspection and sampling.	§ 15.12.030.	Form of Notice—Mailing.
§ 15.10.104.	Charges and fees.	§ 15.12.040.	Hearing—Action by council.
§ 15.10.106.	Accidental discharges.		
§ 15.10.108.	Employee training and notice.		

BURLINGAME CODE

§ 15.12.050.	Order to abate nuisance—Abatement by property owner.	§ 15.14.220.	Continuing violations. Concealment. Civil actions.
§ 15.12.060.	Account and report of cost.	§ 15.14.240.	Administrative enforcement powers.
§ 15.12.070.	Notice of hearing on report and assessment list.	§ 15.14.250.	Remedies not exclusive. Coordination with hazardous materials inventory and response program.
§ 15.12.080.	Hearing and confirmation of assessments—Lien against property.	§ 15.14.260.	
§ 15.12.090.	Collection on tax roll.	§ 15.14.310.	
§ 15.12.100.	Payment of assessments, annual installments, interest.		
§ 15.12.110.	Inspection and correction upon sale.		

Chapter 15.14

**STORM WATER MANAGEMENT AND
DISCHARGE CONTROL**

§ 15.14.010.	Title.
§ 15.14.020.	Purpose and intent.
§ 15.14.030.	Definitions.
§ 15.14.040.	Responsibility for administration.
§ 15.14.050.	Construction and application.
§ 15.14.060.	Severability and validity.
§ 15.14.070.	Waiver procedures.
§ 15.14.110.	Discharge of pollutants.
§ 15.14.120.	Discharge in violation of permit.
§ 15.14.130.	Illicit discharge.
§ 15.14.140.	Reduction of pollutants in storm water.
§ 15.14.150.	Watercourse protection.
§ 15.14.210.	Authority to inspect.

Chapter 15.15
**MANAGEMENT OF PCBs DURING
BUILDING DEMOLITION PROJECTS**

§ 15.15.010.	Purpose.
§ 15.15.020.	Definitions.
§ 15.15.030.	Applicability.
§ 15.15.040.	Exemptions.
§ 15.15.050.	PCBs in priority building materials screening assessment.
§ 15.15.060.	Agency notification, abatement, and disposal for identified PCBs.
§ 15.15.070.	Compliance with California and federal PCBs laws and regulations.
§ 15.15.080.	Information submission and applicant certification.
§ 15.15.090.	Recordkeeping.
§ 15.15.100.	Obligation to notify city of Burlingame of changes.
§ 15.15.110.	Liability.
§ 15.15.120.	Enforcement.
§ 15.15.130.	Fees.

**CHAPTER 15.04
WATER CONNECTIONS AND FEES**

§ 15.04.010. Fee for service installations and application for water connection.

Fees for water service installations shall be those provided from time to time by resolution of the city council. The council shall also establish by resolution such other fees, charges and procedures as may be necessary for the administration of water service.

Whenever water services are to be laid and connected to the water mains of the city, or whenever a property is converted to a more intensive use, the person, firm, or corporation desiring to lay and connect the same or change the use shall apply in writing to the city engineer, through the building permit and development review process, stating the location of the premises effected. Upon receipt of the application, the city engineer shall approve the necessary permits and collect such capacity charges and inspection fees as may be established by the council from time to time.

(Ord. 917 § 2, (1970); Ord. 1026 § 1, (1974); Ord. 1996 § 2, (2021))

§ 15.04.020. Water capacity charges.

- (a) Any person requesting a connection to water shall, as a condition of such connection pay, the following charges:

Residential	
Type	Capacity Charges
Single-Family	\$6,446.00 per dwelling unit
Multifamily	
Two or More Bedrooms	\$4,007.00 per dwelling unit
Studio and One Bedroom	\$2,613.00 per dwelling unit
Detached Accessory Dwelling Unit (ADU), > 150 square feet	\$2.69 per square foot

Nonresidential		
Water Meter Size	AWWA Meter Capacity Ratio	Capacity Charge Per Connection
¾-inch	1.00	\$9,756.00
1-inch	1.67	\$16,272.00
1½-inch	3.33	\$32,510.00
2-inch	5.33	\$52,023.00
3-inch	10.00	\$97,564.00
4-inch	16.67	\$162,619.00

- (b) Capacity charges for residential connections are applied per subsection (a) of this section. For existing

singlefamily residential connections, no additional capacity charges would apply to a home remodeling or expansion project, even if the project results in the need to increase the water meter size whether for fire flow or other purposes. For existing multifamily connections, capacity charges will apply for new units per subsection (a) based on number and type and will be credited for existing units, if any, per subsection (a) based on number and type.

- (c) Capacity charges for Accessory Dwelling Units (ADUs) are applied based on square footage in compliance with the requirements of Government Code Section 65852.2 with the exception that *no capacity charges* may be levied on ADUs built within the existing living area of a primary residence and the total expansion itself is less than 150 square feet. Capacity charges for detached ADUs and ADUs that are an expansion of more than 150 square feet to the primary residence shall be as per the fees presented under subsection (a) of this section and these charges will be applied to the entire square footage of the expansion.
- (d) Capacity charges for nonresidential water connections are applied based on the water meter size of each new connection. Any land use category that does not fall into residential will be considered nonresidential. For existing nonresidential connections, whenever an upsize of water meter is required, the property owner is required to pay capacity charges for the incremental increase in water demand because of the upsize. Water demands are determined utilizing meter capacity ratios based on American Water Works Association (AWWA) standard meter capacities. Water capacity charges should not be levied on irrigation meters or on new private fire service connections.
- (e) For a meter size that is not presented in the above table, the costs will be calculated utilizing the AWWA standard meter capacity of proposed water meter size, using the costs set forth in subsection (a) of this section for scheduled fees.
- (f) These capacity charges do not exempt a developer from having to fund the upsizing of infrastructure in cases where the existing infrastructure is inadequate to meet the water demands of the project.
- (g) Capacity charges for standard connections are shown above. Connections with higher levels of estimated water demand than assumed for each customer class maybe assessed higher charges than shown based on the water capacity charge per gallons per day multiplied by the estimated volume of water demand of the new or expanded connection as determined by the city.
- (h) The schedule listed in subsection (a) of this section shall be adjusted to conform to the latest Engineering News Record Construction Cost Index for the city of San Francisco using 13,762 as the base index as of July 2021. The capacity charges listed in subsection (a) of this section shall therefore be multiplied by the Engineering News Record Construction Cost Index for the city of San Francisco in effect on January 1, and the result divided by 13,762 to obtain the capacity charge to be implemented.

All moneys received from the collection of the water capacity charges as authorized shall be deposited with the city treasurer who shall keep a separate and distinct fund and account to be known as "The Water Enterprise Fund." This fund shall be used, when appropriated by the council, for the management, maintenance, operation and repair of the water system, water storage and pumping, for the planning, extension and enlargement of the works.

(Ord. 1996 § 3, (2021))

§ 15.04.030. Installation of fire protection service.

- (a) All fire protection services are to be installed by the owner at his or her expense with the required encroachment permit and inspection by the city public works department.

(b) A double check detector valve of a type approved by the city public works department is required on all fire services and is to be furnished by the owner. Each building with a fire protection service shall have its own separate fire connection with the city water main.

(c) A backflow prevention device, which shall be of a type approved by the director of public works and the health officer, is required on buildings three stories or more in height.

(Ord. 917 § 2, (1970); Ord. 1035 § 1, (1975); Ord. 1679 § 4, (2002))

§ 15.04.040. Ownership of installed service.

The ownership of this water service installation including the meter, and complete service from main through the meter box shall be vested in the city of Burlingame.

A credit for the cost of the meter on an existing service being abandoned may be claimed when a new larger service replaces an existing service.

(Ord. 917 § 2, (1970))

§ 15.04.050. Cross-connections and backflow standards.

(a) Purpose. The purpose of this section is to describe the cross-connection control program implemented by the city of Burlingame public works department to protect the public water supply against actual or potential contamination through cross-connection and backflow.

(b) Scope. The scope of the cross-connection control program includes all of the elements necessary to ensure compliance with the California Code of Regulations, Title 17, Public Health Sections 7583 through 7605. The city of Burlingame partners with the San Mateo County environmental health services division to implement the majority of the scope of this program, including compliance with required program personnel certifications, surveying of residential, industrial and commercial user facilities for potential cross-connection hazards, designation of appropriate backflow preventers, requirements for testers and testing of backflow prevention assemblies, and maintenance of records.

(c) Definitions. The following definitions describe those terms and phrases that are pertinent to the various elements of a cross-connection control program:

(1) Approved Backflow Prevention Assembly. The term "approved backflow prevention assembly" shall mean assemblies listed, and installed as prescribed, on the most current List of Approved Backflow Prevention Assemblies, published by the University of Southern California Foundation for Cross-Connection Control and Hydraulic Research (USC Foundation), and meet any additional requirements deemed necessary by the city or environmental health.

(2) Approved Water Supply. The term "approved water supply" means any local water supply whose potability is regulated by a state or local health agency.

(3) Auxiliary Water Supply. The term "auxiliary water supply" means any water supply on or available to the premises other than the approved water supply as delivered by the water purveyor to the service connection.

(4) AWWA. The term "AWWA" is an acronym for the American Water Works Association.

(5) Backflow. The term "backflow" shall mean a flow condition, caused by a differential in pressure, which causes the flow of water or other liquid, gases, mixtures or substances into the distributing pipes of a potable supply of water from any source or sources other than an approved water supply source. Back siphonage is one cause of backflow. Back pressure is the

other cause.

- (6) Backflow Preventer. The term "backflow preventer" shall mean an approved assembly or means designed to prevent backflow.
- (A) Air Gap. The unobstructed vertical distance through the free atmosphere between the lowest opening from any pipe or faucet conveying water to a tank, plumbing fixture, receptor or other assembly and the flood level rim of the receptacle. These vertical physical separations must be at least twice the diameter of the water supply outlet, never less than one inch.
- (B) Reduce Pressure Principle Backflow Prevention Assembly. This assembly consists of two independently acting approved check valves together with a hydraulically operating, mechanically independent pressure differential relief valve located between the check valves and below the first check valve. These units are located between two tightly closing resilient-seated shutoff valves as an assembly and equipped with properly located resilient-seated test cocks.
- (C) Double Check Valve Assembly. This assembly consists of two internally loaded check valves, either spring-loaded or internally weighted, installed as a unit between two tightly closed resilient-seated shutoff valves and equipped with properly located resilient-seated test cocks.
- (D) Double Check Valve Detector Assembly. This assembly is a specially designed backflow assembly composed of a line-sized-approved double check valve assembly with a bypass containing a water meter and an approved double check valve assembly. The meter shall register accurately for only very low rates and is used to show unauthorized usage or leaks in the customer's system.
- (E) Pressure Vacuum Breaker Assembly. This assembly contains one or two independently operated spring loaded check valves and an independently operated spring loaded air inlet valve located on the discharge side of the check or checks. It also includes two tightly closing shutoff valves on each side of the check valves and equipped with properly located resilient-seated test cocks.
- (F) Atmospheric Vacuum Breaker Assembly. This assembly contains an air inlet valve, a check seat and an air inlet port(s). A shut off valve immediately upstream may be an integral part of the assembly, but there shall be no shutoff valves or obstructions downstream. The assembly shall not be subject to operating pressure for more than 12 hours in any 24 hour period.
- (G) Hose Bibb Vacuum Breaker. This device is permanently attached to a hose bibb and acts as an atmospheric vacuum breaker.
- (7) Customer or Responsible Party. The "customer or responsible party" is the person that either has applied for water service from the city, or owns or controls water piping or fixtures served by the city water supply. The terms customer and responsible party have the same meaning within this chapter.
- (8) Contamination. The term "contamination" means a degradation of the quality of the potable water by any foreign substance which creates a hazard to the public health, or which may impair the usefulness or quality of the water.

- (9) Pollution. The term "pollution" shall mean an impairment of the quality of the water to a degree which does not create a hazard to the public health, but, which does adversely and unreasonably affect the aesthetic qualities of such waters for domestic use.
- (10) Cross-Connection. The term "cross-connection" as used in this chapter means any unprotected actual or potential connection between a potable water system used to supply water for drinking purposes and any source or system containing unapproved water or a substance that is not or cannot be approved as safe, wholesome, and potable. By-pass arrangements, jumper connections, removable sections, swivel or changeover devices, or other devices through which backflow could occur, shall be considered to be cross-connections.
- (11) Person. The term "person" means an individual, corporation, company, association, partnership, municipality, public utility, or other public body or institution.
- (12) Facility. The term "facility" means any and all areas on a water user's property which are served or have the potential to be served by the public water system.
- (13) Public Water System. The term "public water system" means a system for the provision to pipe water to the public for human consumption that has five or more service connections or regularly serves an average of 25 individuals daily at least 60 days out of the year.
- (14) Service Connection. The term "service connection" refers to the point of connection of a facility's piping to the water supplier's facilities, usually considered the point at the outlet from the water meter.
- (15) Water Supplier. The term "water supplier" means the person who owns or operates the approved water supply system.
- (16) Water User. The term "water user" means any person obtaining water from an approved water supply system.
- (17) City. Unless otherwise specified, the term "city" shall refer to the city of Burlingame department of public works, water division or San Mateo County environmental health working as a partner to the water division.
- (18) Inspection Tag. "Inspection tag" means a current-calendar-year backflow tag purchased from San Mateo County environmental health.
- (19) Cross-Connection Control Program Specialist. The term "cross-connection control program specialist" means a person certified by AWWA, or an approved equivalent certifying entity, to evaluate the hazards inherent in supplying a customer's water system.
- (20) Certified Tester. The term "certified tester" means a person certified by AWWA or an approved equivalent certificate and certified by San Mateo County environmental health services to perform backflow prevention assembly testing.
- (d) Administration of Program.
- (1) Authority. The city of Burlingame department of public works is the administrative authority for the cross-connection control program. The authority to administer this program comes from state of California, Title 17; state of California, Public Utilities Commission Rule 16c; and state of California, Department of Public Health Services (and any successor agencies).
- (2) Program Administrator. The program administrator for the cross-connection control program in

the city of Burlingame is the public works superintendent or designee. The city also partners with the San Mateo County environmental health services division through an agreement to implement portions of the program, as allowed by California Health and Safety Code. However, the city is ultimately responsible for the implementation of the program.

(e) Appropriate Backflow Protection.

(1) New Construction, Remodels and Tenant Improvements.

(A) Residential, Single-Family and Duplexes Only.

- (i) Domestic Water. The city may require an approved backflow prevention assembly to be installed on the customer's facility, as close as possible to the service connection. The assembly shall be a reduced pressure principle backflow prevention assembly (RPP) or a double check valve assembly (DC) as determined by the city. If it is determined that a backflow prevention assembly is required, the customer may also need to install a thermal expansion tank in accordance with the California Plumbing Code.
- (ii) Irrigation System. The city requires an approved backflow prevention assembly to be installed on the customer's facility on the branch line serving an irrigation system. The assembly shall be a pressure vacuum breaker (PVB), reduced pressure principle backflow prevention assembly (RPP), or atmospheric pressure vacuum breaker (AVB) as determined by the city.
- (iii) Fire Suppression System. All facilities with an installed fire suppression system must have an approved backflow prevention assembly, excluding flow-through fire systems, on the branch line serving the fire suppression system. The assembly shall be a double check valve assembly (DC) or as determined by the city. Flow-through fire protection systems shall be constructed with approved potable water piping and materials.

(B) Commercial, Industrial, Institutional, Multifamily.

- (i) Domestic Water. The city may require an approved backflow prevention assembly to be installed on the customer's facility, as close as possible to the service connection. The assembly shall be a reduced pressure principle backflow prevention assembly (RPP) or a double check valve assembly (DC) as determined by the city. If it's determined after a survey, that a backflow prevention assembly is required, the customer may also need to install a thermal expansion tank in accordance with the California Plumbing Code.
- (ii) Irrigation System. The city requires an approved backflow prevention assembly to be installed on the customer's facility, as close as possible to any irrigation system service connections or on any irrigation branch line. The assembly shall be a pressure vacuum breaker (PVB), reduced pressure principle backflow prevention assembly (RPP) or atmospheric pressure vacuum breaker (AVB) as determined by the city.
- (iii) Fire Suppression System. All facilities with an installed fire suppression system must have an approved backflow prevention assembly. The assembly shall be a double check valve detector assembly (DCDA) and installed according to city standard specifications and drawings, and this section. The assembly must incorporate a city-

supplied bypass water meter at customer's cost which is also protected with an approved double check valve assembly.

- (2) Existing Service Connection. When it is determined in a survey by a city or environmental health crossconnection control program specialist that an actual or potential cross connection or backflow condition is present on an existing facility, the installation of an appropriate backflow preventer shall be required. Should an existing backflow prevention assembly be in place that does not meet the city's installation requirements, does not comply with this section, or does not provide adequate protection with the degree of hazard found on-site, the assembly shall be replaced or upgraded as required by the city, at the expense of the customer or responsible party.

(f) Surveys.

- (1) Identification of Survey Candidates. The city may identify specific industries that might pose an actual or potential backflow hazard to the public water supply. Some of these industries are identified from common lists of industries where cross-connections are likely to be found, as provided by the state of California, the USC Foundation, and other recognized organizations. From these lists, specific facilities in the city's service area may be identified by directories, mailing lists, associations, and business licenses.
- (2) Survey. Surveys may take the form of office surveys or field surveys. Office surveys may include determination of facility hazards based on business type or known water use on the facility. Office surveys could also include evaluation of responses to mailed or on-line surveys.

Field surveys may include evaluation of water use by observations made from public or private areas not on the subject facility, or physical inspection on all or a portion of the facility. When possible, a request to survey the facility shall be made at least 24 hours in advance, and a date and time agreed upon with a responsible party. Should the request to survey be denied by a responsible party, notice shall be sent to the customer or responsible party directing installation of the appropriate backflow assembly, at the water meter, based on best available knowledge of the water use and potential hazards at the facility.

During the survey many factors are considered to determine if activities or water use on facility are or could be a potential hazard to the public water supply. Factors that may be considered include:

- (A) Alternative sources of water on site (auxiliary water supplies).
- (B) Piping configurations on-site.
- (C) Uses of water on-site.
- (D) Types of water using equipment.
- (E) Condition of water using equipment.
- (F) Complexity and elevations of plumbing on-site, and the potential for alterations of that system.
- (G) Storage and use of hazardous materials on-site.

All the factors found and recorded during the survey shall be considered in the determination of the degree of potential hazard (degree of hazard) to the public water supply. This information shall be considered in the determination of the appropriate backflow preventer. The customer or responsible party shall be informed of the requirement to provide backflow protection and the type of backflow prevention assembly required in accordance with Title 17 of the California Regulations Related to Drinking Water or the direction of the county health officer.

- (g) Location and Configuration of Backflow Assemblies. Backflow prevention assemblies shall be installed in accordance with Title 17 of the California Code of Regulations, Section 7603, the city's Standard Specifications, and the most recent edition of the USC Foundation manual. Any deviation from these requirements shall require the city's approval. Unless otherwise permitted by the city, all backflow preventers shall be installed on the customer's or responsible party's facility.
- (1) Air-Gap Separation (AG). The air-gap separation shall be located as close as practical to the user's connection and all piping between the user's connection and the receiving tank shall be entirely visible unless otherwise approved.
 - (2) Double Check Valve Assembly (DC). A double check valve assembly and double check valve detector assembly shall be installed a minimum of 12 inches above grade and not more than 36 inches above grade measured from the bottom of the assembly in a manner where it is readily accessible for testing and maintenance.
 - (3) Reduced Pressure Principle Backflow Prevention Assembly (RPP). A reduced pressure principle backflow prevention assembly shall be installed a minimum of 12 inches above grade and not more than 36 inches above grade measured from the bottom of the assembly, and with a minimum of 12 inches side clearance in a manner where the assembly is readily accessible for testing and maintenance.
 - (4) Pressure Vacuum Breaker (PVB). A pressure vacuum breaker check valve assembly shall be installed a minimum of 12 inches above all downstream piping and flood level rims of receptors and in a manner where it is readily accessible for testing and maintenance.
 - (5) Atmospheric Vacuum Breaker (AVB). An atmospheric vacuum breaker check valve assembly shall be installed a minimum of six inches above all downstream piping and flood level rims of receptors and in a manner where it is readily accessible for testing and maintenance.
 - (6) Backflow Prevention Assembly Enclosures. A backflow prevention assembly enclosure, cage or locked bag may be required by the city to be installed at the customer's expense, to combat against tampering, vandalism or theft. The city may require that any enclosure, cage or locked bag be secured to a concrete slab and securely locked.

Any deviation of installation from the descriptions provided shall require the city's approval prior to installation. All backflow prevention assembly installations shall be inspected by the city to ensure compliance with all relevant statutes, regulations, ordinances, and city requirements.

(h) Testing and Maintenance of Backflow Preventers.

- (1) Responsibility. As per the California Code of Regulations, Title 17, the city shall assure that adequate maintenance and periodic testing of backflow prevention assemblies are provided by the customer or responsible party, to ensure the proper operation of the assemblies. Therefore, the city declares that the customer or responsible party is ultimately responsible for the

installation, testing, and maintenance of all required backflow prevention assemblies on or related to the customer's facility.

- (2) Certified Testers. No person shall test and/or make reports on backflow prevention assemblies to comply with this section unless he or she possesses a current certification issued by the San Mateo County environmental health services division as defined in County Ordinance Code.
- (3) Frequency of Testing. Backflow prevention assemblies shall be tested by a certified tester immediately after they are installed, relocated or repaired and not placed in service unless they are functioning as required. All backflow prevention assemblies shall be tested at least annually or more frequently if determined to be necessary by the city or environmental health, in accordance with the California Code of Regulations, Title 17, and San Mateo County Ordinance Code. Exception is subsection (h)(4)(A).
- (4) Fire Suppression System Backflow Preventer Testing.
 - (A) Single-Family and Duplex Residential. Single-family and duplex residential (SFDR) fire suppression systems with an installed backflow prevention assembly shall be tested upon installation only, unless otherwise required by the city. After completion of successfully testing the assembly, the #1 and #2 shut off valves shall remain in the open position and the handles removed. The handles shall be stored in the spare head box. SFDR fire suppression system backflow assemblies are not required to be tested annually because of the low degree of hazard.
 - (B) Commercial, Industrial, Multifamily.
 - (i) Commercial, industrial, multifamily fire suppression system backflow preventers must be tested annually by a certified tester.
 - (ii) If an existing fire suppression system backflow assembly is located in a vault, and has adequate physical clearance to test, it is considered "existing non-conforming" and approved for testing.
 - (iii) If an existing assembly fails the field test, the assembly must be repaired or replaced with an appropriate, approved backflow prevention assembly, installed to current city standards. If any failed assembly is currently in a vault, the assembly must be relocated above grade, to meet all current codes and city standards.
 - (iv) If an existing fire system does not have testable approved backflow prevention assembly the city shall require that a new appropriate assembly that meets all current codes be installed at customer or responsible party expense.

(i) Procedures for Testing and Inspection.

- (1) Testable backflow prevention assemblies shall be tested using current USC Foundation test procedures.
- (2) When a backflow prevention assembly is inspected and has passed the testing procedure, the certified tester shall immediately affix a numbered inspection tag to the assembly purchased from the county of San Mateo environmental health services division.
- (3) When a backflow prevention assembly fails the testing procedure, the certified tester shall immediately affix a "Failed" inspection tag to the assembly. Records of failed assembly tests

shall be filed/submitted as directed within 10 days. The "Failed" inspection tag shall remain affixed to the assembly until the assembly is repaired, has passed the testing procedures and has been affixed with a numbered inspection tag.

- (4) Certified testers are solely responsible to comply with applicable municipal requirements for additional permits or licenses (i.e., local business license, plumbing permit, etc.) to test or repair backflow prevention assemblies within the city.
- (j) Enforcement. San Mateo County environmental health has the authority to take enforcement action as allowed in the County Ordinance Code relating to backflow prevention, and as it applies to the agreement between the city and environmental health. The city shall have the authority to enforce this section as follows:
 - (1) Any person who violates any provision of this chapter, or bypasses or renders inoperative any backflow prevention assembly installed under the provisions of this chapter, shall be subject to fines as detailed in Burlingame Municipal Code Chapter 1.12, Violations of Code.
 - (2) Failure to comply with any section of this chapter may be cause for the discontinuance of water service by the city. The program administrator shall give notice in writing of any violations of this chapter to the customer or responsible party. If appropriate action is not taken within 10 days after such notice has been mailed or delivered in person, the program administrator may discontinue delivery of water. However, if the program administrator or the health officer determines that the violation constitutes an immediate threat to the public health or safety or to the integrity of the public water system, the program administrator or the health officer may discontinue delivery of water immediately without prior notice; in such an instance, the program administrator or the health officer shall deliver notice of discontinuance as soon as practicable to the property owner and customer or responsible party. Delivery of water shall not be resumed until all required corrective actions have been made and certified as complete by the city or environmental health.
 - (3) All costs incurred by the city for discontinuance of water service and all fees associated with reinstating water service shall be paid by the customer or responsible party. Costs incurred by environmental health for inspections shall be paid by the customer or responsible party at the rate set forth by San Mateo County ordinance.
- (k) Reporting. All reporting required by this chapter at the city shall be the responsibility of the program administrator. This includes any reports to local, state, and federal regulatory or health agencies such as: California Department of Health Services, and San Mateo County environmental health services division.
- (l) Training of Personnel.
 - (1) Program Administrator. The program administrator of the cross-connection control program at the city shall be a minimum of a supervisor capacity. He or she shall be a cross-connection control program specialist as defined in this section.
 - (2) Cross-Connection Control Inspector and Tester. The city representative assigned to the inspection and survey of consumers to determine if backflow prevention is warranted shall be a cross-connection control program specialist as defined in this chapter. The city employee assigned to the testing of city-owned assemblies shall be a certified tester as defined in this section.

(m) Maintenance of Records.

- (1) Assembly Records. Records of assembly type, size, manufacturer, installation date, location, account number, customer or responsible party of record, and repair history shall be kept electronically or in hard copy form. Assembly records shall be kept for the life of the assembly by either the city or by environmental health as appropriate.
- (2) Testing Records. Test results on all assemblies shall be kept electronically or in hard copy form for a minimum of three years.

(Ord. 1903 § 2, (2014))

§ 15.04.060. Domestic and fire services over two inches within public property.

Design details, methods and materials for construction of water services over two inches in diameter within public property are not specified in this code. Such details, methods and materials shall conform with specifications for the construction of such work as are compiled by the city engineer. Such specifications may be changed from time to time at the option of the city engineer but such changes shall in no way affect the validity of regulations or requirements contained herein.

(Ord. 1035 § 2, (1975))

CHAPTER 15.06 WATER SHORTAGE EMERGENCIES

§ 15.06.010. Implementation of chapter.

- (a) The provisions of this chapter shall be implemented only upon adoption by the city council of a declaration that a water shortage condition exists that requires special conservation measures or emergency allocation measures pursuant to California Water Code Section 350 et seq.
 - (b) The provisions of the chapter shall be of no further force or effect when the city council determines that a water shortage condition no longer exists.
- (Ord. 1101 § 1, (1977); Ord. 1365 § 1, (1988))

§ 15.06.020. Definitions.

For the purposes of this chapter, the following terms, phrases, words and their derivations shall have the meaning given in this chapter:

"Customer" is any person using water supplied by the Burlingame water department.

"Director" is the director of public works of the city of Burlingame.

"Emergency allocations" are the allocations allowed various classifications of customers to achieve a specific reduction in water use necessitated by a water shortage of emergency proportions.

"Person" is any person, firm, partnership, corporation, company or organization of any kind.

"Special conservation measures" are the measures required to achieve a specific reduction in water use necessitated by a water shortage which has not reached emergency proportions.

"Unit of water" is 1,000 gallons of water.

"Water" is water from the water department.

"Water department" is the Burlingame municipal water system.

"Water shortage" means a water shortage condition declared by the city council pursuant to Sections 350 et seq., of the Water Code.

"Water shortage contingency plan" or "WSCP" means a contingency plan including voluntary and mandatory actions adopted by the city that incorporates the provisions detailed in the California Water Code Section 10632.

(Ord. 1101 § 1, (1977); Ord. 1365 § 1, (1988); Ord. 1994 § 4, (2021))

§ 15.06.030. Allocations.

When the city council declares a water shortage that requires emergency allocations, it shall specify in the declaration the specific allocations required to achieve the specified reduction in water use. The allocations may include any or all of the following classifications:

- (a) Single-party residential and multifamily residential customers, including a minimum or lifeline allocation;
- (b) Nonresidential customers:
 - (1) Industrial customers using process water to manufacture, alter, convert, clean, heat or cool a product, including water used in laundries and recycled car wash facilities,

- (2) Industrial, commercial (including nonrecycled car wash facilities) and governmental agency customers;
- (c) Irrigation and Outside Water Usage Customers. Irrigation of lawns, gardens, playfields, parks, median strips and landscaping of any type.
- (Ord. 1101 § 1, (1977); Ord. 1365 § 1, (1988))

§ 15.06.040. Regulations and restrictions.

The city council at the time it declares a water shortage may adopt water use regulations and restrictions, including, but not limited to, any or all of the following:

- (a) Broken or defective plumbing, sprinklers, watering or irrigation systems which permit the escape or leakage of water shall be immediately repaired.
- (b) Irrigation of lawns, gardens, playfields, parks, median strips and landscaping of any type shall be reduced by an amount determined by the city council to be necessary to achieve the goals set forth in its declaration of a water shortage.
- (c) No use of water shall be allowed which results in flooding or runoff in gutters, driveways or streets.
- (d) When a hose is used for washing cars, buses, boats, trailers or other vehicles, or washing building structures or parts thereof, or any similar purpose, it shall have a positive shutoff valve.
- (e) Use of a hose for the purposes set forth in subsection (d) of this section shall be prohibited.
- (f) Restaurants shall serve water to customers only upon request.
- (g) No water shall be used to clean, fill or maintain levels in decorative exterior fountains; interior fountains must recirculate water.
- (h) Sidewalks, walkways, driveways, patios, parking lots, tennis courts or other hard-surfaced areas shall not be cleaned using water from hoses or by other use of water directly from faucets or other outlets.
- (i) Draining and filling of any existing or new swimming pools with city-supplied water shall be prohibited.
- (j) Service connections for new construction incorporating water-saving devices shall be granted as long as conditions of this chapter are met, provided no residential landscaping shall be installed during the water shortage.
- (k) Construction water for consolidation of backfill and other nondomestic uses shall be denied if other methods of water sources can be used.
- (l) No new residential irrigation services shall be permitted, and additional water shall not be allowed for expansion of existing irrigation facilities.
- (m) Additional water use practices as described in the water shortage contingency plan.
- (Ord. 1101 § 1, (1977); Ord. 1365 § 1, (1988); Ord. 1994 § 5, (2021))

§ 15.06.050. Exceptions.

Considerations for exceptions regarding allocations of water or from any of the regulations and restrictions set forth herein shall be as follows:

- (a) Written applications for exceptions shall be made to the City of Burlingame Water Department, 501 Primrose Road, Burlingame, California 94010.
- (b) Each application shall be reviewed and determined by the director. Denials of applications may be appealed to the city council whose decision shall be final.
- (c) The only grounds for granting such exceptions are:
 - (1) Undue hardship to the applicant, including adverse economic impacts such as loss of production or jobs;
 - (2) A condition affecting the health, sanitation or safety of the applicant or the general public.

Prior to granting an exception, the director must be satisfied that all practical water conservation measures have been adopted by the applicant.

(Ord. 1101 § 1, (1977); Ord. 1365 § 1, (1988))

§ 15.06.060. Penalties for excess water consumption.

The following penalties may be imposed on excess water consumption:

- (a) Excess Use Charge. The city council shall set by resolution an amount to be added to the normal cost per unit for each unit in excess of allocation.
- (b) Flow-Restricting Devices. The city manager may, after one written warning, direct the installation of a flowrestricting device on the service line of any customer observed by city personnel to be violating any of the regulations and/or exceeding water allocations hereinabove set forth.

Charges for installation and removal of flow-restricting devices shall be set by council.

First installation shall be a minimum of three days, second and last installation, 10 days minimum.

- (c) Discontinuance of Water Service. Continued water consumption in excess of the allocation may result in the discontinuance of water service by the water department. A reactivation charge shall be paid prior to reactivating the service.
- (d) Fines and Penalties as Provided in Title 1 of this Code. Persons violating the provisions set forth in this chapter may also be subject to the fines and penalties set forth in Title 1 of this code.

(Ord. 1101 § 1, (1977); Ord. 1365 § 1, (1988); Ord. 1921 § 1, (2015))

§ 15.06.070. Enforcement.

The director, all employees of the water department, public works department and fire department have the duty and are authorized to enforce the provisions of this chapter and shall have all the powers and authority contained in California Penal Code Section 836.5, including the power to issue written notices to appear.

In addition to the foregoing, the city attorney, code compliance officer and their designees are authorized to enforce the provisions of this chapter through the mechanisms provided in Title 1 of this code.

(Ord. 1101 § 1, (1977); Ord. 1365 § 1, (1988); Ord. 1921 § 1, (2015))

**CHAPTER 15.07
WASTEFUL WATER USE RESTRICTIONS**

§ 15.07.010. Purpose.

The permanent water use restrictions in this chapter are designed to preserve water as an essential resource in keeping with the Governor of California's Executive Order B-40-17, which directed that water conservation become a "California Way of Life."

(Ord. 1994 § 6, (2021))

§ 15.07.020. Definitions.

For the purposes of this chapter, the following terms, phrases, words, and their derivations shall have the meaning given in this chapter:

"Customer" means any person using water supplied by the city of Burlingame.

"Director" means the director of public works of the city.

"Potable water" means water sold by the city of Burlingame intended for human consumption.

"Recirculated water" means water that is circulated in a system that recirculates water through an internal circulation device.

"Recycled water," "reclaimed water," or "treated sewage effluent water" means treated or recycled wastewater of a quality suitable for non-potable uses such as landscape irrigation and not intended for human consumption.

"Runoff" means water that is not absorbed by the surface to which it is applied and flows from the area.

"Special water feature" means objects that are artificially supplied with water, such as ponds, lakes, waterfalls, and fountains. Special water features do not include recreational water features, such as swimming pools and spas.

"Water shortage contingency plan" or "WSCP" means a contingency plan including voluntary and mandatory actions adopted by the city that incorporates the provisions detailed in the California Water Code Section 10632.

(Ord. 1994 § 6, (2021))

§ 15.07.030. Water use restrictions.

The following uses of potable water are prohibited:

- (a) Use of a hose for any purpose without a positive shut-off nozzle.
- (b) Use of potable water for cleaning, filling, or operating water features, such as decorative fountains, except where the water is part of a recirculating system.
- (c) The application of potable water to irrigate outdoor plants, lawn, grass, landscaping, or turf areas during and within 24 hours after measurable rainfall.
- (d) The application of potable water to street medians containing ornamental turf.
- (e) Use through broken or defective plumbing, sprinkler, watering, or irrigation systems.
- (f) Use in new, added, or altered car wash equipment unless a recirculating water system is incorporated.

- (g) The prohibition enumerated in subsection (d) of this section does not apply to any water treatment features, such as landscaping and green roofs, to meet the requirements of the municipal regional stormwater National Pollutant Discharge Elimination System.
- (h) To promote conservation, hotels and motels shall provide guests with the option of choosing not to have towels and linens laundered daily and display notice of this option in guestrooms.
- (i) No water shall be taken or used from any fire hydrant or any unmetered city water system outlet/fitting/fixture unless specifically authorized by permit from the director, except by legally constituted fire protection agencies for fire suppression purposes.

(Ord. 1994 § 6, (2021))

§ 15.07.040. Enforcement.

- (a) It is unlawful for any person or entity to violate or to fail to comply with any of the requirements of this chapter. Unless otherwise provided in this chapter or this code, each such person or entity is guilty of a separate offense for each and every day during any portion of which any violation of any provision of this chapter is continued or permitted to be continued and shall be punished as herein provided.
- (b) The penalties for violations of any provisions of this chapter are subject to the fines and penalties set forth in Title 1 of this code.

(Ord. 1994 § 6, (2021))

§ 15.07.050. Water shortage emergency.

Notwithstanding the foregoing relating to conservation of water supplies, in times of a declared water shortage emergency pursuant to Section 350 et seq., of the California Water Code, certain additional mandatory water conservation practices will be necessary. The water shortage contingency plan shall provide the basis for such additional practices.

**CHAPTER 15.08
SEWER CONNECTIONS AND CHARGES**

§ 15.08.010. Application for sewer connection.

Whenever sewer laterals are to be laid and connected to the sewer mains of the city, or whenever a property is converted to a more intensive use, the person, firm, or corporation desiring to lay and connect the same or change the use shall apply in writing to the city engineer, through the building permit and development review process, stating the location of the premises effected. Upon receipt of the application, the city engineer shall approve the necessary permits and collect such capacity charges and inspection fees as may be established by the city council from time to time.

(1940 Code § 1650, Ord. 1118 § 1, (1978); Ord. 1235 § 1, (1982); Ord. 1250 § 1, (1983); Ord. 1995 § 2, (2021))

§ 15.08.020. Capacity charges.

- (a) Any person requesting a connection to a sewer system shall, as a condition of the connection, pay a charge for each separate building site based upon the following schedule.

Residential		
<i>Type</i>	<i>Capacity Charges</i>	
Single-Family	\$9,834.00 per dwelling unit	
Multifamily		
Two or More Bedrooms	\$6,808.00 per dwelling unit	
Studio and One Bedroom	\$4,623.00 per dwelling unit	
Detached Accessory Dwelling Unit (ADU), > 150 square feet	\$4.10 per square foot	
Nonresidential		
<i>Water Meter Size</i>	<i>AWWA Meter Capacity Ratio</i>	<i>Capacity Charge Per Connection</i>
¾-inch	1.00	\$18,912.00
1-inch	1.67	\$31,521.00
1½-inch	3.33	\$63,041.00
2-inch	5.33	\$100,866.00
3-inch	10.00	\$189,124.00
4-inch	16.67	\$315,206.00

- (b) Capacity charges for residential connections are applied per subsection (a) of this section. For existing singlefamily residential connections, no additional capacity charges would apply to a home remodeling or expansion project, even if the project results in the need to increase the water meter size whether for fire flow or other purposes. For existing multifamily connections, capacity charges will apply for new units per subsection (a) based on number and type and will be credited for existing units, if any, per subsection (a) based on number and type.

- (c) Capacity charges for Accessory Dwelling Units (ADUs) are applied based on square footage in compliance with the requirements of Government Code Section 65852.2 with the exception that no capacity charges may be levied on ADUs built within the existing living area of a primary residence and if the total expansion itself is less than 150 square feet. Capacity charges for detached ADUs and ADUs that are an expansion of more than 150 square feet to the primary residence shall be as per the fees presented under subsection (a) of this section and these charges will be applied to the entire square footage of the expansion.
- (d) Capacity charges for nonresidential sewer connections are applied based on the water meter size of each new connection, which serves as a reasonable proxy for sewer system demand. Any land use category that does not fall into residential will be considered nonresidential. For existing nonresidential connections, whenever an upsize of water meter is required, the property owner is required to pay capacity charges for the incremental increase in sewer demand generated by this upsize. Sewer demands are determined utilizing meter capacity ratios based on American Water Works Association (AWWA) standard meter capacities. Sewer capacity charges should not be levied on irrigation meters or on new private fire service connections.
- (e) For a meter size that is not presented in the above table, the costs will be calculated utilizing the AWWA standard meter capacity of proposed water meter size, using the costs set forth in subsection (a) of this section for scheduled fees.
- (f) These capacity charges do not exempt a developer from having to fund the upsizing of infrastructure in cases where the existing infrastructure is inadequate to meet the sewer demands of the project.
- (g) Capacity charges for standard connections are shown above. Connections with higher levels of estimated wastewater discharge than assumed for each customer class maybe assessed higher charges than shown based on the sewer capacity charge per gallons per day multiplied by the estimated volume of wastewater discharge of the new or expanded connection as determined by the city.
- (h) The schedule listed in subsection (a) of this section shall be adjusted annually to conform to the latest Engineering News Record Construction Cost Index for the city of San Francisco using 13,762 as the base index as of July 2021. The capacity charges listed in subsection (a) of this section shall therefore be multiplied by the Engineering News Record Construction Cost Index for the city of San Francisco in effect on January 1, and the result divided by 13,762 to obtain the capacity charge to be implemented.

(Ord. 1235 § 2, (1982); Ord. 1995 § 3, (2021))

§ 15.08.030. Number of laterals per lot.

Every lot, piece and parcel of land in the city as originally subdivided and shown on the official subdivision map recorded in the office of the county recorder of the county of San Mateo shall be entitled to at least one sewer service lateral connecting from the main sewer to the particular piece or parcel of land, capable of being used for building purposes when the piece or parcel of land has a street or alley frontage of 50 feet or more and when the street or alley frontage is less than 50 feet as shown on the original subdivision record as mentioned in this section and the piece or parcel of land is capable of being used for building purposes, then only one service lateral will be granted to the piece or parcel of land; and when the particular piece or parcel of land is on a corner and frontage on the street or alley, the lateral service will be on the basis only of the official width of the property as appears on the original subdivision record in the office of the county recorder of San Mateo County as mentioned in this section.

(1941 Code § 1652, Ord. 1250 § 1, (1983))

§ 15.08.040. Application for lateral rearrangement of lot frontage.

Whenever any person, firm or corporation has made or is to make a rearrangement of his, her or its property on the street or alley frontage, it shall be necessary, before any sewer lateral service is given to any property, piece or parcel of land so rearranged, that such person, firm or corporation shall apply in writing to the city council for the desired sewer service lateral, and attached to the application shall be a drawing of the piece or parcel of land as rearranged.

It shall be within the discretion at all times of the city council to grant or deny the application as required in this section and under such times and conditions as it deems proper.

(1941 Code § 1652, Ord. 1250 § 1, (1983))

§ 15.08.050. No sublaterals permitted.

All sewer lateral connections from the street or alley mains shall be made on a direct connection thereto and shall be a separate and distinct connection, no sublateral being permitted.

(1941 Code § 1654, Ord. 1250 § 1, (1983))

§ 15.08.060. Sewer rental—Definitions.

As used in Sections 15.08.070 through 15.08.110, the following words shall have the meanings given in this section:

"Industrial" refers to a user which may be subject to any pretreatment program established by the city.

"Person" means and includes individuals, partnerships, associations and corporations.

"Premises" refers to and includes a lot, parcel of land, building or establishment.

"Sewage" is defined as water or a combination of water and waterborne wastes conducted from residences, commercial buildings and institutions and which is known as domestic sewage; also the liquid or water-carried waste resulting from commercial manufacturing or industrial operation or process, which water or waterborne wastes enter the system of sewerage, or any part thereof, of the city from any premises having a connection therewith or thereto.

(1941 Code § 1725, Ord. 444, (1947); Ord. 1064 § 1, (1974); Ord. 1250 § 1, (1983))

§ 15.08.070. Sewer rental—Service charges.

Every person whose premises in the city are served by a connection with the system of sewerage of the city, whereby the sewerage or industrial wastes, or either or both, are disposed by the city, shall pay a bimonthly sewer charge based upon the quantity of metered water per bimonthly billing period whether such water is derived from a source other than city water supply or all or part of such water is furnished to the premises without charge. The city council shall establish by resolution such fees, charges, rate schedules and procedures as may be necessary for the administration of sewerage service. The director of public works shall determine the classification of uses not specifically listed. The finance director shall have the discretion and authority to establish a different sewer charge when circumstances such as water leaks or unseasonable or atypical water usage cause established rates to result in inequitably low or high sewer charges; any such determination shall be reviewed by the city manager upon request from the customer. The finance director may request documentation evidencing the existence of a leak or any other problem that may have resulted in an inequitable charge.

(Ord. 444, (1947); Ord. 784, (1963); Ord. 848 § 1, (1966); Ord. 916 § 1, (1970); Ord. 1021 § 1, (1974); Ord. 1064 § 2, (1976); Ord. 1109, (1977); Ord. 1155 § 1, (1979); Ord. 1203 § 1, (1981); Ord. 1245 § 1, (1983); Ord. 1250 § 1, (1983); Ord. 1254 § 1, (1983); Ord. 1282 § 1, (1984); Ord. 1307 § 1, (1985); Ord.

1330 § 1, (1986); Ord. 1352 § 1, (1987); Ord. 1370, (1988); Ord. 1396 § 1, (1989); Ord. 1416 § 1 (1989); Ord. 1416 § 1, (1990); Ord. 1442 § 1, (1991); Ord. 1469, (1992); Ord. 1488 § 1, (1993); Ord. 1509 § 1, (1994); Ord. 1530 § 1, (1995); Ord. 1534 § 1, (1995); Ord. 1551 § 1, (1996); Ord. 1571 § 1, (1997); Ord. 1596 § 2, (1998); Ord. 1617 § 2, (1999); Ord. 1631 § 2, (2000); Ord. 1658 § 2, (2001); Ord. 1693 § 2, (2002); Ord. 1716 § 2, (2003); Ord. 1785 § 2, (2006); Ord. 1844 § 2, (2010); Ord. 1998 § 2, (2021))

§ 15.08.072. New customers in single-family or duplex classification.

- (a) When new customer service is provided to premises classified as single-family or duplex under Section 15.08.070, the customer will be charged at a bimonthly rate as established by city council resolution.
- (b) This established rate will be used until the customer has had service through a consecutive January, February, March, and April, and on January 1 following that consecutive period, the sewer rate for the customer will be adjusted to the applicable rate established in Section 15.08.070 of this chapter according to the water usage for those months. Following a second consecutive January, February, March, and April, the rate will be further adjusted according to the demonstrated water usage for the total eight months on January 1 following the second consecutive period.

(Ord. 1716 § 3, (2003); Ord. 1724 § 3, (2003); Ord. 1785 § 3, (2006); Ord. 1844 § 3, (2010); Ord. 1998 § 2, (2021))

§ 15.08.090. Sewer rental—Industrial sampling.

Every premises determined to be within the industrial class shall provide a facility for the sampling of its effluent at a location approved by the city engineer.

(1941 Code § 1725.3, Ord. 444, (1947); Ord. 1064 § 4, (1976); Ord. 1250 § 1, (1983))

§ 15.08.100. Sewer rental—Charges payable bimonthly.

The sewer rental specified in this chapter shall be charged, collected and enforced in the same manner, at the time and by the same persons as are the charges for water furnished by the city, and the amount thereof shall be included in the total amount due for water. All provisions of this code applicable to the charge, collection and enforcement of rates for water furnished by the city are made applicable to the provisions of Sections 15.08.060 through 15.08.110.

(Ord. 1064 § 5, (1976); Ord. 1250 § 1, (1983))

§ 15.08.110. Sewer enterprise fund.

All moneys received from the collection of the sewer rental charges and the sewer capacity charges as authorized shall be deposited with the city treasurer who shall keep a separate and distinct fund and account to be known as "the sewer enterprise fund." This fund shall be used, when appropriated by the council, for the management, maintenance, operation and repair of the sewage system, sewage pumping, treatment and disposal works and for the planning, extension and enlargement of the works.

(Ord. 1064 § 6, (1976); Ord. 1235 § 3, (1982); Ord. 1250 § 1, (1983); Ord. 1995 § 4, (2021))

**CHAPTER 15.10
SANITARY SEWER USE REGULATIONS**

§ 15.10.005. Purpose and policy.

These sanitary sewer use rules and regulations are intended to do the following:

- (a) Set uniform requirements for discharges into the wastewater collection and treatment system and enable the city to comply with the administrative provisions of the clean water grant regulations, the water quality requirements set by the applicable effluent limitations, national standards of performance, toxic and pretreatment effluent standards and all other discharge criteria which are required or authorized by state or federal law, and to derive the maximum public benefit by regulating the quality and quantity of wastewater discharged into the city of Burlingame's sewer system.
- (b) Provide for and regulate the disposal of sanitary sewage into the sanitary sewer system of the city in such a manner and to such an extent as is reasonably necessary to sustain the ability of the sanitary sewer system to handle and dispose of sanitary sewage.
- (c) Provide for and regulate the disposal of industrial wastes into the sanitary sewer system of the city in such a manner and to such an extent as may be reasonably necessary to maintain and increase the ability of such system to handle and dispose of industrial waste without decreasing the ability of said system to handle and dispose of all sanitary sewage.
- (d) Prevent the introduction of pollutants into the sanitary sewer system which will pass through the treatment works of the city and cooperating agencies or otherwise be incompatible with such works or interfere with the ability of the works to treat, discharge and recycle wastewater, or to use or dispose of bio-solids.
- (e) Improve opportunities to recycle and reclaim treated effluent and wastewater sludge.
- (f) Protect the physical structures of the sanitary sewer system and the efficient functioning of its component parts.
- (g) Protect the city, its citizens, and the personnel working in the sanitary sewage system facilities.
- (h) Preserve and protect the health, safety and property of the public.
- (i) Protect the environmental health of San Francisco Bay.
- (j) Provide a means for determining wastewater volumes, constituents and characteristics, the setting of charges and fees and the issuance of permits to certain users.
- (k) Derive revenues to be used to defray the city's cost of operating and maintaining adequate wastewater collection and treatment systems and to provide funds for capital outlay, bond service costs, capital improvements and depreciation.

(Ord. 913 § 1, (1970); Ord. 1250 § 2, (1983); Ord. 1633 § 2, (2000))

§ 15.10.007. Conflicts with other provisions.

In the event of any conflicts or inconsistencies between the provision of this chapter and any other provisions of this code, the provisions that provide the greatest protection to the sewage works and San Francisco Bay shall prevail as determined by the director of public works.

(Ord. 1633 § 2, (2000))

§ 15.10.010. Violation unlawful.

It is unlawful for any person to:

- (a) Connect to, construct or install or provide, maintain or use any other means of sewage disposal except by connection to a public sewer as required by this chapter; or
- (b) Dispose of any sewage in the city in violation of this chapter or of any permit issued pursuant to this chapter.

(Ord. 1250 § 2, (1983); Ord. 1633 § 2, (2000))

§ 15.10.015. Definitions.

When used in this chapter or in connection with any resolution, regulation, permit, order, or other action undertaken pursuant to this chapter, the following words shall have the following meanings:

(a) "A" Definitions.

ACT or Act. "ACT" or "Act" means the Federal Water Pollution Control Act, also known as the Clean Water Act, P.L. 92-500, and amendments thereto, as well as any guidelines, limitations, standards, and regulations promulgated by the United States government through the Environmental Protection Agency pursuant to the Act.

Agency. "Agency" means the city when the context so indicates.

Ammonia. "Ammonia" means that form of nitrogen which is chemically definable as NH₃.

Applicant. "Applicant" means the person making application for a permit for a sewer or plumbing installation or discharge, and shall be the owner of the premises to be served by the sewer or plumbing installation or from which the discharge is to occur, or the owner's duly authorized agent.

Audit Protocols. "Audit protocols" mean the procedures to be followed in performing a mass audit study.

Average Concentration. "Average concentration" means the concentration of a pollutant in an industrial user's discharge that is calculated by adding the concentrations of the particular pollutant in all composite samples taken during a given time period, including, but not limited to, self monitoring samples, and dividing the total by the number of samples taken.

(b) "B" Definitions.

Beneficial Uses. "Beneficial uses" mean uses of the waters of the state that may be protected against quality degradation, including domestic, municipal, agricultural, and industrial supply, power generation, recreation, aesthetic enjoyment, navigation, and the preservation and enhancement of fish, wildlife, and other aquatic resources or reserves, and other uses, both tangible or intangible as specified by federal or state law.

Best Management Practices. "Best management practices" mean schedules of activities, prohibitions of practices, maintenance procedures and other management practices to prevent or reduce the introduction of pollutants to the sanitary sewer system which have been determined by the director to be cost effective for particular industry groups, business types, or specific industrial processes.

BOD or Biochemical Oxygen Demand. "BOD" or "biochemical oxygen demand" means the measure of decomposable material in domestic or industrial wastewaters as represented by the oxygen utilized in decomposition over a period of incubation of five days at 20 degrees centigrade under laboratory conditions pursuant to standard methods.

Building. "Building" means any structure used for a residence, place of business, recreation, or other purpose of human habitation.

Building Sewer. "Building sewer" means that portion of any sewer conveying wastewater from the premises of a user to a community sewer, beginning at the plumbing or drainage outlet of any building and running to the lateral sewer at or near the property line.

(c) "C" Definitions.

Categorical Pretreatment Standards. "Categorical pretreatment standards" means the limitations on pollutant discharges to POTWs promulgated by EPA in accordance with Section 307 of the Act, that apply to specified process wastewaters of particular industrial categories. [40 CFR 403.6 and Parts 405-471].

COD or Chemical Oxygen Demand. "COD" or "chemical oxygen demand" means the measure of chemically decomposable material in domestic or industrial wastewater as represented by the oxygen utilized as determined by the appropriate procedure described in standard methods.

Code of Federal Regulations or CFR. "Code of Federal Regulations" or "CFR" means the Code of Federal Regulations published by the Office of the Federal Register, National Archives and Records Administration. Whenever a reference is made to any portion of the CFR, or to any other federal regulation, that reference shall include all amendments and additions to that portion of the CFR or regulation, now or hereinafter adopted.

Combined Sewer. "Combined sewer" means a sewer receiving both surface runoff and sewage.

Commercial User (COM). "Commercial user" or "COM" means any person who discharges non-domestic wastewater and who provides a service or engages in the purchase or sale of commodities.

Community Sewer. "Community sewer" means a sewer owned and operated by the city and tributary to a treatment facility operated by the city.

Compatible Pollutant. "Compatible pollutant" means biochemical oxygen demand, suspended solids, pH, and fecal coliform bacteria, plus additional pollutants identified in the city's National Pollutant Discharge Elimination System (NPDES) Permit if the city's treatment plant is designed to treat such pollutants and if, in fact, does remove such pollutants to a substantial degree.

Composite Sample. "Composite sample" means a flow-proportional or time-proportional sample, which accurately represents the average pollutant concentration discharged during a continuous time period. A composite sample may be obtained manually or automatically, and discretely or continuously. For manual compositing, at least six individual samples from each sample point shall be combined and mixed to obtain one composite sample; flow-proportion may be obtained either by varying the time interval between each discrete sample and the volume of each discrete sample.

Contamination. "Contamination" means an impairment of the quality of water of the state by waste to a degree that creates a hazard to the public health through poisoning or through the spread of disease. "Contamination" includes any equivalent effect resulting from the disposal of wastewater, whether or not waters of state are affected.

Contractor. "Contractor" means an individual, firm, corporation, partnership, or association licensed by the state to perform the type of work to be done under the permit.

Control Authority. "Control authority" means the POTW.

Cost Effective. "Cost effective" means that total project costs, if financed over a five year period at the prime interest rate published in the Wall Street Journal plus 2% at the time the project costs are being determined, do not exceed the total savings that would be generated by the project during the

same five year period. Project costs shall also be considered cost effective, if financing assistance is available to the discharger, from the city or any other source, at a lower rate and the project costs, if financed over a five year period at that rate, do not exceed the total savings that would be generated by the project during the same five year period.

Critical User. "Critical user" means a discharger whose wastewater contains priority pollutants, or who discharges waste that has the potential to cause interference, excluding sanitary sewage.

(d) "D" Definitions.

Department. "Department" means the city department of public works.

Diluting Waters. "Diluting waters" means noncontact cooling water, boiler blowdown, domestic sewage, groundwater, stormwater, surface drainage, or potable waters which are not a part of an industrial process and which do not contain priority pollutants but which are combined with industrial wastewater prior to the monitoring point for industrial wastewater discharge.

Director. "Director" means the city director of public works, or the director's designee.

Discharger. "Discharger" means any person who discharges or causes a discharge to a public sewer. See also specific discharger definitions.

Dissolved Solids or Dissolved Matter. "Dissolved solids" or "dissolved matter" means the solid matter in solution in the wastewater and shall be determined by evaporation of a sample from which all suspended matter has been removed by filtration as determined by the procedures in the standard methods.

Domestic Wastewater. "Domestic wastewater" means the water-carried wastes and wastewater produced from noncommercial and nonindustrial activities and that result from normal human living processes.

(e) "E" Definitions.

Effluent. "Effluent" means the liquid outflow of any facility designed to treat, convey, or retain wastewater.

Engineer. "Engineer" means the city director of public works.

Existing Source. "Existing source" means a source of discharge that is not a new source.

(f) "F" Definitions.

Fats, Oils, and Grease (FOG). "Fats, oils, and grease (FOG)" means organic polar compounds derived from animal and/or plant sources that contain multiple carbon chain triglyceride molecules.

(g) "G" Definitions.

Garbage. "Garbage" means wastes from the preparation, cooking and dispensing of foods, and from the handling, storage, and sale of produce.

Grab Sample. "Grab sample" means a single discrete sample collected at a particular time and place which represents the composition of the waste stream only at that time and place with no regard to the flow in the waste stream.

Grease Interceptor. "Grease interceptor" means a plumbing appurtenance or appliance that is installed in a sanitary drainage system to intercept nonpetroleum fats, oil, and greases (FOG) from a wastewater discharge.

Gravity Grease Interceptor. "Gravity grease interceptor" means a plumbing appurtenance or appliance that is installed in a sanitary drainage system to intercept nonpetroleum fats, oils, and greases (FOG) from a wastewater discharge and is identified by volume, 30 minute retention time, baffle(s), not less than two compartments, a total volume of not less than 300 gallons (1,135 L), and gravity separation.

Hydromechanical Grease Interceptor. "Hydromechanical grease interceptor" means a plumbing appurtenance or appliance that is installed in a sanitary drainage system to intercept nonpetroleum fats, oil, and grease (FOG) from a wastewater discharge and is identified by flow rate, and separation and retention efficiency.

Grease. "Grease" means ether-soluble matter, and shall include each of the following two types:

- (i) Dispersed grease, which means grease which is not floatable grease;
- (ii) Floatable grease, which means grease which floats on the surface of quiescent sewage water or other liquid or which floats when mixed or added to water.

Groundwater Discharger. "Groundwater discharger" means a discharger that pumps and treats contaminated groundwater and discharges to the sanitary sewer system. This class of discharger is variable, so that some permits are a year in length while others may be written for a week. Hydrocarbons are the most common pollutants.

(i) "I" Definitions.

Incompatible Pollutant. "Incompatible pollutant" means any pollutant that is not a "compatible pollutant" as defined above.

Industrial Connection Sewer. "Industrial connection sewer" means the sewer connecting the building sewer or building waste drainage system to the public sewer for the purpose of conveying industrial wastewater.

Industrial User. "Industrial user" means any non-residential user that discharges industrial wastes to the sanitary sewer system.

Industrial Wastes. "Industrial wastes" means the wastes from producing, manufacturing and processing operations of every kind and nature.

Industrial Wastewater. "Industrial wastewater" means all water-carried wastes and wastewater of the community, excluding domestic wastewater and uncontaminated water, and includes all wastewater from any producing, manufacturing, processing, institutional, commercial, agricultural, or other operation where the wastewater discharged includes significant quantities of wastes from non-human origin.

Inspector. A person authorized by the director to inspect wastewater generation, conveyance, processing, disposal, and monitoring facilities.

Interceptor. "Interceptor" means a food service device designed and installed to separate and retain deleterious, hazardous, or undesirable matter from normal wastes and permit normal sewage or liquid wastes to discharge into the disposal terminal by gravity.

Interference.

"**I**nterference" means a discharge which alone, or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the processes or operation of the sanitary sewer system, including the POTW, prevents the POTW from using its chosen sludge use/disposal practice,

or causes or significantly contributes to a violation of any requirement of the National Pollutant Discharge Elimination System (NPDES) Permit, which is a permit issued to the city pursuant to Section 402 of the Act.

"~~I~~nterference" also includes prevention of bio-solids use or disposal by the POTW in accordance with published regulations providing guidelines under Section 405 of the Act [33 U.S.C. Sections 1251–1387] or in regulations developed pursuant to the Solid Waste Disposal Act (SWDA) [42 U.S.C. Section 6901, et seq.], the Toxic Substances Control Act [15 U.S.C. Sections 2601–2654], or more stringent state regulations (including those contained in any state bio-solids management plan prepared pursuant to Title IV of SWDA) applicable to the method of disposal or use employed by the POTW.

(j) (Reserved)

(k) (Reserved)

(l) "L" Definitions.

Lateral Sewer. "Lateral sewer" means the portion of a sewer lying within a public right-of-way or easement between the city cleanout and the main sewer to which a building sewer is connected.

Light Discharger. "Light discharger" means a discharger that contributes less than 50 pounds per day of BOD or suspended solids to the sanitary sewer system. This category is often defined by whether or not the discharger has a grease trap.

(m) "M" Definitions.

Main Sewer. "Main sewer" means a public sewer designed to accommodate more than one lateral sewer.

Major Contributing Industry. "Major contributing industry" means any wastewater contributor identified in the Standard Industrial Classification (SIC) Manual in any of Divisions A, B, D, E, and I that:

- (i) Has a discharge flow of 50,000 gallons or more per average work day; if seasonal, the average shall be computed on the period of use; or
- (ii) Has a flow of or pollutant loading greater than 5% of the total flow to the POTW.

Manager. "Manager" means the city manager.

Mass Audit Study. "Mass audit study" means an investigation of pollution prevention and source reduction measures performed by or for an industrial user, pursuant to audit protocols adopted by the director, to analyze the volume and concentration of nickel, copper, and/or any other priority pollutant identified in regulations adopted by the director in an industrial user's process streams and discharge, and to identify the maximum feasible reduction measures available to the industrial user.

Maximum Allowable Concentration. "Maximum allowable concentration" means the highest permissible concentration or other measure of pollutant magnitude taken at a specific point in time.

Maximum Feasible Reduction Measures.

- (i) "Maximum feasible reduction measures" mean all individual measures, and all functionally interdependent measures, of reducing the mass of specified pollutants in an industrial user's discharge, which the director finds would be cost effective if installed by the industrial user.

- (ii) For the purpose of this chapter, individual measures which are not cost effective shall nonetheless be considered part of a functionally interdependent group of cost-effective measures if they substantially reduce the mass of pollutants discharged, and the other measures with which they are grouped are their functional prerequisite.

Moderate Discharger. "Moderate discharger" means a discharger that contributes 50 to 150 pounds per day of BOD or suspended solids to the sanitary sewer system. This category is generally defined by the presence of a grease interceptor or one or more grease traps.

(n) "N" Definitions.

New Source. "New source" means any wastewater generating processes constructed after the publication of proposed Pretreatment Standards that are applicable to that source and that are independent of an existing source.

Non-Conventional Discharger. "Non-conventional discharger" means a discharger involved in any business or manufacturing where the possibility exists that hazardous or toxic material may be discharged to the sewer system.

(o) "O" Definitions.

Outlet. "Outlet" means the end of a house plumbing system three feet outside the foundation of the building.

(p) "P" Definitions.

Pass-Through. "Pass-through" means a discharge that exits the sewage treatment system to the waters of the United States in quantities or concentrations that alone, or in conjunction with other discharges, causes a sewage authority to violate its NPDES permit.

Peak Flow Rate. "Peak flow rate" means the average rate at which wastewater is discharged to a public sewer during the highest 30 minute flow period in the preceding 12 months.

Permit. "Permit" means any written authorization required pursuant to this or any other ordinance or regulation of the city for the installation of any sewer or the discharge of waste into the sewer system.

pH. "pH" means the logarithm of the reciprocal of the concentration of hydrogen ions in moles per liter of solution.

Plant. "Plant" means the city POTW.

Plumbing System. "Plumbing system" means all plumbing fixtures and traps or soil, waste, special waste and vent pipes, and all sanitary sewer pipes within a building and extending to the building sewer connection three feet outside the building foundation.

Pollution. "Pollution" means the man-made or man-induced alteration of the chemical, physical, biological, and radiological integrity of water.

POTW. "POTW" means the city treatment works, which is a treatment works as defined by Section 212 of the Act. This definition includes any devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes and other conveyances only if they convey wastewater to the POTW.

Premises. "Premises" means a single-family dwelling, duplex, triplex, quadplex, apartment house, commercial building, industrial building, or other structure used or useful for habitation or other occupancy of human beings.

Pretreatment or Treatment. "Pretreatment" or "treatment" means the reduction of the amount of

pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such chemical or biological processes, or process changes by other means, except as prohibited by 40 CFR Section 403.6(d).

Priority Pollutants. "Priority pollutants" mean all pollutants as defined by the "General Pretreatment Regulations" of the Environmental Protection Agency, found at 40 CFR 401 and 403.

Process Flow. "Process flow" means the daily, 24 hour, flow of wastewater from any kind or nature of production, manufacturing or processing operation, including industrial and commercial operations where water is used for the removal of any type of waste other than sanitary sewage. Process flow does not include diluting waters.

Publicly Owned Treatment Works or POTW. "Publicly owned treatment works" or "POTW" means a treatment works as defined by Section 212 of the Act [33 U.S.C. Section 1292], which is owned by the city. This definition includes any sewers that convey wastewater to the POTW treatment plant, but does not include pipes, sewer, or other conveyances not connected to a facility providing treatment. For the purposes of this chapter, "POTW" shall also include any sewers that convey wastewaters to the POTW from persons outside the city who are, by contract or agreement with the city, users of the city POTW.

Public Sewer. "Public sewer" means any sewer dedicated to public use and whose use is controlled by a public corporation.

(q) (Reserved)

(r) "R" Definitions.

Reasonable Control Measures. "Reasonable control measures" mean control technologies, best management practices, source control practices and waste minimization procedures which prevent or reduce the introduction of pollutants to the sanitary sewer system and are determined by the director to be cost effective for particular industry groups, business types, or specific industrial processes.

(s) "S" Definitions.

Sanitary Sewer. "Sanitary sewer" means a sewer that carries sanitary sewage to which storm, surface, and groundwater are not intentionally admitted.

Sanitary Sewage. "Sanitary sewage" means water-carried wastes from residences, business buildings, institutions, and industrial establishments, excluding ground, surface and storm waters, subsurface drainage and also excluding industrial waste.

Sanitary Sewer System or Sewerage System. "Sanitary sewer system" or "sewerage system" means all sewers, treatment plants, and other facilities owned or operated by the city for carrying, collecting, pumping, treating, and disposing of sanitary sewage and industrial wastes.

Sewage. "Sewage" means a combination of water-carried waste from residences, business buildings, public buildings, institutions, and industrial establishments.

Sewage Pumping Plant. "Sewage pumping plant" means any facility designed and constructed to raise wastewater in elevation or to overcome head losses due to pipeline friction.

Sewer. "Sewer" means a pipe or conduit for carrying sewage.

Sewerage. "Sewerage" means any and all facilities used for collecting, conveying, pumping, treating, and disposing of wastewater.

Side Sewer. "Side sewer" means the sewer line beginning at the house outlet and terminating at the

main sewer and includes the building sewer and the lateral sewer.

Significant Change. "Significant change" means any change in an industrial user's operation that results in a flow that exceeds the expected peak flow as shown in the sewage treatment plant expansion connection charge calculation for the property on which the industrial user is located.

Significant Industrial User or SIU. "Significant industrial user" or "SIU" means:

- (i) A discharger subject to categorical pretreatment standards; or
- (ii) A non-categorical discharger that in the opinion of the manager, requires special regulation or source control; or
- (iii) A non-categorical discharger that contributes a process wastestream that makes up 5% or more of the average dry weather capacity of the POTW treatment plant, or that discharges an average of 25,000 gallons or more per day of process wastewater to the POTW; or
- (iv) A non-categorical discharger that contributes more than 150 pounds per day of BOD or suspended solids.

Significant Non-Compliance. "Significant non-compliance" means a compliance status assigned to an industrial discharger meeting any of the following criteria:

- (i) Chronic violations of wastewater discharge limits are those violations in which 66% or more of all the measurements taken for the same pollutant parameter during a six month period exceeds (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limits, as defined by 40 CFR 403.3(1); or
- (ii) Technical review criteria (TRC) violations of wastewater discharge limits, defined here as those violations in which 33% or more of measurements taken for each pollutant parameter during a six month period equal to or exceed the product of the numeric pretreatment standard or requirement, including instantaneous limits, as defined by 40 CFR 403.3(1) multiplied by the applicable TRC value (TRC = 1.4 BOD, TSS, fats, oil and grease and 1.2 for all other pollutants except pH); or
- (iii) Any other violation of a pretreatment standard or requirement as defined by 40 CFR 403.3(1) (daily maximum, long-term average, instantaneous limit, or narrative standard) that the POTW determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of POTW personnel or the general public); or
- (iv) A discharge of imminent endangerment to human health, welfare, or the environment, or has resulted in the POTW's exercise of its emergency authority under 40 CFR 403.8(f)(1)(vi)(B) to halt or prevent such discharge; or
- (v) Failure to meet, within 90 days of the scheduled date, a compliance schedule milestone contained in an individual wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance; or
- (vi) Failure to provide within 45 days after the due date, any required reports, including baseline monitoring reports, 90 day compliance reports, periodic self-monitoring reports, and reports on compliance schedules; or
- (vii) Failure to accurately report non-compliance; or

(viii) Any other violation or group of violations, which may include a violation of best management practices (BMPs), which the director determines will adversely affect the operation or implementation of the local pretreatment program.

Single-Family Unit. "Single-family unit" means the place of residence of single-family. Property improved for multifamily purposes shall constitute the number of units that the facilities thereon provide in number of single-family units. When such improvements are for other than residential purposes, the number of units shall be determined by dividing the total number of persons regularly using or occupying those premises by four. When this property is unsubdivided, it shall be deemed to have four lots to the acre, unless the city council, in its sole discretion, specially fixes some other number of lots therefor.

Slug Load or Slug Discharge. "Slug load" or "slug discharge" means any discharge at a flow rate or concentration, which could cause a violation of prohibited discharge standards in Section 15.10.040 of this chapter. A slug discharge is any discharge of a non-routine, episodic nature, including, but not limited to, an accidental spill or a noncustomary batch discharge, which has a reasonable potential to cause interference or pass through, or in any other way violate the POTW's regulations, local limits or permit conditions.

Standard Methods. "Standard methods" mean the procedures set forth in the Code of Federal Regulations unless another method for the analysis of industrial wastewater has been approved in writing in advance of use of the procedure by the director. The current edition of Standard Methods for the Examination of Water and Wastewater as published by the American Public Health Association. All analyses shall be performed by a laboratory certified by the State for the specific pollutants and matrix to be analyzed, unless otherwise approved in writing, by the director, prior to performance of a sample analysis.

Storm Sewer or Storm Drain. "Storm sewer" or "storm drain" means a sewer that carries storm and surface or groundwaters and drainage, but excludes sewage and polluted industrial wastes.

Stormwaters. "Stormwaters" mean the flow resulting from rainfall.

Street. "Street" means any public highway, public road, public street, public avenue, public alley, public way, public place, public easement, or public right-of-way.

Suspended Solids or Suspended Matter. "Suspended solids" or "suspended matter" means solids that either float on the surface of, or are in suspension in, water, sewage, or other liquids and that removable by laboratory filtration in accordance with procedures described in Standard Methods.

(t) "T" Definitions.

Technical Review Criteria or TRC. "Technical review criteria" or "TRC" means the multipliers used to gauge the degree or severity of violations.

Total Toxic Organics. "Total toxic organics" (TTOs) means the sum of the concentrations for each of the regulated toxic organic compounds listed at 40 CFR 401.15 and which are found in the discharge at a concentration greater than 10 micrograms per liter.

Toxic Pollutant. "Toxic pollutant" means any pollutant or any combination of pollutants listed as toxic in regulations promulgated by the EPA under the provisions of CWA 307(a) or other statutes.

Trucked or Hauled Waste. "Trucked or hauled waste" means any waste discharged into the sanitary sewer system after being placed in a motorized vehicle for removal from the location where the waste was generated or produced.

Trunk Sewer. "Trunk sewer" means a sewer constructed, maintained, and operated by the city that

conveys wastewater and into which lateral and collecting sewers discharge.

(u) "U" Definitions.

Uncontaminated Water. "Uncontaminated water" means any wasted water of the community not contaminated or polluted with wastewater and that is suitable or could readily be suitable for discharge to the city's stormwater drainage system.

User. "User" means any person responsible for payment of sewer service charges.

(v) (Reserved)

(w) "W" Definitions.

Wastewater. Wastewater means the liquid- and water-carried industrial or domestics wastes from dwellings, commercial buildings, industrial facilities, and institutions, whether treated or untreated, that is contributed into or permitted to enter the POTW.

(Ord. 1633 § 2, (2000); Ord. 1791 § 2, (2006); Ord. 1868 § 2, (2011); Ord. 2013 § 5, (2023))

§ 15.10.017. Abbreviations.

When used in this chapter or in connection with any resolution, regulation, permit, order, or other action undertaken pursuant to this chapter, the following abbreviations shall have the following meanings:

BMP	—	Best Management Practice
BOD	—	Biochemical Oxygen Demand
CFR	—	Code of Federal Regulations
COD	—	Chemical Oxygen Demand
CPC	—	California Plumbing Code
EPA	—	Environmental Protection Agency
FOG	—	Fats, Oils, and Grease
L	—	Liter
mg	—	Milligrams
mg/L	—	Milligrams per Liter
NPDES	—	National Pollutant Discharge Elimination System
POTW	—	Publicly Owned Treatment Works
SIC	—	Standard Industrial Classification
SIU	—	Significant Industrial User
SWDA	—	Solid Waste Disposal Act [42 U.S.C. Section 6901 et seq.]
USC	—	United States Code
TSS	—	Total Suspended Solids

(Ord. 1633 § 2, (2000); Ord. 2013 § 6, (2023))

§ 15.10.020. Sewer required.

The owner of any premises occupied or used by humans and containing any plumbing installation whatsoever is required at the owner's expense to connect the building or structure directly to the city sewerage works, in accordance with the provisions of this chapter, Chapter 15.08, and Title 18, within 90 days from completion of the plumbing installation.

(Ord. 913 § 1, (1970); Ord. 1250 § 2, (1983); Ord. 1633 § 2, (2000))

§ 15.10.021. Occupancy prohibited.

No building, industrial facility nor other structure shall be occupied or used until and unless the owner of the premises has complied with all applicable rules and regulations of this chapter.

(Ord. 1250 § 2, (1983); Ord. 1633 § 2, (2000))

§ 15.10.024. Planning, design, and construction standards.

Public sewers and side sewers shall be planned, designed, constructed, installed, and repaired in accordance with the plans and specifications established by the director of public works.

(Ord. 1825 § 2, (2008))

§ 15.10.025. Construction permit required.

- (a) Approval Required. No person shall construct or cause to be constructed, or alter or cause to be altered, any public sewer, lateral sewer, house connection or industrial connection sewer, sewage pumping plant, pollution control plant, or other sewerage facility in the city where existing or proposed wastewater flows will discharge directly or indirectly to city facilities without first obtaining approval of the sewerage construction from the city. This subsection shall not apply to duly authorized city employees or persons contracted to the city to perform the work for the city.
- (b) Permit Required or Construction of Sewer or Sewer Connection.
 - (1) No person shall construct a building sewer or lateral sewer or make any connection with or opening into, use, alter, or disturb any public sewer or appurtenances or perform any work on any lateral or building sewer without first obtaining a written permit from the city and paying all fees and connection charges therefor.
 - (2) A person legally entitled to apply for and receive such a permit shall make application on forms provided by the city for that purpose. The applicant shall give a description of the character of the work to be done, and the location, ownership, occupancy, and use of the premises related to the work. The director may require plans, specifications, or drawings, and such other information as the director may deem necessary in the director's professional judgment.
 - (3) If the director determines that the plans, specifications, drawings, description, and information furnished in connection with the application are in compliance with this code and the ordinances, rules, and regulations governing the proposed work and installation, the director shall issue the permit upon payment of the required fees and charges. The director may attach conditions to the permit that are reasonably necessary to ensure compliance with this code and the ordinances, rules, and regulations governing the proposed work and installation.
- (c) Compliance With Permit. After issuance of the permit, no change shall be made in the location of the sewer, the grade, materials, or other details from those described in the permit and as shown in the approved plans and specifications for which the permit was issued nor any deviation shall occur from

any condition attached to the approved permit except with written authorization from the department, the inspector, or other duly authorized city employee.

- (d) Agreement. The applicant's signature on an application for a permit pursuant to this section shall constitute an agreement by the applicant and any person whom the applicant represents in connection with the application to comply with the terms, requirements, and conditions of this code, the ordinances, rules, and regulations governing the proposed work and installation, with the approved plans and specifications for the work, if any, and with the conditions placed on the permit as well as any corrections or modifications that may be ordered or permitted by the city. This agreement shall be binding on the successors and assigns of the applicant and the persons whom the applicant represents in connection with the application.
- (e) Costs Paid by Owner. All costs and expenses incident to the installation and connection of any sewer or other work for which a permit has been issued pursuant to this section shall be borne by the owner of the premises to be served by the work. The owner shall indemnify the city and its officers and employees from any loss or damage that may directly or indirectly be caused by the work.
- (f) Additional Permits. The persons seeking to do the work under a permit issued pursuant to this section shall be solely responsible for obtaining all other permits from any agency or permission from any person necessary to performing the work, including any excavation or encroachment permit from the city.
- (g) Liability. Neither the city, nor any of its officers, employees, or agents, shall be answerable for any liability for injury or death to any person or damage to any property arising during or growing out of the performance of work performed under any permit issued pursuant to this section. The permitholder shall be answerable for and save the city, its officers, employees, and agents harmless from any liability imposed by law upon the city, its officers, employees, and agents, and from any claims that may be made against the city, its officers, employees, and agents, including all costs, expenses, attorney fees, fees, and interest incurred in defending any such liability or claims. The permit holder shall be responsible for any defects in the design or performance of work under the permit or any failure that may develop in that work.

(Ord. 1633 § 2, (2000))

§ 15.10.028. Construction requirements.

- (a) Minimum Size. The minimum size of a building sewer shall be six-inch diameter. However, in any building designed or to be used exclusively for residential occupancy of six dwelling units or less, the minimum size shall be four-inch diameter. The director may order or authorize a different size of building sewer consistent with the California Plumbing Code as amended by this code.
- (b) Public Safety. All excavations for a lateral sewer installation shall be adequately guarded with barricades or lights so as to protect the public from hazard. Any public property disturbed in the course of the work shall be restored to a condition that is as good or better than existed before the work began.
- (c) The requirements of subsection (a) above shall not apply retroactively, but any replacement of an existing sewer shall conform to subsection (a).

(Ord. 1633 § 2, (2000))

§ 15.10.029. Installation of backwater protection.

- (a) Definitions.

"Backwater protection" means a backwater valve, ejector or pump system, or relief valve or a combination of two or more of these devices that is approved by the building official and intended to prevent sewage from backflowing into a structure.

"Drainage unit fixture" means a drainage unit fixture listed in table 7-3 of the 1998 California Plumbing Code.

"Inadequate height differential" means that the flood level rim of a drainage unit fixture on a property's sanitary sewage drainage system is less than one foot above the next upstream manhole or flushing inlet cover on the sanitary sewer main serving the fixture's drainage piping.

"Licensed professional" means a person authorized under California law to render an applicable certification to the property owner and the city regarding a specific question under this section.

- (b) Ongoing Responsibility. In addition to installing backwater protection when required pursuant to Title 18, a property owner shall ensure that backwater protection is installed and fully operable in the building sewer or sewers serving the property owner's real property whenever an inadequate height differential situation exists on the property.
- (c) Addition of Drainage Unit Fixture. Whenever any drainage fixture unit is to be added to real property, the property owner shall obtain and file with the building official at the time of application for a building permit for the fixture unit a written certification by a licensed professional determining whether an inadequate height differential situation exists on the real property. If such a situation exists, the property owner shall provide the backwater protection described in section 18.12.080 or permanently remove the drainage unit fixture or fixtures that have an inadequate height differential before completion of installation of the additional drainage unit fixture.
- (d) Proof of Previous Installation. Instead of providing certification pursuant to subsections (c) as applicable, a property owner may file a certification from a licensed professional demonstrating that backwater protection as approved by the building official has been installed on the property's sewage drainage system and is fully operable. This certification is subject to inspection confirmation by the city.
- (e) Maintenance. Property owners are responsible for ensuring that backwater protection is properly maintained and functioning at all times. Backwater protection is subject to inspection by the city at any reasonable time, and failure to properly install and maintain this protection may result in suspension of sewer service.
- (f) Compliance with Titles 15 and 18. Any installation of backwater protection or modification to any sewer shall be performed and inspected under the requirements of titles 15 and 18 of this code and established city procedures.

(Ord. 1710 § 2, (2003); Ord. 1723 § 2, (2003))

§ 15.10.030. Inspection.

- (a) All sewer construction work, building sewers, plumbing and draining systems shall be inspected by an inspector authorized by the city to insure compliance with all city requirements. No sewer shall be covered until it has been inspected and passed. No sewer shall be connected to the city's public sewer until the work encompassed within the applicable permit has been completed, inspected, and approved by the city inspector. If the test proves satisfactory and the sewer has been cleaned of all debris accumulated from construction operations, the inspector shall issue a certificate of satisfactory completion.

- (b) It shall be the duty of the person doing the work authorized by permit to notify the department that the work is ready for inspection. This notification shall be given at least 24 hours before the work is to be inspected. The person doing the work shall ensure that the work will stand the tests required by the city before making a request for inspection.
- (c) All building sewers and lateral sewers shall be tested in the presence of the city inspector by filling the line with water or air and inspecting for excessive leakage. Fittings, plugs, water, and labor for testing shall be furnished by the person constructing the sewer. If the existing lateral is to remain, it shall be tested as specified above. All lines showing excessive leakage shall be repaired or replaced at the sole expense of the person controlling the work to the satisfaction of the city inspector.
- (d) When work has been inspected pursuant to this section and the work has not passed, a written notice to that effect will be given instructing the owner of the work to repair the sewer or other work authorized by the permit in accordance with the permit requirements.

(Ord. 913 § 1, (1970); Ord. 1250 § 2, (1983); Ord. 1633 § 2, (2000))

§ 15.10.032. Maintenance of sewer laterals.

- (a) The city shall not be responsible for maintenance or repair of any lateral sewer unless the lateral sewer conforms to all of the requirements of this chapter and other applicable city regulations and the city has expressly determined to provide this maintenance or repair.
- (b) The city shall have the right to enter onto private property for the purpose of inspection, maintenance, repair, rehabilitation, or replacement of the portion of the lateral sewer that may be maintained by the city.

(Ord. 1633 § 2, (2000); Ord. 1825 § 3, (2008))

§ 15.10.034. Limitation on point of discharge.

- (a) No person shall discharge, cause or allow or permit to be discharged any substance into a manhole or other opening in a community sewer except through an approved building sewer, unless that person has first obtained a permit to do so from the city.
- (b) No person shall discharge, cause or allow or permit to be discharged any sewage, industrial waste, or other polluted waters into any storm drain or natural outlet or creek or stream or channel without first obtaining a valid National Pollutant Discharge Elimination System (NPDES) permit.

(Ord. 1633 § 2, (2000))

§ 15.10.036. Prohibited activities.

No person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment that is part of the sewerage works or any sampling device.

(Ord. 1633 § 2, (2000))

§ 15.10.038. Generally prohibited wastes.

- (a) No person shall discharge or cause to be discharged to a public sanitary sewer any substance or waste that contains substances or has characteristics that either alone or by interaction with other wastewater cause or threaten to cause interference or pass-through.
- (b) No person shall discharge to any public sewer any wastes, if in the opinion of the city, those wastes may have any adverse or harmful effect on sewers, maintenance personnel or equipment, wastewater

treatment personnel or equipment, treatment plant effluent quality, public or private property, aquatic life in any waters receiving effluent from the sanitary sewer system, or create a hazard in the use or disposal of sewage sludge, or may otherwise endanger the public, the local environment, or create a public nuisance.

- (c) No person shall discharge or cause to be discharged to a public sewer any waste, including any fats, oils, or grease, that creates a stoppage, plugging, breakage, any reduction in the sewer capacity, or any other damage to sewers or sewerage facilities of the city.

(Ord. 1633 § 2, (2000); Ord. 1825 § 4, (2008))

§ 15.10.040. Specifically prohibited wastes.

No person shall discharge or cause to be discharged to a public sanitary sewer any of the following wastes:

- (a) Any wastewater containing any flammable liquid, solid, vapor, or gas or other substance, including, but not limited to, any substance having a closed cup flashpoint of less than 140 degrees Fahrenheit or 60 degrees Celsius, using the test methods specified in 40 CFR 261.21. Prohibited materials include but are not limited to gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides, and sulfides, and any other substances that the city, the state, or the EPA has notified the user is a fire or explosive hazard or a hazard to the system; or
- (b) Any waste having a pH lower than 5.0 or having any corrosive or detrimental characteristic that may cause injury to any person operating, maintaining, repairing, or constructing the sanitary sewer system or any part thereof, or working in or about the sanitary sewer system, or any damage to any part of the sanitary sewer system, or any waste with a pH high enough to cause alkaline incrustations on sewer walls; or
- (c) Any solids or viscous substances of such size or in such quantity that they may cause flow obstruction in any part of the sewer or be detrimental to proper wastewater treatment plant operations. Such substances include but are not limited to, asphalt, cement, dead animals, offal, ashes, sand, mud, straw, industrial process shavings, metal, glass, rags, feathers, tar, plastics, wood, whole blood, paunch manure, bones, hair and fleshings, entrails, fats, oils, grease, paper dishes, paper cups, milk containers, or similar paper products, either whole or ground, and resins; or
- (d) Any wastes with excessively high BOD, COD, or decomposable organic content that will cause interference with the sanitary sewer system; or
- (e) Any waste containing heat in amounts that will inhibit biological activity at the POTW resulting in interference, but in no event, no liquid, solid, vapor, gas, or thing having or developing a temperature of 150 degrees Fahrenheit or more, or that may cause the temperature at the POTW to exceed 104 degrees Fahrenheit or
- (f) Any non-biodegradable cutting oils, commonly called soluble oil; or
- (g) Any petroleum oil, non-biodegradable oil, or refined petroleum product; or
- (h) Any waste containing toxic or poisonous solids, liquids, or gases in such quantity that alone, or in combination with other waste substances, may create a hazard to humans, animals, or the local environment, interfere with the wastewater treatment processes, cause a public nuisance, or cause any condition hazardous to health and safety in the sewerage system; or
- (i) Any substance promoting or causing the promotion of toxic gases; or

- (j) Any waste requiring an excessive quantity of chlorine or other chemical compound used for disinfection purposes; or
 - (k) Any excessive amounts of chlorinated hydrocarbon or organic phosphorous type compounds; or
 - (l) Any excessive amount of deionized water, steam condensate, or distilled water; or
 - (m) Any wastewater producing excessive discoloration of wastewater or treatment plant effluent, such as dye wastes and vegetable tanning solutions; or
 - (n) Any wastes containing excessive quantities of iron, boron, chromium, phenols, plastic resins, copper, nickel, zinc, lead, mercury, cadmium, selenium, arsenic, or any other objectionable materials toxic to humans, animals, the local environment, or to the biological or other wastewater; or
 - (o) Any blow-down or bleed water from cooling towers or other evaporation coolers exceeding one-third of the make-up water; or
 - (p) Any single pass cooling water; or
 - (q) Any quantities of radioactive material wastes; or
 - (r) Recognizable portions of the human anatomy; or
 - (s) Any strongly odorous waste or waste tending to create odors; or
 - (t) Any waste containing greater than 0.1 mg/L of dissolved sulfides; or
 - (u) The use or addition of any chemical or biological agent used for the maintenance of grease traps and interceptors. This includes enzymes, emulsifiers, and bacterial cultures.
- (Ord. 913 § 1, (1970); Ord. 1250 § 2, (1983); Ord. 1633 § 2, (2000); Ord. 1791 § 3, 2006); Ord. 1825 § 5, (2008))

§ 15.10.042. Prohibition on trucked and hauled wastes.

No person shall discharge, cause, allow or permit any trucked or hauled waste to be discharged into the sanitary sewer system, except at a site specifically designated in a wastewater discharge permit issued pursuant to this chapter.

(Ord. 1633 § 2, (2000))

§ 15.10.044. Prohibition on garbage.

- (a) No person shall discharge, deposit, or throw, or cause, allow or permit to be discharged, deposited, or thrown into the sanitary sewer system, or any part thereof, any garbage, or any fruit, vegetable, animal or other solid material from any food-processing plant or other industrial plant, food establishment or restaurant, or retail grocery store, irrespective of whether or not it shall have been first passed through a mechanical grinder.
 - (b) No person shall install, operate, use or maintain upon the premises of any food-processing plant, or any other industrial plant or retail grocery store, any mechanical grinder or waste grinder that is connected directly or indirectly to the sanitary sewer system, or any part thereof.
- (Ord. 1633 § 2, (2000))

§ 15.10.046. Prohibition on use of diluting waters.

The use of diluting waters as a partial or complete substitute for adequate treatment, to achieve compliance, or to meet local limitations for wastewater as set forth in this chapter, or to avoid or minimize any requirements imposed in a wastewater discharge permit is prohibited.

(Ord. 1633 § 2, (2000))

§ 15.10.048. Suspended solids—Dissolved matter.

No person shall discharge, cause, allow or permit to be discharged into the sanitary sewer system or any part thereof, any liquid containing suspended solids or dissolved matter of such character and quantity that unusual attention or expense is required to handle, process, or treat such matter at the Plant.

(Ord. 1633 § 2, (2000))

§ 15.10.050. Limitations on wastewater strength.

No person shall discharge, cause, allow, or permit to be discharged into a public sanitary sewer or any part thereof, any waste containing an excess in concentration of the following substances:

Substance	Maximum Allowable Concentration
Arsenic	0.08 mg/L
BOD	1300 mg/L
Cadmium	0.138 mg/L
Copper	2.0 mg/L
Cyanide	0.292 mg/L
Lead	0.365 mg/L
Mercury	0.010 mg/L
Nickel	0.445 mg/L
Phenol	7.8 mg/L
Selenium	0.106 mg/L
Silver	0.200 mg/L
TSS	1200 mg/L
Total Chromium	2.532 mg/L
Zinc	0.386 mg/L

These limitations are subject to amendment at any time, and no permit granted under this chapter shall constitute any vested right of any kind to continue to maintain concentrations at this or any other level.

(Ord. 1633 § 2, (2000); Ord. 1791 § 4, (2006))

§ 15.10.052. Limitation on other pollutants.

No person shall discharge or cause or allow or permit to be discharged any pollutant, including oxygen demanding pollutants to be released at a flow rate or a pollutant concentration, or both, that a user knows

or has reason to know will cause interference to the POTW. In no event shall a person discharge or cause or allow or permit a discharge to have a slug load with a flow rate or contain a concentration or qualities of pollutants that exceeds for any time period of more than five times the average 24 hour concentration quantities or flow during normal operation.

(Ord. 1633 § 2, (2000))

§ 15.10.054. Holding tank wastes.

- (a) No person shall discharge any holding tank waste into a community sewer unless that person has obtained a permit to do so from the city. Unless otherwise specifically allowed under the terms of a city permit, a separate permit shall be required for each separate discharge.
- (b) No person shall discharge or cause or allow or permit to be discharged directly or indirectly to a public sewer any wastes originating from a recreational vehicle, boat, camper, mobile home, trailer, portable toilet, chemical toilet, or any temporary or mobile sanitation facility except pursuant to permit issued by the city at a facility designed and operated for this type of discharge.

(Ord. 1633 § 2, (2000))

§ 15.10.056. Stormwaters, surface water, groundwater.

- (a) No person shall discharge, cause or allow or permit any stormwater, roof or yard drainage, foundation, underdrainage, or groundwater to be discharged into the sanitary sewer system without first obtaining a permit from the city to do so. Such a permit shall only be granted in exceptional cases of public necessity when no other reasonable alternative is available.
- (b) No plumbing or piping shall be connected or designed in such a manner as to make possible the discharge of storm, surface and underground waters into the sanitary sewer system without first obtaining a permit from the city as described in subsection (a).

(Ord. 1633 § 2, (2000))

§ 15.10.058. Medical wastes.

- (a) Hospitals, medical clinics, offices of medical doctors, and convalescent homes may discharge to the sanitary sewer system through a city-approved grinder installation with inlet size and design features suitable for its intended use and so construct that all particles pass through a maximum three-eighths-inch opening wastes of the following category:
 - (1) Infectious wastes defined as follows:
 - (A) Laboratory and surgical operating room wastes except as excluded in subsection (b); and
 - (B) Wastes from outpatient areas and emergency rooms similar those included in subsection (A) above with the same exclusions; and
 - (C) Solid wastes generated in the rooms of patients who are not isolated because of a suspected or diagnosed communicable disease.
- (b) In no event shall any person discharge, or cause or allow or permit the following wastes to be discharged to the sewer by any means:
 - (1) Equipment, instruments, utensils, and other materials of a disposable nature that may harbor or transmit pathogenic organisms and that are used in the rooms of patients having a suspected or diagnosed communicable disease which by the nature of the disease is required to be isolated;

or

- (2) Any recognizable portions of the human anatomy; or
- (3) Wastes excluded by other provisions of this chapter except as specifically permitted pursuant to subsection (a); or
- (4) Any solid waste not specifically described in subsection (a).

(Ord. 1633 § 2, (2000))

§ 15.10.060. Quantity of wastes.

The rate of discharge of industrial wastes to the sewer system shall be limited to the capacity of the lateral and main sewers flowing as open-channel conduits. Facilities shall be provided for dampening or equalizing "slug" discharges in order to comply with concentration restrictions as defined in this chapter.
(Ord. 913 § 1, (1970); Ord. 1250 § 2, (1983); Ord. 1633 § 2, (2000))

§ 15.10.062. Protection from accidental and slug discharges.

- (a) Each industrial user shall provide protection from accidental discharge of prohibited materials or other wastes regulated by this chapter into either the storm sewer or sanitary sewer systems. The city shall evaluate whether each SIU needs an accidental discharge/slug discharge control plan or other action to control slug discharges. The city may require any user to develop, submit for approval, and implement such a plan or take such other action that may be necessary to control slug discharges.
- (b) Facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the industrial user's expense.
- (c) Any direct or indirect connection or entry point for deleterious wastes to the discharger's plumbing or drainage system shall be eliminated through reasonable disconnection or barriers as necessary to ensure protection to the system.
- (d) Significant industrial users are required to notify the city immediately of any changes at its facility affecting the potential for a slug load/slug discharge.

(Ord. 1868 § 3, (2011))

§ 15.10.064. Pretreatment of industrial waste.

- (a) An industrial wastewater pretreatment system or device may be required by the city to treat industrial flows prior to discharge to the sewer when it is necessary to restrict or prevent the discharge to the sewer of certain waste constituents, to distribute more equally over a longer time period any peak discharges of industrial wastewaters or to accomplish any pretreatment result required by the city. All pretreatment systems or devices shall be approved by the city but such approval shall not absolve the industrial discharger of the responsibility of meeting any industrial effluent limitation required by the city, county, state, or federal government. In special cases, the city may require construction of sewer lines by the discharger to convey certain industrial wastes to a specific city trunk sewer. All pretreatment systems judged by the city to require engineering design shall have plans prepared and signed by an engineer of suitable discipline licensed in the state.
- (b) Normally a gravity separation interceptor, equalizing tank neutralization chamber and control manhole will be required respectively to remove prohibited settleable and floatable solids, to equalize wastewater streams varying greatly in quantity and/or quality, to neutralize low or high pH flows and

to facilitate inspection, flow measurement and sampling. Floor drains from commercial or manufacturing buildings, warehouses, multi-use structures, areas where any waste requiring pretreatment is involved shall not discharge directly into the sewer, but shall first discharge to a gravity separation interceptor. Where preliminary treatment facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at owner's expense.

- (c) The city may adopt additional rules and regulations by resolution, after a public hearing, for administration of this section.
 - (d) Any petroleum-contaminated groundwater shall be processed through an activated carbon pretreatment system approved by the city prior to discharge to the sanitary sewer system. This discharge shall only be done under permit.
- (Ord. 913 § 1, (1970); Ord. 1250 § 2, (1983); Ord. 1633 § 2, (2000))

§ 15.10.066. Interceptors required.

- (a) Any type of business or establishment that is required to install an interceptor shall be consistent with the recommended procedure for sizing, design, and installation based on the current adopted California Plumbing Code and design approved by the director of public works.
- (b) Each interceptor shall be so installed and connected that it shall be at all times easily accessible for inspection, cleaning and removal of grease.
- (c) The interceptor should be situated on the discharger's premises but when such a location would be impractical or cause undue hardship on the discharger, the city may issue an encroachment permit to allow the device to be installed in the public street or sidewalk area and located so that it will not be obstructed by landscaping or parked vehicles. However, such a device shall not at any time pose a hazard or obstruction to public use of the street or sidewalk area.
- (d) Waste discharge from fixtures and equipment in establishments which may contain grease or other objectionable materials, including, but not limited to, scullery sinks, pot and pan sinks, dishwashers, food waste disposals, soup kettles, mop sinks, floor sinks, and floor drains located in areas where such objectionable materials may exist, may be drained into the sanitary waste through the interceptor when approved by the director; provided, however, that toilets, urinals, wash basins, and other fixtures containing fecal material shall not flow through the interceptor. Heat in amounts that may cause interference with the FOG separation process shall not be connected to a grease interceptor unless approved by the director of public works.
- (e) Interceptors shall be maintained in efficient operating condition by periodic removal of the accumulated grease in accordance with the manufacturer's operations manual or as deemed by the inspector. The use of chemicals to dissolve grease is specifically prohibited. No accumulated grease shall be introduced into any drainage piping or public or private sewer. Users with interceptors shall maintain them in good operating condition at all times.
- (f) The discharger shall develop and maintain a record of periodic maintenance, and pumping of the interceptor records shall be retained for a period of not less than three years. All records shall be available for inspection in either physical or electronic form.
- (g) Pumping shall be sufficiently frequent to prevent objectionable odors, surcharge of the interceptors, or interference with the operation of the sanitary sewer system.

(h) Abandoned interceptors shall be emptied and filled as required for abandoned septic tanks in accordance with the California Plumbing Code.

(i) Existing users may be required to install an interceptor for the proper handling of grease-laden wastewaters approved by the director of public works. The discharger is responsible for obtaining all necessary permits before installing a required interceptor.

(Ord. 913 § 1, (1970); Ord. 1250 § 2, (1983); Ord. 1633 § 2, (2000); Ord. 2013 § 7, (2023))

§ 15.10.068. Screened industrial wastes.

No person shall discharge, cause, allow or permit to be discharged into the sanitary sewer system or any part thereof, any garbage, or any fruit, vegetable, animal, or other solid industrial wastes resulting from the processing, packaging, or canning of fruits, vegetables, or other foods or products.

(Ord. 1633 § 2, (2000))

§ 15.10.070. Wastewater discharge permit required.

(a) No person shall discharge, or cause or allow or permit to be discharged industrial wastewaters, or any waste that alone or in conjunction may cause interference or pass through the POTW, directly or indirectly to sewage facilities owned by the city without first obtaining a city permit for wastewater discharge.

(b) A permit shall be issued for a specified time period, not to exceed five years. A permit may be issued for a period less than a year or may be stated to expire on a specific date. The discharger shall apply for permit reissuance a minimum of 45 days prior to the expiration of the user's existing permit.

(Ord. 1633 § 2, (2000); Ord. 2013 § 8, (2023))

§ 15.10.072. Permit application.

Any person seeking a wastewater discharge permit, other permit, or amendment to a permit under this chapter shall complete and file an application on the form prescribed by the director and accompanied by all applicable fees and charges. The application shall contain the following information at a minimum:

- (a) Signature, name, and address of both the owner of the property from which the discharge is to occur and the applicant for the permit if other than the owner. The persons signing the application on behalf of an entity shall be at least of the level of vice president, general partner, or an individual responsible for the overall operation of the facility or property and meeting the conditions of the requested permit, or a person meeting the federal requirements for NPDES applications as specified in Title 40 of the CFR; and
- (b) Volume of wastewater to be discharged; and
- (c) Estimated wastewater constituents and characteristics; and
- (d) Time and duration of discharges; and
- (e) Average and 30 minute peak wastewater flow rates, including daily, monthly, and seasonal variations, if any; and
- (f) Site plans, floor plans, and mechanical and plumbing plans and details, sufficient to show all sewers and appurtenances by size, location, and elevation; and
- (g) Description of all activities, facilities, and plant processes on the property that may in any way relate

to the discharges, including types of materials that are or could be discharged; and

- (h) Each product produced by type, amount, and rate of production that may in any way relate to the discharges; and
- (i) Hours of work and activities at the property.

The director may require such additional information as the director needs in order to determine whether the proposed discharge will comply with the requirements of this chapter.

(Ord. 1633 § 2, (2000))

§ 15.10.074. Determination on permit application.

- (a) Following review of the application and receipt of such information as the director may require, the director shall determine whether to approve or deny the permit or permit amendment being sought. The director will grant the permit if:
 - (1) The applicant has complied with all applicable requirements of this chapter and applicable city, county, state, and federal regulations, laws, and orders regarding the proposed discharge; and
 - (2) The applicant has furnished all information requested by the director; and
 - (3) The director determines that there are adequate devices, equipment, chemicals, personnel, and other facilities to sample, meter, convey, treat, and dispose of the proposed discharges; and
 - (4) The persons to be responsible for treatment and control of the proposed discharges are adequately trained and capable of consistently complying with permit requirements; and
 - (5) The applicant and the property owner have expressly agreed to the conditions applied by the director pursuant to subsection (b).
- (b) In granting such an application, the director will condition the permit in order to ensure compliance with this chapter and applicable city, county, state, and federal regulations, laws, and orders regarding the proposed discharge, which may include, but are not limited to, the following:
 - (1) Limits on the average and maximum wastewater constituents and characteristics;
 - (2) Requirements for installation and maintenance of flow monitoring, inspection, and sampling facilities;
 - (3) Specifications and pretreatment requirements for monitoring programs which may include sampling locations, frequency of sampling, number, types and standards for tests and reporting schedule;
 - (4) Compliance schedules;
 - (5) Requirements for submission of technical reports or discharge reports;
 - (6) Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the city and affording the city access thereto;
 - (7) Requirements for notification to the city of any new introduction of wastewater constituents or any significant change in the volume or character of the wastewater constituents being

introduced into the wastewater stream;

- (8) Requirements and plans for protection against accidental discharges, including, but not limited to, berthing of chemicals and waste materials. The review and approval of such plans and operating procedures shall not relieve the user from the responsibility of modifying the facility as necessary to provide the protection necessary to meet the requirements of this code or other state or federal regulations;
- (9) Requirements for notification of accidental discharges;
- (10) Requirements for notification of slug discharges;
- (11) Requirements to control slug discharges, if determined by the city to be necessary.

(Ord. 1633 § 2, (2000); Ord. 1868 § 4, (2011))

§ 15.10.076. Permit denial.

- (a) Notwithstanding Section 15.10.074, the director shall deny a wastewater discharge permit, other permit, or amendment to a permit under this chapter if the director determines that one or more of the following exist:
 - (1) The application is not accompanied by required fees and charges; or
 - (2) The application contains incomplete, false or misleading information; or
 - (3) The issuance of the requested permit would result in the discharge of wastewater or other substances that would endanger the public health or safety or public or private property; or
 - (4) The issuance of the requested permit would cause the plant or the sewerage system to violate any applicable permit conditions, laws, regulations, or orders of the city, county, state or federal government; or
 - (5) The applicant has not provided sufficient information to establish that its discharge will comply all requirements of this chapter and with such other terms and conditions as the director deems necessary to apply to the requested permit; or
 - (6) The applicant has not provided plans for sufficient protection from accidental discharges to the land, storm sewer system, or sanitary sewer system.

(Ord. 1633 § 2, (2000))

§ 15.10.078. Non-transferability.

No permitholder shall assign, transfer, sell any permit issued under this chapter nor use any such permit for or on any premises or for facilities or operations or discharges not expressly encompassed within the underlying permit. No person shall discharge any industrial wastewaters in excess of the quality or quantity limitations set by the terms and conditions of the permit without first obtaining approval of an amendment to the permit pursuant to this chapter.

(Ord. 1633 § 2, (2000))

§ 15.10.080. Permit amendment.

- (a) Any permitholder may apply at any time for an amendment to a permit issued under this chapter to amend the terms and conditions of the permit. Such an application will be processed in the same

manner as an original application.

- (b) Each permit issued pursuant to this chapter shall be automatically amended to include any more stringent, applicable federal or state requirements, regulations, laws, or orders for discharges than are contained in the permit or in this chapter. The director will endeavor to give notice of changes in reporting requirements, but the permitholder shall be responsible for complying with more stringent limitations with or without notice from the city.
- (c) In order to protect the health and safety of the community or to comply with an applicable federal, state, or county order, regulation, or law, the director may order an amendment to an existing permit at any time upon reasonable notice. Reasonableness of the notice will be determined by the urgency of the danger or the terms of the federal or state order, regulation, or law.

(Ord. 1633 § 2, (2000))

§ 15.10.081. Reclassification from significant industrial user.

At any time, the director may on the director's own initiative or in response to a petition from the industrial user or POTW determine that the industrial user should not be classified as a significant industrial user in accordance with 40 C.F.R. Section 403.8(f)(6) even though the industrial user meets the definition of a significant industrial user, if the director determines the following:

- (a) The industrial user has no reasonable potential for adversely affecting operation of the POTW; and
- (b) The industrial user has no reasonable potential for violating any pretreatment standards or requirements.

(Ord. 1791 § 5, (2006))

§ 15.10.082. New sources.

- (a) New sources of industrial waste discharges shall be in full compliance with the provisions of this chapter at the time of commencement of discharge. Dischargers of new sources, upon request of the director, shall complete a waste minimization study in accordance with guidelines published by the director, and shall certify that measures have been taken to minimize toxic constituents in the discharge.
- (b) The owner of every newly constructed, remodeled, or converted commercial or industrial facility shall comply with the following requirements upon commencement of discharge. These requirements shall apply to remodeled or converted facilities to the extent that the portion of the facility being remodeled or converted is related to the subject of the requirement:
 - (1) Interior (indoor) floor drains to the sewer system may not be placed in areas where hazardous materials, hazardous wastes, industrial wastes, industrial process water, lubricating fluids, vehicle fluids or vehicle equipment cleaning wastewater are used or stored, unless secondary containment is provided for all such materials and equipment. The director may allow an exception to this requirement under the following circumstances:
 - (A) When the drain is connected to a wastewater treatment unit approved by the director;
 - (B) (For safety showers) When the drain is installed with a temporary plug which remains closed except when the shower is in use, or when the drain is protected from spills by either a covered sump or berm system. If a sump is used, the capacity shall be at least as large as the largest chemical container in the laboratory;

- (C) For industrial process equipment, if the equipment does not contain hazardous waste and if all floor drains are equipped with fail-safe valves which shall be kept closed during periods of operation.
- (2) Exterior (outdoor) drains may be connected to the sewer only if the area in which the drain is located is covered or protected from rainwater run-on by berms and/or grading, and appropriate wastewater treatment approved by the director is provided. Any loading dock area with a sanitary sewer drain shall be equipped with a fail-safe valve, which shall be kept closed during periods of operation.
- (3) Interior floor drains shall not be connected to the storm drain.
- (4) Exterior drains shall be connected to the storm drain. Such connections shall not be permitted within the following areas:
 - (A) Equipment or vehicle washing areas;
 - (B) Areas where chemicals, hazardous materials, or other uncontained materials are stored unless secondary containment is provided;
 - (C) Equipment or vehicle fueling areas or fluid changing areas;
 - (D) Loading docks where chemicals, hazardous materials, grease, oil, or waste products are handled.
- (5) Fueling areas shall have impermeable floors and rain covers that extend a minimum of 10 feet in each direction from each pump.
- (6) Roof drains may discharge to the storm drain system, provided that all roof equipment, tanks, and pipes containing other than potable water, cooling system water, or heating system hot water have secondary containment.
- (7) Boiler drain lines shall be connected to the sewer system and may not be discharged to storm drain system.
- (8) Condensate lines shall not be connected or allowed to drain to the storm drain system.
- (9) Copper, copper alloys, lead and lead alloys, including brass, shall not be used in the sewer lines, connectors, or seals coming in contact with sewage, except for sink traps and associated connecting pipes.
- (10) Secondary containment shall be provided for exterior work areas where motor oil, brake fluid, gasoline, diesel fuel, radiator fluid or other hazardous materials or hazardous wastes are used or stored. Drains shall not be installed within the secondary containment areas. The director may allow a drain for work areas (but not for hazardous storage areas) if the secondary containment area is covered and if the drain is connected to a wastewater treatment facility approved by the director.
- (11) Sacrificial zinc anodes are not permitted to be in contact with the water supply in a water distribution system.
- (12) Aspirators connected to laboratory sink faucets are prohibited; however, aspirators designed and used for transferring acids and bases from stationary permanent laboratory sinks to treatment facilities shall be allowed.

- (13) Laboratory countertops and laboratory sinks shall be separated by a lip which prevents hazardous materials spilled on the countertop from draining to the sink.
- (14) Sewer traps below laboratory sinks shall be made of glass or other approved transparent materials to allow inspection and to determine frequency of cleaning. Alternatively, a removable plug for cleaning the trap may be provided, in which case a cleaning frequency shall be established by the director. In establishing the cleaning frequency, the director shall consider the recommendations of the facility. The director will grant an exception to this requirement for areas where mercury will not be used; provided, that in the event such an exception is granted and mercury is subsequently used in the area, the sink trap shall be retrofitted to meet this requirement prior to use of the mercury.
- (15) Swimming pool discharge drains shall not be connected directly to the storm drain system or to the sewer system. When draining is necessary, a hose or other temporary system shall be directed into a sewer (not storm drain system) clean out. A sewer clean out shall be installed in a readily accessible area.
- (16) Food service facilities shall have a sink or other area for cleaning floor mats, containers, and equipment, which is connected to a grease interceptor and the sanitary sewer. The sink or cleaning area shall be large enough to clean the largest mat or piece of equipment to be cleaned. New buildings constructed to house food service facilities shall include a covered, bermed area for a dumpster.
- (17) Parking garage floor drains on interior levels shall be connected to an interceptor and to the sanitary sewer system.

(Ord. 1633 § 2, (2000))

§ 15.10.084. Compliance schedules.

In the event that an industrial waste discharge permitholder or applicant should be affected by a newly promulgated waste discharge standard or an existing discharge permitholder is reclassified as being subject to the categorical standards provided in the pretreatment regulations due to process changes, or an inspection reveals the presence of regulated processes, or new information becomes available that justifies or requires a reclassification, the discharger shall, within 90 days of the effective date of a categorical standard or reclassification, file a baseline monitoring report [BMR]. If additional pretreatment or additional operation at and maintenance procedures or installation of facilities, equipment or improvement, will be required to meet the pretreatment regulations, the discharger shall include a compliance time schedule which specifies the shortest schedule by which the discharger will provide such additional pretreatment procedures or facilities, equipment or improvements to attain compliance. For purposes of pretreatment regulations, the completion date in this schedule shall not be later than the established compliance date provided by the applicable pretreatment regulations.

(Ord. 1633 § 2, (2000))

§ 15.10.088. Revocation, suspension, or modification of permit.

- (a) In addition to any other remedies that may be provided to enforce the provisions of this chapter, any permit issued pursuant to this chapter may be revoked, made subject to additional terms or conditions, modified or suspended by the director in addition to other remedies provided by law, when such action is necessary in order to stop a discharge or a threatened discharge which presents a hazard or a threat of hazard to the public health, safety, welfare, natural environment, sewer system, or which violates this chapter, or which action is intended to implement programs or policies required or

requested of the city by appropriate state or federal regulatory agencies.

- (b) Any discharger notified of the city's intent to revoke, make subject to additional terms or conditions, modify, or suspend the discharger's permit shall immediately comply with directives of the director or cease and desist the discharge of all industrial wastes or such portion of said wastes as will eliminate the wrongful discharge to the sewer system pending any hearing that the discharger may request as set forth in this chapter.
- (c) The director shall reissue or reinstate any industrial wastes permit or modified permit upon proof of satisfactory ability to comply and/or compliance with all discharge requirements, and the payment of any costs, fines, or penalties which may be assessed. The director may require any permitholder to develop and implement a compliance schedule for any proposed modification to permit terms and conditions.
- (d) The city will have the authority to comply with the public participation requirements of 40 CFR part 25 in the enforcement of National Pretreatment Standards by annually providing public notification in local newspapers. This notification may consist of a list of industrial users that, during the previous 12 months, were in significant noncompliance of applicable pretreatment standards or other pretreatment requirements.

(Ord. 1633 § 2, (2000))

§ 15.10.090. Appeal of decision of director.

- (a) Any person dissatisfied with the decision of the director to issue, deny, condition, amend, suspend, revoke, or modify any permit pursuant to this chapter may file a written appeal with the city manager. Such an appeal shall only be effective if the appeal is filed in writing together with any applicable fees with the city manager no more than 10 days following the date of the decision by the director.
- (b) The director shall give the industrial waste discharger applicant or permitholder 10 calendar days' written notice of intent to issue or deny the application or to revoke, make subject to additional terms or conditions, modify or suspend the discharger's permit. The director shall post a copy of such notice at city hall for interested persons. The notice shall set forth specifically the grounds for the director's intention to deny, revoke, or suspend and shall inform the applicant or permitholder or members of the public that they have 10 days from the date of receipt of the notice to file a written request for a hearing. The application shall be issued or denied or the permit shall be revoked, modified or suspended if a hearing request is not received within the ten-day period.
- (c) If the applicant or permitholder or interested party or parties file(s) a timely hearing request, the city manager, or manager's designee, shall within ten calendar days from the receipt of the request, set a time and place for the hearing. All parties involved shall have the right to offer testimonial, documentary, and tangible evidence bearing on the issues and to be represented by counsel. The decision of the city manager, or the manager's designee, whether to issue or deny the application or revoke, make subject to additional terms and conditions, modify or suspend the permit shall be final.

(Ord. 913 § 1, (1970); Ord. 1250 § 2, (1983); Ord. 1633 § 2, (2000))

§ 15.10.092. Public access and confidentiality of information.

- (a) It is the intent of this chapter that the procedures and enforcement conducted pursuant to this chapter be conducted openly and publicly whenever possible. Pursuant to state law, the information filed and submitted by applicants, permitholders, and other interested persons shall be public record and open for public review.

- (b) However, when permitted by state law, information submitted to the city pursuant to this chapter may be claimed as confidential by the applicant or permitholder. Any such claim must be asserted at the time of submission in the manner prescribed on the application form or, in the case of other submissions, by stamping the words "confidential business information" on each page containing such information. Information submitted prior to the inclusion of this section in the chapter may be withdrawn and replaced by submittals stamped "confidential business information." If no such claim is made at the time of submission, the information may be made available to the public without further notice. Upon receipt of a request for the release of information to the public which includes information which the applicant or permitholder has notified the city is claimed to be a trade secret as provided herein, the city shall notify the discharger in writing of the request by certified mail, return receipt requested. The city shall release the information to the public, but not earlier than 30 days after the date of mailing the notice of the request for information, unless, prior to the expiration of the 30 day period, the applicant or permitholder files an action in an appropriate court for a declaratory judgment that the information is subject to protection under the laws of the state of California or for an injunction prohibiting disclosure of the information to the public and immediately notifies the city of that action. This section does not permit any person to refuse to disclose the information required pursuant to this chapter to the city.
- (c) Information and data provided to the city pursuant to this section that constitutes a description of wastewater constituents and characteristics, effluent or flow data, and effluent concentrations shall be available to the public without restriction. A discharger may be prohibited from discharging a substance unless its composition is made known to the city.
- (d) Notwithstanding subsection (b), the information shall be made available upon written request to other governmental agencies for uses related to this chapter, the NPDES permitting system, or other similar pollution regulatory programs.

(Ord. 1633 § 2, (2000))

§ 15.10.094. Reporting requirements.

- (a) All permitholders shall submit periodic reports to the director. Specific reporting requirements will be specified in the underlying permit or in controlling directives or violation notices. Minimum reports required will be:
- (1) Baseline monitoring reports (BMR);
 - (2) Compliance reports, which will be submitted within 90 days of the compliance date calculated pursuant to the applicable pretreatment standards or local standards;
 - (3) Periodic discharge reports, which may include, but not be limited to, nature of process, volume, rate of flow, mass emission rate, production quantities, hours of operations, number and classification of employees, or other information that relates to the generation of waste including wastewater discharge. These reports will indicate whether applicable pretreatment standards and discharge limits are being met during the reporting period. These reports may also include the chemical constituents and quantity of liquid or gaseous materials stored on-site, even though they are not normally discharged.
 - (A) Except as specified in 40 CFR 403.12(e)(1), all significant industrial users must, at a frequency determined by the director submit no less than twice per year June and December (or on dates specified), reports indicating the nature and concentration of all pollutants in the discharge which are limited by pretreatment standards and the measured

or estimated average and maximum daily flows for the reporting period. In cases where the pretreatment standard requires compliance with best management practices (BMP) or pollution prevention alternatives, the user must submit documentation required by the director or the pretreatment standard necessary to determine the compliance status of the user,

- (B) Significant non-categorical industrial users may be required to submit to the director at least once every six months (or on dates specified) a description of the nature, concentration, and flow of the pollutants required to be reported by the city. These reports shall be based on sampling and analysis performed in the period covered by the report, and performed in accordance with the techniques described in 40 CFR Part 136 and amendments thereto. Where 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, or where the administrator determines that the Part 136 and sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analysis shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including suggested by the city or other persons, approved by the city. This sampling and analysis may be performed by the city or a duly authorized city representative in lieu of the significant non-categorical industrial user. Monitoring frequencies and parameters, as specified in the underlying permit, must be followed in the event that the significant non-categorical industrial user is required to conduct self-monitoring;
- (4) All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge;
- (5) If sampling by a user indicates a violation, the user must notify the city within 24 hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the city within 30 days after becoming aware of the violation. Resampling by the user is not required if the city or any authorized representative of the city performs sampling at the user between the time when the initial sampling was conducted and the time when the user of the district receives the results of this sampling, or if the city or authorized representative has performed the sampling and analysis in lieu of the user.
- (b) A zero discharge report may be required to certify that a discharger does not discharge industrial waste to the sanitary sewer system.
- (c) In order to be complete, any report filed pursuant to this section shall contain a certification statement reading as follows:

I certify under penalty of perjury that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons directly responsible for gathering the information, the information submitted is to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

This certification statement shall be signed by the responsible corporate officer, manager, general partner, or duly authorized representative of the discharger and makes that person legally accountable

for the information submitted.

- (d) It is a violation of the underlying permit to fail to timely file or refuse to file a report required pursuant to this section.

(Ord. 913 § 1, (1970); Ord. 1250 § 2, (1983); Ord. 1633 § 2, (2000); Ord. 1868 § 5, (2011))

§ 15.10.096. Water conservation.

The director may require a discharger to evaluate water conservation measures for industrial process water as a part of any pre-construction audit, industrial wastewater discharge permit application, mass audit study (MAS), reasonable control measures plan (RCMP), best management practices (BMP) or at any other time deemed necessary by the director. The director may require implementation of water conservation measures that are found to be cost effective.

(Ord. 1633 § 2, (2000))

§ 15.10.098. Monitoring.

- (a) All monitored discharges shall be analyzed and tested according to procedures outlined in 40 CFR Part 136 and amendments thereto, unless otherwise specified in an applicable categorical pretreatment standard.
- (b) Each discharger shall provide at its own expense monitoring facilities to allow inspection, sampling, and flow measurements of the building sewer and internal drainage systems. The monitoring facility should normally be located on the discharger's premises, but the city may, when such a location would be impractical or cause undue hardship on the discharger, allow the facility to be located in the public street or sidewalk area, so long as an encroachment permit is first obtained and it will not pose any hazard or inconvenience to vehicle or pedestrian traffic.
- (c) A monitoring facility shall allow ample room to allow accurate sampling and preparation of samples for analysis and shall be located so that it is not obstructed by landscaping or parked vehicles. The facility, sampling, and measuring equipment shall be maintained in a safe and proper operating condition at all times at the expense of the discharger.
- (d) Samples collected to satisfy reporting requirements must be based on data obtained through appropriate sampling and analysis performed during the period covered by the report, based on data that is representative of conditions occurring during the reporting period.
- (1) Except as indicated in subsections (d)(2) and (3), the user must collect wastewater samples using 24 hour flowproportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the director. Where time-proportional composite sampling or grab sampling is authorized by the director, the samples must be representative of the discharge. Using protocols (including appropriate preservation) specified in 40 CRF Part 136 and appropriate EPA guidance, multiple grab samples collected during a 24 hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the city, as appropriate. In addition, grab samples may be required to show compliance with instantaneous limits.
- (2) Samples for oil and grease, temperature, pH, cyanide, total phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.

- (3) For sampling required in support of baseline monitoring and 90 day compliance reports required in Section 15.10.094(a)(2) and (3), a minimum of four grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, the director may authorize a lower minimum. For the reports required by Section 15.10.094(a)(3)(A) through (C), the user is required to collect the number of grab samples necessary to assess and assure compliance by with applicable pretreatment standards and requirements or specified in the underlying permit.

(Ord. 1633 § 2, (2000); Ord. 1868 § 6, (2011))

§ 15.10.100. Self-monitoring.

- (a) As a permit condition, the director may require the discharger to conduct a sampling and analysis program of discharger's industrial waste of a frequency and type required by the director to demonstrate compliance with the requirements of this chapter. The discharge permit shall specify the minimum frequency and type of samples, flow monitoring, measuring, and analyses to be conducted by the discharger. The permit may also specify the type of sampling equipment and flow monitoring equipment which must be installed and used. The required self-monitoring program will depend on factors such as flow, potential for the discharge to cause interference, pass-through, or upset of treatment processes, pollutants present, and prior compliance history (if any) of the discharger. Additional monitoring may be required by the director for violation follow-up, assisting the city in evaluating effects of the discharge, or as part of a compliance directive or notice of violation.
- (b) The director may require self-monitoring for facilities for which a permit has not been issued. In addition, the director may require investigations or studies to determine methods of reducing toxic constituents in the discharge. The director may also request that information be submitted within a reasonable time concerning the chemical or biological constituents of any substance or chemical product that could potentially be discharged to the sewer system or the storm drain system or which the director determines may, alone or in accumulation with other discharges, contribute to a violation by the plant of any applicable water quality standards or of any of its NPDES permits or contribute to an upset of plant processes.
- (c) If a discharger is subject to the reporting requirements in Section 15.10.094(a)(3)(A) monitors any regulated pollutant at the appropriate sampling location more frequently than required by the city, using the procedures prescribed in Section 15.10.098, the results of this monitoring shall be included in the report.

(Ord. 1250 § 2, (1983); Ord. 1633 § 2, (2000); Ord. 1868 § 7, (2011))

§ 15.10.102. Inspection and sampling.

- (a) The director, or any authorized representative of the director, county health officer, or state or federal government agency related to pollution regulation, may conduct all inspection, surveillance, sampling, photographing, measuring, observing, and monitoring procedures necessary to assure compliance with applicable sections of this chapter, any applicable permit issued pursuant to this chapter, and applicable county, state, and federal orders, regulations and laws.
- (b) The director and these authorized representatives shall be authorized, and the owner and occupants of any premises where wastewater is discharged or created shall allow these representatives to enter without unreasonable delay during all hours of discharge and hours of operation of the premises to conduct these procedures.

- (c) The director and these authorized representatives shall further have the right, and the owner and occupants of any premises where wastewater is discharged or created shall allow these representatives to set up on the premises any devices necessary to conducting sampling, inspection, compliance monitoring, or metering operations.
- (d) The director and these authorized representatives shall further have the right to inspect and copy any and all records related to the quantity and quality of wastewater discharges, building systems, and chemical and hazardous material usage, as well as those records supporting any reports submitted by the discharger or required by the underlying discharge permit. These records shall be made available by the discharger at either the premises themselves, the department of public works, or another location within the city designated in writing by the dischargers.
- (e) Any unreasonable refusal to provide access and records as required by this section shall be grounds to terminate all sewer service or revoke the underlying permit, or both.

(Ord. 1633 § 2, (2000))

§ 15.10.104. Charges and fees.

The city council may adopt charges and fees to implement this chapter. Those fees and charges may include civil penalties.

(Ord. 1633 § 2, (2000))

§ 15.10.106. Accidental discharges.

Dischargers shall notify the city immediately upon accidentally discharging wastes in violation of this chapter or the discharger's permit in order to enable countermeasures to be taken by the city and other government agencies to minimize damage to the community sewer, plant, treatment processes, and waters of the city and the state. The discharger shall file a detailed written statement with the city within 15 days of the accidental discharge that describes the causes of the discharge and the measures being taken to prevent any further occurrence. Compliance with this section will not relieve the discharger of liability for any expense, loss, or damage to the sewer system, plant, or treatment process, or for any fines imposed on the city on account thereof under the Water Code or Fish and Game Code.

(Ord. 1633 § 2, (2000))

§ 15.10.108. Employee training and notice.

- (a) Permitholders shall inform appropriate employees of the provisions of this chapter by conducting orientation of new employees involved in permit-related activities and annual training.
- (b) Permitholders shall provide areas for posting of information regarding pollution control, and in all cases, shall post signs or notices indicating approved methods for disposition of wastes and reporting requirements for accidental or slug discharges and increased loadings with telephone numbers for appropriate response agencies.

(1633 § 2, (2000); Ord. 1868 § 8, (2011))

§ 15.10.110. Disposal of unacceptable waste.

Waste not permitted to be discharged into the community sewer shall be transported to a state-approved disposal site. The required waste haulers report shall be completed and a copy furnished within 30 days to the city by the discharger.

(Ord. 1250 § 2, (1983); Ord. 1633 § 2, (2000))

§ 15.10.112. Protection of streams and watercourses.

It is unlawful to discharge to any stream or watercourse any sewage, industrial wastes or other polluted waters.

(Ord. 1633 § 2, (2000))

§ 15.10.113. Illegal sewer uses.

Any use of any sanitary sewer system that does not conform to the regulations established in this chapter is illegal. Within 30 days following notice by the city engineer that an illegal use exists, corrective measures to eliminate the illegal use shall be made by the owner or responsible party except that in cases where extensive or exceptional repairs or replacements to existing installations are required, the city engineer may grant extensions of time or consent to temporary remedial arrangements.

(Ord. 1250 § 2, (1983); Ord. 1633 § 2, (2000))

§ 15.10.114. Agreements in exceptional cases.

- (a) Discharge of wastes not meeting the requirements stated in this title may be permitted by special agreement between the discharger and the city, so long as the agreement conforms to state and federal limitations.
- (b) The city shall have the right to disallow exceptional discharges, prescribe pretreatment of some types of industrial wastes and to establish surcharges based on the cost of handling exceptional wastes in the city's sewage collection and treatment system.

(Ord. 1250 § 2, (1983); Ord. 1633 § 2, (2000))

§ 15.10.116. Civil penalties.

- (a) Pursuant to Government Code Section 53069.4, the city may impose civil penalties on persons who violate the provisions of this chapter in addition to any other remedies that the city or any other government agency may have. Civil penalties of up to \$10,000 per day for each violation may be imposed.
- (b) The process by which such civil penalties are determined and reviewed will be the same as and a part of the process by which a violation of the sanitary sewer use rules and regulations is determined and reviewed as adopted by the council by resolution from time to time.
- (c) If such a process is not applicable, any person may appeal the imposition of a civil penalty under this chapter by filing a notice of appeal with the city manager within 15 days of the notice of imposition of a civil penalty. The city manager will fix a time and place for hearing the appeal and give notice in writing to the appellant of the time and place of hearing by serving it personally or by depositing it in the United States mail, postage prepaid, addressed to such person at the address appearing on the notice of appeal. At the hearing on the appeal, the city manager shall receive testimony from the appellant and the city officers or employees recommending the penalties. The decision of the city manager shall be in writing, shall be served on the appellant in the same manner as prescribed for the notice of hearing, and shall be a final administrative decision.
- (d) Any civil penalties imposed under this chapter may be collected in the same manner as other sanitary sewer charges and fees. The imposition of civil penalties shall not preclude in any way the imposition of additional requirements, charges, damages, or criminal sanctions that may be required or imposed by the city or any other person.

- (e) Any person contesting a decision on a civil penalty shall be bound by the requirements of Government Code Section 53069(b).
- (f) The city may petition the superior court to impose, assess, and recover these civil penalty sums. In determining whether to enforce the civil penalties, the court will take into consideration all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the nature and persistence of the violation, the length of time over which the violations occurred, and corrective action, if any, taken.

(Ord. 1572 § 3, (1997); Ord. 1633 § 2, (2000))

§ 15.10.118. Show cause hearing.

- (a) The director may order any user who causes or allows an unauthorized discharge to enter the sanitary sewer system to show cause before the city manager or the city council why a proposed enforcement action should not be taken. A notice will be served on the user specifying the time and place of the hearing and the proposed enforcement action and reasons therefore. The notice will be served personally or by registered or certified mail at least 10 days before the scheduled hearing.
- (b) After reviewing the evidence and testimony presented at the hearing, the city manager or the city council, as applicable, may make such orders as the manager or council deems appropriate with due regard to the violations, if any.

(Ord. 1633 § 2, (2000))

§ 15.10.120. Abatement.

- (a) In addition to any other remedies provided by law, the director shall have the power to disconnect the user sewer system from the sewerage works. Upon disconnection, the city will estimate the cost of the re-connection to the system, and this user shall deposit the cost of disconnection and estimate re-connection before the user is reconnected to the system. The city will refund any part of the deposit remaining after payment of all costs of disconnection and reconnection.
- (b) During the period of disconnection, any habitation or occupancy of the premises shall constitute a public nuisance.

(Ord. 1633 § 2, (2000))

§ 15.10.122. Correction of violation and emergency action.

- (a) In order to enforce the provisions of this chapter, the city may correct any violation. The cost of such correction, including installation of additional pretreatment facilities shall be added to any sewer service charges and fees on the premises and collected in the same manner as other sewer service charges and fees.
- (b) In case of emergency, the city may take such steps and obtain such warrants as necessary to enter and correct any illegal discharge or permit violation that pose an imminent threat to public health or safety.
- (c) Any sewer or sewerage maintenance expenses attributable to a violation of this chapter or a permit issued under this chapter, including excessive preventative maintenance or cleaning, will be charged to the offending discharger by the city. Any refusal to pay such maintenance expenses duly authorized by the city shall constitute a violation of this code.

(Ord. 1633 § 2, (2000))

§ 15.10.124. Injunction.

In addition to any other remedy provided in this code or by law, the city may petition the superior court or the federal district court for the issuance of a temporary restraining order, preliminary injunction, or permanent injunction, as may be appropriate, restraining any person from a violation of this chapter.
(Ord. 1633 § 2, (2000))

§ 15.10.126. Falsifying information or tampering with processes.

(a) It is unlawful to:

- (1) Knowingly or recklessly make any false statement, representation, record, report, plan, or other document filed with the city in connection with this chapter; or
- (2) Falsify, tamper with, or knowingly or recklessly render inaccurate, any monitoring device or method or access point; or
- (3) Divert flow from any monitoring device or equipment installed or operated pursuant to this chapter or any permit issued under this chapter.

(b) In addition to any other remedy provided in this code or by law, any such illegal activity will be grounds for revocation of the underlying permit.

(Ord. 1633 § 2, (2000))

§ 15.10.128. Compliance with federal pretreatment regulations.

Notwithstanding any provision in this chapter, no industrial user shall discharge, cause, allow or permit any discharge into the sanitary sewer system in violation of any federal or state regulation regulating discharges by such users, including, but not limited to, the federal pretreatment regulations found in Title 40 of the CFR. Any pretreatment facilities required by those regulations or this chapter shall be provided, operated, and maintained at the user's expense.

(Ord. 1633 § 2, (2000))

CHAPTER 15.11 LIEN PROCEDURES FOR UNPAID CHARGES

§ 15.11.010. Definitions.

Unless the context otherwise specifies or requires, the terms defined in this section shall, for all purposes of this article, have the meanings herein specified:

"City" means the city of Burlingame;

"Council" means city council of the city of Burlingame;

"Customer" means the accepted applicant for water or sewer service, as shown on department records;

"Department" means the finance department;

"Owner" when used with reference to real property shall mean, and shall conclusively be deemed to be, the legal owner of the real property;

"Real property" means a lot or building thereon or other facility whether private, governmental, or otherwise receiving water or sewer services from the city;

"Sewer service" means service rendered to real property and paid for by the sewer service charge and sewer discharge permit fee as established pursuant to this title;

"Water service" means the water service rendered to real property and including the charges for such service.

(Ord. 1557 § 1, (1996))

§ 15.11.020. Owner responsibility for water and sewer service charges.

The owner of any real property shall be responsible for subscribing to and paying for water service to such real property in accordance with rate schedules and rules and regulations established from time to time by the council. The owner of any real property shall be responsible for paying the sewer service charges and the sewer discharge permit fee from the use or occupancy of said property.

Nothing in this section is intended to or shall prevent an arrangement or the continuance of any existing arrangement, pursuant to rules and regulations established by the council under which payments for water or sewer service charges or sewer discharge permit fees are made by a customer, a tenant or tenants, or any agent, in behalf of the owner; provided, however, that any such arrangement shall not relieve the owner of the obligations set forth in the first paragraph of this section where water or sewer service charges or sewer discharge permit fee is unpaid.

Nothing in this chapter is intended to permit recovery of charges for water or sewer services to or for a tenant's residential use from any subsequent tenant or the property owner in contravention of the provisions of the Public Utilities Code of the State of California.

(Ord. 1557 § 1, (1996))

§ 15.11.030. Collection of delinquent service charges as a special assessment lien.

Whether or not water service is shut off for nonpayment of service charges, the finance director may initiate proceedings to make delinquent water and sewer service charges and sewer discharge permit fees a special assessment lien against parcels of property to which said service was rendered.

(Ord. 1557 § 1, (1996))

§ 15.11.040. Additional request for payment—Warning notice.

When service has been rendered and a bill has been presented to the owner, or to the customer when the latter is not the owner, with a bill for such service on a continuing account and such bill remains unpaid until the succeeding billing cycle, the department shall mail to the owner written request for payment. In the case of accounts that have been closed without payment in full, the department shall mail to the owner a written request for payment.

The written request for payment shall include information as to the amount due and a warning notice that if the amount due is not paid within 15 days, proceedings to establish a special assessment lien against the real property to which the service was furnished will be instituted, and if the lien is established and recorded, penalties and interest, pursuant to this article, will accrue.

(Ord. 1557 § 1, (1996))

§ 15.11.050. Report and notice.

If payment is not received within 15 days following mailing of the request, the account shall be deemed to be delinquent. Delinquent accounts which are to be subjected to the lien procedure shall be reported to the finance director at least once each month. The finance director shall conduct a hearing pursuant to rules consistent with this article and approved by the city manager. The report for such delinquent account shall contain the owner's name, the amount due, and a description of each parcel to be subjected to the lien procedure. The descriptions of the parcels shall be those used for the same parcels on the assessor's map books for the current year. Upon receipt of such report, the finance director shall fix a time, date and place for hearing the report and any protests or objections thereto, and shall cause notice of the hearing to be mailed to each owner of the parcels of real property described in the report not less than 10 days prior to the date of hearing.

(Ord. 1557 § 1, (1996))

§ 15.11.060. Recordation—Charges.

The finance director shall cause the confirmed and verified report to be recorded in the county recorder's office as soon as practicable. The special assessment lien on each parcel of property described in said report shall carry additional charges for administrative expenses of \$50 or 10% of the amount owed, whichever is higher, together with interest at a rate of one percent per full month compounded monthly from the date of recordation of the lien on all charges due.

(Ord. 1557 § 1, (1996))

§ 15.11.070. Filing with controller and tax collector—Distribution of proceeds.

The finance director shall cause a certified copy of each confirmed report to be filed with the county controller and county tax collector within 10 days after confirmation of the report whereupon it shall be the duty of said officers to add the amount of said assessment to the current tax roll. Thereafter said amount shall be collected at the same time and in the same manner as ordinary property taxes are collected, and shall be subject to the same procedure under foreclosure and sale in case of delinquency as provided for ordinary taxes of the County of San Mateo.

All sums received from the tax collector pursuant to this article shall be deposited to the credit of the water fund or sewer fund in proportion to the cost of services rendered attributable to each fund.

(Ord. 1557 § 1, (1996))

§ 15.11.080. Release of lien.

On receipt of payment from the tax collector of the special assessment, the finance director shall cause to be recorded a release of lien with the county recorder.

(Ord. 1557 § 1, (1996))

CHAPTER 15.12 ABATEMENT OF IMPROPER SEWER CONNECTIONS

§ 15.12.010. Improper sewer connections.

All sewer laterals or sewer cleanouts which contain leaks or breaks, uncapped sewer cleanouts, sump pumps, downspouts or yard drains which discharge into the sewer system, and all other sources of accidental, negligent or intended introduction of storm runoff or similar waters into the sanitary system are declared to be a public nuisance, and shall be abated by the owner of the property, who is required to remove or correct such improper sewer connections.

(Ord. 1329 § 1, (1986))

§ 15.12.020. Resolution declaring nuisance—Notice of abatement.

Whenever any such improper sewer connection exists upon any private property or in any street or alley within the city, the city council shall pass a resolution declaring the same to be a public nuisance, and order the city engineer to give notice of the passage of such resolution as herein provided and stating therein that unless such nuisance is abated without delay, the work of doing so will be done by the city and the expense thereof assessed upon the property from which the nuisance is removed. Such resolution shall fix the time and place for hearing any objections to the proposed correction or removal.

(Ord. 1329 § 1, (1986))

§ 15.12.030. Form of Notice—Mailing.

Such notice shall be substantially as follows:

Notice to Correct or Remove Improper Sewer Connection

NOTICE IS HEREBY GIVEN that on _____, 20_____, pursuant to the provisions of the Ordinance Code, City of Burlingame, the City Council of said City passed a resolution declaring that all improper sewer connections upon any private property in any public street or alley, constitute a public nuisance and must be abated by correction or removal thereof.

The improper connection on your property is _____.

NOTICE IS FURTHER GIVEN that property owners shall within 30 days hereof correct or remove all such improper sewer connections from their property, or such improper sewer connections will be removed or corrected by the City, in which case the cost of correction or removal will be assessed upon the land upon which such improper sewer connections have been corrected or removed; and such cost will constitute a lien upon such land until paid, and will be collected upon the next tax roll upon which general municipal taxes are collected.

All property owners having any objection to the proposed correction or removal of such improper sewer connections are hereby notified to attend a meeting of the Council of said City, to be held at the Council chambers in the City Hall in said City on _____, 20_____, at seven o'clock, p.m., when and where objections will be heard and given due consideration.

DATED _____, 20_____

City Engineer of the City of Burlingame

Such notice shall be mailed to the owner of each property, as such ownership is shown on the last equalized

assessment roll, on which the nuisance exists, at least 10 days prior to the time fixed by the council for hearing objections.

(Ord. 1329 § 1, (1986))

§ 15.12.040. Hearing—Action by council.

At the time stated in the notice, the city council shall hear and consider any and all objections to the proposed corrections of improper sewer connections and may continue the hearing from time to time.

Upon the conclusion of such hearing, the council by motion shall allow or overrule any or all objections, if any, after which the council shall thereupon be deemed to have acquired jurisdiction to proceed and perform the work of correction of the improper sewer connection. The action of the council at the conclusion of such hearing shall be final and conclusive.

(Ord. 1329 § 1, (1986))

§ 15.12.050. Order to abate nuisance—Abatement by property owner.

After final action shall have been taken by the council on the disposition of all objections or in case no objections shall have been received, the city council shall by resolution order the city engineer to abate or cause to be abated such nuisance by having the improper sewer connection corrected or removed, and the city engineer and his or her assistants, employees, contracting agents or other representatives are authorized to enter upon private property for that purpose.

As an alternate remedy, the city may take such legal action as may be necessary to require correction or removal of the improper sewer connection by the property owner.

Any property owner shall have the right to correct or remove such improper sewer connections himself or herself or have the same corrected at his or her own expense; provided, that such correction or removal shall have been completed prior to the arrival of the city engineer or his or her representatives to perform such work.

(Ord. 1329 § 1, (1986))

§ 15.12.060. Account and report of cost.

The city engineer shall keep an account of the cost of abating such nuisance upon each separate lot or parcel of land, and include such account in a report and assessment list to the city council, which shall be filed with the clerk. Such report shall refer to each separate lot or parcel of land by description sufficient to identify such lot or parcel, together with the expense proposed to be assessed against each separate lot or parcel of land therefor respectively.

(Ord. 1329 § 1, (1986))

§ 15.12.070. Notice of hearing on report and assessment list.

The city clerk shall post a copy of such report and assessment list at or near the city clerk's office and shall notify property owners that they may appear and object to any matter contained therein. The notice shall be mailed at least 10 days before the time such report will be considered by the city council. Such notice shall be substantially in the following form.

NOTICE OF HEARING ON REPORT AND ASSESSMENT FOR IMPROPER SEWER CONNECTIONS

NOTICE IS HEREBY GIVEN that on the _____ day of _____, 20____ the City Engineer of the City of Burlingame filed with the City Clerk of said City a report and assessment list on the abatement of improper sewer connections within said City, a copy of which is posted near the office of the City Clerk.

The assessment against your property is _____.

NOTICE IS FURTHER GIVEN that on Monday, the _____ day of _____, 20____, at the hour of seven o'clock, p.m. in the Council Chambers in the City Hall of said City, said report and assessment list will be presented to the City Council of said City for consideration and confirmation, and all persons interested, or to any matter or thing contained therein, may appear at said time and place to be heard.

Dated: _____, 20_____.

City Clerk of the City of Burlingame

(Ord. 1329 § 1, (1986))

§ 15.12.080. Hearing and confirmation of assessments—Lien against property.

At the time and place fixed for receiving and considering such report, the city council shall hear the same together with any objections which may be filed by any of the property owners liable to be assessed for the work of abating the nuisance mentioned in this chapter, and the city engineer shall attend such meeting with his or her record thereof, and at such hearing, the city council may make such modifications in the proposed assessment therefor it may deem just and proper, after which such report and assessment list shall be confirmed by resolution.

The amount of the cost of abating the nuisance upon the property referred to in the report of the city engineer and as finally concluded by resolution of the city council shall constitute a special assessment against each respective lot or parcel of land, and after thus made and confirmed, shall constitute a lien on such property for the amount of such assessments, until paid.

(Ord. 1329 § 1, (1986))

§ 15.12.090. Collection on tax roll.

The city clerk shall transmit a copy of said resolution to the San Mateo County tax collector. Thereafter, such amounts shall be collected at the time and in the same manner, as general city taxes are collected, and shall be subject to the same interest and penalties, and the same procedure and sale in case of delinquency. All laws and ordinances applicable to the levy, collection and enforcement of city taxes are made applicable to such special assessments.

(Ord. 1329 § 1, (1986))

§ 15.12.100. Payment of assessments, annual installments, interest.

The payment of any assessments of \$400 or more upon single-family residence may be made in annual installments, not to exceed five; the payment of assessments so deferred shall bear interest on the unpaid balance at the rate of seven percent per annum. Said interest shall begin to run on the thirty-first day after the confirmation of the assessments.

(Ord. 1329 § 1, (1986))

§ 15.12.110. Inspection and correction upon sale.

- (a) Whenever any property is to be transferred to or vested in any other person or entity and that property includes any buildings or structures constructed more than 25 years prior to the date of transfer or vesting, the sewer lateral(s) to that property shall be tested for infiltration and all necessary repairs or replacements performed to prevent all infiltration. The city engineer shall establish or approve testing procedures. All repair or replacement work shall be completed and approved by the city prior to transfer of title.
- (b) Exceptions: This section shall not apply:
 - (1) To condominium or cooperative apartment buildings or the units within those buildings, except as a condition to conversion to a condominium or cooperative apartment building; or
 - (2) For 10 years after acceptance of a test pursuant to this section if partial or no repairs of the lateral were required and any repairs were completed pursuant to permit and inspection by the city; or
 - (3) For 10 years after inspection and approval by the city of completed alterations to the lateral, if alterations pursuant to a city permit were made to the location of or connections to the lateral following a test pursuant to this section; or
 - (4) For 25 years after acceptance of work if replacement of the complete sewer lateral was performed; or
 - (5) If the city engineer determines testing is unnecessary because the piping has less than three joints and the total length does not exceed 10 feet.
- (c) For purposes of this ordinance, a sewer lateral shall be deemed to be the piping and sewer appurtenances outside a structure or traveling between two or more structures and terminating at a clean out, wye, or manhole acceptable to the city engineer. Any modification to the sewer lateral shall be performed and inspected under the requirements of Titles 15 and 18 of this code and established city procedures.

(Ord. 1623 § 2, (2000))

**CHAPTER 15.14
STORM WATER MANAGEMENT AND DISCHARGE CONTROL**

§ 15.14.010. Title.

This chapter shall be known as the "City of Burlingame Storm Water Management and Discharge Control Ordinance" and may be so cited.

(Ord. 1503 § 1, (1994))

§ 15.14.020. Purpose and intent.

The purpose of this chapter is to ensure the future health, safety, and general welfare of city of Burlingame citizens by:

- (a) Eliminating non-storm water discharges to the municipal separate storm sewer.
- (b) Controlling the discharge to municipal separate storm sewers from spills, dumping or disposal of materials other than storm water.
- (c) Reducing pollutants in storm water discharges to the maximum extent practicable.

The intent of this chapter is to protect and enhance the water quality of our watercourses, water bodies, and wetlands in a manner pursuant to and consistent with the Clean Water Act.

(Ord. 1503 § 1, (1994))

§ 15.14.030. Definitions.

- (a) **Clean Water Act Definitions.** Any terms defined in the Federal Clean Water Act and acts amendatory thereof or supplementary thereto, and/or defined in the regulations for the storm water discharge permitting program issued by the Environmental Protection Agency on November 16, 1990 (as may from time to time be amended) as used in this chapter shall have the same meaning as in that statute or regulations. Specifically, the definition of the following terms included in that statute or regulations are hereby incorporated by reference, as now applicable or as may hereafter be amended: discharge, illicit discharge, pollutant, and storm water. These terms presently are defined as follows:

"Discharge" means:

- (1) Any addition of any pollutant to navigable waters from any point source, or
- (2) Any addition of any pollutant to the waters of the contiguous zone or the ocean from any point source other than a vessel or other floating craft.

"Illicit discharge" means any discharge to the city storm sewer system that is not composed entirely of storm water except discharges pursuant to a NPDES permit and discharges resulting from fire fighting and other emergency response activities.

"Pollutant" means dredged soil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, wrecked or destroyed equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharge into water.

"Storm Water" means storm water runoff and surface runoff and drainage.

- (b) Other definitions. When used in this chapter, the following words shall have the meanings ascribed to them in this section:

"Authorized enforcement official" means the city manager or his or her designees is hereby authorized to enforce the provisions of this chapter.

"Best management practices" ("BMPs") means schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to "waters of the United States." BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

"City" means the city of Burlingame.

"City storm sewer system" includes but is not limited to those facilities within the city by which storm water may be conveyed to waters of the United States, including any roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels or storm drains, which is not part of the Publicly Owned Treatment Works (POTW) as defined at 40 CFR §122.2.

"Non-storm water discharge" means any discharge that is not entirely composed of storm water except those noted within an NPDES Permit and this chapter.

"Premises" means any building, lot parcel, real estate, or land or portion of land whether improved or unimproved, including adjacent sidewalks and parking strips.

"Watercourse" means a natural stream, creek, or man-made uncovered channel through which water flows continuously or intermittently.

(Ord. 1503 § 1, (1994))

§ 15.14.040. Responsibility for administration.

This chapter shall be administered for the city by the city manager and his or her designees.

(Ord. 1503 § 1, (1994))

§ 15.14.050. Construction and application.

This chapter shall be construed to assure consistency with the requirements of the Federal Clean Water Act and acts amendatory thereof or supplementary thereto, applicable implementing regulations, and NPDES Permit No. CA0029921 and any amendment, revision or reissuance thereof.

(Ord. 1503 § 1, (1994))

§ 15.14.060. Severability and validity.

If any portion of this chapter is declared invalid, the remaining portions of this chapter are to be considered valid.

(Ord. 1503 § 1, (1994))

§ 15.14.070. Waiver procedures.

- (a) It is the intent of this chapter to protect and enhance water quality while respecting the rights of private property owners to economically viable use of land. It is not the intent of this chapter to prohibit all economically viable use of any private lands, nor to result in a confiscatory impact. Accordingly, the purpose of this section is to provide for an administrative procedure for a waiver or

modification of a particular provision of this chapter in the event the strict application of this chapter would result in the denial of all economically viable use of real property.

- (b) An applicant for a waiver of a provision of this chapter shall file a waiver application with the director of the public works department on a form provided by the director identifying the provision sought to be waived or modified. The applicant shall file a complete form and shall provide all documentation and information required by the director to determine whether application of the provision in question will prohibit any economically viable use of the land in question or otherwise have an impermissible confiscatory result.
- (c) The director may approve, deny or conditionally approve a waiver application upon making all of the following written findings:
 - (1) That the strict application of the provision for which a waiver or modification is sought would result in the denial of all economically viable use of the real property in question;
 - (2) To the maximum extent feasible, conditions have been placed upon such a waiver or modification in order to achieve the goals of this chapter as closely as possible while still allowing economically viable use of the real property in question;
 - (3) Approval of such a waiver will not result in a public nuisance which would constitute a significant and direct threat to public health or safety.
- (d) Any decision of the director shall be appealable to the city council.
(Ord. 1503 § 1, (1994))

§ 15.14.110. Discharge of pollutants.

The discharge of non-storm water discharges to the city storm sewer system is prohibited. All discharges of material other than storm water must be in compliance with a NPDES Permit issued for the discharge (other than NPDES Permit No. CA0029921) and this chapter.

- (a) Exceptions to Discharge Prohibition. The following discharges are exempt from the prohibition set forth in Section 9:
 - (1) The prohibition on discharges shall not apply to any discharge regulated under a National Pollutant Discharge Elimination System (NPDES) Permit issued to the discharger and administered by the state of California under authority of the United States Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit and other applicable laws or regulations.
 - (2) Discharges from the following activities will not be considered a source of pollutants to waters of the United States when properly managed: water line flushing and other discharges from potable water sources, municipal street cleaning, municipal park maintenance, landscape irrigation and lawn watering, irrigation water, diverted stream flows, rising ground waters, infiltration to separate storm drains, uncontaminated pumped ground water, foundation and footing drains, water from crawl space pumps, air conditioning condensation, springs, individual residential car washings, flows from riparian habitats and wetlands, dechlorinated swimming pool discharges, or flows from fire fighting and other emergency response activity, and accordingly are not subject to the prohibition on discharges.

(Ord. 1503 § 1, (1994))

§ 15.14.120. Discharge in violation of permit.

Any discharge that would result in or contribute to a violation of NPDES Permit No. CA0029921, the terms of which are incorporated herein by reference, and which is on file in the office of the city clerk, and any amendment, revision or reissuance thereof, either separately considered or when combined with other discharges, is prohibited. Liability for any such discharge shall be the responsibility of the person(s) causing or responsible for the discharge, and such persons shall defend, indemnify, and hold harmless the city in any administrative or judicial enforcement action relating to such discharge.

(Ord. 1503 § 1, (1994))

§ 15.14.130. Illicit discharge.

It is prohibited to commence or continue any illicit discharges to the city storm sewer system.

(Ord. 1503 § 1, (1994))

§ 15.14.140. Reduction of pollutants in storm water.

Any person engaged in activities which will or may result in pollutants entering the city storm sewer system shall undertake all practicable measures to reduce such pollutants. Examples of such activities include ownership and use of facilities which may be a source of pollutants such as parking lots, gasoline stations, industrial facilities, commercial facilities, stores fronting city streets, etc. The following minimal requirements shall apply:

- (a) Littering. No person shall throw, deposit, leave, maintain, keep, or permit to be thrown, deposited, place, left or maintained, any refuse, rubbish, garbage, or other discarded or abandoned objects, articles, and accumulations, in or upon any street, alley, sidewalk, storm drain inlet, catch basin, conduit or other drainage structures, business place, or upon any public or private lot of land in the city, so that the same might be or become a pollutant, except in containers or in lawfully established dumping grounds.

The occupant or tenant, or in the absence of occupant or tenant, the owner, lessee, or proprietor of any real property in the city of Burlingame in front of which there is a paved sidewalk shall maintain said sidewalk free of litter to the maximum extent practicable.

No person shall throw or deposit litter in any fountain, pond, lake, stream or any other body of water in a park or elsewhere within the city.

- (b) Standards for Parking Lots and Similar Structures. Persons owning or operating a parking lot, gas station pavement or similar structure shall clean those structures as frequently and thoroughly as practicable in a manner that does not result in discharge of pollutants to the city storm sewer system.
- (c) Best Management Practices for New Developments and Redevelopments. Any construction contractor performing work in the city shall endeavor, whenever possible, to provide filter materials at the catch basin to retain any debris and dirt flowing in to the city's storm sewer system. City may establish controls on the volume and rate of storm water runoff from new developments and redevelopments as may be appropriate to minimize the discharge and transport of pollutants.
- (d) All solid waste and recyclable materials hauled by any person over public streets in the city shall be securely tied and covered during hauling thereof so as to prevent leakage, spillage, or blowing. No person shall allow any solid waste or recyclable materials of any kind whatsoever to leak, blow, or drop from any vehicle on any public street within the city.

- (e) Compliance with Best Management Practices. Where best management practices guidelines or requirements have been adopted by the city for any activity, operation, or facility which may cause or contribute to storm water pollution or contamination, illicit discharges, and/or discharge of non-storm water to the storm water system, every person undertaking such activity or operation, or owning or operating such facility shall comply with such guidelines or requirements as identified by the public works director.

(Ord. 1503 § 1, (1994); Ord. 1896 § 2, (2014))

§ 15.14.150. Watercourse protection.

Every person owning property through which a watercourse passes, or such person's lessee or tenant, shall keep and maintain that part of the watercourse within the property reasonably free of trash, debris, excessive vegetation, and other obstacles which would pollute, contaminate, or significantly retard the flow of water through the watercourse; shall maintain existing privately owned structures within a watercourse so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse; and shall not remove healthy bank vegetation beyond that actually necessary for said maintenance, nor remove said vegetation in such a manner as to increase the vulnerability of the watercourse to erosion.

(Ord. 1503 § 1, (1994))

§ 15.14.210. Authority to inspect.

Whenever necessary to make an inspection to enforce any of the provisions of this chapter, or whenever an authorized enforcement official has reasonable cause to believe that there exists in any building or upon any premises any condition which constitutes a violation of the provisions of this chapter, the official may enter such building or premises at all reasonable times to inspect the same or perform any duty imposed upon the official by this chapter; provided that: (i) if such building or premises be occupied, he or she shall first present proper credentials and request entry; and (ii) if such building premises be unoccupied, he or she shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and request entry.

Any such request for entry shall state that the property owner or occupant has the right to refuse entry and that in the event such entry is refused, inspection may be made only upon issuance of a search warrant by a duly authorized magistrate. In the event the owner and/or occupant refuses entry after such request has been made, the official is hereby empowered to seek assistance from any court of competent jurisdiction in obtaining such entry.

Routine or area inspections shall be based upon such reasonable selection processes as may be deemed necessary to carry out the objectives of this chapter, including, but not limited to, random sampling and/or sampling in areas with evidence of storm water contamination, illicit discharges, discharge of non-storm water to the storm water system, or similar factors.

- (a) Authority to Sample and Establish Sampling Devices. The city shall have the right to establish on any property such devices as are necessary to conduct sampling or metering operations. During all inspections as provided herein, the official may take any samples deemed necessary to aid in the pursuit of the inquiry or in the recordation of the activities on site.
- (b) Notification of Spills. As soon as any person in charge of a facility or responsible for emergency response for a facility has knowledge of any confirmed or unconfirmed release of materials, pollutants, or waste which may result in pollutants or non-storm water discharges entering the city storm sewer system, such person shall take all necessary steps to ensure the discovery and

containment and clean up of such release and shall notify the city of the occurrence by telephoning (415) 696-7230 and confirming the notification by correspondence to the director of public works.

- (c) Requirement to Test or Monitor. Any authorized enforcement official may request that any person engaged in any activity and/or owning or operating any facility which may cause or contribute to storm water pollution or contamination, illicit discharges, and/or discharge of non-storm water to the storm water system, undertake such monitoring activities and/or analysis and furnish such reports as the official may specify. The burden, including costs, of these activities, analysis and reports shall bear a reasonable relationship to the need for the monitoring, analysis and reports and the benefits to be obtained. The recipient of such request shall undertake and provide the monitoring, analysis and/or reports requested.

(Ord. 1503 § 1, (1994))

§ 15.14.220. Continuing violations.

Unless otherwise provided, a person, firm, corporation or organization, shall be deemed guilty of a separate offense for each and every day during any portion of which a violation of this chapter is committed, continued or permitted by the person, firm, corporation or organization and shall be punishable accordingly as herein provided.

(Ord. 1503 § 1, (1994))

§ 15.14.230. Concealment.

Causing, permitting, aiding, abetting or concealing a violation of any provision of this chapter shall constitute a violation of such provision.

(Ord. 1503 § 1, (1994))

§ 15.14.240. Civil actions.

In addition to any other remedies provided in this section, any violation of this section may be enforced by civil action brought by the city. In any such action, the city may seek, and the court shall grant, as appropriate, any or all of the following remedies:

- (a) A temporary and/or permanent injunction.
- (b) Assessment of the violator for the costs of any investigation, inspection, or monitoring survey which led to the establishment of the violation, and for the reasonable costs of preparing and bringing legal action under this subsection.
- (c) Costs incurred in removing, correcting, or terminating the adverse effects resulting from the violation, including reasonable attorney's fees and court costs.
- (d) Compensatory damages for loss or destruction to water quality, wildlife, fish and aquatic life. Assessments under this subsection shall be paid to the city to be used exclusively for costs associated with monitoring and establishing storm water discharge pollution control systems and/or implementing or enforcing the provisions of this chapter.

(Ord. 1503 § 1, (1994))

§ 15.14.250. Administrative enforcement powers.

In addition to the other enforcement powers and remedies established by this chapter, any authorized enforcement official has the authority to utilize administrative remedies.

(Ord. 1503 § 1, (1994))

§ 15.14.260. Remedies not exclusive.

Remedies under this Article are in addition to and do not supersede or limit any and all other remedies, civil or criminal. The remedies provided for herein shall be cumulative and not exclusive.

(Ord. 1503 § 1, (1994))

§ 15.14.310. Coordination with hazardous materials inventory and response program.

The first revision of the business plan for any facility subject to the city's hazardous materials inventory and response program shall include a program for compliance with this chapter, including the prohibitions on non-storm water discharges and illicit discharges, and the requirement to reduce storm water pollutants to the maximum extent practicable.

(Ord. 1503 § 1, (1994))

**CHAPTER 15.15
MANAGEMENT OF PCBs DURING BUILDING DEMOLITION PROJECTS**

§ 15.15.010. Purpose.

- (a) The provisions of this chapter shall be construed to accomplish the following purposes:
- (1) Require permit applicants (applicants) for projects that include the complete demolition of an applicable structure to conduct a PCBs in priority building materials screening assessment and submit information documenting the results of the screening. Such documentation to include:
(A) the results of a determination whether the building proposed for demolition is high priority for PCBs-containing building materials based on the structure age, use, and construction; and
(B) the concentration of PCBs in each priority building material present; and (C) for each priority building material present with a PCBs concentration equal to or greater than 50 ppm, the approximate amount (linear feet or square feet) of that material in the building.
 - (2) Inform applicants with PCBs present in one or more of the priority building materials (based on the above screening assessment) that they must comply with all related applicable federal and state laws. This may include reporting to the U.S. Environmental Protection Agency (EPA), the San Francisco Bay Regional Water Quality Control Board (Regional Water Board), and/or the California Department of Toxic Substances Control (DTSC). Additional sampling for and abatement of PCBs may be required.
 - (3) Meet the requirements of the Federal Clean Water Act, the California Porter-Cologne Water Quality Control Act, and the Municipal Regional Stormwater Permit Order No. R2-2015-0049.
- (b) The requirements of this chapter do not replace or supplant the requirements of California or federal law, including, but not limited to, the Toxic Substances Control Act, 40 Code of Federal Regulations (CFR) Part 761, and California Code of Regulations (CCR) Title 22.
- (Ord. 1963 § 2, (2019))

§ 15.15.020. Definitions.

The following terms shall have the meanings when used in this chapter:

"Applicable structure" means buildings constructed or remodeled from January 1, 1950 to December 31, 1980. Wood framed buildings and single-family residential buildings are not applicable structures regardless of the age of the building.

"Applicant" means a person applying for a building permit as required by Chapter 25.20 Permits and Licenses, or a demolition permit as required by Section 18.07.065.

"Building" means a structure with a roof and walls standing more or less permanently in one place. Buildings are intended for human habitation or occupancy.

"Demolition" means the wrecking, razing, or tearing down of any structure. This definition is intended to be consistent with the demolition activities undertaken by contractors with a C-21 Building Moving/Demolition Contractor's License.

"DTSC" means the state of California Department of Toxic Substances Control.

"EPA" means The United States Environmental Protection Agency.

"PCBs" means polychlorinated biphenyls.

"PCBs in priority building materials screening assessment" means the two-step process used to: (1) determine whether the building proposed for demolition is high priority for PCBs-containing building materials based on the structure age, use, and construction; and if so (2) determine the concentrations (if any) of PCBs in priority building materials revealed through existing information or representative sampling and chemical analysis of the priority building materials in the building. Directions for this process are provided in the PCBs in the priority building materials screening assessment applicant package.

"PCBs in priority building materials screening assessment applicant package" ("applicant package") means a document package that includes an overview of the screening process, Applicant instructions, a process flow chart, a screening assessment form, and the *Protocol for Evaluating Priority PCBs-Containing Materials before Building Demolition* (BASMAA 2018, prepared for the Bay Area Stormwater Management Agencies Association, August 2018).

"Priority building materials" means the following:

- (1) Caulking: e.g., around windows and doors, at structure/walkway interfaces, and in expansion joints;
- (2) Thermal/fiberglass Insulation: e.g., around HVAC systems, heaters, boilers, heated transfer piping, and inside walls or crawl spaces;
- (3) Adhesive/mastic: e.g., below carpet and floor tiles, under roofing materials, and under flashing; and
- (4) Rubber window gaskets: e.g., used in lieu of caulking to seal around windows in steel-framed buildings.

"Public works director" means the public works director or authorized designee.

"Regional Water Board" means the California Regional Water Quality Control Board, San Francisco Bay Region.

"Remodel" means to make significant finish and/or structural changes that increase utility and appeal through complete replacement and/or expansion. A removed area reflects fundamental changes that include multiple alterations. These alterations may include some or all of the following: replacement of a major component (cabinet(s), bathtub, or bathroom tile), relocation of plumbing/gas fixtures/appliances, significant structural alterations (relocating walls, and/or the addition of square footage).

(Ord. 1963 § 2, (2019))

§ 15.15.030. Applicability.

This chapter applies to applicants for buildings constructed or remodeled from January 1, 1950 to December 31, 1980.

(Ord. 1963 § 2, (2019))

§ 15.15.040. Exemptions.

Single-family residential and wood frame structures are exempt.

(Ord. 1963 § 2, (2019))

§ 15.15.050. PCBs in priority building materials screening assessment.

Every applicant shall conduct a PCBs in priority building materials screening assessment, a two-step process used to:

- (a) Determine whether the building proposed for demolition is high priority for PCBs containing building materials based on the structure age, use, and construction (i.e., whether the building is an applicable structure); and if so
- (b) Demonstrate the presence or absence and concentration of PCBs in priority building materials through existing information or representative sampling and chemical analysis of the priority building materials in the building. Applicants shall follow the directions provided in the PCBs in priority building materials screening assessment applicant package (applicant package), which includes an overview of the process, Applicant instructions, a process flow chart, a screening assessment form, and the *Protocol for Evaluating Priority PCBs-Containing Materials before Building Demolition*. Per the applicant package, for certain types of buildings built within a specified date range, the applicant must conduct further assessment to determine whether or not PCBs are present at concentrations ≥ 50 ppm. This determination is made via existing data on specific product formulations (if available), or more likely, via conducting representative sampling of the priority building materials and analyzing the samples for PCBs at a certified analytical laboratory. Any representative sampling and analysis must be conducted in accordance with the *Protocol for Evaluating Priority PCBs-Containing Materials before Building Demolition*. The applicant package provides additional details.

(Ord. 1963 § 2, (2019))

§ 15.15.060. Agency notification, abatement, and disposal for identified PCBs.

When the PCBs in priority building materials screening assessment identifies one or more priority building materials with PCBs, the Applicant must comply with all related applicable federal and state laws, including potential notification of the appropriate regulatory agencies, including EPA, the Regional Water Board, and/or the DTSC. Agency contacts are provided in the applicant package. Additional sampling for and abatement of PCBs may be required.

Depending on the approach for sampling and removing building materials containing PCBs, the applicant may need to notify or seek advance approval from EPA before building demolition. Even in circumstances where advance notification to or approval from EPA is not required before the demolition activity, the disposal of PCBs waste is regulated under Toxic Substances Control Act (TSCA). Additionally, the disposal of PCBs waste is subject to California Code of Regulations (CCR) Title 22 Section 66262. Additional information is provided in the applicant package.

(Ord. 1963 § 2, (2019))

§ 15.15.070. Compliance with California and federal PCBs laws and regulations.

Applicants must comply with all federal and California laws and regulations, including, but not limited to, health, safety, and environmental laws and regulations, that relate to management and cleanup of any and all PCBs, including, but not limited to, PCBs in priority building materials, other PCBs-contaminated materials, PCBs-contaminated liquids, and PCBs waste.

(Ord. 1963 § 2, (2019))

§ 15.15.080. Information submission and applicant certification.

- (a) The applicant shall conduct a PCBs in priority building materials screening assessment and submit the associated information and results as part of the building permit application, including the following (see applicant package for more details):
- (1) Owner and project information, including location, year building was built, description of building construction type, and anticipated demolition date.

- (2) Determination of whether the building proposed for demolition is high priority for PCBs-containing building materials based on the structure age, use, and construction.
- (3) If high priority for PCBs-containing building materials based on the structure age, use, and construction, the concentration of PCBs in each priority building material present. If PCBs concentrations are determined via representative sampling and analysis, include a contractor's report documenting the assessment which includes the completed QA/QC checklist from the *Protocol for Evaluating Priority PCBs-Containing Materials before Building Demolition* and the analytical laboratory reports.
- (4) For each priority building material present with a PCBs concentration equal to or greater than 50 ppm, the approximate amount (linear feet or square feet) of that material in the building (see applicant package for more details).
- (5) Applicant's certification of the accuracy of the information submitted.

(b) The public works director may specify a format for the submission of the information.
(Ord. 1963 § 2, (2019))

§ 15.15.090. Recordkeeping.

Those applicants conducting a building demolition project must maintain documentation of the results of the PCBs in priority building materials screening assessment for a minimum of five years after submittal.
(Ord. 1963 § 2, (2019))

§ 15.15.100. Obligation to notify city of Burlingame of changes.

The applicant shall submit written notifications documenting any changes in the information submitted in compliance with this chapter.

The applicant shall submit the revised information to the city of Burlingame when changes in project conditions affect the information submitted with the permit application.
(Ord. 1963 § 2, (2019))

§ 15.15.110. Liability.

The applicant is responsible for safely and legally complying with the requirements of this chapter. Neither the issuance of a permit under the requirements of Chapter 25.20 Permits and Licenses or Section 18.07.065, nor the compliance with the requirements of this chapter or with any condition imposed by the issuing authority, shall relieve any person from responsibility for damage to persons or property resulting therefrom, or as otherwise imposed by law, nor impose any liability upon the city of Burlingame for damages to persons or property.
(Ord. 1963 § 2, (2019))

§ 15.15.120. Enforcement.

Failure to submit the information required in this chapter or submittal of false information will result in denial of the building permit.
(Ord. 1963 § 2, (2019))

§ 15.15.130. Fees.

In addition to the fees required under the city of Burlingame Master Fee Schedule, all applicants subject to this chapter shall deposit funds with the city of Burlingame, pay a fee sufficient to reimburse the city of Burlingame costs for staff time or consultant staff as applicable required to implement this chapter.

(Ord. 1963 § 2, (2019))

(RESERVED)

Title 16

(RESERVED)

Title 17**FIRE**

	Chapter 17.04 INTERNATIONAL FIRE CODE	§ 17.04.080.	(Reserved)
		§ 17.04.085.	Section 604.8, CFC—Shunt trip.
§ 17.04.010.	Adoption of text of the California Fire Code and the International Fire Code.	§ 17.04.090.	Section 903.1.2, CFC—Additions and alterations.
§ 17.04.020.	Amendments to the California Fire Code and International Fire Code.	§ 17.04.091.	Section 903.1.3, CFC—Provisions for all sprinklered buildings.
§ 17.04.025.	Chapter 1, Division II, Section 102.2, IFC is amended—Administrative, operational and maintenance provisions.	§ 17.04.092.	Section 903.2, CFC is amended—Where required. Sections 903.2.22 and 903.2.23 CFC added—Existing buildings and structures.
§ 17.04.030.	Chapter 1, Division II, Section 105.3.3, IFC is amended—Occupancy prohibited before approval and examination of documents.	§ 17.04.094.	Section 903.3.1.4, CFC amended—Inspector's test.
§ 17.04.031.	Chapter 1, Section 106.2, CFC amended.	§ 17.04.095.	Section 903.3.1.5, CFC is added—Additional sprinkler locations.
§ 17.04.035.	Chapter 1, Sections 107.1 and 107.2, CFC amended.	§ 17.04.096.	Section 903.4.1 CFC is amended—Fire sprinkler monitoring systems.
§ 17.04.036.	Chapter 1, Section 107.4 CFC amended.	§ 17.04.097.	Section 905.4 CFC is amended—Location of Class I standpipe hose connections.
§ 17.04.040.	Chapter 1, Section 111, CFC is amended—Board of Appeals.	§ 17.04.098.	Section 907.7 CFC amended—Acceptance tests and certification.
§ 17.04.045.	(Reserved)		Section 5003.5, CFC is amended—Hazard identification signs.
§ 17.04.050.	Section 315, CFC—General storage.	§ 17.04.100.	Section 5707, CFC amended—On-demand mobile fueling operations.
§ 17.04.055.	Section 503.3, IFC—Marking.		Deposits of hazardous materials and unlawful burning—Liability for costs.
§ 17.04.060.	Sections 505.1 through 505.1.3, CFC—Premises identification.	§ 17.04.101.	
§ 17.04.065.	Section 506.1, CFC—Key boxes.		
§ 17.04.070.	Section 507—Fire protection water supplies.	§ 17.04.105.	
§ 17.04.075.	Section 508—Fire command center.		

**CHAPTER 17.04
INTERNATIONAL FIRE CODE**

Note: Prior ordinance history: Ords. 1208, 1285, 1315, 1413, 1463, 1536, 1614, 1695, 1749, 1793, 1800, 1808, 1814 and 1855.

§ 17.04.010. Adoption of text of the California Fire Code and the International Fire Code.

There is adopted by the city for the purpose of prescribing regulations governing conditions hazardous to life and property from fire, explosion, or wildfire that certain codes which contains building standards known as the 2022 California Fire Code (International Fire Code, 2021 Edition as amended by the state of California), and the non-building standards known as the International Fire Code, 2021 Edition, together with all appendices, except Appendices A, D, J, and P, and the state of California amendments thereto, and the Public Resources Code, Division 4, Section 4291.

(Ord. 1888 § 4, (2013); Ord. 1932 § 4, (2016); Ord. 1974 § 4, (2020); Ord. 2009 § 4, (2022))

§ 17.04.020. Amendments to the California Fire Code and International Fire Code.

The California Fire Code and the International Fire Code are amended or modified as follows.
(Ord. 1888 § 4, (2013); Ord. 1932 § 4, (2016); Ord. 1974 § 4, (2020); Ord. 2009 § 4, (2022))

§ 17.04.025. Chapter 1, Division II, Section 102.2, IFC is amended—Administrative, operational and maintenance provisions.

Section 102.2 is amended to delete item #2 of this section.

(Ord. 1888 § 4, (2013); Ord. 1932 § 4, (2016); Ord. 1974 § 4, (2020); Ord. 2009 § 4, (2022))

§ 17.04.030. Chapter 1, Division II, Section 105.3.3, IFC is amended—Occupancy prohibited before approval and examination of documents.

Section 105.3.3 is deleted in its entirety and replaced with the following:

Section 105.3.3. No final inspection by the Building Official as to all or any portion of a development shall be deemed complete, and no certificate of occupancy or temporary certificate of occupancy shall be issued unless and until the installation of the prescribed fire protection facilities and access ways have been completed and approved by the Fire Chief.

(Ord. 1888 § 4, (2013); Ord. 1932 § 4, (2016); Ord. 1974 § 4, (2020); Ord. 2009 § 4, (2022))

§ 17.04.031. Chapter 1, Section 106.2, CFC amended.

Section 106.2, CFC is deleted in its entirety and replaced with the following:

Section 106.2. Examination of documents. When required by the fire code official, plans submitted to the Building Official for a permit shall be reviewed by the Fire Chief to determine compliance with the California Fire Code and the International Fire Code. Upon review a written report shall be returned to the Building Official listing deficiencies or compliance with the Code.

(Ord. 2009 § 4, (2022))

§ 17.04.035. Chapter 1, Sections 107.1 and 107.2, CFC amended.

Section 107.1.2, CFC is added to this code and shall read as follows:

Section 107.1.2. Permits and Fees.

- a. The fees for the permits and other services shall be as established by resolution of the Central County Fire Department Fire Board as amended from time to time. The fee shall be set to cover the cost of the Fire Department to review and inspect the intended activities, operations or functions. The fees must be applied to the appropriate agency, City of Burlingame or Central County Fire Department, depending on the type of service.

Exception: (1) The applicant for a given permit shall be exempt from the payment when the work to be conducted is for the City of Burlingame under written contract to the City or for events sponsored or cosponsored by the City.

- b. In the case of multiple permits for an applicant, the permit applicant will be charged the single highest listed rate of all the permits required. The other permittable items will be charged at a rate of 50% of the listed fee as long as the permits are for the same address.
- c. Where processes or materials are inherent with a permittable item, subsequent fees may be waived at the discretion of fire chief.
- d. All fire permits and fire construction permits shall have a set number of inspections per permit as set forth by the Central County Fire Department Fee Schedule. Additional inspections and additional re-inspections will be billed at an hourly rate consistent with the Central County Fire Department Fee Schedule.
- e. Application for "event" type fire code permits shall be submitted 14 days prior to the event date. Applications submitted within 13 days prior to the event date shall be charged double the regular permit rate as established by the Central County Fire Department Fee Schedule.
- f. "After Hours" inspections shall be invoiced at a rate of one and one-half times the normal hourly rate of the inspecting fire personnel. "After Hours" inspections will be billed at a rate of three hours minimum. "After Hours" inspections are defined as follows: Inspections conducted outside of normal business hours, as defined on the Central County Fire Department website and based upon personnel availability.
- g. Any person, group, organization, institution or business failing to pay the applicable fees under this Article shall after 30 days of the due date, for either existing or new permit applicants, shall be issued a citation for non-payment of the required permit fee. The penalty for all permit payments delinquent after 30 days shall be a doubling of the original fee.

(Ord. 1888 § 4, (2013); Ord. 1932 § 4, (2016); Ord. 1974 § 4, (2020); Ord. 2009 § 4, (2022))

§ 17.04.036. Chapter 1, Section 107.4 CFC amended.

Section 107.4 CFC is deleted in its entirety and replaced with the following:

Section 107.4. Investigation and Fee.

Section 107.4. Investigation—Work without a permit.

Investigation. Whenever construction or work for which a permit is required by this code and has been commenced without first obtaining a permit, a special investigation shall be made before a permit may

be issued for the work. All work done without a required permit, including demolition of all or part of a structure or system shall be subject to the investigation and fees imposed by this section.

Section 107.4.1 is added to this code and shall read as follows:

Section 107.4.1. Fee—Work without a permit.

In the event work is done without an issued permit, an investigation fee, in addition to the permit fee, shall be collected as a civil penalty, whether or not a permit is then or subsequently issued. The investigation fee shall be up to 10 times the fire permit fee. The investigation fee shall be determined by the Fire Chief and shall be based on the staff time reasonably required to resolve all of the issues related to the work that has been performed without a permit. No construction work permit shall be issued until the investigation fee has been paid in full.

Nothing in this section shall relieve any persons from fully complying with the requirements of this code, in the execution of the work, or from any other fees or penalties prescribed by law.

(Ord. 2009 § 4, (2022))

§ 17.04.040. Chapter 1, Section 111, CFC is amended—Board of Appeals.

Section 111, CFC is deleted in its entirety and replaced with the following:

Section 111. Appeal and review.

- (a) The chief of the fire department shall be charged with the duty and responsibility of administering the provisions of this chapter.
- (b) Whenever it is provided herein that certain actions shall be done in accordance with an order of the fire department, such order shall be complied with. Any person aggrieved thereby, may appeal to the fire chief in writing within 10 days after the date of such order, except as otherwise provided in this chapter. The fire chief shall issue a written decision to affirm, modify or reverse the order within two business days of the receipt of the appeal. The fire chief's written decision may be appealed to the City Council no later than 10 days from the date of the fire chief's written decision. The City Council's decision shall be final and conclusive. Except in the cases of immediate hazard, the enforcement of the order shall be suspended until such person has exhausted the appeal process as described above.

(Ord. 1888 § 4, (2013); Ord. 1932 § 4, (2016); Ord. 1974 § 4, (2020); Ord. 2009 § 4, (2022))

§ 17.04.045. (Reserved)

(Ord. 1888 § 4, (2013); Ord. 1932 § 4, (2016); Ord. 1974 § 4, (2020); Ord. 2009 § 4, (2022))

§ 17.04.050. Section 315, CFC—General storage.

Section 315.2, CFC is amended and Section 315.3.5 is added to read as follows:

Section 315.2 Permit required. A permit for miscellaneous combustible materials shall be required as set forth in Section 105.5.

Exception: Storage of combustible materials other than motorized vehicles or vessels shall not be permitted in a public parking garage or in a garage or carport serving a Group R, Division 1 or Group R, Division 2 Occupancy, unless the method of storage is approved by the Fire Code Official.

Section 315.3.5, CFC is added to read as follows:

Section 315.3.5. Designation of storage heights. Where required by the fire code official, a visual method of indicating the maximum allowable storage height shall be provided in accordance with Section 315.3.5.1, CFC.

Section 315.3.5.1, CFC added to read as follows:

Section 315.3.5.1. The approved visual method of indicating maximum allowable storage shall be a four (4") inch wide line in contrasting color along a wall or storage rack.

(Ord. 1888 § 4, (2013); Ord. 1932 § 4, (2016); Ord. 1974 § 4, (2020); Ord. 2009 § 4, (2022))

§ 17.04.055. Section 503.3, IFC—Marking.

Section 503.3, IFC is amended by adding Section 503.3.1 to read as follows:

Section 503.3.1 Fire Lane Designation. Designation of fire lanes shall be by one of the following means:

1. By outlining and hash marking the area in contrasting colors clearly marking it with the words "Fire Lane—No Parking."
2. By identifying the space with a red curb upon which the words "Fire Lane—No Parking" are stenciled every 15 feet.
 - a. Both sides of fire lanes shall be red curbed when the fire lane is 20 to 28 feet in width.
 - b. At least one side of a fire lane shall be red curbed and stenciled when the fire lane is over 28 and up to 36 feet in width.
 - c. Curbs need not be painted red nor stenciled when the fire lane is more than 36 feet in width.
3. In areas where a red curb is not practical, and when approved by the fire official, white signs measuring 12 inches by 18 inches with red lettering not less than 1" in height stating the area is a fire lane and parking is prohibited, may be posted adjacent to the fire lanes.

(Ord. 1888 § 4, (2013); Ord. 1932 § 4, (2016); Ord. 1974 § 4, (2020); Ord. 2009 § 4, (2022))

§ 17.04.060. Sections 505.1 through 505.1.3, CFC—Premises identification.

Section 505.1.1 is added to read as follows:

Section 505.1.1 Size of numbers shall be as follows:

1. When the structure is 36 to 50 feet from the street or fire apparatus access, a minimum of one-half-inch (½") stroke by six inches (6") high is required.
2. When the structure is more than 50 feet from the street or fire apparatus access, a minimum of one-inch (1") stroke by nine inches (9") high is required.

Sections 505.1.2, 505.1.3, and 505.1.4 CFC are added to read as follows:

Section 505.1.2 Multi-Tenant Buildings. Numbers or letters shall be designated on all occupancies within a building. Size shall be a minimum of one-half inch (1/2") stroke by four inches (4") high and on a contrasting background. Directional address numbers or letters shall be provided. Said addresses or numbers shall be posted at a height no greater than 5 feet, 6 inches (5' 6") above the finished floor and shall be either internally or externally illuminated in all new construction.

Section 505.1.3 Rear Addressing. When required by the chief, approved numbers or addresses shall be placed on all new and existing buildings in such a position as to be plainly visible and legible from the fire apparatus road at the back of a property or where rear parking lots or alleys provide and acceptable vehicular access. Number stroke and size shall comply with 505.1.1.

Section 505.1.4 ADU Addressing. Address for Residential Accessory Dwelling Units shall meet City of Burlingame specifications.

(Ord. 1888 § 4, (2013); Ord. 1932 § 4, (2016); Ord. 1974 § 4, (2020); Ord. 2009 § 4, (2022))

§ 17.04.065. Section 506.1, CFC—Key boxes.

Section 506.1, CFC is amended and Section 506.1.1.1, CFC is added to read as follows: Section 506.1 is modified to include:

Section 506.1 Where Required. The key box shall be of an approved type and shall contain contents as established in Section 506.1.1.1. A key box shall be installed in accordance with Fire Department standards for all new buildings. For existing buildings equipped with key box, it shall be upgraded to current Fire Department standards at time of Building permit issuance including modifications or alterations to front entrance of building.

An emergency gate key switch shall be installed on all new electronic driveway or entryway gates. The key switch shall conform to current Fire Department standards.

Section 506.1.1.1, CFC is added to read as follows:

Section 506.1.1.1 Key box contents requirements. Required keys include but are not limited to: a master entry key, elevator control, fire alarm control panels, fire sprinkler control valve access, and building utilities. Based on specific site conditions, the fire department may notify the property owner of additional required keys. Contents inside key box shall follow approved fire department standards. If the business/operation is required to have a Hazardous Material Inventory Statement (HMIS), the HMIS shall be included in the key box. Electronic key cards or keyless remotes may be provided as long as the locking system has a failsafe feature at loss of building power and doors are operational without a key or special knowledge.

(Ord. 1888 § 4, (2013); Ord. 1932 § 4, (2016); Ord. 1974 § 4, (2020); Ord. 2009 § 4, (2022))

§ 17.04.070. Section 507—Fire protection water supplies.

Section 507.5.4.1 CFC is added to read as follows:

Section 507.5.4.1. Private Hydrants. Whenever any on-site fire protection equipment or access ways have been installed as provided in this section, the following provision shall apply:

With respect to hydrants located along private access ways where curbs exist, said curbs shall be painted red or otherwise appropriately marked by the owner, lessee or other person in charge of the premises, to prohibit parking for a distance of 10 feet in either direction from such hydrant. In such cases where curbs do not exist, there shall be appropriate markings painted on the pavement, or signs erected, or both giving notice that parking is prohibited for a distance of 10 feet from any such hydrant. Hydrant caps shall be color-coded in accordance with NFPA 291 (National Fire Protection Association). The base of the hydrant shall be painted either reflective red or yellow.

(Ord. 1888 § 4, (2013); Ord. 1932 § 4, (2016); Ord. 1974 § 4, (2020); Ord. 2009 § 4, (2022))

§ 17.04.075. Section 508—Fire command center.

Section 508.1.1.1 CFC is added to read as follows:

Section 508.1.1.1. Requirements. Fire command center shall be equipped with an exterior door and be located at the exterior of the building at a location approved by the Fire Chief.

Section 508.2 CFC is added to read as follows:

Section 508.2 Fire control room. An approved fire control room shall be provided for all new buildings or buildings undergoing substantial improvement and requiring protection by an automatic fire sprinkler system. The room shall only contain all main system control valves, fire alarm control panels ERRCS equipment, and other fire equipment required by the Fire Chief. Fire control rooms shall be located within the building at a location approved by the Fire Chief and shall be provided at grade with a means to access the room directly from the exterior. Durable signage shall be provided on the exterior side of the access door to identify the fire control room. Fire Control Rooms shall not be less than 35 square feet.

Exceptions:

1. Group R, Division 3 Occupancies.
2. Occupancies with a fire pump shall have a fire control room that is a minimum of 200 square feet.
3. In high-rise buildings, the fire control room shall not be less than 200 square feet.

(Ord. 1888 § 4, (2013); Ord. 1932 § 4, (2016); Ord. 1974 § 4, (2020); Ord. 2009 § 4, (2022))

§ 17.04.080. (Reserved)

(Ord. 1888 § 4, (2013); Ord. 1932 § 4, (2016); Ord. 1974 § 4, (2020); Ord. 2009 § 4, (2022))

§ 17.04.085. Section 604.8, CFC—Shunt trip.

Section 604.8 is deleted and replaced in its entirety with the following:

Section 604.8. Shunt Trip Prohibited. Where elevator hoistways and/or elevator machine rooms containing elevator control equipment are located within buildings equipped with automatic fire sprinklers, the following is required in lieu of a shunt trip:

1. The elevator machine room shall be constructed with the minimum fire rating as the hoistway. For non-rated hoistways, the minimum rating shall be one hour throughout in accordance with Section 707 of the California Building Code for fire barriers.
2. Fire sprinklers at the top of the hoistway and inside the elevator machine room shall not be installed.
3. Means for elevator shutdown shall not be installed.

(Ord. 1888 § 4, (2013); Ord. 1932 § 4, (2016); Ord. 1974 § 4, (2020); Ord. 2009 § 4, (2022))

§ 17.04.090. Section 903.1.2, CFC—Additions and alterations.

Section 903.1.2, CFC is added to read as follows:

Section 903.1.2 Additions and Alterations. The standard for calculating the size of additions and/or alterations for determining the threshold for fire sprinkler systems shall be:

1. The square footage of every room being added and/or altered shall be included in the calculation of

total square footage of addition and/or alteration.

2. The entire square footage shall be considered added or altered when at least 50% or greater of interior wall sheeting or ceiling of any one wall within a room or area is new, removed, or replaced.
(Ord. 1888 § 4, (2013); Ord. 1932 § 4, (2016); Ord. 1974 § 4, (2020); Ord. 2009 § 4, (2022))

§ 17.04.091. Section 903.1.3, CFC—Provisions for all sprinklered buildings.

Section 903.1.3, CFC is added to read as follows:

Section 903.1.3, Provisions for all sprinklered buildings.

1. When a commercial or multi-family building is partially retrofitted with an approved automatic sprinkler fire extinguishing system pursuant to this section, the building owner shall complete the fire extinguishing system retrofit throughout the unprotected building interior areas within six years of completing the initial partial retrofit or within every tenant space where a building permit is obtained, whichever is less.
2. When a residential building is partially retrofitted with an approved automatic sprinkler fire extinguishing system pursuant to this section, the building fire extinguishing system retrofit shall be completed throughout the unprotected building interior areas within two years from completing the initial partial retrofit.
3. When a property owner or responsible party of a commercial or residential building chooses option 1 or 2 from above, the property owner shall file a deed restriction with San Mateo County Assessor's Office and obtain a performance bond to ensure compliance with Section 17.04.091. The bond shall be in an amount equal to or greater than the estimated cost of completion, as determined by Central County Fire Department.

(Ord. 1888 § 4, (2013); Ord. 1932 § 4, (2016); Ord. 1974 § 4, (2020); Ord. 2009 § 4, (2022))

§ 17.04.092. Section 903.2, CFC is amended—Where required.

Section 903.2, CFC shall be deleted and replaced as follows:

Section 903.2 Where required. Approved automatic fire sprinkler systems shall be installed in all new occupiable and/or habitable buildings and structures. In addition, approved automatic fire sprinkler systems shall be provided in locations described in Sections 903.2.1 through 903.2.23.

Exceptions:

1. When approved by the fire chief, canopy structures used solely for vehicular parking which have a photovoltaic system attached are not required to be equipped with a fire sprinkler system as long as the structure meets distance requirements to other structures and property lines.
2. Group U occupancies less than 1,200 square feet.

Section 903.2.10.3, CFC is added to read as follows:

Section 903.2.10.3 Lithium-ion batteries in vehicles. Areas which contain electric vehicle charging stations shall have a fire sprinkler density design of a minimum Extra Hazard, Group 2 for the coverage of charging stations and for 15' in any direction of charging stations.

Section 903.2.10.4, CFC is added to read as follows:

Section 903.2.10.4 Additional Commercial and Multi-family Dwelling Sprinkler Locations. Rooms or spaces which contain vehicle parking lifts or vehicle stacking systems shall be designed as an Extra-High Hazard Classification. Sprinkler design to include sidewall sprinkler heads designed at minimum Ordinary Group 2 in between each level.

Exception: Buildings classified as single-family dwellings.

(Ord. 1888 § 4, (2013); Ord. 1932 § 4, (2016); Ord. 1974 § 4, (2020); Ord. 2009 § 4, (2022))

§ 17.04.093. Sections 903.2.22 and 903.2.23 CFC added—Existing buildings and structures.

Section 903.2.22 is added to read as follows:

Section 903.2.22, CFC Existing Buildings and Structures. All existing buildings and structures shall be retroactively protected by an approved automatic extinguishing system when the following conditions exist:

- a. Commercial and multi-family residential buildings with a total building floor area in excess of 2,000 square feet or more than two stories in height, and when additions or alterations for which a building permit is required will exceed 1,200 square feet in area.

Exception: Group U occupancies less than 1,200 square feet and separated from primary structure by a minimum of 10 feet.

- b. Residential one- and two-family dwellings and structures with a total building floor area in excess of 2,000 square feet or more than two stories in height, and when additions or alterations for which a building permit is required will exceed 750 square feet in area.

Exceptions:

1. Additions or alterations of commercial, multi-family residential, and one and two-family residential buildings that do not exceed 20% of the total square footage of the entire completed building.
2. The following scopes of work are excluded from calculations to determine area of alteration: building roof repair/replacement; fire damage repair; building heating and/or cooling unit repair/replacement; and any other federal, state and local construction code upgrade requirements including, but not limited to, the seismic retrofit requirements, asbestos, and other hazardous material abatement.

Section 903.2.23, CFC is added with the following:

Section 903.2.23 Aggregate. When more than one addition and/or alteration for which building permits are required are submitted within a two year period from the closure date of the initial permit, the sum of the square footage of these additions and/or alterations shall be aggregated for the purpose of determining calculations in Section 17.04.090.

(Ord. 1888 § 4, (2013); Ord. 1932 § 4, (2016); Ord. 1974 § 4, (2020); Ord. 2009 § 4, (2022))

§ 17.04.094. Section 903.3.1.4, CFC amended—Inspector's test.

Section 903.3.1.4, CFC is added to read as follows:

Section 903.3.1.4 Inspectors Test Valves. Single-family residential fire sprinkler systems within buildings greater than 3600 square feet shall be equipped with an inspector's test valve for each system and located the furthest point away from the sprinkler riser.

(Ord. 1888 § 4, (2013); Ord. 1932 § 4, (2016); Ord. 1974 § 4, (2020); Ord. 2009 § 4, (2022))

§ 17.04.095. Section 903.3.1.5, CFC is added—Additional sprinkler locations.

Section 903.3.1.5, CFC is added to read as follows:

Section 903.3.1.5 Additional Residential Sprinkler Locations. The installation of a residential fire sprinkler system shall conform to the following:

1. Sprinklers shall be required throughout carports and garages.

Exception: Detached carports and garages less than 2,000 square feet in area and separated from residential buildings by a minimum of 10 feet.

2. Sprinkler coverage shall be provided in the following locations:

a. Attic access openings;

b. Areas of attics and crawl spaces containing storage, mechanical and/or electrical equipment.

(Ord. 1888 § 4, (2013); Ord. 1932 § 4, (2016); Ord. 1974 § 4, (2020); Ord. 2009 § 4, (2022))

§ 17.04.096. Section 903.4.1 CFC is amended—Fire sprinkler monitoring systems.

Section 903.4.1 CFC is amended by adding the following:

903.4.1 Monitoring. For new fire sprinkler monitoring systems, the approved supervisory station shall be defined as a UL approved central receiving station.

(Ord. 1888 § 4, (2013); Ord. 1932 § 4, (2016); Ord. 1974 § 4, (2020); Ord. 2009 § 4, (2022))

§ 17.04.097. Section 905.4 CFC is amended—Location of Class I standpipe hose connections.

Section 905.4 CFC, subsection 1 is deleted and replaced with the following:

1. In every required interior exit stairway, a hose connection shall be provided for each story above and below grade plane. Hose connections shall be located at an intermediate floor level landing between floors, when such a landing exists. *See Section 909.20.2.3 of the California Building Code for additional provisions in smokeproof enclosures.*

(Ord. 1974 § 4, (2020); Ord. 2009 § 4, (2022))

§ 17.04.098. Section 907.7 CFC amended—Acceptance tests and certification.

Section 907.7 CFC is amended to add the following:

Section 907.7 Acceptance Test and Certification. Upon completion of the installation, the fire alarm system and all fire alarm components shall be tested in accordance with NFPA 72. New fire alarm systems installed in commercial and multi-family buildings shall be UL-Certified. Certificate shall be posted next to fire alarm control panel at time of final inspection.

(Ord. 2009 § 4, (2022))

§ 17.04.100. Section 5003.5, CFC is amended—Hazard identification signs.

Section 5003.5.2, CFC is added to read as follows:

Section 5003.5.2 Sign size and locations. Two NFPA 704 diamonds shall be placed on buildings so that

they are clearly visible from at least two directions of travel.

1. The signs shall be at least fifteen inches by fifteen inches (15" x 15"). The signs shall not be placed on windows.
2. When NFPA 704 diamonds are required for the interior doors, the signs shall be applied to the doors at a level no higher than the doorknob. The signs for the interior doors shall be at least six inches by six inches (6"x 6").
3. The Fire Code Official may require fewer or more NFPA diamonds if the building configuration or size makes it reasonably necessary.

(Ord. 1888 § 4, (2013); Ord. 1932 § 4, (2016); Ord. 1974 § 4, (2020); Ord. 2009 § 4, (2022))

§ 17.04.101. Section 5707, CFC amended—On-demand mobile fueling operations.

Section 5707.6.5 is deleted in its entirety and replaced with the following:

Section 5707.6.5 Adequate lighting. Adequate site lighting shall be provided for all mobile fueling operations which are performed in dim or dark outdoor conditions. Acceptable means of lighting are flood or box lights which are self-standing or mountable.

(Ord. 1974 § 4, (2020); Ord. 2009 § 4, (2022))

§ 17.04.105. Deposits of hazardous materials and unlawful burning—Liability for costs.

- (a) The fire department is authorized to clean up or abate the effects of any hazardous material deposited upon or into property or facilities of the city. Any person who intentionally or negligently caused such deposit shall be liable for the payment of all cleanup or abatement costs incurred by the fire department. The remedy provided by this section shall be in addition to any other remedies provided by law.
- (b) For the purposes of this section, "hazardous materials" shall be defined as any substances or materials, in a quantity or form which, in the determination of the fire chief or authorized representative, poses an imminent risk to life, health or safety of persons or property or to the ecological balance of the environment, and shall include, but not be limited to, such substances as explosives, radioactive materials, petroleum or petroleum products or gases; poisons, etiologic (biologic) agents, flammables and corrosives.
- (c) Any person in violation of Section 17.04.010 and 17.04.020 which results in fire damage to persons or property shall be charged as unlawfully burning and is liable for costs incurred by the fire department and other responding county or state fire agencies for suppression activities.
- (d) For purposes of this section, costs incurred by the fire department shall include, but shall not necessarily be limited to, the following: actual labor costs of city personnel, including workers' compensation benefits, fringe benefits, administrative overhead; cost of equipment operation, cost of materials obtained directly by the city; and cost of any contract labor and materials.

(Ord. 1888 § 4, (2013); Ord. 1932 § 4, (2016); Ord. 1974 § 4, (2020); Ord. 2009 § 4, (2022))

Title 18**BUILDING CONSTRUCTION**

	Chapter 18.05 INTERNATIONAL SWIMMING POOL AND SPA CODE	§ 18.07.070.	Section 303.4 amended—Permit expiration—Failure to complete.
§ 18.05.010.	Adoption of the 2021 International Swimming Pool and Spa Code.	§ 18.07.075.	Short time extension to a building permit.
§ 18.05.020.	Section 302.1 amended—Electrical.	§ 18.07.080.	Section 304.2 amended—Permit fees.
§ 18.05.030.	Section 302.2 amended—Water service and drainage.	§ 18.07.100.	Section 304.3 amended—Plan review fees.
§ 18.05.040.	Section 302.5 amended—Backflow protection.	§ 18.07.110.	Section 304.5 amended—Investigation fees—Work without a permit.
§ 18.05.050.	Section 303 amended—Energy.	§ 18.07.120.	Section 305.1 amended—General.
	Chapter 18.06 UNIFORM HOUSING CODE	§ 18.07.130.	Section 108 added—Safety assessment placards.
§ 18.06.010.	Adopted.	§ 18.07.140.	Streamlined permitting process for small residential rooftop solar systems.
	Chapter 18.07 UNIFORM ADMINISTRATIVE CODE		Permit process for electric vehicle charging stations.
			Chapter 18.08 BUILDING CODE
§ 18.07.010.	Adoption of the Uniform Administrative Code.	§ 18.08.005.	Adoption of 2022 , Part 2, Volume 1.
§ 18.07.020.	Section 102.2 amended—Aggregate additions, alterations or repairs.	§ 18.08.010.	Section 406.1.1 added—Car stacking system back up power.
§ 18.07.030.	Section 102.6 amended—Moved buildings.	§ 18.08.015.	Section 406.6.2 added—Ventilation.
§ 18.07.040.	Section 204 amended—Appeals.	§ 18.08.020.	Sections 502.1 amended—Address identification.
§ 18.07.050.	Section 301.2.1 amended—Building permits—Exempted work.	§ 18.08.025.	Section 502.2 added—Utility identification.
§ 18.07.060.	Section 302.3 amended—Information on plans and specifications.	§ 18.08.030.	Section 903.1.2 added—Additions and alterations.
§ 18.07.065.	Section 303.1 amended—Issuance.	§ 18.08.035.	Section 903.1.3 added—Applicable to all sprinklered buildings.

BUILDING CONSTRUCTION

§ 18.08.040.	Section 903.2 amended—Where required.	§ 18.08.130.	Section 3202 amended—Encroachments above grade and below eight feet in height.
§ 18.08.045.	Section 903.2.10.3 added—Lithium-ion batteries in vehicles.	§ 18.08.135.	Section 3202.3 amended—Encroachments eight feet or more above grade.
§ 18.08.050.	Section 903.2.22 added—Existing buildings and structures.		
§ 18.08.055.	Section 903.3.23 added—Aggregate.		Chapter 18.09 MECHANICAL CODE
§ 18.08.060.	Section 903.3.1.4 added—Inspector's test valves.	§ 18.09.010.	Adoption of 2022 California Mechanical Code.
§ 18.08.065.	Sections 903.3.1.5 and 903.3.1.6 added—Additional residential sprinkler locations.	§ 18.09.020.	Section 1101.1 amended—Appeals.
§ 18.08.070.	Section 903.4.1 Amended—Fire sprinkler monitoring system.		Chapter 18.10 RESIDENTIAL CODE
§ 18.08.075.	Section 907.7 added—Acceptance and certification.	§ 18.10.010.	Adoption of 2022 California Residential Code.
§ 18.08.080.	Section 1502.4.1 added—Roof drainage requirements.	§ 18.10.015.	Section R111.4 added—Utility identification.
§ 18.08.085.	Section 1502.4.2 added—Surface drainage requirements.	§ 18.10.020.	Section R309.6 deleted—Fire sprinklers exception.
§ 18.08.090.	Section 1505.1 amended—Fire classification.	§ 18.10.025.	Section R313.1 amended—Townhouse automatic fire sprinkler systems.
§ 18.08.095.	Table 1505.1 amended—Roof minimum fire retardant classes.	§ 18.10.030.	Section R313.2 amended—Oneand two-family dwellings automatic fire systems.
§ 18.08.100.	Section 1505.1.2 amended—Roof covering within all other areas.	§ 18.10.035.	Section R313.3.1.2 amended—Required sprinkler locations.
§ 18.08.105.	Adoption of 2022 , Part 2, Volume 2.	§ 18.10.040.	Section R313.3.2.7 added—Additions and alterations.
§ 18.08.110.	Section 1807.2.1 amended—Retaining walls.	§ 18.10.045.	Section R313.3.2.8 added—All sprinklered buildings.
§ 18.08.115.	Section 3005.5 amended—Shunt trip.	§ 18.10.050.	Section R313.3.3.1 amended—Nonmetallic pipe and tubing.
§ 18.08.120.	Section 3202 amended—Encroachments.		
§ 18.08.125.	3202.1 amended—Encroachments below grade.		

BURLINGAME CODE

§ 18.10.055.	Table R313.3.6.2 (9) deleted—Table R313.3.6.2 (9) Allowable pipe length for 1-inch PEX tubing.	§ 18.12.050.	Section 609.3 amended—Water piping installed in or under a concrete slab.
§ 18.10.060.	Section R313.3.6.2.2 amended—Calculation procedure. Step 8—Determine the maximum allowable pipe length.	§ 18.12.060.	Section 610.8.1 added—Water service over two inches.
§ 18.10.065.	Section R313.3.8.1 amended—Pre-concealment inspection #4.	§ 18.12.070.	Section 710.1 amended—Drainage of fixtures below the next upstream manhole or below the main sewer level.
§ 18.10.070.	Section R313.3.8.1 amended—Pre-concealment inspection #5.	§ 18.12.080.	Section 719.7 added—Building sewer cleanout.
§ 18.10.075.	Section R319.1 amended—Address numbers.	§ 18.12.090.	Section 807.4 added—Condensate waste water disposal.
§ 18.10.080.	Section R902.1 amended—Roof covering materials.	§ 18.12.100.	Section 812.2 added—Disposal of rainwater drainage.
§ 18.10.085.	Section R902.1.3 amended—Roof covering in all other areas.	§ 18.12.110.	Section 812.3 added—Rainwater drainage to paved gutter.
§ 18.10.090.	Section R903.4.2 added—Roof and surface drainage.	§ 18.12.120.	Section 812.4 added—Rainwater drainage across public sidewalk prohibited.
§ 18.10.095.	Section R1003.9.2.1 added—Spark arrestors.	§ 18.12.130.	Section 812.5 added—Elimination of nonconforming rainwater drainage required.

Chapter 18.11

DANGEROUS BUILDINGS CODE

§ 18.11.010.	Adoption of Uniform Code for the Abatement of Dangerous Buildings.
§ 18.11.020.	Chapter 6 amended—Appeals.

Chapter 18.12

PLUMBING CODE

§ 18.12.010.	Adoption of 2022 California Plumbing Code.
§ 18.12.020.	Section 310.13 added—Exterior pipes.
§ 18.12.030.	Section 507.5 amended—Water heater safety pans.
§ 18.12.040.	Section 606.3.1 added—Water supply shutoff valves.

Chapter 18.13

EXISTING BUILDING CODE

§ 18.13.010.	Adoption of 2022 California Existing Building Code.
§ 18.13.020.	Section 501.6 added—Suspended ceiling upgrade required.

Chapter 18.16
ELECTRICAL CODE

§ 18.16.010.	Adoption of 2022 California Electrical Code.
§ 18.16.020.	Section 230.70(A)(1) amended—Main switch accessible from exterior.

BUILDING CONSTRUCTION

§ 18.16.030.	Section 410.10(G) added—Exterior lighting restricted.	Chapter 18.19 INDOOR WATER CONSERVATION
	Chapter 18.17 WATER CONSERVATION IN LANDSCAPE	
§ 18.17.010.	Title.	§ 18.19.010. Title.
§ 18.17.020.	Applicability.	§ 18.19.020. Coordination with the plumbing code.
§ 18.17.030.	Definitions.	§ 18.19.030. Applicability.
§ 18.17.040.	Water conservation in landscaping requirements.	§ 18.19.040. Definitions.
§ 18.17.050.	Compliance with provisions.	§ 18.19.050. Minimum indoor fixture requirements.
§ 18.17.060.	Landscape project application.	§ 18.19.060. Compliance with provisions.
§ 18.17.070.	Outdoor water use efficiency checklist.	§ 18.19.070. Components of the indoor water use efficiency checklist.
§ 18.17.080.	Water budget calculations.	§ 18.19.080. Violations, penalties and enforcement.
§ 18.17.090.	Landscape and irrigation design plans.	§ 18.19.090. Public education.
§ 18.17.100.	Landscape audit report.	
§ 18.17.110.	Landscape and irrigation maintenance schedule.	Chapter 18.20 GRADING, EXCAVATION, FILLS
§ 18.17.120.	Stormwater management.	§ 18.20.010. Intent of chapter.
§ 18.17.130.	Provisions for existing landscapes over one acre in size.	§ 18.20.020. Definitions.
§ 18.17.140.	Violations, penalties and enforcement.	§ 18.20.030. Requirements for grading permits.
§ 18.17.150.	Public education.	§ 18.20.040. Exceptions.
	Chapter 18.18 RADIO AND TELEVISION ANTENNAS	§ 18.20.050. Application for permit.
§ 18.18.010.	Purpose.	§ 18.20.060. Criteria for approval of permit by city officials.
§ 18.18.020.	Definitions.	§ 18.20.070. Standards.
§ 18.18.025.	Placement of satellite antennas.	§ 18.20.075. Maintenance of protective devices.
§ 18.18.030.	Ham, CB and other regulated antennas.	§ 18.20.080. Inspections.
§ 18.18.040.	Antenna exception.	§ 18.20.090. Fees.
§ 18.18.060.	Planning Commission action on antenna exceptions.	
§ 18.18.070.	Engineering report required.	Chapter 18.22 FLOOD DAMAGE PREVENTION
§ 18.18.080.	Antennas existing on the effective date of this chapter.	§ 18.22.010. Findings of fact.
		§ 18.22.020. Statement of purpose.
		§ 18.22.030. Methods of reducing flood losses.
		§ 18.22.100. Definitions.
		§ 18.22.310. Lands to which this chapter applies.

BURLINGAME CODE

§ 18.22.320.	Basis for establishing the areas of special flood hazard.	§ 18.22.621.	Notice.
§ 18.22.330.	Compliance.		Chapter 18.24
§ 18.22.340.	Abrogation and greater restrictions.	§ 18.24.010.	CREEK ENCLOSURE PERMITS
§ 18.22.350.	Interpretation.	§ 18.24.020.	Definitions.
§ 18.22.360.	Warning and disclaimer of liability.		Permit required.
§ 18.22.410.	Establishment of development permit.		Chapter 18.28
§ 18.22.420.	Designation of the floodplain administrator.	§ 18.28.010.	UNREINFORCED MASONRY BUILDING HAZARD REDUCTION PROGRAM
§ 18.22.430.	Duties and responsibilities of floodplain administrator.	§ 18.28.020.	Purpose.
§ 18.22.431.	Permit review.	§ 18.28.030.	Definitions.
§ 18.22.432.	Use of other base flood data.	§ 18.28.040.	Scope of program.
§ 18.22.433.	Information to be obtained and maintained.	§ 18.28.050.	Owner notification.
§ 18.22.434.	Alteration of watercourses.	§ 18.28.060.	Building categories and implementation schedule.
§ 18.22.435.	Interpretation of FIRM boundaries.	§ 18.28.070.	Extensions.
§ 18.22.510.	Standards.	§ 18.28.080.	Structural repair standards.
§ 18.22.511.	Anchoring.	§ 18.28.090.	Section A102 amended—Scope.
§ 18.22.512.	Construction materials and methods.	§ 18.28.100.	Section A103 amended—Alternate materials.
§ 18.22.513.	Elevation and floodproofing.	§ 18.28.110.	Section A105 amended—Historic buildings.
§ 18.22.520.	Standards for storage of materials and equipment.	§ 18.28.112.	Section A106 amended—Analysis and design.
§ 18.22.530.	Standards for utilities.		Section A107 amended—Materials of construction.
§ 18.22.540.	Standards for subdivisions.	§ 18.28.113.	Section A108 amended—Information required on plans.
§ 18.22.550.	Standards for manufactured homes.		Section A109 added—Design check.
§ 18.22.555.	Standards for recreational vehicles.	§ 18.28.114.	Tables deleted and amended.
§ 18.22.560.	Floodways.	§ 18.28.115.	Tables added.
§ 18.22.570.	Coastal high hazard area.	§ 18.28.116.	Remedies.
§ 18.22.571.	Location of structures.	§ 18.28.117.	
§ 18.22.572.	Construction methods.		Chapter 18.30
§ 18.22.610.	Appeals board.		GREEN BUILDING STANDARDS CODE
§ 18.22.611.	Appeal procedure.	§ 18.30.010.	Adoption of 2022 California Green Building Standards Code.
§ 18.22.612.	Variances.	§ 18.30.011.	Exemptions and exceptions.
§ 18.22.613.	Variance conditions.		
§ 18.22.614.	Variance records.		
§ 18.22.620.	Conditions for variances.		

BUILDING CONSTRUCTION

§ 18.30.015.	Section 101.2 amended—Purpose.	§ 18.30.045.	Section A4.204 amended—Tier 1 Energy Efficiency (Residential-Prescriptive Approach) Adopted as Mandatory Measure.
§ 18.30.020.	Section 202 amended—Definitions.		
§ 18.30.030.	Section 4.408.2 amended—Construction Demolition and Recycling Plan.	§ 18.30.050.	Section A5.203.1.1 amended—Tier 1 Energy Efficiency (Non-Residential) Adopted as Mandatory Measure.
§ 18.30.040.	Section A4.203.1 amended—Tier 1 Energy Efficiency (Residential-Performance Approach) Adopted as Mandatory Measure.	§ 18.30.060.	Section 304.1.2 added—Undue Hardship.
		§ 18.30.070.	Section 102.3.1 added—Final Approval.
		§ 18.30.080.	Subsection 101.12 added—Appeals.

**CHAPTER 18.05
INTERNATIONAL SWIMMING POOL AND SPA CODE**

§ 18.05.010. Adoption of the 2021 International Swimming Pool and Spa Code.

The rules, regulations and requirements published by the International Code Council (ICC) under the title "2021 International Swimming Pool and Spa Code," are adopted as and for the rules, regulations and standards for swimming pools and spas within this city as to all matters therein contained with the following amendments.

(Ord. 1969 § 5, (2019); Ord. 2010 § 3, (2022))

§ 18.05.020. Section 302.1 amended—Electrical.

Section 302.1 of the International Swimming Pool and Spa Code is amended to read as follows:

302.1 Electrical. Electrical requirements for aquatic facilities, pools, and spas shall be in accordance with the 2022 California Electrical Code.

Exception: Internal wiring for portable residential spas and portable residential exercise spas.

(Ord. 1969 § 5, (2019); Ord. 2010 § 3, (2022))

§ 18.05.030. Section 302.2 amended—Water service and drainage.

Section 302.2 of the International Swimming Pool and Spa Code is amended to read as follows:

302.2 Water service and drainage. Piping and fittings used for water service, makeup and drainage piping for pools and spas shall comply with the 2022 California Plumbing Code. Fittings shall be listed and approved by the International Association of Plumbing and Mechanical Official (IAPMO) or an equivalent recognized agency and be approved for installation with the piping installed.

(Ord. 1969 § 5, (2019); Ord. 2010 § 3, (2022))

§ 18.05.040. Section 302.5 amended—Backflow protection.

Section 302.5 of the International Swimming Pool and Spa Code is amended to read as follows:

302.5 Backflow protection. Water supplies for pools and spas shall be protected against backflow in accordance with the 2022 California Plumbing Code.

(Ord. 1969 § 5, (2019); Ord. 2010 § 3, (2022))

§ 18.05.050. Section 303 amended—Energy.

Section 303 of the International Swimming Pool and Spa Code is amended to read as follows:

303 Energy. The energy consumption of pools and permanent spas shall be controlled by the requirements in sections 303.1.1 through 303.1.3 and comply with the 2022 California Energy Code.

(Ord. 1969 § 5, (2019); Ord. 2010 § 3, (2022))

**CHAPTER 18.06
UNIFORM HOUSING CODE**

§ 18.06.010. Adopted.

The 1997 Uniform Housing Code is hereby incorporated as part of the Burlingame Municipal Code.
(Ord. 1969 § 6, (2019); Ord. 2010 § 4, (2022))

**CHAPTER 18.07
UNIFORM ADMINISTRATIVE CODE**

§ 18.07.010. Adoption of the Uniform Administrative Code.

The rules, regulations and requirements published by the International Conference of Building Officials (ICBO) in one volume under the title "Uniform Administrative Code, 1997 Edition," hereinafter called "administrative code," are adopted as and for the rules, regulations and standards within this city as to all matters therein contained, except as provided in this chapter. The fee schedules in this code shall supersede and replace those published in the building code, plumbing code, mechanical code and electrical code except as provided in this chapter.

(Ord. 1538 § 1, (1996); Ord. 1613 § 5, (1999))

§ 18.07.020. Section 102.2 amended—Aggregate additions, alterations or repairs.

The following sentence is added as the second sentence of the first paragraph of Section 102.2:

However, when additions, alterations or repairs within any 12 month period exceed 50% of the current replacement value of an existing building or structure, as determined by the building official, such building or structure shall be made in its entirety to conform with the requirements for new buildings or structures.
(Ord. 1538 § 1, (1996); Ord. 1613 § 5, (1999))

§ 18.07.030. Section 102.6 amended—Moved buildings.

Section 102.6 is to read as follows:

102.6 Moved buildings.

102.6.1 Permit Required. Before any building or structure is moved on or along any street within the city, a permit shall first be obtained from the building official for such moving. The permit application shall describe the streets and route over which the building will travel, the location of final installation if within the city, and the hours during which building will be moved. The building official will collect a fee as established by resolution of the council from time to time for required investigations and inspections. This fee shall be separate from any construction permit-related fees.

Prior to issuance of permit, the building official shall notify all affected city officials and, in the event that any such officials object to route or time of travel, changes shall be made to meet such objections.

102.6.2 Bond Required. In addition to all other requirements of the building code relating to the moving of buildings and structures, no permit for such moving shall be issued until the applicant shall have filed with the building official a corporate surety bond in favor of the city or a cash deposit in lieu of such bond. The bond shall be conditioned that the applicant will strictly comply with all provisions of the building code relating to the moving of buildings and structures and that the applicant will pay for any and all damage which may result by reason of such moving to any fence, hedge, tree, pavement of streets or sidewalks, pipes, poles and wires, or to any public or private property, and to hold harmless the city against any costs or expense which may accrue in consequence of such moving.

The bond shall be in such amount as determined by the building official and approved by the city attorney, but in no case less than one thousand dollars. At the option of the applicant, a cash deposit in the same amount may be deposited with the city finance director/treasurer.

(Ord. 1538 § 1, (1996); Ord. 1613 § 5, (1999); Ord. 1823 § 19, (2008))

§ 18.07.040. Section 204 amended—Appeals.

Section 204 is amended to read as follows:

An appeal may be taken to the Planning Commission from a denial of or a refusal to issue a building permit or from any other decision or determination of the building official (1) in order to determine the suitability of alternate materials and types of construction, or (2) to provide for reasonable interpretations of the Building Code.

The decisions of the Planning Commission shall be written and shall be final and shall not be subject to appeal. Copies of the decision shall be furnished to the building official and the appellant.

The Planning Commission may conduct investigations of the suitability of alternate materials and types of construction. It shall adopt reasonable rules regulating the conduct of such investigations and of the appeals herein provided for and may recommend to the City Council any new legislation deemed desirable.
(Ord. 1545 § 1, (1996); Ord. 1613 § 5, (1999))

§ 18.07.050. Section 301.2.1 amended—Building permits—Exempted work.

Subsection 1 of Section 301.2.1 is amended to read as follows:

1. One-story detached accessory buildings used as tool and storage sheds, playhouses and similar uses provided the floor area does not exceed 120 square feet.

(Ord. 1545 § 1, (1996); Ord. 1613 § 5, (1999); Ord. 1975 § 1, (2020))

§ 18.07.060. Section 302.3 amended—Information on plans and specifications.

Section 302.3 is amended by adding a second paragraph to read as follows:

A plot plan shall be included showing location of the proposed building with respect to property lines; lot, block and subdivision of the property; any existing building or buildings that will remain on the property; existing and proposed driveways, utilities, fire hydrants, power poles or any other fixed object between property lines and curb; and an indication of the finished grades at various points about the building and at property lines relative to an established datum such as curb or sidewalk.

(Ord. 1613 § 5, (1999))

§ 18.07.065. Section 303.1 amended—Issuance.

A fourth paragraph is added to Section 303.1 to read as follows:

Demolition permits will only be issued after all approvals required by Title 25 of this code and the California Environmental Quality Act are granted for the overall project for which the demolition is intended, and in any event, will only be issued simultaneously with the construction permits for the project.

Exceptions:

- a. If a property owner does not intend to construct anything on the property following demolition in the foreseeable future, the property owner shall file a declaration under penalty of perjury to that effect, and the building official may issue the demolition permit on the condition that the property where the demolition is to occur will be properly secured and landscaped.
- b. If the city has ordered the demolition of the structure because it is an imminent danger to public health or safety, the building official may issue the demolition permit on the condition that the property

where the demolition is to occur will be properly secured and landscaped even though the property owner has not applied for any construction permits.

- c. If a property owner of a non-residential project:
 - 1. Has been granted all project approvals required under Title 25 of this code and under the California Environmental Quality Act; and
 - 2. Produces evidence, to the satisfaction of the Community Development Director, that special circumstances exist to warrant early demolition; and
 - 3. Produces evidence, to the satisfaction of the Community Development Director, that he/she is preparing or is having prepared, plans for the project for which the demolition is intended; and
 - 4. Declares under penalty of perjury that he/she will submit said plans together with a building permit application for the project to the City's building division no later than 90 days after obtaining a demolition permit; then the Community Development Director may authorize the Building Official to issue the demolition permit with appropriate terms and conditions to ensure safety, security and cleanliness of the property.

In the event the property owner fails to obtain a building permit for the project within 60 days of submitting a building permit application to the building division, pursuant to item (c)(4), the property owner shall, within 30 days remove all debris from the site, permanently secure the property and install landscaping to the satisfaction of the Community Development Director. A decision to deny such a request for early demolition may be appealed to the City Council within 10 calendar days of the date of the Community Development Director's decision.

- d. If a building or structure is declared a public nuisance under Section 1.16.015, the Community Development Director may issue a demolition permit for said structure on the condition that the property where the demolition is to occur will be properly secured and landscaped. The owner of a building or structure which currently is or may be subject to enforcement proceedings under Section 1.16.015, but which has not been formally declared a nuisance under that provision, may apply to the Community Development Director to obtain a demolition permit for the structure. If granted, such permit shall be conditioned on appropriate securing and landscaping of the property. The decision whether to grant or deny a demolition permit under this subsection (d) shall rest within the discretion of the Community Development Director in light of the conditions present on the property in question.

(Ord. 1795 § 2, (2006); Ord. 1837 § 2, (2009); Ord. 1913 § 2, (2015))

§ 18.07.070. Section 303.4 amended—Permit expiration—Failure to complete.

Section 303.4 is amended to read as follows:

303.4 Expiration. All work to be performed under a building permit shall be completed within the maximum time allowed for the construction as follows:

Total Estimated Cost	Total Time Allowed
Up to and including \$50,000	12 months
Over \$50,000 to and including \$1,000,000	18 months
Over \$1,000,000 to and including \$2,000,000	24 months

Total Estimated Cost	Total Time Allowed
Over \$2,000,000 to and including \$10,000,000	30 months
Over \$10,000,000	36 months

Failure to complete the work within the time allowed, unless an extension of time has been specifically approved by the building official, will cause the permit for such work to become null and void. Failure to commence work on any permit within 12 months of issuance will cause the permit for such work to become null and void. Abandonment of the work authorized by the permit will also cause the permit to immediately become null and void. In each instance, a new permit requiring compliance with all current codes and payment of all fees shall be required to recommence work. The request for an extension of time must be submitted in writing prior to the expiration of the time allowed.

The time limit allowed to complete the work and obtain a building final for any permit that has been extended shall be 180 days from the date of the extension. Failure to complete the work within the time allowed by a first permit extension will cause the permit for such work to become null and void, unless a second extension has been specifically approved by the building official. A new permit requiring compliance with all current codes and payment of all fees shall be required to recommence work. Prior to expiration of a first extension of a building permit, an owner may apply for a second extension. The request for a second extension of time must be submitted in writing prior to the expiration of the time allowed under the first extension. All extension requests shall be made in writing, and must demonstrate justifiable cause for the extension.

Every permit extension issued by the Building Official under the provisions of the technical codes shall expire by limitation and become null and void, if the building or work authorized by such permit extension is not recommenced within 120 days from the date of such permit extension, or if the building or work authorized by such permit extension is suspended or abandoned at any time after the work is recommenced for a period of 120 days. The building or work shall be considered suspended or abandoned if a substantial inspection has not been conducted. The following are considered substantial inspections when all corrections have been performed and that portion of the work has been signed off by a city inspector:

1. Foundation;
2. Underground plumbing, electrical, and mechanical;
3. Underfloor framing, plumbing, electrical, and mechanical;
4. Shear walls, hold downs, roof diaphragm, and connectors;
5. Rough framing, plumbing, electrical, and mechanical;
6. Insulation;
7. Sheetrock; and
8. Final.

After suspension or abandonment and before such work can be recommenced, a new permit shall be first obtained and the fee therefore shall be the amount required for the original permit.

The expiration of a building permit without an extension pursuant to this section shall result in the expiration of any approvals under Chapter 25 (Zoning) of the Burlingame Municipal Code and the California Fire Code, including local amendments.

The fees for the first extension shall be the amount required for the original permit. If no changes in plans or specifications have been made, no additional plan checking fees will be required. The fee for any additional extension following the first extension shall be two times the original building permit fee.

Notwithstanding any other provision of this section, if a building permit was issued for part or all of a project or building which was required to obtain a special permit, variance or traffic allocation, the building permit shall expire and such special permit, variance or traffic allocation shall be null and void if substantial progress has not occurred within one year from the issuance of the building permit. Substantial progress shall be when the total foundation has been formed, inspected and poured. The Council may grant an extension of a permit upon the showing by the permittee of hardship or unforeseen circumstances. (Ord. 1545 § 1, (1996); Ord. 1613 § 5, (1999); Ord. 1603 § 12, (1998); Ord. 1802 § 2, (2007); Ord. 1975 § 1, (2020))

§ 18.07.075. Short time extension to a building permit.

- (a) The building official shall have the authority to issue a single short time extension of a building permit if all of the following conditions are met:
 - (1) No other extensions for the project have been previously granted; and
 - (2) The request for a short time extension is received in writing; and
 - (3) The person requesting a short time extension must present the original or a copy of the original construction plans that were approved by the city; and
 - (4) There is a record showing that the project has passed all required inspections, except for the final inspection; and
 - (5) A fee generally equal to two hourly inspections as set by city council resolution is paid at the time the short time extension is issued.
- (b) The short time extension shall expire 30 days after issuance. Failure to complete the work within the time allowed by the short time extension will cause the permit for such work to become null and void. A new permit requiring compliance with all current codes and payment of all fees shall be required to recommence work.

(Ord. 1802 § 4, (2007))

§ 18.07.080. Section 304.2 amended—Permit fees.

- (a) The first sentence of the first paragraph of Section 304.2 is amended to read as follows:

The fee for each permit shall be as established by resolution or ordinance adopted by the city council, plus any additional fees which may be established or mandated by state or federal law or city ordinance.

- (b) The second sentence of the second paragraph of Section 304.2 is amended to read as follows:

The minimum valuation shall be as set forth as the "Building Valuation Data" in the most recent edition of the Building Safety Journal® as published by the International Code Council (ICC).

(Ord. 1545 § 1, (1996); Ord. 1613 § 5, (1999); Ord. 1795 § 3, (2006); Ord. 1813 § 5, (2007))

§ 18.07.090. Section 304.3 amended—Plan review fees.

Section 304.3 is amended by adding a new second and third paragraphs:

When the submittal documents require review for compliance with State access regulations, an access plan review fee shall also be paid at the time of submittal. This fee shall be as established by resolution or ordinance adopted by the city council.

When the submittal documents require review for compliance with State energy regulations, an energy plan review shall also be paid at the time of submittal.

This fee shall be as established by resolution or ordinance adopted by the city council.

(Ord. 1545 § 1, (1996); Ord. 1613 § 5, (1999); Ord. 1795 § 4, (2006))

§ 18.07.100. Section 304.5 amended—Investigation fees—Work without a permit.

(a) The first sentence of Section 304.5.1 is amended to read as follows:

304.5.1 Investigation. Whenever construction or work for which a permit is required by this code, or any other code adopted or incorporated by reference as a part of this code, has been commenced without first obtaining a permit, a special investigation shall be made before a permit may be issued for the work. Demolition of all or any part of a structure without a required permit shall be subject to the investigation and fees imposed by this section.

(b) Section 304.5.2 is amended to read as follows:

304.5.2 Fee. An investigation fee, in addition, to the permit fee, shall be collected as a civil penalty, whether or not a permit is then or subsequently issued. The investigation fee shall be up to ten times the building permit fee. The investigation fee shall be determined by the building official and shall be based on the staff time reasonably required to resolve all of the issues related to the work that has been performed without a permit. No construction permit shall be issued until the investigation fee has been paid in full.

Any person assessed such a fee may file an appeal with the city clerk within 10 days after written notice to such person of the assessment. A hearing upon such appeal shall thereafter be held by the city council; its decisions thereon shall be final.

Nothing in this section shall relieve any persons from fully complying with the requirements of this code, or with any codes incorporated by reference and made a part of this code in the execution of the work, or from any other fees or penalties prescribed by law.

(Ord. 1545 § 1, (1996); Ord. 1613 § 5, (1999); Ord. 1795 § 5, (2006))

§ 18.07.110. Section 305.1 amended—General.

The following paragraphs are added to Section 305.1 to read as follows:

No person shall erect (including excavation and grading), demolish, alter or repair any building or structure other than between the hours of eight a.m. and seven p.m. on weekdays, and nine a.m. and six p.m. on Saturdays, except in circumstances where continuing work beyond legal hours is necessary to building or site integrity, including (but not limited to) large concrete pours, environmental considerations, state or federal requirements, or in cases where it is in the interest of public health and safety, and then only with written approval from the building official, which shall be granted for no longer than necessary to complete the portion of the project for which the exception was granted. No person shall erect (including excavation

and grading), demolish, alter or repair any building or structure on Sundays or on holidays, except in the circumstances described earlier in this paragraph, and then only with written approval from the building official, which shall be granted for no longer than necessary to complete the portion of the project for which the exception was granted. For the purpose of this section, holidays are the days set forth in Section 13.04.100 of this code. The restrictions stated in this section shall not apply to work that does not require a permit under any applicable law or regulation, or to work that takes place inside a completely enclosed building and does not exceed the exterior ambient noise level per the BMC 25.58.050.

In the Bayfront Commercial (BFC), Innovative Industrial (I/I) and Rollins Road Mixed Use (RRMU) zones only, construction work may begin at seven a.m. instead of eight a.m. on weekdays. However, the use of chainsaws, jackhammers, pile-drivers or pneumatic impact wrenches shall be prohibited from seven a.m. to eight a.m., unless written approval is granted by the building official pursuant to an exception listed in the above paragraph.

(Ord. 1852 § 2, (2010); Ord. 1930 § 1, (2016); Ord. 1985 § 1, (2020))

§ 18.07.120. Section 108 added—Safety assessment placards.

Section 108 of the 1997 Uniform Administrative Code is added to read as follows:

108 Safety assessment placards.

Intent. This section establishes standard placards to be used to indicate the condition of a structure for continued occupancy. The Section further authorizes the Chief Building Official and his or her authorized representatives to post the appropriate placard at each entry point to a building or structure upon completion of a safety assessment.

Application of Provisions. The provisions of this chapter are applicable to all buildings and structures of all occupancies regulated by the City of Burlingame. The City Council may extend the provisions as necessary.

Definition. *Safety assessment* is a visual, non-destructive examination of a building or structure for the purpose of determining the condition for continued occupancy.

Placards.

- (a) The following are verbal descriptions of the official jurisdiction placards to be used to designate the condition for continued occupancy of buildings or structures. Copies of actual placards are attached.

INSPECTED - Lawful Occupancy Permitted is to be posted on any building or structure wherein no apparent structural hazard has been found. This placard is not intended to mean that there is no damage to the building or structure. (Green)

RESTRICTED USE is to be posted on each building or structure that has been damaged wherein the damage has resulted in some form of restriction to the continued occupancy. The individual who posts this placard will note in general terms the type of damage encountered and will clearly and concisely note the restrictions on continued occupancy. (Yellow)

UNSAFE - Do Not Enter or Occupy is to be posted on each building or structure that has been damaged such that continued occupancy poses a threat to life safety. Buildings or structures posted with this placard shall not be entered under any circumstance except as authorized in writing by the Chief Building Official, or his or her authorized representative. Safety assessment teams shall be authorized to enter these buildings at any time. This placard is not to be used or considered as a demolition order. The individual who posts this placard will note in general terms the type of damage encountered. (Red or Orange)

- (b) The name of the jurisdiction, its address, and phone number shall be permanently affixed to each placard.
- (c) Once it has been attached to a building or structure, a placard is not to be removed, altered or covered until done so by an authorized representative of the Chief Building Official. It shall be unlawful for any person, firm or corporation to alter, remove, cover, or deface a placard unless authorized pursuant to this section.

RESTRICTED USE

WARNING: This structure has been inspected and found to be damaged as described below.

Damage Comments: _____	Date: _____ Time: _____ a.m./p.m.	Caution: Post inspection conditions may increase damage and risk.
Report any unsafe condition to the City of Burlingame Building Division at 650-558-7260 . Re-inspection may be required.		This facility was inspected under emergency conditions for the City of Burlingame on the date and time noted.
Entry, occupancy, and lawful use are restricted as follows: _____ _____ _____ _____		Inspected by: _____ _____ _____ _____
		Identification #: _____ _____ _____ _____
Site/Building Address: _____	Agency: _____	DO NOT REMOVE, ALTER, OR COVER THIS PLACARD UNTIL AUTHORIZED BY THE CITY OF BURLINGAME. (Burlingame Municipal Code, Section 18.07.120)

UNSAFE

DANGER – DO NOT ENTER OR OCCUPY!

WARNING: This structure has been inspected, found to be seriously damaged, and is UNSAFE to enter or occupy as described below.

Damage Comments: _____	Date: _____ Time: _____ a.m./p.m.
Caution: Post inspection conditions may increase damage and risk.	
Report any unsafe condition to the City of Burlingame Building Division at 650-558-7260 . Re-inspection may be required.	
This facility was inspected under emergency conditions for the City of Burlingame on the date and time noted.	
Do not enter or remain in close proximity unless specifically authorized by the City of Burlingame. Entry may result in injury or death.	Inspected by: _____ Identification #: _____
Site/Building Address: _____	Agency: _____

**DO NOT REMOVE, ALTER, OR COVER THIS PLACARD
UNTIL AUTHORIZED BY THE CITY OF BURLINGAME.
(Burlingame Municipal Code, Section 18.07.120)**

(Ord. 1889 § 5, (2013); Ord. 1933 § 5, (2016); Ord. 1969 § 7, (2019); Ord. 2010 § 5, (2022))

§ 18.07.130. Streamlined permitting process for small residential rooftop solar systems.

Section 130 of the 1997 Uniform Administrative Code is added to read as follows:

130 Streamlined permitting process for small rooftop solar system installations.

Purpose. The purpose of the section is to adopt an expedited, streamlined solar permitting process that complies with the Solar Rights Act and AB 2188 (Chapter 521, Statutes 2014) to achieve timely and cost-effective installations of small residential rooftop solar energy systems. The section encourages the use

of solar systems by removing unreasonable barriers, minimizing costs to property owners and the City of Burlingame, and expanding the ability of property owners to install solar energy systems. The section allows the City of Burlingame to achieve these goals while protecting the public health and safety.

Definitions.

Solar energy system means either of the following:

1. Any solar collector or other solar energy device whose primary purpose is to provide for the collection, storage, and distribution of solar energy for space heating, space cooling, electric generation, or water heating.
2. Any structural design feature of a building, whose primary purpose is to provide for the collection, storage, and distribution of solar energy for electricity generation, space heating or cooling, or for water heating.

Small residential rooftop solar energy system means all of the following:

1. A solar energy system that is no larger than 10 kilowatts alternating current nameplate rating or 30 kilowatts thermal.
2. A solar energy system that conforms to all applicable state fire, structural, electrical, and other building codes as adopted or amended by the City of Burlingame, and all state and City of Burlingame health and safety standards including paragraph (3) of subdivision (c) of Section 714 of the Civil Code.
3. A solar energy system that is installed on a single-family or duplex-family dwelling.
4. A solar panel or module array that does not exceed the maximum legal building height as defined by the City of Burlingame

Electronic submittal means the utilization of one or more of the following:

1. Email; or
2. The Internet.

Association means a nonprofit corporation or unincorporated association created for the purpose of managing a common interest development.

Common interest development means any of the following:

1. A community apartment project; or
2. A condominium project; or
3. A planned development; or
4. A stock cooperative.

Specific, adverse impact means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified, and written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.

Reasonable restrictions on a solar energy system are those restrictions that do not significantly increase the cost of the system or significantly decrease its efficiency or specified performance, or that allow for an alternative system of comparable cost, efficiency, and energy conservation benefits.

Restrictions that do not significantly increase the cost of the system or decrease its efficiency or specified performance means:

1. For Water Heater Systems or Solar Swimming Pool Heating Systems: an amount exceeding 10 percent of the cost of the system, but in no case more than \$1,000, or decreasing the efficiency of the solar energy system by an amount exceeding 10 percent, as originally specified and proposed.
2. For Photovoltaic Systems: an amount not to exceed \$1,000 over the system cost as originally specified and proposed, or a decrease in system efficiency of an amount exceeding 10 percent as originally specified and proposed.

Applicability. This section applies to the permitting of all small residential rooftop solar energy systems in the City of Burlingame. Small residential rooftop solar energy systems legally established or permitted prior to the effective date of the ordinance codified in this section are not subject to the requirements of this section unless physical modifications or alterations are undertaken that materially change the size, type, or components of a small rooftop energy system in such a way as to require new permitting. Routine operation and maintenance shall not require a permit.

Solar energy system requirements. All solar energy systems shall meet applicable health and safety standards and requirements imposed by the state and the City of Burlingame and the Central County Fire Department.

Solar energy systems for heating water in single-family residences and for heating water in commercial or swimming pool applications shall be certified by an accredited listing agency as defined by the California Plumbing Code and California Mechanical Code.

Solar energy systems for producing electricity shall meet all applicable safety and performance standards established by the California Electrical Code, the Institute of Electrical and Electronics Engineers, and accredited testing laboratories such as Underwriters Laboratories and, where applicable, rules of the Public Utilities Commission regarding safety and reliability.

Submittal requirements. All documents required for the submission of an expedited solar energy system application shall be made available on the City of Burlingame website.

Electronic submittal of the required permit application and associated documents for small, residential rooftop solar energy system permits shall be by email, or the Internet. As an alternative an applicant may submit a permit application and associated documents at the Building Division front counter during regular business hours.

An applicant's electronic signature will be accepted on all forms, applications, and other documents in lieu of a wet signature.

The City of Burlingame shall adopt a standard plan and checklist of all requirements with which small residential rooftop solar energy systems must comply to be eligible for expedited review.

The small residential rooftop solar system permit process, standard plans, and the checklist shall substantially conform to recommendations for expedited permitting, including the checklist and standard plans contained in the most current version of the *California Solar Permitting Guidebook* adopted by the Governor's Office of Planning and Research.

All fees prescribed for the permitting of small residential rooftop solar energy system must comply with Government Code Section 65850.55, Government Code Section 66015, Government Code Section 66016, and State Health and Safety Code Section 17951.

Plan review, permit, and inspection requirements. The Building Division shall provide an administrative, nondiscretionary plan check review process to expedite approval of small residential rooftop solar energy systems within 30 days of the adoption of the ordinance codified in this section.

The Building Division shall process, review, and approve the application for the installation or use of a solar system in the same manner as an application for review of an architectural modification to the property, and shall not be willfully avoided or delayed.

If an application is deemed incomplete, a written correction notice detailing all deficiencies in the application and any additional information or documentation required to be eligible for expedited permit issuance shall be sent to the applicant for resubmission.

If an application for the installation of a solar system is not denied in writing within 45 days of receipt of a complete application the application shall be deemed approved, unless the delay is the result of a reasonable request for additional information.

The City of Burlingame Planning Division may require an applicant to apply for a use permit if the Planning Division finds, based on substantial evidence, that the solar energy system could have a specific, adverse impact upon the public health and safety. Such decisions may be appealed to City of Burlingame Planning Commission.

Review of the permit application shall be limited to the Building Division's review of whether the application meets local, state, and federal health and safety requirements. If a use permit is required, the building official may deny an application for the use permit if the building official makes written findings based upon substantive evidence in the record that the proposed installation would have a specific, adverse impact upon public health or safety and there is no feasible method to satisfactorily mitigate or avoid, as defined, the adverse impact. Such findings shall include the basis for the rejection of the potential feasible alternative for preventing the adverse impact. Such decisions may be appealed to the City of Burlingame Planning Commission. Any condition imposed on an application shall be designed to mitigate the specific, adverse impact upon health and safety at the lowest possible cost.

A "feasible method to satisfactorily mitigate or avoid the specific, adverse impact" includes, but is not limited to, any cost-effective method, condition, or mitigation imposed by the City of Burlingame on another similarly situated application in a prior successful application for a permit. The City of Burlingame shall use its best efforts to ensure that the selected method, condition, or mitigation meets the conditions of subparagraphs (A) and (B) of paragraph (1) of subdivision (d) of Section 714 of the Civil Code defining restrictions that do not significantly increase the cost of the system or decrease its efficiency or specified performance.

The City of Burlingame shall not condition approval of an application for a small residential rooftop solar energy system on the approval of an association, as defined in Section 4080 of the Civil Code.

Only one inspection shall be required and performed by the Building Division for small residential rooftop solar energy systems eligible for expedited review. During the required inspection, if it is found that the installation does not conform to the approved plans and/or comply with the current California Building Code requirements then an additional, follow-up inspection shall be required.

If a small residential rooftop solar energy system fails inspection, a subsequent inspection is authorized and required but need not conform to the requirements of this section.

A separate fire inspection may be performed by the Central County Fire Department, if required. The inspection shall be done within three business days and may include consolidated inspections.

(Ord. 1920 § 2, (2015))

§ 18.07.140. Permit process for electric vehicle charging stations.

- A. Purpose. The purpose of this section is to adopt an expedited, streamlined permitting process for electric vehicle charging stations that complies with California Government Code Section 65850.7 to achieve timely and costeffective processing of applications for the installation of electric vehicle charging stations. The provisions encourage the use of electric vehicle charging stations by removing unreasonable barriers, minimizing costs to property owners and the city, and expanding the ability of property owners to install electric vehicle charging stations. The provisions allow the city to achieve

these goals while protecting the public health and safety.

B. Definitions.

"Electric vehicle charging station(s)" or "charging station(s)" means any level of electric vehicle supply equipment station that is designed and built in compliance with California Code of Regulations, Title 24 Part 3 California Electrical Code Article 625, as it reads on the effective date of the ordinance codified in this section or as it may be amended, and delivers electricity from a source outside an electric vehicle into a plug-in electric vehicle.

"Specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified, and written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.

- C. Applicability. This section applies to the permitting of all electric vehicle charging stations in the city. Electric vehicle charging stations legally established or permitted prior to the effective date of the ordinance codified in this section are not subject to the requirements of this section unless physical modifications or alterations are undertaken that materially change the size, type, or components of a pre-existing charging station in such a way as to require new permitting. Routine operation and maintenance shall not require a permit.
- D. Electric Vehicle Charging Station Requirements. All electric vehicle charging stations shall meet applicable health and safety standards and requirements imposed by the state and the city.

Electric vehicle charging stations shall meet all applicable safety and performance standards established by the California Electrical Code, the Society of Automotive Engineers, the National Electrical Manufacturers Association, and accredited testing laboratories such as Underwriters Laboratories and, where applicable, rules of the Public Utilities Commission and other applicable laws and regulations regarding safety and reliability.

- E. Submittal Requirements. All documents required for the submission of an electric vehicle charging station application shall be made available on the city's website. Electronic submittal of the required permit application and documents by facsimile shall be made available to all electric vehicle charging station permit applicants. Because the city does not have an adopted electronic signature protocol as of the time of the adoption of the ordinance codified in this section, an electronic signature cannot be accepted in lieu of a wet signature on the application. However, as soon as the city adopts such a protocol, electronic signatures will be accepted on charging station applications, and the city's website and application materials will be updated accordingly.

The city's building division shall adopt a checklist of all requirements with which the electric vehicle charging stations shall comply to be eligible for expedited review. The electric vehicle permit process, standard(s), and checklist(s) may substantially conform to recommendations for permitting, including the checklist and standards contained in the "Plug-In Electric Vehicle Infrastructure Permitting Checklist" of the "Zero-Emission Vehicles in California: Community Readiness Guidebook" published by the California State Office of Planning and Research.

For purposes of calculating permit fees under the city's adopted master fee schedule, the value to be used in computing the electric vehicle charging station permit and plan review shall be the total value of all construction work for which the permit is issued as well as any other equipment. The determination of value or valuation under any of the provisions of this section shall be made by the building official.

- F. Plan Review, Permit, and Inspection Requirements. The building official shall implement an

administrative review process to expedite approval of electric vehicle charging stations. Only permits or approvals that conform to all applicable provisions of this chapter and Title 18, including design review, shall be issued. The building official or designated staff members shall make determinations of conformance. Where the application meets the requirements of the approved checklist and standards and there are no specific, adverse impacts upon public health or safety, the building division shall complete the building permit approval process, which is nondiscretionary. Review of the application for electric vehicle charging stations shall be limited to the building official's review of whether the application meets local, state, and federal health and safety requirements.

The building official may require an applicant to apply for an "electric vehicle charging station use permit" if the building official makes written findings that the proposed electric vehicle charging stations could have a specific, adverse impact upon the public health and safety. The building official's decision may be appealed to the city planning commission.

If an electric vehicle charging station use permit is required, the building official may only deny an application for the electric vehicle charging station use permit if the official makes written findings based upon substantial 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 the adverse impact. Such findings shall include the basis for the rejection of the potential feasible alternative for preventing the adverse impact. The building official's decision may be appealed to the city planning commission.

If the building official issues an electric vehicle charging station use permit, the permit may include conditions designed to mitigate the specific, adverse impact upon health and safety at the lowest possible cost.

A feasible method to satisfactorily mitigate or avoid the specific, adverse impact includes, but is not limited to, any cost-effective method, condition, or mitigation imposed by the city on another similarly situated application in a prior successful application for a permit.

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. A separate fire inspection may be performed by the Central County Fire Department, if required.

(Ord. 1946 § 1, (2017))

CHAPTER 18.08 BUILDING CODE

Note: Prior ordinance history: Ords. 1813 and 1856.

§ 18.08.005. Adoption of 2022 California Building Code, Part 2, Volume 1.

The rules, regulations and requirements published by the International Code Council (ICC) under the title "2021 International Building Code Volume 1" and adopted as the "2022 California Building Code Volume 1" including state of California amendments thereto, are adopted as and for the rules, regulations and standards within this city as to all matters therein contained with the following amendments.

(Ord. 1889 § 6, (2013); Ord. 1933 § 6, (2016); Ord. 1969 § 8, (2019); Ord. 2010 § 6, (2022))

§ 18.08.010. Section 406.1.1 added—Car stacking system back up power.

Section 406.1.1 of the 2022 California Building Code is added to read as follows:

406.1.1 Commercial and Multi-Family Dwelling car stacking systems shall be provided with back-up power to allow access to and egress from such systems during a power outage. The back-up power shall comply with the manufacture specifications and the 2022 California Electrical Code.

(Ord. 1889 § 6, (2013); Ord. 1933 § 6, (2016); Ord. 1969 § 8, (2019); Ord. 2010 § 6, (2022))

§ 18.08.015. Section 406.6.2 added—Ventilation.

Section 406.6.2.1 of the 2022 California Building Code is added to read as follows:

406.6.2.1 Ventilation. A garage containing electrical charging stations shall provide a manually operated control switch that controls ventilation operations located in the command/control room for emergency operations.

(Ord. 1889 § 6, (2013); Ord. 1933 § 6, (2016); Ord. 1969 § 8, (2019); Ord. 2010 § 6, (2022))

§ 18.08.020. Sections 502.1 amended—Address identification.

Section 502.1 of the 2022 California Building Code is added to read as follows:

502.1. Address identification.

Address numbers. Size of numbers shall be as follows:

1. When the structure is 36 to 50 feet from the street or fire apparatus access, a minimum of one-half inch ($\frac{1}{2}$ ") stroke by six inches (6") high is required.
2. When the structure is more than 50 feet from the street or fire apparatus access, a minimum of one inch (1") stroke by nine inches (9") high is required.

Multi-Tenant Buildings. Numbers or letters shall be designated on all occupancies within a building. Size shall be a minimum of one-half inch (1/2") stroke by four inches (4") high and on a contrasting background. Directional address numbers or letters shall be provided. Said addresses or numbers shall be posted at a height no greater than 5 feet, 6 inches (5' 6") above the finished floor and shall be either internally or externally illuminated in all new construction.

Rear addressing. When required by the chief, approved numbers or addresses shall be placed on all new

and existing buildings in such a position as to be plainly visible and legible from the fire apparatus road at the back of a property or where rear parking lots or alleys provide an acceptable vehicular access. Number stroke and size shall comply with Section 502.1.

ADU Addressing. Address for Residential Accessory Dwelling Units shall meet the City of Burlingame specifications.

(Ord. 1889 § 6, (2013); Ord. 1933 § 6, (2016); Ord. 1969 § 8, (2019); Ord. 2010 § 6, (2022))

§ 18.08.025. Section 502.2 added—Utility identification.

Section 502.2 of the 2022 California Building Code is added to read as follows:

502.2 Utility identification. In multi-unit commercial and residential buildings, gas and electric meters, service switches and shut off valves shall be clearly and legibly marked to identify the unit or space that they serve.

(Ord. 1889 § 6, (2013); Ord. 1933 § 6, (2016); Ord. 1969 § 8, (2019); Ord. 2010 § 6, (2022))

§ 18.08.030. Section 903.1.2 added—Additions and alterations.

Section 903.1.2 of the 2022 California Building Code is added to read as follows:

903.1.2 Additions and alterations. The standard for determining the size of addition and/or alteration for determining the threshold for fire sprinkler systems shall be determined by the following:

1. The square footage of every room being added and/or altered shall be included in the calculation of total square footage of addition and/or alteration.
2. The entire square footage shall be considered added or altered when at least 50% or greater of interior wall sheeting or ceiling of any one wall within a room or area is new, removed, or replaced.

(Ord. 2010 § 6, (2022))

§ 18.08.035. Section 903.1.3 added—Applicable to all sprinklered buildings.

Section 903.1.3 of the 2022 California Building Code is added to read as follows:

903.1.3. Applicable to all sprinklered buildings.

1. When a commercial or multi-family building is partially retrofitted with an approved automatic sprinkler fire extinguishing system pursuant to this section, the building owner shall complete the fire extinguishing system retrofit throughout the unprotected building interior areas within six years of completing the initial partial retrofit or within every tenant space where a building permit is obtained, whichever is less.
2. When a residential building is partially retrofitted with an approved automatic sprinkler fire extinguishing system pursuant to this section, the building fire extinguishing system retrofit shall be completed throughout the unprotected building interior areas within two years from completing the initial partial retrofit.
3. When a property owner or responsible party of a commercial or residential building chooses option 1 or 2 from above, the property owner shall file a deed restriction with San Mateo County Assessor's Office and obtain a performance bond with Central County Fire Department to ensure compliance with Section 18.08.040. The bond shall be equal to or greater than the estimated cost of completion, as determined by Central County Fire Department.

(Ord. 1889 § 6, (2013); Ord. 1933 § 6, (2016); Ord. 1969 § 8, (2019); Ord. 2010 § 6, (2022))

§ 18.08.040. Section 903.2 amended—Where required.

Section 903.2 of the 2022 California Building Code is deleted and replaced with the following:

Section 903.2 Where required. Approved automatic fire sprinkler systems shall be installed in all new occupiable and/or habitable buildings and structures. In addition, approved automatic fire sprinkler systems shall be provided in locations described in Sections 903.2.1 through 903.2.23.

Exceptions:

1. When approved by the fire chief, canopy structures used solely for vehicular parking which have a photovoltaic system attached are not required to be equipped with a fire sprinkler system as long as the structure meets distance requirements to other structures and property lines.
2. Group U occupancies less than 1,200 square feet.

(Ord. 2010 § 6, (2022))

§ 18.08.045. Section 903.2.10.3 added—Lithium-ion batteries in vehicles.

Section 903.2.10.3 of the 2022 California Building Code is added to read as follows:

903.2.10.3 Lithium-ion batteries in vehicles. Areas which contain electric vehicle charging stations shall have a fire sprinkler density design of a minimum Extra Hazard, Group 2 for the coverage of charging stations and for 15' in any direction of charging stations.

(Ord. 2010 § 6, (2022))

§ 18.08.050. Section 903.2.22 added—Existing buildings and structures.

Section 903.2.22 of the 2022 California Building Code is added to read as follows:

903.2.22 Existing buildings and structures. All existing buildings and structures shall be retroactively protected by an approved automatic extinguishing system when the following conditions exist:

1. Commercial and multi-family residential buildings with a total building floor area in excess of 2,000 square feet or more than two stories in height, and when additions or alterations for which a building permit is required will exceed 1,200 square feet in area.

Exception: Group U occupancies less than 1200 square feet.

2. Residential one- and two-family dwellings and structures with a total building floor area in excess of 2,000 square feet or more than two stories in height, and when additions or alterations for which a building permit is required will exceed 750 square feet in area.

Exceptions:

- a. Additions or alterations of commercial, multi-family residential, and one and two-family residential buildings that do not exceed 20% of the total square footage of the entire completed building.
- b. The following scopes of work are excluded from calculations to determine area of alteration: building roof repair/replacement; fire damage repair; building heating and/or cooling unit repair/replacement; and any other federal, state and local construction code upgrade requirements

including, but not limited to, the seismic retrofit requirements, asbestos, and other hazardous material abatement.

(Ord. 1889 § 6, (2013); Ord. 1933 § 6, (2016); Ord. 1969 § 8, (2019); Ord. 2010 § 6, (2022))

§ 18.08.055. Section 903.3.23 added—Aggregate.

Section 903.3.23 of the 2022 California Building Code is added to read as follows:

903.3.23 Aggregate.

1. When more than one addition and/or alteration for which building permits are required are submitted within a two year period from the closure date of the initial permit, the sum of the square footage of these additions and/or alterations shall be aggregated for the purpose of determining calculations in Section 18.08.050.

(Ord. 1889 § 6, (2013); Ord. 1933 § 6, (2016); Ord. 1969 § 8, (2019); Ord. 2010 § 6, (2022))

§ 18.08.060. Section 903.3.1.4 added—Inspector's test valves.

Section 903.3.1.4 of the 2022 California Building Code is added to read as follows:

903.3.1.4 Inspector's test valves. Single-family residential fire sprinkler systems within buildings greater than 3,600 square feet shall be equipped with an inspector's test valve for each system and located the furthest point away from the sprinkler riser.

(Ord. 1889 § 6, (2013); Ord. 1933 § 6, (2016); Ord. 1969 § 8, (2019); Ord. 2010 § 6, (2022))

§ 18.08.065. Sections 903.3.1.5 and 903.3.1.6 added—Additional residential sprinkler locations.

Section 903.3.1.5 of the 2022 California Building Code is added to read as follows:

903.3.1.5 Additional residential sprinkler locations. The installation of a residential fire sprinkler system shall conform to the following:

1. Sprinklers shall be required throughout carports and garages.

Exception: Detached carports and garages less than 2,000 square feet in area and separated from residential buildings by a minimum of 10 feet.

2. Sprinkler coverage shall be provided in the following locations:

- a. Attic access openings
- b. Areas of attics and crawl spaces containing storage, mechanical and/or electrical equipment.

Section 903.3.1.6, CFC is added to read as follows:

903.3.1.6 Additional Commercial and Multi-Family Dwelling Sprinkler Locations. Rooms or spaces which contain vehicle parking lifts or stacking systems shall be designed as an Extra Hazard Classification. Sprinkler design to include sidewall sprinkler heads designed at minimum Ordinary Group 2 in between each level.

Exception: Buildings classified as single-family dwellings.

(Ord. 1889 § 6, (2013); Ord. 1933 § 6, (2016); Ord. 1969 § 8, (2019); Ord. 2010 § 6, (2022))

§ 18.08.070. Section 903.4.1 Amended—Fire sprinkler monitoring system.

Section 903.4.1 CBC is amended by adding the following:

903.4.1 Monitoring. For new fire sprinkler monitoring systems, the approved supervisory station shall be defined as a UL approved central receiving station.

(Ord. 1889 § 6, (2013); Ord. 1933 § 6, (2016); Ord. 1969 § 8, (2019); Ord. 2010 § 6, (2022))

§ 18.08.075. Section 907.7 added—Acceptance and certification.

Section 907.7 CFC is amended with the following:

907.7 Acceptance Test and Certification. Upon completion of the installation, the fire alarm system and all fire alarm components shall be tested in accordance with NFPA 72. New fire alarm systems installed in commercial and multi-family buildings shall be UL-Certified. Certificate shall be posted next to fire alarm control panel at time of final inspection.

(Ord. 2010 § 6, (2022))

§ 18.08.080. Section 1502.4.1 added—Roof drainage requirements.

Section 1502.4.1 of the 2022 California Building Code is added to read as follows:

1502.4.1 Roof drainage requirements. In all zones other than R-1, the water from the roof of any building and from any paved area which would flow by gravity over public sidewalk shall be carried by means of conductors under the sidewalk and through the curb to the gutter, or other approved location.

(Ord. 1889 § 6, (2013); Ord. 1933 § 6, (2016); Ord. 1969 § 8, (2019); Ord. 2010 § 6, (2022))

§ 18.08.085. Section 1502.4.2 added—Surface drainage requirements.

Section 1502.4.2 of the 2022 California Building Code is added to read as follows:

1502.4.2 Surface drainage requirements. No storm water or underground water draining from any lot, building, or paved area shall be allowed to drain to adjacent properties nor shall this water be connected to the city's sanitary sewer system. Regardless of the slope of the source property, such water shall drain to either artificial or natural storm drainage facilities by gravity or pumping.

(Ord. 1889 § 6, (2013); Ord. 1933 § 6, (2016); Ord. 1969 § 8, (2019); Ord. 2010 § 6, (2022))

§ 18.08.090. Section 1505.1 amended—Fire classification.

The first paragraph of Section 1505.1 of the 2022 California Building Code is amended to read as follows:

1505.1 General. Roof assemblies shall be divided into the classes defined below. Class A or Class B roof assemblies and roof coverings required to be listed by this section shall be tested in accordance with ASTM E 108 or UL 790. In addition, fire-retardant-treated wood roof coverings shall be tested in accordance with ASTM D 2898. The minimum roof coverings installed on buildings shall comply with the Table 1505.1 as amended.

(Ord. 1889 § 6, (2013); Ord. 1933 § 6, (2016); Ord. 1969 § 8, (2019); Ord. 2010 § 6, (2022))

§ 18.08.095. Table 1505.1 amended—Roof minimum fire retardant classes.

Table No. 1505.1 of the 2022 California Building Code is amended to read as follows:

Table 1505.1 Roof minimum fire retardant classes.

TABLE NO. 1505.1^a
MINIMUM ROOF COVERING CLASSIFICATION FOR TYPES OF CONSTRUCTION

Type	IA	IB	IIA	IIB	III A	III B	IV	V A	V B
Roof Covering	B	B	B	B	B	B	B	B	B

a. Unless otherwise required in accordance with Chapter 7A.

(Ord. 1889 § 6, (2013); Ord. 1933 § 6, (2016); Ord. 1969 § 8, (2019); Ord. 2010 § 6, (2022))

§ 18.08.100. Section 1505.1.2 amended—Roof covering within all other areas.

Section 1505.1.2 of the 2022 California Building Code is amended to read as follows:

1505.1.2 Roof covering within all other areas. The entire roof covering of every existing structure where more than 50 percent of the total roof area is replaced within any one-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.

(Ord. 1889 § 6, (2013); Ord. 1933 § 6, (2016); Ord. 1969 § 8, (2019); Ord. 2010 § 6, (2022))

§ 18.08.105. Adoption of 2022 California Building Code, Part 2, Volume 2.

The rules, regulations and requirements published by the International Code Council under the title "2021 International Building Code, Volume 2" and adopted as the "2022 California Building Code, Volume 2," including Appendices A, F, I, J, O, and P are adopted as and for the rules, regulations and standards within this city and as to all matters therein contained except as provided in this chapter. The mandatory requirements of any adopted appendices to the code shall be enforceable to the same extent as if contained in the body of the code.

(Ord. 1889 § 6, (2013); Ord. 1933 § 6, (2016); Ord. 1969 § 8, (2019); Ord. 2010 § 6, (2022))

§ 18.08.110. Section 1807.2.1 amended—Retaining walls.

Section 1807.2.1 of the 2022 California Building Code is amended by adding the following paragraphs at the end of the section:

1807.2.1 General.

When a structure is to support a lateral load which retains fill which supports another structure, supports the toe of a slope which is over four feet in height measured from the bottom of the footing, or is required by the city engineer, it shall be designed by a licensed architect or engineer and approved by the city engineer.

The following types of retaining walls shall be of concrete or other material which shall have a minimum service life of 75 years for all major support systems and 50 years for all replaceable support systems: Walls that are engineered, support a lateral load over 18" at property line, support an engineered surcharge, support a structure, or support a toe of a slope. A fence structure may not be substituted for a retaining wall.

(Ord. 1889 § 6, (2013); Ord. 1933 § 6, (2016); Ord. 1969 § 8, (2019); Ord. 2010 § 6, (2022))

§ 18.08.115. Section 3005.5 amended—Shunt trip.

Section 3005.5 of the 2022 California Building Code is amended by adding the following:

3005.5 Shunt Trip Prohibited. Where elevator hoist ways and/or elevator machine rooms containing elevator control equipment are located within buildings equipped with automatic fire sprinklers, the following is required in lieu of a shunt trip:

1. The elevator machine room shall be constructed with the minimum fire rating as the hoist way. For non-rated hoistways, the minimum rating shall be one hour throughout in accordance with Section 707 of the California Building Code for fire barriers.
2. Fire sprinklers at the top of the hoist way and inside the elevator machine room shall not be installed.
3. Means for elevator shutdown shall not be installed.

(Ord. 1889 § 6, (2013); Ord. 1933 § 6, (2016); Ord. 1969 § 8, (2019); Ord. 2010 § 6, (2022))

§ 18.08.120. Section 3202 amended—Encroachments.

Section 3202 of the 2022 California Building Code is deleted and replaced with the following.
(Ord. 1889 § 6, (2013); Ord. 1933 § 6, (2016); Ord. 1969 § 8, (2019); Ord. 2010 § 6, (2022))

§ 18.08.125. 3202.1 amended—Encroachments below grade.

3201.1 Encroachments below grade. Encroachments below grade that act as temporary support to build the structure shall be allowed per the City Fee Schedule under "Special Encroachment Permits" at the time of the building permit issuance. An agreement for the encroachments shall be in place prior to the commencement of the construction work.

(Ord. 1889 § 6, (2013); Ord. 1933 § 6, (2016); Ord. 1969 § 8, (2019); Ord. 2010 § 6, (2022))

§ 18.08.130. Section 3202 amended—Encroachments above grade and below eight feet in height.

Encroachments into the public right-of-way above grade and below 8 feet in height. Encroachments into the public right-of-way above grade and below 8 feet in height shall comply with the City Municipal Code Chapter 22.26 Awning, Canopy and Marquee signs. Doors and windows shall not open or project into the public right-of-way.

(Ord. 1889 § 6, (2013); Ord. 1933 § 6, (2016); Ord. 1969 § 8, (2019); Ord. 2010 § 6, (2022))

§ 18.08.135. Section 3202.3 amended—Encroachments eight feet or more above grade.

3202.3 Encroachments 8 feet or more above grade. Encroachments into the public right-of-way 8 feet or more above grade shall comply with the City Municipal Code Chapter 22.26 Awning, Canopy and Marquee signs. All other encroachments such as, but not limited to, windows, balconies, architectural features and mechanical equipment shall not project into the public right-of-way.

(Ord. 2010 § 6, (2022))

**CHAPTER 18.09
MECHANICAL CODE**

§ 18.09.010. Adoption of 2022 California Mechanical Code.

The rules, regulations and standards printed in one volume and published by the International Association of Plumbing and Mechanical Officials (IAPMO), under the title "2021 Uniform Mechanical Code" and adopted as the "2022 California Mechanical Code," including the appendices and state of California amendments thereto, hereinafter called "mechanical code," is adopted as and for the rules, regulations and standards within this city as to all matters therein contained, except as otherwise provided in this chapter. The appendices to the mechanical code shall be enforceable to the same extent as if contained in the body of the code.

(Ord. 1033 § 12, (1975); Ord. 1128 § 28, (1978); Ord. 1208 § 18, (1981); Ord. 1285 § 28, (1984); Ord. 1381 § 18, (1988); Ord. 1462 § 2, (1992); Ord. 1538 § 1, (1996); Ord. 1613 § 7, (1999); Ord. 1694 § 6, (2002); Ord. 1813 § 7, (2007); Ord. 1856 § 6, (2010); Ord. 1889 § 7, (2013); Ord. 1933 § 7, (2016); Ord. 1969 § 9, (2019); Ord. 2010 § 7, (2022))

§ 18.09.020. Section 1101.1 amended—Appeals.

An appeal of a denial of or a refusal to issue a permit or from any other decision of the building official may be taken as set forth in Section 18.07.040.

(Ord. 1361 § 20, (1988); Ord. 1538 § 1, (1996); Ord. 1613 § 7, (1999))

CHAPTER 18.10 RESIDENTIAL CODE

§ 18.10.010. Adoption of 2022 California Residential Code.

The rules, regulations and standards printed in one volume and published by the International Code Council under the title "2021 International Residential Code" and the "2022 California Residential Code", including appendices AH, AJ, AK, AO, AQ, AS, AX, and AZ are adopted as and for the rules, regulations and standards within this city as to matters therein contained except as provided in this chapter. The mandatory requirements of any adopted appendices to the code shall be enforceable to the same extent as if contained in the body of the code.

(Ord. 1856 § 7, (2010); Ord. 1889 § 8, (2013); Ord. 1933 § 8, (2016); Ord. 1969 § 10, (2019); Ord. 2010 § 8, (2022))

§ 18.10.015. Section R111.4 added—Utility identification.

Section R111.4 of the 2022 California Residential Code is added to read as follows:

R111.4 Utility identification. In all residential buildings, gas and electric meters, service switches and shut off valves shall be clearly and legibly marked to identify the unit or space that they serve.

(Ord. 1856 § 7, (2010); Ord. 1889 § 8, (2013); Ord. 1933 § 8, (2016); Ord. 1969 § 10, (2019); Ord. 2010 § 8, (2022))

§ 18.10.020. Section R309.6 deleted—Fire sprinklers exception.

Section R309.6 Exception of the 2022 California Residential Code is deleted in its entirety.

R309.6 Fire sprinklers. The exception for fire sprinklers in garages and carports is deleted in its entirety. (Ord. 1856 § 7, (2010); Ord. 1889 § 8, (2013); Ord. 1933 § 8, (2016); Ord. 1969 § 10, (2019); Ord. 2010 § 8, (2022))

§ 18.10.025. Section R313.1 amended—Townhouse automatic fire sprinkler systems.

Section R313.1 Exception of the 2022 California Residential Code is amended by replacing with the following paragraph:

R313.1 Townhouse automatic fire sprinkler systems. An automatic residential fire sprinkler system shall be installed in townhouses.

R.313.1.1 Existing Townhouse automatic fire sprinkler systems. An automatic residential fire sprinkler system is required when additions and/or alterations to existing townhouse buildings with a total building floor area more than 2,000 square feet or more than two stories in height, and when additions and/or alterations for which a building permit is required exceeds 750 square feet in area or 20% of the total square footage of the entire completed building.

Exception: Detached structures classified as an Accessory Dwelling Unit in accordance with Burlingame Municipal Code Chapter 25.59 when no work has occurred in the main house in a two-year period in excess of 750 square feet in area or 20% of the total square footage of the entire completed building as determined by Section R313.3.2.7.

(Ord. 1856 § 7, (2010); Ord. 1889 § 8, (2013); Ord. 1933 § 8, (2016); Ord. 1969 § 10, (2019); Ord. 2010 § 8, (2022))

§ 18.10.030. Section R313.2 amended—Oneand two-family dwellings automatic fire systems.

Section R313.2 Exception of the 2022 California Residential Code is amended by replacing with the following:

R313.2. Oneand two-family dwellings automatic fire systems. An automatic residential fire sprinkler system shall be installed in oneand two-family dwellings.

Exception: Detached structures located in excess of 10 feet from the main house.

R313.2.1 Existing Oneand two-family dwellings automatic fire systems.

1. An automatic residential fire sprinkler system is required when additions and/or alterations to existing one- and two-family dwellings with a total building floor area more than 2,000 square feet or more than two stories in height, and when additions and/or alterations for which a building permit is required exceeds 750 square feet in area or 20% of the total square footage of the entire completed building, whichever is greater.
2. Detached structures classified as an Accessory Dwelling Unit (ADU), shall be protected with an automatic fire sprinkler system throughout where the primary dwelling is provided with an automatic fire sprinkler system. If work occurs within either building within a two-year period, of completion of the ADU, and in excess of 750 square feet in area or 20% of the total square footage of the entire completed building, fire sprinklers shall be provided throughout both buildings.

Exception:

1. Detached structures located in excess of 10 feet from the main house.
2. Additions or alterations of commercial, multi-family residential, and one- or two-family residential building that do not exceed 20% of the total square footage of the entire completed building.
(Ord. 1856 § 7, (2010); Ord. 1889 § 8, (2013); Ord. 1933 § 8, (2016); Ord. 1969 § 10, (2019); Ord. 2010 § 8, (2022))

§ 18.10.035. Section R313.3.1.2 amended—Required sprinkler locations.

Section R313.3.1.2 of the 2022 California Residential Code is amended by replacing with the following:

R313.3.1.1 Required sprinkler locations.

1. Sprinklers shall be installed to protect all areas of a dwelling unit.

Exceptions:

- a. Detached carports and garages less than 2,000 square feet in area and separated from residential buildings complying with Section R302.1.
2. Sprinkler coverage shall be provided in the following locations:
 - a. Attic access openings
 - b. Areas of attics and crawl spaces containing storage, mechanical and/or electrical equipment.
3. Inspector Test Valves shall be provided for each system and located the furthest point away from the sprinkler riser for buildings greater than 3,600 square feet.

(Ord. 1856 § 7, (2010); Ord. 1889 § 8, (2013); Ord. 1933 § 8, (2016); Ord. 1969 § 10, (2019); Ord. 2010 § 8, (2022))

§ 18.10.040. Section R313.3.2.7 added—Additions and alterations.

Section R313.3.2.7 of the 2022 California Residential Code is added to read as follows:

R313.3.2.7 Additions and Alterations.

1. The standard for determining the size of addition and/or alteration for determining the threshold for fire sprinkler systems shall be determined by the following:
 - a. The square footage of every room being added and/or altered shall be included in the calculation of total square footage of addition and/or alteration.
 - b. The entire square footage shall be considered added or altered when at least 50% or greater of interior wall sheeting or ceiling of any one wall within a room or area is new, removed, or replaced.
2. The size of additions and alterations used in calculating shall not be cumulative with regard to individual additions or alterations in a building unless the following circumstance applies:

Where more than one addition or alteration for which building permits are required are made within a two year period from the final date of the initial permit, the sum of the size of these additions or alterations during this two year period shall be aggregated for the purpose of determining calculations in Section 18.10.025 or Section 18.10.030.

3. The following scopes of work are excluded from calculations to determine the area of alteration: building roof repair/replacement; fire damage repair; building heating and/or cooling unit repair/replacement; and any other federal, state and local construction code upgrade requirements including, but not limited to, the seismic retrofit requirements, asbestos, and other hazardous material abatement.
(Ord. 1856 § 7, (2010); Ord. 1889 § 8, (2013); Ord. 1933 § 8, (2016); Ord. 1969 § 10, (2019); Ord. 2010 § 8, (2022))

§ 18.10.045. Section R313.3.2.8 added—All sprinklered buildings.

Section R313.3.2.8 of the 2022 California Residential Code is added to read as follows:

R313.3.2.8 All sprinklered buildings.

1. When a building is partially retrofitted with an approved automatic sprinkler fire extinguishing system pursuant to this section, the building fire extinguishing system retrofit shall be completed throughout the unprotected building interior areas within two years from completing the initial partial retrofit.
2. When a property owner or responsible party of a residential building chooses option 1 above, the property owner shall file a deed restriction with San Mateo County Assessor's Office and obtain a performance bond with Central County Fire Department to ensure completion of the fire sprinkler installation. The bond shall be equal to or greater than the estimated cost of completion, as determined by Central County Fire Department.
(Ord. 1856 § 7, (2010); Ord. 1889 § 8, (2013); Ord. 1933 § 8, (2016); Ord. 1969 § 10, (2019); Ord. 2010 § 8, (2022))

§ 18.10.050. Section R313.3.3.1 amended—Nonmetallic pipe and tubing.

Section R313.3.3.1 of the 2022 California Residential Code is amended to read as follows:

R313.3.3.1 Nonmetallic pipe and tubing. Nonmetallic piping and tubing, such as CPVC, shall be listed for use in residential fire sprinkler systems.

(Ord. 1856 § 7, (2010); Ord. 1889 § 8, (2013); Ord. 1933 § 8, (2016); Ord. 1969 § 10, (2019); Ord. 2010 § 8, (2022))

§ 18.10.055. Table R313.3.6.2 (9) deleted—Table R313.3.6.2 (9) Allowable pipe length for 1-inch PEX tubing.

Table R313.3.6.2 (9) of the 2022 California Residential Code is deleted in its entirety.

Table R313.3.6.2 (9) Allowable Pipe Length for 1-inch PEX tubing is deleted.

(Ord. 1856 § 7, (2010); Ord. 1889 § 8, (2013); Ord. 1933 § 8, (2016); Ord. 1969 § 10, (2019); Ord. 2010 § 8, (2022))

§ 18.10.060. Section R313.3.6.2.2 amended—Calculation procedure. Step 8—Determine the maximum allowable pipe length.

Section R313.3.6.2.2 – Calculation procedure. Step 8 of the 2022 California Residential Code is replaced with the following:

R313.3.6.2.2 – Calculation procedure. Step 8 – Determine the maximum allowable pipe length. Use Tables R313.3.6.2 (4) through R313.3.6.2 (8) to select a material and size for water distribution piping. The piping material and size shall be acceptable if the *developed length* of pipe between the service valve and the most remote sprinkler does not exceed the maximum allowable length specified by the applicable table. Interpolation of Pt between the tabular values shall be permitted.

The maximum allowable length of piping in Tables R313.3.6.2(4) through R313.3.6.2(8) incorporates an adjustment for pipe fittings, and no additional consideration of friction losses associated with pipe fittings shall be required.

(Ord. 1856 § 7, (2010); Ord. 1889 § 8, (2013); Ord. 1933 § 8, (2016); Ord. 1969 § 10, (2019); Ord. 2010 § 8, (2022))

§ 18.10.065. Section R313.3.8.1 amended—Pre-concealment inspection #4.

Section R313.3.8.1 – Pre-concealment inspection #4 of the 2022 California Residential Code is amended by replacing with the following:

R313.3.8.1 #4. The pipe size equals or exceeds the size used in applying Tables R313.3.6.2(4) through R313.3.6.2(8) or, if the piping system was hydraulically calculated in accordance with Section R313.3.6.1, the size used in the hydraulic calculation.

(Ord. 1856 § 7, (2010); Ord. 1889 § 8, (2013); Ord. 1933 § 8, (2016); Ord. 1969 § 10, (2019); Ord. 2010 § 8, (2022))

§ 18.10.070. Section R313.3.8.1 amended—Pre-concealment inspection #5.

Section R313.3.8.1 – Pre-concealment inspection #5 of the 2022 California Residential Code is amended by replacing with the following:

R313.3.8.1 #5. The pipe length does not exceed the length permitted by Tables R313.3.6.2(4) through

R313.3.6.2(8) or, if the piping system was hydraulically calculated in accordance with Section R313.3.6.1, pipe lengths and fittings do not exceed those used in the hydraulic calculation.
(Ord. 1856 § 7, (2010); Ord. 1889 § 8, (2013); Ord. 1933 § 8, (2016); Ord. 1969 § 10, (2019); Ord. 2010 § 8, (2022))

§ 18.10.075. Section R319.1 amended—Address numbers.

Section R319.1 of the 2019 California Residential Code is amended to read as follows:

R319.1 Address numbers. Size of numbers shall be as follows:

1. When the structure is 36 to 50 feet from the street or fire apparatus access, a minimum of one-half inch ($\frac{1}{2}$ ") stroke by six inches (6") high is required.
2. When the structure is more than 50 feet from the street or fire apparatus access, a minimum of one inch (1") stroke by nine inches (9") high is required.

Multi-tenant buildings. Numbers or letters shall be designated on all occupancies within a building. Size shall be a minimum of one-half inch ($\frac{1}{2}$ ") stroke by four inches (4") high and on a contrasting background. Directional address numbers or letters shall be provided. Said addresses or numbers shall be posted at a height no greater than 5 feet, 6 inches (5' 6") above the finished floor and shall be either internally or externally illuminated in all new construction.

Rear addressing. When required by the chief, approved numbers or addresses shall be placed on all new and existing buildings in such a position as to be plainly visible and legible from the fire apparatus road at the back of a property or where rear parking lots or alleys provide an acceptable vehicular access. Number stroke and size shall comply with Section R319.1.

ADU Addressing. Address for Residential Accessory Dwelling Units shall meet City of Burlingame specifications.

(Ord. 1856 § 7, (2010); Ord. 1889 § 8, (2013); Ord. 1933 § 8, (2016); Ord. 1969 § 10, (2019); Ord. 2010 § 8, (2022))

§ 18.10.080. Section R902.1 amended—Roof covering materials.

Section R902.1 of the 2022 California Residential Code is amended to read as follows:

R902.1 Roof covering materials. Roofs shall be covered with materials as set forth in Sections R904 and R905. A minimum Class A or B roofing shall be installed in areas designated by this section. Class C roofs shall not be allowed in the City of Burlingame. Classes A and B roofing required by this section to be listed shall be tested in accordance with UL 790 or ASTM E 108.

(Ord. 1856 § 7, (2010); Ord. 1889 § 8, (2013); Ord. 1933 § 8, (2016); Ord. 1969 § 10, (2019); Ord. 2010 § 8, (2022))

§ 18.10.085. Section R902.1.3 amended—Roof covering in all other areas.

Section R902.1.3 of the 2022 California Residential Code is amended to read as follows:

R902.1.3 Roof covering in all other areas. The entire roof covering of every existing structure where more than 50 percent of the total roof area is replaced within any one-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.

(Ord. 1856 § 7, (2010); Ord. 1889 § 8, (2013); Ord. 1933 § 8, (2016); Ord. 1969 § 10, (2019); Ord. 2010 § 8, (2022))

§ 18.10.090. Section R903.4.2 added—Roof and surface drainage.

Section R903.4.2 of the 2022 California Residential Code is added to read as follows:

R903.4.2 Roof and surface drainage.

1. In all zones other than R-1, the water from the roof of any building and from any paved area which would flow by gravity over public sidewalk shall be carried by means of conductors under the sidewalk and through the curb to the gutter, or other approved location.
2. No storm water or underground water draining from any lot, building, or paved area shall be allowed to drain to adjacent properties nor shall this water be connected to the city's sanitary sewer system. Regardless of the slope of the source property, such water shall drain to either artificial or natural storm drainage facilities by gravity or pumping.

(Ord. 1856 § 7, (2010); Ord. 1889 § 8, (2013); Ord. 1933 § 8, (2016); Ord. 1969 § 10, (2019); Ord. 2010 § 8, (2022))

§ 18.10.095. Section R1003.9.2.1 added—Spark arrestors.

Section R1003.9.2.1 of the 2022 California Residential Code is added to read as follows:

R1003.9.2.1 Spark arrestors. Every chimney shall have a spark arrestor, either internally or externally mounted. Any spark arrestor to be mounted internally shall not be installed until installation plans for such arrestor have been submitted to and approved by the building division. All chimneys as described in Section 605.2.1 of the 2022 California Fire Code shall be retroactively protected when one or more of the following conditions exist:

1. Upon the sale or transfer of the real property on which any chimney is located the transfer of title shall not be made until each such chimney contains the required spark arrestor, properly installed and in proper working order.
2. In the event of any construction on such property for which a building permit is required the final building permit signoff shall not be made until each such chimney a spark arrestor has been installed and is in proper working order.

(Ord. 1856 § 7, (2010); Ord. 1889 § 8, (2013); Ord. 1933 § 8, (2016); Ord. 1969 § 10, (2019); Ord. 2010 § 8, (2022))

**CHAPTER 18.11
DANGEROUS BUILDINGS CODE**

§ 18.11.010. Adoption of Uniform Code for the Abatement of Dangerous Buildings.

The rules, regulations and standards printed in one volume and published by the International Conference of Building Officials under the title "1997 Uniform Code for the Abatement of Dangerous Buildings," hereinafter called "dangerous buildings code," is adopted as and for the rules, regulations and standards within this city as to all matters therein contained, except as otherwise provided in this chapter.

(Ord. 1033 § 14, (1975); Ord. 1128 § 30, (1978); Ord. 1208 § 20, (1981); Ord. 1285 § 30, (1984); Ord. 1361 § 21, (1988); Ord. 1462 § 2, (1992); Ord. 1538 § 1, (1996); Ord. 1613 § 8, (1999))

§ 18.11.020. Chapter 6 amended—Appeals.

An appeal of a denial of or a refusal to issue a permit or from any other decision of the building official may be taken as set forth in Section 18.07.040.

(Ord. 1033 § 14, (1975); Ord. 1538 § 1, (1996); Ord. 1613 § 8, (1999))

CHAPTER 18.12 PLUMBING CODE

Note: Prior ordinance history: Ords. 1033, 1128, 1208, 1285, 1538, 1613, 1684, 1710 and 1813.

§ 18.12.010. Adoption of 2022 California Plumbing Code.

The rules, regulations and standards printed in one volume and published by the International Association of Plumbing and Mechanical Officials (IAPMO), under the title "2021 Uniform Plumbing Code" and adopted as the "2022 California Plumbing Code" including the Appendices A, D, H, I and state of California amendments thereto, hereinafter called "plumbing code," is adopted as and for the rules, regulations and standards within this city as to all matters therein contained, except as otherwise provided in this chapter. The appendices specified herein shall be enforceable to the same extent as if contained in the body of the plumbing code.

(Ord. 1856 § 8, (2010); Ord. 1889 § 9, (2013); Ord. 1933 § 9, (2016); Ord. 1969 § 11, (2019); Ord. 2010 § 9, (2022))

§ 18.12.020. Section 310.13 added—Exterior pipes.

Section 310.13 of the 2022 California Plumbing Code is added to read as follows:

310.13 Exterior pipes. No plumbing drain vent pipe nor water, soil, waste, or gas pipe shall be installed on, or attached to, the outside face of an exterior wall of a residential building without the prior written permission of the building official. Such installation shall be enclosed in such a way as to be obscured from view.

(Ord. 1856 § 8, (2010); Ord. 1889 § 9, (2013); Ord. 1933 § 9, (2016); Ord. 1969 § 11, (2019); Ord. 2010 § 9, (2022))

§ 18.12.030. Section 507.5 amended—Water heater safety pans.

Section 507.5 of the 2022 California Plumbing Code is amended to read as follows:

507.5 Water heater safety pans. Each water heater located in an attic, furred space, living area or other location where leakage would result in damage to the building or its contents shall have a safety pan with drain. Safety pans shall be metal and be nominal two inches in diameter larger than the water heater, with a minimum depth of two inches. The drain pipe shall be three-quarter inch trade size minimum; shall terminate outside the building foundation or, where this is not practical or possible, at another location approved by the building inspector; and shall have a continuous minimum slope throughout its length of one-quarter inch, per foot away from the water heater.

(Ord. 1856 § 8, (2010); Ord. 1889 § 9, (2013); Ord. 1933 § 9, (2016); Ord. 1969 § 11, (2019); Ord. 2010 § 9, (2022))

§ 18.12.040. Section 606.3.1 added—Water supply shutoff valves.

Section 606.3.1 of the 2022 California Plumbing Code is added to read as follows:

606.3.1 Water supply shutoff valves. A gate shutoff valve shall be installed on each water supply pipe at an accessible point where such supply enters a building. In multi-unit residential buildings, a gate shutoff valve shall be installed on each water supply pipe at an accessible point where such supply enters each apartment or dwelling unit; or, where an apartment or dwelling unit is supplied by a vertical riser, a separate

accessible shutoff valve may be provided at each plumbing fixture in the unit in lieu of the shutoff valve on the main supply to the unit.

(Ord. 1856 § 8, (2010); Ord. 1889 § 9, (2013); Ord. 1933 § 9, (2016); Ord. 1969 § 11, (2019); Ord. 2010 § 9, (2022))

§ 18.12.050. Section 609.3 amended—Water piping installed in or under a concrete slab.

The first paragraph of Section 609.3 of the 2022 California Plumbing Code is amended to read as follows:

609.3 Water piping installed in or under a concrete slab. Water piping shall not be installed in or under a concrete floor slab within a building without prior written approval of the building official. When such approval is obtained, such piping shall be installed in accordance with requirements (1) and (2).

(Ord. 1856 § 8, (2010); Ord. 1889 § 9, (2013); Ord. 1933 § 9, (2016); Ord. 1969 § 11, (2019); Ord. 2010 § 9, (2022))

§ 18.12.060. Section 610.8.1 added—Water service over two inches.

Section 610.8.1 of the 2022 California Plumbing Code is added to read as follows:

610.8.1 Water services over two inches. Design details, methods and materials for construction of water services over 2 inches in diameter shall conform with the specifications for the construction of such work as compiled by the city engineer. These specifications may be changed from time to time at the option of the city engineer, but such changes shall in no way effect the validity of the regulations or requirements contained therein or the regulations and requirements of this code.

(Ord. 1856 § 8, (2010); Ord. 1889 § 9, (2013); Ord. 1933 § 9, (2016); Ord. 1969 § 11, (2019); Ord. 2010 § 9, (2022))

§ 18.12.070. Section 710.1 amended—Drainage of fixtures below the next upstream manhole or below the main sewer level.

Section 710.1 of the 2022 California Plumbing Code is amended to read as follows:

710.1 Drainage of fixtures below the next upstream manhole or below the main sewer level.

1. Drainage piping serving fixture(s) which have flood level rim(s) less than twelve inches (12") above the elevation of the next upstream manhole and/or flushing inlet cover at the public sewer system serving such drainage piping shall be protected from backflow of sewage as follows:

- a. In new buildings and in buildings modified to the extent described in Burlingame Municipal Code section 18.07.020, these fixtures shall discharge by means of a sewage ejector or pump in accordance with Section 710.2.
- b. In existing buildings, protection from backflow shall be by means of a backwater valve approved by the building official supplemented by an approved sewer relief valve installed with its outlet at least six inches (6") below the flood level rim of the lowest installed drainage unit fixture. Fixtures above that elevation shall not discharge through the backwater valve without prior written approval of the building official. As an alternative, the system may be protected by installation of an approved sewage ejector or pump.
- c. Cleanouts for drains that pass through a backwater valve shall be clearly identified with a permanent label stating "Backwater Valve Downstream."

(Ord. 1856 § 8, (2010); Ord. 1889 § 9, (2013); Ord. 1933 § 9, (2016); Ord. 1969 § 11, (2019); Ord. 2010

§ 9, (2022))

§ 18.12.080. Section 719.7 added—Building sewer cleanout.

Section 719.7 of the 2022 California Plumbing Code is amended by adding a second paragraph to read as follows:

719.7 Building sewer cleanout. When a building sewer is located under a street, alley or easement, there shall be provided a cleanout, installed flush with the sidewalk level next to curb; or, if no curb or sidewalk exist, then the cleanout must be located outside of the lot line. The cleanout riser shall be of materials specified by the city engineer, shall be the same size as the drain it serves, shall be connected to the building drain by a wye, shall be brought up to the level of the ground, and shall be terminated at the top with a cleanout fitting as specified by the city engineer. If the riser terminates at concrete sidewalk a cast iron sidewalk box with loose cover fitting with brass screws shall be installed. The minimum size for a cleanout riser shall be four inch trade size pipe.

(Ord. 1856 § 8, (2010); Ord. 1889 § 9, (2013); Ord. 1933 § 9, (2016); Ord. 1969 § 11, (2019); Ord. 2010 § 9, (2022))

§ 18.12.090. Section 807.4 added—Condensate waste water disposal.

Section 807.4 of the 2022 California Plumbing Code is added to read as follows:

807.4 Condensate wastewater disposal. Condensate from air cooling coils and comfort cooling equipment not intended to be used for the storage or handling of food or drink shall be collected and discharged to a storm sewer or other point of disposal approved by the building official.

Termination of such drains shall be made by an air break. Condensate drain lines in sizes of one and one-quarter inch and larger shall be assembled using approved drainage pipe and fittings.

Condensate waste water shall not drain over or upon a sidewalk, pedestrian ramp or the like, or a public way.

(Ord. 1856 § 8, (2010); Ord. 1889 § 9, (2013); Ord. 1933 § 9, (2016); Ord. 1969 § 11, (2019); Ord. 2010 § 9, (2022))

§ 18.12.100. Section 812.2 added—Disposal of rainwater drainage.

Section 812.2 of the 2022 California Plumbing Code is added to read as follows:

812.2 Disposal of rainwater drainage. Rainwater from roof or other approved areas exposed to rainwater may be drained into the storm drainage system, but shall not drain into any sewer intended for sanitary sewage.

(Ord. 1856 § 8, (2010); Ord. 1889 § 9, (2013); Ord. 1933 § 9, (2016); Ord. 1969 § 11, (2019); Ord. 2010 § 9, (2022))

§ 18.12.110. Section 812.3 added—Rainwater drainage to paved gutter.

Section 812.3 of the 2022 California Plumbing Code is added to read as follows:

812.3 Rainwater drainage to paved gutter. Rainwater from roofs and other approved areas exposed to rainwater may drain into a public street gutter, provided that such gutter is paved and runs to a catch basin connected to a public storm drain, and provided further that such drainage has the approval of the city engineer or other public authority having jurisdiction over public streets or public storm drains.

(Ord. 1856 § 8, (2010); Ord. 1889 § 9, (2013); Ord. 1933 § 9, (2016); Ord. 1969 § 11, (2019); Ord. 2010 § 9, (2022))

§ 18.12.120. Section 812.4 added—Rainwater drainage across public sidewalk prohibited.

Section 812.4 of the 2022 California Plumbing Code is added to read as follows:

812.4 Rainwater drainage across public sidewalk prohibited. No rainwater from roofs, or other rainwater drainage of premises, shall discharge upon a public sidewalk. When it is desired to conduct rainwater from a building or premises to a public street gutter, the outside underground drainage piping shall be vitrified clay pipe, ABS, PVC, galvanized wrought iron pipe, galvanized steel pipe, approved concrete pipe, asbestos cement sewer pipe, cast iron pipe or other materials approved by the building official. When clay pipe, ABS, PVC, asbestos cement sewer pipe or approved concrete pipe is used, such pipe shall be a minimum of two feet horizontally from the building and one foot below the official grade. Water leaders connected to such background drainage pipe which are on the outside of the building wall that abuts on a public thoroughfare, shall be constructed of galvanized wrought iron pipe, galvanized steel pipe, or cast iron pipe for a distance of not less than five feet vertically above the Official grade. See Section 18.08.090 for exception for such drainage in R-1 districts.

(Ord. 1856 § 8, (2010); Ord. 1889 § 9, (2013); Ord. 1933 § 9, (2016); Ord. 1969 § 11, (2019); Ord. 2010 § 9, (2022))

§ 18.12.130. Section 812.5 added—Elimination of nonconforming rainwater drainage required.

Section 812.5 of the 2022 California Plumbing Code is added to read as follows:

812.5 Elimination of nonconforming rainwater drainage required. Every existing system that allows the drainage of rainwater into a sanitary sewer in violation of the provisions of this chapter shall be altered or terminated or replaced so as to conform to the provisions of this chapter.

(Ord. 1856 § 8, (2010); Ord. 1889 § 9, (2013); Ord. 1933 § 9, (2016); Ord. 1969 § 11, (2019); Ord. 2010 § 9, (2022))

**CHAPTER 18.13
EXISTING BUILDING CODE**

§ 18.13.010. Adoption of 2022 California Existing Building Code.

The rules, regulations and requirements published by the International Code Council (ICC) under the title "2021 International Existing Building Code" and adopted as the "2022 California Existing Building Code" including Appendix Chapter A and state of California amendments thereto, are adopted as and for the rules, regulations and standards within this city as to all matters therein contained.

(Ord. 1969 § 12, (2019); Ord. 2010 § 10, (2022))

§ 18.13.020. Section 501.6 added—Suspended ceiling upgrade required.

Section 501.6 of the 2022 California Existing Building Code is added to read as follows:

501.6 Suspended ceiling upgrade required. When an addition, alteration or repair is performed on an occupancy in which there is an existing suspended ceiling, such suspended ceilings shall be modified throughout to comply with the provisions of ASTM C 635 and ASTM C 636.

(Ord. 2010 § 10, (2022))

CHAPTER 18.16 ELECTRICAL CODE

§ 18.16.010. Adoption of 2022 California Electrical Code.

The rules, regulations and standards printed in one volume and published by the National Fire Protection Association (NFPA), under the title "2020 National Electrical Code" with amendments as contained in the "2022 California Electrical Code," including the appendices, are adopted as and for the rules, regulations and standards within this city as to matters therein contained except as provided in this chapter. The mandatory requirements of the appendices to the code shall be enforceable to the same extent as if contained in the body of the code.

(1941 Code § 2300.01, Ord. 815, (1964); Ord. 926 § 1, (1970); Ord. 1128 § 33, (1978); Ord. 1208 § 28, (1981); Ord. 1285 § 34, (1984); Ord. 1361 § 33, (1988); Ord. 1462 § 2, (1992); Ord. 1613 § 10, (1999); Ord. 1694 § 8, (2002); Ord. 1813 § 9, (2007); Ord. 1856 § 9, (2010); Ord. 1889 § 10, (2013); Ord. 1933 § 10, (2016); Ord. 1969 § 13, (2019); Ord. 2010 § 11, (2022))

§ 18.16.020. Section 230.70(A)(1) amended—Main switch accessible from exterior.

Section 230.70(A)(1) of the 2022 California Electrical Code is amended to read as follows:

230.70(A)(1) Main switch accessible from exterior. The service disconnecting means location shall be accessible from the exterior of a building. If, due to structural or architectural conditions, it is not possible to make the service disconnecting means accessible from the building exterior a shunt trip disconnecting all active electrical conductors shall be installed at an accessible exterior location.

(Ord. 1613 § 10, (1999); Ord. 1694 § 8, (2002); Ord. 1813 § 9, (2007); Ord. 1856 § 9, (2010); Ord. 1889 § 10, (2013); Ord. 1933 § 10, (2016); Ord. 1969 § 13, (2019); Ord. 2010 § 11, (2022))

§ 18.16.030. Section 410.10(G) added—Exterior lighting restricted.

Section 410.10(G) of the 2022 California Electrical Code is added to read as follows:

410.10(G) Exterior lighting restricted.

1. Exterior lighting on all residential and commercial properties shall be designed and located so that the cone of light and/or glare from the lighting element is kept entirely on the property or below the top of any fence, edge or wall.
2. On all residential properties exterior lighting outlets and fixtures shall not be located more than nine feet above adjacent grade or required landing; walls or portions of walls shall not be floodlit; only shielded light fixtures which focus light downward shall be allowed, except for illuminated street numbers required by the fire department.
3. Variances to the provisions of this section may be approved by the planning commission, pursuant to the provisions of Chapter 25.16 of this code, except that notice of the application for the variance shall only be given to property owners within fifty feet.
4. This section shall not apply to signs having an approved permit for an illuminated sign pursuant to Title 22 of this code.

(Ord. 1613 § 10, (1999); Ord. 1694 § 8, (2002); Ord. 1813 § 9, (2007); Ord. 1856 § 9, (2010); Ord. 1889 § 10, (2013); Ord. 1933 § 10, (2016); Ord. 1969 § 13, (2019); Ord. 2010 § 11, (2022))

**CHAPTER 18.17
WATER CONSERVATION IN LANDSCAPE**

§ 18.17.010. Title.

This chapter shall be known as the city of Burlingame "Water Conservation in Landscape Ordinance."
(Ord. 1845 § 3, (2010))

§ 18.17.020. Applicability.

(a) The provisions of this chapter shall apply to all of the following landscape projects:

- (1) Tier 1 Landscapes. All new construction and rehabilitated landscapes with irrigated landscape areas between 1,500 square feet and 2,500 square feet requiring a building or landscape permit, plan check or design review, or requiring new or expanded water service.
- (2) Tier 2 Landscapes. All new construction and rehabilitated landscapes with irrigated landscape areas equal to or greater than 2,500 square feet requiring a building or landscape permit, plan check or design review or requiring new or expanded water service.
- (3) Existing landscapes, including existing cemeteries, shall only be subject to the provisions for existing landscapes provided for in Section 18.17.130, Provisions for existing landscapes over one acre in size; and
- (4) New and rehabilitated cemeteries shall only be subject to the provisions of Section 18.17.080, Water budget calculations, Section 18.17.100, Landscape audit report, and Section 18.17.110, Landscape and irrigation maintenance schedule.

(b) The provisions of this chapter shall not apply to:

- (1) New construction and rehabilitated landscapes with irrigated landscape areas less than 1,500 square feet or that do not require a building or landscape permit, plan check or design review, or new or expanded water service;
- (2) Landscapes or portions of landscapes that are only irrigated for an establishment period;
- (3) Registered local, state or federal historical sites where landscaping establishes a historical landscape style, as determined by a public board or commission responsible for architectural review or historic preservation;
- (4) Ecological restoration or mined-land reclamation projects that do not require a permanent irrigation system; or
- (5) Community gardens or plant collections, as part of botanical gardens and arboretums open to the public, agricultural uses, commercial nurseries and sod farms.

(Ord. 1845 § 3, (2010))

§ 18.17.030. Definitions.

"Applied water" means the portion of water supplied by the irrigation system to the landscape.

"Automatic irrigation controller" means an automatic timing device used to remotely control valves that operate an irrigation system. Automatic irrigation controllers schedule irrigation events using either evapotranspiration (weather-based) or soil moisture data.

"Backflow prevention device" means a safety device used to prevent pollution or contamination of the water supply due to the reverse flow of water from the irrigation system.

"Certified irrigation designer" means a person certified to design irrigation systems by an accredited academic institution, a professional trade organization or other program such as the U.S. Environmental Protection Agency's WaterSense Irrigation Designer Certification Program and Irrigation Association's Certified Irrigation Designer Program.

"Certified landscape irrigation auditor" means a person certified to perform landscape irrigation audits by an accredited academic institution, a professional trade organization or other program such as the U.S. Environmental Protection Agency's WaterSense Irrigation Auditor Certification Program and Irrigation Association's Certified Landscape Irrigation Auditor Program.

"Certified professional" or "authorized professional" means a certified irrigation designer, a certified landscape irrigation auditor, a licensed landscape architect, a licensed landscape contractor, a licensed professional engineer, or any other person authorized by the state to design a landscape, an irrigation system, or authorized to complete a water budget.

"Conversion factor (0.62)" means the number that converts acre-inches per acre per year to gallons per square foot per year.

"Drip irrigation" means any nonspray low volume irrigation system utilizing emission devices with a flow rate measured in gallons per hour. Low volume irrigation systems are specifically designed to apply small volumes of water slowly at or near the root zone of plants.

"Ecological restoration project" means a project where the site is intentionally altered to establish a defined, indigenous, historic ecosystem.

"Effective precipitation" or "usable rainfall" (Eppt) means the portion of total precipitation which becomes available for plant growth.

"Establishment period" means the first year after installing the plant in the landscape or the first two years if irrigation will be terminated after establishment. Typically, most plants are established after one or two years of growth.

"Estimated total water use (ETWU)" means the total water used for the landscape as described in Section 18.17.080, Water budget calculations.

"ET adjustment factor (ETAF)" means a factor of 0.7, that, when applied to reference evapotranspiration, adjusts for plant factors and irrigation efficiency, two major influences upon the amount of water that needs to be applied to the landscape. ETAF for a special landscape area shall not exceed 1.0. ETAF for existing nonrehabilitated landscapes shall not exceed 0.8.

"Evapotranspiration rate" means the quantity of water evaporated from adjacent soil and other surfaces and transpired by plants during a specified time.

"Flow rate" means the rate at which water flows through pipes, valves and emission devices, measured in gallons per minute, gallons per hour, or cubic feet per second.

"Hardscapes" means any durable material (pervious and nonpervious).

"Hydrozone" means a portion of the landscaped area having plants with similar water needs. A hydrozone may be irrigated or nonirrigated.

"Invasive plant species" means species of plants not historically found in California that spread outside cultivated areas and can damage environmental or economic resources. "Noxious weeds" means any weed designated by the Weed Control Regulations in the Weed Control Act and identified on a regional district

noxious weed control list. Lists of invasive plants are maintained at the California Invasive Plant Inventory and USDA invasive and noxious weeds database.

"Irrigation audit" means an in-depth evaluation of the performance of an irrigation system. An irrigation audit includes, but is not limited to: inspection, system tune-up, system test with distribution uniformity or emission uniformity, reporting overspray or runoff that causes overland flow, and preparation of an irrigation schedule.

"Irrigation efficiency (IE)" means the measurement of the amount of water beneficially used divided by the amount of water applied. Irrigation efficiency is derived from measurements and estimates of irrigation system characteristics and management practices. The minimum average irrigation efficiency for purposes of this chapter is 70%. Greater irrigation efficiency can be expected from well-designed and maintained systems.

"Irrigation survey" means an evaluation of an irrigation system that is less detailed than an irrigation audit. An irrigation survey includes, but is not limited to: inspection, system test, and written recommendations to improve performance of the irrigation system.

"Irrigation water use analysis" means an analysis of water use data based on meter readings and billing data.

"Landscape architect" means a person who holds a license to practice landscape architecture in California as further defined by the California Business and Professions Code, Section 5615.

"Landscape area" means all the planting areas, turf areas, and water features in a landscape design plan subject to the maximum applied water allowance calculation. The landscape area does not include footprints of buildings or structures, sidewalks, driveways, parking lots, decks, patios, gravel or stone walks, other pervious or nonpervious hardscapes, other nonirrigated areas designated for nondevelopment (e.g., open spaces and existing native vegetation), agricultural uses, commercial nurseries and sod farms.

"Landscape contractor" means a person licensed by the state of California to construct, maintain, repair, install, or subcontract the development of landscape systems.

"Landscape project" means the total area comprising the landscape area, as defined in subsection (x).

"Lateral line" means the water delivery pipeline that supplies water to the emitters or sprinklers from the valve.

"Local agency" means the city of Burlingame which is responsible for the adoption, implementation and enforcement of this chapter, including, but not limited to, approval of a permit and plan check or design review of a project.

"Local water purveyor" means any entity, including a public agency, city, county, district or private water company that provides retail water service.

"Low volume irrigation" means the application of irrigation water at low pressure through a system of tubing or lateral lines and low-volume emitters such as drip, drip lines, and bubblers.

"Low water use plant" means a plant species whose water needs are compatible with local climate and soil conditions. Species classified as "very low water use" and "low water use" by WUCOLS, having a regionally adjusted plant factor of 0.0 through 0.3, shall be considered low water use plants.

"Maximum applied water allowance (MAWA)" means the upper limit of annual applied water for the established landscaped area as specified in Section 18.17.080, Water budget calculations.

"Mined-land reclamation projects" means any surface mining operation with a reclamation plan approved in accordance with the Surface Mining and Reclamation Act of 1975.

"Mulch" means any organic material such as leaves, bark, straw, compost, or inorganic mineral materials such as rocks, gravel, and decomposed granite left loose and applied to the soil surface for the beneficial purposes of reducing evaporation, suppressing weeds, moderating soil temperature, and preventing soil erosion.

"Native plant" means a plant indigenous to a specific area of consideration. For the purposes of these guidelines, the term shall refer to plants indigenous to the coastal ranges of central and northern California, and more specifically to such plants that are suited to the ecology of the present or historic natural community(ies) of the project's vicinity.

"New construction" means the construction of a new building or structure containing a landscape or other new land improvement, such as a park, playground, or greenbelt without an associated building.

"No water-using plant" means a plant species with water needs that are compatible with local climate and soil conditions such that regular supplemental irrigation is not required to sustain the plant after it has become established.

"Operating pressure" means the pressure at which the parts of an irrigation system are designed by the manufacturer to operate.

"Overhead sprinkler irrigation systems" means systems that deliver water through the air (e.g., spray heads and rotors).

"Overspray" means the irrigation water which is delivered beyond the target area.

"Permit" means an authorizing document issued by local agencies for new construction or rehabilitated landscapes.

"Pervious" means any surface or material that allows the passage of water through the material and into the underlying soil.

"Plant factor" or "plant water use factor" is a factor, when multiplied by ET_o, estimates the amount of water needed by plants.

"Precipitation rate" means the rate of application of water measured in inches per hour.

"Project applicant" means the individual or entity submitting a project landscape application required under Section 18.17.060, to request a permit, plan check, or design review from the city. A project applicant may be the property owner or designee.

"Rain sensor" or "rain sensing shutoff device" means a component which automatically suspends an irrigation event when it rains.

"Recreational area" means areas dedicated to active play such as parks, sports fields, and golf courses where turf provides a playing surface.

"Reference evapotranspiration" or "ET_o" means a standard measurement of environmental parameters which affect the water use of plants.

"Rehabilitated landscape" means any relandscaping project that requires a permit, plan check, design review, or requires a new or expanded water service application.

"Runoff" means water which is not absorbed by the soil or landscape to which it is applied and flows from the landscape area.

"Soil moisture sensing device" or "soil moisture sensor" means a device that measures the amount of water in the soil. The device may also suspend or initiate an irrigation event.

"Special landscape area (SLA)" means an area of the landscape dedicated solely to edible plants, areas

irrigated with recycled water, water features using recycled water and areas dedicated to active play such as parks, sports fields, golf courses, and where turf provides a playing surface.

"Sprinkler head" means a device which delivers water through a nozzle.

"Station" means an area served by one valve or by a set of valves that operate simultaneously.

"Turf" means 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" means a device used to control the flow of water in the irrigation system.

"Water feature" means a design element where open water performs an aesthetic or recreational function. Water features include ponds, lakes, waterfalls, fountains, artificial streams, spas, and swimming pools (where water is artificially supplied).

"WUCOLS" means the Water Use Classification of Landscape Species published by the University of California Cooperative Extension, the Department of Water Resources and the Bureau of Reclamation, 2000.

(Ord. 1845 § 3, (2010))

§ 18.17.040. Water conservation in landscaping requirements.

(a) All owners of new construction and rehabilitated landscapes of applicable sizes shall:

- (1) Complete the Landscape Project Application (Section 18.17.060); and
- (2) Comply with the landscape and irrigation maintenance schedule (Section 18.17.110) requirements of this chapter.

(b) All owners of existing landscapes over one acre in size, even if installed before enactment of the ordinance codified in this chapter, shall:

- (1) Comply with city programs that may be instituted relating to irrigation audits, surveys and water use analysis; and
- (2) Shall maintain landscape irrigation facilities to prevent water waste and runoff.

(Ord. 1845 § 3, (2010))

§ 18.17.050. Compliance with provisions.

(a) The city shall:

- (1) Provide the project applicant with the ordinance codified in this chapter and landscape project application requirements and the procedures for permits, plan checks, design reviews, or new or expanded water service;
- (2) Review the landscape project application submitted by the project applicant;
- (3) Approve or deny the project applicant's landscape project application submittal;
- (4) Issue or approve a permit, plan check or design review that complies with the approved landscape project application or approve a new or expanded water service application that complies with the approved landscape project application.

(b) The project applicant shall:

- (1) Prior to construction, submit all portions of the landscape project application, except the landscape audit report, to the city;
- (2) Construct the project in compliance with the minimum water use efficiency standards for indoor fixtures and appliances provided for in the Indoor Water Use Efficiency Table and checklist;
- (3) After construction, submit the landscape audit report portion of the landscape project application to the city.

(Ord. 1845 § 3, (2010))

§ 18.17.060. Landscape project application.

(a) The elements of a landscape must be designed to achieve water efficiency and will comply with the criteria described in this chapter. In completing the landscape project application, project applicants may choose one of two options to demonstrate that the landscape meets this chapter's water efficiency goals. Regardless of which option is selected, the applicant must complete and comply with all other elements of this chapter. The options include:

- (1) Planting Restrictions.
 - (A) The turf area may not be more than 25% of the landscape area, and
 - (B) At least 80% of the plants in non-turf landscape areas shall be native plants, low-water using plants, or nowater using plants; or the
- (2) Water budget calculation option (Section 18.17.080).

(b) The landscape project application shall include the following elements:

- (1) Project information;
- (2) Outdoor water use efficiency checklist (Section 18.17.070);
- (3) Water budget calculations, if applicant selects to use a water budget approach rather than comply with the turf area limitations or specified plant type restrictions (Section 18.17.080);
- (4) Landscape and irrigation system design plans (Section 18.17.090);
- (5) Landscape audit report (Section 18.17.100).

(Ord. 1845 § 3, (2010))

§ 18.17.070. Outdoor water use efficiency checklist.

The city of Burlingame has developed an outdoor water use efficiency checklist (checklist), based on the criteria described below. For Tier 1 projects, either the project applicant or a certified or authorized professional shall complete the checklist and submit it to city along with the landscape and irrigation design plan. For Tier 2 projects, a certified or authorized professional shall complete and submit the checklist to city along with the landscape and irrigation design plan.

(a) Plant Material.

- (1) Each hydrozone shall have plant materials with similar water use that are selected and planted

appropriately based upon their adaptability to the climatic, geologic, and topographical conditions of the project site.

- (2) The turf area shall not be more than 25% of the landscape area, unless the project applicant develops a sitespecific water budget and the ETWU of the landscape area does not exceed the MAWA.
 - (3) Turf shall not be planted on slopes greater than 25% or in areas that are less than eight feet wide, unless irrigated with subsurface irrigation or a low volume irrigation system.
 - (4) At least 80% of the plants in nonturf landscape areas shall be native plants, low-water using plants, or no waterusing plants, unless the project applicant develops a site-specific water budget and the ETWU of the landscaped area does not exceed the MAWA.
 - (5) Fire-prone plant materials and highly flammable mulches should be avoided.
 - (6) The use of invasive and/or noxious plant species is strongly discouraged.
 - (7) The architectural guidelines of a common interest development shall not prohibit or include conditions that have the effect of prohibiting the use of low-water use plants as a group.
- (b) Mulch. A minimum two inch layer of mulch shall be applied on all exposed soil surfaces of planting areas, although a three inch layer is recommended.
 - (c) Irrigation System. An irrigation system shall meet all the requirements listed in this section and the manufacturers' recommendations. The irrigation system and its related components shall be planned and designed to allow for proper installation, management, and maintenance.
 - (1) Dedicated landscape water meters shall be required for landscape areas greater than 5,000 square feet and are highly recommended for landscape areas greater than 2,500 square feet.
 - (2) Tier 2 landscapes are required to have automatic irrigation controllers that utilize either evapotranspiration or soil moisture sensor data for irrigation scheduling.
 - (3) Sensors (rain, freeze, wind, etc.), either integral or auxiliary, that suspend or alter irrigation operation during unfavorable weather conditions shall be required on all irrigation systems.
 - (4) The irrigation system shall be designed to prevent runoff, low head drainage, overspray, or other similar conditions.
 - (5) Low volume irrigation required in mulched areas, in areas with slope greater than 25%, and within 24 inches of a nonpermeable surface, or in narrow or irregularly shaped areas that are less than eight feet in width in any direction.
 - (6) Average irrigation efficiency is assumed to be 70%. Irrigation systems shall be designed, maintained, and managed to meet or exceed an average landscape irrigation efficiency of 70%.
 - (7) Irrigation shall be scheduled between 8:00 p.m. and 10:00 a.m., unless unfavorable weather prevents it or otherwise renders irrigation unnecessary.
 - (d) Hydrozone.
 - (1) Each valve shall irrigate a hydrozone with similar site, slope, sun exposure, soil conditions, and plant materials with similar water use.

- (2) Sprinkler heads and other emission devices shall be selected based on what is appropriate for the plant type within that hydrozone.
 - (3) Where feasible, trees shall be placed on separate valves from shrubs, groundcovers, and turf.
 - (4) Individual hydrozones that mix plants with different water uses may be allowed if a water budget is performed, and the plant factor calculation is based on the proportion of the respective plant water uses or the plant factor of the higher water using plant is used.
- (e) Water Features.
- (1) Recirculating water systems will be used for water features.
 - (2) The surface area of a water feature will not exceed 10% of the landscape area and will be counted as a high water-using plant for purposes of a water budget calculation.
 - (3) Pool and spa covers are highly recommended.
- (f) Soil Amendments. Soil amendments, such as compost, shall be incorporated according to the soil conditions at the project site and based on what is appropriate for the selected plants.

(Ord. 1845 § 3, (2010))

§ 18.17.080. Water budget calculations.

The project applicant may elect to complete a water budget calculation for the landscape project. A Tier 1 water budget may be developed and completed by the project applicant. A Tier 2 water budget calculation must be completed by a certified or authorized professional. Water budget calculations, if prepared, shall adhere to the following requirements:

- (a) The plant factor used shall be from WUCOLS. The plant factor ranges from 0.0 to 0.3 for low water use plants, from 0.4 to 0.6 for moderate water use plants, and from 0.7 to 1.0 for high water-use plants.
- (b) All water features shall be included in the high water use hydrozone.
- (c) All special landscape areas (SLA) shall be identified and their water use included in the water budget calculations.
- (d) The reference evapotranspiration adjustment factor (ETAF) for SLA shall not exceed 1.0. The ETAF for all other landscaped areas shall not exceed 0.7.
- (e) Irrigation system efficiency shall be greater than or equal to 70%.
- (f) Maximum applied water allowance (MAWA) shall be calculated using the equation below:

$$\text{MAWA} = (\text{ETo}) (0.62) [(0.7 \times \text{LA}) + (0.3 \times \text{SLA})]$$

Where:

MAWA = Maximum applied water allowance (gallons per year)

Eto = Reference evapotranspiration (inches per year)

0.62 = Conversion factor (to gallons)

0.7	=	Reference evapotranspiration adjustment factor (ETAF)
LA	=	Landscape area including SLA (square feet)
0.3	=	Additional water allowance for SLA
SLA	=	Special landscape area (square feet)

- (g) A local agency or project applicant may consider effective precipitation (25% of annual precipitation) in tracking water use and may use the following equation to calculate the MAWA:

$$\text{MAWA} = (\text{ETo} - \text{Eppt}) (0.62) [(0.7 \times \text{LA}) + (0.3 \times \text{SLA})]$$

- (h) Estimated total water use (ETWU) will be calculated using the equation below. The sum of the ETWU calculated for all hydrozones will not exceed the MAWA.

$$\text{ETWU} = (\text{ETo})(0.62) [(\text{PF} \times \text{HA})/\text{IE}] + \text{SLA}$$

Where:

ETWU	=	Estimated total water use per year (gallons)
ETo	=	Reference evapotranspiration (inches)
PF	=	Plant factor from WUCOLS (see Section 491)
HA	=	Hydrozone area [high, medium, and low water use areas] (square feet)
SLA	=	Special landscape area (square feet)
0.62	=	Conversion factor
IE	=	Irrigation efficiency (minimum 0.70)

(Ord. 1845 § 3, (2010))

§ 18.17.090. Landscape and irrigation design plans.

- (a) Tier 1 Landscapes. The landscape and irrigation design plan may be prepared by, and bear the signature of, the project applicant, or that of a certified or authorized professional.
- (b) Tier 2 Landscapes. The components of the landscape and irrigation design plan shall be prepared as follows:
- (1) The landscape design portion shall be prepared by, and bear the signature of, a licensed landscape architect, licensed landscape contractor, or that of a certified or authorized professional; and
 - (2) The irrigation design portion shall be prepared by, and bear the signature of, a licensed landscape architect, certified irrigation designer, licensed landscape contractor, or that of a certified or authorized professional.
- (c) The landscape design portion of the landscape and irrigation design plan, at a minimum, shall:
- (1) Delineate and label each hydrozone;

- (2) Identify each hydrozone as low, moderate, high water, or mixed water use;
 - (3) Identify special landscape areas (i.e., recreational areas; areas permanently and solely dedicated to edible plants; areas irrigated with recycled water);
 - (4) Identify type of mulch and application depth;
 - (5) Identify type and surface area of water features;
 - (6) Identify hardscapes (pervious and nonpervious); and
 - (7) Contain the following statement: "I have complied with the criteria of the Water Conservation in Landscaping Ordinance and applied them for the efficient use of water in the Landscape and Irrigation Design Plan."
- (d) The irrigation design portion of the landscape and irrigation design plan, at a minimum, shall contain:
- (1) Location and size of separate water meters for landscape;
 - (2) Location, type and size of all components of the irrigation system, including controllers, main and lateral lines, valves, sprinkler heads, moisture sensing devices, rain switches, quick couplers, pressure regulators, and backflow prevention devices;
 - (3) Static water pressure at the point of connection to the public water supply;
 - (4) Flow rate (gallons per minute), application rate (inches per hour), and design operating pressure (pressure per square inch) for each station;
 - (5) Irrigation schedule;
 - (6) The following statement: "I have complied with the criteria of the Water Conservation in Landscaping Ordinance and applied them accordingly for the efficient use of water in the Landscape and Irrigation Design Plan."
- (e) Grading. If the landscape project will be graded, then the grading shall be designed to minimize soil erosion, runoff, and water waste. All grading should be conducted to:
- (1) Maintain all irrigation and normal rainfall within property lines and avoid drainage on to nonpermeable hardscapes;
 - (2) Avoid disruption of natural drainage patterns and undisturbed soil;
 - (3) Avoid soil compaction in landscape areas; and
 - (4) Be consistent with city and county grading requirements.

(Ord. 1845 § 3, (2010))

§ 18.17.100. Landscape audit report.

- (a) Tier 1 Landscapes. Landscape irrigation audits for new or rehabilitated landscapes installed after March 18, 2010 shall be conducted after the landscaping and irrigation systems have been installed. The audit may be conducted by the project applicant or by a certified landscape irrigation auditor.
- (b) Tier 2 Landscapes. Landscape irrigation audits for new or rehabilitated landscapes installed after the enactment of the ordinance codified in this chapter shall be conducted by a certified landscape

irrigation auditor after the landscaping and irrigation system have been installed.

- (c) The landscape audit report shall include, but is not limited to: inspection to confirm that the landscaping and irrigation system were installed as specified in the landscape and irrigation design plan, system tune-up, system test with distribution uniformity, reporting overspray or runoff that causes overland flow, and preparation of an irrigation schedule.
- (d) The landscape audit report shall include the following statement: "The landscape and irrigation system has been installed as specified in the Landscape and Irrigation Design Plan and complies with the criteria of the Ordinance and the permit."
- (e) The city shall administer on-going programs that may include, but not be limited to, post-installation landscape inspection, irrigation water use analysis, irrigation audits, irrigation surveys and water budget calculations to evaluate compliance with the MAWA.

(Ord. 1845 § 3, (2010))

§ 18.17.110. Landscape and irrigation maintenance schedule.

Landscapes shall be maintained to ensure water use efficiency.

- (a) A regular maintenance schedule shall include, but not be limited to, routine inspection; adjustment and repair of the irrigation system and its components; aerating and dethatching turf areas; replenishing mulch; fertilizing; pruning; weeding in all landscape areas; and removing obstructions to emission devices.
- (b) Repair of all irrigation equipment shall be done with the originally installed components or their equivalents.
- (c) A project applicant is encouraged to implement sustainable or environmentally-friendly practices for overall landscape maintenance.

(Ord. 1845 § 3, (2010))

§ 18.17.120. Stormwater management.

Stormwater best management practices shall be implemented into the landscape and grading design plans to minimize runoff and to increase on-site retention and infiltration and should be consistent with city, county, state and federal stormwater management requirements.

(Ord. 1845 § 3, (2010))

§ 18.17.130. Provisions for existing landscapes over one acre in size.

This section shall apply to all existing landscapes that were installed before March 18, 2010 and are over one acre in size.

- (a) Irrigation Audit, Irrigation Survey, and Irrigation Water Use Analysis.
 - (1) For landscapes that have a water meter, the city shall administer programs that may include, but not be limited to, irrigation water use analyses, irrigation surveys, and irrigation audits to evaluate water use and provide recommendations as necessary to reduce landscape water use to a level that does not exceed the MAWA for existing landscapes. The MAWA for existing landscapes shall be calculated as:

$$\text{MAWA} = (0.8) (\text{ETo})(\text{LA})(0.62)$$

- (2) For landscapes that do not have a meter, the city shall administer programs that may include, but not be limited to, irrigation surveys and irrigation audits to evaluate water use and provide recommendations as necessary in order to prevent water waste.
 - (3) All landscape irrigation audits for existing landscapes that are greater than one acre in size shall be conducted by a certified landscape irrigation auditor.
- (b) Water Waste Prevention. The city shall prevent water waste resulting from inefficient landscape irrigation by prohibiting runoff from leaving the target landscape due to low head drainage, overspray, or other similar conditions where water flows onto adjacent property, nonirrigated areas, walks, roadways, parking lots, or structures.

(Ord. 1845 § 3, (2010))

§ 18.17.140. Violations, penalties and enforcement.

- (a) Violation Notice of Correction. It is unlawful for any person, firm, partnership, association, or corporation subject to the requirements of this chapter to fail to comply with the outdoor water use efficiency requirements of this chapter.
- (b) Notice of Correction. Whenever the city determines that a violation of this chapter has occurred, the city may serve a notice of correction on the owner(s) of the property on which the violation is situated. The owner(s) of record shall have 90 days to take corrective action.
- (c) Enforcement. If the owner of the property which is the subject of the violation fails to take corrective action within 90 days, the city may enforce this chapter according to the provisions of Chapter 1.12 of this code.

(Ord. 1845 § 3, (2010))

§ 18.17.150. Public education.

- (a) The city shall provide information to all applicants regarding the design, installation, management, and maintenance of water-efficient landscapes and irrigation systems.
- (b) All model homes that are landscaped shall use signs and written information to demonstrate the principles of water-efficient landscapes that are described in this chapter.

(Ord. 1845 § 3, (2010))

**CHAPTER 18.18
RADIO AND TELEVISION ANTENNAS**

§ 18.18.010. Purpose.

- (a) Satellite Antennas. Most homes in Burlingame are either built on flat lots or on hillsides. The flat lots are typically of relatively small size with substantial lot coverage. Hillside developments are visible from a wide area. Placement of satellite antennas can interfere with views of streetscape, natural vegetation and scenery in both flat and hillside areas. Therefore, in order to maintain the aesthetic objective of minimal intrusion into views of neighborhood streetscape, existing landscaping, long distance views and other natural effects, it is necessary that satellite antennas in residential zones be placed in the least obtrusive location upon residential properties while still allowing access to satellite signals. The purpose of this ordinance is to establish criteria for the location of satellite antennas consistent with federal standards, as amended in March 1996.
- (b) Ham and CB Antennas. The purpose of this ordinance is to establish criteria for the location, height and bulk of ham radio and CB antennas that will reasonably accommodate amateur radio activities and create the minimum interference with those activities consonant with promoting local safety and aesthetic interests.
- (c) Other Antennas. The purpose of this ordinance is to establish locational restrictions that will mitigate the visual impact of other types of antennas.

(Ord. 1327 § 1, (1986); Ord. 1513 § 1, (1994); Ord. 1549 § 1, (1996))

§ 18.18.020. Definitions.

"Antenna" means any combination of wood, metal, wire or other substance, which either alone or in combination with any supports, is erected or constructed for the purpose of receiving or transmitting radio, television or any other electronic or other type of signal.

"Ham" or "CB antenna" is a radio receiving and transmitting antenna for amateur radio and citizens band operation.

"Satellite antenna" is an antenna capable of receiving communications from a transmitter or a transmitter relay located in planetary orbit. Satellite antennas are sometimes referred to as "satellite earth station antennas," and "satellite dish antennas."

(Ord. 1327 § 1, (1986); Ord. 1513 § 1, (1994); Ord. 1519 § 1, (1995); Ord. 1549 § 1, (1996))

§ 18.18.025. Placement of satellite antennas.

Satellite antennas shall be installed in compliance with the following standards:

- (a) Any satellite antenna that is 40 inches or less in diameter may be installed without restriction in any zone.
- (b) Any satellite antenna that is larger than 40 inches but less than seven feet in diameter may be installed in any residential zone in compliance with the following standards:
 - (1) No part of the antenna shall exceed seven feet in height from the ground level directly beneath it;
 - (2) The antenna shall be installed in the rear yard and not within the side setbacks, extended to the rear property line;

- (3) The antenna shall be made of non-reflective material or painted with a non-reflective paint;
 - (4) The antenna shall be screened by walls, fences, vegetation or other materials from view of the first floor of buildings on adjacent properties and from any public right-of-way within 100 feet.
- (c) Any satellite antenna that is seven feet or less in diameter may be installed in any nonresidential zone. Any satellite antenna located in the C-1 zone must be screened by walls, fences, vegetation or other materials from view of the first floor of buildings on adjacent properties and from any public right-of-way within 100 feet.
- (d) Any satellite antenna that does not comply with the size and locational restrictions of this section shall not be installed without obtaining an antenna exception as provided in section 18.18.040.

(Ord. 1549 § 1, (1996); Ord. 1552 § 10, (1996))

§ 18.18.030. Ham, CB and other regulated antennas.

Any antenna, other than a satellite dish antenna, shall comply with the following standards in any zone:

- (a) If the antenna is mounted on the ground:
 - (1) No part of the antenna shall be more than 25 feet in height from the ground level directly beneath it; and
 - (2) The antenna shall be installed in the rear yard and no portion of the antenna shall be located within or extend into the side setbacks, extended to the rear property line; or
 - (b) If the antenna is mounted on the roof:
 - (1) No part of the antenna shall be more than 10 feet above the closest portions of the roof on which it is mounted or exceed eight feet (8') in length; and
 - (2) No part of the antenna shall be located or extend within three feet of any roof edge.
- (c) Any antenna that does not comply with these standards shall obtain an antenna exception, as provided in Section 18.18.040.

(Ord. 1327 § 1, (1986); Ord. 1513 § 1, (1994); Ord. 1549 § 1, (1996))

§ 18.18.040. Antenna exception.

- (a) Any person may apply for an exception from the antenna ordinance by applying for an antenna exception in accordance with the provisions of this section.
- (b) Application for an antenna exception shall be made upon forms provided by the director of community development and shall include the following information:
 - (1) Name, address and telephone number of the applicant;
 - (2) Address and zoning district of the property on which the antenna is to be attached or erected;
 - (3) Description of the proposed antenna, including location, height and width or diameter, and general description of the proposed installation;
 - (4) Description of any existing antenna, including location, height and width or diameter;
 - (5) Site plan which shall include the dimensions of the property, setbacks, and location of the

proposed antenna and all structures, including any existing antennas.

- (c) When the application requests an exception for a satellite antenna, the applicant shall provide the following additional information, in addition to the information required pursuant to subsection (b) of this section:
 - (1) The applicable circumstances and conditions existing on the property which materially limit transmission or reception if the antenna is placed according to the standards in section 18.18.025(b);
 - (2) Locations on the property where the antenna can be located so that satellite signals can reasonably be received, including both placement and height. The director of community development, planning commission or city council shall have discretion to require the applicant to submit a site study, prepared at the applicant's cost, identifying the locations where an antenna can be installed without materially limiting transmission.
 - (3) The cost of purchase and cost of proposed installation of the proposed antenna;
 - (4) The cost of trimming trees or removing other obstacles to reception at locations that meet the standards set forth in Section 18.18.025(b);
 - (5) Ways in which vegetation could be planted or trimmed to both provide screening and maintain a line of sight to satellites.
- (d) When the applicant requests an exception for a ham or CB antenna, the applicant shall provide the following additional information, in addition to the information required pursuant to subsection (b) of this section:
 - (1) The location and design of an antenna that will reasonably accommodate the amateur's right to engage in ham radio transmissions while having the least visual intrusion on the surrounding properties;
 - (2) The nature and extent of amateur communications in which the applicant engages, including time, duration, places contacted and so forth;
 - (3) The director of community development, planning commission, or city council shall have discretion to require the applicant to submit a site reception study, prepared at the applicant's cost, to identify the locations and design of the antenna that will have the least visual impact on surrounding properties, maximize public safety, and reasonably accommodate the applicant's right to engage in amateur communications.
- (e) When the applicant requests an exception for an antenna, other than a satellite, ham or CB antenna, the applicant shall provide, in addition to the information required pursuant to subsection (b) of this section, any other information relating to antenna configuration, network design and site selection which affects the aesthetic impact of the antenna.
- (f) The director of community development shall charge a fee for an antenna exception which shall be established by resolution of the city council.
(Ord. 1513 § 1, (1994); Ord. 1549 § 1, (1996); Ord. 1806 § 9, (2007))

§ 18.18.060. Planning Commission action on antenna exceptions.

- (a) An application for an antenna exception shall be processed pursuant to the procedures for granting a

conditional use permit in Chapter 25.16 of this code.

- (b) In granting or denying an antenna exception for a satellite antenna, the Planning Commission shall consider the following:
 - (1) Locations where the satellite dish antenna can be installed without materially limiting reception;
 - (2) Whether installing the satellite dish in such locations imposes costs of screening or pruning vegetation or other costs that exceed the price of purchasing and installing the antenna;
 - (3) The maximum extent to which the antenna can comply with the standards in Section 18.18.025(b) for size, location and screening while achieving reasonable reception of preferred programming.
- (c) In granting or denying an antenna exception for a ham, CB or other antenna, the planning commission shall consider the following:
 - (1) The maximum extent to which the antenna can comply with the standards in Section 18.18.030(a) and (b) for size, location and screening while reasonably transmitting and receiving radio and television signals;
 - (2) Whether or not the antenna may be reasonably accommodated based on considerations of public health, safety, welfare and aesthetics.
- (d) If the information in the record before the commission demonstrates that the antenna can be redesigned or relocated to reduce potential safety or visual impacts, the commission may impose conditions requiring the redesign or designating the relocation of the antenna. As an alternative, the commission may direct the applicant to redesign the antenna or designate a different location that will be less visually intrusive and resubmit the revised proposal for further consideration.

(Ord. 1513 § 1, (1994); Ord. 1549 § 1, (1996); Ord. 1603 § 13, (1998))

§ 18.18.070. Engineering report required.

Where the total weight of an antenna exceeds 500 pounds or where the total height of the pole and antenna exceeds 25 feet measured from the adjacent grade or, when built upon a building, where the total height of the roof mount and the antenna, exceeds 15 feet above the surface of the roof, the building official shall require that a plan and engineering calculations for wind load, bracing and foundation be prepared by a licensed civil or structural engineer. Such plans and specifications shall be prepared to meet or exceed the applicable requirements for such construction as set forth in Chapter 18.08 of this code as adopted or as it may be subsequently amended.

(Ord. 1513 § 1, (1994); Ord. 1549 § 1, (1996))

§ 18.18.080. Antennas existing on the effective date of this chapter.

Antennas existing prior to the adoption of the ordinance codified in this chapter and constructed or installed in accordance with codes that were applicable at the time of construction or installation may remain in place. Any such antennas that would not be allowed under this ordinance shall be deemed non conforming. Any antenna that was constructed or installed in violation of any prior ordinance shall either be removed or an application for an antenna exception shall be filed within 30 days after the effective date of the ordinance codified in this chapter.

(Ord. 1513 § 1, (1994); Ord. 1549 § 1, (1996))

CHAPTER 18.19 INDOOR WATER CONSERVATION

§ 18.19.010. Title.

This chapter shall be known as the city of Burlingame "Indoor Water Conservation Ordinance."
(Ord. 1846 § 2, (2010))

§ 18.19.020. Coordination with the plumbing code.

The code of rules and regulations printed in one volume and published by the International Association of Plumbing and Mechanical Officials, under the title "California Plumbing Code, 2007 Edition," and the appendices printed therein, and all supplements subsequently issued thereto, hereinafter collectively called the "plumbing code," prescribing regulations for the installation of all plumbing fixtures, was adopted as amended, by the city of Burlingame, in Chapter 18.12 of the Burlingame Municipal Code, on November 7, 2007. Printed in book form and filed in the office of the city clerk and the chief building official, the Burlingame plumbing code establishes the rules, regulations, and standards within the city of Burlingame as to all matters therein contained; subject however, to the amendments, additions, and deletions set forth in this chapter. The mandatory requirements of the adopted appendix to the California Plumbing Code, 2007 Edition, shall be enforceable to the same extent as if contained in the body of the plumbing code. One copy of the plumbing code shall at all times be kept on file in the office of the city clerk. To the extent the provisions of this chapter conflict with any provisions in the existing plumbing code, the California Building Standards Code, or any other municipal codes in conflict, then the provisions of this chapter shall supersede and control with regard to the indoor fixture requirements described herein.

(Ord. 1846 § 2, (2010))

§ 18.19.030. Applicability.

(a) The provisions of this chapter shall apply to the following projects:

- (1) All new construction, regardless of building classification, requiring a building permit, plan check or design review, or requiring new or expanded water service;
- (2) All kitchen and bathroom remodels requiring a building permit, plan check, design review, new or expanded water service, except that the provisions of this chapter will only apply to the fixtures normally included in the kitchen or bathroom, as the case may be, to be remodeled.

(b) The provisions of this chapter shall not apply to:

- (1) Existing buildings not seeking a building permit, plan check or design review;
- (2) Registered local, state or federal historical sites;
- (3) Remodels where, in the discretion of the city, the unique configuration of the building, its drainage system or portions of the public sewer, or both, are incompatible with efficiency standards listed in the Indoor Water Use Efficiency Table and require a greater quantity of water to flush the system in a manner that is consistent with public health.

(Ord. 1846 § 2, (2010))

§ 18.19.040. Definitions.

"Certified professional" means a licensed contractor, licensed architect or licensed professional engineer.

"Energy star qualified" means that a given fixture meets the United States Environmental Protection Agency standard for an energy efficient product.

"Gal/cycle" means gallons per cycle.

"Gal/100 lbs ice" means gallons per hundred pounds of ice.

"Gpf" means gallons per flush.

"Gpm" means gallons per minute.

"Local agency" means the city of Burlingame which is responsible for adopting, implementing and enforcing this chapter, including, but not limited to, approval of a permit and plan check or design review of a project.

"LSI" means Langlier Saturation Index providing an indication of the degree of saturation of water with respect to calcium carbonate related to cooling tower efficiency.

"Local water purveyor" means any entity, including a public agency, city, county, or private water company that provides retail water service.

"Permit" means the document issued by the city in connection with new construction, remodels or renovations and which authorizes the lawful initiation of construction, improvements or repairs to a building or structure.

"Project applicant" means the individual or entity submitting an indoor water use efficiency checklist as required under Section 18.19.060(b) and requesting a permit, plan check, design review, or new or expanded water service application from the local agency. A project applicant may be the property owner or designee.

"RMF" means residential multifamily.

"Sq. ft." means square feet.

(Ord. 1846 § 2, (2010))

§ 18.19.050. Minimum indoor fixture requirements.

All new construction and applicable remodels will have, at a minimum, fixtures that comply with the efficiency standards listed in the Indoor Water Use Efficiency Table.

Indoor Water Use Efficiency Table		
Fixture	Residential	Nonresidential
Toilets	$\leq 1.28 \text{ gpf}$, and $\geq 350 \text{ grams}$	$\leq 1.28 \text{ gpf}$, and $\geq 350 \text{ grams}$
Urinals	$\leq 0.5 \text{ gpf}$	$\leq 0.5 \text{ gpf}$
Showers	$\leq 2.0 \text{ gpm}$	$\leq 2.0 \text{ gpm}$
Bathroom faucets	$\leq 1.5 \text{ gpm}$	$\leq 0.5 \text{ gpm}$
Kitchen faucets	$\leq 2.2 \text{ gpm}$	$\leq 2.2 \text{ gpm}$
Clothes washers	$\leq 6.0 \text{ water factor}$	$\leq 6.0 \text{ water factor}$
Dishwashers	$\leq 6.5 \text{ gal/cycle}$, or energy star qualified	energy star qualified

Indoor Water Use Efficiency Table

Fixture	Residential	Nonresidential
Cooling towers	$\geq 5 - 10$ cycles, or ≥ 2.5 LSI	$\geq 5 - 10$ cycles, or ≥ 2.5 LSI
Food steamers	--	Boiler less, or self-contained
Ice machines	--	≤ 25 gal/100 lbs ice, or air-cooled
Pre-rinse spray valves	--	≤ 1.15 gpm
Automatic vehicle wash facilities	--	$\geq 50\%$ of water that is recycled on site
Commercial refrigeration	--	Closed loop, or air-cooled
Meters	Submeters for RMF, and separate meter for outdoor if landscape >5000 sq. ft.	Submeters, and separate meter for outdoor if landscape >5000 sq. ft.

(Ord. 1846 § 2, (2010))

§ 18.19.060. Compliance with provisions.

(a) The city shall:

- (1) Provide the project applicant with a copy of the ordinance codified in this chapter and an indoor water use efficiency checklist form when it provides the applicant with the procedures for permits, plan checks, design reviews or new or expanded water service applications;
- (2) Review the indoor water use efficiency checklist submitted by the project applicant;
- (3) Approve or deny the project applicant's indoor water use efficiency checklist submittal as part of the application review process;
- (4) Upon approval of the indoor water use efficiency checklist, and after all other required permits and approvals have been obtained by the applicant, issue a permit or approve the plan check, design review or new or expanded water service application for the project applicant;
- (5) In its discretion, inspect the installation of the water efficient fixtures and appliances to verify that they have been installed and are performing at the required use levels;
- (6) Provide a copy of the complete indoor water use efficiency checklist to the city.

(b) The project applicant shall:

- (1) Meet the minimum water use efficiency standards for indoor fixtures and appliances provided for in the indoor water use efficiency table and checklist;
- (2) Prior to construction, submit all portions of the indoor water use efficiency checklist to the city's (appropriate official) for verification;
- (3) Construct the project in compliance with the minimum water use efficiency standards for indoor fixtures and appliances provided for in the indoor water use efficiency table and checklist.

(Ord. 1846 § 2, (2010))

§ 18.19.070. Components of the indoor water use efficiency checklist.

The indoor water use efficiency checklist shall require, at a minimum:

- (a) Project information;
- (b) Quantity and unit water use factors of all indoor fixtures and appliances relative to the standards listed in the Indoor Water Use Efficiency Table and checklist;
- (c) Contain the following statement to be completed by the project applicant: "I certify that the subject project meets the specified requirements of the Indoor Water Use Efficiency Ordinance"; and
- (d) Bear the signature of the project applicant, or that of a certified professional.

(Ord. 1846 § 2, (2010))

§ 18.19.080. Violations, penalties and enforcement.

- (a) Violation. It is unlawful for any person, firm, partnership, association, or corporation subject to the requirements of this chapter to fail to comply with the water use efficiency requirements or to alter or replace the fixtures and appliances required by this chapter with other noncompliant fixtures or appliances after the completion of construction or remodel.
- (b) Notice of Correction. Whenever the city determines that a violation of this chapter has occurred, the city may serve a notice of correction on the owner(s) of the property on which the violation is situated. The owner(s) of record shall have 90 days to take corrective action.
- (c) Enforcement. If the owner of the property which is the subject of the violation fails to take corrective action within 90 days, the city may enforce this chapter according to the provisions of Chapter 1.12 of this code.

(Ord. 1846 § 2, (2010))

§ 18.19.090. Public education.

The local agency shall provide information to all applicants regarding the installation of water efficient fixtures and appliances.

(Ord. 1846 § 2, (2010))

CHAPTER 18.20 GRADING, EXCAVATION, FILLS

§ 18.20.010. Intent of chapter.

It is the purpose and policy of this chapter to promote the public welfare and safety by establishing minimum standards and requirements relating to excavation, grading and fills; to lessen the exposure to or probability of earth slides or flooding; and to establish procedures by which such requirements may be enforced.

(Ord. 934 § 1, (1971); Ord. 1462, (1992))

§ 18.20.020. Definitions.

For the purposes of this chapter, the following definitions shall apply:

"Excavation" is any act by which earth, sand, gravel, rock or any other material is cut into, dug, quarried, uncovered, removed or relocated and shall include the condition resulting therefrom.

"Fill" is any act by which earth, sand, gravel, rock or any other material is deposited, placed, pushed, pulled or transported to a place other than the place from which it was excavated and shall include the conditions resulting therefrom.

"Grading" is an excavation or fill or any combination thereof and shall include the conditions resulting from any excavation or fill.

(Ord. 934 § 1, (1971); Ord. 1462, (1992))

§ 18.20.030. Requirements for grading permits.

- (a) No person shall fill, excavate or grade any site for any purpose nor change existing natural or previously prepared slopes without first obtaining a grading permit. A permit shall be required for each site upon which grading is to be done.
- (b) Each application for a grading permit shall be made to the city engineer by the owner of record or his or her authorized agent. The required fee and any necessary deposits shall accompany the application.
- (c) Plot plans shall be prepared for the purpose of any grading permit, whether for and in connection with a building permit or for any changes in the natural land grade for future use or subdivision. The plot plan shall show the location of existing and proposed structures, if any; the location of all existing and proposed streets, driveways and easements; the present contours of the site in dashed lines and the proposed finished contours in solid lines.
- (d) When the grading permit is part of a building permit application, a plot plan shall be submitted showing location of the proposed building on the site and elevations of building above and below grade. Proposed disposition of surface drainage water shall be indicated on the plans. All plot plans shall be drawn by a licensed civil engineer, architect or land surveyor.

(Ord. 934 § 1, (1971); Ord. 1462, (1992))

§ 18.20.040. Exceptions.

A grading or site development permit shall not be required for any of the following purposes except that encroachment, building or other types of required permits must be obtained:

- (1) Excavations below finished grade for tanks, vaults, basements or footings for buildings or structures,

except as limited in the sections following;

- (2) Excavation by public utility companies in public utility easements or in public ways for the purpose of installing or maintaining public utilities;
 - (3) Street improvement work in connection with improvement contracts awarded by the city over which the city exercises inspection authority;
 - (4) Work for the State Division of Highways or other state agencies;
 - (5) Minor changes in grade for the construction of a building where the plan for the finished grade is made a part of the construction plans and is approved by the building inspector or the city engineer.
- (Ord. 934 § 1, (1971); Ord. 1462, (1992))

§ 18.20.050. Application for permit.

To obtain a permit, the applicant shall file an application therefor in writing upon forms furnished by the city engineer. The application shall be signed by the owner of the property upon which the work is to be performed or by his or her duly authorized agent. Every such application shall contain the following information:

- (1) The purpose of the work;
 - (2) The amount of material to be excavated or filled in cubic yards;
 - (3) The legal description of the property on which the work is to be performed and the street address at the point of access to the property;
 - (4) The name and address of the owner of the property;
 - (5) The name, address and telephone number of the person who will have effective control of the work;
 - (6) The estimated dates for starting and completing the work;
 - (7) Plot plans as noted above;
 - (8) Detailed plans of all walls, cribs, drains or other protective devices to be constructed in connection with or as a part of the proposed work.
- (Ord. 934 § 1, (1971); Ord. 1462, (1992))

§ 18.20.060. Criteria for approval of permit by city officials.

The city engineer, prior to approving a permit for grading, shall consider the following factors:

- (1) Saturation of fill and unsupported cuts by water, both natural and domestic;
- (2) Run-off of surface waters that produce erosion and silting of drainage ways;
- (3) Subsurface conditions such as rock strata, faults and springs;
- (4) Nature and type of soil or rock which, when disturbed by the proposed grading, may create earth movements;
- (5) Effect upon the visual relationships with other development in the vicinity of the site;

- (6) Whether the natural landscape and major vegetation is unnecessarily scarred through the proposed grading;
- (7) Capability of proposed slopes to be landscaped.

The building inspector, prior to approving a building permit involving grading, shall consider the following factors:

- (1) Distance from any existing or proposed building to toe of slope;
- (2) Recommendations for drain tile installation, retaining walls, or other protective devices for disposition of surface and underground water.

(Ord. 934 § 1, (1971); Ord. 1462, (1992))

§ 18.20.070. Standards.

The following minimum standards are established except that higher standards may be imposed when the city engineer finds that peculiar or extraordinary conditions on the site require imposition of special treatment to serve the purposes of this chapter:

- (a) Slope Protection. Any graded slope which may be subject to erosion shall be protected by planting of trees, shrubs or groundcover; by berms, terracing, cribbing or lined ditches; or by a combination of these methods.
- (b) Fill Compaction. All fills more than one foot in depth intended to support a building and all fills more than five feet in depth shall be compacted to not less than 90% density.
- (c) Cut slopes shall not exceed one and one-half feet horizontally to one foot vertically. Fill slopes shall not exceed two feet horizontally to one foot vertically. If any cut slope disclosed the existence of inclined strata, fault lines, or other condition indicating a possible earth slide, the horizontal dimension must be increased to create a flatter slope.
- (d) The finished grade shall be so sloped as to carry surface water to the nearest street, storm drain or natural watercourse.

(Ord. 934 § 1, (1971); Ord. 1462, (1992))

§ 18.20.075. Maintenance of protective devices.

The owner of any property in hillside areas shall maintain in good condition and repair all retaining walls, cribbing, drainage structures, groundcover and other protective devices which are not on public property. Maintenance shall include necessary repairs, removal of silt deposits and any other required action to insure the intended purpose of the devices.

(Ord. 934 § 1, (1971); Ord. 1462, (1992))

§ 18.20.080. Inspections.

The city engineer, or the building official in applicable cases, shall make an initial inspection of the site after grading and construction stakes have been placed but before grading is commenced. A second inspection shall be made following rough grading. All subsurface drainage pipes or structures shall be inspected prior to backfilling. A final inspection shall be made when all work is completed.

The city engineer may require that the inspection of cuts or fills be made by a registered civil engineer, specializing in soil mechanics and foundation engineering, and that a report prepared and signed by the

engineer be submitted upon completion of the work.
(Ord. 934 § 1, (1971); Ord. 1462, (1992))

§ 18.20.090. Fees.

Fees for filing applications and for inspections shall be established from time to time by resolution of the city council.
(Ord. 934 § 1, (1971); Ord. 1462, (1992))

CHAPTER 18.22 FLOOD DAMAGE PREVENTION

§ 18.22.010. Findings of fact.

- (a) The flood hazard areas of the city of Burlingame are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.
- (b) These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazards which increase flood heights and velocities, and when inadequately anchored, damage uses in other areas. Uses that are inadequately floodproofed, elevated or otherwise protected from flood damage also contribute to the flood loss.

(Ord. 1211 § 1, (1981); Ord. 1916 § 2, (2015); Ord. 2010 § 12, (2022))

§ 18.22.020. Statement of purpose.

It is the purpose of this chapter to promote the public health, safety and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- (a) Protect human life and health;
- (b) Minimize expenditure of public money for costly flood control projects;
- (c) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (d) Minimize prolonged business interruptions;
- (e) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard;
- (f) Help maintain a stable tax base by providing for the second use and development of areas of special flood hazard so as to minimize future flood blight areas;
- (g) Insure that potential buyers are notified that property is in an area of special flood hazard; and
- (h) Insure that those who occupy the area of special flood hazard assume responsibility for their actions.

(Ord. 1211 § 1, (1981); Ord. 1916 § 2, (2015); Ord. 2010 § 12, (2022))

§ 18.22.030. Methods of reducing flood losses.

In order to accomplish its purpose, this chapter includes methods and provisions for:

- (a) Restricting or prohibiting uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- (b) Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (c) Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel floodwaters;

- (d) Controlling filling, grading, dredging and other development which may increase flood damage; and
 - (e) Preventing or regulating the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards in other areas.
- (Ord. 1211 § 1, (1981); Ord. 1916 § 2, (2015); Ord. 2010 § 12, (2022))

§ 18.22.100. Definitions.

The following words and terms shall, for the purposes of these regulations, have the meanings shown herein. Where terms are not defined in these regulations and are defined in the building code (CCR Title 24 Part 2) and used in the residential code (CCR Title 24 Part 2.5), such terms shall have the meanings ascribed to them in those codes. Where terms are not defined in these regulations or the building code, such terms shall have ordinarily accepted meanings such as the context implies.

"A zone." See "Special flood hazard area."

"Appeal" means a request for a review of the floodplain administrator's interpretation of any provision of this chapter or a request for a variance.

"Area of shallow flooding" means a designated AO or AH Zone on the flood insurance rate map (FIRM). The base flood depths range from one to three feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

"Area of special flood hazard." See "Special flood hazard area."

"Base flood" means the flood having a one percent chance of being equaled or exceeded in any given year (also called the "one-hundred-year flood").

"Base flood elevation (BFE)" means the elevation of the base flood, including wave height, relative to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD) on the Flood Insurance Rate Map (FIRM) for zones AE, AH, and VE that indicates the water surface elevation resulting from a flood that has a one percent or greater chance of being equaled or exceeded in any given year.

"Basement" means any area of the building having its floor subgrade (below ground level) on all sides.

"Breakaway walls" are any type of walls, whether solid or lattice, and whether constructed of concrete, masonry, wood, metal, plastic or any other suitable building material which 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 building to which they might be carried by floodwaters. A breakaway wall shall have a safe design loading resistance of not less than 10 and no more than 20 pounds per square foot. Use of breakaway walls must be certified by a registered engineer or architect and shall meet the following conditions:

- (1) Breakaway wall collapse shall result from a water load less than that which would occur during the base flood; and
- (2) The elevated portion of the building shall not incur any structural damage due to the effects of wind and water loads acting simultaneously in the event of a base flood.

"Coastal high hazard area" is the 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 zones V1 through V30.

"Conditional letter of map revision (CLOMR)" means a formal review and comment as to whether a proposed flood project or other project complies with the minimum NFIP Requirements for such projects with respect to delineation of or special flood hazard areas. A CLOMR does not revise the effective

flood insurance rate map or flood insurance study; upon submission and approval of certified as-built documentation, a letter of map revision may be issued by FEMA to revise the effective FIRM.

"Development" means any manmade change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

"Design flood" means the flood associated with the greater of the following two areas: (1) area with a flood plain subject to a one-percent or greater chance of flooding in any year; (2) area designated as a flood hazard area on a community's flood hazard map, or otherwise legally designated.

"Design flood elevation" means the elevation of the "design flood," including wave height, relative to the datum specified on the community's legally designated flood hazard map. Also referred to as "flood protection elevation."

"Dry flood proofing" means the protection of non-residential structures, water supplies, and sewage systems. Dry flood proofing includes measures that make a structure watertight below the level that needs flood protection to prevent floodwaters from entering.

"Flood or flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of floodwaters;
- (2) The unusual and rapid accumulation or runoff of surface waters from any source; and/or
- (3) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in this definition.

"Flood boundary and floodway map" means the official map on which the Federal Emergency Management Agency or Federal Insurance Administration has delineated both the areas of flood hazard and the floodway.

"Flood insurance rate map" (FIRM) means the official map on which the Federal Emergency Management Agency or Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the city.

"Flood insurance study" means the official report provided by the Federal Insurance Administration that includes flood profiles, the FIRM, the flood boundary and floodway map, and the water surface elevation of the base flood.

"Floodplain or flood-prone area" means any land area susceptible to being inundated by water from any source (see "flood").

"Floodplain administrator" is the community official designated by title to administer and enforce the floodplain management regulations.

"Floodplain management" means the operation of an overall program of corrective and preventive measures for reducing flood damage, including, but not limited to, emergency preparedness plans, flood control works and floodplain management regulations.

"Floodplain management regulations" means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as floodplain ordinance, grading ordinance and

erosion control ordinance) and other applications of police power. The term describes such state or local regulations in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

"Floodproofing" means any combination of structural and nonstructural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

"Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot. Also referred to as "regulatory floodway."

"Freeboard" means a factor of safety usually expressed in feet above a flood level for purposes of flood plain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed.

"Functionally dependent use" means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

"Highest adjacent grade" means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

"Letter of map amendment (LOMA)" means an amendment based on technical data showing that a property was incorrectly included in a designated special flood hazard area. A LOMA amends the current flood insurance rate map and establishes that a specific property, portion of a property, or structure is not located in a special flood hazard area.

"Letter of map change (LOMC)" means an official determination issued by FEMA that amends or revises an effective flood insurance rate map or flood insurance study. letters of map change include:

- (1) Letter of map amendment (LOMA);
- (2) Letter of map revision (LOMR);
- (3) Letter of map revision based on fill (LOMR-F);
- (4) Conditional letter of map revision (CLOMR).

"Letter of map revision (LOMR)" means a revision based on technical data that may show changes to flood zones, flood elevations, special flood hazard area boundaries and floodway delineations, and other planimetric features.

"Letter of map revision based on fill" (LOMR-F) means a determination that a structure or parcel of land has been elevated by fill above the base flood elevation and is, therefore, no longer located within the special flood hazard area. In order to qualify for this determination, the fill must have been permitted and placed in accordance with the community's floodplain management regulations.

"Light-duty truck" as it pertains in this chapter only, and as defined in 40 C.F.R. 86.082-2, any motor vehicle rated at 8,500 pounds gross vehicular weight ratings or less which has a vehicular curb weight of 6,000 pounds or less which has a basic vehicle frontal area of 45 square feet or less, which is: (1) designed primary for purposes of transportation of property or is a derivation of such a vehicle; or (2) designed primary for transportation of persons and has a capacity of more than 12 persons; or (3) available with special features enabling off-street or off-highway operation and use.

"Lowest floor" means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of this chapter.

"Manufactured home" means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term "manufactured home" also includes park trailers, travel trailers and other similar vehicles placed on a site for greater than 180 consecutive days.

"Manufactured home park or subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for sale or rent.

"Market value" means the price at which a property will change hands between a willing buyer and a willing seller, neither party being under compulsion to buy or sell and both having reasonable knowledge of relevant facts. As used in these regulations, the term refers to the market value of buildings and structures, excluding the land and other improvements on the parcel. Market value may be established by one of the following methods: (1) actual cash value (replacement cost depreciated for age and quality of construction); (2) tax assessment value adjusted to approximate market value by a factor provided by the property appraiser; or (3) a qualified independent appraiser.

"Mean sea level" means, 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 flood insurance rate map are referenced.

"New construction" means, for floodplain management purposes, structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by the city.

"One-hundred-year flood" means a flood which has a one percent annual probability of being equaled or exceeded. It is identical to the "base flood," which will be the term used throughout this chapter.

"Person" means an individual or his or her agent, firm, partnership, association or corporation or agent of the aforementioned groups, or this state or its agencies or political subdivisions.

"Recreational vehicle" means a motor vehicle or trailer for recreational dwelling purposes; a motor home or other vehicle with a motor home body style which has its own motor power or is towed by another vehicle.

"Remedy a violation" means to bring the structure or other development into compliance with state or local floodplain management regulations, or, if this is not possible, to reduce the impacts of its noncompliance. Ways that impact may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of the ordinance or otherwise deterring future similar violations, or reducing federal financial exposure with regard to the structure or other development.

"Riverine" means relating to, performed by or resembling a river (including tributaries), stream, brook, etc.

"Sand dunes" means naturally occurring accumulations of sand in ridges or mounds landward of the beach.

"Sea level rise" means an increase in the level of the world's oceans due to the effects of global warming.

"Sheet flow area." See "area of shallow flooding."

"Special flood hazard area" (SFHA) means an area having special flood or flood-related erosion hazards, and shown on an FHBW or FIRM as zones A, AH, A1 through A30 and V1 through V30.

"Start of construction" includes substantial improvement, and means the date the building permit was

issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within 12 months of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns or any work beyond the 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.

"Structure" means a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

"Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred.

"Substantial improvement" means any repair, reconstruction or improvement of a structure the cost of which equals or exceeds 50% of the market value of the structure either:

- (1) Before the improvement or repair is started; or
- (2) If the structure has been damaged, and is being restored, before the damage occurred. For the purposes of this definition "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either:
- (3) Any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions; or
- (4) Any alteration of a structure listed on the National Register of Historic Places or a state inventory of historic places.

"Variance" means a grant of relief from the requirements of this chapter which permits construction in a manner that would otherwise be prohibited by this chapter.

"Violation" means the failure of structure or other development to be fully compliant with the city's floodplain management regulations. A structure or other development without the elevation certificate, other certifications or other evidence of compliance required in this chapter is presumed to be in violation until such time as that documentation is provided.

"Water surface elevation" means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD) of 1988, or other datum, of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

"Watercourse" means a lake, river, creek, stream, wash, arroyo, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

(Ord. 1211 § 1, (1981); Ord. 1326 § 1, (1986); Ord. 1351 § 1, (1987); Ord. 1916 § 2, (2015); Ord. 2010 § 12, (2022))

§ 18.22.310. Lands to which this chapter applies.

This chapter shall apply to all areas of special flood hazards within the jurisdiction of the city of

Burlingame.

(Ord. 1211 § 1, (1981); Ord. 1916 § 2, (2015); Ord. 2010 § 12, (2022))

§ 18.22.320. 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 for the City of Burlingame," dated March 16, 1981 and April 5, 2019, with an accompanying flood insurance rate maps (FIRMs), 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 flood insurance study is on file at the Public Works Engineering Department, City Hall, 501 Primrose Road, Burlingame, California.

(Ord. 1211 § 1, (1981); Ord. 1326 § 2, (1986); Ord. 1916 § 2, (2015); Ord. 2010 § 12, (2022))

§ 18.22.330. 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.

(Ord. 1211 § 1, (1981); Ord. 1916 § 2, (2015); Ord. 2010 § 12, (2022))

§ 18.22.340. 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 other ordinance, easement, covenant or deed restrictions conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

(Ord. 1211 § 1, (1981); Ord. 1916 § 2, (2015); Ord. 2010 § 12, (2022))

§ 18.22.350. 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. 1211 § 1, (1981); Ord. 1916 § 2, (2015); Ord. 2010 § 12, (2022))

§ 18.22.360. 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 Burlingame, any officer or employee thereof, or the Federal Insurance Administration for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.

(Ord. 1211 § 1, (1981); Ord. 1916 § 2, (2015); Ord. 2010 § 12, (2022))

§ 18.22.410. Establishment of development permit.

For the purposes of this chapter, "development permit" shall mean a development permit shall be obtained before construction or development begins within any area of special flood hazard established in Section 18.22.320. Application for a development permit shall be made on forms furnished by the building official and may include, but not be limited to, plans in duplicate drawn to scale showing the nature, location, dimensions and elevation of the area in question, existing or proposed structures, fill, storage of materials, drainage facilities and the location of the foregoing. Specifically, the following information is required.

- (a) Proposed elevation in relation to mean sea level of the lowest habitable floor (including basement) of all structures;
- (b) Proposed elevation in relation to mean sea level to which any structure will be flood proofed;
- (c) All appropriate certifications listed in Section 18.22.433; and
- (d) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

(Ord. 1211 § 1, (1981); Ord. 1351 § 1, (1987); Ord. 1916 § 2, (2015); Ord. 2010 § 12, (2022))

§ 18.22.420. Designation of the floodplain administrator.

The city engineer is appointed to administer and implement this chapter by granting or denying development permit applications in accordance with its provisions.

(Ord. 1211 § 1, (1981); Ord. 1916 § 2, (2015); Ord. 2010 § 12, (2022))

§ 18.22.430. Duties and responsibilities of floodplain administrator.

Duties of the floodplain administrator shall include, but not be limited to, those set forth in Sections 18.22.431 through 18.22.435.

(Ord. 1211 § 1, (1981); Ord. 1916 § 2, (2015); Ord. 2010 § 12, (2022))

§ 18.22.431. Permit review.

The floodplain administrator shall review all development permits to determine that:

- (a) The permit requirements of this chapter have been satisfied;
- (b) All other required state and federal permits have been obtained;
- (c) The site is reasonably safe from flooding;
- (d) The proposed development does not adversely affect the carrying capacity of the floodway. For purposes of this chapter, "adversely affects" means that the cumulative effect of the proposed development when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood more than one foot at any point.
- (e) All letters of map revision (LOMRs) for flood control projects are approved prior to the issuance of building permits. Building permits must not be issued based on conditional letters of map revision (CLOMRs).
- (f) Require applicant to submit hydrologic and hydraulic engineering analyses to support permit applications to submit to FEMA the data and information necessary to maintain the Flood Insurance

Rate Maps when the analyses indicate changes in base flood elevation, flood hazard area boundaries, or floodway designations; such submissions shall be made within six months of such data becoming available.

(Ord. 1211 § 1, (1981); Ord. 1351 § 1, (1987); Ord. 1916 § 2, (2015); Ord. 2010 § 12, (2022))

§ 18.22.432. Use of other base flood data.

When base flood elevation data has not been provided in accordance with Section 18.22.320, the floodplain administrator shall obtain, review and reasonably utilize any base flood elevation data available from a federal, state or other source in order to administer this chapter.

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.

(Ord. 1211 § 1, (1981); Ord. 1916 § 2, (2015); Ord. 2010 § 12, (2022))

§ 18.22.433. Information to be obtained and maintained.

The floodplain administrator shall obtain and maintain for public inspection and make available as needed for flood insurance policies:

- (a) The certification required in Section 18.22.513(a) (floor elevations);
- (b) The certification required in Section 18.22.513(b) (elevations in areas of shallow flooding);
- (c) The certification required in Section 18.22.513(c) (elevation or floodproofing of nonresidential structures);
- (d) The certification required in Section 18.22.513(d)(1) or (2) (wet floodproofing standard);
- (e) The certified elevation required in Section 18.22.540(b) (subdivision standards);
- (f) The certification required in Section 18.22.560(1) (floodway encroachments);
- (g) The information required in Section 18.22.570 (coastal construction standards).

(Ord. 1211 § 1, (1981); Ord. 1351 § 1, (1987); Ord. 1916 § 2, (2015); Ord. 2010 § 12, (2022))

§ 18.22.434. Alteration of watercourses.

The floodplain administrator shall:

- (a) Notify adjacent communities and the department of water resources prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency;
- (b) Require that the flood-carrying capacity of the altered or relocated portion of the watercourse is maintained.

(Ord. 1211 § 1, (1981); Ord. 1916 § 2, (2015); Ord. 2010 § 12, (2022))

§ 18.22.435. Interpretation of FIRM boundaries.

The floodplain administrator shall make interpretations where needed, as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between

a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Section 18.22.610 et seq. (Ord. 1211 § 1, (1981); Ord. 1916 § 2, (2015); Ord. 2010 § 12, (2022))

§ 18.22.510. Standards.

The following standards are required in all areas of special flood hazards and public access, flood and sea level rise performance guidelines under Ord. 2000 (2021).

(Ord. 1211 § 1, (1981); Ord. 1916 § 2, (2015); Ord. 2010 § 12, (2022))

§ 18.22.511. Anchoring.

- (a) All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrostatic and hydrodynamic loads, including the effect of buoyancy.
- (b) All manufactured homes shall meet the anchoring standards of Section 18.22.550(a).
(Ord. 1211 § 1, (1981); Ord. 1351 § 1, (1987); Ord. 1916 § 2, (2015); Ord. 2010 § 12, (2022))

§ 18.22.512. Construction materials and methods.

- (a) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- (b) All new construction and substantial improvements shall be constructed using methods and practices that minimize damage.
- (c) All new construction and substantial improvements shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding under the current California building codes and FEMA requirements.
- (d) Require within zone AH adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures.
(Ord. 1211 § 1, (1981); Ord. 1351 § 1, (1987); Ord. 1916 § 2, (2015); Ord. 2010 § 12, (2022))

§ 18.22.513. Elevation and floodproofing.

- (a) New construction and substantial improvement of any residential structure in zone A, AE, AH shall have the lowest habitable floor, including basement, elevated above the based flood elevation plus one foot. Nonresidential structures may meet the standards in subsection (b) of this section. Upon completion of the structure the elevation of the lowest floor including basement shall be certified by a registered professional engineer or surveyor, or verified by the community building inspector to be properly elevated. Such certification or verification shall be provided to the floodplain administrator prior to building permit final and be dated within 180 days of submittal.
- (b) Nonresidential construction shall provide a freeboard of one foot above the base flood elevation within the structure footprint of the first floor and/or comply with the standards adopted in Section 25.12.050 for properties in the commercial and industrial zoning districts related to sea level rise (SLR), whichever is stricter in conformance with subsection (a) of this section, or together with attendant utility and sanitary facilities:

- (1) Be flood proofed so that below the base flood level, no greater than three feet, is watertight with walls substantially impermeable to the passage of water;
 - (2) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
 - (3) Be certified by a registered professional engineer or architect that the standards of this subsection are satisfied. Such floodproofing certifications shall be provided to the floodplain administrator prior to building permit final and be dated within 180 days of submittal.
- (c) In all new construction and substantial improvements fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:
- (1) Either a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves or other coverings or devices provided that they permit the automatic entry and exit of floodwaters; or
 - (2) Be certified to comply with a local floodproofing standard approved by the Federal Insurance Administration.
- (d) Manufactured homes shall also meet the standards in Section 18.22.550.
(Ord. 1211 § 1, (1981); Ord. 1326 § 3, (1986); Ord. 1351 § 1, (1987); Ord. 1916 § 2, (2015); Ord. 2010 § 12, (2022))

§ 18.22.520. Standards for storage of materials and equipment.

- (a) The storage or processing of materials that are in time of flooding buoyant, flammable, explosive or could be injurious to human, animal or plant life is prohibited.
- (b) Storage of other material or equipment may be allowed if not subject to major damage by floods and firmly anchored to prevent flotation or if readily removable from the area within the time available after flood warning.
- (c) Trash and refuse storage areas must comply with Section 18.22.513(b).
(Ord. 1211 § 1, (1981); Ord. 1916 § 2, (2015); Ord. 2010 § 12, (2022))

§ 18.22.530. Standards for utilities.

- (a) All new and replacement water supply and sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the system and discharge from systems into floodwaters;
- (b) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
(Ord. 1211 § 1, (1981); Ord. 1916 § 2, (2015); Ord. 2010 § 12, (2022))

§ 18.22.540. Standards for subdivisions.

- (a) All preliminary subdivision proposals and other proposed developments (including proposals for

manufactured home parks and subdivisions) greater than 50 lots or five acres, whichever is the lesser, include within such proposals shall identify the flood hazard area and the base flood elevation data.

- (b) All final subdivision plans will provide the elevation of proposed structure(s) and pads. If the site is filled above the base flood, the final pad elevation shall be certified by a registered professional engineer or surveyor and provided to the floodplain administrator.
- (c) All subdivision proposals shall be consistent with the need to minimize flood damage.
- (d) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.
- (e) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.
(Ord. 1211 § 1, (1981); Ord. 1916 § 2, (2015); Ord. 2010 § 12, (2022))

§ 18.22.550. Standards for manufactured homes.

All new and replacement manufactured homes and additions to manufactured homes shall:

- (a) Be elevated so that the lowest floor is at or above the base flood elevation; and
 - (b) Be securely anchored to a permanent foundation system to resist flotation, collapse or lateral movement.
- (Ord. 1211 § 1, (1981); Ord. 1351 § 1, (1987); Ord. 1916 § 2, (2015); Ord. 2010 § 12, (2022))

§ 18.22.555. Standards for recreational vehicles.

Recreational vehicles on private property that are located in flood hazard areas, shall be placed on a site for less than 180 consecutive days or shall be fully licensed and ready for highway use. Ready for highway use means the recreational vehicle is on wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions, such as rooms, stairs, decks and porches.

(Ord. 2010 § 12, (2022))

§ 18.22.560. Floodways.

Located within areas of special flood hazard established in Section 18.22.320 are areas designed as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles and erosion potential, the following provisions apply:

- (a) Require until a regulatory floodway is designated, that no new construction, substantial improvements, encroachments or other development (including fill) shall be permitted within Zones A1-30 and AE on the community's FIRM, unless certification by a registered professional engineer or architect is provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge;
- (b) If subsection (a) of this section is satisfied, all new construction and substantial improvement shall comply with all other applicable flood hazard reduction provisions of Sections 18.22.510 through 18.22.570.

(Ord. 1351 § 1, (1987); Ord. 1916 § 2, (2015); Ord. 2010 § 12, (2022))

§ 18.22.570. Coastal high hazard area.

Coastal high hazard areas (V Zones) are located within the areas of special flood hazard established in Section 18.22.320. These areas have special flood hazards associated with high velocity waters from coastal and tidal inundation or tsunamis; therefore the following provisions shall apply.

(Ord. 1211 § 1, (1981); Ord. 1351 § 1, (1987); Ord. 1916 § 2, (2015); Ord. 2010 § 12, (2022))

§ 18.22.571. Location of structures.

(a) All buildings or structures shall be located landward of reach of the mean high tide.

(b) The placement of manufactured homes shall be prohibited.

(Ord. 1211 § 1, (1981); Ord. 1916 § 2, (2015); Ord. 2010 § 12, (2022))

§ 18.22.572. Construction methods.

(a) Elevation. All buildings or structures shall be elevated so that the lowest supporting member (excluding piles and columns) is located no lower than the base flood elevation level, with all space below the lowest supporting member open so as not to impede the flow of water, except for breakaway walls as provided for in subsection (c) of this section.

(b) Structural Support.

(1) All buildings or structures shall be securely anchored on pilings or columns.

(2) Pilings or columns used as structural support shall be designed and anchored so as to withstand all impact forces and buoyancy factors of the base flood.

(3) Fill used for structural support will be allowed only with permit from the floodplain administrator. Note: The use of fill for structural support of buildings within Zones V1-30, VE, and V on the community's FIRM is prohibited.

(4) Prohibit man-made alteration of sand dunes and mangrove stands within Zone V1-30, VE, and V on the community's FIRM which would increase potential flood damage.

(c) Space Below the Lowest Floor.

(1) Any alteration, repair, reconstruction or improvement to a structure started after the enactment of the ordinance codified in this chapter shall not enclose the space below the lowest floor unless breakaway walls are used as provided in this section.

(2) Breakaway walls may be allowed below the base flood elevation provided they are not a part of the structural support of the building and are designed so as to break away under abnormally high tides or wave action without damage to the structural integrity of the building on which they are to be used.

(3) If breakaway walls are utilized, such enclosed space shall not be used for human habitation.

(4) Prior to construction, plans for any structure that will have breakaway walls must be submitted to the floodplain administrator for approval.

(d) The floodplain administrator shall obtain and maintain the following records:

(1) Certification by a registered engineer or architect that a proposed structure complies with

subsections (a) and (b) of this section;

- (2) The elevation (in relation to mean sea level) of the bottom of the lowest 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. 1211 § 1, (1981); Ord. 1326 § 4, (1986); Ord. 1351 § 1, (1987); Ord. 1916 § 2, (2015); Ord. 2010 § 12, (2022))

§ 18.22.610. Appeals board.

The planning commission shall hear and decide appeals and requests for variances from the requirements of this chapter.

(Ord. 1211 § 1, (1981); Ord. 1916 § 2, (2015); Ord. 2010 § 12, (2022))

§ 18.22.611. Appeal procedure.

- (a) The planning commission 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. Any person may appeal such decision to the city council as provided in Sections 25.16.070 and 25.16.080.
- (b) In passing upon such appeals, the planning commission shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter, and:
- (1) The danger that materials may be swept onto other lands to the injury of others;
 - (2) The danger to life and property due to flooding or erosion damage;
 - (3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - (4) The importance of the services provided by the proposed facility to the community;
 - (5) The necessity to the facility of a waterfront location, where applicable;
 - (6) The availability of alternative locations, for the proposed use which are not subject to flooding or erosion damage;
 - (7) The compatibility of the proposed use with existing and anticipated development;
 - (8) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
 - (9) The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - (10) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
 - (11) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water system, and streets and bridges.

(Ord. 1211 § 1, (1981); Ord. 1916 § 2, (2015); Ord. 2010 § 12, (2022))

§ 18.22.612. Variances.

Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, provided subdivisions (1) through (11) in Section 18.22.611(b) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.

(Ord. 1211 § 1, (1981); Ord. 1916 § 2, (2015); Ord. 2010 § 12, (2022))

§ 18.22.613. Variance conditions.

Upon consideration of the factors of Section 18.22.611 and the purposes of this chapter, the planning commission may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.

(Ord. 1211 § 1, (1981); Ord. 1916 § 2, (2015); Ord. 2010 § 12, (2022))

§ 18.22.614. Variance records.

The floodplain administrator shall maintain the records of all appeal actions and report any variances to the Federal Insurance Administration upon request.

(Ord. 1211 § 1, (1981); Ord. 1916 § 2, (2015); Ord. 2010 § 12, (2022))

§ 18.22.620. Conditions for variances.

- (a) Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this section.
- (b) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- (c) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (d) Variances shall be issued only upon:
 - (1) A showing of good and sufficient cause;
 - (2) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 - (3) A determination that the granting of a variance shall not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or notices.

(Ord. 1211 § 1, (1981); Ord. 1916 § 2, (2015); Ord. 2010 § 12, (2022))

§ 18.22.621. Notice.

Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

(Ord. 1211 § 1, (1981); Ord. 1916 § 2, (2015); Ord. 2010 § 12, (2022))

CHAPTER 18.24 CREEK ENCLOSURE PERMITS

§ 18.24.010. Definitions.

For the purposes of this chapter the following definitions shall apply

"Creek" is defined as one of those watercourses so designated on the map attached as Exhibit "A" to the ordinance codified in this chapter and as detailed in the large scale map in the City Engineer's office titled "1989 Creek Map," based on said study.

"Study" means the study entitled Storm Drainage Study, Project #910, prepared for the city of Burlingame by Wilsey and Ham.

(Ord. 1412 § 1, (1990))

§ 18.24.020. Permit required.

- (a) No creek shall be enclosed with a pipe or culvert without an enclosure permit. The procedures for the permit shall be those set forth in Chapter 25.16 of this code, except that notice of the application for the permit shall be limited to those property owners adjacent to the creek for a distance of 300 feet upstream and downstream of the applicant or to the nearest public cross street, whichever is more.
- (b) Plans submitted for the permit must include at least the following: the creek to scale at least 300 feet upstream and downstream from the applicant's property or to the nearest public cross street, whichever is less; the one-hundred-year (100) flow elevation of both banks based on engineering calculations (unless waived by the city engineer); the top of bank; areas of existing natural vegetation including trees and vegetation within the creek; and any structures existing in and over the creek on either side, whether on the applicant's property or that of others.
- (c) Criteria for reviewing the permit application shall include, but not be limited to, flow capacity, methods of keeping the structure clear of debris, economical life and ease of repair, horizontal alignment of the pipe or culvert, and length of pipe or culvert.

(Ord. 1419 § 1, (1990))

CHAPTER 18.28 UNREINFORCED MASONRY BUILDING HAZARD REDUCTION PROGRAM

§ 18.28.010. Purpose.

It is found and declared in the event of a strong or moderate local earthquake, loss of life or serious injury may result from damage or collapse of unreinforced masonry buildings in the city. The purpose of this chapter is to promote public safety by establishing a set of structural repair standards to be used to strengthen unreinforced masonry buildings and require owners to make their buildings conform to those standards within a reasonable period of time. The provisions of this chapter are minimum standards for structural seismic resistance established primarily to reduce the risk of life loss or injury but will not necessarily prevent loss of life or injury or prevent earthquake damage to an existing building which complies with these standards. This seismic hazard reduction program is consistent with California Health and Safety Code Sections 19160 through 19168 and Government Code Sections 8875 through 8878 et seq. (Ord. 1419 § 1, (1990))

§ 18.28.020. Definitions.

For purposes of this chapter the words and phrases set out in this section shall mean as follows.

"Bearing wall" means any wall supporting a floor or roof where the total superimposed load exceeds 100 pounds per linear foot, or any unreinforced masonry wall supporting its own weight when over six feet in height.

"Civil engineer" or "structural engineer" means a licensed civil or structural engineer registered by the state pursuant to the rules and regulations of Title 16, Chapter 5 of the California Administrative Code.

"Occupant load" means the total maximum number of occupants in the building determined by either 1) Table 33-A of the Uniform Building Code or, 2) the actual maximum number of occupants in the building as certified by the building owner and current tenants.

"Story" means that portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above.

"Unreinforced masonry building" means any building containing walls constructed wholly or partially with any of the following materials and containing less than fifty percent of the minimum area of reinforcing steel required by the 1985 Uniform Building Code Section 2407 (h) 4 B:

1. Unreinforced brick masonry;
2. Unreinforced concrete masonry;
3. Hollow clay tile;
4. Adobe or unburned clay masonry.

(Ord. 1419 § 1, (1990))

§ 18.28.030. Scope of program.

Applicability. All unreinforced masonry buildings identified by the city, except those used exclusively for residential purposes containing five or less living units.

(Ord. 1419 § 1, (1990))

§ 18.28.040. Owner notification.

The owners of unreinforced masonry buildings determined to be within the scope of this chapter will be notified in writing by the chief building inspector according to the schedule set forth in Section 18.28.050(b).

(Ord. 1419 § 1, (1990))

§ 18.28.050. Building categories and implementation schedule.

- (a) Building Categories. Two categories of unreinforced masonry building are hereby established to define the minimum lateral forces to be used in their strengthening according to formula A-1-1.
1. High risk buildings are those which have two or more stories or maximum occupant load of more than 100 regardless of the number of stories. High risk buildings also include any structure with an unreinforced masonry parapet wall where the remainder of the building does not contain unreinforced masonry walls.
 2. Medium risk buildings are those one story buildings with a maximum occupant load of one hundred or less.
- (b) Implementation Schedule. The owners of all buildings within the scope of this chapter must submit plans to obtain a building permit for the structural modifications necessary to meet the minimum requirements of this chapter by January 1, 1995.

The owners of all buildings within the scope of this ordinance must complete construction of those structural modifications by June 30, 1996.

Notices providing a copy of the ordinance and stating the schedule for owner action will be sent to each building owner within 90 days of the effective date of the ordinance codified in this chapter.

(Ord. 1419 § 1, (1990); Ord. 1423 § 1, (1990))

§ 18.28.060. Extensions.

Extensions of the time periods set forth in Section 18.28.050(b) may be granted by the city council based upon economic hardship. A request for an extension must be received at least 90 days before the expiration of the time period affected.

(Ord. 1419 § 1, (1990); Ord. 1423 § 3, (1990))

§ 18.28.070. Structural repair standards.

The procedures and engineering standards establishing a minimum level of structural strengthening required for all unreinforced masonry buildings within the scope of this chapter are set forth in Section 18.28.080 of this chapter. The Uniform Code for Building Conservation Appendix Chapter One only, published in 1985 by the International Conference of Building Officials, Whittier, California, with amendments is hereby adopted as a part of this ordinance and all references in Sections 18.28.080 through 18.28.117 are to that appendix.

(Ord. 1419 § 1, (1990))

§ 18.28.080. Section A102 amended—Scope.

Section A102 is amended to read as follows:

Section A102. The requirements of this chapter shall apply to all buildings containing unreinforced

masonry bearing walls.

Exception: This chapter shall not apply to a detached Group R, Division 3 Occupancy nor to a detached Group R, Division 1 Occupancy containing less than five dwelling units used solely for residential purposes.

(Ord. 1419 § 1, (1990))

§ 18.28.090. Section A103 amended—Alternate materials.

Section A103 is amended to read as follows:

Sec. A103. Alternate materials, designs and methods of construction may be approved by the Chief Building Inspector in accordance with this code.

(Ord. 1419 § 1, (1990))

§ 18.28.100. Section A105 amended—Historic buildings.

Section A105 is amended to read as follows:

Sec. A105. (a) General. A historic building may comply with the special provisions set forth in this chapter and the provisions of the State Historical Building Code.

(b) Archaic Materials. Allowable stresses for archaic materials not specified in this code shall be based on substantiating research data or engineering judgment with the approval of the Chief Building Inspector.

(Ord. 1419 § 1, (1990))

§ 18.28.110. Section A106 amended—Analysis and design.

(a) Section A106(a) through (d), (f)1 and (g)3 are amended to read as follows:

Sec. A106. (a) General. Every structure within the scope of this chapter shall be analyzed and constructed to resist minimum total lateral seismic forces assumed to act nonconcurrently in the direction of each of the main axes of the structure in accordance with the following equation:

$$V = ZIKCSW (A1-1)$$

The value of KCS need not exceed but shall not be less than .100 for one story buildings with less than 100 occupants; and need not exceed but must not be less than .133 for one story buildings containing 100 or more occupants and buildings over one story above grade. The value of Z and I shall equal 1.0. The value of W shall be as defined in Chapter 23 of the 1985 Uniform Building Code.

(b) Lateral Forces on Elements of Structures. Parts or portions of buildings shall be analyzed and designed for lateral loads in accordance with Chapter 23 of the 1985 Uniform Building Code but not less than the value from the following equation:

$$F_p = IC_p SW_p (A1-2)$$

For the provisions of this section, the product of IS shall equal 1.0. The value of Cp shall be in accordance with Table 23-J of the 1985 Uniform Building Code. The value of Wp shall be as defined in Chapter 23 of the 1985 Uniform Building Code.

Exception: Unreinforced masonry walls in buildings not required to be designed as an essential

facility may be designed in accordance with Section A107.

- (c) Regulated Elements of Buildings. The elements of buildings required to be analyzed by this chapter include: 1) Height-to-thickness ratio of masonry walls; 2) Tension bolts in bending; 3) In-plane shear stress; 4) Parapets; 5) Diaphragm stresses and diaphragm chords in floors and roof.
- (d) Anchorage and Interconnection. Anchorage and interconnection of all parts, portions and elements of the structure shall be analyzed and designed for lateral forces in accordance with the 1985 Uniform Building Code and the Formula (A1-2) of this code. Masonry walls shall be anchored to all floors and roof to resist a minimum force of 200 pounds per linear foot acting normal to the wall at the level of the floor or roof.
- (f) Required Analysis. 1. General. Except as modified herein, the analysis and design relating to the structural alteration of existing buildings within the scope of this chapter shall be in accordance with the analysis specified in the 1985 Uniform Building Code. In addition the compatibility of the roof diaphragm stiffness with the out-of-plane stability of the unreinforced masonry bearing walls of the story immediately below the roof shall be verified in accordance with the provisions of Section A109.

Exception: Buildings with rigid concrete or steel and concrete roof diaphragms shall use the h/t values for all other buildings in Table A1-F.

- (g) 3. Unreinforced masonry walls. In addition to the seismic forces required by this chapter, unreinforced masonry walls shall be analyzed as specified in the 1985 Uniform Building Code to withstand all vertical loads as specified in the Building Code. Such walls shall meet the minimum requirements set forth in the Building Code.

Exception: When calculating shear or diagonal tension stresses due to seismic forces, existing masonry shear walls may be designed to resist 1.0 times the required forces in lieu of the 1.5 factor required by the Building Code.

No allowable tension stress will be permitted in unreinforced masonry walls. Walls not capable of resisting the required design forces specified in this chapter shall be strengthened or shall be removed and replaced.

Exceptions:

1. Unreinforced masonry walls in buildings not classified as an essential facility may be analyzed in accordance with Section A107.
2. Unreinforced masonry walls which carry no design loads other than their own weight may be considered veneer if they are adequately anchored to new supporting elements.

Substantial changes in wall thickness or stiffness shall be considered in the analysis for out-of-plane and inplane wall stability, and the wall shall be restrained against out-of-plane instability by anchorage and bracing to the roof or floor diaphragm in accordance with Section A106(d).

Exception: Variations in wall stiffness caused by nominal openings such as windows and doors need not be considered.

(Ord. 1419 § 1, (1990))

§ 18.28.112. Section A107 amended—Materials of construction.

Section A107(b), (d) and (f) are amended to read as follows:

- (b) Existing Materials. 1. Unreinforced masonry walls. Unreinforced masonry walls analyzed in accordance with this chapter may provide vertical support for roof and floor construction and resistance to lateral loads.

All units of both bearing and non-bearing walls shall be laid with full shovelled mortar joints; all head, bed and wall (collar) joints shall be solidly filled with mortar; and the bonding of adjacent wythes of multi-wythe walls shall be as follows:

The facing and backing shall be bonded so that not less than 4 percent of the wall surface of each face is composed of headers extending not less than four inches into the backing. The distance between adjacent fulllength headers shall not exceed 24 inches either vertically or horizontally. In walls where a single header does not extend through the wall, headers from the opposite sides shall overlap at least four inches, or headers from opposite sides shall be covered with another header course overlapping the header below at least four inches.

Wythes of walls not bonded as described above shall be considered as veneer. The veneer wythe shall not be included in the effective thickness used to calculate the height-to-thickness ratio and the shear capacity of the wall.

Tension stresses due to seismic forces normal to the wall may be neglected if the wall does not exceed the height-to-thickness ratio set forth in Table A1-F and the in-plane shear stresses due to seismic loads set forth in Table A1-I. If the wall height-to-thickness ratio exceeds the specified limit, the wall may be supported by vertical bracing members designed to satisfy the requirements of the 1985 Uniform Building Code. The deflection of such bracing members at design loads shall not exceed one-tenth of the wall thickness.

Exception: The wall may be supported by flexible bracing members designed in accordance with Section A106(b) of this chapter if the deflection at design loads is not less than one-quarter nor more than one-third of the wall thickness at the level under consideration.

All vertical bracing members shall be attached to floor and roof construction for their design loads independently of required wall anchors. Horizontal spacing of vertical bracing members shall not exceed one-half the unsupported height of the wall nor ten feet, whichever is less.

The wall height may be measured vertically to bracing elements other than a floor or roof. Spacing of bracing elements and wall anchors shall not exceed six feet. Bracing elements shall be detailed to minimize the horizontal displacement of the wall by components of vertical displacements of the floor or roof.

2. Veneer. Veneer shall be anchored with approved anchor ties, conforming to the required design capacity specified in Section 3304(c) of the 1985 Uniform Building Code, and placed at a maximum spacing of 24 inches.

Exception: Existing veneer anchor ties may be acceptable provided the ties are in good condition and conform to the minimum size, maximum spacing and material requirements as indicated below. The veneer anchor ties shall be corrugated galvanized iron strips not less than one inch in width, eight inches in length and one-sixteenth of an inch in thickness and shall be located and laid in every alternate course in the vertical height of the wall at a spacing not to exceed 17 inches on center horizontally. As an alternate, the spacing may be every fourth course vertically at a spacing not to exceed nine inches on center horizontally.

The existence and condition of existing veneer anchor ties shall be verified as follows:

1. An approved testing laboratory shall verify the location and spacing of the ties and shall submit a report to the Chief Building Inspector for approval as a part of the structural analysis.
 2. The veneer in a selected area shall be removed to expose a representative sample of ties (not less than four) for inspection by the Chief Building Inspector.
 3. Existing roof, floors, walls, footings, and wood framing. Existing materials, including wood shear walls, may be used as a part of the lateral load resisting system, provided that stresses in these materials do not exceed the values shown in Table No. A1-G.
- (d) Minimum Acceptable Quality of Existing Unreinforced Masonry Walls. 1. General Provisions. All unreinforced masonry walls utilized to carry vertical loads and seismic forces parallel and perpendicular to the wall plane shall be tested as specified in this subsection. All masonry quality shall equal or exceed the minimum standards established herein or shall be removed and replaced by new materials. The quality of mortar in all masonry walls shall be determined by performing in-place shear tests. The vertical wall joint between wythes (collar joint) shall be inspected at each test location after the in-place shear tests, and an estimate of the percentage of wythe to wythe mortar coverage shall be reported along with the results of the in-place shear tests. Where the exterior face is veneer, the type of veneer, its thickness and its bonding and/or ties to the structural wall masonry shall also be reported.

Nothing shall prevent the pointing with mortar of all the masonry wall joints before the tests are first made. Prior to any pointing, the mortar joints must be raked and cleaned to remove loose and deteriorated mortar. Mortar for pointing shall be Type S or N except masonry cements shall not be used. All preparation and mortar pointing shall be done under the continuous inspection of a special inspector.

At the conclusion of the inspection, the inspector shall submit a written report to the person responsible for the seismic analysis of the building setting forth the results of the work inspected. Such report shall be submitted to the Chief Building Inspector for approval as part of the structural analysis. All testing shall be performed in accordance with the requirements specified in this section by an approved agency. An accurate record of all such tests and their location in the building shall be recorded and these results shall be submitted to the Chief Building Inspector for approval as part of the structural analysis.

2. Number and location of tests. The minimum number of tests shall be as follows. At each of both the first and top stories, not less than two per wall line or line of wall elements providing a common line of resistance to lateral forces. At each of all other stories, not less than one per wall element providing a common line of resistance to lateral forces. In any case, not less than one per 1500 square feet of wall surface and a total of eight.

The shear tests shall be taken at locations representative of the mortar conditions throughout the entire building, taking into account variations in workmanship at different building height levels, variations in weathering of the exterior surfaces, and variations in the condition of the interior surfaces due to deterioration caused by leaks and condensation of water and/or by the deleterious effects of other substances contained within the building.

Where the higher h/t ratios allowed in footnotes 4 and 5 of Table A1-F are to be utilized, all the in-place shear tests taken at the top story shall be included in the 80 percent of the shear tests used to determine the minimum mortar shear strength. The exact test locations shall be determined at the building site by the person responsible for the seismic analysis of the subject building.

3. In-place shear tests. The bed joint of the outer wythe of the masonry wall shall be tested by laterally displacing a single brick relative to the adjacent bricks in the wythe. The head joint opposite the load end of the test brick shall be carefully excavated and removed. The brick adjacent to the loaded end of the test brick shall be carefully removed by sawing or drilling and excavating to provide space for a hydraulic ram and steel loading blocks. Steel blocks the size of the end of the bricks shall be used on each end of the ram and shall not contact the bed joints. The load shall be applied horizontally in the plane of the wythe until either a crack can be seen or a slip occurs. The strength of the mortar shall be calculated by dividing the load at the time of the first crack or movement by the nominal gross area of the sum of the two bed joints.
- (f) Determination of Allowable Stresses for Design Methods Based on Test Results. 1. Design shear values. Design seismic in-plane shear stresses shall be substantiated by tests performed as specified in Item No. 3 of Subsection (d). The minimum quality mortar in 80 percent of the tests shall not be less than the total of 30 psi when reduced to an equivalent zero axial stress.

Design stresses shall be related to test results obtained in accordance with Table No. A1-I. Intermediate values between 5 and 10 psi may be interpolated.

(Ord. 1419 § 1, (1990))

§ 18.28.113. Section A108 amended—Information required on plans.

Section A108(b) and (c) are amended to read as follows:

- (b) Construction Details. The following requirements with appropriate construction details shall be made a part of the approved plans:
1. All unreinforced masonry walls shall be anchored at the roof and ceiling levels by tension bolts through the wall as specified in Table A1-H, or by an approved equivalent at a maximum anchor spacing of six feet.

All unreinforced masonry walls shall be anchored at all floors and ceiling with tension bolts through the wall or by existing rod anchors at a maximum anchor spacing of six feet. All existing rod anchors shall be secured to the joists to develop the required forces. Tests conforming to this chapter will be required to verify the adequacy of the embedded ends of existing rod anchors.

Exception: Walls need not be anchored to ceiling systems that, because of their low mass and or relative location with respect to the floor or roof systems, would not impose significant normal forces on the wall and cause out-of-plane wall failure. Calculations and drawings to verify this exception must be submitted as part of the analysis.

At the roof and all floor levels, the anchors nearest the building corners shall be combination shear and tension anchors located not more than two feet horizontally from the inside corners of the walls.

When access to the exterior face of the masonry wall is prevented by proximity of an existing building, wall anchors conforming to Items 5 (a) or (b) in Table No. A1-H may be used.

Alternative devices to be used in lieu of tension bolts for masonry wall anchorage shall be tested as specified in Section A107(h).

2. Diaphragm chord stresses of horizontal diaphragms shall be developed in existing materials or by the addition of new materials.

3. Where trusses and beams other than rafters or joists are supported on masonry independent secondary columns shall be installed to support vertical loads.
4. Parts and exterior wall appendages not capable of resisting the forces specified in this chapter shall be removed, stabilized, or braced to ensure that the parapets and appendages remain in their original position. The maximum height of an unbraced, unreinforced masonry parapet above the lower of either the level of tension anchors or roof sheathing, shall not exceed one and one-half times the thickness of the parapet wall. If the required parapet height exceeds this maximum height a bracing system designed for the force factors specified in the Table 23-J of the 1985 Uniform Building Code shall support the top of the parapet. Parapet corrective work must be performed in conjunction with the installation of tension roof anchors.

The minimum height of a parapet above the wall anchor shall be 12 inches.

Exception: If a reinforced concrete beam is provided at the top of the wall, the minimum height above the wall anchor may be six inches.

5. All deteriorated mortar joints in unreinforced masonry walls shall be pointed with Type S or N mortar. Prior to any pointing, the wall surface must be raked and cleaned to remove loose and deteriorated mortar. All preparation and pointing shall be done under the continuous inspection of a special inspector. At the conclusion of the project, the inspector shall submit a written report to the Chief Building Inspector setting forth the portion of work inspected.
 6. Repair details for any cracked or damaged unreinforced masonry wall required to resist forces specified in this chapter.
- (c) Existing Construction. The following existing construction information shall be made part of the approved plans:
1. The type and dimensions of existing walls and the size and spacing of floor and roof members.
 2. The extent and type of existing wall anchorage to floors and roof.
 3. The extent and type of any parapet bracing or other structural reinforcement to parts and portions of the building which were previously performed.
 4. Accurately dimensioned floor plans and masonry wall elevations showing dimensioned opening, piers, wall thickness and heights, veneer locations and existing anchorages.
 5. The locations of cracks or other damaged portions of unreinforced masonry walls requiring repair.
 6. The type of interior wall surfaces and ceilings, and if reinstalling or anchoring of existing plaster is necessary.
 7. The general condition of the mortar joints and if the joints need repointing.
 8. The location of all in-place shear tests shall be shown on the floor plans and building wall elevations.

(Ord. 1419 § 1, (1990))

§ 18.28.114. Section A109 added—Design check.

Section A109 is added to read as follows:

Design Check for Compatibility of Roof Diaphragm Stiffness to Unreinforced Masonry Wall Out-of-Plane Stability.

Sec. A109

(a) General. The requirements of this section are in addition to the other analysis requirements of this Chapter. The relative stiffness and strength of a diaphragm governs the amount of amplification of the seismic ground motion by the diaphragm, and therefore, a diaphragm stiffness and strength related check of the out-of-plane stability of unreinforced masonry walls anchored to wood diaphragms shall be made. This section contains a procedure for evaluation of the out-of-plane stability of unreinforced masonry walls anchored to wood diaphragms that are coupled to shear resisting elements.

(b) Definitions. The following definitions are applicable to this section.

Cross Wall. A wood framed wall having a height to length ratio complying with Section 4713(d) or Table 25-I of the 1985 Uniform Building Code and sheathed with any of the materials described in Table A1-J or Table A1-K. The total strength of all cross walls located within any 40 feet length of diaphragm measured in the direction of the diaphragm span shall not be less than 30 percent of the strength of the diaphragm in the direction of consideration.

Demand Capacity Ratio (DCR). A ratio of the following:

1. Demand equals the lateral forces due to 33 percent of the combined weight of the diaphragm and the tributary weight of the wall and other elements anchored to the diaphragm.
2. Capacity equals the diaphragm total shear strength in the direction under consideration as determined using the values in Tables No. A1-J or Table A1-K.

(c) Notations.

D = depth of diaphragm, in feet, measured perpendicular to the diaphragm span.

h/t = height-to-thickness of an unreinforced masonry wall. The height shall be measured between wall anchorage levels and the thickness shall be measured through the wall cross section at the level under consideration.

L = span of diaphragm between masonry shear walls or steel frames.

Vc = total shear capacity of cross walls in the direction of analysis immediately below the diaphragm level being investigated as determined by using Tables No. A1-J and A1-K.

vu = maximum shear strength in pounds per foot for a diaphragm sheathed with any of the materials given in Tables No. A1-J or A1-K.

Wd = total dead load of the diaphragm plus the tributary weight of the walls anchored to the diaphragm, the tributary ceiling and partitions and weight of any other permanent building elements at the diaphragm level under consideration.

(d) Design Check Procedure.

1. General. The demand capacity ratio (DCR) for the building shall be calculated using the following equations:

$$\text{DCR} = 0.33 \frac{\text{Wd}}{2\text{vu}} \frac{\text{D}}{\text{L}}$$

For building without cross walls or

$$\text{DCR} = 0.33 \frac{Wd}{2v_u D} + V_c \text{ For building with cross walls}$$

2. Diaphragm Deflection. The calculated DCR shall be to the left of the curve in Figure No. A1-L. Where the calculated DCR is outside (to the right of) the curve, the diaphragm deflection limits are exceeded and cross walls may be used to reduce the deflection.
3. Unreinforced Masonry Wall Out-of-Plane Stability. The DCR shall be calculated discounting any cross wall. If the DCR from this method corresponding to the diaphragm span is to the right of the curve in Figure No. A1-L, the region within the curve at and below the intersection of the diaphragm span with the curve may be used to determine the allowable h/t values per Table No. A1-F.

(Ord. 1419 § 1, (1990))

§ 18.28.115. Tables deleted and amended.

Tables No. A1-A, A1-B, A1-C, A1-D and A1-E are deleted and Tables A1-F and A1-H are amended to read as follows:

TABLE NO. A1-F
ALLOWABLE VALUE OF HEIGHT-THICKNESS (h/t) RATIO OF UNREINFORCED
MASONRY WALLS WITH MINIMUM QUALITY MORTAR¹²

	BUILDINGS WITH COMPLYING CROSS WALLS	ALL OTHER BUILDINGS
One Story Building Walls	13 — 16 ³⁴⁵	13
First Story of Multi-Story Buildings	16	15
Walls in the Top Story of Multi- Story Buildings	9 — 14 ³⁴⁵	9
All Other Walls	16	13

¹ Minimum mortar quality shall be determined by laboratory testing in accordance with this chapter.

² This table is not applicable to buildings classified as essential facilities. Such building must be analyzed in accordance with Section A106.

³ The minimum mortar shear strengths required in the following footnotes 4 and 5 shall be that shear strength without the effect of axial stress in the wall at the point of the test.

⁴ The larger height-to-thickness ratio may be used where mortar shear tests in accordance with Section A107(d) establish a minimum mortar shear strength of not less than 100 psi or where the tested mortar shear strength is not less than 60 psi and a visual examination of the vertical wythe-to-wythe wall joint (collar joint) indicates not less than 50 percent mortar coverage.

- ⁵ Where a visual examination of the collar joint indicates not less than 50 percent mortar coverage and the minimum mortar shear strength when established in accordance with Section A107(d) is greater than 30 psi but less than 60 psi, the allowable height-to-thickness ratio may be determined by linear interpolation between the larger and smaller ratio values in direct proportion to the mortar shear strength.

**TABLES NO. A1-H
ALLOWABLE VALUES OF NEW MATERIALS USED IN CONJUNCTION WITH EXISTING
CONSTRUCTION**

New Materials or Configuration of Materials ¹	Allowable Values
1. Horizontal Diaphragms Plywood sheathing applied directly over existing straight sheathing with ends of plywood sheets bearing on joists or rafters and edges of plywood located within the center 1/3 of individual sheathing boards.	Same as specified in Table 25-J of the 1985 Uniform Building Code for blocked diaphragms.
2. Shear Walls	Same as values specified in Table No. 25-K of the 1985 UBC for shear walls.
a. Plywood sheathing applied directly over existing wood studs. (No value shall be given to plywood applied over existing plaster or wood sheathing boards).	75 percent of the values specified in Table No. 47-I of the 1985 UBC.
b. Dry wall or plaster applied directly over existing wood studs.	One-third of the values specified in Table No. 47-I of the 1985 UBC.
c. Dry wall or plaster applied to plywood sheathing over wood studs.	
3. Shear Bolts Shear bolts and shear dowels embedded a minimum of 8 inches into unreinforced masonry walls. Bolt centered in a 2-1/2 inch diameter hole with drypack or non-shrink grout around the circumference of the bolt. ¹³	133 percent of the values for plain masonry specified in Table No. 24-J of the 1985 UBC. No values larger than those given for 3/4 inch diameter bolts shall be used.
4. Tension Bolts Tension bolts and tension dowels extending entirely through URM walls secured with bearing plates on far side of wall with at least 30 square inches of area. ²³⁴	1200 pounds per bolt.
5. Combination Shear and Tension Wall Anchors	
(a) Bolts extending to the exterior face of the wall with a 2-1/2 inch round plate under the head. Install as specified for shear bolts. Spaced not closer than 12 inches on centers. ¹²³	600 lbs. per bolt for tension ⁴ . See Item 3 (Shear Bolts) for shear values.

TABLES NO. A1-H
ALLOWABLE VALUES OF NEW MATERIALS USED IN CONJUNCTION WITH EXISTING
CONSTRUCTION

New Materials or Configuration of Materials ¹	Allowable Values
(b) Bolts or dowels extending to the exterior face of the wall with a 2-1/2 inch round plate under the head and drill at an angle of 22-1/2 degrees to the horizontal. Install as specified for shear bolts. ¹²³	1200 lbs. per bolt or dowel for tension ⁴ . See Item 3 for shear values.
(c) Through bolt with bearing plate for tension per Item 4. Combined with minimum 8 inch grouted section for shear per Item 3.	See Item 4 (Tension Bolts) for tension values ⁴ . See Item 3 for shear values.
6. Infilled Walls Reinforced masonry infilled openings in existing unreinforced masonry walls with keys or dowels to match reinforcing.	Same as values specified for unreinforced masonry walls in this chapter.
7. Reinforced Masonry Masonry piers and walls reinforced as specified in Chapter 24 of the 1985 Uniform Building Code.	Same as values specified in Table No. 24-B of the Uniform Building Code. 1985
8. Reinforced Concrete Concrete footings, walls and piers reinforced as specified in Chapter 26 and designed for tributary loads.	Same as values specified in Chapter 26 of the 1985 Uniform Building Code
9. Existing Foundation Loads Foundation loads for structures exhibiting no evidence of settlement.	Calculated existing foundation loads due to maximum dead load plus live load may be increased by 25 percent and may be increased 50 percent for dead load plus seismic loads required by this chapter.

¹ Bolts and dowels to be tested as specified in Section A107.

² Bolts and dowels to be 1/2-inch diameter minimum.

³ Drilling for bolts and dowels shall be done with an electric rotary drill. Impact tools shall not be used for drilling holes or tightening anchor and shear bolt nuts.

⁴ Allowable bolt and dowel values specified are for installations in minimum three wythe wall. For installations in two wythe walls use 50 percent of the value specified, except that no value shall be given to tension bolts that do not extend entirely through the wall and are secured with bearing plates on the far side.

(Ord. 1419 § 1, August 20, 1990)

§ 18.28.116. Tables added.

Table Nos. A1-J and A1-K and Figure A1-L are added to read as follows:

TABLE NO. A1-J
ALLOWABLE VALUES FOR EXISTING MATERIALS TO BE USED ONLY IN THE
COMPUTATION OF THE DEMAND CAPACITY RATIO DESIGN CHECK

Existing Materials or Configuration of Materials ¹	Allowable Values
1. Horizontal Diaphragms	
a. Roofs with straight sheathing and roofing applied directly to the sheathing.	100 lbs. per foot for seismic shear.
b. Roofs with diagonal sheathing and roofing applied directly to the sheathing.	250 lbs. per foot for seismic shear.
2. Cross Walls ²	Per Side:
a. Plaster on wood or metal lath.	200 lbs. per foot for seismic shear.
b. Plaster on gypsum lath.	175 lbs. per foot for seismic shear.
c. Gypsum wall board unblocked edges.	75 lbs. per foot for seismic shear.
d. Gypsum wall board blocked edges.	125 lbs. per foot for seismic shear.

¹ Materials must be sound and in good condition.

² For cross walls, values of all materials may be combined, except the total combined value shall not exceed 300 lbs. per foot for seismic shear.

TABLE NO. A1-K
ALLOWABLE VALUES FOR NEW MATERIALS USED IN CONJUNCTION WITH
EXISTING CONSTRUCTION MATERIALS TO BE USED ONLY IN THE COMPUTATION
OF THE DEMAND CAPACITY RATIO DESIGN CHECK

New Materials or Configuration of New and Existing Materials ¹	Allowable Values
1. Horizontal Diaphragms	
a. Plywood sheathing applied directly over existing straight sheathing with ends of plywood sheets bearing on rafters and edges of plywood located on the center of individual sheathing boards.	225 lbs. per foot for seismic shear.
2. Cross Walls	
a. Plywood sheathing applied directly over existing wood studs. No value shall be given to plywood applied over existing plaster or wood sheathing.	1.33 times the values specified in Table 25-K of the 1985 UBC.

TABLE NO. A1-K

**ALLOWABLE VALUES FOR NEW MATERIALS USED IN CONJUNCTION WITH
EXISTING CONSTRUCTION MATERIALS TO BE USED ONLY IN THE COMPUTATION
OF THE DEMAND CAPACITY RATIO DESIGN CHECK**

New Materials or Configuration of New and Existing Materials¹	Allowable Values
b. Drywall or plaster applied directly over existing wood studs.	100 percent of the values specified in Table 47-I of the 1985 UBC.

¹ Materials must be sound and in good condition.

² For cross walls values of all materials may be combined, except the total combined shear value shall not exceed 300 lbs. per foot for seismic shear.

FIGURE A1-L

1. Region of demand/capacity ratios where cross walls may be used to increase H/T ratios.
2. Region of demand/capacity ratios where H/T ratios of "with cross walls" may be used whether or not they are present.
3. Region of demand/capacity ratios where H/T ratios of "all other buildings" must be used even if cross walls are present.

Demand/capacity ratio = $0.33 \frac{Wd}{2 vuD}$ or $0.33 \frac{Wd}{2 vuD + Vc}$.

(Ord. 1419 § 1, August 20, 1990)

§ 18.28.117. Remedies.

It is unlawful for the owner of a building identified as being within the scope of this ordinance to fail to submit plans and obtain a permit for correction of structural deficiencies discovered, or fail to complete the necessary structural corrections within the time period specified in Section 18.28.050(b). The city may invoke all remedies available at law, including, but not limited to, the following.

- (a) The city may revoke the building's certificate of occupancy and cause it to be vacated until such requirements are met.
- (b) The city may seek injunctive relief on behalf of the public to enjoin a building owner's violation of this ordinance.

(Ord. 1419 § 1, August 20, 1990)

**CHAPTER 18.30
GREEN BUILDING STANDARDS CODE**

§ 18.30.010. Adoption of 2022 California Green Building Standards Code.

The rules, regulations and standards printed in one volume and published by the International Code Council (ICC), under the title "2022 California Green Building Standards Code" adopted as the "2022 California Green Building Standards Code," including Appendix Chapter A4 and the state of California amendments thereto, is adopted as and for the rules, regulations and standards within this city as to all matters therein contained, except as otherwise provided in this chapter. Appendix Chapter A4 of the Green Building Standards Code shall be enforceable to the same extent as if contained in the body of the code.

(Ord. 1857 § 5, (2010); Ord. 1933 § 10, (2016); Ord. 1969 § 14, (2019); Ord. 2010 § 13, (2022))

§ 18.30.011. Exemptions and exceptions.

- (a) **Exemptions.** Any project that has submitted an application deemed complete by the director of community development for either a planning or building entitlement prior to January 1, 2023, is exempt from the city of Burlingame's local amendments to Title 24, Part 11: The California Green Building Standards Code (CALGreen) that went into effect on January 1, 2023. All projects must still comply with any local amendments to the California Energy Code applicable to the project that were in place prior to January 1, 2023, as well as with all other applicable local, state and federal codes and regulations.
- (b) **Exceptions.** If the applicant establishes that there is not a compliance pathway for the building under the city's local amendments to the California Green Building Standards Code (effective January 1, 2023), and that the building is not able to achieve the performance compliance standard applicable to the building under these same standards using commercially available technology and an approved calculation method, or if it is demonstrated that there is equivalent greenhouse gas reduction, then the building official may grant an exception.
- (c) **Exception Process.**
 - (1) **Granting of Exception.** If the building official or designee determines that it is infeasible for the applicant to fully meet the requirements of this chapter and the exception listed above applies, the building official or designee, shall determine the maximum feasible threshold of compliance reasonably achievable for the project. The decision of the building official or designee shall be provided to the applicant in writing. If an exception is granted, the applicant shall be required to comply with this chapter in all other respects and shall be required to achieve, in accordance with this chapter, the threshold of compliance determined to be achievable by the building official or designee.
 - (2) **Denial of Exception.** If the building official or designee determines that it is reasonably possible for the applicant to fully meet the requirements of this chapter, the request for exception shall be denied and the building official or designee shall so notify the applicant in writing. The project and compliance documentation shall be modified to comply with this chapter prior to further review of any pending planning or building permit application.
 - (3) **Appeals of Exception Denial.** If denied the exception, the applicant may appeal the denial in writing to the director of community development. Such appeal must be received by the city within five business days from the date the applicant was given notice of the denial. The director will consider the information provided, and render a written decision regarding infeasibility

based on the factors set forth in this chapter. The decision of the director shall be final.
(Ord. 2014 § 5, (2023))

§ 18.30.015. Section 101.2 amended—Purpose.

Section 101.2 is amended to read as follows:

101.2 Purpose. The purpose of the Burlingame Green Building Ordinance is to enhance public health and welfare by encouraging green building measures in the design, construction, operation and maintenance of buildings. The green building practices referenced in this ordinance are intended to achieve the following goals:

1. To encourage conservation of natural resources;
2. To reduce waste in landfills generated by construction projects;
3. To increase energy efficiency and lower energy usage;
4. To reduce the operating and maintenance costs for buildings;
5. To promote a healthier indoor environment; and
6. To promote use of recycled material.

(Ord. 1857 § 5, (2010))

§ 18.30.020. Section 202 amended—Definitions.

Section 202 is amended to include the following:

202 Definitions.

1. Build It Green: the non-profit organization that publishes the New Home Construction Green Building Guidelines, the Multi-Family Green Guidelines (Parts 1 & 2), Home Remodeling Green Building Guidelines, the GreenPoint Rated checklists, and any successor entity that assumes responsibility for the programs and operations of Build It Green.
2. Chief Building Official: means the Chief Building Official or his or her designee.
3. Green building: a whole systems approach to the design, construction, location and operation of buildings and structures that helps to mitigate the environmental, economic, and social impacts of construction, demolition, and renovation. Green building practices recognize the relationship between the natural and built environment, seek to minimize the use of energy, water, and other natural resources, and promote a healthy, productive indoor environment.
4. GreenPoints: credits assigned under the applicable GreenPoint Checklist for a residential project.
5. GreenPoint Rated: a residential green building rating system developed by Build It Green.
6. Green Point Rated Verification: verification of compliance by a certified GreenPoint Rater by Build It Green.
7. GreenPoint Rater: a person certified by Build It Green.
8. LEED®: the "Leadership in Energy and Environmental Design" green building rating system developed by the U.S. Green Building Council.

9. LEED®/USGBC Verification: verification to meet the standards of the U.S. Green Building Council (USGBC) and resulting in LEED® certification of the project by the USGBC. Minimum level: Certified.
10. Mixed use: the construction of a building or buildings that include both residential and non-residential uses.
11. Non-residential project: the construction of retail, office, industrial, warehouse, services, hotels, motels, or similar buildings.
12. Qualified green building professional: a person trained through the USGBC as a LEED® AP (accredited professional), or through Build It Green as a GreenPoint Rater, or other qualifications when acceptable to the Building Official. A certified green building professional, architect, engineer, designer, builder, or building inspector may be considered a qualified green building professional when determined appropriate by the Chief Building Official.
13. Remodel: any construction or renovation to an existing structure other than repair or addition.
14. Repair: the reconstruction or renewal of any part of an existing structure for the purpose of maintenance.
15. Residential project: the construction of R2, R3, R3.1, and R4 buildings, except hotels and motels.
16. Residential reconstruction: a residential-type project where the building at any time is uninhabitable, including removal of any or all utilities (water, electrical, natural gas, or sewer); or the project provides no permanent kitchen or bathroom facilities; or the project provides no shelter or ability to maintain heat as defined by code; or when over 50% of the foundation is replaced or reinforced other than the repair of a foundation failure; or when over 50% of the framing above the foundation is removed or replaced. Final determination whether a project meets the definition of residential reconstruction shall be made by the Chief Building Official.

(Ord. 1857 § 5, (2010))

§ 18.30.030. Section 4.408.2 amended—Construction Demolition and Recycling Plan.

Section 4.408.2 is deleted in its entirety and replaced with the following:

4.408.2 Construction Demolition and Recycling Plan. A Construction Demolition and Recycling Plan must be submitted for any project that has a construction value of \$50,000 or more. The Construction Demolition and Recycling Plan must comply with the City of Burlingame Construction and Demolition Recycling Ordinance #1704 as set forth in Chapter 8.17.

(Ord. 1857 § 5, (2010))

§ 18.30.040. Section A4.203.1 amended—Tier 1 Energy Efficiency (Residential-Performance Approach) Adopted as Mandatory Measure.

Section A4.203.1 is amended as follows:

A4.203.1 Tier 1 Energy Efficiency (Residential-Performance Approach) Adopted as Mandatory Measure. The following residential projects must exceed Title 24 Energy Efficiency Standards by 15% as required under this ordinance.

All residential additions, remodels, alterations, or repairs in which the cost of construction has a total value of \$50,000 or more.

A permit applicant is required to submit a completed checklist of the proposed compliance measures for the project at the initial submittal to the Planning Division for projects requiring Planning Commission approval. If Planning Commission approval is not required prior to Building Code plan check, then an applicant must submit a completed checklist of the proposed compliance measures directly to the Building Division at the time of the initial Building Code plan check submittal. A GreenPoint Rated checklist, or equivalent, with a minimum of 50 points shall be accepted as one method of meeting compliance with this ordinance. Applicants are encouraged, but not required, to meet with City staff prior to any application submittal to review the green building program and details to achieve compliance with this ordinance.

The means by which compliance measures are achieved shall be by Build It Green "GreenPoints," LEED®, Energy Efficiency Standards, other recognized point systems, or equivalent approved methods. LEED® projects must verify that they exceed the 2008 Energy Efficiency Standards by 15% (Title 24, Part 6). Compliance measures shall be approved by the Chief Building Official prior to issuance of a building permit. Projects must show verification of energy savings which exceed the 2008 Building Energy Efficiency Standards (Title 24, Part 6) of the California Building Code by 15%.

Projects using the performance approach may use an Alternative Calculation Method (ACM) approved by the California Energy Commission to show verification of the required energy savings of 15% by comparison of the proposed building to the Title 24 standard or "budget" building.

(Ord. 1857 § 5, (2010))

§ 18.30.045. Section A4.204 amended—Tier 1 Energy Efficiency (Residential-Prescriptive Approach) Adopted as Mandatory Measure.

Section A4.204 is amended by adding the following:

A4.204 Tier 1 Energy Efficiency (Residential-Prescriptive Approach) Adopted as Mandatory Measure. The following residential projects must exceed Title 24 Energy Efficiency Standards by 15% as required under this ordinance.

All residential additions, remodels, alterations, or repairs in which the cost of construction has a total value of \$50,000 or more.

A permit applicant is required to submit a completed checklist of the proposed compliance measures for the project at the initial submittal to the Planning Division for projects requiring Planning Commission approval. If Planning Commission approval is not required prior to Building Code plan check, then an applicant must submit a completed checklist of the proposed compliance measures directly to the Building Division at the time of the initial Building Code plan check. A GreenPoint Rated checklist, or equivalent, with a minimum of 50 points shall be accepted as one method of meeting compliance with this ordinance. Applicants are encouraged, but not required, to meet with City staff prior to any application submittal to review the green building program and details to achieve compliance with this ordinance.

The means by which compliance measures are achieved shall be by Build It Green "GreenPoints," LEED®, Energy Efficiency Standards, other recognized point systems, or equivalent approved methods. LEED® projects must verify that they exceed the 2008 Energy Efficiency Standards by 15% (Title 24, Part 6). Compliance measures shall be approved by the Chief Building Official prior to issuance of a building permit. Projects must show verification of energy savings which exceed the 2008 Building Energy Efficiency Standards (Title 24, Part 6) of the California Building Code by 15%.

(Ord. 1857 § 5, (2010))

§ 18.30.050. Section A5.203.1.1 amended—Tier 1 Energy Efficiency (Non-Residential) Adopted as

Mandatory Measure.

Section A5.203.1.1 is amended as follows:

A5.203.1.1 Tier 1 Energy Efficiency (Non-Residential) Adopted as Mandatory Measure. The following nonresidential projects must exceed Title 24 Energy Efficiency Standards by 15% as required under this ordinance:

- 1) All new non-residential buildings 10,000 square feet or more in gross floor area
- 2) All non-residential additions 10,000 square feet or more in gross floor area

A permit applicant is required to submit completed documentation, prepared by a qualified green building professional, of the proposed compliance measures for the project at the initial submittal to the Planning Division for projects requiring Planning Commission approval. If Planning Commission approval is not required prior to Building Code plan check, then an applicant must submit completed documentation, prepared by a qualified green building professional, of the proposed compliance measures directly to the Building Division at the time of the initial Building Code plan check. Applicants are encouraged, but not required, to meet with City staff prior to any application submittal to review the green building program and details to achieve compliance with this ordinance.

Verification of compliance with Section A5.203.1.1 Tier 1 (15% above Title 24) or LEED® Silver shall be accepted as the methods of meeting compliance with this ordinance. Compliance measures shall be approved by the Chief Building Official prior to issuance of a building permit. Projects must show verification of energy savings which exceed the current 2008 Building Energy Efficiency Standards (Title 24, Part 6) of the California Building Code by 15%.

Projects using the performance approach may use an Alternative Calculation Method (ACM) approved by the California Energy Commission to show verification of the required energy savings of 15% by comparison of the proposed building to the Title 24 standard or "budget" building.
(Ord. 1857 § 5, (2010))

§ 18.30.060. Section 304.1.2 added—Undue Hardship.

Section 304.1.2 added to read as follows:

304.1.2 Undue Hardship. If circumstances, beyond the control of the applicant, exist which make strict compliance with this ordinance an undue hardship, then the applicant may request an exemption as set forth below. In applying for an exemption, the burden is on the applicant to show undue hardship and to show continued compliance with 2008 California Building Energy Efficiency Standards (Title 24, Part 6) of the California Building Code.

Application. If an applicant for a covered project believes such circumstances exist, then the applicant may apply for an exemption at the time of the planning application or building permit application submittal. The applicant shall indicate the maximum threshold of compliance that they calculate is feasible and state the circumstances that would create an undue hardship to fully comply with this chapter. For the purposes of this section, an undue hardship exists if:

- 1) There is a lack of commercially available green building materials and technologies; or
- 2) The green building compliance requirements do not include enough green building measures that are compatible with the scope and cost of the covered project.

Granting of Exemption. If the Chief Building Official determines that it is an undue hardship for the applicant to fully meet the requirements of this chapter based upon the information provided, the Chief Building Official shall determine the maximum feasible threshold of compliance reasonably achievable for the project. If a finding of undue hardship is determined, the decision of the Chief Building Official shall be provided to the applicant in writing. If an exemption is granted, the applicant shall be required to comply with this chapter in all other aspects and shall be required to attain, in accordance with this chapter, the threshold of compliance determined to be achievable by the Chief Building Official.

Denial of Exemption. If the Chief Building Official determines compliance would not constitute an undue hardship, the request shall be denied and the Chief Building Official shall notify the applicant in writing. All decisions of the Chief Building Official under this section shall be final.

(Ord. 1857 § 5, (2010))

§ 18.30.070. Section 102.3.1 added—Final Approval.

Section 102.3.1 is added to read as follows:

102.3.1 Final Approval. Prior to final building inspection and occupancy for projects included under this ordinance, and when required by the Chief Building Official, a qualified green building professional shall provide evidence of adequate green building compliance or documentation to the Chief Building Official to satisfy the requirements of compliance for residential and/or non-residential projects covered under this ordinance. Evidence of green building compliance shall include, but not be limited to, verification or certification by Build It Green GreenPoint Rater or LEED® specialist, or in-progress site inspections and final sign-off by a City of Burlingame building inspector or other designated City employee. Compliance shall not be deemed complete until formal certification has been granted and submitted to the Chief Building Official. The Chief Building Official shall make the final determination whether a project meets green building requirements of this ordinance.

(Ord. 1857 § 5, (2010))

§ 18.30.080. Subsection 101.12 added—Appeals.

Subsection 101.12 is added to read as follows:

101.12 Appeals. An appeal of a denial of or a refusal to issue a permit or from any other decision of the building official may be taken as set forth in Section 18.07.040.

(Ord. 1857 § 5, (2010))

(RESERVED)

Title 19

(RESERVED)

BURLINGAME CODE

Title 20

(RESERVED)

(RESERVED)

Title 21

(RESERVED)

BURLINGAME CODE

Title 22

(RESERVED)

SWIMMING POOLS, HOT TUBS AND SPAS

Title 23

SWIMMING POOLS, HOT TUBS AND SPAS

Chapter 23.01	§ 23.01.040.	Location on property.	
REGULATIONS	§ 23.01.050.	Safety requirements.	
	§ 23.01.060.	Lighting.	
§ 23.01.010.	Definitions.	§ 23.01.070.	Water supply.
§ 23.01.020.	Permit to install, construct or alter.	§ 23.01.080.	Enforcement officers.
§ 23.01.030.	Registration of pools, hot tubs and spas.	§ 23.01.090.	Variances.

CHAPTER 23.01 REGULATIONS

Note: Prior ordinance history: 1941 Code §§ 2410—2419, Ords. 699 and 927.

§ 23.01.010. Definitions.

Swimming Pool. "Swimming pool" or "pool" means any artificially constructed pool, used for swimming or bathing, 24 inches or more in depth at any point, and with a surface area exceeding 100 square feet.

Hot Tub and Spa. "Hot tub" or "spa" means a similar facility of 24 inches or more in depth at any point and with a surface area of less than 100 square feet.

(Ord. 1185 § 1, (1980))

§ 23.01.020. Permit to install, construct or alter.

(a) No person shall install, construct or alter any swimming pool, hot tub or spa without first obtaining a building permit and appropriate electrical, plumbing, mechanical or other permits from the building official. Application for such permits shall be accompanied by plans in sufficient detail to show:

- (1) Plot plan, showing location on property and relationship to all existing or proposed structures;
- (2) Dimensions of unit, including depth and volume in gallons;
- (3) Type and size of filter system;
- (4) Unit piping layout with all sizes of pipe and types of material;
- (5) Waste disposal system;
- (6) Construction details;
- (7) Fencing;
- (8) Deck drainage.

(b) If any wall of a pool exceeds four feet six inches in height, the plans must be prepared or approved by a registered civil engineer or licensed architect.

(Ord. 1185 § 1, (1980))

§ 23.01.030. Registration of pools, hot tubs and spas.

The building official shall keep a register of all swimming pools, hot tubs and spas within the city. Matters to be recorded shall include the address or legal description of the property, size of the unit, a general description of the improvements and accessories thereof and spaces for dates upon which inspections by any authority of the city are made.

(Ord. 1185 § 1, (1980))

§ 23.01.040. Location on property.

(a) Pools, hot tubs and spas, as well as separate accessory equipment, shall not be constructed in that portion of the property which is the front setback. (See Section 25.62.010, et seq. of this code.) There shall be a distance of at least four feet between any unit and any side or rear property line and at least

five feet between a pool and any other structure.

- (b) Separated accessory equipment, if not enclosed, shall be 10 feet from the property line. If enclosed in a soundproof structure, such enclosure shall meet requirements of Municipal Code Section 25.60.010. No portion of a pool, hot tub or spa may be constructed in any public utility easement or drainage easement.
- (c) Hot tubs and spas above ground may be placed immediately adjacent to another structure. If they are to be below ground, the distance shall be regulated so that all portions are above a line drawn at 45 degrees (1-to-1 slope) from the junction of the foundation of the adjacent structure and grade.

(Ord. 1185 § 1, (1980))

§ 23.01.050. Safety requirements.

- (a) A fence entirely enclosing the pool, hot tub or spa or yard containing it shall be erected and maintained. Such fence shall not be less than four feet six inches, nor more than six feet in height. All gates must be self-closing and selflatching, and the latch or lock shall be located at least four feet six inches above the surface of the underlying ground or floor. A space at least four feet in width shall be provided between the line of the fence and the edge of the unit. Fencing is to be constructed and approved before filling the unit.
- (b) Walks or decks surrounding the unit shall be finished so as to minimize slipping.
- (c) Overhead electrical conductor clearance shall meet the requirements of the latest edition of the National Electrical Code, except that (1) no utility lines, service drops or any other overhead conductor shall be allowed above any portion of the surface of the pool, hot tub or spa; and (2) beyond such overhead area such lines will be allowed within an 18-foot radius of a pool or a 10 -foot radius of a hot tub or spa.

(Ord. 1185 § 1, (1980); Ord. 1772 § 2, (2005))

§ 23.01.060. Lighting.

No artificial lighting shall be maintained or operated in or about a pool, hot tub or spa in such a manner as to be a nuisance.

(Ord. 1185 § 1, (1980))

§ 23.01.070. Water supply.

- (a) There shall be no inlet connection between any domestic water supply line and any circulation pump, filter, water softener or other apparatus or device that comes in contact with the water in or from the pool, hot tub or spa. Backflow protection shall be provided between the domestic water supply and any direct connection with the unit water supply. If the water is added by a removable hose or similar device, an antisiphon device or backflow preventer shall be installed on the nearest hose bib.
- (b) If the unit has a filter cleaned by a backwash process, it must terminate in a separation tank or into a sewer in an approved manner. For the purpose of this section, a separation tank, also called a reclamation tank, is a device which separates and removes sludge and waste filter material from waste water and returns the clarified water to the pool.
- (c) If the unit has a filter element which is removed for cleaning purposes, the element shall be removed and cleaned in an approved plumbing receptacle connected to the sanitary sewer.

(Ord. 1185 § 1, (1980))

§ 23.01.080. Enforcement officers.

The director of public works and the building official shall enforce all provisions of this chapter.
(Ord. 1185 § 1, (1980))

§ 23.01.090. Variances.

Exceptions to the regulations of this chapter shall be applied for and granted pursuant to the variance provisions of Title 25 of this code.
(Ord. 1185 § 1, (1980))

City of Burlingame, CA

SWIMMING POOLS, HOT TUBS AND SPAS

BURLINGAME CODE

Title 24

(RESERVED)

ZONING

Title 25

ZONING

Article 1
General Provisions

Chapter 25.02
PURPOSE AND APPLICABILITY

- § 25.02.010. Title.
- § 25.02.020. Purpose and Authority.
- § 25.02.030. Relationship to Prior Ordinances.
- § 25.02.040. Relationship to General Plan and CEQA.
- § 25.02.050. Prior Rights and Violations.
- § 25.02.060. Application to Municipal Buildings and Uses.
- § 25.02.070. Violation Constitutes a Public Nuisance.
- § 25.02.080. Severability.

Chapter 25.04
INTERPRETATION OF THE ZONING ORDINANCE

- § 25.04.010. Purpose.
- § 25.04.020. Rules of Interpretation.
- § 25.04.030. Procedures for Interpretation.
- § 25.04.040. Uses Not Classified.
- § 25.04.050. Illustrations.

Chapter 25.06
ZONING MAP AND ZONING DISTRICTS

- § 25.06.010. Establishment of Zoning Districts.
- § 25.06.020. Zoning Map.
- § 25.06.030. Rights-of-Way and Vacated Boundary Lines.
- § 25.06.040. Uncertainty of Boundaries.
- § 25.06.050. Classification of Annexed Lands.

Article 2
Zoning Districts, Allowable uses, and Development Standards

Chapter 25.10
RESIDENTIAL ZONING DISTRICTS (R-1, R-2, R-3, R-4)

- § 25.10.010. Purpose and Applicability.
- § 25.10.020. Land Use Regulations.
- § 25.10.030. Development Standards—General.
- § 25.10.035. Special Permit Requirements in R-1 Zoning District.
- § 25.10.040. Structures and Development Approaches in the R-2 Zoning District Requiring a Special Permit.
- § 25.10.045. Special Permit Requirements R-3 and R-4 Zoning Districts.
- § 25.10.050. Special Front Setback Requirements.
- § 25.10.055. Special Side Setback Requirements.
- § 25.10.060. Floor Area Ratio in the R-1 Zoning District.
- § 25.10.070. Interior Access in the R-1 Zoning District.
- § 25.10.080. Open Space in R-3 and R-4 Zoning Districts.
- § 25.10.090. Lot Frontage, Width, and Size for All Residential Zones.
- § 25.10.100. Minor Modifications.
- § 25.10.110. Design Review.

Chapter 25.12
COMMERCIAL AND INDUSTRIAL ZONING DISTRICTS (C-1, BFC, I-I)

- § 25.12.010. Purpose and Applicability.
- § 25.12.020. Land Use Regulations.
- § 25.12.030. Development Standards.

§ 25.12.040.	Community Benefits for Increased FAR in the BFC and I-I Zoning Districts.	Chapter 25.18 PUBLIC/INSTITUTIONAL, PARKS AND RECREATION, AND TIDAL PLAN/BAY ZONING DISTRICTS (P-I, P-R, TPB)
§ 25.12.050.	Public Access, Flood and Sea Level Rise Performance Guidelines.	§ 25.18.010. Purpose and Applicability.
§ 25.12.060.	Design Principles for Bayfront Commercial Zoning District.	§ 25.18.020. Land Use Regulations.
§ 25.12.070.	Design Principles for the Innovative Industrial Zoning District.	§ 25.18.030. Development Standards.
§ 25.12.080.	Minor Modifications.	§ 25.18.040. Additional Regulations—Setbacks and Public Access from San Francisco Bay and its Estuaries.
§ 25.12.090.	Design Review Required.	

Chapter 25.14

MIXED-USE ZONING DISTRICTS (RRMU, NBMU, BRMU, CMU)

§ 25.14.010.	Purpose and Applicability.	§ 25.20.005. Purpose and Applicability.
§ 25.14.020.	Land Use Regulations.	§ 25.20.010. Anita Road Overlay (AR).
§ 25.14.030.	RRMU Development Standards.	§ 25.20.020. Commercial Residential Overlay (CR) for California Drive/Edgehill Drive.
§ 25.14.040.	NBMU Development Standards.	§ 25.20.030. Downtown Parking Sector Overlay.
§ 25.14.050.	Community Benefits for Increased FAR, Density, and Height in NBMU and RRMU Zoning Districts.	§ 25.20.040. Hillside Overlay (H).
§ 25.14.060.	California Drive and Broadway Mixed-Use Zoning Districts.	§ 25.20.050. Multi-Unit Residential Overlay (MUR).
§ 25.14.070.	Minor Modifications.	§ 25.20.060. R-4 Incentive Overlay (R-4-I).
§ 25.14.080.	Design Review Required.	§ 25.20.070. Rollins Road Residential (RRR) Overlay.
		§ 25.20.080. Two-Unit Residential Overlay (R-1-2).

Chapter 25.16

DOWNTOWN SPECIFIC PLAN ZONING DISTRICTS (BAC, HMU, MMU, BMU, DAC, CAC, CAR)

§ 25.16.010.	Purpose and Applicability.	§ 25.22.010. Purpose.
§ 25.16.020.	Land Use Regulations.	§ 25.22.020. Effect of Specific Plan Zoning District.
§ 25.16.030.	Development Standards.	§ 25.22.030. Required Contents of a Specific Plan.
§ 25.16.040.	Additional Regulations.	§ 25.22.040. Land Use and Development Standards.

Chapter 25.20

OVERLAY ZONING DISTRICTS

§ 25.20.005.	Purpose and Applicability.
§ 25.20.010.	Anita Road Overlay (AR).
§ 25.20.020.	Commercial Residential Overlay (CR) for California Drive/Edgehill Drive.
§ 25.20.030.	Downtown Parking Sector Overlay.
§ 25.20.040.	Hillside Overlay (H).
§ 25.20.050.	Multi-Unit Residential Overlay (MUR).
§ 25.20.060.	R-4 Incentive Overlay (R-4-I).
§ 25.20.070.	Rollins Road Residential (RRR) Overlay.
§ 25.20.080.	Two-Unit Residential Overlay (R-1-2).

Chapter 25.22

SPECIFIC PLAN ZONING DISTRICTS (SP)

§ 25.22.010.	Purpose.
§ 25.22.020.	Effect of Specific Plan Zoning District.
§ 25.22.030.	Required Contents of a Specific Plan.
§ 25.22.040.	Land Use and Development Standards.

ZONING

	Chapter 25.24 COMPREHENSIVE AIRPORT LAND USE COMPATIBILITY PLAN CONSISTENCY	§ 25.31.050. (Reserved) § 25.31.060. (Reserved) § 25.31.070. Fences, Walls, and Hedges. § 25.31.080. Mechanical and Other Equipment—Residential and Mixed-Use Development. § 25.31.090. Public Safety Communications and Wireless Access Point Agreement for Tall Buildings. § 25.31.100. Outdoor Lighting and Illumination. § 25.31.110. (Reserved) § 25.31.120. (Reserved) § 25.31.130. Trash and Refuse Collection Areas.
§ 25.24.010.	Purpose.	
§ 25.24.020.	Airport Disclosure Notices.	
§ 25.24.030.	Airport Noise Evaluation and Mitigation.	
§ 25.24.040.	Avigation Easement.	
§ 25.24.050.	Other Flight Hazards.	
	Chapter 25.26 (RESERVED)	
	Chapter 25.28 (RESERVED)	

Article 3
Regulations and Standards Applicable to all Zoning Districts

Chapter 25.30
RULES OF MEASUREMENT

§ 25.30.010.	Purpose.
§ 25.30.020.	Fractions.
§ 25.30.030.	Measuring Distances.
§ 25.30.040.	Measuring Height.
§ 25.30.050.	Measuring Lot Width and Depth.
§ 25.30.060.	Determining Floor Area.
§ 25.30.070.	Determining Lot Coverage.
§ 25.30.080.	Determining Setbacks.
§ 25.30.090.	Allowed Projections in Residential Zones.
§ 25.30.100.	Allowed Projections in Nonresidential Zones.

Chapter 25.31
SITE PLANNING AND GENERAL DEVELOPMENT STANDARDS

§ 25.31.010.	Purpose and Applicability.
§ 25.31.020.	Accessory Structures.
§ 25.31.030.	Business Access.
§ 25.31.040.	Clear Sight Triangle.

Chapter 25.33
AFFORDABLE HOUSING AND DENSITY BONUS

§ 25.33.010. **Density Bonus.**

Chapter 25.35
HISTORIC RESOURCES

§ 25.35.010.	Purpose and Applicability.
§ 25.35.020.	Definitions.
§ 25.35.030.	City of Burlingame Historic Preservation Commission.
§ 25.35.040.	City of Burlingame Historic Architectural and Places Resources Register.
§ 25.35.050.	City of Burlingame Official Designation.
§ 25.35.060.	Historic Resource Designation Procedures.
§ 25.35.070.	Exterior Alteration of Designated Historic Resources.
§ 25.35.080.	Preservation Incentives.
§ 25.35.090.	Duty to Keep in Good Repair.

Chapter 25.36
LANDSCAPING AND OPEN SPACE

§ 25.36.010.	Purpose.
§ 25.36.020.	General.

BURLINGAME CODE

§ 25.36.030.	Open Space Requirements for Multi-Unit Dwellings.	§ 25.42.060.	Master Sign Program.
§ 25.36.040.	Landscape Coverage Requirements for Commercial, Industrial, and Mixed-Use Zones.	§ 25.42.070.	Calculation of Sign Height and Area.
§ 25.36.050.	Landscape Irrigation and Maintenance.	§ 25.42.080.	Permanent Signs.
		§ 25.42.090.	Temporary Signs.
		§ 25.42.100.	Nonconforming Signs.

Chapter 25.40
PARKING REGULATIONS

§ 25.40.010.	Purpose and Applicability.	§ 25.43.010.	Purpose and Applicability.
§ 25.40.020.	General Provisions.	§ 25.43.020.	Performance Requirements.
§ 25.40.030.	Required Parking Spaces.	§ 25.43.030.	Trip Reduction Measures.
§ 25.40.040.	Parking Reductions.	§ 25.43.040.	Submittal Requirements.
§ 25.40.050.	Bicycle Parking.	§ 25.43.050.	Required Findings.
§ 25.40.060.	Parking for Electric Vehicles.	§ 25.43.060.	Modifications and Changed Plans.
§ 25.40.070.	Parking Area Design and Development Standards.	§ 25.43.070.	Monitoring and Evaluation.

Chapter 25.41
PERFORMANCE STANDARDS

§ 25.41.010.	Purpose and Applicability.	§ 25.44.010.	Purpose.
§ 25.41.020.	General Requirements.	§ 25.44.020.	Definitions.
§ 25.41.030.	Air Quality.	§ 25.44.030.	Commercial Linkage Fees.
§ 25.41.040.	Discharges to Water or Public Sewer System.	§ 25.44.040.	Fee Payment.
§ 25.41.050.	Hazardous Materials.	§ 25.44.050.	Exemptions.
§ 25.41.060.	Light and Glare.	§ 25.44.060.	Below Market Rate Fund.
§ 25.41.070.	Noise.	§ 25.44.070.	Administrative Relief/Appeal.
§ 25.41.080.	Solid Waste.	§ 25.44.080.	Enforcement.
§ 25.41.090.	Property Maintenance.	§ 25.44.090.	Cumulative Remedies.

Chapter 25.42
SIGNS

§ 25.42.010.	Purpose and Applicability.
§ 25.42.020.	Exempt Signs.
§ 25.42.030.	General Requirements for All Signs.
§ 25.42.040.	Prohibited Signs.
§ 25.42.050.	Sign Permit and Sign Program Requirements.

Chapter 25.43
TRANSPORTATION DEMAND MANAGEMENT

§ 25.43.010.	Purpose and Applicability.
§ 25.43.020.	Performance Requirements.
§ 25.43.030.	Trip Reduction Measures.
§ 25.43.040.	Submittal Requirements.
§ 25.43.050.	Required Findings.
§ 25.43.060.	Modifications and Changed Plans.
§ 25.43.070.	Monitoring and Evaluation.

Chapter 25.44
COMMERCIAL LINKAGE FEES

§ 25.44.010.	Purpose.
§ 25.44.020.	Definitions.
§ 25.44.030.	Commercial Linkage Fees.
§ 25.44.040.	Fee Payment.
§ 25.44.050.	Exemptions.
§ 25.44.060.	Below Market Rate Fund.
§ 25.44.070.	Administrative Relief/Appeal.
§ 25.44.080.	Enforcement.
§ 25.44.090.	Cumulative Remedies.

Chapter 25.45
RESIDENTIAL IMPACT FEES

§ 25.45.010.	Purpose.
§ 25.45.020.	Definitions.
§ 25.45.030.	Residential Impact Fees.
§ 25.45.040.	Fee Payment.
§ 25.45.050.	State Density Bonus.
§ 25.45.060.	Exemptions.
§ 25.45.070.	Alternatives.

ZONING

§ 25.45.080.	Affordable Housing Plan and Agreement.	§ 25.48.060.	Cannabis (Marijuana) Regulations.
§ 25.45.090.	Standards for Development.	§ 25.48.070.	(Reserved)
§ 25.45.100.	Affordable Housing Fund.	§ 25.48.080.	Communal Housing.
§ 25.45.110.	Administrative Relief/Appeal.	§ 25.48.090.	Day Care Centers.
§ 25.45.120.	Enforcement Affordable.	§ 25.48.100.	Emergency Shelters—Permanent.
Chapter 25.46 PUBLIC FACILITIES IMPACT FEES		§ 25.48.110.	Emergency Shelters—Temporary.
§ 25.46.010.	Definitions.	§ 25.48.120.	Entertainment Businesses.
§ 25.46.020.	Collection of Public Facilities Impact Fees.	§ 25.48.130.	Fortunetelling and Psychic Service.
§ 25.46.030.	Conditions for Collection.	§ 25.48.140.	(Reserved)
§ 25.46.040.	Deposit of Fees.	§ 25.48.150.	Live/Work Units.
§ 25.46.050.	Computation of Fee.	§ 25.48.160.	Limited Corner Store Retail.
§ 25.46.060.	Natural Disaster Fee Exemption.	§ 25.48.170.	Low Barrier Navigation Center.
§ 25.46.070.	Exemption for Existing Buildings and Uses.	§ 25.48.180.	Mobile Food Vending.
§ 25.46.080.	Fee Payment.	§ 25.48.190.	Outdoor Sales, Displays, and Storage.
§ 25.46.090.	In-lieu Construction or Provision of Facilities or Equipment.	§ 25.48.200.	Recycling Facilities.
§ 25.46.100.	Use of Funds.	§ 25.48.210.	Rental or Lease of Vacant School Properties.
§ 25.46.110.	Conditions for Reimbursement.	§ 25.48.220.	Residential Care Facilities.
§ 25.46.120.	Capital Improvement Plan.	§ 25.48.230.	Spas, Bathing, Tanning, and Massage Establishments.
§ 25.46.130.	Procedure for Adoption of Fees.	§ 25.48.240.	Supportive and Transitional Housing.
§ 25.46.140.	Fee Adjustments or Waivers.	§ 25.48.250.	Tasting Rooms as an Accessory Use.
Article 4 Regulations for Specific Land Uses and Activities		§ 25.48.260.	Temporary Uses.
Chapter 25.48 STANDARDS FOR SPECIFIC LAND USES AND ACTIVITIES		§ 25.48.270.	Vehicle Fuel Sales and Accessory Service.
§ 25.48.010.		§ 25.48.280.	Vehicle Sales—Heavy Equipment Rental and Storage.
§ 25.48.020.		§ 25.48.290.	Urban Agriculture and the Keeping of Animals.
§ 25.48.030.		§ 25.48.300.	Wireless Communications Facilities.
§ 25.48.040.		Article 5 Nonconformities	
§ 25.48.050.			

Chapter 25.50
**GENERAL NONCONFORMING
PROVISIONS**

- § 25.50.010. **Purpose and Intent.**
- § 25.50.020. **Applicability.**
- § 25.50.030. **Establishment of Legal Nonconforming Status.**
- § 25.50.040. **Proof of Legal Nonconformity.**
- § 25.50.050. **Maintenance and Repairs.**
- § 25.50.060. **Revocation.**

Chapter 25.52
NONCONFORMING LOTS

- § 25.52.010. **Use of Legal Nonconforming Lots.**
- § 25.52.020. **Modification of Legal Nonconforming Lots.**

Chapter 25.54
NONCONFORMING STRUCTURES

- § 25.54.010. **Continuation of Legal Nonconforming Structures.**
- § 25.54.020. **Utilities.**
- § 25.54.030. **Damage to or Destruction of Legal Nonconforming Structures.**
- § 25.54.040. **Residential Structures—Exceptions.**
- § 25.54.050. **Off-Site Relocation.**

Chapter 25.56
NONCONFORMING USES

- § 25.56.010. **Continuation of Legal Nonconforming Uses.**
- § 25.56.020. **Restriction on Extension of Legal Nonconforming Uses.**
- § 25.56.030. **Change of Use.**
- § 25.56.040. **Discontinuance of Legal Nonconforming Uses.**
- § 25.56.050. **Destruction of a Structure Containing a Legal Nonconforming Use.**

Chapter 25.58
OTHER NONCONFORMING PROVISIONS

- § 25.58.010. **Nonconforming Parking.**
- § 25.58.020. **Nonconformities Regarding Fences.**
- § 25.58.030. **Nonconforming Landscaping.**

Article 6
Permit Processing Procedures

Chapter 25.60
GENERAL PROVISIONS

- § 25.60.010. **Purpose and Applicability.**
- § 25.60.020. **Ministerial and Administrative Permits and Actions.**
- § 25.60.030. **Additional Permits May Be Required.**
- § 25.60.040. **Unlawful to Use Property Until Authorization Granted.**

Chapter 25.62
**APPLICATION PROCESSING
PROCEDURES**

- § 25.62.010. **Purpose.**
- § 25.62.020. **Multiple Permit Applications.**
- § 25.62.030. **Application Preparation and Filing.**
- § 25.62.040. **Application Fees and Cost Recovery.**
- § 25.62.050. **Eligible Applicants.**
- § 25.62.060. **Initial Application Review.**
- § 25.62.070. **Environmental Review.**
- § 25.62.080. **Project Evaluation and Staff Reports.**

Chapter 25.64
(RESERVED)

Chapter 25.66
**CONDITIONAL USE PERMITS AND MINOR
USE PERMITS**

- § 25.66.010. **Purpose and Applicability.**

ZONING

§ 25.66.020.	Application Requirements.	§ 25.72.040.	Application Filing, Processing, and Review.
§ 25.66.030.	Action by Director for Minor Use Permits.	§ 25.72.050.	Findings and Decision.
§ 25.66.040.	Review Procedures for Conditional Use Permits.	§ 25.72.060.	Compliance with Standards and Conditions.
§ 25.66.050.	Conditions of Approval.	§ 25.72.070.	Cottage Food Operation Requirements.
§ 25.66.060.	Required Findings for Conditional Use Permits and Minor Use Permits.	§ 25.72.080.	Permit Expiration.
§ 25.66.070.	Permit to Run with the Land.	§ 25.72.090.	Inspections.
		§ 25.72.100.	Acknowledgement by Applicant.
		§ 25.72.110.	Changes in Home Occupation.

**Chapter 25.68
DESIGN REVIEW**

§ 25.68.010.	Purpose.
§ 25.68.020.	Applicability and Types of Design Review.
§ 25.68.030.	Exceptions.
§ 25.68.040.	Design Review Consultant Lists.
§ 25.68.050.	Application Filing.
§ 25.68.060.	Major Design Review Application Review and Processing.
§ 25.68.070.	Minor Design Review Application Review and Processing.
§ 25.68.080.	Post-Decision Procedures.

**Chapter 25.70
HILLSIDE AREA CONSTRUCTION PERMITS**

§ 25.70.010.	Purpose and Applicability.
§ 25.70.020.	Application Filing.
§ 25.70.030.	Application Review and Processing.
§ 25.70.040.	Findings.

**Chapter 25.72
HOME OCCUPATION PERMITS**

§ 25.72.010.	Purpose and Applicability.
§ 25.72.020.	Business License Required.
§ 25.72.030.	Excluded Operations.

§ 25.72.040. **Application Filing, Processing, and Review.**

§ 25.72.050. **Findings and Decision.**

§ 25.72.060. **Compliance with Standards and Conditions.**

§ 25.72.070. **Cottage Food Operation Requirements.**

§ 25.72.080. **Permit Expiration.**

§ 25.72.090. **Inspections.**

§ 25.72.100. **Acknowledgement by Applicant.**

§ 25.72.110. **Changes in Home Occupation.**

Chapter 25.74

MINOR MODIFICATIONS

§ 25.74.010.	Purpose and Applicability.
§ 25.74.020.	Minor Modification Applicability.
§ 25.74.030.	Application Review and Processing.
§ 25.74.040.	Findings.

Chapter 25.76

REASONABLE ACCOMMODATIONS

§ 25.76.010.	Purpose and Applicability.
§ 25.76.020.	Application Filing and Review.
§ 25.76.030.	Findings and Decision.

Chapter 25.78

SPECIAL PERMIT

§ 25.78.010.	Purpose and Applicability.
§ 25.78.020.	Structures and Development Approaches in the R-1 Zoning District Requiring a Special Permit.
§ 25.78.030.	Structures and Development Approaches in the R-2 Zoning District Requiring a Special Permit.
§ 25.78.040.	Structures and Development Approaches in the R-3 and R-4 Zoning Districts Requiring a Special Permit.

BURLINGAME CODE

§ 25.78.050.	Structures and Development Approaches in the BAC, HMU, MMU, BMU, DAC, CAC, CAR, CMU and BRMU Zoning Districts Requiring a Special Permit.	§ 25.84.020. § 25.84.030. § 25.84.040. § 25.84.050. § 25.84.060.	Application Filing and Review. Findings and Decision. Precedents. Conditions of Approval. Runs with the Land.
§ 25.78.060.	Structures and Development Approaches in the BFC, I-I, RRMU, and NBMU Zoning Districts Requiring a Special Permit.		Chapter 25.86 (RESERVED)
§ 25.78.070.	Community Benefits in the BFC, I-I, RRMU, and NBMU Zoning Districts Requiring a Special Permit.		Chapter 25.88 PERMIT IMPLEMENTATION, EXTENSIONS, MODIFICATIONS, AND REVOCATIONS
§ 25.78.080.	Review Procedures for Special Permits.	§ 25.88.010. § 25.88.020.	Purpose. Effective Dates of Permits.
§ 25.78.090.	Conditions of Approval.	§ 25.88.030. § 25.88.040. § 25.88.050. § 25.88.060.	Time to Implement—Time Extensions. Modifications. Revocations and Suspensions. Findings to Revoke or Suspend.
	Chapter 25.80 SPECIFIC PLANS		
§ 25.80.010.	Purpose and Applicability.		Chapter 25.92 (RESERVED)
§ 25.80.020.	Initiation of Specific Plans.		
§ 25.80.030.	Specific Plan Contents.		
§ 25.80.040.	Application Filing and Processing.		
§ 25.80.050.	Findings and Decision.		
	Chapter 25.82 TEMPORARY USE PERMITS		
§ 25.82.010.	Purpose and Applicability.	§ 25.94.010.	Purpose.
§ 25.82.020.	Exempt Temporary Uses.	§ 25.94.020.	Planning Agency Defined.
§ 25.82.030.	Allowed Temporary Uses.	§ 25.94.030.	City Council.
§ 25.82.040.	Application Filing.	§ 25.94.040.	Planning Commission.
§ 25.82.050.	Action by the Director.	§ 25.94.050.	Clerk to Keep Record of Recommendations and Orders.
§ 25.82.060.	Findings and Decision.	§ 25.94.060.	Design Review Panel.
§ 25.82.070.	Conditions of Approval.	§ 25.94.070.	Director.
§ 25.82.080.	Condition of Site Following Temporary Use.		
	Chapter 25.84 VARIANCES		
§ 25.84.010.	Purpose and Applicability.	§ 25.96.010.	Purpose.

§ 25.96.020.	Initiation of Amendment.
§ 25.96.030.	Processing, Notice, and Hearings.
§ 25.96.040.	Commission's Action on Amendment.
§ 25.96.050.	Council's Action on Amendment.
§ 25.96.060.	Findings and Decision.
§ 25.96.070.	Prezoning Annexations.
§ 25.96.080.	Effective Dates.

Chapter 25.98

APPEALS AND CALLS FOR REVIEW

§ 25.98.010.	Purpose.
§ 25.98.020.	Appeal and Calls for Review Subjects and Jurisdiction.
§ 25.98.030.	Filing and Processing of Appeals and Calls for Review.

Chapter 25.100

PUBLIC HEARINGS AND NOTICE

§ 25.100.010.	Purpose.
§ 25.100.020.	Notice of Hearing.
§ 25.100.030.	Scheduling of Hearing.
§ 25.100.040.	Hearing Procedure.
§ 25.100.050.	Recommendation by Commission.
§ 25.100.060.	Decision and Notice.
§ 25.100.070.	Effective Date of Decision.

Chapter 25.102

ENFORCEMENT PROVISIONS

Chapter 25.103

DEVELOPER INDEMNIFICATION

§ 25.103.010.	Purpose.
§ 25.103.020.	Definitions.
§ 25.103.030.	Indemnity Required.

Chapter 25.104
DEVELOPMENT AGREEMENTS

§ 25.104.010.	Citation and Authority.
§ 25.104.020.	Purpose.
§ 25.104.030.	Applicability.
§ 25.104.040.	Pre-Application Study Session.
§ 25.104.050.	Forms, Information and Fees.
§ 25.104.060.	Review of Application.
§ 25.104.070.	Notice of Public Hearing.
§ 25.104.080.	Review by Planning Commission.
§ 25.104.090.	Decision by City Council.
§ 25.104.100.	Approval of Development Agreement.
§ 25.104.110.	Amendment or Cancellation.
§ 25.104.120.	Recordation.
§ 25.104.130.	Periodic Review.
§ 25.104.140.	Modification or Termination.

Article 8
DefinitionsChapter 25.105
PURPOSE

§ 25.105.010.	Purpose and Applicability.
§ 25.105.020.	Organization.

Chapter 25.106
LAND USE DEFINITIONS

§ 25.106.010.	Purpose and Applicability.
§ 25.106.020.	"A" Definitions.
§ 25.106.030.	"B" Definitions.
§ 25.106.040.	"C" Definitions.
§ 25.106.050.	"D" Definitions.
§ 25.106.060.	"E" Definitions.
§ 25.106.070.	"F" Definitions.
§ 25.106.080.	"G" Definitions.
§ 25.106.090.	"H" Definitions.
§ 25.106.100.	"I" Definitions.
§ 25.106.110.	"J" Definitions.
§ 25.106.120.	"K" Definitions.

§ 25.106.130.	"L" Definitions.	§ 25.108.060.	"E" Definitions.
§ 25.106.140.	"M" Definitions.	§ 25.108.070.	"F" Definitions.
§ 25.106.150.	"N" Definitions.	§ 25.108.080.	"G" Definitions.
§ 25.106.160.	"O" Definitions.	§ 25.108.090.	"H" Definitions.
§ 25.106.170.	"P" Definitions.	§ 25.108.100.	"I" Definitions.
§ 25.106.180.	"Q" Definitions.	§ 25.108.110.	"J" Definitions.
§ 25.106.190.	"R" Definitions.	§ 25.108.120.	"K" Definitions.
§ 25.106.200.	"S" Definitions.	§ 25.108.130.	"L" Definitions.
§ 25.106.210.	"T" Definitions.	§ 25.108.140.	"M" Definitions.
§ 25.106.220.	"U" Definitions.	§ 25.108.150.	"N" Definitions.
§ 25.106.230.	"V" Definitions.	§ 25.108.160.	"O" Definitions.
§ 25.106.240.	"W" Definitions.	§ 25.108.170.	"P" Definitions.
§ 25.106.250.	"X" Definitions.	§ 25.108.180.	"Q" Definitions.
§ 25.106.260.	"Y" Definitions.	§ 25.108.190.	"R" Definitions.
§ 25.106.270.	"Z" Definitions.	§ 25.108.200.	"S" Definitions.

Chapter 25.108
GENERAL DEFINITIONS

§ 25.108.010.	General.	§ 25.108.210.	"T" Definitions.
§ 25.108.020.	"A" Definitions.	§ 25.108.220.	"U" Definitions.
§ 25.108.030.	"B" Definitions.	§ 25.108.230.	"V" Definitions.
§ 25.108.040.	"C" Definitions.	§ 25.108.240.	"W" Definitions.
§ 25.108.050.	"D" Definitions.	§ 25.108.250.	"X" Definitions.
		§ 25.108.260.	"Y" Definitions.
		§ 25.108.270.	"Z" Definitions.

Article 1 General Provisions

CHAPTER 25.02 PURPOSE AND APPLICABILITY

§ 25.02.010. Title.

The provisions of this Title 25 of the City of Burlingame Municipal Code shall be known and cited as the "City of Burlingame Zoning Ordinance" or "Zoning Ordinance."

(Ord. 2000 § 2, (2021))

§ 25.02.020. Purpose and Authority.

This Zoning Code is intended to regulate the use and development of land within the City consistent with the City of Burlingame General Plan. It is also the intent of this Zoning Code to protect and promote the public health, safety, comfort, convenience, and general welfare of the Burlingame community; and to provide the physical, environmental, economic, and social advantages that result from the orderly planned use of land resources.

The Zoning Regulations are enacted based on the authority vested in the City of Burlingame and the State of California, including, but not limited to, the State Constitution, Planning and Zoning Law (California Government Code Section 65000 et seq.), and the California Health and Safety Code.

(Ord. 2000 § 2, (2021))

§ 25.02.030. Relationship to Prior Ordinances.

The provisions of this Zoning Code, as it existed prior to the effective date of the ordinance codified in this title, are repealed and superseded as provided in the ordinance enacting this Title 25. No provision of this Zoning Code shall validate or legalize any land use or structure established, constructed, or maintained in violation of the Zoning Code as it existed prior to repeal by the ordinance enacting this Zoning Code, except as addressed by nonconformities created by this Zoning Code.

(Ord. 2000 § 2, (2021))

§ 25.02.040. Relationship to General Plan and CEQA.

- A. This Zoning Code is the primary tool used by the City to carry out the goals, objectives, and policies of the General Plan. It is intended that all provisions of this Zoning Code be consistent with the General Plan and that any development, land use, or subdivision approved in compliance with these regulations will also be consistent with the General Plan.
- B. When a project application pursuant to the provisions of the Zoning Code is determined to be subject to the provisions of the California Environmental Quality Act (CEQA), the application shall be reviewed in accordance with the provisions of this Zoning Code, CEQA (Public Resources Code, Section 21000 et seq.), the CEQA

Guidelines (Title 14, California Code of Regulations, Section 15000 et seq.), and any environmental guidelines and other applicable rules adopted by the City.

(Ord. 2000 § 2, (2021))

§ 25.02.050. Prior Rights and Violations.

The enactment of this Zoning Code shall not terminate nor otherwise affect vested land use development permits, approvals, or agreements authorized under the provisions of any ordinance or resolution, nor shall violation of any prior ordinance or resolution be excused by the adoption of this title.

(Ord. 2000 § 2, (2021))

§ 25.02.060. Application to Municipal Buildings and Uses.

The provisions of this title shall apply to all buildings, improvements, lots, and premises, owned, leased, operated, or controlled by the City or any department thereof, or by any other municipal or quasi-municipal or public corporation or governmental agency. The uses of all buildings and property engaged in the performance of a public function may be permitted in any zone or zoning district described in this title, provided such use is, in the opinion of the Council, after determination and recommendation by the Planning Commission, not obnoxious or detrimental to the welfare of the community.

(Ord. 2000 § 2, (2021))

§ 25.02.070. Violation Constitutes a Public Nuisance.

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this Zoning Code and other applicable regulations. Violations of the requirements (including violations of conditions and safeguards) shall constitute a public nuisance. Nothing herein shall prevent the City from taking lawful action as is necessary to prevent or remedy any violation in accordance with Chapter 1.16 (Abatement of Nuisances) of the Municipal Code.

(Ord. 2000 § 2, (2021))

§ 25.02.080. Severability.

If any portion of this Zoning Code is held to be invalid, unconstitutional, or unenforceable by a court of competent jurisdiction, such determination shall not affect the validity, constitutionality, or enforceability of the remaining portions of this title. The Council hereby declares that this title and each chapter, section, subsection, paragraph, subparagraph, sentence, clause, phrase, and portion thereof is adopted without regard to the fact that one or more portions of this title may be declared invalid, unconstitutional, or unenforceable.

(Ord. 2000 § 2, (2021))

CHAPTER 25.04 INTERPRETATION OF THE ZONING ORDINANCE

§ 25.04.010. Purpose.

The purpose of this section is to specify the authority and procedures for clarifying any ambiguity in the regulations of this Zoning Code and to ensure the Zoning Code's consistent interpretation and application. (Ord. 2000 § 2, (2021))

§ 25.04.020. Rules of Interpretation.

- A. Authority. The Director has the authority to interpret provisions of this Zoning Code according to Section 25.04.030 (Procedures for Interpretation). Whenever the Director determines that the meaning or applicability of a Zoning Code requirement is subject to interpretation, the Director shall issue a written interpretation. The Director may also refer any issue of interpretation to the Planning Commission for a determination.
- B. Terminology. When used in this chapter, the following rules apply to all provisions of this Zoning Code:
 1. Language. When used in this Zoning Code, the words "shall," "must," "will," "is to," and "are to" are mandatory. "Should" is not mandatory but is strongly recommended, and "may" is permissive.
 2. Tense. The present tense includes the past and future tense, and the future tense includes the present.
 3. Number. The singular number includes the plural number, and the plural the singular, unless the natural construction of the words indicates otherwise.
 4. Calculations. Residential density and other calculations shall be consistent with the provisions of Section 25.30.020 (Fractions).
 5. Conjunctions. "And" indicates that all connected items or provisions shall apply. "Or" indicates that the connected items or provisions may apply singly or in any combination. "Either...or" indicates that the connected items and provisions shall apply singly but not in combination. "Includes" and "including" shall mean "including but not limited to."
 6. Local Reference. "City" as used in this Zoning Code means the City of Burlingame, and all public officials, bodies, and agencies referenced are those of the City unless otherwise stated.
 7. Definitions. As defined in Article 8 (Definitions) and/or as determined/interpreted by the Director.
 8. State Law Requirements. References to applicable provisions of State law (e.g., the California Government Code, Subdivision Map Act, Public Resources Code) shall be construed to refer to the applicable State law provisions, as they may be amended from time to time.
- C. Number of Days. Whenever the number of days is specified in this Zoning Code, or in any permit, condition of approval, or notice issued or given as provided in this Zoning Code, the number of days shall be construed as calendar days, unless otherwise specified. When the last of the specified number of days falls on a weekend or City holiday, time limits shall extend to the end of the next working day.

- D. Minimum Requirements. When interpreting and applying the regulations of this Zoning Code, all provisions shall be considered to be minimum requirements, unless specifically stated otherwise.
- E. Ambiguity. If ambiguity arises concerning the appropriate classification of a particular use or regulation within the meaning or intent of this Zoning Code based on established or unforeseen circumstances, including technological changes in processing or application of materials, the Director shall have the authority to interpret the regulation based on understanding of this Zoning Code. Applicants may appeal the Director's interpretation to the Planning Commission for review and interpretation, which shall be final; thereafter, such interpretation shall govern.

(Ord. 2000 § 2, (2021))

§ 25.04.030. Procedures for Interpretation.

- A. Authority of Director to Interpret; Referral to Commission. Whenever the Director or designee determines that the meaning or applicability of any of the requirements of this Zoning Code is subject to interpretation generally, or as applied to a specific case, the Director may issue an official interpretation or refer the question to the Planning Commission for determination.
- B. Request for Interpretation. Any party may file a request for an interpretation or determination of this Zoning Code with the Director and shall include with such request the specific provisions in question and any other information necessary to assist the Director in the review.
- C. Record of Interpretation/Determinations. All interpretations and determinations by the Director and Planning Commission shall be made in writing, and a permanent record of such interpretations and determinations shall be kept.
- D. Appeals. Any interpretation of this Zoning Code by the Director or Planning Commission may be appealed in compliance with Chapter 25.98 (Appeals).

(Ord. 2000 § 2, (2021))

§ 25.04.040. Uses Not Classified.

- A. Use Not Listed Is Not Allowed. If a use of land is not specifically listed in Article 2 (Zoning Districts, Allowable Uses, and Development Standards), the use shall not be allowed, except as provided below.
- B. Director's Determination. Based on the authority granted in Section 25.04.030 (Procedures for Interpretation), the Director may determine that a land use that is not listed in Article 2 (Zoning Districts, Allowable Uses, and Development Standards) may be allowed. In making this determination, the Director shall first make all of the following findings:
1. The characteristics of, and activities associated with, the use are equivalent to those of one or more of the uses listed in the zoning district as allowable, and will not involve a greater level of activity, population density, intensity, traffic generation, parking, dust, odor, noise, emissions, or similar impacts than the uses listed in the zoning district;
 2. The use will meet the purpose/intent of the zoning district that is applied to the location of the use; and
 3. The use will be consistent with the goals, objectives, and policies of the General Plan and/or any applicable Specific Plan or Planned Development Permit.
- C. Applicable Standards and Permit Requirements. When the Director determines that an unlisted land

use is equivalent to a listed use, the unlisted use will be treated in the same manner as the listed use in determining where the use is allowed, what permits are required, and what other standards and requirements of this Title 25 apply.

(Ord. 2000 § 2, (2021))

§ 25.04.050. Illustrations.

In case of a conflict between the Zoning Code text and any diagram, illustration, graphic, or image contained in this Zoning Code, the text shall take precedence.

(Ord. 2000 § 2, (2021))

**CHAPTER 25.06
ZONING MAP AND ZONING DISTRICTS**

§ 25.06.010. Establishment of Zoning Districts.

- A. General. The City is divided into zoning districts to allow for orderly, planned development and to implement the General Plan. Table 25.06-1 (Zoning Districts Established) identifies all zoning districts. All zoning districts shall be listed and appropriately designated on the official zoning map. For purpose of the regulations set out in this title, the following zoning districts are created:

Table 25.06-1: Zoning Districts Established

Residential Zoning Districts	
R-1	Low Density Residential
R-2	Medium Density Residential
R-3	Medium/High Density Residential
R-4	High Density Residential
Nonresidential Zoning Districts	
C-1	General Commercial
BFC	Bayfront Commercial
I-I	Innovation Industrial
PI	Public/Institutional
PR	Parks and Recreation
TPB	Tidal Plain/Bay
Mixed-Use Zoning Districts	
BRMU	Broadway Mixed Use
CMU	California Drive Mixed Use
NBMU	North Burlingame Mixed Use
RRMU	North Rollins Road Mixed Use
Downtown Specific Plan Zoning Districts	
BAC	Burlingame Avenue Commercial
BMU	Bayswater Mixed Use
CAC	Chapin Avenue Commercial
CAR	California Drive Auto Row
DAC	Donnelly Commercial
HMU	Howard Mixed Use
MMU	Myrtle Mixed Use
Overlay Zoning Districts	

Table 25.06-1: Zoning Districts Established

AR	Anita Road Overlay
CR	Commercial Residential Overlay
DPS	Downtown Parking Sector Overlay
H	Hillside Overlay
MUR	Multi-Unit Residential Overlay
R4I	R4 Incentive Overlay
RRR	Rollins Road Residential Overlay
R-1-2	Two-Unit Residential Overlay

- B. Base Zoning District. Every parcel shall have a base zoning district that establishes the primary type and intensity of land use permitted, along with development regulations for that particular type and intensity of land use.
- C. Overlay Zoning District. An overlay zoning district supplements the base zoning district for the purpose of establishing special use or development regulations for a particular area in addition to the provisions of the underlying base zoning district. In the event of conflict between the base zoning district regulations and the overlay zoning district regulations, the provisions of the overlay zoning district shall apply.

(Ord. 2000 § 2, (2021))

§ 25.06.020. Zoning Map.

This title, together with the zoning map, is hereby adopted in compliance with current State planning, zoning, and development laws. Changes in the boundaries of any identified zoning districts shall be made by ordinance. The boundaries, designations, and locations of the zoning districts established by this Zoning Code shall be shown upon the map(s) entitled "City of Burlingame Zoning Map" and referred to in this Zoning Code as the Zoning Map. Any additional maps (e.g., setback map, height map) adopted shall also be a part of this Zoning Code by reference.

(Ord. 2000 § 2, (2021))

§ 25.06.030. Rights-of-Way and Vacated Boundary Lines.

Where a public street or alley is officially vacated, the property areas associated with the vacated street or alley shall be included within the zoning district or zoning districts of the adjoining properties. If the adjoining properties are in different zoning districts, the boundary lines shall be the centerline of the former street or alley and the extension of the side yard lines of the abutting properties. In the event such street, alley, or right-of-way was a boundary between two or more different zoning districts, the new zoning district or zoning district boundary shall be the property line that is created by the vacation.

(Ord. 2000 § 2, (2021))

§ 25.06.040. Uncertainty of Boundaries.

If there is uncertainty about the location of a zoning district boundary shown on the official Zoning Map, the Director shall determine the location of the boundary in the following manner, except as provided in Section 25.06.030 (Rights-of-Way and Vacated Boundary Lines), above:

1. When a zoning district or area boundary is indicated as approximately following a parcel line, street line or alley line, such boundary shall be construed to follow the centerline of such parcel line, street line or alley line.
2. Where a zoning district or area boundary is indicated as approximately following a line between two or more recorded lots, such boundary shall be construed to follow the line dividing such lots as shown on the most recently approved record of survey parcel map or subdivision map.
3. Any party may file a request for an interpretation or determination of the Zoning Map as provided in Section 25.04.030 (Procedures for Interpretation).

(Ord. 2000 § 2, (2021))

§ 25.06.050. Classification of Annexed Lands.

- A. Any land annexed to the City of Burlingame shall be deemed to be zoned under such classification under this title as is most nearly the equivalent zoning classification or General Plan land use designation of the City of Burlingame.
- B. Whenever it is deemed that the zoning of annexed lands is inconsistent with the adopted General Plan land use policy or other City policies, the Planning Commission may recommend and the Council may adopt the zoning district classifications which shall apply to the annexed lands in the manner prescribed in Article 6 (Permit Processing Procedures) for amending this title.

(Ord. 2000 § 2, (2021))

Article 2
Zoning Districts, Allowable Uses, And Development Standards

CHAPTER 25.10
RESIDENTIAL ZONING DISTRICTS (R-1, R-2, R-3, R-4)

§ 25.10.010. Purpose and Applicability.

- A. Residential Zoning Districts Purpose. The purpose of the residential zoning districts is to:
 1. Provide for a full range of housing types and densities consistent with the General Plan;
 2. Preserve, protect, and enhance the character of Burlingame's different residential neighborhoods;
 3. Ensure adequate light, air, privacy, and open space for each dwelling;
 4. Ensure that the scale and design of new development and alterations to existing structures are compatible with the scale, mass, and character of their neighborhoods; and
 5. Provide sites for public and semi-public land uses, such as parks and public safety facilities, that will serve City residents and will complement surrounding residential development.
- B. Low Density Residential Zoning District (R-1) Purpose. The R-1 zoning district is intended to provide areas for detached single-unit and accessory dwelling units and ancillary structures. This zoning district implements the General Plan Low Density Residential designation.
- C. Medium Density Residential Zoning District (R-2) Purpose. The R-2 zoning district is intended to provide areas for detached and attached housing units, with no more than two separate residential units in a structure, and ancillary structures. This zoning district implements the General Plan Medium Density Residential designation.
- D. Medium/High Density Residential Zoning District (R-3) Purpose. The R-3 zoning district is intended to provide areas for a variety of medium/high density multi-unit housing types (e.g., row houses, townhouses, condominiums, and apartments) and ancillary structures, generally located along or with immediate access to arterial streets and/or near major activity centers. This zoning district implements the General Plan Medium/High Density Residential designation.
- E. High Density Residential Zoning District (R-4) Purpose. The R-4 zoning district is intended to provide areas for a variety of high-density multi-unit housing types and ancillary structures, generally located in targeted locations near transit or with immediate access to arterial streets and/or near major activity centers. This zoning district implements the General Plan High Density Residential designation.

(Ord. 2000 § 2, (2021))

§ 25.10.020. Land Use Regulations.

- A. Allowed Uses. Table 25.10-1 (Residential Zoning Districts Use Regulations) indicates the uses allowed within each residential zoning district and any permits required to establish the use, pursuant to Article 6 (Permit Processing Procedures). Land uses are defined in Article 8 (Definitions). Uses defined in Article 8 and not listed in Table 25.10-1 are prohibited.
- B. Director Determination. Land uses are defined in Article 8 (Definitions). In cases where a specific

land use or activity is not defined, the Director shall assign the land use or activity to a classification that is substantially similar in character. Land uses not listed in the table or not found to be substantially similar to the land uses listed in the table are prohibited.

- C. Specific Use Regulations. Where the last column in Table 25.10-1 (Residential Zoning Districts Use Regulations) includes a section, subsection, or chapter number, the regulations in the referenced section, subsection, or division shall apply to the use.

Table 25.10-1: Residential Zoning Districts Use Regulations

P Permitted CUP Conditional Use Permit MUP Minor Use Permit	TUP Temporary Use Permit A Accessory Use — Not Permitted	R-1	R-2	R-3	R-4	Specific Use Regulations
Residential Housing Types						
Dwellings						
Single-Unit Dwelling	P	P	—	—	—	In the R-3 zoning district, bungalow courts, court apartments, and similar uses may be composed of two or more detached dwellings on the same lot. In the R-3 and R-4 zoning districts, additions to existing single-unit dwellings are allowed, provided such additions conform with the standards for the zoning district in which they are located.
Two-Unit Dwellings	—	P	P	P	—	
Multi-Unit Dwellings	—	—	P	P	—	Within the boundaries of the Downtown Specific Plan, average maximum unit size shall not exceed 1,250 sq. ft.
Accessory Dwelling Unit	A	A	A	A	—	See Section 25.48.030
Special Residential Uses						
Communal Housing	—	—	P	P	—	See Section 25.48.080
Emergency Shelters – Permanent	—	—	—	—	—	See Section 25.48.100
Emergency Shelters – Temporary	—	—	CUP	CUP	—	Allowed as an accessory use only. See Section 25.48.110
Residential Care Facilities						
Limited	P	P	P	P	—	Section 25.48.220
General	—	—	CUP	CUP	—	Section 25.48.220
Senior	—	—	CUP	CUP	—	Section 25.48.220

Table 25.10-1: Residential Zoning Districts Use Regulations

P Permitted	TUP Temporary Use Permit				
CUP Conditional Use Permit	A Accessory Use				
MUP Minor Use Permit	— Not Permitted				
Land Use	R-1	R-2	R-3	R-4	Specific Use Regulations
Supportive and Transitional Housing	See Section 25.48.240 (Supportive and Transitional Housing)				
Other Uses					
Urban Agriculture	A	A	A	A	See Section 25.48.290
Community Assembly Facilities	—	—	—	—	
Family Day Care – Small	P	P	P	P	
Family Day Care – Large	P	P	P	P	
Government Buildings and Facilities	P	P	P	P	
Home Occupations	A	A	A	A	See Chapter 25.72
Limited Corner Store Retail	—	—	—	—	See Section 25.48.160
Park and Recreation Facilities, Public	P	P	P	P	
Religious Assembly Facilities	CUP	CUP	CUP	CUP	
Schools, Primary and Secondary	CUP	CUP	CUP	CUP	
Utility Structures and Service Facilities, Small	MUP	MUP	MUP	MUP	
Utility Structures and Service Facilities, Large	—	—	—	—	
Wireless Communications Facilities	See Section 25.48.300				

City of Burlingame, CA

§ 25.10.020

ZONING

§ 25.10.020

(Ord. 2000 § 2, (2021))

§ 25.10.030. Development Standards—General.

The general property development standards for the R-1, R-2, R-3, and R-4 zoning districts shall be as set forth in Table 25.10-2 (Residential Zoning Districts Development Standards).

Table 25.10-2: Residential Zoning Districts Development Standards

Development Standards	R-1	R-2	R-3	R-4	Additional Regulations
Density – Maximum	8 du/ac	20 du/ac	50 du/ac	80 du/ac	
Height – Maximum	30 ft. (36 ft. with Special Permit)	30 ft. (36 ft. with Special Permit)	Tier 1: 46 ft. Tier 2: 55 ft.	Tier 1: 46 ft. Tier 2: 75 ft.	See Sections 25.10.035 and 25.10.040 for exceptions. See Section 25.30.040 for measurement.
Plate Height – Maximum	1 st Story: 9 ft. Upper Stories: 8 ft.	1 st Story: 9 ft. Upper Stories: 8 ft.	—	—	Measured from finished floor. See Section 25.10.035 for requests to exceed maximum plate height.
FAR – Maximum	See Section 25.10.060	n/a	n/a	n/a	See Section 25.30.060 for measurement and exceptions.
Setbacks – Minimum					
Front					
1 st Story	15 ft.	15 ft.	15 ft.	15 ft.	See Section 25.10.050 for special front setback requirements.
2 nd Story	20 ft.	15 ft.	15 ft.	15 ft.	See Section 25.10.055 for special side setback requirements. See Section 25.30.080 for setback measurement and exceptions.
Side		Lot widths of 42 ft. or less: 3 ft. Lots wider than 42 ft., but less than 51 ft.: 4 ft. Lots 51 ft. wide or more, but less than 54 ft.: 5 ft. Lots 54 ft. wide or more, but less than 61 ft.: 6 ft. Lots 61 ft. wide or more: 7 ft.			
Side Upper Stories	See Section 25.10.055	See Section 25.10.055	See Section 25.10.055	See Section 25.10.055	
Corner Lot: Street Side					

Table 25.10-2: Residential Zoning Districts Development Standards

Development Standards	R-1	R-2	R-3	R-4	Additional Regulations
1 st Story	7.5 ft.	7.5 ft.	7.5 ft.	7.5 ft.	
2 nd Story	12 ft. average	7.5 ft.	7.5 ft.	7.5 ft.	
More than 2 Stories	12 ft. average	7.5 ft.	See Section 25.10.055.		
Rear					
1 st Story	15 ft.	15 ft.	15 ft.	15 ft.	
2 nd Story	20 ft.	15 ft.	15 ft.	15 ft.	
More than 2 Stories	20 ft.	15 ft.	20 ft.	20 ft.	
Public and Institutional Uses – All Setbacks (Minimum)	Comply with standards of the applicable zoning district				
Lot Coverage – Maximum	40%		Interior lots 50% Corner lots: 60%	Interior lots 50% Corner lots: 60%	See Section 25.30.070 for lot coverage exceptions.
Unit Size – Maximum	8,000 sq. ft.	—			Average maximum unit size of 1,250 sq. ft. for multifamily residential uses located within Downtown Specific Plan
Front Setback Impervious Surfaces – Maximum	40%		50%		See Chapter 25.36 for additional landscape requirements.
Open Space – Minimum	n/a	n/a	175 sq. ft. per unit		See Section 25.36.030.
2 nd Floor Decks/Balconies Minimum Side Setback	Up to 75 sq. ft. maximum per lot with approval of special permit Two times minimum required side setback		—		Does not apply to lots located within the Hillside Overlay. Special permit required for 2 nd floor decks/balconies (75 sq. ft. maximum per lot). Special permit application may be filed to exceed minimum required side setback.

(Ord. 2000 § 2, (2021))

§ 25.10.035. Special Permit Requirements in R-1 Zoning District.

Applicability. The following structures and development approaches are allowed in the R-1 zoning district with a special permit. In granting such a permit, the Review Authority shall make the findings required in Section 25.78.020.B (Required Findings).

1. Attached garages for single-unit dwellings. A special permit shall not be required for replacement of an existing attached garage and for existing attached garages that are extended no more than 10 feet in length. In all cases the attached garage shall comply with the minimum required front setback requirements in Section 25.10.050 (Special Front Setback Requirements).
2. Construction exceeding the limits of the declining height envelope.
3. Building height exceeding 30 feet, but not to exceed 36 feet.
4. A detached garage or other accessory structure, other than an accessory dwelling unit, exempt from setback restrictions when located within the rear 40 percent of the lot.
5. A detached garage or other accessory structure, other than an accessory dwelling unit, that is in the rear of the lot and that is more than 28 feet in width or depth.
6. Plate height exceeding maximum indicated in Table 25.10-2.
7. Any second-floor deck or balcony up to a maximum of 75 square feet and/or to exceed the minimum required side setback for a second-floor deck or balcony. Second-floor decks and balconies shall not be designed as viewing platforms and shall considering surrounding context, including window location of adjacent properties.

(Ord. 2000 § 2, (2021))

§ 25.10.040. Structures and Development Approaches in the R-2 Zoning District Requiring a Special Permit.

Applicability. The following structures and development approaches are allowed in the R-2 zoning district with a special permit. In granting such a permit, the Review Authority shall make the findings required in Section 25.78.030.B (Required Findings).

1. Building height exceeding 30 feet, but not to exceed 36 feet.
2. Construction exceeding the limits of the declining height envelope.

(Ord. 2000 § 2, (2021))

§ 25.10.045. Special Permit Requirements R-3 and R-4 Zoning Districts.

- A. R-3 Zoning District within Anita Road Overlay and within Rollins Road Residential Overlay, and R-4 Zoning District within R-4 Incentive Overlay. See Sections 25.20.010, 25.20.060, and 25.20.070, respectively.
- B. Circular Drives. In the R-3 and R-4 zoning districts, if a circular drive is provided, a reduction of the required front setback landscaping to 45 percent of the lot area within the required front setback shall be allowed with approval of a special permit.
- C. Community Benefits Option. A developer may elect to develop consistent with either Tier 1 or Tier 2 development standards. Projects using Tier 2 standards shall provide community benefits pursuant to this subsection and shall require a special permit.

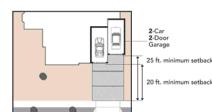
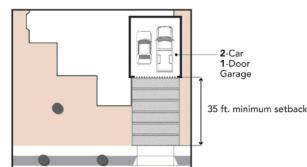
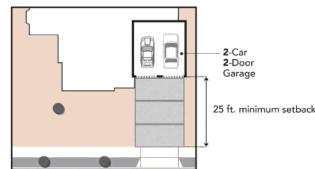
1. Purpose and Applicability. To provide an incentive for development, and in partnership with the City to provide community benefits that would not otherwise be created, the Planning Commission may grant increased height in return for provision of specific community benefits, as listed below or subsequently identified by the City Council, for a proposed residential project, if doing so is in the City's interest and will help implement the General Plan. A variety of objectives are listed to ensure that proposed project features are appropriate for the site and surroundings, and to allow for a wide range of possible project types.
2. Review Authority and Tier Requirements.
 - a. Planning Commission Approval of Community Benefits Bonuses. The Planning Commission shall be the final Review Authority for an application for Tier 2 projects.
 - b. Tier 2 Requirements and Number of Community Benefits. The Planning Commission may approve a special permit approving a Tier 2 project if it determines that the project includes at least two community benefits from subsection 3 of this section (Community Benefit Options).
3. Community Benefit Options.
 - a. Pedestrian Amenities. The project includes major pedestrian connections exceeding minimum pedestrian requirements.
 - b. Off-Site Streetscape Improvements. The project includes off-site streetscape improvements and amenities; these provisions do not include improvements along the frontage of a development site that would normally be required by law or as a condition of project approval. The provision of selected amenities may require approval of a development agreement. Examples of amenities include:
 - i. Enhanced pedestrian and bicycle-oriented streetscapes.
 - ii. Protected bicycle lanes and pedestrian pathways, improved bicycle and pedestrian crossings/signals, bicycle racks/shelters.
 - iii. New pedestrian and bicycle connections to transit facilities, neighborhoods, trails, commercial areas, etc.
 - iv. Removal of existing pedestrian and bicycle barriers.
 - v. Upgrading traffic signals to enhance pedestrian and bicycle safety.
 - vi. Enhanced crosswalk materials.
 - vii. Contribution to capital project funds that would not otherwise be required.
 - c. Near Zero Net Energy. The project provides up to 98 percent of total building energy load measured as kilowatt per square foot through solar panels, wind turbines, or other renewable sources.
 - d. Net Zero Water Use. The project provides on-site and/or off-site water usage off-sets to achieve net zero water use. Water usage off-sets may include grey water systems, the retrofit of plumbing fixtures in other buildings, etc.
 - e. Flexible (Miscellaneous) Benefit. The applicant agrees to provide a currently undefined

community benefit approved by the City Council that is significant and substantially beyond normal requirements. Examples are inclusion of a child care center or community event space in a new development project, off-site utility infrastructure improvements above and beyond those required to serve the development, additional funding for City programs such as contribution to park improvement funds (beyond required impact fees).

(Ord. 2000 § 2, (2021))

§ 25.10.050. Special Front Setback Requirements.

- A. Subdivision Maps. The front setback delineated on any approved subdivision map shall supersede any provision of this chapter.
- B. Residential Front Setbacks.
 1. Average Front Setbacks over 15 Feet. The front setback line for any new structure in the R-1, R-2, R-3, and R-4 zoning districts shall be the average of the actual front setback of such existing structures, including the existing structure on the subject property, located on the same side of the same block, if such average exceeds 15 feet. The measurement shall be taken from the front property line to the nearest wall or covered projection of any existing structures (e.g., house, porch, or garage). Excluded from the average front setback calculation shall be corner lots and the least and greatest existing front setbacks. For blocks that contain fewer than five parcels, the average front setback shall be based on the interior lots.
 2. R-1 Front Setbacks – Additional Regulations.
 - a. Upper Stories. For stories above the first story, the minimum front setback shall be the same as that for the portion of the first floor immediately underneath it.
 - b. Alignment of Second Floor. If the required front setback for all or a portion of the first floor under the second floor is greater than 20 feet, then the minimum front setback of each portion of the second floor shall be the same as that for the portion of the first floor immediately underneath it.
 - c. Garages. The minimum front setback of an attached garage or attached covered parking structure shall be:
 - i. Single car garage: 25 feet.
 - ii. Two car garage: 35 feet. However, if the garage doors for the two-car garage are provided by two single doors, the front setback may be staggered at 20 feet for one door and 25 feet for the second door or side-by-side at 25 feet. See Figure 25.10-1: R-1 Garage Front Setbacks.
 - d. El Camino Real. The minimum front setback of all structures on lots fronting on El Camino Real shall be 20 feet; this shall apply whether the lot frontage is considered the front, street side or rear of the lot.
 3. R-2 Front Setbacks – Garages. The minimum front setback to the face of any garage or covered parking shall be 20 feet.
 4. R-3 and R-4 Front Setbacks – Front Setbacks on Certain Streets. Front setbacks on certain streets shall be as indicated in Table 25.10-3: Front Setbacks on Certain Streets.

Figure 25.10-1: R-1 Garage Front Setbacks**Table 25.10-3: Front Setbacks on Certain Streets**

Street	Front Setback
Park Road, between Howard and Peninsula Avenues	5 ft.
Primrose Road, between Howard and Bayswater Avenues	10 ft.
El Camino Real Frontage (includes street side or rear of lot)	20 ft.

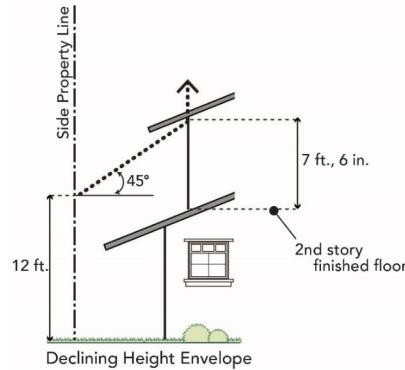
(Ord. 2000 § 2, (2021))

§ 25.10.055. Special Side Setback Requirements.**A. R-1 and R-2 Side Setbacks – Additional Regulations for Interior Lots.**

1. Declining Height Envelope. In addition to complying with the minimum side setback requirements in Table 25.10-2, structures on interior lots in the R-1 and R-2 zoning districts shall not extend above or beyond the second story declining height envelope. The declining height envelope shall depart from 12 feet above original existing grade at each side property line and extend at an angle of 45 degrees. The declining height envelope line shall extend until it intersects with a point seven feet six inches feet above the second story finished floor, then the

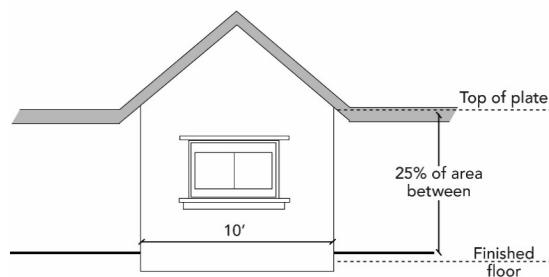
line shall extend vertically. The original existing grade shall be determined by the average of the elevations at the front and rear property line corners at each side.

Figure 25.10-2: R-1 and R-2 Declining Height Envelope



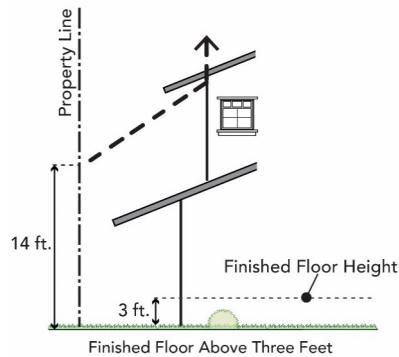
2. Exemptions. In addition to allowed projections in Section 25.30.080 (Determining Setbacks), the following are exempt from the declining height envelope:
 - a. Window Enclosures. Window enclosures that create no more than 35 square feet of floor area per side and have a length no greater than 10 feet. At least 25 percent of the face of such enclosure as measured between the finished floor and the plate line shall be window area.

Figure 25.10-3: R-1 and R-2 Window Enclosure Exception for Declining Height Envelope



- b. Sloping Lots. Where the slope on a lot between the front setback and rear setback lines on either side property line varies by two feet or more, the measurement for the declining height envelope point of departure shall be the average elevation as taken at the intersection of the adjacent side property lines with the 15-foot front setback line and the 15-foot rear setback line.
- c. Elevated Finished First Floor. Where the finished first floor of a house is more than three feet above average finished grade, as determined by the average elevations at the four exterior corners of the existing house, and the area below or basement is not improved area, the measurement for the declining height envelope shall be 14 feet above the side property line.

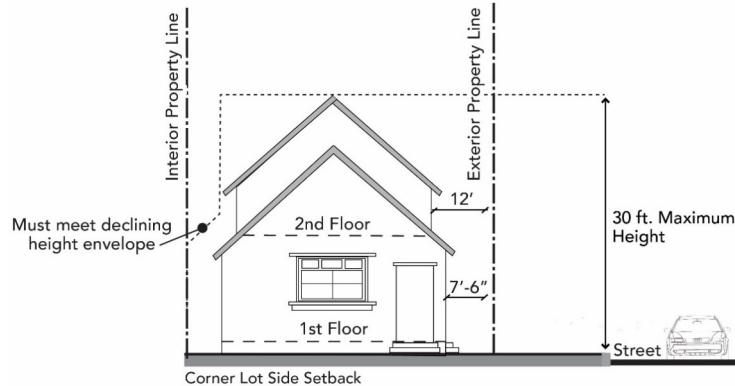
Figure 25.10-4: R-1 and R-1 Finish First Floor Exception for Declining Height Envelope



B. R-1 Side Setbacks – Additional Regulations for Corner Lots.

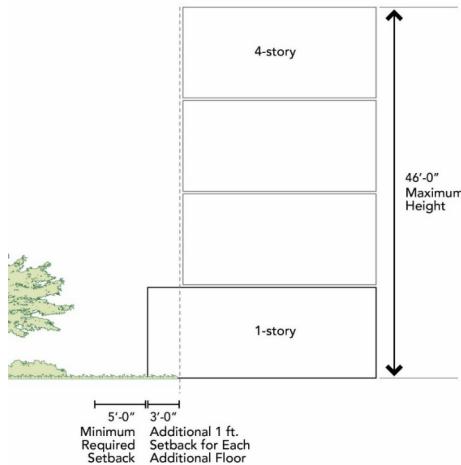
1. Interior Side Setback. The second-floor side setback along the interior side of a corner lot shall comply with the minimum side setback requirement in Table 25.10-2 and the declining height envelope requirements.
2. Street Side Setback. The second-floor side setback on a corner lot shall average at least 12 feet from the street side property line. No more than 25 percent of the length of the second-floor wall shall be placed in the area between 12 feet and seven feet six inches from the street side property line.

Figure 25.10-5: R-1 Corner Lot Side Setbacks



C. Special Side Setback Requirements in the R-3 and R-4 Zoning Districts.

1. Increased Setback for Upper Stories. The side setback requirement shall be increased by one foot for each story above the first story. This side setback requirement shall apply to all stories above the first story.

Figure 25.15-6: R-3 and R-4 Upper Story Side Setback Requirements

2. Corner Lots – Street Side Setback. The street side setback on a corner lot shall be seven feet six inches for a building of two stories or less and shall increase one foot for each additional story. Setback for upper stories applies only to that portion of the structure that exceeds two stories.

(Ord. 2000 § 2, (2021))

§ 25.10.060. Floor Area Ratio in the R-1 Zoning District.

In the R-1 zoning district, the maximum allowable floor area ratio (FAR) shall be as described in Table 25.10-4 (R-1 Zoning District Floor Area Ratio). See also Sections 25.30.060 (Determining Floor Area) and 25.48.030 (Accessory Dwelling Units).

Table 25.10-4: R-1 Zoning District Floor Area Ratio

Type of Lot	Floor Area Ratio	Structures Included
Interior lots with attached garages	32 percent plus 1,100 sq. ft	Includes attached garage, attached covered parking and other accessory structures
Interior lots with detached garages	32 percent plus 1,100 sq. ft., plus up to an additional 400 sq. ft. for detached garage and other accessory structures	Includes all accessory structures
Corner lots with attached garages	32 percent plus 900 sq. ft.	Includes attached garage, attached covered parking and other accessory structures
Corner garages lots with detached garages	32 percent plus 900 sq. ft., plus up to an additional 350 sq. ft. for detached garage and other accessory structures	Includes all accessory structures

§ 25.10.070. Interior Access in the R-1 Zoning District.

A stairway, elevator, ramp, or similar access shall be provided between all floors of improved area within a single-unit residential structure. Such access shall be located within the exterior walls of the structure. (Ord. 2000 § 2, (2021))

§ 25.10.080. Open Space in R-3 and R-4 Zoning Districts.

Open space may be provided as either private, common, or include both private and common open space. (Ord. 2000 § 2, (2021))

§ 25.10.090. Lot Frontage, Width, and Size for All Residential Zones.

- A. Lot Width. Each lot shall have an average width of not less than 50 feet.
- B. Lot Frontage. The minimum frontage for parcels shall be as indicated in Table 25.10-5.

Table 25.10-5: Minimum Lot Frontage

Lot Size	Minimum Lot Frontage
Lot Frontage on Public Street	
Less than 6,999 sq. ft.	50 ft.
7,000 – 9,999 sq. ft.	55 ft.
10,000 sq. ft. or more	60 ft.
Frontage for Lots Facing on a Curved Street	
Less than 6,999 sq. ft.	30 ft.
7,000 – 9,999 sq. ft.	35 ft.
10,000 sq. ft. or more	40 ft.

- C. Lot Sizes in Residential Zones. Minimum lot sizes in residential zones shall be as indicated on the map adopted by Ordinance 712 and as subsequently amended:
 - 1. 5,000 Square Feet. All lots shown in white shall have an area of not less than 5,000 square feet;
 - 2. 7,000 Square Feet. All lots shown within a border of horizontal crosshatching shall have an area of not less than 7,000 square feet; and
 - 3. 10,000 Square Feet. All lots shown within a border of vertical crosshatching shall have an area of not less than 10,000 square feet.
- D. Special Requirements Related to Lot Width, Frontage, and Size.
 - 1. Effect on Lots or Parcels Recorded Before 1958. The average width, lot frontage, and minimum areas provided for in subsections A, B, and C of this section shall not apply to any lot or parcel of land of smaller dimensions appearing of record in the office of the County Recorder of the County of San Mateo, or of the City Engineer of the City of Burlingame, prior to June 18, 1958. No building permit shall be issued for the construction of any building on any lot divided or subdivided after said date which does not comply with the minimum requirements set forth

above, except as varied by subsection B above or through an approved variance.

2. Conformance to this Section. All the development requirements in this section shall apply to lands hereafter subdivided in accordance with the provisions of the Subdivision Map Act of the State of California, provided, however, that the Commission and Council may, in the considerations and acceptance of any tentative or final map submitted pursuant to the provisions of said Subdivision Map Act, approve or accept any such tentative or final map wherein one or more lots or parcels of land do not conform to all of the provisions of this section, when the Commission and Council find that by reason of exceptional or extraordinary circumstances the approval or acceptance of such maps is consistent with General Plan policy.
3. Minimum Lot Size for Lands Annexed After 1960. No lands annexed to the City after May 31, 1960, which are classified for residential uses, shall be divided into lots having areas of less than 10,000 square feet each.

(Ord. 2000 § 2, (2021))

§ 25.10.100. Minor Modifications.

Certain minor modifications from development standards are permitted consistent with Chapter 25.74.

(Ord. 2000 § 2, (2021))

§ 25.10.110. Design Review.

Design review shall be required pursuant to the provisions of Chapter 25.68 (Design Review).

(Ord. 2000 § 2, (2021))

**CHAPTER 25.12
COMMERCIAL AND INDUSTRIAL ZONING DISTRICTS (C-1, BFC, I-I)**

§ 25.12.010. Purpose and Applicability.

- A. Commercial and Industrial Zoning Districts Purpose. The purpose of the commercial and industrial zoning districts is to:
 1. Provide opportunities for a variety of commercial and industrial business types that contribute to the stability of the City's economy.
 2. Encourage a diverse mix of goods, services, office, and research and development uses, including small and independent businesses, to enrich the lives of residents, employees, and visitors and to increase employment opportunities.
 3. Promote commercial and industrial development that will foster and enhance the identity and vitality of specific areas and corridors.
- B. General Commercial Zoning District (C-1) Purpose. The purpose of the General Commercial (C-1) zoning district is to implement the General Plan General Commercial designation by establishing areas for lower-intensity commercial uses intended to meet the needs of residents and employees. General Commercial uses are in targeted locations where higher-intensity uses and development are not appropriate and where low-intensity commercial businesses have minimal impact on adjacent residential areas. General Commercial design standards encourage pedestrian access and compatibility with surrounding uses in terms of scale and appearance.
- C. Bayfront Commercial Zoning District (BFC) Purpose. The purpose of the Bayfront Commercial (BFC) zoning district is to provide opportunities for office and research and development, as well as both local and tourist commercial uses that take advantage of views of and access to the Bay, where residents, employees and visitors can work, shop, eat, bike and walk, and enjoy nature. A critical component is prioritization on public access to the waterfront.
- D. Innovation Industrial Zoning District (I-I) Purpose. The purpose of the Innovation Industrial (I-I) zoning district is to accommodate and encourage places for diverse and compatible light industrial, research and development, and creative business enterprises. Adaptive reuse of existing buildings with creative and design commercial uses is encouraged, as well as façade and site improvements on industrial properties.

(Ord. 2000 § 2, (2021))

§ 25.12.020. Land Use Regulations.

- A. Allowed Uses. Table 25.12-1 (Commercial and Industrial Zoning Districts Use Regulations) indicates the uses allowed within each commercial and industrial zoning district and any permits required to establish the use, pursuant to Article 6 (Permit Processing Procedures). Land uses are defined in Article 8 (Definitions). Uses defined in Article 8 and not listed in Table 25.12-1 are prohibited.
- B. Director Determination. Land uses are defined in Article 8 (Definitions). In cases where a specific land use or activity is not defined, the Director shall assign the land use or activity to a classification that is substantially similar in character. Land uses not listed in the table or not found to be substantially similar to the land uses listed in the table are prohibited.
- C. Specific Use Regulations. Where the last column in Table 25.12-1 (Commercial and Industrial

Zoning Districts Use Regulations) includes a section, subsection, or chapter number, the regulations in the referenced section, subsection, or division shall apply to the use.

- D. Airport Land Use Compatibility. Uses must comply with Safety Compatibility Policies SP-1 through SP-3 of the Comprehensive Airport Land Use Compatibility Plan for the Environs of San Francisco International Airport (ALUCP) including Noise/Land Use Compatibility and Safety Compatibility Criteria listed in Tables IV-1 and IV-2. Some uses listed in Table 25.14-1 (Mixed-Use Zoning Districts Use Regulations) may be incompatible in safety zones. Refer to ALUCP Exhibit IV-9 for a map of the safety compatibility zones.

Table 25.12-1: Commercial and Industrial Zoning Districts Use Regulations

P Permitted CUP Conditional Use Permit MUP Minor Use Permit	TUP Temporary Use Permit A Accessory Use — Not Permitted	C-1	BFC	I-I	Specific Use Regulations
Land Use					
Commercial – Retail					
Eating and Drinking Establishments					
Bars and Taverns	—	P	—		Breweries, Distilleries, and Wineries are allowed as an accessory use to a restaurant with a CUP. For Breweries, Distilleries and Wineries as a primary use, see Industrial Uses in this table.
Night Clubs	—	CUP	—		
Outdoor Dining	P	P	P		
Restaurants	P	P	P		
Restaurants – Drive-through	—	—	CUP		
Tasting Rooms	A	A	A		
Food and Beverage Sales					
Alcohol Sales Store	—	—	—		Maximum size of accessory food and beverage sales uses in these zoning districts is 1,500 sq. ft. Accessory convenience store uses limited to 2,500 sq. ft.
Convenience Store	MUP	A	A; MUP for standalone		
General Market	MUP	A	A; MUP for standalone		
Nurseries and Garden Centers	P	—	P		
Retail Sales					
General	P	A	—		No outdoor storage or sales permitted in conjunction with any permitted use, except for permitted temporary sales. In the I-I zone, may be permitted with a Minor Use Permit subject to Section 25.48.190 (Outdoor Sales, Displays, and Storage).
Large Format	—	—	—		
Specialized	—	—	—		

Table 25.12-1: Commercial and Industrial Zoning Districts Use Regulations

P Permitted CUP Conditional Use Permit MUP Minor Use Permit	TUP Temporary Use Permit A Accessory Use — Not Permitted	C-1	BFC	I-I	Specific Use Regulations
Vehicle Fuel Sales and Accessory Service	CUP	CUP	CUP		
Vehicle Sales					
Auto and Light Truck	CUP	—	CUP		
Heavy Equipment Sales (and Rental)	—	—	CUP	See Section 25.48.280	
Commercial – Services and Recreation					
Animal Care Services					
Kennels	—	—	MUP		
Grooming	P	P	P	No overnight animal stays permitted.	
Pet Hotels	—	—	CUP		
Veterinarian	P	—	P		
Banks and Financial Institutions	P	P	—		
Building Materials and Contractor Services	—	—	P	Showroom and direct retail sales allowed up to 50% of floor area. See Section 25.48.190 for outdoor storage.	
Business Services	P	P	P		
Check Cashing and Pay Day Loan Establishments	—	—	—		
Commercial Recreation – Large Scale	CUP	P	MUP	Includes accessory sale of related merchandise not to exceed 1,500 sq. ft.; CUP if over 1,500 sq. ft.	
Commercial Recreation – Small Scale	CUP	P	MUP		

Table 25.12-1: Commercial and Industrial Zoning Districts Use Regulations

P Permitted CUP Conditional Use Permit MUP Minor Use Permit	TUP Temporary Use Permit A Accessory Use — Not Permitted	C-1	BFC	I-I	Specific Use Regulations
Land Use					
Day Care Centers	MUP	P	MUP		See Section 25.48.090 For properties within SFO Safety Compatibility Zone 3 in the I-I zoning district, commercial facilities defined in accordance with Health and Safety Code, Section 1596.70, et seq., and licensed to serve 15 or more children not allowed. Family day care homes and noncommercial employer-sponsored facilities ancillary to place of business allowed with a CUP.
Food Preparation (catering)	P	—	P		
Funeral Services and Cemeteries	—	—	—		
Office – Co-Working	P	P	P		
Office – Medical or Dental	CUP	P	P		In I-I zoning district: Permitted only east of Highway 101.
Office – Professional	P	P	P		In I-I zoning district: <ul style="list-style-type: none"> • In area east of Highway 101, general offices permitted. • In areas west of Highway 101, offices are limited to creative offices, including architects, interior designers, and other offices related to design services.
Office – Research and Development	P	P	P		For properties within SFO Safety Compatibility Zone 3 in the I-I zoning district, CUP required if use entails hazardous materials. For properties within SFO Safety Compatibility Zone 3 in the I-I zoning district, Biosafety Level 3 and 4 facilities not allowed.
Personal Services – General	P	P	—		
Personal Services – Specialized	CUP	—	—		
Studios – Arts	P	P	P		

Table 25.12-1: Commercial and Industrial Zoning Districts Use Regulations

P Permitted CUP Conditional Use Permit MUP Minor Use Permit	TUP Temporary Use Permit A Accessory Use — Not Permitted	C-1	BFC	I-I	Specific Use Regulations
Theaters – Live	—	P	—		
Theaters – Movie or similar	—	P	—		
Educational Services					
Schools, Primary and Secondary (Private)	CUP	CUP	CUP		For properties within SFO Safety Compatibility Zone 3 in the I-I zoning district, public and private schools serving preschool through grade 12 not allowed.
Trade Schools	—	CUP	P		In I-I zoning district, limited to 20% of floor area; CUP if over 20%.
Tutoring and Educational Services	P	P	P		
Industry, Manufacturing and Processing, Warehousing, and Wholesaling Uses					
Breweries, Wineries, and Distilleries	MUP	MUP	MUP		See Section 25.48.250 (Tasting Rooms as an Accessory Use).
Food Processing and Production	—	—	CUP		Only permitted for small-scale hand production or artisan endeavors with incidental direct sale of goods produced on-site.
Laboratories/Research and Development	—	P	P		
Light Industrial	—	—	P		
Recycling Facilities					
Light Processing	—	—	P		See Section 25.48.200
Reverse Vending Machine(s)	A	—	A		
Small Collection	CUP	—	P		
Vehicle Services and Repair					
Minor (Minor Repair/Maintenance)	CUP	—	P		Only permitted west of Highway 101 and south of Easton Creek.
Vehicle Rental	CUP	—	CUP		

Table 25.12-1: Commercial and Industrial Zoning Districts Use Regulations

P Permitted CUP Conditional Use Permit MUP Minor Use Permit	TUP Temporary Use Permit A Accessory Use — Not Permitted	C-1	BFC	I-I	Specific Use Regulations
Car Wash	CUP	—		P	
Warehousing/Logistics	—	—		P	
Wholesaling	—	—		P	
Lodging					
Extended Stay Hotels	—	P	P		In I-I zoning district, hotels and motels only permitted on properties with frontage on Old Bayshore Highway. For park-and-fly facilities associated with hotels, see Park and Fly, Accessory to Hotel.
Hotels and Motels	—	P	P		In I-I zoning district, hotels and motels only permitted on properties with frontage on Old Bayshore Highway. For park-and-fly facilities associated with hotels, see Park and Fly, Accessory to Hotel, below.
Public and Quasi-Public Uses					
Assembly Facilities					
Community Assembly Facility	CUP	—	CUP		
Religious Assembly Facility	CUP	—	CUP		
Community Open Space	P	P	P		
Emergency Shelters – Permanent	—	—	P		Permitted only on properties located north of Mills Creek
Emergency Shelters – Temporary			P		Shall be located within a transportation corridor and shall not occur continuously at any one location for more than six months of any 12-month period.
Low Barrier Navigation Center	P	—	—		See Section 25.48.170
Government Buildings and Facilities	P	P	P		
Hospitals	—	—	—		

Table 25.12-1: Commercial and Industrial Zoning Districts Use Regulations

P Permitted CUP Conditional Use Permit MUP Minor Use Permit	TUP Temporary Use Permit A Accessory Use — Not Permitted	C-1	BFC	I-I	Specific Use Regulations
Land Use					
Medical Clinics	P	P	P		
Park and Recreation Facilities, Public	P	P	P		
Residential Uses					
Caretaker Quarters	A	A	A		
Transportation, Communication, and Infrastructure Uses					
Air Courier, Terminal, and Freight Services	—	—	MUP		
Park and Fly, Accessory	—	MUP	MUP	Only permitted as an accessory use to hotel or office uses as part of a larger development plan. Parking shall be in parking structures.	
Park and Fly, Primary Use	—	—	—		
Parking Facility, Accessory Use	A	A	A		
Parking Facility, Primary Use	—	—	CUP		
Transit Facilities	—	P	P		
Utility Structures and Service Facilities, Small	—	MUP	MUP		
Utility Structures and Service Facilities, Large	—	—	—		
Vehicle Storage	—	—	CUP		
Wireless Telecommunication Facilities				See Section 25.48.300	
Specific and Temporary Uses					
Adult Entertainment Businesses	—	P	—	Comply with Section 25.48.040	
Drive-Through or Drive-Up Facilities	—	—	—		
Outdoor Storage	—	—	CUP	Must be related to immediately abutting uses which are permitted or conditional in the district. See Section 25.48.190	

Table 25.12-1: Commercial and Industrial Zoning Districts Use Regulations

P Permitted CUP Conditional Use Permit MUP Minor Use Permit	TUP Temporary Use Permit A Accessory Use — Not Permitted			
Land Use	C-1	BFC	I-I	Specific Use Regulations
Outdoor Temporary and/or Seasonal Sales	TUP	TUP	TUP	See Section 25.48.190
Temporary Uses	TUP	TUP	TUP	See Section 25.48.260
Urban Agriculture	P	P	P	See Section 25.48.290 (Urban Agriculture)

(Ord. 2000 § 2, (2021))

§ 25.12.030. Development Standards.

The general property development standards for C-1, BFC, and I-I zoning districts shall be as set forth in Table 25.12-2 (Commercial and Industrial Development Standards).

Table 25.12-2: Commercial and Industrial Development Standards

Development Standards	C-1	BFC	I-I	Additional Regulations
Height – Maximum ¹	35 ft. (46 ft. with special permit)	65 ft. (Special permit required for heights greater than 65 ft.)	35 ft. (65 ft. with special permit) Properties fronting on Bayshore Hwy: 65 ft. (Special permit required for heights greater than 65 ft.)	
Floor Area Ratio (FAR) – Maximum	1.0	Tier 1: 1.0 Tier 2: 2.0 Tier 3: 3.0	0.75 Properties fronting Bayshore Hwy: Hospitality: 3.0 Office/Research & Development: Tier 1: 0.75 Tier 2: 2.0 Tier 3: 2.75 Tier 3: 2.75	Balconies and decks exempted from FAR (to be discussed in calculation of FAR) See Section 25.12.040 regarding community benefits findings for FAR Tiers 2 and 3
Minimum Setbacks				
Front	10 ft., except 20 ft. on El Camino Real frontage	10 ft.	10 ft.	No parking in front setback.
Side – Interior	—	10 ft.	10 ft., except for parcels located between Easton Creek and Broadway, including properties with lot frontage on Broadway or otherwise for parcels under common ownership or with consent of adjacent property owner	For the BFC zoning district, see 25.12.060.B (View Corridor Requirement)
Side – Street	—	10 ft.	10 ft.	
Rear	—	10 ft.	0 ft., except 10 ft. on Bayshore Highway	

Table 25.12-2: Commercial and Industrial Development Standards

Development Standards	C-1	BFC	I-I	Additional Regulations
Edge Conditions – Minimum	1 st story: 10-ft. setback Upper stories: 15-ft. setback	—	1 st story: 10-ft. setback Upper stories: 15-ft. setback	Applicable to any portion of property that is adjacent to any portion of property developed with residential uses.
Lot Coverage – Maximum	—	60%	70%	
Lot Dimensions – Minimum				
Size	10,000 sq. ft.	20,000 sq. ft.	10,000 sq. ft.	
Frontage	50 ft.	50 ft.	50 ft.	
Open Space – Minimum (per residential unit)	175 sq. ft.	—	—	See Section 25.36.030
Percent Landscape Coverage – Minimum	—	20% of site	15% of site	See Chapter 25.36 for additional landscape requirements.

- 1 Maximum building heights are also required to comply with Airspace Protection Policies AP-1 through AP-4 of the Comprehensive Airport Land Use Compatibility Plan for the Environs of San Francisco International Airport (ALUCP). This includes determining the need to file Form 7460-1, Notice of Proposed Construction or Alteration, with the FAA for any proposed project that would exceed the FAA notification heights, as shown approximately on ALUCP Exhibit IV-10 and complying with FAA Aeronautical Study Findings. It also includes complying with the maximum compatible building height, which includes all parapets, elevator overruns, etc. of a building, as noted in ALUCP policy AP-3 and depicted in Exhibits IV-17 and IV-18 of the ALUCP.

(Ord. 2000 § 2, (2021))

§ 25.12.040. Community Benefits for Increased FAR in the BFC and I-I Zoning Districts.

A. Purpose and Applicability.

1. Purpose. To provide an incentive for development, and in partnership with the City to provide community benefits that would not otherwise be created, the Planning Commission, through a discretionary review and public hearing process, may grant increased FAR in return for provision of specific community benefits, as listed below or subsequently identified by the City Council, if doing so is in the City's interest and will help implement the General Plan. A variety of objectives are listed to ensure that proposed project features are appropriate for the site and surroundings, and to allow for a wide range of possible project types.
2. Applicability. A developer may elect to develop consistent with either Tier 1, Tier 2, or Tier 3 development standards. Projects using Tiers 2 or 3 standards shall provide community benefits

pursuant to this section and shall require a special permit.

3. Findings. For Tier 2 and 3 projects, the Planning Commission shall make additional findings that the project proposes public benefits in excess of the City's normal requirements that improve the quality of life of employees, residents, and/or visitors, or assists the City in implementing an important plan or policy. See Section 25.78.050.

B. Review Authority and Tier Requirements.

1. Planning Commission Approval of Community Benefits Bonuses. The Planning Commission shall be the final Review Authority for an application for Tier 2 or 3 projects.
2. Tier 2 Requirements and Number of Community Benefits. The Planning Commission may approve Tier 2 projects if it determines that the project includes at least two community benefits from subsection C of this section (Community Benefit Objectives).
3. Tier 3 Requirements and Number of Community Benefits. The Planning Commission may approve Tier 3 projects if it determines that the project includes at least three community benefits from subsection C of this section (Community Benefit Objectives).

C. Community Benefit Objectives. Community Benefits provided pursuant to this section may include, but are not limited to, the following:

1. Public Plazas. The project includes public plaza(s) that comply with this subsection.
 - a. The minimum area of any public plaza shall be 5,000 square feet and shall be measured as one single open space.
 - b. The public plaza shall be owned, operated, and maintained by the developer or property manager in accordance with an approved maintenance plan to be reviewed and approved by the Community Development Director.
 - c. Each part of the public plaza shall be accessible from other parts of the open space without leaving the open space area.
 - d. The public plaza shall be on the ground level and directly accessible from the sidewalk and be accessible to persons with disabilities.
 - e. The public plaza shall be open to the public, without charge, each day of the year, except for temporary closures for necessary maintenance or public safety.
 - f. At a minimum, the following elements shall be included: trees and landscaping, seating, bicycle racks, trash and recycling receptacles, and signage that include hours of operation.
2. Publicly Accessible Park Space. The project provides a contribution towards the provision of public parks in the BFC or I-I zones as applicable. Contribution can be in the form of dedication of land, provisions of improvements, or payment of fee in excess of that under Chapter 25.46 (Public Facilities Impact Fees).
3. Childcare Facilities. The project provides for the establishment and ongoing maintenance of on-site or off-site child care facilities.
4. Cultural Arts and Community Events Spaces. The project includes space for visual arts, performing arts, community events, and other activities that support arts and culture.

5. Off-Site Streetscape Improvements. The project includes off-site streetscape improvements and amenities; these provisions do not include improvements along the frontage of a development site that would normally be required. Examples of amenities include:
 - a. Enhanced pedestrian and bicycle-oriented streetscapes.
 - b. Protected bicycle lanes and pedestrian pathways, improved bicycle and pedestrian crossings/signals, bicycle racks/shelters.
 - c. New pedestrian and bicycle connections to transit facilities, neighborhoods, trails, commercial areas, etc.
 - d. Removal of existing pedestrian and bicycle barriers (e.g., dead-ends and cul-de-sacs).
 - e. Upgrading traffic signals to enhance pedestrian and bicycle safety.
 - f. Monetary contribution to streetscape projects within the BFC and/or I-I Districts.
6. Off-Site Infrastructure Improvements. The project includes monetary contributions to off-site infrastructure improvements exceeding obligations under Chapter 25.46 (Public Facilities Impact Fees). Examples of off-site infrastructure improvements may include, but are not limited to, grade separation projects, bicycle/pedestrian facilities, and sewer and water infrastructure.
7. Land Dedication for Community Facilities. Land dedication to accommodate community facilities such as public safety or educational facilities.
8. Habitat Restoration. The project incorporates habitat restoration features at appropriate locations.
9. Near Zero Net Energy. The project provides for 98 percent of total building energy load measured as kilowatt per square foot through solar panels, wind turbines, or other renewable sources.
10. Net Zero Water Use. The project provides on-site and/or off-site water usage off-sets to achieve net zero water use. Water usage off-sets may include grey water systems, purple pipe infrastructure, the retrofit of plumbing fixtures in existing buildings, etc.
11. Climate Change Measures. Additional measures incorporated physically or operationally into the project that contribute significantly to reduction of its carbon footprint and/or provide resilience to sea level rise and storms.
12. Sea Level Rise Infrastructure. For properties with frontage on San Francisco Bay, Anza Lagoon, Burlingame Lagoon, the Bay Front Channel, and creeks within the Sea Level Rise Overlay Area indicated on the current Map of Future Conditions (Map) described in Section 25.12.050.B, the project includes substantial sea level rise infrastructure meeting the requirements of Section 25.12.050.I.
13. Flexible Significant Community Benefit. Other currently undefined community benefits that are significant and substantially beyond normal requirements. Examples include funding for City programs such as contribution to business improvement programs, community-serving transportation services, or subsidy of retail facilities that would be beneficial to the community but not otherwise commercially viable.

(Ord. 2000 § 2, (2021))

§ 25.12.050. Public Access, Flood and Sea Level Rise Performance Guidelines.

- A. Performance Standards – Variations. Development shall conform to the standards outlined in this section. Unless otherwise stated below, the Planning Commission shall have the authority to allow variations to particular standards in this section in order to encourage sound site planning and development practices, provided any such variation shall meet the overall intent of the particular standard and remain consistent with the General Plan.
- B. City of Burlingame Map of Future Conditions. The City of Burlingame Map of Future Conditions (Map) was adopted by the City Council to provide community resilience to sea level rise and storms. The Map may be revised by the City Council based on updates to the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map (FIRM), sea level rise science, monitoring results, and shoreline and creek conditions. All proposals for new construction shall be based on the Map currently in effect at the time a complete project application is submitted (application date).
- C. Bay Access – Buffer Zones. Buffer zones extending 100 feet inland from the San Francisco Bay Shoreline are intended to provide an area to accommodate and maintain built and natural shoreline infrastructure for sea level rise protection, environmental enhancement, and public access trails. For the purposes of this section, the San Francisco Bay Shoreline (Shoreline) is defined by California Code of Regulations Section 10121, which describes the jurisdiction of the Bay Conservation and Development Commission (BCDC) within a 100-foot "shoreline band." Building encroachments may be accommodated within the 100-foot buffer zones provided that the City determines that such encroachments do not inhibit a planned infrastructure project of the City and San Mateo County Flood and Sea Level Rise Resiliency District (District) as of the application date. Project applicants shall coordinate with staff of the City and District to obtain the most current design standards for the planned infrastructure project. Buffer zones shall be developed and maintained based on the applicable water frontage and BCDC's public access guidelines and as follows:
 - 1. On San Francisco Bay. A minimum buffer zone of 100 feet from the Shoreline within which the shoreline infrastructure will be built. The top of this infrastructure must include a trail consistent with guidelines of the San Francisco Bay Trail Project and, unless otherwise directed by BCDC, the inboard (opposite the Bay) edge of that trail shall be located an average of 75 feet from the Shoreline.
 - 2. On Anza Lagoon, Bay Front Channel, and Burlingame Lagoon. A minimum buffer zone of 100 feet from the Shoreline within which the shoreline infrastructure will be built. The top of this infrastructure must include a trail consistent with guidelines of the San Francisco Bay Trail Project.
- D. Bay Access – Public Access. Public access shall be maintained and developed within the Shoreline buffer zones based on the City-adopted and Bay Conservation and Development Commission-approved public access guidelines.
- E. Bay Access – Trail Connectivity. Unless it is demonstrated to the satisfaction of City staff that no feasible alternative exists, any property with frontage on the Shoreline within the jurisdiction of the BCDC shall be required to provide, as a part of the on-site landscaping plan and Shoreline infrastructure, connectivity improvements by constructing a new or improved portion of the Bay Trail along the site, including improving access to the Bay Trail from and through the site. The trail shall be compliant with specifications of the City Public Works Department, BCDC, and San Francisco Bay Trail Program. Each such trail segment shall connect directly to the trail segment of adjacent properties.

- F. Bay Access – Maintenance. All areas improved for public access within the jurisdiction of BCDC shall be maintained by the property owner and shall be available to the public in perpetuity, as determined by the BCDC.
- G. Creek Access – Buffer Zones. Buffer zones measured from the top of creek bank are intended to provide an area to accommodate and maintain flood protection and public access trail infrastructure. For properties with frontage on Sanchez Creek, Easton Creek, Mills Creek, Gilbreth Creek, and El Portal Creek, a minimum buffer zone of 35 feet from the top of creek bank is required to accommodate and maintain future infrastructure and a public access trail. Building encroachments may be accommodated within the buffer zones provided that the City determines that such encroachments do not inhibit planned infrastructure projects of the City and District as of the application date.
- H. Creek Access – Trail Connectivity. Unless it is demonstrated to the satisfaction of City staff that no feasible alternative exists, any property with frontage on Sanchez, Easton, Mills, Gilbreth, and El Portal Creeks shall be required to provide, as a part of the on-site landscaping plan, a paved public-access trail along the top of the bank for the portion of the creek bank on the site. The trail shall be compliant with specifications of the City Public Works Department and BCDC, if applicable. Each such trail segment shall connect directly to the termination of the public access trail segment along the Shoreline (e.g., the Bay Trail) or the creek bank on each adjacent property.
- I. Flood Protection and Sea Level Rise Resilience – Building Elevations and Shoreline Infrastructure. For all properties within the Sea Level Rise Overlay Area indicated on the City's Map of Future Conditions current as of the application date, the first floor of new buildings must be elevated in conformance with this Map. For properties that are also with frontage on San Francisco Bay, Anza Lagoon, Bay Front Channel, and Burlingame Lagoon, new construction requiring discretionary review must include shoreline infrastructure that meets the requirements included in this Map. All required elevations shall be certified by a professional land surveyor.
- J. Flood Protection and Sea Level Rise Resilience – Determination of Compliance. Prior to issuance of a Building Permit, a registered professional engineer retained by the applicant shall certify that the design, specifications, and plans for the construction of Shoreline infrastructure are in accordance with the requirements in Sections 25.12.050.E, 25.12.050.I, and FEMA guidance and the Code of Federal Regulations (CFR) related to the mapping of areas protected by levee systems in place as of the application date. An applicant's proposal that meets the requirements in Sections 25.12.050.E, 25.12.050.I, and the CFR, but is not consistent with the planned infrastructure project of the City and District, shall be permitted if the proposal is demonstrated to be a less or equally environmentally impactful practical alternative (including environmentally-beneficial features such as listed species habitat, marsh, open space, etc.).
- K. Flood Protection and Sea Level Rise Resilience – Data Collection. Applicant shall submit two topographic surveys of the property, such as a LiDAR or field survey, prepared by a licensed professional land surveyor: one within 12 months of the application date and prior to construction, and one within 12 months of project completion. Such survey shall be at the landowner or applicant's expense and shall be conducted in consultation with City staff to be approved as compliant with City survey standards.
- L. Flood Protection and Sea Level Rise Resilience – Maintenance. As a condition of project approval, the applicant shall execute an agreement with the City identifying the landowner's ongoing maintenance obligations for the shoreline infrastructure approved as part of a development.
- M. Flood Protection and Sea Level Rise Resilience – Stormwater Drainage. One hundred percent of the

drainage from impervious surfaces on the site shall be captured and retained on site with sufficient storage to keep the first 1.25 inches of rainwater from an individual rain event on site without discharging onto neighboring properties or rights-of-way unless a regional stormwater management system is available to serve the development and the specific discharges from the site into the system have been approved by the City Public Works Department.

- N. Flood Protection and Sea Level Rise Resilience – Real Estate Disclosure of Hazards. In any contract for the sale of real estate located in the Sea Level Rise Overlay Area indicated on the current Map of Future Conditions adopted by the City of Burlingame, the seller shall include in the contract a real estate disclosure of all hazards associated with anticipated sea level rise, geologic hazards, groundwater inundation, or coastal and fluvial flooding. Any site-specific analyses related to sea level rise must also be disclosed in real estate transactions.

(Ord. 2000 § 2, (2021))

§ 25.12.060. Design Principles for Bayfront Commercial Zoning District.

The following design principles shall be used by decision-makers in evaluating whether plans conform to the requirements of this section:

- A. Design Intent. Development shall relate to both the street and to the Bay to provide view corridors from and across Bayshore Highway and Airport Boulevard, and to create gateways at key locations. Development shall support of the pattern of diverse architectural styles and the role of the shoreline in creating a network of interconnected open spaces.
- B. View Corridor Requirement. To provide a view corridor, the width of a structure or combined structures on a lot shall not obstruct more than 75 percent of the length of the property line along Bayshore Highway and Airport Boulevard, including setbacks. For purposes of this requirement, structure or combined structures shall not include architectural elements, by may include an elevated podium to accommodate flood elevations and/or parking.
- C. Support the Shoreline. On visually prominent sites and sites with shoreline as defined by the Bay Conservation and Development Commission, design shall fit the site and be compatible with surrounding development, support the Bay Trail and its park and recreational uses, provide for maximum user access, and support recreational use by those who work in the area as well as those who visit. Pedestrian amenities are encouraged along the shoreline adjacent to the Bay Trail.
- D. Orientation. Building entries shall be readily visible from the street and be easily identifiable, preferably on Bayshore Highway or Airport Boulevard. Buildings that are setback from the street shall have attractively landscaped plazas leading to the main building entry, and seating areas are encouraged in the front setback. Businesses at important intersections are encouraged to locate their entrances at the building corner.
- E. Ground Floor Transparency. At least 25 percent of the exterior walls on the ground floor or first level facing the street shall include windows, doors, or other openings.
- F. Building Articulation. Each side of buildings shall have a cohesive approach to design and detail. Articulation of building and structural elements, including windows, entries, and bays shall be achieved. Design features such as canopies, trellis, and grillwork shall be designed as part of the building's composition of design elements. A variety of materials should be used to articulate building elements, such as the base, the ground floor, and upper floors, if any.
- G. Building Design. The pattern of diverse architectural styles throughout the district and the role of the

shoreline in creating a network of interconnected open spaces is encouraged. New developments shall implement a single architectural style for the project, with consistency among primary elements of the structure(s).

- H. Streetscape. Development shall respect and promote the streetscape through building placement to maximize the commercial use of the street frontage, off-street public spaces, and by locating parking to minimize its impact on street frontages. For properties with any water frontage, design shall be sensitive to the surrounding bodies of water, physical and visual presence of the Bay Trail, and the orientation of the prevailing winds.
- I. Location of Surface Parking. Surface parking areas shall be located to the sides and rear of the building, when feasible, to encourage a pedestrian-friendly street edge. No surface parking areas shall be located between any structure and the lot frontage, except for limited visitor parking areas. Driveways are allowed in the setback, but the driveways shall not be considered as landscaped area.
- J. Location and Design of Structured Parking. Structured parking shall be designed to be compatible with the architectural design and materials of the buildings.
- K. Bird Friendly Design. All development shall incorporate bird-friendly design that minimizes potential adverse impacts to native and migratory birds, such as fritted or patterned glass, projecting architectural features, lighting design, and screening with trees.
- L. Protection of the Bay Environment. Site features shall include orientation to minimize wind obstruction on San Francisco Bay, protection of the Bay environment, and landscaping and pedestrian circulation that enrich and enhance the existing recreation opportunities of the area, including extension of the Bay Trail as well as the commercial neighborhood.

(Ord. 2000 § 2, (2021))

§ 25.12.070. Design Principles for the Innovative Industrial Zoning District.

The following design principles shall be used by decision-makers in evaluating whether plans conform to the requirements of this section.

- A. Design Intent. The overall design intent of the I-I zoning district is to provide for an eclectic mix of commercial and light industrial development that has an industrial and contemporary look in terms of materials used, architectural styles, and building forms.
- B. Building Design. Recognizing the varied commercial and industrial character of the area, new development and redevelopment projects shall feature modern industrial design features.
- C. Art and Murals. Use of murals, artwork, sculptures, special paving, and fountains are encouraged to be incorporated into building design to provide interest and excitement to the district.
- D. Orientation. The main building of a development shall be oriented to face a public street. Building frontages shall be generally parallel to streets. At least one primary entrance to a ground-floor use shall face the adjacent street right-of-way. Business and reception areas shall face public access to buildings.
- E. Ground Floor Transparency. At least 25 percent of the exterior walls on the ground floor facing the street shall include windows, doors, or other openings.
- F. Building Articulation. Each side of buildings shall have a uniform approach to design and detail. Articulation of building and structural elements, including windows, entries, and bays shall be

achieved. Design features such as canopies, trellis, and grillwork shall be designed as part of the building's composition of design elements. A variety of materials should be used to articulate building elements, such as the base, the ground floor, and upper floors, if any.

- G. Streetscape. Landscaping along the street shall provide an attractive streetscape by screening parking areas from the public street and ensuring a pleasant pedestrian environment.
 - H. Compatibility. The design of new infill development shall respect, complement, and be compatible with the scale, style, theme, and design of surrounding buildings.
 - I. Location of Parking. Any surface parking facilities shall be located to the side or rear of any proposed project unless no other feasible location exists.
 - J. Creekside Open Space. New buildings on parcels adjacent to Mills Creek and Easton Creek, where possible, shall incorporate outdoor open space and trail network components into their site planning, particularly on those parts of sites that face a creek.
 - K. Service and Delivery Areas. Service areas and ground-mounted equipment shall be screened from view by fences or walls that conform to the style and materials of the accompanying building(s).
- (Ord. 2000 § 2, (2021))

§ 25.12.080. Minor Modifications.

Certain minor modifications from development standards are permitted consistent with Section 25.74.020.
(Ord. 2000 § 2, (2021))

§ 25.12.090. Design Review Required.

Design review shall be required pursuant to Chapter 25.68 (Design Review).
(Ord. 2000 § 2, (2021))

**CHAPTER 25.14
MIXED-USE ZONING DISTRICTS (RRMU, NBMU, BRMU, CMU)**

§ 25.14.010. Purpose and Applicability.

- A. Mixed-Use Zoning Districts Purpose. The mixed-use zoning districts are intended to provide opportunities for a mixture of residential and commercial development to create vibrant activity nodes, dynamic commercial corridors, and housing opportunities for all income levels. The term "mixed use" applies to a compatible array of varied uses in a single building or comprehensive development, as well as a mix of uses within a zoning district.
- B. California Drive Mixed-Use Zoning District Purpose. The purpose of the California Drive Mixed-Use (CMU) zoning district is to implement the General Plan California Mixed-Use designation by providing a district with an eclectic mix of uses reflective of long-established use patterns at a pedestrian scale, with locally owned retail and service commercial businesses and upper-story residential units. Prototypical commercial uses are those that serve Burlingame residents and nearby communities, do not involve late-night hours, and do not have any operating characteristics that adversely impact residential uses. Stand-alone residential development is allowed as a nonconforming use, where legally established prior to the adoption of the ordinance codifying these regulations, and the provisions in Article 5 (Nonconformities) shall not apply. The overall design intent of the CMU zoning district is to provide for an eclectic and compatible mix of residential, live/work units, and small-scale commercial businesses. Creativity in design using a wide variety of colors, building materials, and roof features is encouraged.
- C. Broadway Mixed-Use Zoning District Purpose. The purpose of the Broadway Mixed-Use (BRMU) zoning district is to implement the General Plan Broadway Mixed-Use designation by establishing a mixed-use corridor that maintains commercial uses and pedestrian activity along the Broadway frontage. To provide for a rich pedestrian experience, the primary ground floor uses shall be retail and service oriented, with residential uses limited to upper floors and office uses generally ancillary to other commercial uses.
- D. North Rollins Road Mixed-Use Zoning District Purpose. The purpose of the North Rollins Road Mixed-Use (RRMU) zoning district is to implement the General Plan Live/Work land use designation by creating and sustaining a new neighborhood of creative live/work units and developments, small-scale support commercial businesses, and other employment uses within easy walking distance to the Millbrae multimodal transit station. Long-established industrial uses are permitted to remain as conforming uses, provided they comply with all applicable standards and operational conditions. The overall design intent of the RRMU zoning district is to provide for an eclectic mix of residential, live/work, commercial, and light industrial development that has an industrial and contemporary look in terms of materials used, architectural styles, and building forms.
- E. North Burlingame Mixed-Use Zoning District Purpose. The purpose of the North Burlingame Mixed-Use (NBMU) zoning district is to implement the General Plan North Burlingame Mixed-Use designation by providing a distinct defining area at the City's north gateway on El Camino Real, with housing and complementary commercial and office uses at urban-level intensities, and that takes advantage of the adjacent multimodal transit center. This transit-oriented development district accommodates housing at progressively higher densities based on the level of community benefits provided, with the goal of ensuring that new development adds value for all in the City.

(Ord. 2000 § 2, (2021))

§ 25.14.020. Land Use Regulations.

- A. Allowed Uses. Table 25.14-1 (Mixed-Use Zoning Districts Use Regulations) indicates the uses allowed within each mixed-use zoning district and any permits required to establish the use, pursuant to Article 6 (Permit Processing Procedures). Land uses are defined in Article 8 (Definitions). Uses defined in Article 8 and not listed in Table 25.14-1 are prohibited.
- B. Director Determination. Land uses are defined in Article 8 (Definitions). In cases where a specific land use or activity is not defined, the Director shall assign the land use or activity to a classification that is substantially similar in character. Land uses not listed in the table or not found to be substantially similar to the land uses listed in the table are prohibited.
- C. Specific Use Regulations. Where the last column in Table 25.14-1 (Mixed-Use Zoning Districts Use Regulations) includes a section, subsection, or chapter number, the regulations in the referenced section, subsection, or division shall apply to the use.
- D. Airport Land Use Compatibility. Uses must comply with Safety Compatibility Policies SP-1 through SP-3 of the Comprehensive Airport Land Use Compatibility Plan for the Environs of San Francisco International Airport (ALUCP) including Noise/Land Use Compatibility and Safety Compatibility Criteria listed in Tables IV-1 and IV-2. Some uses listed in Table 25.14-1 (Mixed-Use Zoning Districts Use Regulations) may be incompatible in safety zones. Refer to ALUCP Exhibit IV-9 for a map of the safety compatibility zones.

Table 25.14-1: Mixed-Use Zoning Districts Use Regulations

P Permitted	TUP Temporary Use Permit				
CUP Conditional Use Permit	A Accessory Use				
MUP Minor Use Permit	— Not Permitted				
Land Use	CMU	BRMU	RRMU	NBMU	Specific Use Regulations
Commercial – Retail					
Eating and Drinking Establishments					
Bars and Taverns	—	P	MUP	MUP	Breweries, Distilleries, and Wineries may be allowed as an accessory use to a restaurant – with alcohol sales. In NBMU, Restaurants – Drive-through only permitted with CUP within area bounded by El Camino Real, Trousdale Drive, Magnolia Drive, and Murchison Drive.
Night Clubs	—	—	—	CUP	
Outdoor Dining	P	P	P	P	
Restaurants	P	P	CUP	CUP	
Restaurants – Drive-through	—	—	—	CUP	
Food and Beverage Sales					
Alcohol Sales Store	—	MUP	—	—	
Convenience Store	P	P	MUP	CUP	
General Market	P	P	P	P	
Nurseries and Garden Centers	—	—	—	—	
Retail Sales					
General	P	P	P	P	No outdoor storage or sales permitted in conjunction with any permitted use, except for permitted temporary sales.
Large Format	—	—	—	—	

Table 25.14-1: Mixed-Use Zoning Districts Use Regulations

P Permitted	TUP Temporary Use Permit				
CUP Conditional Use Permit	A Accessory Use				
MUP Minor Use Permit	— Not Permitted				
Land Use	CMU	BRMU	RRMU	NBMU	Specific Use Regulations
Specialized	CUP	CUP	CUP	CUP	
Vehicle Fuel Sales and Accessory Service	CUP	—	—	CUP	
Vehicle Sales					
Auto and Light Truck	—	—	—	—	
Heavy Equipment Sales (and Rentals)	—	—	—	—	
Commercial – Services and Recreation					
Animal Care Services					
Boarding/Kennels	—	—	—	—	
Pet Hotels	—	—	—	—	
Grooming	P	P	P	P	No overnight animal stays permitted.
Veterinarian	P	P	MUP	MUP	
Banks and Financial Institutions	P	P	P	P	
Check Cashing and Pay Day Loan Establishments	—	—	—	—	
Commercial Recreation – Large Scale	—	—	CUP	CUP	
Commercial Recreation – Small Scale	MUP	MUP	MUP	MUP	
Day Care Centers	MUP	MUP	MUP	MUP	See Section 25.48.090 SFO Safety Compatibility Zone 3: Commercial facilities defined in accordance with Health and Safety Code, Section 1596.70, et seq., and licensed to serve 15 or more children not allowed. Family day care homes and noncommercial employer-sponsored facilities ancillary to place of business allowed with a CUP.

Table 25.14-1: Mixed-Use Zoning Districts Use Regulations

P Permitted	TUP Temporary Use Permit				
CUP Conditional Use Permit	A Accessory Use				
MUP Minor Use Permit	— Not Permitted				
Land Use	CMU	BRMU	RRMU	NBMU	Specific Use Regulations
					SFO Safety Compatibility Zone 2: Commercial facilities defined in accordance with Health and Safety Code, Section 1596.70, et seq., and licensed to serve 15 or more children not allowed. Family day care homes and noncommercial employer-sponsored facilities ancillary to place of business not allowed.
Food Preparation (catering)	MUP	A	MUP	MUP	
Funeral Services and Cemeteries	—	—	—	—	
Office – Co-Working	P	P	P	P	
Office – Medical or Dental	P	P	CUP	P	In CMU and BRMU, permitted on upper stories; CUP for ground floor. In RRMU, limited to 5,000 sq. ft.
Office – Professional	P	P	P	P	
Office – Research and Development	P	—	P	MUP	
Personal Services – General	P	P	P	P	
Personal Services – Specialized	CUP	CUP	CUP	CUP	See Section 25.48.230
Studios – Arts	P	P	P	P	
Theaters – Live	—	CUP	CUP	CUP	SFO Safety Compatibility Zone 2: Facilities seating more than 300 people not allowed.
Theaters – Movie or similar	—	—	CUP	CUP	SFO Safety Compatibility Zone 2: Facilities seating more than 300 people not allowed.
Educational Services					

Table 25.14-1: Mixed-Use Zoning Districts Use Regulations

P Permitted	TUP Temporary Use Permit				
CUP Conditional Use Permit	A Accessory Use				
MUP Minor Use Permit	— Not Permitted				
Land Use	CMU	BRMU	RRMU	NBMU	Specific Use Regulations
Schools, Primary and Secondary	CUP	—	CUP	CUP	Public and private schools serving preschool through grade 12 not allowed in RRMU or NBMU.
Trade Schools	—	—	—	—	
Tutoring and Educational Services	P	P	CUP	CUP	
Industry, Manufacturing and Processing, Warehousing, and Wholesaling Uses					
Breweries, Wineries, and Distilleries	MUP	MUP	MUP	MUP	See Section 25.48.250 (Tasting Rooms as an Accessory Use).
Food Processing and Production	—	—	CUP	—	
Laboratories/Research and Development	—	—	P	P	SFO Safety Compatibility Zone 3: CUP required if use entails hazardous materials. Biosafety Level 3 and 4 facilities not allowed. SFO Safety Compatibility Zone 2: Not allowed if use entails hazardous materials.
Light Industrial	—	—	MUP	—	
Personal Storage	—	—	CUP	—	
Recycling facilities					
Light Processing	—	—	MUP	—	In NBMU, Small Collection recycling facility only permitted with CUP within area bounded by El Camino Real, Trousdale Drive, Magnolia Drive and Murchison Drive. See Section 25.48.200
Reverse Vending Machine(s)	—	—	MUP	—	
Small Collection	—	—	CUP	MUP	
Vehicle Services and Repair					

Table 25.14-1: Mixed-Use Zoning Districts Use Regulations

P Permitted	TUP Temporary Use Permit				
CUP Conditional Use Permit	A Accessory Use				
MUP Minor Use Permit	— Not Permitted				
Land Use	CMU	BRMU	RRMU	NBMU	Specific Use Regulations
Major (Major Repair/Body Work)	CUP	—	—	—	
Minor (Minor Repair/Maintenance)	CUP	—	—	—	
Vehicle Rental	A	A	—	A	
Car Wash	—	—	—	—	
Warehousing/Logistics	—	—	CUP	—	
Wholesaling	—	—	A	—	Accessory to a permitted industrial or live/work use.
Lodging					
Extended Stay Hotels	—	—	—	—	
Hostels	—	—	—	—	
Hotels and Motels	CUP	CUP	—	CUP	In CMU, only permitted if less than 20 rooms.
Mixed Uses					
Mixed-Use Developments	P	P	P	P	With individual specific uses subject to land use regulatory requirements set forth in this table.
Public and Quasi-Public Uses					
Assembly Facilities					
Community Assembly Facility	—	—	CUP	—	SFO Safety Compatibility Zone 2: Facilities seating more than 300 people not allowed.
Religious Assembly Facility	CUP	—	CUP	CUP	SFO Safety Compatibility Zone 2: Facilities seating more than 300 people not allowed.
Community Open Space	P	P	P	P	
Emergency Shelters – Permanent	—	—	P	—	See Section 25.48.100
Emergency Shelters – Temporary	A	—	A	A	See Section 25.48.110

Table 25.14-1: Mixed-Use Zoning Districts Use Regulations

P Permitted	TUP Temporary Use Permit				
CUP Conditional Use Permit	A Accessory Use				
MUP Minor Use Permit	— Not Permitted				
Land Use	CMU	BRMU	RRMU	NBMU	Specific Use Regulations
Government Buildings and Facilities	P	P	P	P	
Hospitals	—	—	—	—	
Low Barrier Navigation Center	P	P	P	P	See Section 25.48.170
Medical Clinics	P	—	CUP	CUP	
Park and Recreation Facilities, Public	P	P	P	P	
Residential Uses					
Caretaker Quarters	—	—	A	—	
Communal Housing	P	P	P	P	
Elderly and Long-Term Care	—	—	CUP	CUP	Nursing homes not allowed in RRMU or NBMU.
Family Day Care – Small	P	P	P	P	
Family Day Care – Large	MUP	MUP	MUP	MUP	
Live/Work	P	P	P	—	Live/Work not permitted on ground floor on Broadway or California Drive. See Section 25.48.150
Single-Unit and Two-Unit Dwellings	—	—	—	—	New single-and two-unit dwellings not permitted. See Section 25.56.020.B for expansion of existing uses.
Multi-Unit Dwellings	P	P	P	P	Multi-unit dwellings not permitted on ground floor in BRMU.
Residential Care Facilities					
Limited	P	—	P	P	
General	CUP	—	CUP	CUP	See Section 25.48.220
Senior	CUP	—	CUP	CUP	See Section 25.48.220

Table 25.14-1: Mixed-Use Zoning Districts Use Regulations

P Permitted	TUP Temporary Use Permit			
CUP Conditional Use Permit	A Accessory Use			
MUP Minor Use Permit	— Not Permitted			
Land Use	CMU	BRMU	RRMU	NBMU
Supportive and Transitional Housing				
Transportation, Communication, and Infrastructure Uses				
Air Courier, Terminal, and Freight Services	—	—	—	—
Park and Fly, Accessory	—	—	—	—
Park and Fly, Primary Use	—	—	—	—
Parking Facility, Accessory	A	A	A	A
Parking Facility, Primary Use	—	—	—	—
Publicly Owned and Operated Drainage Facilities and Improvements	—	—	—	—
Transit Facilities	—	—	—	CUP
Utility Structures and Service Facilities	CUP	CUP	MUP	MUP
Vehicle Storage	—	—	—	—
Wireless Telecommunication Facilities				
Specific and Temporary Uses				
Adult Entertainment Uses	—	—	—	—
Donation Box – Outdoor	—	—	—	—
Drive-Through or Drive-Up Facilities	—	—	—	CUP
Outdoor Storage	—	—	CUP	—

Table 25.14-1: Mixed-Use Zoning Districts Use Regulations

P Permitted	TUP Temporary Use Permit				
CUP Conditional Use Permit	A Accessory Use				
MUP Minor Use Permit	— Not Permitted				
Land Use	CMU	BRMU	RRMU	NBMU	Specific Use Regulations
Outdoor Temporary and/or Seasonal Sales	TUP	TUP	TUP	TUP	See Section 25.48.190
Temporary Uses	TUP	TUP	TUP	TUP	See Section 25.48.260
Urban Agriculture	P	P	P	P	See Section 25.48.290

E. Conditionally Allowed Uses in Drainage Rights-of-Way in RRMU Zoning District.

1. Supplemental Parking. Supplemental parking for permitted or conditionally permitted uses in the RRMU zoning district may be allowed within drainage rights-of-way with a CUP.
2. Storage of Operable Vehicles. Storage of operable vehicles may be allowed in the RRMU zoning district only within drainage rights-of-way and subject to a CUP and the following conditions:
 - a. Vehicles must be in operable condition and must be managed at all times by a single, responsible person with access to the keys for all vehicles.
 - b. Vehicles shall be moved by appointment only and shall not be moved during a.m. and p.m. peak hour traffic periods as defined by the City Engineer.
 - c. Site size must be a minimum of 0.7 acres.
 - d. Site must have approved access to a public street.
 - e. No customers shall visit the site.
 - f. Recreational vehicles and boats shall not be moved during a.m. and p.m. peak hour traffic periods as defined by the City Traffic Engineer.
3. Fencing. Fences installed in drainage rights-of-way are subject to a CUP.

(Ord. 2000 § 2, (2021))

§ 25.14.030. RRMU Development Standards.

- A. Development Standards Generally. The general property development standards for the RRMU zoning district shall be as set forth in Table 25.14-2 (RRMU Development Standards).

Table 25.14-2: RRMU Development Standards

Development Standards	Live/Work, Residential, Mixed-Use and Commercial Development				Additional Regulations
	Base Standard (Tier 1)	Increased Intensity (Tier 2)	Maximum Intensity (Tier 3)	Industrial and Institutional Development	
Height – Maximum ¹	40 ft.	55 ft.	80 ft.	50 ft.	See Section 25.14.030.B
Density – Maximum	30 du/ac	50 du/ac	70 du/ac	N/A	Tiers 2 and 3 shall provide community benefits per Section 25.14.050.
Floor Area Ratio – Maximum	0.50	0.75	1.0	1.0; 1.5 with CUP	
Minimum Setbacks					
Front: Mixed-Use Arterial (Rollins Road)	15 ft.			15 ft.	Subject to streetscape frontage standards in Table 25.14-3.
Front: All other streets	10 ft.	10 ft.	15 ft.	15 ft.	

Table 25.14-2: RRMU Development Standards

Development Standards	Live/Work, Residential, Mixed-Use and Commercial Development			Industrial and Institutional Development	Additional Regulations
	Base Standard (Tier 1)	Increased Intensity (Tier 2)	Maximum Intensity (Tier 3)		
Side – Interior	10 ft.			10 ft.	
Side – Street	10 ft.			10 ft.	Subject to streetscape frontage standards in Table 25.14-3
Rear	20 ft.			0 ft. adjacent to industrial use 20 ft. adjacent to all other uses	
Edge Conditions – Minimum	R-3/R-4 upper story side setback standards (see Section 25.10.050.B.2) shall apply to property line(s) with an existing residential use on the abutting property.				
Lot Dimensions – Minimum					
Size	10,000 sq. ft.				
Width at street frontage	100 ft. Residential subdivision: 40 ft.			50 ft.	
Lot Coverage – Maximum	60%			70%	Lot coverage may be increased if additional useable common open space equivalent to the additional lot coverage (in square feet) is provided on a podium-level (non-rooftop) landscaped courtyard or plaza.
Open Space – Minimum (per residential unit)	Live/work units: 100 sq. ft. per unit Multifamily housing or mixed use: 125 sq. ft. per unit			N/A	Pedestrian plaza/public space required by Section 25.14.030.C may count toward up to 50% of the open space requirement. Common open space may include common activity rooms, gyms, pools, and rooftop terraces. See Chapter 25.36.

Table 25.14-2: RRMU Development Standards

Development Standards	Live/Work, Residential, Mixed-Use and Commercial Development			Industrial and Institutional Development	Additional Regulations
	Base Standard (Tier 1)	Increased Intensity (Tier 2)	Maximum Intensity (Tier 3)		
Percent landscape coverage – Minimum	15%	20%	20%	15%	See Chapter 25.36 and Section 25.40.070.D.

- 1 Maximum building heights are also required to comply with Airspace Protection Policies AP-1 through AP-4 of the Comprehensive Airport Land Use Compatibility Plan for the Environs of San Francisco International Airport (ALUCP). This includes determining the need to file Form 7460-1, Notice of Proposed Construction or Alteration, with the FAA for any proposed project that would exceed the FAA notification heights, as shown approximately on ALUCP Exhibit IV-10 and complying with FAA Aeronautical Study Findings. It also includes complying with the maximum compatible building height, which includes all parapets, elevator overruns, etc. of a building, as noted in ALUCP policy AP-3 and depicted in Exhibits IV-17 and IV-18 of the ALUCP.

B. Site Layout.

1. Streetscape.
 - a. Street frontages shall meet the standards set forth in Table 25.14-3 (RRMU Sidewalk Standards).

Table 25.14-3: RRMU Sidewalk Standards

Street Type	Sidewalk Width	7 ft. minimum
Mixed-Use Arterial and Collector (Rollins Road and Adrian Road)	Sidewalk Width	7 ft. minimum
	Amenity/Planter Width	3 ft. minimum
Mixed-Use Access	Sidewalk Width	6 ft. minimum
(Adrian Court, Broderick Road, Guittard Road, Ingold Road)	Amenity/Planter Width	3 ft. minimum
Exceptions	Exceptions to sidewalk and planter widths may be granted to accomodate conflicts with recorded easements, rights-of-way, etc.	

- b. Amenity/Planter Area. The required amenity/planter area (see Table 25.14-3) is additive to required sidewalk widths. The amenity/planter area shall include street trees and may also include plantings, walkways, and other amenities such as benches, bike racks, etc.
2. Location of Parking. Any surface parking facilities shall be located to the side or rear of any proposed project. No more than 33 percent of the site area at the ground level may be used for surface parking facilities.

3. Service and Delivery Areas. Service and loading areas shall be screened from residential areas and integrated with the design of the building. When designing loading facilities adjacent to residential uses, techniques such as block walls, enhanced setbacks, or enclosed loading shall be used to minimize adverse impacts to residents.

C. Required Plazas for Large Sites.

1. Pedestrian Plaza/Public Space. Where total lot area or development site equals 50,000 square feet or greater, a pedestrian plaza or other public open space/gathering space shall be provided that meets the following design criteria:
 - a. Is a minimum of 1,500 square feet in size;
 - b. Has a minimum dimension at least 30 feet on any side;
 - c. Is at least 50 percent open to the sky;
 - d. Is located at ground level with direct pedestrian and ADA access to the adjacent public street;
 - e. Is unenclosed by any wall, fence, gate, or other obstruction across the subject property;
 - f. Is open to the public, without charge, each day of the year, except for temporary closures for necessary maintenance or public safety; and
 - g. Includes at least one gathering space with a fountain or other focal element.
2. Mid-Block Plazas and Paseos. Where blocks (measured from curb face to curb face) are longer than 400 feet, and where a development has more than 300 feet of frontage, at least one plaza, pedestrian pathway or paseo shall be provided perpendicular to the block face. All such plazas and paseos shall meet the following design criteria:
 - a. Be open to the public and remain so during daylight hours;
 - b. Be at least 15 feet wide, and 15 feet deep if a plaza;
 - c. Have a clear line of sight to the back of the paseo, gathering place, or focal element; and
 - d. Be at least 50 percent open to the sky or covered with a transparent material.
- D. Creek Access. Any lot in the RRMU zoning district or within any specific plan with any lot line on Easton, Mills, and El Portal Creeks shall be required to provide, as a part of the on-site landscaping plan, a paved public-access trail along the top of the bank for the portion of the creek bank on the site. The design of the trail shall be compliant with specifications of the Public Works Department. Each such trail segment shall connect directly to the termination of the public access trail segment along the creek bank on each adjacent property.

(Ord. 2000 § 2, (2021))

§ 25.14.040. NBMU Development Standards.

- A. Development Standards Generally. The general property development standards for the NBMU zoning district shall be as set forth in Table 25.14-4 (NBMU Development Standards).

Table 25.14-4: NBMU Development Standards

Development Standards	Live/Work, Residential, Mixed-Use and Commercial Development			Additional Regulations
	Base Standard (Tier 1)	Increased Intensity (Tier 2)	Maximum Intensity (Tier 3)	
Height – Maximum	45 ft.	55 ft.	80 ft. For properties on the east side of El Camino Real, 100 ft.; see additional setback standards below	Maximum heights also established by the Federal Aviation Administration for parcels affected by airport safety zoning districts. Tiers 2 and 3 shall provide community benefits per Section 25.14.040.C.
Density – Maximum	40 du/ac	80 du/ac	140 du/ac	
Floor Area Ratio – Maximum	Office: 0.50 Commercial: 0.25	Office: 1.25 Commercial: 0.50	Office: 2.0 Commercial: 1.0	
Height Special Requirements	Building frontages facing Trousdale Drive (west of El Camino Real), Murchison Drive (west of El Camino Real), Magnolia Drive, Ogden Drive, and Marco Polo Way: a. 35% of the linear frontage above 35 feet must step back a minimum 5 feet, in the form of insets, balconies, or stepbacks, or b. 80% of a building's linear frontage above 55 feet stories must step back a minimum of 10 feet, in the form of insets, balconies, or stepbacks			
Setbacks – Minimum				
El Camino Real Front:	15 ft.			
Mixed-Use Arterial Front (Trousdale Drive, Murchison Drive, California Drive):	10 ft.			
Mixed-Use Collector Front: (Magnolia Drive) and	10 ft.			
Neighborhood Access Front (Ogden Drive, Marco Polo Way)				

Table 25.14-4: NBMU Development Standards

Development Standards	Live/Work, Residential, Mixed-Use and Commercial Development			Additional Regulations
	Base Standard (Tier 1)	Increased Intensity (Tier 2)	Maximum Intensity (Tier 3)	
Side – Interior: El Camino Real, Trousdale Drive, Murchison Drive, California Drive, Ogden Drive, and Marco Polo Way		10 ft.		
Side – Street		10 ft.		
Rear		15 ft. 20 ft. if abutting a lot zoned R-1 or R-2		
Edge Conditions – Minimum	R-3/R-4 upper story side setback standards (see Section 25.10.050.B.2) shall apply to property line(s) with an existing residential use on the abutting property.			
Lot Dimensions – Minimum				
Size	20,000 sq. ft.		Minimum applies to new subdivisions of land; legally established lots of smaller size may be developed consistent with the requirements of this Section 25.14.040.	
Width at street frontage	150 ft.			
Lot Coverage – Maximum	80%		Lot coverage may be increased if additional, usable common open space generally equivalent to the additional lot coverage (in square feet) is provided on a podium-level (non-rooftop) landscaped courtyard or plaza.	
Open Space – Minimum (per residential unit)	100 sq. ft. per unit		Common open space may include common activity rooms, gyms, pools, and rooftop terraces. See Chapter 25.36.	

Table 25.14-4: NBMU Development Standards

Development Standards	Live/Work, Residential, Mixed-Use and Commercial Development			Additional Regulations
	Base Standard (Tier 1)	Increased Intensity (Tier 2)	Maximum Intensity (Tier 3)	
Percent landscape	10% of entire site			See Chapter 25.36, Section 25.40.070.D, and Section
coverage – Minimum				25.14.040.C.

B. Site Layout.

1. Streetscape.

- a. Street frontages shall meet the standards set forth in Table 25.14-5 (NBMU Street Frontage Standards).

Table 25.14-5: NBMU Street Frontage Standards

Street Type	Frontage – Measured from Back of Curb to Building Face	
El Camino Real	Sidewalk Width	6 ft. minimum
	Amenity/Planter Width	4 ft. minimum
Mixed-Use Arterial (Trousdale Drive, Murchison Drive, California Drive)	Sidewalk Width	6 ft. minimum
	Amenity/Planter Width	4 ft. minimum
Mixed-Use Collector (Magnolia Avenue)	Sidewalk Width	5 ft. minimum
	Amenity/Planter Width	5 ft. minimum
Neighborhood Access (Ogden Drive, Marco Polo Drive)	Sidewalk Width	5 ft. minimum
	Amenity/Planter Width	5 ft. minimum
Exceptions	Exceptions to Building Frontage Standards may be granted to accommodate conflicts with recorded easements, rights-of-way, etc.	

- b. Amenity/Planter Area. The required amenity/planter area (see Table 25.14-5) is additive to required sidewalk widths. The amenity/planter area shall include street trees and may also include plantings, walkways, and other amenities such as benches, bike racks, etc.
2. Parking Locations. No at-grade parking shall be visible from El Camino Real.
3. Service and Delivery Areas. Service and loading areas shall be screened from residential areas and integrated with the design of the building. When designing loading facilities adjacent to residential uses, techniques such as block walls, enhanced setbacks, or enclosed loading shall be used to minimize adverse impacts to residents.

C. Landscaping in Front and Street Side Setbacks. Within any required front setback area or side setback area adjacent to a public street, at least 60 percent of the required setback area shall be landscaped to provide a transition to the sidewalk.

(Ord. 2000 § 2, (2021))

§ 25.14.050. Community Benefits for Increased FAR, Density, and Height in NBMU and RRMU Zoning Districts.

A. Purpose and Applicability.

1. Purpose. To provide an incentive for development, and in partnership with the City to provide community benefits that would not otherwise be created, the Planning Commission, through a discretionary review and public hearing process, may grant increased FAR, density, and/or height in return for provision of specific community benefits, as listed below or subsequently identified by the City Council, if doing so is in the City's interest and will help implement the General Plan. A variety of objectives are listed to ensure that proposed project features are appropriate for the site and surroundings, and to allow for a wide range of possible project types.
2. Applicability. A developer may elect to develop consistent with either Tier 1, Tier 2, or Tier 3 development standards. Projects using Tiers 2 or 3 standards shall include a residential component, shall provide community benefits pursuant to this section, and shall require a special permit.

B. Review Authority and Tier Requirements.

1. Planning Commission Approval of Community Benefits Bonuses. The Planning Commission shall be the final Review Authority for an application for Tier 2 or 3 projects.
2. Tier 2 Requirements and Number of Community Benefits. The Planning Commission may approve Tier 2 projects if it determines that the project includes at least two community benefits from subsection C of this section (Community Benefit Objectives).
3. Tier 3 Requirements and Number of Community Benefits. The Planning Commission may approve Tier 3 projects if it determines that the project includes at least three community benefits from subsection C of this section (Community Benefit Objectives).

C. Community Benefit Objectives.

1. Pedestrian Amenities. To effectuate the goal of creating walkable and bikeable environments, the project includes improved pedestrian ways and other paths open to the public that accommodate easy movement across and between properties under separate ownership, beyond minimum requirements.
2. Public Plazas Beyond Minimum. The project includes public plaza(s) that comply with this subsection.
 - a. In RRMU, public plazas or other publicly accessible open spaces that are at least 50 percent larger than the minimum required. In NBMU, the minimum area of any public plaza shall be 2,000 square feet and shall be measured as one single open space.
 - b. The public plaza shall be owned, operated, and maintained by the developer or property manager in accordance with an approved maintenance plan to be reviewed and approved by the Community Development Director.

- c. Each part of the public plaza shall be accessible from other parts of the open space without leaving the open space area.
 - d. The public plaza shall be on the ground level and directly accessible from the sidewalk and be accessible to persons with disabilities.
 - e. The public plaza shall be open to the public, without charge, each day of the year, except for temporary closures for necessary maintenance or public safety.
 - f. At a minimum, the following elements shall be included: trees and landscaping, seating, bicycle racks, trash and recycling receptacles, and signage that include hours of operation.
3. Off-Site Streetscape Improvements. The project includes off-site streetscape improvements and amenities; these provisions do not include improvements along the frontage of a development site that would normally be required. Examples of amenities include:
 - a. Enhanced pedestrian and bicycle-oriented streetscapes.
 - b. Protected bicycle lanes and pedestrian pathways, improved bicycle and pedestrian crossings/signals, bicycle racks/shelters.
 - c. New pedestrian and bicycle connections to transit facilities, neighborhoods, trails, commercial areas, etc.
 - d. Removal of existing pedestrian and bicycle barriers (e.g., dead-ends and cul-de-sacs).
 - e. Upgrading traffic signals to enhance pedestrian and bicycle safety.
 4. Cultural Arts Space. The project includes space for visual arts, performing arts, artist housing, and other activities that support arts and culture.
 5. Historic Preservation (Off-Site). Where no historic resources exist on a site, the project provides for the permanent preservation of a building off site that is listed in the City's inventory of historical resources through the recordation of a historic preservation agreement.
 6. Near Zero Net Energy. The project provides 98 percent of total building energy load measured as kilowatt per square foot through solar panels, wind turbines, or other renewable sources.
 7. Net Zero Water Use. The project provides on-site and/or off-site water usage off-sets to achieve net zero water use. Water usage off-sets may include grey water systems, the retrofit of plumbing fixtures in other buildings, etc.
 8. Publicly Accessible Park Space. Contribution towards the provision of public parks in the North Rollins Road area or North Burlingame Road area, as applicable. Contribution can be in the form of dedication of land, provisions of improvements, or payment of fee in excess of that normally required for parks.
 9. Public Parking Facilities. The project provides publicly accessible parking to serve area-wide parking needs. To qualify, the parking spaces should be permanently available for public use and subject to easements or restrictions acceptable to the City.
 10. Flexible (Miscellaneous) Benefit. The applicant agrees to provide a currently undefined community benefit approved by the Council that is significant and substantially beyond normal requirements. Examples are inclusion of a child care center or community event space in a new

development project, off-site utility infrastructure improvements above and beyond those required to serve the development, additional funding for City programs such as contribution to a local façade improvement program, or subsidy for existing commercial tenants or other local small businesses.

(Ord. 2000 § 2, (2021))

§ 25.14.060. California Drive and Broadway Mixed-Use Zoning Districts.

A. Development Standards Generally.

1. General Development Standards. The general property development standards for the CMU and BRMU zoning districts shall be as set forth in Table 25.14-6 (CMU and BRMU Development Standards).
2. Stand-Alone Residential. Notwithstanding the requirements of Table 25.14-6 (CMU and BRMU Development Standards), legally established stand-alone residential developments shall comply with the development standards for the R-1 zoning district set forth in Chapter 25.10 (Residential Zoning Districts).

Table 25.14-6: CMU and BRMU Development Standards

Development Standards	Standard		Additional Regulations
	CMU	BRMU	
Height – Maximum	35 ft.; 46 ft. with special permit	35 ft.; 46 ft. with special permit	Maximum allowed building height on California Drive south of Oak Grove Avenue is 55 ft. Architectural features exceeding maximum building height allowed with SP (See Section 25.78.050).
Density – Maximum	20 du/ac	50 du/ac	
Floor Area Ratio – Maximum	0.6	2.0	
Minimum Setbacks			
Front	—		
El Camino Real – Minimum Frontage, Street Side, or Rear	N/A	15 ft.	

Table 25.14-6: CMU and BRMU Development Standards

Development Standards	Standard		Additional Regulations
	CMU	BRMU	
Side – Interior	—	—	Where an application fails to comply with upper story setback requirements, upper story setbacks may be adjusted through the design review process based on site-specific circumstances and adjacent land uses, with the goal of achieving façade articulation and consideration of privacy of adjacent uses. In CMU, if adjacent to existing residential, see Edge Conditions requirement below.
Side – Street	5 ft. minimum	—	
Rear	1 st and 2 nd stories: 15 ft. 3 rd story and above: 20 ft.	1 st story: 0 ft. Upper stories: 2 nd story: 10 ft. 3 rd story and above: 15 ft.	
Edge Conditions (adjacent to existing residential uses)	1 st story: 5 ft. Upper stories: 10 ft.	—	
Lot Dimensions – Minimum			
Size	5,000 sq. ft.		
Width at Street Frontage	50 ft.		
Open Space – Minimum (per residential unit)	100 sq. ft. per unit		Common open space may include common activity rooms, gyms, pools, and rooftop terraces. See Chapter 25.36.
Landscaping	See Chapter 25.36.		

B. Site Layout.

1. **Parking Locations.** Parking shall be located to the side or rear of new buildings
2. **Location of Residential Units.** In mixed-use developments, residential units shall not occupy the ground floor within the first 30 feet of floor area, measured from each building face adjacent to the street, unless the Review Authority finds that the project is designed in a manner that a residential ground-floor component enhances the pedestrian environment, such as with live/

work units.

3. Service and Delivery Areas. Service and loading areas shall be screened from residential areas and integrated with the design of the building. Special attention shall be given when designing loading facilities in a location that is proximate to residential uses. Techniques such as block walls, enhanced setbacks, or enclosed loading shall be used to minimize adverse impacts to residents.

(Ord. 2000 § 2, (2021))

§ 25.14.070. Minor Modifications.

Certain minor modifications from development standards are permitted consistent with Section 25.74.020.
(Ord. 2000 § 2, (2021))

§ 25.14.080. Design Review Required.

Design review shall be required pursuant to Chapter 25.68 (Design Review).
(Ord. 2000 § 2, (2021))

**CHAPTER 25.16
DOWNTOWN SPECIFIC PLAN ZONING DISTRICTS (BAC, HMU, MMU, BMU, DAC, CAC,
CAR)**

§ 25.16.010. Purpose and Applicability.

- A. Downtown Specific Plan Zoning Districts Purpose. The Downtown Specific Plan zoning districts are intended to implement the Downtown Specific Plan, build upon the successes of the vibrant Burlingame Avenue commercial area, and implement policies that encourage continued success of the entire Downtown area and its environs and promote land uses that will enliven the area.
- B. Burlingame Avenue Commercial Zoning District Purpose. The Burlingame Avenue Commercial (BAC) zoning district applies to the commercial and retail heart of Downtown Burlingame. The purpose of this zoning district is to encourage and maintain the current mixture of retail, personal service, and restaurant uses that keep the heart of the downtown area lively.
- C. Bayswater Mixed-Use Zoning District Purpose. The Bayswater Mixed-Use (BMU) zoning district is centered on Bayswater Avenue between El Camino Real and Park Road. Development in this zoning district shall be consistent with the existing neighborhood scale of small streets and varied commercial and residential buildings. New development shall maintain the existing pattern at a scale consistent with the adjacent residential areas to serve as a buffer between the downtown commercial district and the residential neighborhoods to the south and east.
- D. Chapin Avenue Commercial Zoning District Purpose. The Chapin Avenue Commercial (CAC) zoning district applies to properties on both sides of Chapin Avenue between Primrose Road and El Camino Real. The area is characterized by a concentration of financial institutions and real estate and other office uses.
- E. California Drive Auto Row Zoning District Purpose. The California Drive Auto Row (CAR) zoning district applies to properties along California Drive between Burlingame and Peninsula Avenues, which has long been known as Burlingame's "Auto Row." Automobile-related uses dominate in this area. Non-auto uses are allowed only where uses clearly can be identified as compatible with the area's traditional focus on automobile businesses.
- F. Donnelly Avenue Commercial Zoning District Purpose. The Donnelly Avenue Commercial (DAC) zoning district applies to properties immediately north of Burlingame Avenue and is an extension of the primary commercial area. The purpose of this zoning district is to encourage and maintain a mix of retail, personal service, and office uses. Legally established existing residential uses may remain, but new residential uses are not allowed.
- G. Howard Mixed-Use Zoning District Purpose. The Howard Mixed-Use (HMU) zoning district applies to properties south of Burlingame Avenue in Downtown Burlingame. The streets that connect Howard Avenue with Burlingame Avenue act as connectors with the commercial uses along those streets, strengthening the relationship between Burlingame and Howard Avenues. While ground floor retail represents the predominant use, housing can be established on upper levels and office uses that operate beyond a typical weekday schedule may be permitted subject to discretionary review.
- H. Myrtle Road Mixed-Use Zoning District Purpose. The Myrtle Road Mixed-Use (MMU) zoning district applies to properties centered on Myrtle Road and East Lane, east of the railroad tracks. New development shall maintain the existing pattern at a scale consistent with the adjacent residential areas, to serve as a buffer between the downtown commercial district and the residential neighborhoods to the east.

(Ord. 2000 § 2, (2021))

§ 25.16.020. Land Use Regulations.

- A. Allowed Uses. Table 25.16-1 (Downtown Zoning Districts Use Regulations) indicates the uses allowed within each downtown zoning district and any permits required to establish the use, pursuant to Article 6 (Permit Processing Procedures). Land uses are defined in Article 8 (Definitions). Uses defined in Article 8 and not listed in Table 25.16-1 are prohibited.
- B. Director Determination. Land uses are defined in Article 8 (Definitions). In cases where a specific land use or activity is not defined, the Director shall assign the land use or activity to a classification that is substantially similar in character. Land uses not listed in the table or not found to be substantially similar to the land uses listed in the table are prohibited.
- C. Specific Use Regulations. Where the last column in Table 25.16-1 (Downtown Zoning Districts Use Regulations) includes a section, subsection, or chapter number, the regulations in the referenced section, subsection, or division shall apply to the use.

Table 25.16-1: Downtown Zoning Districts Use Regulations

P Permitted	CUP Conditional Use Permit	MUP Minor Use Permit	TUP Temporary Use Permit	A Accessory Use	— Not Permitted				
Land Use	BAC	BMU	CAC	CAR	DAC	HMU	MMU	Specific Use Regulations	
Commercial – Retail									
Eating and Drinking Establishments									
Bars and Taverns	P	—	P	CUP	P	P	—	Breweries, Distilleries, and Wineries may be allowed as an accessory use to a restaurant.	
Night Clubs	CUP	—	—	—	—	—	—		
Outdoor Dining	P	—	P	P	P	P	P		
Restaurants	P	—	P	P	P	P	—		
Restaurants – Drive-through	—	—	—	—	—	—	—		
Food and Beverage Sales									
Alcohol Sales Store	P	—	P	MUP	P	P	MUP	Any food or beverage sales establishment that includes the sale of alcohol shall require a CUP.	
Convenience Store	—	—	—	—	—	—	—		
General Market	MUP	—	P	—	P	CUP	P		
Nurseries and Garden Centers	—	—	—	—	—	—	—		
Retail Sales									
General	P	—	P	MUP	P	P	P	In CAR, retail other than auto related requires MUP. In MMU, 6,000 sq. ft. maximum size.	
Limited Corner Store Retail	—	CUP	—	—	—	—	—	See Section 25.48.160	
Large Format	—	—	—	—	—	—	—		
Specialized	MUP	MUP	MUP	—	MUP	MUP	MUP		
Vehicle Fuel Sales and Accessory Service	—	—	—	—	—	—	—		
Vehicle Sales									

Table 25.16-1: Downtown Zoning Districts Use Regulations

P Permitted	CUP Conditional Use Permit	MUP Minor Use Permit	TUP Temporary Use Permit	A Accessory Use	— Not Permitted				
Land Use	BAC	BMU	CAC	CAR	DAC	HMU	MMU	Specific Use Regulations	
Auto and Light Truck	—	—	—	P	—	—	—		
Heavy Equipment Rental and Sales	—	—	—	—	—	—	—		
Commercial – Services and Recreation									
Animal Care Services									
Boarding/Kennels	—	—	—	—	—	—	—		
Grooming	P	P	—	P	P	—	—	No overnight animal stays permitted.	
Pet Hotels	—	—	—	—	—	—	—		
Veterinarian	—	P	—	—	—	P	—		
Banks and Financial Institutions	P	P	P	—	P	P	CUP	Not allowed on ground floor in BAC or MMU.	
Business Services	P	P	P	MUP	P	P	P	In CAR, MUP for services other than auto related	
Check Cashing and Pay Day Loan Establishments	—	—	—	—	—	—	—		
Commercial Recreation – Large Scale	CUP	CUP	CUP	—	CUP	CUP		Where permitted, must have active visible uses with clear storefront glass.	
Commercial Recreation – Small Scale	CUP	CUP	CUP	—	CUP	P	P		
Day Care Center	MUP	MUP	MUP	—	MUP	MUP	MUP	See Section 25.48.090	
Food Preparation (catering)	—	—	—	—	—	—	—		
Funeral Services and Cemeteries	—	—	—	—	—	—	—		

Table 25.16-1: Downtown Zoning Districts Use Regulations

P Permitted	CUP Conditional Use Permit	MUP Minor Use Permit	TUP Temporary Use Permit	A Accessory Use	— Not Permitted				
Land Use		BAC	BMU	CAC	CAR	DAC	HMU	MMU	Specific Use Regulations
Office – Co-Working		P	P	P	P; CUP for ground floor	P	P	P	Above and below the first floor only in BAC
Office – Medical or Dental		P	CUP	P	—	P	P	CUP	Above and below the first floor only in BAC and HMU
Office – Professional		P	P	P	P; CUP for ground floor	P	P	P	In BAC and HMU: Above and below the first floor only and behind a minimum 30-foot depth of commercial retail space on ground floor
Office – Research and Development		—	—	—	—	—	—	—	
Personal Services – General		P	P	P	MUP	P	P	P	In CAR, MUP for other than auto related. In BAC, dry cleaning requires an MUP.
Personal Services – Specialized		MUP	MUP	CUP	MUP	MUP	MUP	MUP	
Studios – Arts		P	P	P	CUP	P	P	P	
Theaters – Live		CUP	—	CUP	—	CUP	CUP	—	
Theaters – Movie or similar		—	—	—	—	—	—	—	
Educational Services									
Schools – Primary and Secondary, Private		MUP	MUP	—	—	—	MUP	—	Above or below ground floor only
Trade Schools		MUP	MUP	MUP	—	MUP	MUP	—	Above or below first floor only and operate outside of peak retail hours

Table 25.16-1: Downtown Zoning Districts Use Regulations

P Permitted	CUP Conditional Use Permit	MUP Minor Use Permit	TUP Temporary Use Permit	A Accessory Use	— Not Permitted				
Land Use	BAC	BMU	CAC	CAR	DAC	HMU	MMU	Specific Use Regulations	
Tutoring and Educational Services	P	P	P	—	P	P	P	In CAC, DAC, and HMU, accessory only to retail or service use. In BAC and BMU, above or below first floor only and operate outside of peak retail hours	
Industry, Manufacturing and Processing, Warehousing, and Wholesaling Uses									
Breweries, Distilleries, Wineries	—	—	—	—	—	—	—	See Section 25.48.250 (Tasting Rooms).	
Cannabis Processing, Production, or any other similar use	—	—	—	—	—	—	—		
Food Processing and Production	—	—	—	—	—	—	—		
Laboratories/Research and Development	—	—	—	—	—	—	—		
Light Industrial	—	—	—	—	—	—	—		
Personal Storage	—	—	—	—	—	—	—		
Recycling Facilities									
Light Processing	—	—	—	—	—	—	—		
Reverse Vending Machine(s)	—	—	—	—	—	—	—		
Small Collection	—	—	—	—	—	—	—		
Vehicle Services and Repair									
Major (Major Repair/Body Work)	—	—	—	—	—	—	—		
Minor (Minor Repair/Maintenance)	—	—	—	—	—	—	P	Less than 6,000 sq. ft.	
Vehicle Rental	—	—	—	CUP	—	—	—	Maximum of 50 vehicles; all parking must be provided on site.	

Table 25.16-1: Downtown Zoning Districts Use Regulations

P Permitted	CUP Conditional Use Permit	MUP Minor Use Permit	TUP Temporary Use Permit	A Accessory Use	— Not Permitted				
Land Use	BAC	BMU	CAC	CAR	DAC	HMU	MMU	Specific Use Regulations	
Car Wash	—	—	—	—	—	—	—		
Warehousing/Logistics	—	—	—	—	—	—	—		
Wholesaling	—	—	—	—	—	—	—		
Lodging									
Extended Stay Hotels	—	—	—	—	—	—	—		
Hostels	—	—	—	—	—	—	—		
Hotels and Motels	P	—	P	CUP	P	P	—		
Mixed Uses									
Mixed-Use Developments	P	P	P	P	P	P	P	With individual specific uses subject to land use regulatory requirements set forth in this table.	
Public and Quasi-Public Uses									
Assembly Facilities									
Community Assembly Facility	—	—	—	—	—	CUP	—		
Religious Assembly Facility	—	CUP	—	—	—	CUP	—	Incidental uses such as instruction and temporary homeless shelters allowed.	
Community Open Space	P	P	P	P	P	P	P		
Emergency Shelters – Permanent	—	—	—	—	—	—	—	See Section 25.48.100 (Emergency Shelters – Permanent)	
Emergency Shelters – Temporary	—	CUP	—	—	—	—	—	See Section 25.48.110 (Emergency Shelters – Temporary)	
Government Buildings and Facilities	P	P	P	P	P	P	P		
Hospitals	—	—	—	—	—	—	—		

Table 25.16-1: Downtown Zoning Districts Use Regulations

P Permitted	CUP Conditional Use Permit	MUP Minor Use Permit	TUP Temporary Use Permit	A Accessory Use	— Not Permitted				
Land Use		BAC	BMU	CAC	CAR	DAC	HMU	MMU	Specific Use Regulations
Low Barrier Navigation Center		—	P	—	P	—	P	P	Above first floor only. See Section 25.48.170
Medical Clinics		CUP	CUP	P	—	P	P	CUP	In BAC, above and below ground floor only
Park and Recreation Facilities, Public		P	P	P	P	P	P	P	
Residential Uses									
Communal Housing		—	CUP	—	CUP	—	CUP	CUP	
Elderly and Long-Term Care		—	CUP	—	—	—	CUP	CUP	
Family Day Care – Small		—	P	—	P	—	P	P	
Family Day Care – Large		—	P	—	P	—	P	P	
Live/Work		—	P	—	P	—	P	CUP	Average maximum unit size shall be 1,250 sq. ft. Above first floor only in CAR, DAC and HMU zones. In the DAC zone, residential uses are permitted only on north side of Donnelly Ave. and on parcels that have sole frontage on Donnelly Ave.
Multi-Unit Dwellings		—	P	—	P	P	P	P	
Residential Care									
Limited		—	P	—	P	P	P	P	Section 25.48.220
General		—	CUP	—	CUP	—	CUP	CUP	Section 25.48.220
Senior		—	CUP	—	CUP	—	CUP	CUP	Section 25.48.220
Supportive and Transitional Housing		—	P	—	P	P	P	P	See Section 25.48.240

Table 25.16-1: Downtown Zoning Districts Use Regulations

P Permitted	CUP Conditional Use Permit	MUP Minor Use Permit	TUP Temporary Use Permit	A Accessory Use	— Not Permitted				
Land Use	BAC	BMU	CAC	CAR	DAC	HMU	MMU	Specific Use Regulations	
Transportation, Communication, and Infrastructure Uses									
Air Courier, Terminal, and Freight, Services	—	—	—	—	—	—	—		
Park and Fly, Accessory	—	—	—	—	—	—	—		
Park and Fly, Primary Use	—	—	—	—	—	—	—		
Parking Facility, Accessory Use	P	P	P	P	P	P	P		
Parking Facility, Primary Use	MUP	MUP	MUP	MUP	MUP	MUP	MUP		
Transit Facilities	—	—	—	—	—	—	—		
Utility Structures and Service Facilities, Small	MUP	MUP	MUP	MUP	MUP	MUP	MUP		
Utility Structures and Service Facilities, Large	—	—	—	—	—	—	—		
Vehicle Storage	—	—	—	—	—	—	—		
Wireless Telecommunication Facilities	See Section 25.48.300								
Specific and Temporary Uses									
Adult Business Uses	—	—	—	—	—	—	—		
Donation Box – Outdoor	—	—	—	—	—	—	—		
Drive-Through or Drive-Up Facilities	—	—	A	—	—	—	—	Only when associated with permitted use	
Outdoor Storage	—	—	—	—	—	—	—		
Outdoor Temporary and/or Seasonal Sales	TUP	TUP	TUP	TUP	TUP	TUP	TUP	See Section 25.48.190	
Temporary Uses	TUP	TUP	TUP	TUP	TUP	TUP	TUP	See Section 25.48.260	
Urban Agriculture	P	P	P	P	P	P	P	See Section 25.46.290	

City of Burlingame, CA

§ 25.16.020

BURLINGAME CODE

§ 25.16.020

(Ord. 2000 § 2, (2021))

§ 25.16.030. Development Standards.

Development projects in Downtown zoning districts shall comply with the development standards set forth in Table 25.16-2 (Development Standards for Downtown Zoning Districts).

Table 25.16-2: Development Standards for Downtown Zoning Districts

Development Standards	BAC	BMU	CAC	CAR	DAC	HMU	MMU	Additional Regulations
Height – Maximum	35 ft. (55 ft. with SP)	35 ft. (55 ft. with SP)	35 ft. (55 ft. with SP)	35 ft. (55 ft. with SP)	35 ft. (55 ft. with SP)	55 ft.	35 ft. (45 ft. with SP)	Architectural features exceeding maximum building height allowed with SP (See Section 25.78.050).
Density – Maximum	—	—	—	—	—	—	—	
Floor Area Ratio – Maximum	—	—	—	—	—	—	—	
Ground Floor Ceiling Height – Minimum	12 ft.	—	12 ft.	12 ft.	12 ft.	12 ft.	—	
Minimum Setbacks								
Front Setback	—	10 ft.	—	—	—	—	10 ft.	
El Camino Real – Minimum Frontage, Street Side, or Rear	10 ft.	20 ft.	10 ft.	N/A	N/A	10 ft.	N/A	
Side – Interior	—	—	—	—	—	—	—	
Side – Street	—	—	10 ft.	—	—	—	10 ft.	
Rear	—	20 ft.	1 st story: 0 ft. Upper stories: 20 ft.	1 st story: 0 ft. Upper stories: 20 ft.	1 st story: 0 ft. Upper stories: 20 ft.	1 st story: 0 ft. Upper stories: 20 ft.	20 ft.	In BMU, CAC, CAR, DAC and HMU Districts, rear setback requirement shall apply only when there is an existing residential use on the abutting rear property line.
Edge Conditions	R-3/R-4 upper story side setback standards (see Section 25.10.050.B.2) shall apply to property line(s) with an existing residential use on the abutting property.							Does not apply to the BAC zone
Lot Coverage – Maximum	—	75%	—	—	—	—	75%	
Lot Dimensions – Minimum								
Size	5,000 sq. ft.							
Width at street frontage	50 ft.							

Table 25.16-2: Development Standards for Downtown Zoning Districts

Development Standards	BAC	BMU	CAC	CAR	DAC	HMU	MMU	Additional Regulations
Open Space – Minimum(per residential unit in multifamily, mixed use, or live/work)	—	100 sq. ft. per unit	—	100 sq. ft. per unit	Common open space may include common activity rooms, gyms, pools, and rooftop terraces.			
Minimum Landscaping	—	10% of front setback	—	—	—	—	10% of front setback	See Chapter 25.36

(Ord. 2000 § 2, (2021))

§ 25.16.040. Additional Regulations.

- A. Design Standards. See the Downtown Specific Plan for design standards, guidelines, and additional regulations.
- B. Food Establishments in BAC. All food establishments in the BAC zoning district shall comply with the following:
 - 1. Provide trash receptacle(s) at location(s) and of a design selected by the City.
 - 2. Provide litter control along all frontages of the business and within 50 feet of all frontages of the business.
- C. Minor Modifications. Certain minor modifications from development standards are permitted consistent with Section 25.74.020.

(Ord. 2000 § 2, (2021))

**CHAPTER 25.18
PUBLIC/INSTITUTIONAL, PARKS AND RECREATION, AND TIDAL PLAN/BAY ZONING
DISTRICTS (P-I, P-R, TPB)**

§ 25.18.010. Purpose and Applicability.

- A. Public and Open Space Zoning Districts Purpose. These zoning districts are established to provide areas designated for public facilities, parks and open spaces, and baylands in the City.
- B. Public/Institutional Zoning District Purpose. The Public/Institutional (PI) zoning district is intended to accommodate public, semi-public, and institutional uses, including, but not limited to, government buildings, educational and cultural facilities, health care uses and hospitals, unique private institutional uses, utilities infrastructure and easements, and rail corridors, lines, and ancillary uses including commuter parking areas. Expansion or development of such facilities should be sensitive to the surrounding uses, particularly when development is adjacent to residential neighborhoods. This zoning district implements the General Plan Public/Institutional designation.
- C. Parks and Recreation Zoning District Purpose. The Parks and Recreation (PR) zoning district is intended to provide areas for regional parks, community and neighborhood parks, and special use facilities such as community centers, golf courses, and trails that accommodate active recreation activities. This zoning district implements the General Plan Parks and Recreation designation.
- D. Tidal Plain/Bay Zoning District Purpose. The Tidal Plain/Bay (TPB) zoning district is intended to regulate areas within the waters in the San Francisco Bay and other waters subject to bay tidal influences. The TPB zoning district provides for open space; proper treatment of storm and sanitary drainage; and to prevent structures of such height as may create hazards to air transportation and otherwise to guard the health, safety and general welfare of the people. No development is permitted except as authorized by State law.

(Ord. 2000 § 2, (2021))

§ 25.18.020. Land Use Regulations.

- A. Allowed Uses. Table 25.18-1 (Public/Institutional, Parks and Recreation, and Tidal Plan/Bay Zoning Districts Use Regulations) indicates the uses allowed within each residential zoning district and any permits required to establish the use, pursuant to Article 6 (Permit Processing Procedures). Uses defined in Article 8 (Definitions) and not listed in Table 25.18-1 are prohibited.
- B. Director Determination. Land uses are defined in Article 8 (Definitions). In cases where a specific land use or activity is not defined, the Director shall assign the land use or activity to a classification that is substantially similar in character. Land uses not listed in the table or not found to be substantially similar to the land uses listed in the table are prohibited.
- C. Specific Use Regulations. Where the last column in Table 25.18-1 (Public/Institutional, Parks and Recreation, and Tidal Plan/Bay Zoning Districts Use Regulations) includes a section, subsection, or chapter number, the regulations in the referenced section, subsection, or division shall apply to the use.

Table 25.18-1: Public/Institutional, Parks and Recreation, and Tidal Plan/Bay Zoning Districts Use Regulations

P Permitted	CUP Conditional Use Permit	MUP Minor Use Permit	TUP Temporary Use Permit	A Accessory Use	— Not Permitted
Land Use	PI	PR	TPB	Specific Use Regulations	
Public and Quasi-Public					
Government Facilities	P	—	—		
Hospitals	CUP	—	—		
Medical Clinics	CUP	—	—		
Office – Professional	P	—	—	Limited to offices of government agencies only. CUP if a non-governmental agency.	
Park and Recreation Facilities, Public	P	P	P		
Open Space and Conservation Uses	P	P	P		
Schools, Public	P	—	—		
Schools, Private	CUP	—	—		
Other Uses					
Rail and Public Transit Facilities	P	—	—		
Parking Facility, Accessory Use	A	A	A		
Parking Facility, Primary Use	P	P	—		
Urban Agriculture	P	P	P	See Section 25.48.290	
Utility Structures and Service Facilities	P	P	C	Allowed only on City-owned properties and public rights-of-way.	
Vehicle Storage	P	P	—		
Wireless Communication Facilities		See Section 25.48.300			

(Ord. 2000 § 2, (2021))

§ 25.18.030. Development Standards.

Development in these zoning districts is generally under the purview of a governmental agency or quasi-public organization. Generally, development standards are determined on a case-by-case basis as part of the public review process by that governmental agency or as part of the conditional use permit process.

Table 25.18-2: Public/Institutional, Parks and Recreation, and Tidal Plan/Bay Zoning Districts Development Standards

Development Standard	PI	PR	Additional Regulations
Building Height – Maximum	35 ft.	N/A	
Setbacks			Deviations to the development standards may be approved as part of conditional use permit
Front	20 ft.	N/A	
Interior Side and Rear	20 ft.	N/A	
Corner Lot – Street Side	20 ft.	N/A	
Floor Area Ratio – Maximum			
Government, Education, Cultural Facilities	1.5	N/A	
Hospitals	3.0	N/A	

(Ord. 2000 § 2, (2021))

§ 25.18.040. Additional Regulations—Setbacks and Public Access from San Francisco Bay and its Estuaries.

- A. Setback. Public access shall be maintained and developed based on the City-adopted and Bay Conservation and Development Commission-approved public access guidelines for Burlingame based on the applicable water frontage as follows:
 - 1. On San Francisco Bay. An average setback of 75 feet of the lot (or as may otherwise be required by the Bay Conservation and Development Commission) as measured from the shoreline as defined by the Bay Conservation and Development Commission; in no case shall the area as measured from the top of bank be less than the minimum width for the Bay Trail as required by the Bay Conservation and Development Commission; and
 - 2. On Anza Lagoon, Sanchez Channel, and Burlingame Lagoon. An average setback of 65 feet (or as otherwise may be required by the Bay Conservation and Development Commission) as measured from the shoreline as defined by the Bay Conservation and Development Commission; in no case shall the area as measured from the top of bank be less than the minimum width for the Bay Trail as required by the Bay Conservation and Development Commission.
- B. Maintenance. All areas improved for public access within the jurisdiction of the Bay Conservation and Development Commission shall be maintained by the property owner and shall be available to the public in perpetuity as determined by the Bay Conservation and Development Commission.

(Ord. 2000 § 2, (2021))

CHAPTER 25.20 OVERLAY ZONING DISTRICTS

§ 25.20.005. Purpose and Applicability.

- A. Purpose. This chapter regulates new and existing structures and land uses in the overlay zoning districts established by Section 25.06.010 (Establishment of Zoning Districts). The provisions of this chapter provide guidance for development in addition to the standards and regulations of the base zoning districts, where important site, environmental, safety, compatibility, or design issues require particular attention in project planning.
- B. Applicability. In the event of any perceived conflict between the provisions of this chapter and any other provision of these Zoning Regulations, the regulations of this chapter shall control.
(Ord. 2000 § 2, (2021))

§ 25.20.010. Anita Road Overlay (AR).

- A. Purpose and Applicability. The purpose of the Anita Road Overlay is to provide a transition and buffer between the downtown commercial area and Myrtle Road mixed use area to the west and the single-family neighborhood to the east.
- B. Height – Special Requirements.
 - 1. Maximum Height. Buildings over 35 feet in height and not more than 45 feet in height shall require a special permit. No building shall be constructed in the Anita Road Overlay that exceeds 45 feet in height.
 - 2. Special Permit Findings. See Section 25.78.040.
- C. Rear Setback – Special Requirements. There shall be a minimum rear setback of 20 feet.
- D. Corner Store Retail. Limited corner store retail as defined in Article 8 (Definitions) and subject to standards in Section 25.48.160 (Limited Corner Store Retail) may be allowed with a conditional use permit in the Anita Road Overlay.

(Ord. 2000 § 2, (2021))

§ 25.20.020. Commercial Residential Overlay (CR) for California Drive/Edgehill Drive.

- A. Purpose. The Commercial Residential Overlay is located within the California Drive Mixed-Use (CMU) zoning district. The purpose of this overlay district is to encourage mixed residential and commercial land uses with pedestrian oriented retail uses compatible with adjacent residential uses, recognizing the unique nature of the Edgehill Drive interface.
- B. Allowed Uses. Allowed uses for CMU shall not apply in the CR Overlay. Table 25.20-1 (CR Overlay Zoning District Use Regulations) indicates the uses allowed within the overlay zoning district and any permits required to establish the use, pursuant to Article 6 (Permit Processing Procedures). Uses defined in Article 8 (Definitions) and not listed in Table 25.20-1 are prohibited.
 - 1. Director Determination. Land uses are defined in Article 8 (Definitions). In cases where a specific land use or activity is not defined, the Director shall assign the land use or activity to a classification that is substantially similar in character. Land uses not listed in the table or not found to be substantially similar to the land uses listed in the table are prohibited.

2. Specific Use Regulations. Where the last column in Table 25.20.1 (CR Overlay Zoning District Use Regulations) includes a section, subsection, or chapter number, the regulations in the referenced section, subsection, or division shall apply to the use.

Table 25.20.1: CR Overlay Zoning District Use Regulations

P Permitted	CUP Conditional Use Permit	MUP Minor Use Permit	TUP Temporary Use Permit	A Accessory Use	— Not Permitted
Land Use	CR Overlay		Specific Use Regulations		
Commercial – Retail					
Retail Sales – General		P	—		
Commercial – Services and Recreation					
Animal Care Services – Grooming		P	—		
Commercial – Retail					
Personal Services – General		P	Massage services not permitted.		
Studios – Arts		P			
Educational Services					
Tutoring and Educational Services		P			
Mixed Uses					
Mixed-Use Developments		P	With individual specific uses subject to land use regulatory requirements set forth in this table.		
Residential Uses					
Communal Housing		P			
Live/Work		P			
Multi-Unit Dwellings		P			
Residential Care Facilities – Limited		P			
Supportive and Transitional Housing	See Section 25.48.240				

C. Development Standard.

1. Height – Special Requirements.
 - a. Maximum Height. The maximum height of all buildings shall be 30 feet as measured from top of curb at Edgehill Drive. Buildings over 30 feet in height and not more than 36 feet in height shall require a special permit.
 - b. Special Permit Findings. See Section 25.78.050.B.1.

2. Residential Uses. Residential uses shall conform to the requirements of the CMU zoning district with the following exceptions:
 - a. Maximum Number. The maximum number of residential units per lot shall be two, except where the only use on the lot is residential, then a maximum of three dwelling units shall be allowed; if two or more parcels are combined the maximum number of residential units shall be two per original lot plus commercial or three per original lot if the only use of the combined lots is residential;
 - b. Access. The front pedestrian entrance and vehicular driveway access for parking shall be from Edgehill Drive; and
 - c. Setback Exceptions. Residential development built over commercial use shall be allowed to extend to the side and rear property lines so long as the residential use does not cover more than 70 percent of the lot including that portion of the residential area over commercial use; this shall not include exterior decks open to the sky.
3. Commercial Uses. Commercial uses shall conform to the requirements of the CMU zoning district with the following exceptions:
 - a. Front on California Drive. All commercial uses shall front only on California Drive with no vehicular access onto Edgehill Drive;
 - b. Maximum Depth and Lot Coverage. Structures or portions of structures housing commercial uses shall have a maximum depth of 30 feet from the property line parallel to California Drive and shall cover no more than 33 percent of the lot or combined lots; and
 - c. Parking. On-site parking shall not be required for single story commercial development fronting on California Drive except that second story commercial uses shall require on-site parking accessible from California Drive consistent with the requirements of Chapter 25.40 (Parking Regulations).

(Ord. 2000 § 2, (2021))

§ 25.20.030. Downtown Parking Sector Overlay.

See Section 25.40.030.C (Special Requirements for Downtown Specific Plan).

(Ord. 2000 § 2, (2021))

§ 25.20.040. Hillside Overlay (H).

- A. Purpose and Applicability. The Hillside Overlay Zone applies to all construction in the designated hillside area, as identified in Article 6 (Permit Processing Procedures). The Director may require a survey and slope analysis to determine whether the provisions of this chapter apply to a specific property or development. The purpose of this zone is to:
 1. Protect public health and safety by minimizing hazards, including soil erosion and fire danger associated with development on hillsides;
 2. Preserve and enhance the City's scenic character, including its natural hillsides and views of San Francisco Bay;
 3. Respect natural features in the design and construction of hillside development; and

4. Design hillside development to be sensitive to existing terrain, distant views, and significant natural landforms and features.
- B. View Preservation. Hillside development shall be designed to preserve existing distant views. View preservation shall be limited to obstruction of distant views to San Francisco Bay, the San Francisco Airport, and Mills Canyon from primary indoor living areas (living rooms and family rooms).
- C. General Site Planning. Each structure shall be located in the most accessible, least visually prominent, most geologically stable portion or portions of the site, and at the lowest feasible elevation. Structures shall also be aligned with the natural contours of the site and shall preserve existing landforms to the maximum extent feasible, as determined by the Planning Commission. Siting structures in the least prominent locations is especially important on open hillsides where the high visibility of construction is to be minimized by placing structures so that they will be screened by existing vegetation, depressions in topography, or other natural features.
- D. Grading. Grading and excavations shall result in the minimal disturbance feasible to the terrain and natural land features. Cuts and fills shall not exceed the standards outlined in Chapter 18.20 (Grading, Excavation, Fills). Existing trees and native vegetation shall be retained to the extent possible to stabilize hillsides, reduce erosion, and preserve the natural scenic beauty of the area.
- E. Driveway Slopes. See Section 25.40.070.C (Driveways).
- F. Reduced Setbacks for Parking. To reduce grading, the Planning Commission may approve a special permit for reduced setbacks for garages and carports if the finding is made that the character of the neighborhood is maintained.
- G. Retaining Walls. Large retaining walls in a uniform plane shall be avoided. Retaining walls shall be divided into terraces with variations in plane and include landscaping to break up the length of walls and to screen them from view. No retaining wall located in the front or rear yard area shall be higher than six feet and must incorporate a three-foot recessed offset feature every 30 feet or other methods of articulation acceptable to the Review Authority. Exceptions to these standards may be approved by the Planning Commission with issuance of a special permit.
- H. Mechanical Equipment. Mechanical equipment under stilt-type structures shall be screened from view with landscaping and/or screen walls.
- I. Landscaping. Special landscaping consideration shall be given in hillside areas to screen retaining walls, accessory structures, and buildings visible from a downslope. Deep-rooted plants for slope stabilization should be used for cut and fill slopes.

(Ord. 2000 § 2, (2021))

§ 25.20.050. Multi-Unit Residential Overlay (MUR).

- A. Purpose. The Multi-Unit Residential Overlay is established to provide options for development of multi-unit residential uses on properties that historically have supported commercial uses but which, due to evolving consumer preferences and practices, may no longer be able to attract viable retail or service users. The Multi-Unit Residential Overlay requires compatibility with surrounding land uses, property access, and availability of services.
- B. Permitted Uses. Multi-unit residential uses are permitted in this overlay district. Other uses consistent with the underlying zoning district are also permitted.
- C. Development Standards. Multi-unit residential developments shall comply with the development

standards for the R-3 zoning district set forth in Chapter 25.10 (Residential Zoning Districts).
(Ord. 2000 § 2, (2021))

§ 25.20.060. R-4 Incentive Overlay (R-4-I).

- A. Purpose. The R-4 Incentive Overlay is located within the Burlingame Downtown Specific Plan Area (refer to Figure 3.2 of the Downtown Specific Plan) located south of Howard Avenue between Highland Avenue and Park Road. The purpose is to provide an incentive for high density residential uses within this area.
- B. Height – Special Requirements.
 - 1. Maximum Height. Buildings or structures up to 55 feet in height are allowed by right within this overlay. A special permit is required for any building or structure which is more than 55 feet in height.
 - 2. Special Permit Findings. See Section 25.78.040.
- C. Corner Store Retail. Limited corner store retail as defined in Article 8 (Definitions) and subject to standards in Section 25.48.160 (Limited Corner Store Retail) may be allowed with a conditional use permit in the R-4 Incentive Overlay.

(Ord. 2000 § 2, (2021))

§ 25.20.070. Rollins Road Residential (RRR) Overlay.

- A. Purpose. The Rollins Road Residential Overlay is intended to provide design sensitivity, a more livable environment for reuse and new development, and an appropriate transition between the existing freeway and intercommunity arterial for the R-3 properties within this overlay zone and the adjacent established single-family residential area.
- B. Height Special Requirements.
 - 1. Maximum Height. Buildings or structures shall not exceed 30 feet in height. Buildings and structures up to 36 feet in height may be allowed with approval of a special permit. In no case shall buildings or structures exceed two stories.
 - 2. Special Permit Findings. See Section 25.78.040.
- C. Setback Special Requirement. Minimum front setback shall be 10 feet or the average of the block, whichever is greater.
- D. Common Open Space. Minimum required common open space shall be 100 square feet per unit with a minimum dimension of 15 feet. A minimum of 25 percent of the common open space shall be soft landscaping.
- E. Private Open Space. No private open space is required.

(Ord. 2000 § 2, (2021))

§ 25.20.080. Two-Unit Residential Overlay (R-1-2).

- A. Purpose. The purpose of this section is to regulate two-unit residential development in compliance with California Government Code Sections 66452.6, 65852.21 and 66411.7 to allow two detached or attached housing units on one parcel, and ancillary uses and structures. A proposed two-unit housing

development shall be considered ministerially, without discretionary review or a hearing, if the proposed housing development meets all of the requirements in this section.

B. Applicability. The Two-Unit Residential Overlay shall apply to properties within the Low Density Residential Zoning District (R-1), with the following exceptions:

1. Housing that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income.
2. Housing that is subject to any form of rent or price control through a public entity's valid exercise of its police power.
3. Housing that has been occupied by a tenant in the last three years.
4. A parcel on which an owner of residential real property has exercised the owner's rights under Government Code Chapter 12.75 (commencing with Section 7060) of Division 7 of Title 1 to withdraw accommodations from rent or lease within 15 years before the date that the development proponent submits an application.
5. The parcel is within a historic district or property included on the State Historic Resources Inventory, as defined in Section 5020.1 of the Public Resources Code, or within a site that is designated or listed as a city or county landmark or historic property or district pursuant to a city or county ordinance.

C. Permitted Uses.

1. Single-unit dwellings and two-unit dwellings are allowed as a permitted use.
2. Home occupations are allowed as an accessory use.
3. Accessory dwelling units and junior accessory dwelling units, except for lot splits as set forth in Section 25.20.080.E.
4. Short-term rentals rented for a period of 30 days or less are not permitted.

D. Development Standards. Residential developments shall comply with the development standards for the R-1 zoning district set forth in Chapter 25.10 (Residential Zoning Districts) and Table 25.10-1 with the following exceptions:

1. Number and Size. In no instances shall the application of development standards for the R-1 zoning district set forth in Chapter 25.10 preclude construction of up to two units, or that would physically preclude either of the two units being at least 800 square feet in floor area.
2. Maximum Height. Buildings or structures shall not exceed 30 feet in height. Within the rear 20 feet of a parcel, buildings or structures shall not exceed 10 feet, or 15 feet when the roof is pitched from ridge to plate on at least two sides, and the ridge is no closer than four feet to a side or rear property line.
3. Side and Rear Setbacks. Per Table 25.10-2, but no more than four feet required. Notwithstanding, no setback shall be required for an existing structure or a structure constructed in the same location and to the same dimensions as an existing structure.
4. Off-Street Parking. One space per unit (may be covered or uncovered), with the exception that no parking is required if the parcel is located within one-half mile walking distance of either a

high-quality transit corridor, as defined in subdivision (b) of Section 21155 of the Public Resources Code, or a major transit stop, as defined in Section 21064.3 of the Public Resources Code, or if the parcel is located within one block of a car share facility. In no instances shall parking be allowed in the required front setback.

- E. Lot Splits. A parcel map for an urban lot split shall be allowed with ministerial review per the requirements in this section.
1. Parcel Map. A parcel map for an urban lot split shall be allowed with ministerial review if the parcel map for the lot split meets all the following requirements:
 - a. The parcel map subdivides an existing parcel to create no more than two new parcels of approximately equal lot area provided that one parcel shall not be smaller than 40 percent of the lot area of the original parcel proposed for subdivision.
 - b. Both newly created parcels are no smaller than 1,200 square feet.
 - c. Both parcels resulting from the urban lot split have access to, provide access to, or adjoin the public right-of-way through right-of-way frontage or recorded access easements.
 - d. The parcel has not been established through prior exercise of an urban lot split as provided for in this section.
 - e. Neither the owner of the parcel being subdivided nor any person acting in concert with the owner has previously subdivided an adjacent parcel using an urban lot split as provided for in this section.
 - f. The urban lot split conforms to all applicable objective requirements of the Subdivision Map Act (Division 2 (commencing with Section 66410)), except as otherwise expressly provided in this section.
 2. Development Standards. Development standards for each new parcel resulting from an urban lot split shall conform to Section 25.20.080.D. Development standards shall be applied to each new parcel individually.
 3. Number of Units. No more than two residential units shall be allowed on a parcel created through the exercise of the authority contained within this section.
 4. Accessory Dwelling Units. Accessory dwelling units and junior accessory dwelling units shall not be permitted on parcels resulting from an urban lot split created under the authority contained within this section.
 5. Nonconforming Zoning Conditions. Correction of nonconforming zoning conditions shall not be required as a condition for ministerial approval of a parcel map application for the creation of an urban lot split.
 6. Residency Requirement. An applicant for an urban lot split shall sign an affidavit stating that the applicant intends to occupy one of the housing units as their principal residence for a minimum of three years from the date of the approval of the urban lot split. This requirement shall not apply to an applicant that is a "community land trust," as defined in clause (ii) of subparagraph (C) of paragraph (11) of subdivision (a) of Section 402.1 of the Revenue and Taxation Code, or is a "qualified nonprofit corporation" as described in Section 214.15 of the Revenue and Taxation Code.

City of Burlingame, CA

§ 25.20.080

BURLINGAME CODE

§ 25.20.080

(Ord. 2000 § 2, (2021))

CHAPTER 25.22 SPECIFIC PLAN ZONING DISTRICTS (SP)

§ 25.22.010. Purpose.

The Specific Plan (SP) zone is established to implement Sections 65450 through 65457 of the California Government Code. As provided for in the Government Code, a Specific Plan is designed to provide for flexibility, innovative use of land resources and development, a variety of housing and other development types, and an effective and safe method of pedestrian and vehicular circulation. A Specific Plan may be adopted for any property or group of properties meeting the criteria set forth in this chapter and Chapter 25.78 (Specific Plans). The Specific Plan zone shall apply to all properties lying within the bounds of a specific plan that has been adopted by resolution or ordinance of the Council.

(Ord. 2000 § 2, (2021))

§ 25.22.020. Effect of Specific Plan Zoning District.

Once adopted, a specific plan shall govern all use and development of properties within the bounds of that specific plan. Where a specific plan is silent with regard to particular development standards, the provisions of this title shall govern.

(Ord. 2000 § 2, (2021))

§ 25.22.030. Required Contents of a Specific Plan.

The required contents of a specific plan shall be as set forth in Government Code Section 65450 et seq.
(Ord. 2000 § 2, (2021))

§ 25.22.040. Land Use and Development Standards.

Each adopted specific plan establishes the land use regulations and development standards applicable to the properties within the specific plan. To the extent that any development standard is not provided by an individual specific plan, such standard shall be in accordance with the provisions of the zone in this division that most closely resembles the zone in the specific plan.

(Ord. 2000 § 2, (2021))

CHAPTER 25.24 COMPREHENSIVE AIRPORT LAND USE COMPATIBILITY PLAN CONSISTENCY

§ 25.24.010. Purpose.

Development must comply with Safety Compatibility Policies SP-1 through SP-3 of the Comprehensive Airport Land Use Compatibility Plan for the Environs of San Francisco International Airport (ALUCP) including Noise/Land Use Compatibility and Safety Compatibility Criteria listed in Tables IV-1 and IV-2 of the ALUCP. Some uses may be in-compatible in certain safety zones. Refer to ALUCP Exhibit IV-9 for a map of the safety compatibility zones.

(Ord. 2000 § 2, (2021))

§ 25.24.020. Airport Disclosure Notices.

All new development is required to comply with the real estate disclosure requirements of State law. The following statement must be included in the notice of intention to offer the property for sale:

"Notice of Airport in Vicinity

This property is presently located in the vicinity of an airport, within what is known as an airport influence area. For that reason, the property may be subject to some of the annoyances or inconveniences associated with proximity to airport operations (for example: noise, vibration, or odors). Individual sensitivities to those annoyances can vary from person to person. You may wish to consider what airport annoyances, if any, are associated with the property before you complete your purchase and determine whether they are acceptable to you."

(Ord. 2000 § 2, (2021))

§ 25.24.030. Airport Noise Evaluation and Mitigation.

Project applicants shall be required to evaluate potential airport noise impacts if the project is located within the 65 CNEL contour line of San Francisco International Airport (as mapped in the Airport Land Use Compatibility Plan for the Environs of San Francisco International Airport). All projects shall be required to mitigate impacts to comply with the interior (CNEL 45 dB or lower, unless otherwise stated) and exterior noise standards established by the Airport Land Use Compatibility Plan or Burlingame General Plan, whichever is more restrictive.

(Ord. 2000 § 2, (2021))

§ 25.24.040. Avigation Easement.

Any action that would either permit or result in the development or construction of a land use considered to be conditionally compatible with aircraft noise of CNEL 65 dB or greater (as mapped in the Airport Land Use Compatibility Plan) shall include the grant of an avigation easement to the City and County of San Francisco prior to issuance of a building permit(s) for any proposed buildings or structures, consistent with Airport Land Use Compatibility Plan Policy NP-3 Grant of Avigation Easement.

(Ord. 2000 § 2, (2021))

§ 25.24.050. Other Flight Hazards.

Within Airport Influence Area (AIA) B, certain land use characteristics are recognized as hazards to air navigation and, per SFO ALUCP Policy AP-4, need to be evaluated to ensure compatibility with FAA rules

and regulations. These characteristics include the following:

- A. Sources of glare, such as highly reflective buildings, building features, or blight lights including search lights, or laser displays, which would interfere with the vision of pilots in command of an aircraft in flight.
- B. Distracting lights that could be mistaken for airport identification lightings, runway edge lighting, runway end identification lighting, or runway approach lighting.
- C. Sources of dust, smoke, water vapor, or steam that may impair the visibility of a pilot in command of an aircraft in flight.
- D. Sources of electrical/electronic interference with aircraft communications/navigation equipment.
- E. Any use that creates an increased attraction for wildlife, particularly large flocks of birds, that is inconsistent with FAA rules and regulations, including, but not limited to, FAA Order 5200.5A, Waste Disposal Site On or Near Airports and FAA Advisory Circular 150/5200-33B, Hazardous Wildlife Attractants On or Near Airports and any successor or replacement orders or advisory circulars.

(Ord. 2000 § 2, (2021))

**CHAPTER 25.26
(RESERVED)**

**CHAPTER 25.28
(RESERVED)**

Article 3
Regulations And Standards Applicable To All Zoning Districts

CHAPTER 25.30
RULES OF MEASUREMENT

§ 25.30.010. Purpose.

This chapter provides general rules for measurement and calculation applicable to all zoning districts unless otherwise stated in this title.

(Ord. 2000 § 2, (2021))

§ 25.30.020. Fractions.

- A. **Parking Spaces.** If the number of on-site parking spaces for a use required by this title contains a fraction, that fraction shall be rounded to the nearest whole number. Any such fraction equal to or greater than 0.50 shall be rounded up to the nearest whole number, and any such fraction less than 0.50 shall be rounded down to the nearest whole number.
- B. **Dwelling Units.**
 1. **Residential Density.** When the number of dwelling units allowed on a site is calculated based on the minimum site area per dwelling unit, any fraction of a unit shall be rounded down to the next lowest whole number. For projects eligible for a density bonus pursuant to Government Code Section 65915 or any successor statute and Section 25.33.010 (Density Bonus), any fractional number of permitted density bonus units shall be rounded up to the next whole number.
 2. **Other Calculations.** For calculations other than residential density, the fractional/decimal results of calculations of one-half (0.5) or greater shall be rounded up to the nearest whole number and fractions of less than one-half (0.5) shall be rounded down to the nearest whole number, except as otherwise provided.
 3. **Other Fractions.** Notwithstanding subsections B.1 and B.2 above, when a measurement is expressed in terms of maximum or minimum limits or requirements, any other fractional measurement shall not be rounded. For example, if a maximum height for a building is 35 feet and the proposed building measures 35 feet and six inches, then the height is not in compliance with the requirement.

(Ord. 2000 § 2, (2021))

§ 25.30.030. Measuring Distances.

- A. **Measurements Are Shortest Distance.** Where a required distance is indicated, such as the minimum distance between a structure and a lot line, the measurement shall be made at the closest or shortest distance between the two objects, unless otherwise specifically stated.
- B. **Distances Are Measured Horizontally.** When determining distances for setbacks, all distances shall be measured along a horizontal plane from the appropriate line, edge of building, structure, storage area, parking area, or other object. These distances shall not be measured by following the topography or slope of the land unless otherwise specifically stated.
- C. **Measurements Involving a Structure.** Measurements involving a structure shall be made to the closest

support element of the structure and to improvements that are more than 30 inches above adjacent grade, such as an uncovered deck. Structures or portions of structures that are underground shall not be included in measuring required distances unless otherwise specifically stated.

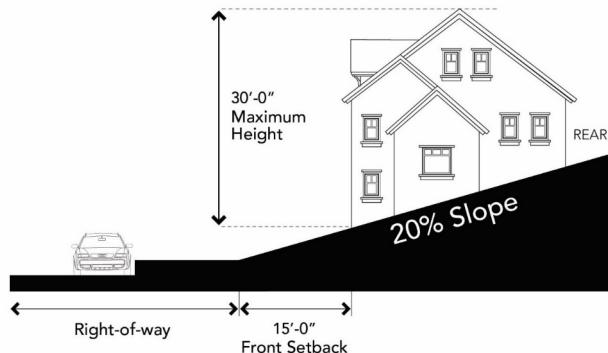
(Ord. 2000 § 2, (2021))

§ 25.30.040. Measuring Height.

A. Buildings or Structures.

1. General. On flat lots and lots with an average (cross-parcel) slope of less than 20 percent, building height shall be measured as the vertical distance between the average top of curb (taken from the corners of the lot extended) and the highest edge of a gable, hip, or shed roof or top of parapet.
2. Downward Slope. On lots that slope downward more than 20 percent toward the rear of the lot, the maximum height of the building shall not exceed 20 feet above the curb level, irrespective of the number of stories at the rear of the building.
3. Upward Slope. On lots that slope upward more than 20 percent toward the rear of the lot, the maximum height of the building shall not exceed 30 feet above average grade, as measured 15 feet from the front property line at the intersection of the side property line elevation points.

Figure 25.30-1: Measurement of Structure Height: Upward Slopes of 20 Percent or Greater



4. Height Exceptions.
 - a. See Chapter 25.78 (Special Permit).
5. Allowed Projections.
 - a. Elevators and Stairwells. Elevator shafts and stairwells up to 14 feet in height, as measured from the roof surface, are allowed to exceed the maximum height limit. Any such structures shall be integrated into the overall architectural design.
 - b. Mechanical Equipment. Mechanical equipment are allowed to exceed the height limit and may be placed on rooftops only if the equipment is not visible from the public right-of-way or adjacent properties at grade, except for solar collectors that are compatible with the roof line and architecturally integrated with the structure. Building-mounted telecommunications facilities, antennas, and microwave equipment shall comply with the

provisions of the City's wireless communications facilities regulations.

- c. Roof Area. Elevators, stairwells, and mechanical equipment shall not cover more than 80 percent of the roof area and shall comply with subsections A.5.a. and A.5.b, above. If more than 25 percent of the roof area is covered by mechanical equipment, it shall be adequately screened by the building parapet or with screening with a design and materials matching those of the building.
- B. Fences, Walls, and Hedges. Except as provided in Section 25.31.070 (Fences, Walls, and Hedges), the height of a fence or hedge shall be measured from the highest adjacent grade.
(Ord. 2000 § 2, (2021))

§ 25.30.050. Measuring Lot Width and Depth.

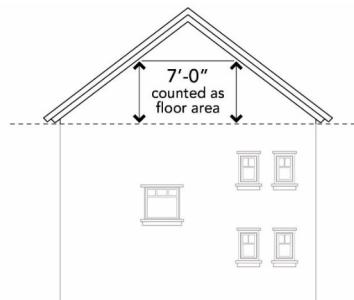
- A. Lot Width. Lot width is the horizontal distance between the side lot lines measured at right angles to the lot depth line, measured from the front property line or at the required front setback line, whichever is greater.
- B. Lot Depth. Lot depth is the measured distance along an imaginary straight line drawn from the midpoint of the front property line of the lot to the midpoint of the rear property line or to the most distant point on any other lot line where there is no rear lot line.

(Ord. 2000 § 2, (2021))

§ 25.30.060. Determining Floor Area.

- A. Generally. The floor area of a building shall be the sum of all floors of a building or buildings, as measured to the outside surfaces of the exterior walls of the structure or structures and including such areas as halls, stairways, covered porches and balconies, elevator shafts, service and mechanical equipment rooms and basements, cellars, and improved space in attic areas.
- B. Parking Excluded. Floor area shall exclude parking garages and parking structures for commercial, industrial, multi-unit and mixed-use buildings, either above ground or underground.
- C. Single-Unit Residential.
 - 1. Inclusions. Floor area shall include the residential floor area of any building(s) located on the lot, including the main dwelling, detached accessory structures, all garage area, covered patios, and basements with a ceiling height of seven feet or greater (as measured from the finished floor to the ceiling or bottom of the floor joists of the floor above the basement), unless otherwise noted in subsection C.2. The floor area of enclosed stairways within the structure shall be counted on each floor. The floor area of open spaces within the structure that are higher than 12 feet shall be counted on each floor.
 - 2. Exclusions. The following shall be excluded for the purposes of calculating floor area:
 - a. Basements up to 600 square feet in area with a ceiling height of seven feet or greater if it meets both of the following standards:
 - i. The top of the finished floor above the basement is less than two feet above existing grade; and
 - ii. No part of the basement is intended or used for parking.

- b. Covered porches or decks on the first floor totaling 200 square feet or less which face a street and are not located on the rear of the dwelling. An area under a balcony shall be considered a covered porch if the balcony is over an exterior exit from the building.
- c. Lower floor or basement of 100 square feet or less solely used for mechanical equipment.
- d. Crawl space between the surface of the ground or floor and the bottom of the first floor joists that measures less than seven feet in height.
- e. Open spaces under decks that are open on at least two sides.
- f. Uncovered front entrance stairs and stoops.
- g. Covered walkways.
- h. Non-habitable attic areas. In all other cases, attic areas that are made habitable and accessible and contain a ceiling height of seven feet or greater shall be counted as floor area.

Figure 25.30-2: Habitable Attic Areas

- i. Patio covers and trellises at the side or rear of the house that are open on at least two sides (up to a maximum of one detached and one attached) up to 120 square feet.
- j. Decorative trellises with no ground supports, extending up to three feet from the exterior wall of the house.
- k. Cornices and eaves.
- l. Fireplace chimneys.
- m. Bay and greenhouse windows located on the first floor if all of the following conditions are met:
 - i. Footprint of each window shall not exceed 20 square feet; and
 - ii. Total cumulative bay/greenhouse window area shall not exceed 60 square feet.
- n. Uncovered balconies.
- o. Mechanical equipment.
- p. Accessory dwelling units which comply with the provisions of Section 25.48.030.

D. Nonresidential.

1. Floor Area Ratio Calculation. In calculating the floor area ratio for commercial development, the measurement shall apply to the gross floor area of the building and does not include basements or cellars.
2. Exemptions. Exempted from floor area ratio computation for commercial development are:
 - a. Chimneys, cupolas, and flag poles.
 - b. Canopies at entrances to buildings.
 - c. Balconies (uncovered or covered).
 - d. Covered walkways and arcades.
 - e. Ground level trellises.
 - f. Trash enclosures.
 - g. Water tanks, elevator penthouses, and other mechanical appurtenances.
 - h. Fire or hose towers.
 - i. Ground level service yards, if open to the sky, and which may otherwise be partially enclosed.

E. Mixed Use.

1. Mixed-Use Residential/Commercial. In a mixed-use building that includes residential and nonresidential uses, floor area ratio (FAR) maximums shall apply to only the nonresidential component of the development; the density standards shall apply only to any residential component of development on a site. The nonresidential (FAR) and residential (density) components are additive.
2. Multiple FARs. In some of the commercial zoning districts, a separate maximum floor area ratio is established for a particular use on a lot as well as a maximum overall floor area ratio for a lot.

(Ord. 2000 § 2, (2021))

§ 25.30.070. Determining Lot Coverage.

- A. Generally. Structures included in lot coverage calculations shall include building or structures that are 30 inches in height or more above adjacent existing grade and shall be measured from exterior walls, exclusive of projecting, unenclosed architectural features.
- B. Excluded from Lot Coverage. The following features shall not count toward lot coverage.
 1. Patio covers and trellises that are open on at least two sides (up to a maximum of one detached or attached) up to 120 square feet.
 2. Uncovered swimming pools and spas, sports courts, and other athletic and/or recreational surfaces that are not more than 30 inches above the adjacent finished grade, at any point, on which they are placed.
 3. Cornices and eaves.

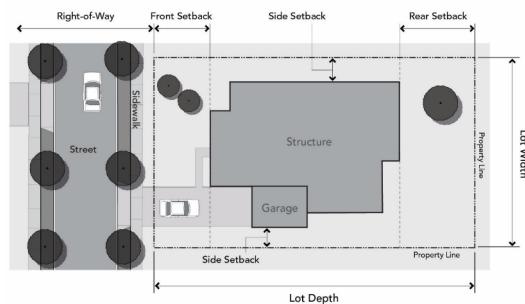
4. Front entrance stairs and stoops if uncovered and not more than four feet above grade.
5. Fireplace chimneys.
6. Outdoor kitchens and fire pits.
7. Bay and greenhouse windows located on the first floor if all the following conditions are met:
 - a. Footprint of each window shall not exceed 20 square feet; and
 - b. Total cumulative bay/greenhouse window area shall not exceed 60 square feet.
8. Uncovered balconies projecting up to four feet from the building.
9. Basements.
10. Mechanical equipment.
11. Upper floor cantilevers projecting up to 30 inches from the building.
12. Any attached or detached accessory dwelling unit which complies with the provisions of Section 25.48.030.

(Ord. 2000 § 2, (2021))

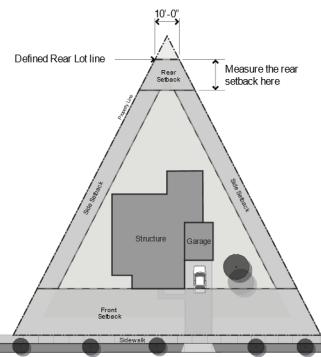
§ 25.30.080. Determining Setbacks.

- A. Generally. All setback distances shall be measured at right angles from the designated property line to the building or structure, and the setback line shall be drawn parallel to and at the specified distance from the corresponding front, side, or rear property line.

Figure 25.30-3: Setbacks



- B. Interior Side Setbacks. If front and rear lot lines are equal, the lot width for determining an interior side setback shall be measured from the front property line. If front and rear lot lines are unequal, the setback shall be based on the width of the lot as measured between the midpoints of the two side lot lines.
- C. Rear Property Line Exception. Where no rear property line is within 45 degrees of being parallel to the front lot line, a line 10 feet in length within the lot, parallel to and at the maximum possible distance from the front lot line, will be deemed the rear lot line for the purpose of establishing the minimum rear setback.

Figure 25.30-4: Setbacks on Irregular Lots

- D. Sloped Lots. For sloped lots, the measurement shall be made as a straight, horizontal line from the property line to the edge of the structure, not up or down the hill slope.

Figure 25.30-5: Setback Measurement for Sloped Lots

- E. Flag Lots. For flag lots, the pole portion of the parcel shall not be used for defining setback lines.
- F. Other Irregularly Shaped Lots. For irregular shaped lots not covered herein, the Director will determine setbacks.
- (Ord. 2000 § 2, (2021))

§ 25.30.090. Allowed Projections in Residential Zones.

- A. General. In residential zones, architectural and similar features may extend into required setback areas as identified in Table 25.30-1 (Allowable Projections into Required Setback in Residential Zones).

Table 25.30-1: Allowable Projections into Required Setback in Residential Zones

Type of Projection	Allowable Projection
Cornices, eaves	Must be located at least 2 feet from any property line
Stairs and stoops	6 feet; must be uncovered and not extend more than 4 feet above grade

Table 25.30-1: Allowable Projections into Required Setback in Residential Zones

Type of Projection	Allowable Projection
Bay windows on first floor	2 feet; maximum of 20 sq. ft. each; cumulative total of 60 sq. ft.; must be located at least 4 feet from side property line
Fireplace chimneys	2 feet; maximum of 6 feet in width; 2 feet from property line
Greenhouse windows	1 foot; 3 feet above finished floor; maximum 17 sq. ft.; 3 feet from any property line
Open balconies in multi-unit buildings	4 feet; maximum of 16 feet in width; 10-foot separation if multiple balconies but must be located at least 4 feet from property lines
Basements and underground parking garages	Front – Shall not extend past required front setback line. Side – Shall not extend past required side setback line, and in no case be closer than 4 feet to side property line. Rear – May extend into rear setback up to 10 feet from rear property line. See also Section 25.30.090.B.
Basement lightwells and stairs	6 feet; must be uncovered
Mechanical equipment	
Tankless water heaters	2 feet
Equipment for swimming pools, spas, water features	Allowed if located 10 feet from property line; may be located closer to property line if enclosed and determined to be adequately sound insulated by Building Official
Air conditioning equipment	As established in the Building Code and as regulated by City noise restrictions
Public utility structures	Allowed

- B. Basement lightwells and stairs 6 feet; must be uncovered
 Mechanical equipment
 Tankless water heaters 2 feet
 Equipment for swimming pools, spas, water features
 Allowed if located 10 feet from property line; may be located closer to property line if enclosed and determined to be adequately sound insulated by Building Official
 Air conditioning equipment As established in the Building Code and as regulated by City noise restrictions
 Public utility structures
 Allowed
 B. Basements and Underground Parking Garages. Basements and parking facilities constructed entirely below ground level shall be subject to the following limitations:
1. Plans for underground garages, together with methods of access and egress for the vehicles, must be prepared and submitted for approval by the Planning Commission prior to the issuance of a building permit.
 2. Allowance shall be made on the surface of the structure lying within a required yard or setback area, where permitted, to provide for landscaping.
 3. The uppermost portion of any structure or attachment thereto within any required yard or setback area, where permitted, shall not extend above natural grade.
 4. On lots abutting or fronting El Camino Real, basements and underground garages may not be

constructed within any portion of the required setback area on such frontage.
 (Ord. 2000 § 2, (2021))

§ 25.30.100. Allowed Projections in Nonresidential Zones.

In commercial, industrial, and mixed-use zoning districts, architectural and similar features may extend into required setback areas as identified in Table 25.30-2.

Table 25.30-2: Allowed Projections into Required Setbacks in Commercial, Industrial and Mixed-Use Zoning Districts

Type of Projection	Allowable Projection
Architectural features	
Cornices, canopies, eaves, buttresses, chimneys, solar collectors, shading louvers, reflectors, water heater enclosures, and bay or other projecting windows	30 inches
Uncovered balconies, uncovered porches, decks, fire escapes, exit stairs	5 feet or setback required by Building and Fire Codes
Basements and underground garages	As set forth in Section 25.30.090.B (Allowed Projections in Residential Zones)
Mechanical equipment	
Tankless water heaters	2 feet
Equipment for swimming pools, spas, water features	Allowed if located a minimum of 3 feet from property line and are acoustically shielded or otherwise treated to ensure compliance with City noise control regulations
Public utility structures	
Fences, Walls, and Hedges	As permitted by Section 25.31.070
Signs	As permitted by Chapter 25.42
Trash enclosures	See Section 25.31.130

**CHAPTER 25.31
SITE PLANNING AND GENERAL DEVELOPMENT STANDARDS**

§ 25.31.010. Purpose and Applicability.

- A. Purpose. The purpose of this chapter is to ensure that all development produces quality, desirable places and environments that complement the character of existing and future development, protect the use and enjoyment of neighboring properties, and are consistent with General Plan policy.
- B. Applicability. The standards of this chapter apply to all zoning districts. These standards shall be considered in combination with the standards for each zone in Article 2 (Zoning Districts, Allowable Uses, and Development Standards) and Article 4 (Regulations for Specific Land Uses and Activities). Where there may be a conflict, the standards specific to the zone or specific land use shall override these general standards. All structures, additions to structures, and uses shall conform to the standards of this chapter, as determined applicable by the Director.

(Ord. 2000 § 2, (2021))

§ 25.31.020. Accessory Structures.

- A. Purpose. Regulations applicable to accessory structures are established to ensure that the development and use of accessory structures do not adversely impact abutting properties with respect to drainage, aesthetics, noise, and life safety. Also, these regulations establish standards to prevent the unlawful conversion of accessory structures into unpermitted living space.
- B. Applicability.
 - 1. Application. This section shall apply to:
 - a. New Structures. All new structures, as defined in the Building Code, located on the same site as the primary structure or use to which it is accessory, including, but not limited to, garages, carports, porte-cocheres, sheds, workshops, gazebos, greenhouses, cabanas, trellises, play structures, aviaries, covered patios, etc.
 - b. Decks and Patios. Detached decks and patios that are more than 30 inches above the existing ground elevation, excluding aboveground pools and hot tubs.
- C. Development Standards for the R-1 and R-2 Zoning Districts. The following standards shall apply to accessory structures in the R-1 and R-2 zoning districts. Any proposed accessory structure that does not meet these requirements may be eligible for a minor modification permit pursuant to Chapter 25.74 (Minor Modifications) or a variance pursuant to Chapter 25.84 (Variances).
 - 1. Number. No more than two covered accessory structures, each measuring more than 120 square feet, shall be permitted per lot. If one of the accessory structures is a permitted accessory dwelling unit, it shall be counted as one of the structures.
 - 2. Size. The maximum size for each accessory structure other than an accessory dwelling unit is 600 square feet, in addition to a permitted accessory dwelling unit. If there is no permitted accessory dwelling unit, the maximum square footage of all accessory structures shall not exceed 800 square feet. If an accessory dwelling unit is proposed subsequent to the establishment of two accessory structures on a parcel, one of the accessory structures shall be removed prior to construction of the accessory dwelling unit.
 - 3. Small Structures Under 120 Square Feet. Small structures under 120 square feet not considered

a structure pursuant to the Uniform Building Code are excluded from subsections C.1 and C.2. No more than two small structures shall be permitted per lot. Small structures shall not exceed 11 feet in height and may only be located in the side and rear yards.

4. Location. Accessory structures shall not be located in front of the main building, except that a garage may be erected in front of the main building if the dwelling is located in the rear 60 percent of the lot and was built prior to January 15, 1954. In no case shall the accessory structure be constructed between the front of the main building and the front property line.
 5. Setbacks. If located within the rear 30 percent of the lot, detached accessory structures shall have a minimum side and rear setback of 18 inches. If located forward of the rear 30 percent of the lot, detached accessory structures shall comply with the side setback requirement of the applicable zoning district in which it is located.
 6. Location From Other Structures. Accessory structures shall be located at least four feet from another structure on the lot, as measured between the exterior walls of the structures, and at a minimum shall meet Fire Code separation requirements.
 7. Coverage. Accessory structures shall not cover more than 50 percent of the rear 30 percent of a lot. A permitted accessory dwelling unit shall not be included in this calculation.
 8. Height.
 - a. Plate Line Height. The plate line of the accessory structure shall not exceed nine feet above grade at the closest point between the plate line and adjacent grade. An accessory structure shall not exceed one story in height.
 - b. Roof Height. The roof height of the accessory structure shall not exceed 10 feet above grade, as measured to the highest roof ridge or top of parapet. The height may be increased one foot for each foot of separation from an adjacent property line, up to a maximum height of 15 feet, provided that the roof is pitched from ridge to plate on at least two sides, and the ridge is no closer than five feet to a side property line.
 9. Windows, Glazing, and Skylights. Windows and glazing on accessory structures are permitted for any structure located at least three feet from the property line. Glazing on vehicle garage doors shall be not subject to this subsection. Skylights shall be allowed on sloping roofs facing interior yards; on sloping roofs facing side yards, provided that the skylight is located at least 10 feet from property line; and on flat roofs.
 10. Bath Facilities. No accessory structure shall contain a shower, bath, or toilet. A sink is permitted provided that it does not encroach within the required parking area in a garage.
 11. Mechanical Equipment. See Section 25.31.080 (Mechanical and Other Equipment).
- D. Development Standards for All Other Zoning Districts. Accessory structures are permitted in other zones provided they meet the development standards for that zoning district.

(Ord. 2000 § 2, (2021))

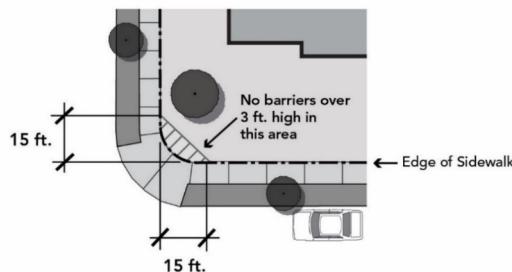
§ 25.31.030. Business Access.

Every business or every building containing one or more businesses shall have its primary entrance upon a City street. Access to such a City street shall not be across or through an alley, lane, or a public parking lot unless approved through a minor modification.

(Ord. 2000 § 2, (2021))

§ 25.31.040. Clear Sight Triangle.

That portion of a lot located within 15 feet of the external corner of the lot adjacent to a public or private street shall be kept free of any tree, hedge, brush or shrub, or fence, wall, or like structure over three feet in height.

Figure 25.31-1: Clear Sight Triangle

(Ord. 2000 § 2, (2021))

§ 25.31.050. (Reserved)**§ 25.31.060. (Reserved)****§ 25.31.070. Fences, Walls, and Hedges.**

A. Purpose and Applicability. The purpose of these regulations is to achieve a balance between concerns for privacy and public concerns for enhancement of the community appearance, visual image of the streetscape, and overall character of neighborhoods, and to ensure the provision of adequate light, air, and public safety. These regulations apply to any type of visible or tangible obstruction that has the effect of forming a physical or visual barrier between properties or between property lines and the public right-of-way, including, but not limited to, any type of artificially constructed barriers of wood, metal, or concrete posts connected by boards, rails, panels, wire, or mesh, and any type of natural growth such as hedges and screen plantings.

B. Height of Fences in R Districts.

1. Front Setback. In any front setback, fences and hedges shall be limited to a maximum height of three feet if it is of a solid design or four feet if it is of an open design freely allowing light and air to pass through. These regulations shall apply to fences and hedges located on the same frontage as the front entry door, for 15 feet on either side of the front entry door, regardless of whether the front entry door is located in the front or side yard. No such fence shall extend into any required clear sight triangle, as described in Section 25.31.040 (Clear Sight Triangle).
2. Arbor. One arbor with a maximum height of nine feet, width of eight feet, and depth of four feet is allowed within the front setback.
3. Side and Rear Setbacks. In any side or rear setback, fences shall be limited to a maximum height of six feet, except that one additional foot up to seven feet is allowed if the last foot in height is of an open design freely allowing light and air to pass through. No such fence shall extend into

any required clear sight triangle, as described in Section 25.31.040 (Clear Sight Triangle).

- C. Fence Height in All Other Districts. In all other districts, fences shall be limited to a maximum height of seven feet, provided the last foot in height is of an open design freely allowing light and air to pass through. In the Innovation/Industrial district, a maximum fence height of eight feet is allowed.
- D. Building Permit Required. Any fence exceeding six feet in height, whether alone or atop a wall exceeding six feet in total height, shall require a building permit. In addition, a building permit shall be required for any fence that exceeds three feet in height located on any corner lot.
- E. Fences and Hedges on El Camino Real. No fence or hedge which exceeds three feet in height is permitted within 20 feet of any property line on El Camino Real when such property line is crossed by a driveway for regular vehicle ingress and egress.
- F. Fences in Right-of-Way. Fences shall not be allowed to extend beyond the property line into any right-of-way.
- G. Nonconforming Fences and Hedges. Any existing fence or hedge existing whose height exceeds that specified is nonconforming. The Council may order a nonconforming fence or hedge to be caused to conform upon the Council's conclusion that a public hazard or public inconvenience results from such nonconformance.
- H. Exception for Schools, Playgrounds, and Government Facilities. The regulations of this chapter shall not apply to the construction of metal fences for the protection of schools, playgrounds, and government facilities.
- I. Driveway Gates. Gates across driveways in all zoning districts shall be set back a minimum of 20 feet behind the property line to allow for adequate space to queue vehicles entering the property.
- J. Pilasters. Decorative pilasters, statuary, flowerpots, and similar ornamental elements attached to or incorporated into the design of conforming fences or walls may exceed the required height limit up to 18 inches, provided that the decorative element is not wider than 18 inches and that such elements are used to define a gateway or other entryway or are otherwise at least four feet apart.
- K. Exceptions. Exceptions to the regulations of this section shall be applied for and granted pursuant to the minor modification provisions of Chapter 25.74 (Minor Modifications) of this title.

(Ord. 2000 § 2, (2021))

§ 25.31.080. Mechanical and Other Equipment—Residential and Mixed-Use Development.

- A. For the purposes of this chapter, mechanical equipment shall include machines and devices, including HVAC units, fans, vents, generators, and elevator motors integral to the regular operation of climate control, electrical, and similar building systems. Mechanical equipment shall not include water heaters (both tank and tankless styles) and enclosures for such units.
- B. The following regulations apply to newly installed mechanical equipment for new and existing residential dwellings and mixed-use developments:
 1. Mechanical equipment may only be located in the rear 75 percent of the lot.
 2. Mechanical equipment shall not be located within the front yard between the building and the property line.
 3. Mechanical equipment shall be screened from view from any portion of adjacent streets by

fences or hedges.

4. Mechanical equipment shall not be mounted on sloping roofs. Mechanical equipment may be mounted on flat roofs with prior approval by the Director, provided the equipment is concealed with solid screening that is integrated into the overall architectural design.
5. Equipment shall not exceed a maximum outdoor noise level (measured in A-weighted decibels, or dBA) of 60 dBA between the hours of 7:00 a.m. and 10:00 p.m. or 50 dBA between the hours of 10:00 p.m. and 7:00 a.m., as measured from the property line of the property on which the equipment is located.

(Ord. 2000 § 2, (2021))

§ 25.31.090. Public Safety Communications and Wireless Access Point Agreement for Tall Buildings.

As a condition of approval of any structure over 35 feet in height, the Director shall require a location to be agreed upon by the City and the property owner to locate public safety communications equipment and a wireless access point for City communications on the structure proposed. The property owner shall permit this equipment to be installed if the City determines that the structure interferes with critical City public safety communications. The applicant shall provide an electrical supply source for use by the equipment. The applicant shall permit authorized representatives of the City to gain access to the equipment location for purposes of installation, maintenance, adjustment, and repair upon reasonable notice to the property owner or owner's successor in interest. This access and location agreement shall be recorded in terms that convey the intent and meaning of this condition.

(Ord. 2000 § 2, (2021))

§ 25.31.100. Outdoor Lighting and Illumination.

- A. Glare. Exterior lighting on all properties shall be designed and located so that the cone of light and/or glare from the lighting element is kept entirely on the property or below the top of any fence, edge, or wall.
- B. Shielded Light Fixtures. On all residential properties, exterior lighting outlets and fixtures shall not be located more than nine feet above adjacent grade or required landing. Only shielded light fixtures which focus light downward shall be allowed, except for illuminated street numbers required by the Fire Department.

(Ord. 2000 § 2, (2021))

§ 25.31.110. (Reserved)

§ 25.31.120. (Reserved)

§ 25.31.130. Trash and Refuse Collection Areas.

- A. Purpose and Applicability. This section establishes standards for the location, development, and operations of trash enclosures to ensure that the storage of trash, green waste, and recyclable materials does not have significant adverse health consequences and does minimize adverse impacts on surrounding properties.
- B. When Required. All new and expanded commercial and industrial projects with a floor area exceeding 500 square feet, all intensifications of commercial and industrial uses, all new multi-unit

residential projects located in any zoning district, and all new mixed-use projects shall be required to provide and maintain at least one trash enclosure. Trash enclosures may be located indoors or outdoors to meet the requirements of this section.

C. Location.

1. Residential. Outdoor trash enclosures required under this section for residential projects shall not be located within any required front or street side yard.
2. General. No outdoor trash enclosures shall be located within any public right-of-way or in any location where it would obstruct pedestrian walkways, obstruct vehicular ingress and egress, reduce motor vehicle sightline, or in any way create a hazard to health and safety, as determined by the Director.

D. Maintenance. Outdoor trash enclosures required shall be maintained in the following manner:

1. Prompt removal shall be required of visible signs of overflow of garbage, smells emanating from enclosure, graffiti, pests, and vermin.
2. Trash enclosure covers shall be closed when not in use.
3. Trash enclosures shall be easily accessible for garbage and recyclables collection.
4. Trash enclosures shall be regularly emptied of garbage.

E. Design of Enclosure Area.

1. Each trash enclosure shall be of a material and colors that complement the architecture of the buildings they serve or shall have exterior landscape planting that screens the walls.
2. The interior dimensions of the trash and recyclables enclosure shall provide convenient and secure access to the containers to prevent access by unauthorized persons and to minimize scavenging, while allowing authorized persons access for disposal and collection of materials.
3. All outdoor trash enclosures shall have full roofs to reduce stormwater pollution and to screen unsightly views. The design of the roof and the materials used shall be compatible with the on-site architecture, with adequate height clearance to enable ready access to any containers.
4. Designs, materials, or methods of installation not specifically prescribed by this section may be approved by Director, and subject to Director's action. In approving such a request, the Director shall find that the proposed design, material, or method provides approximate equivalence to the specific requirements of this section or is otherwise satisfactory and complies with the intent of these provisions.

(Ord. 2000 § 2, (2021))

**CHAPTER 25.33
AFFORDABLE HOUSING AND DENSITY BONUS**

§ 25.33.010. Density Bonus.

A. Purpose and Applicability.

1. It is the City Council's intent that the City comply with Government Code Sections 65915 through 65918, referred to herein as the "density bonus law," for the granting of residential density bonuses and the submission, review, and granting of incentives and concessions consistent with State law. All applicable provisions of the density bonus law are hereby incorporated by reference and shall be the default law unless otherwise provided by this chapter.
2. This chapter shall not abrogate any other requirements set forth by Federal, State, or local law, including, but not limited to, California Environmental Quality Act requirements and the Burlingame Municipal Code.

B. Application and Review Process.

1. An application for a density bonus or incentive shall be made to the Community Development Department on forms provided by the City. The application shall include the following information:
 - a. A brief description of the proposed housing development, including the total number of dwelling units, affordable housing units, and density bonus units proposed.
 - b. The requested density bonus amount and requested incentives, if any.
 - c. Site plans showing the location of market-rate, density bonus, and affordable housing units.
 - d. Any other such information as is necessary to verify that the applicant and/or the housing development meets all requirements set forth by State and local law.
2. The application, or an incentive therein, may be wholly or partially denied for any of the following reasons:
 - a. The application is incomplete.
 - b. The application contains a material misrepresentation.
 - c. The incentive has an insufficient relationship to providing affordable housing.
 - d. The incentive has a specific, adverse impact as defined in Government Code Section 65589.5(d)(2).
 - e. The incentive is contrary to Federal or State law.
3. The applicant may file an appeal to the City Council within 10 calendar days of being notified of his or her application's final denial.

C. Standards for Development.

1. The required affordable dwelling units shall be constructed concurrently with market-rate units unless both the final decision-making authority of the City and developer agree within the

affordable housing agreement to an alternative schedule for development.

2. The exterior design and construction of the affordable dwelling units shall be consistent with the exterior design and construction of the total project development and shall be consistent with any affordable residential development standards that may be prepared by the City.
3. The affordable units shall have the same amenities as the market rate units, including the same access to and enjoyment of common open space, parking, storage, and other facilities in the residential development, provided at an affordable rent or at affordable ownership cost specified by Section 50052.5 of the California Health and Safety Code and California Code of Regulations Title 25, Sections 6910-6924, as they may be amended from time to time. Developers are strictly prohibited from discriminating against tenants or owners of affordable units in granting access to and full enjoyment of any community amenities available to other tenants or owners outside of their individual units.
4. A regulatory agreement, as described in subsection D., shall be made a condition of the discretionary permits for all developments pursuant to this chapter. The regulatory agreement shall be recorded as a restriction on the development.

D. Regulatory Agreement.

1. After approval of the application pursuant to the requirements of this title, the applicant shall enter into a regulatory agreement with the City. The terms of this agreement shall be approved as to form by the City Attorney's Office and reviewed and revised as appropriate by the reviewing City official. This agreement shall be on a form provided by the City, and shall include the following terms:
 - a. The affordability of very low-, lower-, and moderate-income housing shall be assured in a manner consistent with Government Code Section 65915(c)(1).
 - b. An equity sharing agreement pursuant to Government Code Section 65915(c)(2).
 - c. The location, dwelling unit sizes, rental cost, and number of bedrooms of the affordable units.
 - d. A description of any bonuses and incentives, if any, provided by the City.
 - e. Any other terms as required to ensure implementation and compliance with this section and the applicable sections of the density bonus law.
2. This agreement shall be binding on all future owners and successors in interest. The agreement required by this section shall be a condition of all development approvals and shall be fully executed and recorded prior to the issuance of any building or construction permit for the project in question.

(Ord. 2000 § 2, (2021))

CHAPTER 25.35 HISTORIC RESOURCES

§ 25.35.010. Purpose and Applicability.

- A. Purpose. A key defining element of Burlingame is the variety and character of its buildings. These include a range of periods and styles, providing a setting that is unique. The notion that older buildings or districts can have meaning for cities has been proven in cohesive historic neighborhoods, in renewed commercial districts, and in the conservation of landmark structures. The renovation and adaptive reuse of these historic buildings is often a benefit to the community as a whole and the owners of surrounding properties.

Authority for local governments to establish local historic preservation programs is granted in California Government Code Section 37361(b). The purpose of this chapter is to implement the policies contained in Chapter 6.0-Historic Preservation of the Burlingame Downtown Specific Plan and historic preservation policies in the General Plan through a voluntary program that provides property owners with fiscal benefits or zoning and code incentives to preserve historic properties in Burlingame.

- B. Applicability. The City of Burlingame's Historic Resource Preservation Program shall apply citywide or as otherwise may be directed by the Council.

(Ord. 2000 § 2, (2021))

§ 25.35.020. Definitions.

Specific terms used in this chapter shall have the particular meanings established in Article 8 (Definitions), Section 25.108.090 ("H" Definitions), heading "Historic Resources" of this title.

(Ord. 2000 § 2, (2021))

§ 25.35.030. City of Burlingame Historic Preservation Commission.

- A. Membership. The members of the City of Burlingame Planning Commission shall act as the Historic Preservation Commission.
- B. Quorum. A quorum of the Commission shall be defined as four voting members. A majority of the voting members, exclusive of absences and recusals, on any item shall be required to carry a motion.
- C. Powers and Duties. The Commission shall have the following powers and duties:
1. Adopt procedural rules for the conduct of its business in accordance with the provisions of this title.
 2. Recommend in accordance with the criteria set forth in Section 25.35.040.C (Criteria for Including Resources in the Register) the designation of historic resources, including historic districts, landmark sites, and landmarks within the City, including all information required for each designation.
 3. Maintain a local register of historic resources consistent with the National Register of Historic Places criteria, including historic districts, landmark sites, and landmarks within the City, including all information required for each designation.
 4. Adopt prescriptive standards to be used by the Commission in reviewing applications for permits to construct, change, alter, modify, remodel, remove, or significantly affect any

designated historic resource.

5. Make recommendations to the Council on the use of various Federal, State, local, or private funding sources and mechanisms, such as the Mills Act and State Historic Building Code, available to promote historic resource preservation in the City.
6. Approve or disapprove, in whole or in part, or approve with conditions, applications for permits pursuant to Section 25.35.070 (Exterior Alteration of Designated Historic Resources).
7. Review all applications for permits, environmental assessments, environmental impact reports, environmental impact statements, and other similar documents, as set forth in this title, pertaining to designated and potential historic resources. The Community Development Department shall forward such documents to the Commission for review as appropriate.
8. Review and comment on actions and environmental documentation associated with City-sponsored actions, programs, capital improvements, or activities as they relate to designated and potential historic resources.
9. Cooperate with local, county, State, and Federal governments in the pursuit of the objectives of historic resource preservation.
10. Provide opportunity for direct public participation in historic resource preservation responsibilities.
11. Confer recognition upon the owners of landmarks or property or structures within historic districts by means of certificates, plaques, or markers, and from time to time issue commendations to owners of historic resources who have rehabilitated their property in an exemplary manner.
12. Undertake any other action or activity necessary or appropriate to the implementation of its powers or duties to fulfill the objectives of historic resource preservation as delineated in this chapter.

(Ord. 2000 § 2, (2021))

§ 25.35.040. City of Burlingame Historic Architectural and Places Resources Register.

- A. Duty to Create and Maintain. The City shall create and maintain a register of historic architectural resources and historic places. Such register shall contain a listing of properties that: (1) contain an officially designated historic resource, whereby such designation has been applied by a formal process by a Federal, State, or local government agency; and (2) have been identified as having a resource with characteristics that qualify it for receiving an official designation historic resource designation. Such register shall be continuously maintained and updated to include any properties that, through professionally accepted methods of research and reporting and in accordance with professionally accepted criteria, are subsequently identified as a historical architectural resource or historic place.
- B. Downtown Specific Plan Inventory. The October 6, 2008 Inventory of Historic Resources – Burlingame Downtown Specific Plan (Inventory) identifies resources in the City which may be considered historical for purposes of this title. That inventory, as it may be amended from time to time, is considered part of the Historical Architectural and Places Resources Register, as defined in subsection A, above.
- C. Criteria for Including Resources in the Register. The National Register of Historic Places Guidelines

(Guidelines) shall be used for determining historical resources. The criteria in subsection (j) of the Guidelines and at least two of the other criteria shall be utilized to determine the significance of a property when considering its inclusion in the Register.

1. Buildings, structures, or places that are important key focal or pivotal points in the visual quality or character of an area, neighborhood, or survey district.
 2. Structures that help retain the characteristics of the town with respect to the immediate surroundings.
 3. Structures that contribute to the unique urban quality of a downtown, for properties located within the Downtown Specific Plan.
 4. Structures contributing to the architectural continuity of the street.
 5. Structures that are identified with an event or person who significantly contributed to the culture and/or development of the City, State, or nation.
 6. Structures that represent an architectural type or period and/or represent the design work of known architects, draftsmen, or builders whose efforts have significantly influenced the heritage of the City, State, or nation.
 7. Structures that illustrate the development of California locally and regionally.
 8. Buildings retaining the original integrity of and/or illustrating a given period.
 9. Structures unique in design or detail, such as, but not limited to, materials, windows, landscaping, plaster finishes, and architectural innovation.
 10. Structures that are at least 50 years old or properties that have achieved significance within the past 50 years, at the time the determination is made, if they are of exceptional importance.
 11. Places that have been visited by a person or persons important to City, State, national, or international history or prehistory.
- D. Property Owner Permission Required. Inclusion of a private property on the Historic Register shall only occur upon request of the property owner.
- E. Resources Not Subject to Chapter. Resources are not subject to any provisions of this chapter as result of being included in the Register. The intent of the Register is only to identify resources which are eligible for official designation.
- F. No Prejudice. Properties identified in the Register shall not be prejudiced in any form as a result of being included in the Register.
- G. Incentives. Owners who place their historical resource(s) on the Register are eligible for incentives detailed in Section 25.35.080 (Preservation Incentives).

(Ord. 2000 § 2, (2021))

§ 25.35.050. City of Burlingame Official Designation.

- A. A structure or resource becomes locally designated only as result of the property owner submitting a Historical Preservation Application to the Community Development Department and having it approved by the Commission.

- B. Any properties that are presently included on the California Register of Historic Places and/or the National Register of Historic Places shall automatically be included on the City's Register as a locally designated resource.

(Ord. 2000 § 2, (2021))

§ 25.35.060. Historic Resource Designation Procedures.

- A. Historic Resource Designation Procedures. Property owners may request placement of resources on the City Register in the following manner:

1. Owner(s) of resources included may request inclusion in the Register by submitting to the Director a Historical Resource Application, along with an historic resource assessment for the property prepared by a qualified architectural historian.
2. Structures which were identified in the Downtown Specific Plan Inventory or through a historic resources evaluation as being potentially eligible for the National Register of Historic Places are, upon adoption of the ordinance codified in this chapter, considered locally significant and may be included in the City's Register when included on the National Register of Historic Places, at the request of the property owner.
3. Historic resource applications shall be made to the Director, who shall, within 30 days of receipt of a completed application, prepare and make recommendations for consideration by the Historic Preservation Commission. The application shall be considered at the next Commission meeting following receipt of the Director's recommendations for which appropriate notice may be given, or at such later meeting as requested or agreed by the applicant and Director.
4. The Commission shall determine at a regular public meeting based on the documentation provided as to whether the nomination application is appropriate for and shall determine whether to approve the application in whole or in part. Failure to pass a motion approving the application in whole or in part shall constitute a denial of the application.
5. The Council may also initiate such proceedings on its own motion for resources on public property.

- B. Deletion from Register. The procedure for deletion of a designated historic resource from the Register shall be as follows:

1. The owner(s) of a designated historic resource may request deletion of the listed resource from the Burlingame Historic Register.
2. Requests to delete a designated historic resource from the Register shall be submitted in writing to the Director, who shall remove the property from the Register unless the request to remove the property from the Register must be referred to the Commission under subsection B.4, below. The Director shall report the removal of resources from the Register to the Commission, as deemed necessary by the Director.
3. The Director shall periodically propose and process for deletion from the Burlingame Historic Register those designated historic resources which have been lawfully removed, demolished, or disturbed to such an extent that, in the Director's opinion, they no longer qualify for placement on the Register.
4. Requests to delete a designated historic resource that has benefited from any of the incentives identified in Section 25.35.080 (Preservation Incentives) shall be forwarded to the Commission

for review and action and may be subject to penalties deemed appropriate by the Commission based on the significance of the resource at the time of the proposed deletion. The Commission shall have the discretion to grant, grant with conditions, or deny the request for removal for such properties.

(Ord. 2000 § 2, (2021))

§ 25.35.070. Exterior Alteration of Designated Historic Resources.

- A. Review Process. All applications for a building permit for exterior alteration to any designated historic resource shall be reviewed as follows:
 - 1. The Director shall review and approve minor exterior alterations that do not materially alter the historic, character-defining elements of the structure. Minor exterior alterations are those that qualify for Design Review–Minor pursuant to Chapter 25.68 (Design Review).
 - 2. The Commission shall review and determine whether to approve applications involving modifications to any designated historic resource that qualify for Design Review–Major pursuant to Chapter 25.68 (Design Review).
- B. Application Process. Requests to conduct exterior alterations to a structure included on the Register shall be subject to the appropriate entitlement application required under Article 6 (Permit Processing Procedures) of this title.
- C. Standards of Review. In evaluating applications, the review body shall consider the project design's consistency with the *Secretary of the Interior Standards for Rehabilitation*, including, but not limited to, architectural style, design, arrangement, texture, materials and color, and any other pertinent factors. The prime concern should be the exterior appearance of the building site. The proposed alterations shall not adversely affect the historic, character-defining features or the aesthetic value of the building and its site.

(Ord. 2000 § 2, (2021))

§ 25.35.080. Preservation Incentives.

The Commission is authorized to develop and implement preservation incentive programs that are consistent with this chapter. Incentives shall be made available for properties listed on the Register that undergo maintenance or alteration consistent with the *Secretary of the Interior Standards for Rehabilitation*.

- A. State Historic Building Code. The Building Official is authorized to use and shall use the California State Historic Building Code (SHBC) for projects involving designated historic resources. The SHBC provides alternative building regulations for the rehabilitation, preservation, restoration, or relocation of structures designated as historic resources. The SHBC shall be used for any designated historic resource in the City's building permit procedure.
- B. Development Standards Flexibility. The following shall apply to properties officially designated as a historic resource.
 - 1. Parking Standards.
 - a. Additional floor area may be added to existing single-family residences that are nonconforming due to substandard parking without providing parking according to current standards, provided that the aggregate of all additional floor area constructed following the

date of designation of the structure as a historic resource does not exceed 50 percent of the floor area existing as of the date of designation as a resource. For multiple-family residential properties, adding units in accordance with existing zoning standards shall not require the property owner to bring existing nonconforming parking into compliance with current parking requirements, although code-required parking shall be provided for any new units created.

- b. Designated historic commercial and mixed-use structures may add up to an aggregate of 15 percent of the existing floor area as of the date of designation of the property as a historic resource, not to exceed 500 square feet, without providing additional parking and without bringing any existing nonconformity into compliance with the current zoning regulations, subject to review and approval by the Commission. The addition must be removed or otherwise approved under governing procedures if the historic building is demolished.
 2. Lot Coverage. For development on properties where an historic resource exists, maximum permitted lot coverage shall be 1.25 times the standard lot coverage for the particular zone district.
 3. Variances. Owners of designated properties may apply for variances from development standards applicable to the property pursuant to Chapter 25.84 (Variances) in instances where the deviation from the standard is warranted to preserve the historic character of the property. The property's status as a designated historic resource may be used as a basis for determining whether the property owner is denied privileges enjoyed by other property owners in the vicinity and within the same zoning district.
- C. Adaptive Reuse. Owners of designated properties may apply for a conditional use permit for any use that is not ordinarily permitted, or conditionally permitted, within the zone in which the designated resource is situated, pursuant to the purpose, findings, and conditions expressed in Chapter 25.66 (Conditional Use Permits and Minor Use Permits) and the following additional findings. These provisions are limited to the adaptive reuse of the resource. Any other development on the property shall comply with the provisions of the zoning district in which the property is located.
1. Use of the property for a purpose other than that for which it was originally designed, and in a manner that would not normally be permitted within the zone in which the resource is situated, is necessary to enhance the economic viability of retaining the resource and its notable characteristics in a manner that ensures the continued maintenance of the resource; and
 2. Any alterations to the resource that are necessary to accommodate the adaptive re-use of the resource shall be designed and completed in a manner consistent with the *Secretary of the Interior Standards for Rehabilitation* and shall be subject to any discretionary approvals required by this title.
- D. Mills Act Contracts.
1. Mills Act contracts granting property tax relief shall be made available by the City only to owners of properties listed in the Burlingame Historic Resources Register, as well as properties located within the City that are listed in the National Register of Historic Places and/or the California Register of Historical Places. Properties that have been previously listed on the above-mentioned register(s), but that have been removed from the register(s) and are no longer listed, shall not be eligible for a Mills Act contract with the City.

2. Mills Act contracts shall be made available pursuant to California law. The Department shall make available appropriate Mills Act application materials. The Mills Act application may be processed concurrently with the historic resource application.
 3. Mills Act contract applications shall be made to the Director or designee, who shall within 60 days of receipt of a completed application prepare and make recommendations on the contents of the contract for consideration by the Council. A fee for the application will be required consistent with the City's adopted fee schedule, to cover all or portions of the costs of the preparation of the contract or an amount set by Council resolution may be charged.
 4. The Council shall, in public hearing, resolve to approve, approve with conditions, or deny the proposed contract. Failure to pass a motion approving the application shall be deemed a denial. Should the Council fail to act on the proposed contract within one year of its receipt of the proposal, the proposal shall be deemed denied.
 5. A Mills Act contract application that has failed to be approved by the Council cannot be resubmitted for one year from the date of Council action, or where the Council fails to take action, within one year from the date that the application is deemed denied pursuant to subsection D.4, above.
- E. Preservation Easements. Preservation easements on the façades of buildings designated as an historic resource may be acquired by the City or nonprofit group through purchase, donation, or documentation pursuant to California Civil Code Section 815.
- F. Official Recognition/Awards. The Commission, on an annual basis, may recognize those projects involving designated historic resources that have demonstrated a high level of commitment to maintaining or restoring the historic integrity of the resource. The Department may nominate all projects implemented within a calendar year for award consideration by the Commission.

(Ord. 2000 § 2, (2021))

§ 25.35.090. Duty to Keep in Good Repair.

- A. Obligation. The owner, occupant, and any person in actual charge of an officially designated historic resource or an improvement, building, or structure subject to the provisions of this chapter are jointly and severally obligated to keep in good repair all of the exterior portions of such improvement, building, or structure, all of the interior portions thereof when specified in the action declaring the property a historic resource, and all interior portions thereof whose maintenance is necessary to prevent deterioration and decay of any exterior architectural feature.
- B. Standards. Maintenance and repair of designated properties shall be in accordance with the *Secretary of the Interior Standards for Rehabilitation*.
- C. Authority. The Director shall have the authority to enforce this section, concurrently with the code compliance function of the City, as delineated in Title 1 of the Municipal Code.
- D. Ordinary Maintenance and Repair. Nothing in this section shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature in or on any property covered by this section that does not involve a change in design, material, or external appearance thereof, nor does this chapter prevent the construction, reconstruction, alteration, restoration, demolition, or removal of any such architectural feature when the Director certifies to the Commission that such action is required for the public safety due to an unsafe or dangerous condition which cannot be rectified through the use of the California State Historic Building Code and when such architectural feature

can be replaced.

- E. Emergency Demolition. Designated historic resources that have been severely damaged as a result of an earthquake, fire, or other disaster, and which require immediate demolition because the building presents an imminent threat to public safety, shall be exempt from the provisions of this chapter. A determination to demolish an existing building on such grounds shall be made by the Commission acting on the advice and recommendation of the Building Official. In the absence of a quorum of the Commission, or if exigent circumstances exist such that public safety requires immediate action, such a determination may be made by the Building Official in consultation with the Director.
- F. Enforcement and Penalties.
 - 1. Any person who violates a requirement of this chapter or fails to comply with a condition of approval of any certificate or permit issued under this section shall be subject to the penalties and enforcement provisions of Title 1 of this Code.
 - 2. Any person who alters, removes, or demolishes a designated historic resource in violation of this chapter shall be required to restore the building, object, site, or structure to its appearance or setting prior to the violation. Any action to enforce this provision may be brought by the City or any other interested party. This civil remedy shall be in addition to, and not in lieu of, any other remedy provided by law.
 - 3. Alteration, removal, or demolition of a designated historic resource in violation of this chapter may result in disqualification of eligibility or removal of listing on a historic register, and/or disqualification for use of preservation incentives as provided in Section 25.35.080 such as, but not limited to, Mills Act contracts.

(Ord. 2000 § 2, (2021))

CHAPTER 25.36 LANDSCAPING AND OPEN SPACE

§ 25.36.010. Purpose.

The City promotes the value and benefits of landscapes and open space while recognizing the need to conserve water and other resources as efficiently as possible. This chapter establishes minimum landscape standards for all uses in compliance with applicable State standards and guidelines and to promote sustainable development. The purpose of this chapter is to establish a structure for planning, designing, installing, maintaining, and managing water-efficient landscapes and open spaces in new construction and rehabilitated projects.

(Ord. 2000 § 2, (2021))

§ 25.36.020. General.

- A. Water-Efficient Landscaping. All landscaping shall conform to Chapter 18.17 (Water Conservation in Landscape) of the Municipal Code and the California Code of Regulations Sections 490-495, Chapter 2.7, Division 2 Title 23 Model Water-Efficient Landscape Ordinance.
- B. Plantings. Landscaped areas shall primarily consist of grass, annuals, perennials, groundcover, shrubs, trees, and other living vegetation, as well as allowed hardscape treatments. Artificial turf may only be used if it is permeable and has a minimum pile height of one and one quarter inches.
- C. Parking Lot Landscaping. All surface parking lots shall conform to the parking lot landscaping standards in Section 25.40.070.D (Parking Lot Landscaping).

(Ord. 2000 § 2, (2021))

§ 25.36.030. Open Space Requirements for Multi-Unit Dwellings.

- A. Useable Open Space. All required open space shall be usable as defined in Section 25.108.160 ("O" Definitions) and shall include no obstructions other than devices and structures designed to enhance its usability, such as patio covers, trellises, swimming pools, changing facilities, fountains, planters, benches, and landscaping.
- B. Minimum Dimensions.
 1. Private Open Space. The minimum required private open space shall be five feet by eight feet.
 2. Common Open Space. No horizontal dimension of common open space shall be less than 15 feet.
- C. Minimum Open Space. Minimum open space requirements may be met through private, common, and/or public and quasi-public open spaces.
 1. Paving in common open spaces provided on the ground level shall not exceed 50 percent of the minimum required common open space.
 2. Common open spaces provided on the ground level shall only be allowed to encroach into side and rear setbacks areas, but not into any front setback areas.
 3. Common open spaces provided on rooftops shall comply with the following standards:
 - a. There shall be a minimum separation of at least 10 feet from the edge of the roof or

parapet. The rooftop open space shall be enclosed by a parapet or solid wall. If there is a parapet or roof structure, the open space may be enclosed by a guardrail.

- b. The rooftop open space shall be designed so that the space is broken into smaller spaces not exceeding 1,000 square feet in area. Spaces may be separated by railings, walls, and landscape planters not exceeding five feet in height.
- c. A trellis or patio cover may be provided but shall not exceed 10 feet in height and 120 square feet in area.
- d. Any exterior lighting within the open space shall be designed so that it contains a shield to point lighting downward.
- e. Deviation from the standards in subsections C.3.a through d above may be permitted through the issuance of a special permit pursuant to Chapter 25.78 (Special Permit).

(Ord. 2000 § 2, (2021))

§ 25.36.040. Landscape Coverage Requirements for Commercial, Industrial, and Mixed-Use Zones.

Shrubs, groundcover, and other plant material shall cover all areas not occupied by structures, parking areas, storage, trash enclosures, driveways, and sidewalks at the time of issuance of a Certificate of Occupancy. Embellished pavement, fountains, and similar hardscape materials may, in part, be substituted for the required landscaping through the site plan and design review process.

(Ord. 2000 § 2, (2021))

§ 25.36.050. Landscape Irrigation and Maintenance.

The owner of any property, or any other person or agent in control of a property, on which is located any retaining walls, cribbing, drainage structures, planted slopes and other protective devices, required according to a permit granted under this Code or required under the issuance of a grading permit, shall maintain the retaining walls, cribbing, drainage structures, planted slopes, and other protective devices in good condition and repair at all times.

(Ord. 2000 § 2, (2021))

CHAPTER 25.40 PARKING REGULATIONS

§ 25.40.010. Purpose and Applicability.

A. Purpose. The purposes of this chapter are to:

1. Ensure that adequate off-street parking is provided for new land uses and major alterations to existing uses, considering the demands likely to result from various uses, combinations of uses, and settings, and to avoid the negative impacts associated with spillover parking into adjacent neighborhoods and districts;
2. Minimize the negative environmental and urban design impacts that can result from parking lots, driveways, and drive aisles within parking lots;
3. Offer flexible means of minimizing the amount of area devoted to vehicle parking by allowing reductions in the number of required spaces in transit-served locations, shared parking facilities, project with transportation demand management programs (TDM), and other situations expected to have lower vehicle parking demand;
4. Where possible, consolidate parking and minimize the area devoted exclusively to parking and driveways when typical demands may be satisfied more efficiently by shared facilities, parking lifts/mechanical parking, valet parking, or other similar approaches;
5. Ensure that parking and loading areas are designed to operate efficiently and effectively and in a manner compatible with on-site and surrounding land uses;
6. Ensure that adequate off-street bicycle parking facilities are provided;
7. Promote parking lot designs that offer safe and attractive pedestrian routes;
8. Encourage bicycling, transit use, walking, carpooling, and other modes of transportation (other than by motor vehicle) that can move the City toward achieving modal split goals in the General Plan Mobility Element; and
9. Accommodate and encourage increased use of alternative fuel and zero-emissions vehicles.

B. Applicability. The minimum off-street parking spaces established in this chapter shall be provided for new construction or intensification of use, and for the enlargement or increased capacity and use of land.

(Ord. 2000 § 2, (2021))

§ 25.40.020. General Provisions.

A. Vehicle Parking Spaces to Be Provided.

1. **Parking Required.** At the time of erection of any building or structure, or at the time any building or structure is enlarged or increased in capacity, there shall be provided off-street parking spaces with adequate and proper provision for ingress and egress by standard size automobiles.
2. **Reconstruction, Expansion and Change in Use of Existing Nonresidential Buildings.** When a change in use, expansion of a use, or expansion of floor area creates an increase of 10 percent or more in the number of required on-site parking or loading spaces, on-site parking and loading shall be provided according to the provisions of this chapter. The existing parking shall be

maintained, and additional parking shall be required only for such addition, enlargement, or change in use and not for the entire building or site. If the number of existing parking spaces is greater than the requirements for such use, the number of spaces in excess of the prescribed minimum may be counted toward meeting the parking requirements for the addition, enlargement, or change in use. A change in occupancy is not considered a change in use unless the new occupant is in a different use classification than the former occupant.

3. Reconstruction, Expansion and Change of Use of Existing Residential Buildings. When any building is remodeled, reconstructed, or changed in use by the addition of dwelling units, such additional garage or parking facilities as may be required must be provided, except for accessory dwelling units approved per Section 25.48.030 (Accessory Dwelling Units).
 4. Minimum Requirements. The regulations in this chapter are the minimum requirements unless specific requirements are made for a particular use in a district. Additional spaces may be provided.
 5. Parking to Be Provided on Same Lot. Unless otherwise expressly permitted by this chapter, required parking shall be provided on the same lot as the use for which the parking is required. Parking may be provided on a project-wide basis for a master planned project where the parcels are either under common ownership or adequate assurances are provided, such as through reciprocal easement agreements, to the Director's satisfaction.
 6. Uses Not Listed. The Director shall determine the parking requirement for uses that are not listed in Table 25.40-10 (Parking Requirements by Use). The Director's determination shall be based on similarity to listed uses. That decision may be appealed to the Commission.
 7. Parking Calculations.
 - a. Floor Area. The parking requirement calculation shall be based on the gross floor area of the entire use, unless stated otherwise. Areas that are not leasable or generally not occupied, such as lobbies, hallways, stairways, break rooms, restrooms, and utility rooms, shall not be included in the parking requirement calculation.
 - b. Sites with Multiple Uses. If more than one use is located on a site (including a mix of uses or a mixed-use development), the number of required on-site parking spaces and loading spaces shall be equal to the sum of the requirements calculated separately for each use, unless a reduction is approved pursuant to Section 25.40.040 (Parking Reductions).
- B. Use of Required Parking Spaces. Required parking spaces and any portion of the area on a site encompassing the required parking and the required landscaping within the parking area on a site shall not be rented or leased to any party on or off the site or used for some purpose other than that permitted or allowed on the site. These spaces shall be made available and maintained in safe, useable condition for the tenants and their clients or customers, at no charge, except as may be authorized by a City-approved shared parking program or where the City has authorized alternative parking arrangements, such as through a Transportation Demand Management program or unbundled parking approach.
- C. Parking Lifts and Other Mechanical Parking Approaches. The required number of parking spaces may be satisfied with the use of parking lifts and other mechanical parking devices pursuant to Section 25.40.070.H (Mechanical Parking Lifts).

(Ord. 2000 § 2, (2021))

§ 25.40.030. Required Parking Spaces.

- A. Minimum Number of Spaces Required. Each land use shall be provided at least the number of on-site parking spaces set forth in Table 25.40-1.

Table 25.40-1: Parking Requirements by Use

Type of Land Use	Number of Off-Street Parking Spaces Required
Commercial – Retail	
Eating and Drinking Establishments (Bars and Taverns; Night Clubs; Restaurants)	1 space per 200 sq. ft. See Section 25.40.030.E. for outdoor dining requirements.
Food and Beverage Sales (General Markets, Convenience Stores, Liquor Stores)	1 space per 400 sq. ft.
Nurseries and Garden Centers	1 per 600 sq. ft.; plus 1 per 2,000 sq. ft. of outdoor display area
Retail Sales	1 space per 400 sq. ft.
Retail Sales – Large Format	1 space per 600 sq. ft.
Vehicle Fuel Sales and Accessory Service	2 parking spaces for employees plus parking for retail/convenience store
Vehicle Sales	1 space per 300 sq. ft. of office area, plus 1 space per 800 sq. ft. of parts sales and service area, plus 1 space per 2,000 sq. ft. of indoor and outdoor sales area
Commercial – Services and Recreation	
Animal Care Services Kennels Pet Hotels Grooming Veterinarian	1 space per 1,000 sq. ft. of indoor area 1 space per 1,000 sq. ft. of indoor area 1 space per 400 sq. ft. of indoor area 1 space per 250 sq. ft. of indoor area
Banks and Financial Institutions	1 space per 300 sq. ft.
Commercial Recreation (Large, Small)	1 space per 300 sq. ft for small; 1 space per 500 sq. ft. for large
Day Care Centers	1 space per 500 sq. ft. of indoor space
Food Preparation (catering)	1 space per 1,000 sq. ft with no on-site sales or service
Funeral Services and Cemeteries	1 space per 4 fixed seats or 1 space per 80 sq. ft. of assembly area, whichever is greater

Table 25.40-1: Parking Requirements by Use

Type of Land Use	Number of Off-Street Parking Spaces Required
Office – Medical or Dental	1 space per 400 sq. ft in NBMU, RRMU, and all Downtown zones 1 space per 250 sq. ft. for all other zones
Office – Professional	1 space per 400 sq. ft in BFC, NBMU, RRMU, and all Downtown zones 1 space per 300 sq. ft. in all other zones
Personal Services (General, Specialized)	1 space per 400 sq. ft.
Studios – Dance, Martial Arts, and the Like	1 space per 300 sq. ft.
Theaters (Live, Movie or Similar)	1 for each 6 permanent seats in main assembly area, or 1 for every 60 sq. ft. of assembly area where temporary or moveable seats are provided, whichever is greater
Educational Services	
Schools, Primary and Secondary (Private)	Elementary and Middle Schools: 1 per classroom, plus 1 per 300 sq. ft. of office area High Schools: 5 per classroom, plus 1 space per 300 sq. ft. of office area
Trade Schools	1 space per 200 sq. ft. In office buildings over 20,000 sq. ft., 1 space per 300 sq. ft.
Tutoring and Educational Services	1 space per 200 sq. ft. In office buildings over 20,000 sq. ft., 1 space per 300 sq. ft.
Industrial, Manufacturing, Processing, Warehousing, and Wholesaling Uses	
Breweries, Wineries, and Distilleries	1 space per 1,500 sq. ft. of production area; 1 space per 200 sq. ft. of tasting room area
Food Processing and Production	1 space per 1,500 sq. ft.
Laboratories/Research and Development	1 space per 1,000 sq. ft.
Light Industrial	1 space per 1,500 sq. ft.
Personal Storage	1 space per 2,000 sq. ft. of combined storage space and business/sales office.
Recycling Facilities	
Light Processing	1 space per 2,000 sq. ft. of processing area
Reverse Vending Machine(s)	None required, except as required for the primary use
Small Collection	None required, except as required for the primary use
Vehicle Service and Repairs	
Major and Minor Repair	1 space for each 800 sq. ft.

Table 25.40-1: Parking Requirements by Use

Type of Land Use	Number of Off-Street Parking Spaces Required
Vehicle Rental	1 per 300 sq. ft. of office area in addition to spaces for all vehicles for rent
Washing	1 space plus sufficient waiting line(s) or 2 spaces plus washing area(s)
Warehousing/Logistics	1 space for each 1,000 sq. ft.
Wholesaling	1 space for each 1,000 sq. ft.
Lodging	
Bed and Breakfast	1 space per lodging room
Extended Stay Hotels	1 space per lodging room
Hostels	1 space per lodging room
Hotels and Motels	1 space per lodging room See Section 25.40.040.B. for parking reduction
Public and Quasi-Public Uses	
Assembly Facilities (Community Assembly, Religious Assembly)	1 space per 6 permanent seats or 1 space per 60 sq. ft. of assembly area if there are no fixed seats.
Community Open Space	None required
Emergency Shelters, Permanent	2 spaces for the facility plus 1 space for each 6 occupants at maximum allowed occupancy
Emergency Shelters, Temporary	No additional parking required beyond the primary use
Government Buildings and Facilities	As required for the type of use (e.g., professional office, warehouse)
Hospitals	1 space per 1.5 beds
Low Barrier Navigation Center	1 per 300 sq. ft.
Medical Clinics	1 space per 250 sq. ft.
Residential Uses	
Dwellings	
Accessory Dwelling Units	Per Section 25.48.030.L (Parking)
Single-Unit Dwelling	See Section 25.40.030.B.
Two-Unit and Multi-Unit Dwellings	

Table 25.40-1: Parking Requirements by Use

Type of Land Use	Number of Off-Street Parking Spaces Required
All zoning districts except Downtown Specific Plan, BRMU, RRMU, NBMU, and R-4	1 space for studio units 1.5 spaces for one-bedroom units 2 spaces for two-or more bedroom units 0.5 spaces per unit for housing occupied exclusively by persons aged 62 or older 0.75 spaces for micro units Guest parking: 1 additional guest parking space shall be provided for every 4 units for projects greater than 10 units
Downtown Specific Plan zoning districts, BRMU, RRMU, NBMU, and R-4	1 space for studio or one-bedroom units 1.5 spaces for two-bedroom units 2 spaces for three-or more bedroom units 0.75 spaces for micro units No additional guest parking spaces are required
All	80 percent of the total required parking spaces shall be covered or within a garage or carport.
Caretaker Quarters	1 space per dwelling
Communal Housing	1 space per 1.5 occupants or 1.5 spaces per bedroom, whichever is greater
Elderly and Long-Term Care	1 space per 3.5 beds
Family Day Care	
Small	None in addition to what is required for the residential use
Large	Same as dwelling type, plus 1 space for every 2 employees providing day care services
Live/Work	1 space for studio or one-bedroom units 1.5 spaces for two-bedroom units 2 spaces for three or more-bedroom units
Residential Care Facilities	
Limited	None in addition to what is required for the residential use.
General, Senior	2 spaces for the owner-manager plus 1 for every 5 beds and 1 for each nonresident employee
Supportive and Transitional Housing	See Section 25.48.240
Mixed Use	
Mixed-Use Development	As required for each separate use in the mixed-use development See Section 25.40.040 for parking reductions.
Transportation and Utilities	

Table 25.40-1: Parking Requirements by Use

Type of Land Use	Number of Off-Street Parking Spaces Required
Air Courier, Terminal, and Freight Services	1 space for each 1,000 sq. ft. of indoor space

B. Requirements for Single-Unit Dwellings. The following are parking requirements for single-unit dwellings.

1. **Parking Space Requirements.** Each single-unit dwelling shall provide off-street parking spaces for at least two vehicles, one of which must be covered by a garage or carport. The following requirements apply to certain additions and to new single-unit dwellings:
 - a. **Two, Three, and Four Bedrooms.** An existing single-unit dwelling increased in size to two, three, or four bedrooms and a new single-unit dwelling with up to four bedrooms shall provide off-street parking spaces to current code dimensions for at least two vehicles, one of which must be covered by a garage or carport.
 - b. **Five or More Bedrooms.** A single-unit dwelling hereafter increased in size to five or more bedrooms and a new single-unit dwelling with five or more bedrooms shall provide off-street parking to current code dimensions for at least three vehicles, two of which must be covered by a garage or carport. Required covered parking spaces shall be provided in a side-by-side configuration.
 - c. **Additions to Existing Single-Unit Dwellings.** For the purposes of subsections B.1.a and b above, an existing garage not less than 18 feet wide and 18 feet deep interior dimension shall be considered to provide two covered off-street parking places.
 - d. **Accessory Dwelling Unit Bedrooms.** Bedrooms that are within accessory dwelling units shall not be counted toward the overall number of bedrooms for the primary single-unit dwelling on the lot on which it is located.
2. **Parking Limitations.**
 - a. A vehicle shall not be parked between a structure and the front line, except in a garage or on a driveway directly leading to a garage or carport. Parking may be provided on a paved pad between the driveway and a side property line with issuance of a special permit. Parking provided in conjunction with establishment of an accessory dwelling unit shall comply with the provisions of Section 25.48.030 (Accessory Dwelling Units).
 - b. Inoperative vehicles, vehicle parts, boats, and campers (as defined by Section 243 of the Vehicle Code) shall not be stored or parked in driveways or between a structure and front or side property line.
 - c. Required covered parking shall not be provided in tandem configuration, except as may be permitted for an accessory dwelling unit pursuant to which complies Section 25.48.030.
 - d. For an addition to an existing single-unit dwelling and for accessory dwelling units, required uncovered spaces may be provided in tandem configuration and may extend:
 - i. In areas with sidewalks, to the inner edge of the sidewalk.
 - ii. In areas without sidewalks, to five feet from the inner edge of the curb.

iii. In areas without either sidewalks or curbs, to five feet from the edge of pavement.

C. Special Requirements for Burlingame Downtown Specific Plan. Notwithstanding any other provision of this Code, the following shall apply to vehicle parking requirements for certain properties within the boundaries ("parking sector") of the Burlingame Downtown Specific Plan, as shown on the Parking Sector Boundaries Map, Figure 3-3 of the Burlingame Downtown Specific Plan.

1. All uses located on the first floor or below the first floor within the parking sector shall be exempt from providing off-street parking. All uses above the first floor, shall provide off-street parking as required by this chapter.
2. Any new development, except reconstruction because of catastrophe or natural disaster, shall provide on-site parking, except that the first floor and floor below the first floor of such new development in the parking sector shall be exempt from parking requirements.
3. Buildings reconstructed after catastrophe or natural disaster shall be required to provide parking only for the square footage over and above the square footage existing at the time of the disaster. This parking shall be provided on site.

D. Broadway Mixed-Use Parking Requirements. Notwithstanding any other provision of this title, the following shall apply to vehicle parking requirements in the Broadway Mixed-Use (BRMU) zoning district:

1. Ground Floor Alterations of Use – Nonconforming Remedy. Upon change of use, if the prior use did not meet parking standards pursuant to this Chapter 25.40 (Parking Regulations), the new use shall not be required to provide additional parking beyond that existing at the time of change of use.
2. Upper Floor Alterations of Use. All uses above the first floor shall provide off-street parking as required by this chapter.

E. Outdoor Dining.

1. Additional parking is not required when an outdoor dining area is less than 1,000 square feet.
2. If the outdoor dining area exceeds 1,000 square feet, parking shall be required for the area in excess of 1,000 square feet at a ratio of 50 percent of what is required for the use.
3. For centers with multiple tenants, each tenant may have up to 1,000 square feet of outdoor dining area.

(Ord. 2000 § 2, (2021))

§ 25.40.040. Parking Reductions.

A. Parking Reductions Pursuant to a Minor Modification Approved by the Director. The parking reductions set forth in this section are not additive, except that a project which qualifies for a Parking Adjacent to Transit or Transportation Demand Management reduction may also apply for a shared parking reduction.

1. Affordable Housing Developments. See Chapter 25.33 (Affordable Housing and Density Bonus) for parking reductions applicable to affordable housing developments.
2. Shared Parking Reduction. Where a shared parking facility serving more than one use will be provided, such as a mixed-use development, the total number of required parking spaces may

be reduced by up to 20 percent with Director approval.

- a. Criteria for Approval. The Director may only approve other parking reductions if the following findings are made:
 - i. The peak hours of use will not overlap or coincide to the degree that peak demand for parking spaces from all uses or projects will be greater than the total supply of spaces;
 - ii. The proposed shared parking provided will be adequate to serve each use and/or project; and
 - iii. In the case of a shared parking facility that serves more than one property, a parking agreement has been prepared and recorded with the Office of the County Recorder requiring the parking to be operated on a nonexclusive basis and to be open and available to the public for shared use, short-term parking during normal business hours.
 - b. Parking Demand Study. A parking demand study shall be conducted and prepared under procedures set forth by the Director that substantiates the basis for allowing shared parking facilities.
 3. Transportation Demand Management Reductions. A 20 percent reduction may be applied to the off-street parking requirement for any project that is required to submit a Transportation Demand Management Plan pursuant to Chapter 25.43 (Transportation Demand Management).
- B. Parking Reductions Pursuant to a Special Permit Approved by the Planning Commission. The Planning Commission may approve a parking reduction, which may include exceeding the amounts pursuant to subsection A., above, if the following findings are made:
1. Parking Demand Study. The parking reduction is supported by a parking demand study that outlines the unique characteristics of the proposed use and substantial evidence that the increased reduction will not be detrimental to surrounding properties.
 2. Vehicle Trip Reduction Plan. Based on the parking study, the Commission may impose conditions deemed necessary to ensure that the appropriate parking demand is maintained as set forth in the parking demand study.
- C. Reductions and Common Parking. Where there has been a reduction in required parking, all resulting spaces must be available for common use and not exclusively assigned to any individual use. In residential and mixed-use projects, required residential parking may be reserved, but commercial parking must be made available for guests or overflow from residences.

(Ord. 2000 § 2, (2021))

§ 25.40.050. Bicycle Parking.

- A. Minimum Bicycle Parking Required. Bicycle parking shall be provided for multifamily residential, public and civic facilities, schools, retail, commercial, office, and industrial uses in accordance with standards set forth in the CalGreen Building Code and/or successor code.
- B. Bicycle Parking Location. Bicycle parking shall be located on a paved surface, in proximity to a building entrance, in a visibly secure and well-lit location, and adjacent to the building served.

C. Bicycle Parking Minimum Dimensions. The minimum dimensions for outdoor bicycle parking spaces shall be two feet by six feet, plus a five-foot-wide maneuvering space behind the bicycle rack area.
(Ord. 2000 § 2, (2021))

§ 25.40.060. Parking for Electric Vehicles.

- A. Parking spaces for electric vehicles shall be provided for all uses in accordance with the requirements of the CalGreen Building Standards Code and/or successor code and local City codes, such as the Burlingame Reach Code, whichever yields the greater number of spaces. These dedicated parking spaces shall count toward the minimum required parking spaces for the associated use.
- B. All electric vehicle spaces shall be equipped with electric vehicle charging equipment as set forth in the CalGreen Building Standards Code and/or successor code and local City codes, such as the Burlingame Reach Code, the use of which the property owner or operator may require payment at his or her discretion.
- C. Any charging or similar equipment shall not be placed within the required parking space dimensions and shall not obstruct any pedestrian path of travel.
- D. Electric vehicle charging equipment shall be provided for all new developments and whenever a substantial addition to an existing development is proposed.

(Ord. 2000 § 2, (2021))

§ 25.40.070. Parking Area Design and Development Standards.

- A. Location of Parking and Off-Site Parking. Required parking spaces serving any use shall be located on the same lot as the use they serve, except parking in an off-site parking facility may be provided upon request for a parking variance as follows:
 1. Location.
 - a. Residential Uses. Any off-site parking facility must be located within 100 feet of the outermost property line, along a pedestrian route, of the unit or use served.
 - b. Nonresidential Uses. Any off-site parking facility must be located within 300 feet of the outermost property line, along a pedestrian route, of the primary entrance containing the use(s) for which the parking is required.
 2. Parking Agreement. A written agreement between the landowner(s) and the City in a form satisfactory to the City Attorney shall be executed and recorded in the Office of the County Recorder. The agreement shall include:
 - a. A guarantee between the landowner(s) for access to and use of the parking facility; and
 - b. A guarantee that the spaces to be provided will be maintained and reserved for the uses served for as long as such uses are in operation.
- B. Parking Space and Drive Aisle Dimensions.
 1. Standard Parking Spaces and Drive Aisles. The standards set forth in Table 25.40-2 are established as minimum parking space dimensions. Alternative dimensions may be provided if it can be shown, to the satisfaction of the City Engineer, that due to unique circumstances on a property, dimensions that are less than the minimum requirements will allow for the safe

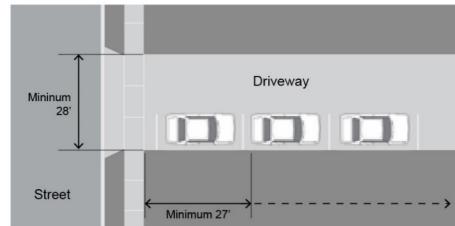
movement of vehicles into, within, and exiting a parking lot.

Table 25.40-2: Parking Space and Aisle Dimensions

Parking Stall Angle	Stall Width	Stall Length	Aisle Width	
			One-Way	Two-Way
Standard Parallel	8.5 ft	22 ft	13 ft	18 ft
30-Degree	8.5 ft	17 ft	13 ft	18 ft
45-Degree	8.5 ft	17 ft	13 ft	18 ft
60-Degree	8.5 ft	17 ft	18 ft	18 ft
90-Degree	8.5 ft	17 ft	24 ft	24 ft

2. Parking Parallel to Entrance Driveway. Where parallel parking is provided alongside an entrance driveway, the minimum width of the driveway/drive aisle shall be increased to 28 feet, and the driveway/drive aisle shall be at least 27 feet in length for parallel parking to be allowed in this location.

Figure 25.40.08.B.2: Parking Parallel to Entrance Driveway



3. Compact Spaces. Compact car spaces, where allowed as shown in Table 25.40-3, shall have a clear interior measurement of eight feet in width and 17 feet in length.
4. Single-Unit Dwellings. Garages and carports for single-unit dwellings shall have a clear interior measurement of at least 10 feet in width and 18 feet in length when one parking space is required and at least 20 feet in width and 18 feet in length when two spaces are required. Open parking spaces for single-unit dwellings shall have a clear interior measurement of nine feet in width and 18 feet in length.
5. Parking Spaces Abutting Wall or Fence. Each parking space abutting a wall, fence, column, or other obstruction higher than six inches adjacent to that space shall have a minimum width of 10 feet to allow a vehicle door to open and to provide additional maneuvering space to drive into and out of the parking space. In the review of the parking plan, the Director, upon consulting with the City Engineer, may require additional width.
6. Increase in Dimension. Any parking space dimension shall be increased to a size acceptable to the City Engineer to provide for safe movement into and out of a parking space.
7. Vertical Clearance for Interior Parking. All parking spaces and aisles shall have an unobstructed vertical clearance from floor to lowest projections on the ceiling within the parking area of seven

feet.

8. Separate Egress. A separate means of egress shall be provided for all parking spaces at angles less than 90 degrees unless an area is provided on site which allows a motor vehicle exiting such spaces to do so within three movements. A turning radius of 28 feet for outside clearance and 14 feet for inside clearance shall be assumed.
9. Garage Doors. The minimum garage door widths are eight feet for a one-car garage and 16 feet for a two-car garage.
10. Motorcycle Parking. Extra space in parking lots can be used for motorcycle parking. The following guidelines apply where such spaces are provided:
 - a. Motorcycle parking should be located near a main entrance to encourage use and enhance visibility to minimize theft and vandalism.
 - b. Each motorcycle parking space shall have a minimum delineated area of four feet by eight feet.
 - c. Parking lots that include motorcycle parking spaces shall have signage indicating that motorcycle parking is available.

C. Driveways. Driveway standards shall be as follows:

1. The minimum driveway width for single-unit and two-unit residences shall be nine feet six inches. A driveway shall be no wider than the garage or parking area it serves. For a single-wide driveway, the maximum driveway width shall be 12 feet.
2. In all other cases than single-unit and two-unit residential, the minimum driveway width shall be 12 feet for parking areas with one to 30 vehicle spaces. Parking in areas with more than 30 vehicle spaces shall have either two 12-foot-wide driveways or one 18-foot-wide driveway.
3. Egress onto a public right-of-way from a driveway shall be in the forward direction, except that backing onto a public right-of-way shall be allowed for single-unit and two-unit residences.
4. Driveway slopes in excess of 15 percent shall require approval of the Department of Public Works.
5. A seven-foot minimum vertical clearance, measured at right angles to the slope, shall be maintained at all points on the driveway. However, a knockout bar with not less than six feet nine inches vertical clearance may be installed at each entry or exit point with permission of the Department of Public Works.
6. A six-inch rise above curb grade shall be installed at the property line for flood protection when required by the Department of Public Works.

D. Landscaping in Parking Lots. The following landscaping standards apply to all surface parking lots, in addition to other required landscaping pursuant to Chapter 25.36 (Landscaping and Open Space).

1. Buffer. Where a surface parking lot abuts a public street, a minimum five-foot-deep landscape buffer shall be provided between the sidewalk and the first parking row.
2. Minimum Amount. A minimum of 10 percent of the parking area shall be landscaped.
3. Minimum Planter Dimension. No landscape planter that is to be counted toward the required

landscape area shall be smaller than two feet in any horizontal dimension where no trees are provided and four feet where trees are provided, excluding curbing.

- 4. Screening. Parking areas shall be screened from view from public streets and adjacent lots in a more restrictive district by a combination of planting or low-profile walls and fences to a height of three feet.
- 5. Layout. Landscaped areas shall be well-distributed throughout the parking lot area. Parking lot landscaping may be provided in any combination of landscaped planting strips and islands between rows of parking stalls, between parking areas and adjacent building, at ends of rows of parking stalls, or at the parking lot perimeter.
- E. Heat Island Reduction. To reduce ambient surface temperatures in parking areas, at least 50 percent of the areas not landscaped shall be shaded by durable, permanent shade structures, trees, or other approach acceptable to the Director. If shade structures are provided, they shall not count toward limits on lot coverage. If shade is provided by trees, the trees shall be at least 24-gallon in size at installation, be of a variety that provides year-round shade, and be maintained in healthy condition. Trees shall be selected from a list maintained by the Planning Division. If a tree dies or is removed, it shall be replaced.
- F. Compact Parking. Compact car spaces shall be allowed only in industrial and commercial zoning districts in the following ratios. Each compact car space shall be clearly marked "COMPACT CAR." The compact car spaces shall be distributed throughout the parking area.

Table 25.40-3: Compact Parking

Required Parking Spaces	Allowable Compact Spaces
1-11	0
11-20	Up to 10 percent of spaces
Over 20	Up to 20 percent of spaces over 20

G. Tandem Parking.

- 1. Residential Uses. For residential uses, when parking spaces are identified for the exclusive use of occupants of a designated dwelling, required spaces may be arranged in tandem (that is, one space behind the other) subject to a minor modification. Tandem parking is intended to allow for needed flexibility on constrained lots or where tandem parking is consistent with the existing neighborhood pattern. For single-unit dwellings, required parking may be provided in tandem configuration where safe and compatible with the surrounding neighborhood.
- 2. Hotel and Restaurant Projects (New and Existing). Tandem parking may be used for hotel and restaurant development where valet parking service is provided, subject to approval of a parking management plan and a minor modification or as part of a design review.
- 3. New Office Uses. Tandem parking may be considered for office development if all the following requirements are satisfied:
 - a. With review of the location and design as part of a design review, where adequate maneuverability and access arrangements are provided;
 - b. When the tandem spaces are set aside for the exclusive use of onsite employees;

- c. Where the total number of tandem spaces does not exceed 30 percent of the total parking provided for projects that require 10 vehicle parking spaces or less, and 15 percent of the total parking provided for projects that require 11 or more vehicle parking spaces; and
 - d. With a parking management plan approved as part of a design review or other discretionary permit to ensure that proper management and oversight of the use of the proposed tandem spaces will occur.
- 4. Existing Office Uses. For existing office development where there is a desire to upgrade or modify the parking layout to increase efficiency or better meet standards, the new tandem parking spaces shall be subject to a minor modification, and the additional finding that adequate maneuverability and access arrangements are provided.
- H. Mechanical Parking Lifts. In commercial and industrial zones and in mixed-use and multi-unit developments and subject to design review, mechanical parking lifts may be used to satisfy all or a portion of vehicle parking requirements. Up to 25 percent of the required minimum number of spaces may be required to be provided as non-mechanical parking for lift systems unable to accommodate a range of vehicles, including trucks, vans, SUVs, or large sedans. Application submittals shall include any information deemed necessary by the Director to determine parking can adequately and feasibly be provided and that the following performance standards can be met and the following findings for approval can be made:
- 1. The use of mechanical lift parking results in superior design and implementation of City goals and policies for infill development.
 - 2. In existing developments and established neighborhoods, mechanical lift parking shall be screened and compatible with the character of surrounding development.
 - 3. In new developments, mechanical lift parking shall comply with applicable design guidelines and be compatible and appropriately considered with overall building and site design.
 - 4. Mechanical lift parking systems shall comply with all development standards including, but not limited to, lot coverage, height and setback requirements, and parking and driveway standards, except for minimum parking stall sizes, which are established by lift specifications, with a minimum typical width of seven feet six inches.
 - 5. The owner of the property shall record a covenant applicable to the property and all subsequent owners that states that the mechanical parking systems will be safely operated and maintained in continual operation, except for limited periods of maintenance.
 - 6. There are no circumstances of the site or development or particular model or type of mechanical lift system that could result in significant impacts to those living or working on the site or in the vicinity.
 - 7. Adequate queuing area is provided.
 - 8. Operation of the mechanical lift system, whether located indoors or outside, complies with Burlingame Municipal Code Section 10.40.035 (General Noise Regulations) and any specific conditions that may have been imposed on the project.
- I. Valet Parking.
- 1. Where Permitted and Approval Process. Valet parking may be permitted in commercial and

mixed-use zoning districts subject to the approval of the Director, including to meet a portion of minimum parking requirements, based on the review criteria outlined in subsection I.2. of this section and in compliance with Burlingame Municipal Code Chapter 6.30 (Valet Parking).

2. Review Criteria.

- a. Valet parking shall be subject to review of hours of operation, circulation, and other pertinent impacts. All proposals for valet parking shall be accompanied by a parking study, prepared by a registered traffic engineer, that addresses circulation impacts, operational characteristics of the use, parking space size and configuration, and other issues deemed necessary by the Director.
- b. Valet parking shall be provided on the same site as the business for which the valet parking is being approved, except as otherwise provided in Section 25.40.020.A.5. In the event the location for the valet parking is off site from the business, the provisions in this section regulating off-site parking shall also apply.

3. Development Standards for Valet Parking Uses.

- a. Because of the unique characteristics of valet parking facilities, parking space size shall be determined on a case-by-case basis and not necessarily subject to the standards listed in this chapter.
- b. Valet parking facilities shall not be permitted to use parking that is specifically set aside or required for another use, unless a shared parking or off-site parking agreement, as applicable, is approved by the City.

(Ord. 2000 § 2, (2021))

**CHAPTER 25.41
PERFORMANCE STANDARDS**

§ 25.41.010. Purpose and Applicability.

- A. Purpose. This chapter establishes performance standards intended to guard against the use of any property or structure in any zoning district in any manner which would create any dangerous, injurious, noxious, or otherwise objectionable condition or element that adversely affects the health and safety of residents, the community, and the surrounding area and adjoining premises.
- B. Applicability. The minimum requirements in this chapter apply to all land uses in all zoning districts, unless otherwise specified.
- C. Exceptions. Compliance may be waived by the Review Authority if a condition created under prior ordinances physically precludes the reasonable application of the standards. Additional categorical exemptions from compliance with the performance standards are as follows.
 - 1. Temporary Activity. Festivals and other special events with approved Temporary Use Permits or other required permits, where such activities otherwise comply with other applicable provisions of this title.
 - 2. Emergency Activities. Any emergency activity on the part of the City, any other government agency, or a private party.
 - 3. Construction Activity. Temporary construction activity is exempted except where such activity is explicitly regulated by other regulations of this Code.

(Ord. 2000 § 2, (2021))

§ 25.41.020. General Requirements.

- A. Land or buildings shall not be used or occupied in a manner creating any dangerous, injurious, or noxious fire, explosive, or other hazard that would adversely affect the surrounding area.
- B. These performance standards are general requirements and shall not be construed to prevent the Review Authority from imposing, as part of project approval, specific conditions that may be more restrictive, in order to meet the intent of this title.

(Ord. 2000 § 2, (2021))

§ 25.41.030. Air Quality.

- A. No use or activity shall be conducted without first obtaining any required permit from the Bay Area Air Pollution Quality Management District.
- B. Uses shall be conducted to prevent dust or other airborne material from crossing property lines.

(Ord. 2000 § 2, (2021))

§ 25.41.040. Discharges to Water or Public Sewer System.

All uses of property shall comply with the provisions of Title 15 (Water and Sewers) of the Municipal Code.

(Ord. 2000 § 2, (2021))

§ 25.41.050. Hazardous Materials.

The use, handling, storage, and transportation of hazardous and extremely hazardous materials shall comply with the provisions of the California Hazardous Materials Regulations and the California Fire and Building Codes, as well as the laws and regulations of the California Department of Toxic Substances Control and the County Environmental Health Agency. Activities, processes, and uses shall not generate or emit any fissionable or radioactive materials into the atmosphere, a sewage system, or onto the ground. (Ord. 2000 § 2, (2021))

§ 25.41.060. Light and Glare.

- A. Shielding. Every existing or proposed use, activity, or process or portion thereof producing glare shall be shielded in such a manner that the glare is not perceptible at or beyond any property line.
- B. Reflective Materials. Highly reflective wall surface material and mirror glass is prohibited if located within view of vehicles in the public right-of-way.

(Ord. 2000 § 2, (2021))

§ 25.41.070. Noise.

No use shall be established nor any activity conducted which violates the standards of Chapter 10.40 (Radio Interference, Loudspeakers, etc.) of the Municipal Code.

(Ord. 2000 § 2, (2021))

§ 25.41.080. Solid Waste.

All uses of property shall comply with the provisions of Chapter 8.16 (Solid Waste) of the Municipal Code. (Ord. 2000 § 2, (2021))

§ 25.41.090. Property Maintenance.

- A. Nonresidential Properties. All uses of nonresidential property shall comply with the provisions of Section 1.16.015 (Nonresidential Property Nuisances) of the Municipal Code.
- B. Residential Properties. All uses of residential property shall also comply with the provisions of Section 1.16.015 (Nonresidential Property Nuisances) of the Municipal Code.

(Ord. 2000 § 2, (2021))

CHAPTER 25.42 SIGNS

§ 25.42.010. Purpose and Applicability.

- A. Purpose. The purpose of this chapter is to create the legal framework for a comprehensive and balanced system of signs that will preserve the right of free speech and expression, provide an easy and pleasant communication between people and their environment, and avoid the visual clutter that can be harmful to traffic and pedestrian safety, property values, business opportunities, and community appearance. With these purposes in mind, it is the intent of this chapter to authorize the use of signs that:
 1. Are well designed, compatible with their surroundings, and preserve locally recognized values of community appearance;
 2. Provide for consistent signage on adjacent sites and within a development;
 3. Safeguard and enhance property values in residential, commercial, and industrial areas by promoting the use of signs which are aesthetically pleasing, of appropriate scale, and integrated with surrounding buildings and landscape;
 4. Protect public investment in and the character of public thoroughfares;
 5. Do not detract from the attraction of shoppers and other visitors who are important to the economy of the City;
 6. Promote the free flow of vehicular and non-motorized traffic;
 7. Protect pedestrians, bicyclists and motorists from injury and property damage caused by or attributable to cluttered, distracting, or illegible signage;
 8. Are appropriately sized to the activity that displays them;
 9. Are expressive of both the identity of individual activities and the community as a whole; and
 10. Are legible in the circumstances in which they are seen.
- B. Applicability.
 1. This chapter applies to all signs within the City unless specifically exempted by Section 25.42.020 (Exempt Signs).
 2. The number and area of signs set forth in this chapter are intended to be maximum standards. In addition to the enumerated standards, consideration shall be given to a sign's relationship to the overall appearance of the subject property, as well as the surrounding community.
 3. Nothing in this chapter shall be construed to prohibit a person from holding a sign while picketing or protesting on City of Burlingame property that is open to the public, as long as the person holding the sign does not block ingress and egress from buildings; does not create a safety hazard by impeding travel on sidewalks, in bike or vehicle lanes, or on trails; or does not violate any other reasonable time, place, and manner restrictions adopted by the City of Burlingame.
- C. Severability. If any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term,

or word in this chapter is held to be invalid, unconstitutional, or unenforceable by a court of competent jurisdiction, such decision shall not affect the validity or enforceability of the remaining portions of this chapter.

(Ord. 2000 § 2, (2021))

§ 25.42.020. Exempt Signs.

- A. **Exempt Signs.** Those classes of signs designated in the following sections of this chapter may be erected and maintained in the City without the obtaining of a building permit (unless an electrical permit is required) or sign permit and without the payment of fees. However, all exempt signs are subject to the provisions of Section 25.42.030 (General Requirements for All Signs). In computing the total maximum sign area on any building or parcel for purposes of this chapter, the face area of exempted signs shall not be included.
- B. **Signs Required by Law.** Signs required by law, including, but not limited to, signs for essential public services, including traffic, fire and police signs, signals, devices and markings of the State, the City, and any other component government authorities; signs of public utility or service companies, including signs showing the placement or location of public utility facilities; and trespass and warning signs, are exempt.
- C. **Signs Integrated into Certain Devices.** Any sign integrated into or on a coin-operated machine, vending machine, gasoline pump, permitted sidewalk vendor receptacle or telephone booth is exempt.
- D. **Signs Not Visible from Right-of-Way.** Any sign that cannot be viewed from a public right-of-way is exempt.
- E. **Signs Carried by Persons.** Any sign carried by a person is exempt, so long as it does not obstruct the use of any public right-of-way.
- F. **"For Sale" or "For Rent" Signs.** Signs pertaining to the sale, exchange, lease, or rental of the real property on which the sign is located shall be exempt. Not more than one such sign may be placed on any lot or parcel of land, except that two such signs may be placed on any corner lot or parcel, one such sign facing each of the abutting streets. Such signs shall be removed upon the completion of the sale, exchange, lease, or rental of the property.
- G. **Construction Project Signs.** Signs erected on a construction site used to identify businesses involved in the construction activity are exempt. Such signs shall be wholly contained on the subject construction site and shall be removed when construction activity has been completed.
- H. **Window Signs.** A premises, or an occupant of a shopping center or multiuse building, may display window signs not to exceed 25 percent of the window area of the façade of the building.
- I. **Directional Signs.** A premises may display one directional sign at each entrance or exit not more than four square feet in size.
- J. **Menu Board Signs at Drive-Through Establishments.** Signs used to provide information to customers in drive-through aisles at permitted drive-through establishments are exempt. Such signs shall be sized, oriented, and illuminated (where illumination is provided) to be legible only to customers in the drive-through aisle.
- K. **Flags.**
 - 1. Flags shall be permitted within the following limitations:

- a. The flag shall be of flexible material, typically cloth, paper, or plastic; shall not include those painted on or otherwise erected or attached to any structure; and shall be flown from a flagpole pursuant to this section.
 - b. No more than three flags shall be permitted per parcel.
 - c. No flagpole shall exceed 35 feet in height above grade.
 - d. No flag shall exceed a vertical dimension of five feet nor a horizontal dimension of eight feet.
2. Each flag flown shall be either a noncommercial sign or a sign directly related to a service or business offered on the property on which the flag is being flown.
 3. Bunting, pennants, and streamers shall only be permitted for automobile sales businesses.
 4. Decorative flags as defined in Article 8 (Definitions), whether temporary or permanent, may be displayed when attached to light poles within parking areas of an automobile sales business, provided that the flags do not contain any commercial message, logo, or symbol. Each decorative flag may not exceed eight square feet in area, and there shall be no more than one decorative flag per 100 square feet of public parking area. The lowest portion of the decorative flag shall be a minimum of 10 feet above adjacent grade.

(Ord. 2000 § 2, (2021); Ord. 2008 § 6, (2023))

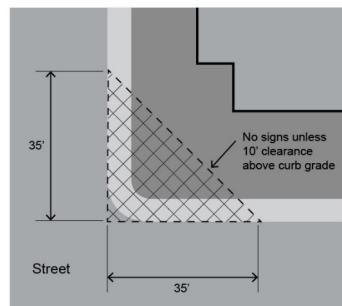
§ 25.42.030. General Requirements for All Signs.

A. General Requirements.

1. Only Permitted Signs to Be Erected.
 - a. No person shall erect, reconstruct, alter, relocate, or place any sign within the City except such signs as are permitted by this chapter. All signs, including the frames, braces or supports thereof, shall be constructed and maintained in compliance with this chapter, the California Building Code and National Electrical Code as adopted by the City, this title, and all other applicable ordinances of the City.
 - b. Noncommercial signs as defined in Article 8 (Definitions) are permitted wherever other signage is permitted under this chapter.
 - c. Noncommercial signage is subject to the same standards and is included within the maximum allowances for signs for a parcel.
2. Property Owner's Consent Required. It is unlawful for any person to place, attach, or maintain any sign, banner, card, sticker, handbill, or other advertising device upon or within any property, whether public or private, without securing the written consent of the owner or the owner's authorized agent.
3. Maintenance or Alteration of Existing Signs. A sign permit shall not be required for the maintenance of an existing sign which does not result in a change or alteration in the size, shape, or illumination of the affected sign. Any work other than such maintenance shall require a sign permit.
4. Traffic Hazard. No sign shall be erected at the intersection of any street, within a triangular area formed by the curb lines and their projection, and a line connecting them at points 35 feet from

the intersection of the projected curb lines unless the sign, in compliance with the provisions of this chapter, has a clearance of at least 10 feet above curb grade.

Figure 25.42-1: Traffic Hazard



5. Pedestrian Hazard. All signs or other advertising structures which are erected at any point where pedestrians might be endangered by the presence of the sign shall have a smooth surface, and no nails, tacks, or wires shall be permitted to protrude from the sign. Electrical reflectors and devices may extend over the top and in front of the sign or structure but not less than eight feet above the sidewalk.
6. Projection into Public Right-of-Way.
 - a. Signs supported entirely on private property may extend up to four feet into a public right-of-way with the approval of an encroachment permit. In no event shall any sign be permitted to extend within three feet of any portion of a public right-of-way used principally for vehicular traffic.
 - b. Portions of signs extending into a public right-of-way shall have a minimum vertical clearance of eight feet between the bottom of the sign or its supporting structure and the surface of the ground or sidewalk below. The minimum vertical clearance for any part of an awning shall be eight feet, as measured to the bottom of the awning or valance.
7. Public Places and Objects.
 - a. No person shall paint, mark, or write on, or post or otherwise affix, any handbill or sign to or upon any sidewalk, crosswalk, curb, curbstone, street planter, parking meter or post, street lamp post, hydrant, tree, shrub, tree stake or guard, railroad trestle, electric light or power or telephone or telegraph pole, or wire appurtenance thereof or upon any fixture of the fire alarm or other emergency alert device or upon any lighting system, public bridge, drinking fountain, street sign, or traffic sign.
 - b. Any handbill or sign found posted or otherwise affixed upon any public property contrary to the provisions of this section may be removed by an agent of the Police Department or the Department of Public Works. The person responsible for any such illegal posting shall be liable for the cost incurred in the removal of such sign. The Department of Public Works is authorized to affect collection of the cost.
 - c. Nothing in this section shall apply to the painting of house numbers upon curbs done under permits issued by the Director of Public Works under and in accordance with the provisions of this chapter.

8. Side Wall and Rear Wall Signs. Signs erected or painted on the wall of a building or structure which immediately abuts an adjacent privately owned parcel shall require application to and approval of a minor modification by the Director. The Director's decision to approve such signage shall be based on the following findings:
 - a. The placement of the sign does not confuse the public regarding the premises for which the sign is placed;
 - b. The placement of the sign does not adversely impact the visual conditions with respect to the adjacent property; and
 - c. Adequate clearance is provided for maintenance of the sign.
9. Removal of Sign from City, County, or State Property Upon Notice. Any sign which was previously permitted to extend over or to be maintained on any property in which the City, County, or State owns an interest shall be removed or altered by the person maintaining such sign, at the person's sole expense, on 30 days' written notice from the Director whenever, by reason of changed traffic conditions or the construction or relocation of public improvements, the Director finds that the continued existence of such sign is no longer consistent with the purposes for which such public property is to be used.
10. Clearance from Utility Lines. No sign shall be erected or maintained which has less horizontal or vertical clearance from communication lines and energized electrical power lines than that prescribed by the law of the State of California or rules and regulations duly promulgated by State agencies.
11. Obstruction. No sign shall be erected, located or maintained in any manner that prevents free ingress to or egress from any door, window, or fire escape.

B. Noncommercial Signs and Messages.

1. Noncommercial Signs and Messages. Any sign that can be displayed under the provisions of this chapter may contain a noncommercial message.
2. Noncommercial Signs in Residential Districts. In the R-1, R-2, R-3, and R-4 zoning districts and without a sign permit, noncommercial signs no larger individually than eight square feet and totaling not more than 60 square feet may be placed on a parcel in addition to the other signage that may be allowed pursuant to this chapter. This provision is intended to allow reasonable noncommercial expression in residential districts where signage has been restricted because of the need to protect the character and value of the residential districts.

(Ord. 2000 § 2, (2021))

§ 25.42.040. Prohibited Signs.

- A. Prohibited Signs. Those classes of signs designated in the following sections of this chapter are expressly prohibited and shall not be erected in any zoning district.
- B. Digital or Changeable Copy. With the exception of fuel price signs and marquee signs on theaters and similar entertainment venues, digital and changeable copy signs are prohibited.
- C. Signs Which Conflict with Traffic Control. Signs which by color, location, or design resemble or conflict with traffic control signs or signals are prohibited, or at any location where, by reason of the position, shape or color it may interfere with, obstruct the view of, or be confused with any authorized

traffic sign or signal device; or which makes use of the words "stop," "go," "caution," "look," "danger," or any other word, phrase, symbol or character in such a manner as to interfere with, mislead, or confuse traffic.

D. Signs on Public Right-of-Way.

1. Except as otherwise allowed under this section, all signs, A-board signs, and advertising structures placed upon or attached to the ground upon any portion of any public street, sidewalk, or right-of-way, including signs attached to light poles or standards, are prohibited.
2. Newspaper vending machines are allowed under Chapter 12.23.
3. Signs required by law allowed under Section 25.42.020 (Exempt Signs) and signs and banners of a civic nature allowed under Section 25.42.090.B. (Temporary Signs) may be erected and maintained if they comply with the requirements of this title.
4. Figures, as defined and addressed in Chapter 12.10 (Encroachment Permits) and pursuant to an encroachment permit, may be placed on a public sidewalk in the area fronting to property on which the tenant's owned or leased space is located in Subarea A of the Burlingame Avenue Commercial Area.

E. Off-Premises Advertising (General Advertising). Signs carrying the advertising of a person, product, or service other than that of the occupant of the parcel on which the sign is placed are prohibited.

F. Pole Signs. Pole signs, as defined in Article 8 of this title, are prohibited.

G. Portable Signs. Portable signs on public properties, such as A-board signs, are prohibited, unless specifically otherwise authorized within a Downtown zoning district or the Broadway Mixed-Use zoning district.

H. Roof Signs, Above-Roof Signs, and Sky Signs. Roof signs, above-roof signs, and sky signs are prohibited. No portion of any sign shall be allowed to extend above the roof.

I. Signs on Vehicles.

1. No person shall park any vehicle on public property and place signs on the vehicle when the dominant purpose or use of the vehicle is to be a sign, except for paragraph 2, below.
2. If a person parks any vehicle on private property and places signs on the vehicle with the dominant purpose or use of the vehicle is to be a sign, the placement of the vehicle shall require a sign permit and the square footage of the signage on the vehicle shall be counted toward the allowance for the property on which the vehicle is parked.

J. Moving Signs. Any sign is prohibited if all or part of it moves or rotates.

K. Sky Signs. Any sign attached to, painted on or suspended from a balloon, kite, or similar object secured to real or personal property within the City.

L. Signs with Flashing Lights. Any sign with animated, moving, or flashing lights, or any sign which, because of flashing lights, brilliant lighting, or reflected light, is a detriment to surrounding properties or prevents the peaceful enjoyment of residential uses, is prohibited.

(Ord. 2000 § 2, (2021))

§ 25.42.050. Sign Permit and Sign Program Requirements.

- A. Administration and Enforcement. The provisions of this chapter shall be administered and enforced by the Director or designee. All other officers and employees of the City shall assist and cooperate with the Director in administering and enforcing the provisions of this chapter.
- B. Sign Permit Required. No person shall erect or display any sign unless the Director has issued a permit for the sign or unless this chapter exempts the sign from the permit requirement.
- C. Sign Permit Limitations. The Director shall apply the standards of this chapter upon the filing of an application for a sign permit to ensure that the following limitations are observed:
 - 1. Each zoning district in the City has maximum signage limits permitted with a sign permit. These limits are specified in Section 25.42.080 (Permanent Signs).
 - 2. Properties that are zoned "unclassified" shall be subject to the standards of the closest adjacent zoning district, as determined by the Director.
 - 3. Signs enumerated in Section 25.42.020 (Exempt Signs) are exempt from calculation of maximum signage per frontage.
 - 4. Each sign classification (freestanding sign, wall sign, projecting sign, etc.) has further specifications that are described in succeeding sections of this chapter. In no case shall a sign variance be granted to increase the maximum total area of signage to be permitted on a parcel.
- D. Frontage and Sign Area Calculations. In the commercial, industrial, and mixed-use zoning districts, where maximum signage is related to frontage, the following procedures shall determine that frontage for purposes of this chapter:
 - 1. A distinction shall be observed between parcel frontage and building frontage as follows:
 - a. Parcel frontage shall be used for freestanding ground signs, or combinations of these signs with any other type.
 - b. Building frontage shall be used to calculate maximum signage area for signs attached to or wholly supported by a building or major structure.
 - 2. Frontage lengths and sign area limits are determined based on the street classification and are listed in the requirements for each zoning district. Parcel and building frontage are further defined in Article 8 (Definitions). The length of any frontage shall be the figure used to calculate maximum permitted signage on that frontage, as described in Section 25.42.080 (Permanent Signs).
 - 3. Sign area shall be determined as specified in Section 25.42.070 (Calculation of Sign Height and Area).
 - 4. Any freestanding sign which can be viewed from two street frontages and which is so placed that it has equal or nearly equal exposure from each frontage, shall be counted twice, once for each frontage.
- E. Existing Signs. Each premises shall be entitled to sign area within the limitations set forth in this chapter. However, the area of all existing signs to remain shall be included with any new signs in calculating the maximum total sign area allowed on a parcel.
- F. Sign Permit Application – Information Required and Process.

1. Application Content. A person proposing to erect or display a sign shall file an application for a permit with the Building Division. The application, at a minimum, shall contain the following and any additional required information set forth in application materials:
 - a. Name, address, and telephone number of sign contractor and the owner and occupant of the premises where the sign is to be erected or displayed;
 - b. The date on which the sign is proposed to be erected or displayed;
 - c. Address and zoning district in which the sign is located;
 - d. Full description as determined by the Director of all existing and proposed signs;
 - e. Written consent of the owner of property to erect such sign(s);
 - f. A drawing to scale that shows:
 - i. All existing signs displayed on the premises,
 - ii. The location, height, and size of any proposed signs, and
 - iii. The percentage of the signable area covered by the proposed sign; and
 - g. Specifications for the construction or display of the sign and for its illumination and mechanical movement, if any.
 2. Application Fee. An application fee, as established by Council resolution, shall be paid by the applicant at the time of payment for the building permit fee for installation of the sign(s).
 3. Review and Time Limits. The Director shall review the application upon the receipt of a completed permit application. Within 30 days from the date the application was determined to be complete and permit fee was filed with the Director, the Director shall determine if the application complies with the provisions of this Chapter 25.42 (Signs) or requires Planning Commission action.
 4. Approval or Denial. The Director shall approve a permit for the sign if it complies with the building, electrical, or other adopted codes of the City and with:
 - a. The regulations for signs contained in this chapter and any variance that has been granted from these regulations; and
 - b. Any approved sign variance for the parcel.
 5. Denial of Permit. If the Director does not approve a permit for the sign and it is determined that a variance is not an available option, the Director shall state the reasons for the denial in writing and shall mail a certified copy of the reasons for denial to the address of the applicant stated on the application.
- G. Time Limit for Exercise of Sign Permit. In all cases where a sign permit has been approved, a building permit shall be obtained and the sign(s) erected within a period not to exceed six months from date of approval. In the event such sign or signs are not erected within this period, the permit shall become null and void.
- H. No Permit Required. Signs specifically exempted from the provisions of this chapter as specified in Section 25.42.020 (Exempt Signs) are exempt from the permit requirement.

- I. Building Permit Required. No person shall erect, move, alter, change, repair, replace, suspend, or attach any sign, or portion thereof, or cause the same to be done without first obtaining from the Building Official a permit in writing to do so and paying therefor the fees prescribed for such building permit. Upon receipt of a building permit application, and evidence of a valid sign permit issued by the Director, the Building Official shall then examine the plans and specifications and other data and the premises upon which it is proposed to erect the sign or other advertising structure. If it appears that the proposed structure is in compliance with all the requirements of this chapter, the California Building Code in effect at that time, and all other applicable laws and ordinances of the City, the Building Official shall then issue the building permit. Replacement of an existing sign face on a sign cabinet shall not require a sign permit nor a building permit.
- J. Appeal – Decision of Director. Any applicant who is denied a permit for the display of a sign under the provisions of this title may file a written appeal to the Commission within 10 days of the date of the Director's decision. The appeal must be made in writing pursuant to the provisions of Chapter 25.98 (Appeals) of this title, and any applicable fee shall be paid.
- K. Appeal – Decision of Commission. Any decision of the Commission can be appealed to the Council pursuant to the provisions of Chapter 25.98 (Appeals) of this title, and any applicable fee shall be paid.

(Ord. 2000 § 2, (2021))

§ 25.42.060. Master Sign Program.

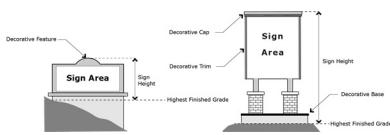
- A. Purpose. The purpose of a master sign program is to integrate all signs proposed for a single development project with the overall site and structure design to present a unified architectural statement. A master sign program provides a means for the flexible application of sign regulations for projects that require multiple signs and/or unique signs and to achieve, not circumvent, the purpose of this section. A sign program shall not be used to circumvent the City's prohibition on new off-site signs or any other prohibited sign.
- B. When Required. The approval of a master sign program shall be required whenever any of the following circumstances exists. A master sign program may be requested in circumstances other than those outlined in subsections B.1 through B.3, below, but is not required.
1. New developments with four or more separate tenant spaces are present on the same parcel or on multiple parcels that are part of a unified shopping center or similar business center, regardless of whether the tenant spaces are occupied;
 2. Deviations from sign regulations are proposed, including use of iconic signs;
 3. Proposed use of signs above the first building story where not otherwise authorized by this chapter; and
 4. Whenever the Director determines that a master sign program is needed because of special project characteristics (e.g., the size of proposed signs, limited site visibility, a business within another business, the location of the site relative to major transportation routes, etc.).
- C. Signs Above the First Building Story. Where signs are not specifically authorized by this chapter for placement on a building above the first story, a master sign program application may be prepared to request placement above the first story. Any proposed such placement shall comply with the following:

1. The placement of any such sign shall not obscure any building or window trim or any architectural feature of the building.
 2. The sign shape and design shall be compatible with the architectural style of the building on which it is placed.
 3. The sign size shall be in proportion to façade portion on which it is placed.
 4. No more than one sign shall be placed on any building frontage.
 5. The total area of all signage on any one frontage shall be 1.0 square foot of sign area per 1.0 lineal foot of building frontage, with no sign permitted to be larger than 60 square feet.
 6. Any proposed deviation from subsection C.1 through C.5 above, except for total allowed sign area, may be considered by the responsible Review Authority upon demonstration by the applicant that the deviation will create a superior design result.
- D. Findings and Decision. The following findings are required to be made by the responsible Review Authority for the approval of a master sign program application, with or without conditions:
1. The master sign program complies with the purpose and intent of this section and chapter;
 2. The master sign program does not allow any sign that is prohibited by Section 25.42.040 (Prohibited Signs);
 3. The master sign program standards will result in signs that are visually related or complementary to each other and to the buildings and/or developments they identify through the integration of predominant architectural materials, elements, or details of such buildings or developments;
 4. The signage shall make a positive visual contribution to the overall image of the City;
 5. Any deviations from sign standards are justified by unique circumstances or conditions applicable to the property;
 6. The master sign program will not result in signs that would impair pedestrian and vehicular safety;
 7. Light and glare associated with the signs will not negatively affect nearby residential uses; and
 8. The master sign program shall not be used to exceed the maximum total number of freestanding signs per parcel frontage.

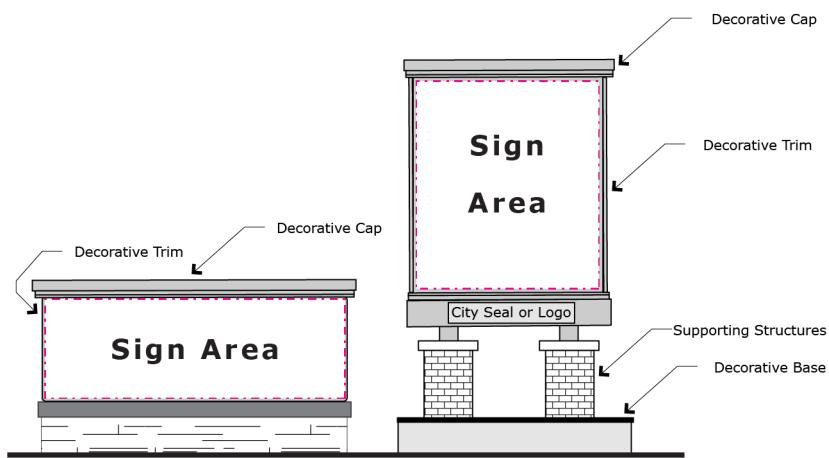
(Ord. 2000 § 2, (2021))

§ 25.42.070. Calculation of Sign Height and Area.

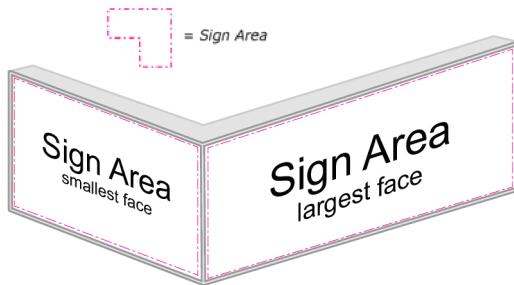
- A. Sign Height. The height of a sign shall be measured from the highest part of the sign, including any decorative features, to the highest elevation of the adjoining finished grade directly beneath the sign. See Figure 25.42-2.

Figure 25.42-2: Calculating Sign Height**B. Sign Area.**

1. Calculating Sign Area – Generally. Supporting structures, such as sign bases and columns, and decorative features shall not be included in any calculation of sign area, provided that they contain no lettering or graphics except for addresses. See Figure 25.42-3.
2. Calculating Sign Area – Single-Faced Signs. Sign area for single-faced signs shall be calculated by enclosing the extreme limits of all sign backing and borders, emblem, logo, representation, writing, or other display within a single continuous perimeter composed of horizontal and vertical lines with no more than eight corners.
3. Calculating Sign Area – Double-Faced Signs. Only one face of a double-faced sign shall be used to calculate the permitted area of a double-faced sign. Where the two faces are not equal in size, the larger sign face shall be used.

Figure 25.42-3: Calculating Sign Area

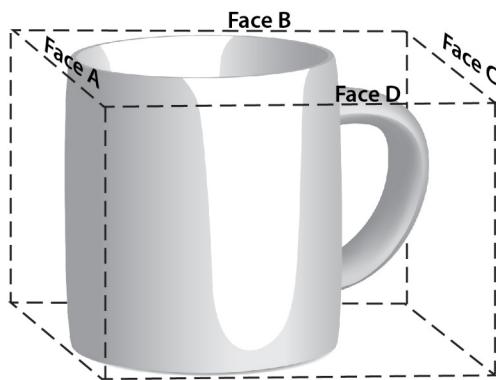
4. Calculating Sign Area – Multi-Faced Signs. On a multi-faced sign, the combined sum of the area of the largest and smallest faces shall be used to calculate the permitted area of the sign. See Figure 25.42-4.

Figure 25.42-4: Calculating Sign Area

5. Calculating Sign Area – Three-Dimensional Signs. Signs that consist of, or have attached to them, one or more three-dimensional objects (i.e., balls, cubes, clusters of objects, sculpture, or statue-like trademarks) may have a sign area that is the sum of two adjacent sides of the smallest cube that will encompass the sign. Signs with three-dimensional objects that project six inches or less from the sign face shall be measured as a single-face sign. See Figure 25.42-5.

Figure 25.42-5: Calculating Sign Area for Three-Dimensional Sign

Sign Area = Sum of two adjacent sides (faces)



(Ord. 2000 § 2, (2021))

§ 25.42.080. Permanent Signs.

- A. Types of Permanent Signs and Where Permitted. This section identifies the types of permanent signs permitted, where specific sign types are permitted in various zoning districts, and the limitations on the establishment of such signs.
- B. Awning, Canopy, and Marquee Signs.
- Where Permitted. An awning, canopy, or marquee, as defined in Article 8 (Definitions), may be installed on a building in accordance with California Building Code Standards, subject to the zoning requirements for structures on each street or highway frontage and the limitations established in this title in the zoning districts identified in Tables 25.42-1 through 25.42-6, below. The signs on these structures shall conform to the requirements of this chapter.

2. Signable Area. On an awning, canopy, and marquee, the signable area shall not exceed 50 percent of the area of the principal face of the awning, canopy, or marquee. The signage located on an awning, canopy, or marquee shall be included in the maximum total signage allowed on a specified frontage.
 3. Projection into Public Right-of-Way. Awnings, canopies, and marquees which are used for signage and which are entirely supported on private property may extend up to four feet into the public right-of-way, provided they shall not extend within three feet of the portion of the public right-of-way used for vehicular traffic (measured from the face of the curb). Portions of the awnings, canopies, and marquees extending into the public right-of-way or over a private sidewalk shall have a minimum vertical clearance of eight feet between the bottom of the structure and the surface of the ground or sidewalk. An encroachment permit shall be obtained for any such projection.
 4. Illumination. Awnings, canopies, and marquees may be unlit or may be externally illuminated only by downward directed and shielded lighting fixtures where the cone of light is contained on the parcel. Internally illuminated awnings and canopies and marquees are prohibited. An internally illuminated sign that does not exceed 10 percent of the area of the marquee face may be placed in a frame on a marquee structure.
- C. Combination Signs. Combination signs are signs which have features or characteristics normally found in signs of more than one classification, and shall meet all the requirements for construction, height, location, supports, illumination, or other specifications for each sign type. Where different standards are specified for the sign types, the more restrictive shall apply.
- D. Freestanding Signs. As defined in Article 8 (Definitions), freestanding signs include both monument signs and pylon signs.
1. Where Permitted.
 - a. Monument signs are allowed in the zoning districts identified in Tables 25.42-1 through 25.42-6, below.
 - b. Pylon signs are only allowed on certain street frontages in the CAR, I-I, and RRMU zoning districts, as set forth in Tables 25.42-1 through 25.42-6, below.
 2. Size and Height Regulations. Freestanding signs shall comply with and not exceed the size and height regulations set forth in Tables 25.42-1 through 25.42-6, below.
 3. Materials.
 - a. Monument signs shall be constructed to have the appearance of a fully enclosed foundation in accordance with Titles 17 and 18 of the Municipal Code. A monument sign shall be designed so that the style and materials of the sign and its base are consistent with the architecture of the building(s) on the site.
 - b. Pylon signs shall be constructed in accordance with Titles 17 and 18 of this Code and shall have decorative support structures that are architecturally compatible with on-site buildings.
- E. Projecting Signs.
1. Where Permitted. A premises, and each occupant of a shopping center or multiuse building, may

display one projecting sign on each street frontage in the commercial, industrial, and mixed-use zoning districts. Such signs shall conform to the size and number regulations set forth in Tables 25.42-1 through 25.42.6, below.

2. Size and Height of Projecting Signs. Projecting signs shall comply with the size regulations set forth in Tables 25.42-1 through 25.42-6, below.
3. Projection into the Public Right-of-Way.
 - a. A minimum vertical clearance of eight feet shall be maintained from the bottom of the sign or its supporting structure to the surface of the ground or sidewalk below.
 - b. A projecting sign may project no more than four feet into the public right-of-way and shall not extend within three feet of any portion of a public right-of-way used principally for vehicular traffic. An encroachment permit shall be obtained for any such projection.

F. Wall Signs.

1. Where Permitted. In all nonresidential zoning districts, a premises—and each occupant of a shopping center or multiuse building—may display wall signs on walls adjacent to each street, public right-of-way, or private parking lot on which it has frontage in accordance with the height and area requirements of the zoning district.
2. Signable Area.
 - a. Wall signs shall only be erected within areas that are signable area. The maximum area of the signage allowed is restricted by the total sign area designated for each frontage in each zoning district. The signable area(s) on each façade of the building that has frontage on a public street, right-of-way, or parking lot shall be an area of the building façade which does not contain architectural features and windows, including, but not limited to, friezes, corbels, tile, and trim.
 - b. Sign area shall not exceed a maximum of 80 percent of the signable area and no greater than 75 percent of the vertical dimension of a designated sign band. In no event shall the sign area be greater than the maximum sign area specified by this chapter for the zoning district in which the parcel is located.
3. Number. Wall signs may be displayed as one or divided among two or more wall signs, provided the sum of the area of all such signs does not exceed the maximum allowed sign area.
4. Additional Limitations. Wall signs may be painted on or attached to the wall but must not project from the wall by more than 12 inches and must not interrupt architectural details.

G. Permitted Signs in the R-1 and R-2 Zoning Districts.

1. No signs shall be erected or maintained in any R-1 or R-2 zoning district except the following:
 - a. Signs exempted in Section 25.42.020 (Exempt Signs).
 - b. Noncommercial signs permitted in Section 25.42.030.B. (General Requirements for All Signs).
 - c. Freestanding signs for permitted nonresidential uses, subject to the regulations in this chapter and as set forth in Table 25.42-1, below.

2. Freestanding Sign Incentive. To promote monument signs, two-sided monument signs are considered to be one sign and in measuring total sign area, only one side of the sign is included in the calculation.
3. Illumination.
 - a. External illumination shall be directed in such a way so that any light bulb, filament, neon tubing, or similar light source is not visible from beyond the property line.
 - b. On parcels that are 10,000 square feet in area or greater, freestanding signs with interior illumination or translucent faces shall be limited to low-level illumination that cannot exceed 0.1 foot-candles at any property line.
 - c. On parcels that are less than 10,000 square feet in area, interior illumination of freestanding signs is prohibited, except for signs less than one square foot in area.
 - d. Interior illumination of wall signs is prohibited.
 - e. All sign illumination shall be turned off by an automatic system between 10:00 p.m. and 8:00 a.m.

Table 25.42-1: R-1 and R-2 Zoning Districts – Permanent Signs

Allowed Sign Type	Maximum Number per Parcel		Maximum Sign Area		Maximum Sign Height
Freestanding	<i>Parcel Area</i>	<i>Maximum Number</i>	<i>Parcel Area</i>	<i>Maximum Sign Area</i>	No portion of any freestanding sign shall exceed seven feet in height. A sign erected on a building or structure shall not be placed higher than the first story or 12 feet above the established grade below the top of the sign, whichever is lower.
	Less than 10,000 sf	1 per frontage	Less than 10,000 sf	15 sf per frontage	
	10,000 sf and over	2 per frontage	10,000 sf and over	50 sf per frontage	

- H. Permitted Signs in the R-3 and R-4 Zoning Districts. No signs shall be erected or maintained in any R-3 or R-4 zoning district except the following:
 1. Signs exempted in Section 25.42.020 (Exempt Signs).
 2. Noncommercial signs permitted in Section 25.42.030.B. (General Requirements for All Signs).
 3. Freestanding signs and wall signs subject to the regulations listed in this chapter and as set forth in Table 25.42-2, below.

4. Signs established for the purpose of directing vehicles and pedestrians into and within parking areas. Such signs shall be limited to a total of six signs per parcel, each limited in size to three feet in height and three square feet in area. Such signs shall only be located at driveway entrances and within parking areas. Such signs shall be exempt from the total square footage calculation.
5. Freestanding Sign Incentive. To promote monument signs, two-sided monument signs are considered to be one sign and in measuring total sign area, only one side of the sign is included in the calculation.
6. Illumination.
 - a. External illumination shall be directed in such a way so that any light bulb, filament, neon tubing, or similar light source is not visible from beyond the property line.
 - b. On parcels that are 10,000 square feet in area or greater, freestanding signs with interior illumination or translucent faces shall be limited to low-level illumination that cannot exceed 0.1 foot-candles at any property line.
 - c. On parcels that are less than 10,000 square feet in area, interior illumination of freestanding signs is prohibited, except for signs less than one square foot in area.
 - d. Interior illumination of wall signs is prohibited.
 - e. All sign illumination shall be turned off by an automatic system between 10:00 p.m. and 8:00 a.m.

Table 25.42-2: R-3 and R-4 Zoning Districts – Permanent Signs

Allowed Sign Type	Maximum Number	Maximum Sign Area		Maximum Sign Height
Wall and Freestanding	No more than 3 signs for each frontage, one of which may be a two-sided monument sign.	Parcel Area	Maximum Sign Area per side	No portion of any freestanding sign shall exceed seven feet.
		Less than 10,000 sf 10,000 – 15,000 sf	15 sf 0.5 sf per lineal foot of parcel frontage per side (25 sf maximum)	A sign erected on a building or structure shall not be placed higher than the first story or 12 feet above the established grade below the sign, whichever is lower.
		15,001 – 30,000 sf	0.5 sf per lineal foot of parcel frontage per side (30 sf maximum)	
		Over 30,000 sf	0.5 sf per lineal foot of parcel frontage per side (50 sf maximum)	

- I. Permitted Signs in the C-1, BAC, BMU, CAC, CR, DAC, HMU MMU, BRMU, CMU, and NBMU Zoning Districts.

1. Permanent Signs. All permanent signs shall comply with the standards set forth in Table 25.42-3, below.
2. Pole Signs Prohibited. In addition to the signs specified in Section 25.42.040 (Prohibited Signs), pole signs are prohibited.
3. Signs Providing Direction Allowed. Signs established for the purpose of directing vehicles and pedestrians into and within parking areas are allowed as follows and shall not count toward the total square footage of allowable signage:
 - a. Up to a total of six signs per parcel, each not to exceed three feet in height and three square feet in area, and
 - b. Only located at driveway entrances and within parking areas.
4. Freestanding Sign Incentive. To promote monument signs, two-sided monument signs are considered to be one sign and in measuring total sign area, only one side of the sign is included in the calculation.
5. Illumination.
 - a. See Section 25.42.080.B.4. regarding illumination of awning signs.
 - b. A permanent sign may be non-illuminated, illuminated by internal, internal indirect, or external indirect illumination. Signs that are externally lit shall be illuminated only with steady, stationary, downward-directed, and shielded light sources directed solely onto the sign.
 - c. A sign shall not be animated, have changeable copy, or have flashing illumination.

Table 25.42-3: C-1, BAC, BMU, CAC, CR, DAC, HMU MMU, BRMU, CMU, and NBMU Zoning Districts – Permanent Signs

Allowed Sign Type	Maximum Number	Maximum Sign Area per Building Frontage		Location and Maximum Sign Height	Additional Regulations
Awning, Projecting, and Wall	2 per tenant frontage	<i>Primary Frontage:</i> 1.5 sf per 1 lineal foot of tenant frontage, with maximum of 100 sf total for all signage along primary frontage <i>Secondary Frontage:</i> 0.75 sf per 1 lineal foot of tenant frontage, with maximum of 50 sf total for all signage along secondary frontage In all cases, at least 30 sf of total sign area per frontage is allowed (to address narrow tenant frontages).		a. Wall signs may be placed on any designated frontage. b. No awning, projecting, or wall sign shall extend above the roof line.	a. Any single sign on any frontage shall not exceed 60 square feet in area. b. Monument signs are prohibited on parcels with a parcel frontage of less than 100 feet.
Monument	<i>Frontage</i> 100 – 299 ft 300 – 399 ft	<i>Maximum Number</i> 1 2	50 sf per side	6 ft	

Table 25.42-3: C-1, BAC, BMU, CAC, CR, DAC, HMU MMU, BRMU, CMU, and NBMU Zoning Districts – Permanent Signs

Allowed Sign Type	Maximum Number	Maximum Sign Area per Building Frontage	Location and Maximum Sign Height	Additional Regulations
	400 ft or greater	3		

- J. Permitted Signs in the Downtown California Drive Auto Row (CAR) Zoning District and For Vehicles Sales Not Located Within the CAR Zoning District.
1. Permanent Signs. All permanent signs shall comply with the standards set forth in Table 25.42-4, below.
 2. Signs Providing Direction Allowed. Signs established for the purpose of directing vehicles and pedestrians into and within parking areas are allowed as follows and shall not count toward the total square footage of allowable signage:
 - a. Up to a total of six signs per parcel, each not to exceed three feet in height and three square feet in area, and
 - b. Only located at driveway entrances and within parking areas.
 3. Freestanding Sign Incentive. To promote monument signs, two-sided monument signs are considered to be one sign and in measuring total sign area, only one side of the sign is included in the calculation.
 4. Illumination.
 - a. See Section 25.42.080.B.4. regarding illumination of awning signs.
 - b. A permanent sign may be non-illuminated, illuminated by internal, internal indirect, or external indirect illumination. Signs that are externally lit shall be illuminated only with steady, stationary, downward-directed, and shielded light sources directed solely onto the sign.
 - c. A sign shall not be animated, have changeable copy, or have flashing illumination.

Table 25.42-4: CAR Zoning District

Allowed Sign Type	Maximum Number		Maximum Sign Area		Location and Maximum Sign Height	Additional Regulations
Awning, Projecting, and Wall	5 per building frontage		<i>Building Frontage Length</i>	<i>Maximum Total Sign Area of all Signs</i>	a. Wall signs may be placed on any designated frontage. b. No awning, projecting, or wall sign shall extend above the roof line.	a. Wall signs shall be permitted on any building frontage subject to the sign area limitations in this table and the placement requirements in Section 25.46.080.F (Wall Signs). b. Monument signs are prohibited on parcels with a parcel frontage of less than 150 feet.
			50 ft or less	150 sf		
			51 ft – 100 ft	300 sf		
			101 ft – 150 ft	450 sf		
Monument – Permitted in addition to allowed wall, awning, projecting, and pylon signs		<i>Frontage</i>	<i>Number</i>	50 sf per side, 100 sf total area	12 ft on California Drive 6 ft on all other streets	
		150-299 ft	1			
		300-399 ft	2			
		400 ft or greater	3			
Pylon – Permitted in addition to wall, awning, projecting, and monument signs		<i>Frontage</i>	<i>Number</i>	150 sf per side, 300 sf total sign area	25 ft	a. Allowed only on Broadway, California Drive, and Rollins Road. b. A pylon sign shall be counted as 2 signs, and each side shall be counted in the total sign area. c. Pylon signs are prohibited on parcel frontages less than 150 feet in length. d. Pylon signs shall have decorative support structures that are architecturally compatible with on-site buildings and shall not consist of a single pole.
		150-299	1			
		300 or more	2			

K. Permitted Signs in the Bayfront Commercial (BFC) Zoning District.

1. Permanent Signs. All permanent signs shall comply with the standards set forth in Table 25.42-5, below.
2. Prohibited: Pole Signs. In addition to the signs specified in Section 25.42.040 (Prohibited Signs), pole signs shall be prohibited. However, a pole sign lawfully existing on March 31, 2008 may continue to exist so long as it conforms to the provisions of Section 25.42.100 (Nonconforming Signs). Further, notwithstanding Section 25.42.040 (Prohibited Signs), if the parcel on which a pole sign lawfully existing on March 31, 2008 is located is subdivided in accordance with Title 26 (Subdivisions) of this Code, the advertising on the existing pole sign may advertise the businesses that are located on the resulting parcels but only under the following circumstances:
 - a. No physical alterations of any kind may occur except for replacement of the actual face of the sign and maintenance as permitted under Section 25.42.100 (Nonconforming Signs).
 - b. Advertising is limited to the advertising of a person, product, or service of an occupant of the parcels created by the subdivision of the original parcel and only during the period of actual occupancy by such an occupant.
 - c. If the sign is removed, it cannot be replaced.
 - d. No other freestanding signage may be placed on any of the parcels created by the subdivision of the original parcel so long as the pole sign remains.
 - e. All off-premises advertising as prohibited in Section 25.42.040 (Prohibited Signs) on the pole sign shall be removed if any of the parcels created by the subdivision of the original parcel are redeveloped by the demolition or construction of any structure or any portion of any structure exceeding 1,000 square feet or 10 percent of the floor area—gross square footage of the structures on the parcel, whichever is greater. Following removal of the off-premises advertising, the only advertising allowed on the pole sign shall be advertising of a person, product, or service located on the one parcel on which the pole sign is then located.
 - f. The provisions of this section are recorded in a form approved by the City Attorney on the title of each of the parcels created by the subdivision of the original parcel.
3. Limitation on Size of Sign. No single sign or single side of a freestanding sign shall be larger than 250 square feet in area. The maximum total sign area allowed on the upper half of a building on each building frontage is 350 square feet.
4. Signs Providing Direction Allowed. Signs established for the purpose of directing vehicles and pedestrians into and within parking areas are allowed as follows and shall not count toward the total square footage of allowable signage:
 - a. Up to a total of six signs per parcel, each not to exceed three feet in height and three square feet in area, and
 - b. Only located at driveway entrances and within parking areas.
5. Limitation on Total Sign Area. The maximum total sign area allowed on each parcel frontage, inclusive of all allowable signage except for signs providing direction, as identified in subsection K.4 above, shall be determined based on the length of the parcel frontage calculated in accordance with the following:

Parcel Frontage Length	Maximum Total Sign Area per Parcel Frontage
50 feet or less	100 square feet
51 feet to 150 feet	150 square feet
151 feet to 250 feet	250 square feet
251 feet to 350 feet	350 square feet
Over 350 feet	500 square feet

6. Illumination.

- a. See Section 25.42.080.B.4. regarding illumination of awning signs.
- b. A permanent sign may be non-illuminated, illuminated by internal, internal indirect, or external indirect illumination. Signs that are externally lit shall be illuminated only with steady, stationary, downward-directed, and shielded light sources directed solely onto the sign.
- c. A sign shall not be animated, have changeable copy, or have flashing illumination.

Table 25.42-5: Bayfront Commercial Zoning District

Allowed Sign Type	Maximum Number	Maximum Sign Area	Location and Maximum Sign Height	Additional Regulations
Wall, Awning, and Projecting	6 per building frontage, with no more than 3 signs on the lower half of a building and 3 signs on the upper half of a building	See Section 25.43.080.K.5 above for limitation on total sign area per parcel.	<ul style="list-style-type: none"> a. Wall signs may be placed on any designated frontage. b. No awning, projecting, or wall sign shall extend above the roof line. 	<ul style="list-style-type: none"> a. Wall signs shall be permitted on any building frontage subject to the sign area limitations in this table and the placement requirements in Section 25.42.080.F (Wall Signs). b. For purposes of this section, no building shall be considered to have more than four building frontages regardless of the building's design or parcel.
Monument	<i>Frontage</i>	<i>Number</i>		

Table 25.42-5: Bayfront Commercial Zoning District

Allowed Sign Type	Maximum Number		Maximum Sign Area	Location and Maximum Sign Height	Additional Regulations
	0-150 sf	1	Airport Blvd., Bayshore Hwy, and Gilbreth Rd.: 75 sf for any one sign face All Other Streets: 40 sf for any one sign face See Section 25.42.080.K.7 above for limitation on total sign area per parcel.	8 ft.	
	151 sf or greater	1 for every 150 sf of frontage			

L. Permitted Signs in the Innovative Industrial (I-I) and North Rollins Mixed-Use (RRMU) Zoning Districts.

1. Permanent Signs. All permanent signs shall comply with the standards set forth in Table 25.42-6, below.
2. Limitation on Use of Pylon Signs. Pylon signs are prohibited except on parcels on Adrian Road, Broadway, and Gilbreth Road having a frontage of 150 feet or greater. Where used, pylon signs shall have decorative supporting structures that are architecturally compatible with on-site buildings and shall not consist of a single pole.
3. Monument Signs Incentive. To promote monument signs where pylon signs are allowed, two-sided monument signs are considered to be a single sign and in measuring total sign area, only one side of the sign is included in the calculation.
4. Residential Developments in RRMU Zoning District. Any residential project in the RRMU zoning district shall comply with the sign standards applicable to the R-3 and R-4 zoning districts.
5. Mixed-Use Developments in RRMU Zoning District. Any mixed-use project in the RRMU zoning district shall comply with the sign standards applicable to the C-1, BAC, BMU, CAC, CR, DAC, HMU, MMU, BRMU, CMU, and NBMU zoning districts.
6. Signs Providing Direction Allowed. Signs established for the purpose of directing vehicles and pedestrians into and within parking areas are allowed as follows and shall not count toward the total square footage of allowable signage:
 - a. Up to a total of six signs per parcel, each not to exceed three feet in height and three square feet in area, and
 - b. Only located at driveway entrances and within parking areas.

7. Illumination.

- a. See Section 25.42.080.B.4. regarding illumination of awning signs.
- b. A permanent sign may be non-illuminated, illuminated by internal, internal indirect, or external indirect illumination. Signs that are externally lit shall be illuminated only with steady, stationary, downward-directed, and shielded light sources directed solely onto the sign.
- c. A sign shall not be animated, have changeable copy, or have flashing illumination.

Table 25.42-6: Innovative Industrial and North Rollins Mixed-Use Zoning Districts

Allowed Sign Type	Maximum Number		Maximum Sign Area		Location and Maximum Sign Height	Additional Regulations
Wall, Awning, and Projecting	Maximum of 3 signs on any building frontage		<i>Building Frontage Length</i>	<i>Maximum Total Sign Area</i>	a. Wall signs may be placed on any designated frontage. b. No awning, projecting, or wall sign shall extend above the roof line.	a. Wall signs shall be permitted on any building frontage subject to the sign area limitations in this table and the placement requirements in Section 25.42.080.F (Wall Signs). b. For purposes of this section, no building shall be considered to have more than four building frontages regardless of the building's design or parcel.
			50 ft or less	150 sf		
			51-100 ft	200 sf		
			101-150 ft	250 sf		
			151-200 ft	300 sf		
			Over 200 ft	350 sf		
Monument – Can be established in addition to allowable wall, awning, and projecting signs	<i>Frontage</i>	<i>Number</i>	Adrian Rd., Broadway, and Rollins Rd: 75 sf per side and 150 sf of total sign area		8 ft	
	150-300	1				
	301 – 400	2				
	Over 400 ft	3	All other streets: 40 sf per side and 80 sf of total sign area			

Table 25.42-6: Innovative Industrial and North Rollins Mixed-Use Zoning Districts

Allowed Sign Type	Maximum Number		Maximum Sign Area	Location and Maximum Sign Height	Additional Regulations
Pylon Signs a. Only allowed on Adrian Rd., Broadway and Gilbreth Rd. on parcels with 150 ft or more of frontage b. Only allowed in lieu of a monument sign c. Can be established in addition to allowable wall, awning, and projecting signs	Over 150 ft	1	120 sf per side and 240 sf of total sign area	40 ft	

(Ord. 2000 § 2, (2021))

§ 25.42.090. Temporary Signs.

- A. Purpose. In addition to Section 25.42.010 (Purpose and Applicability) of this chapter, the purpose of this section is to ensure that temporary signs do not create a distraction to the traveling public by limiting the proliferation of temporary signs and eliminating aesthetic blight and litter that are detrimental to the public's health, safety, and general welfare.
- B. General Standards for All Temporary Signs.
 - 1. Temporary Sign Content Neutrality. All regulations and standards in this section are to be exercised in light of the City's content neutrality policy. These provisions are not intended to limit, censor, or restrict free speech.
 - 2. Relationship to Permanent Sign Regulations. The number and area of temporary signs shall not be included in the calculation of permanent sign area.
 - 3. Duration and Removal of Temporary Signs. Temporary signs may be posted for no more than 60 days in any 12 consecutive calendar months.
- C. Sign Materials. Temporary signs shall be made of durable, weather-resistant materials, as determined by the Director.
- D. Illumination Prohibited. Temporary signs shall not be illuminated.
- E. Sign Placement.
 - 1. Temporary signs are allowed on private property only subject to permission of the property

owner.

2. Temporary signs shall not be placed in any public right-of-way except as may otherwise be permitted by the Municipal Code.
- F. Temporary Signs in Residential Zoning Districts. See Section 25.42.020 (Exempt Signs) for permitted temporary sign types and standards in residential zoning districts, including temporary signs displaying noncommercial messages or residential activities, such as yard sales, new construction, and advertisement for a property that is for sale, rent, or lease.
- G. Temporary Signs in Nonresidential Zoning Districts. Temporary signs shall comply with the standards set forth in this subsection. Table 25.42-7 identifies the sign type, number, location, area, and height allowed within nonresidential zoning districts, along with any applicable additional regulations. The standards contained in Table 25.42-7 are maximums, unless otherwise stated. The signs in Table 25.42-7 are allowed in any combination unless otherwise noted in this subsection. However, businesses shall not display more than five temporary signs at any one time, except for allowed window signs.

Table 25.42-7: Temporary Signs in Nonresidential Zoning Districts

Sign Type	Maximum Number	Maximum Sign Area	Maximum Sign Height	Additional Regulations
a. Banner Sign	1 per business frontage	30 sf or 10% of business frontage on which banner is placed, whichever is lesser	N/A	See Section 25.42.090.H.
b. Feather Sign	1 per 50 linear feet of street frontage up to 2 signs per street frontage	12 sf	10 ft	See Section 25.42.090.H.
c. Yard Sign	1 per business frontage	25 sf	6 ft	See Section 25.42.090.H.

H. Temporary Sign Type Standards.

1. Banner Sign.
 - a. Businesses and institutions may exhibit banner signs related to an activity or event having a specific duration, or the end of which is related to a specific action.
 - b. Banner signs shall be affixed to a permanent structure. Banner signs shall be securely affixed at all corners and other points as necessary and shall not interfere with pedestrian paths of travel.
 - c. Banner signs shall not project above the edge of the roof of a structure.
 - d. Banner signs shall be professionally crafted and well maintained (i.e., not torn, bent, faded, or dirty).
2. Feather Sign. Businesses and institutions may exhibit feather signs related to an activity or event

having a specific duration, or the end of which is related to a specific action.

- a. Feather signs shall not interfere with either pedestrian or vehicular sight distance, any view corridor, or obstruct views to any existing business or existing permanent sign.
 - b. Feather signs shall be set back at least five feet from any property line.
 - c. Feather signs are permitted during the hours a business is open for business and one-half hour before opening and one-half hour after closing. Feather signs shall be removed during hours when the establishment is not open to the public.
 - d. Acceptable materials for feather signs include vinyl, nylon reinforced vinyl, polyethylene or polyester-like materials, durable fabric, or similar materials.
3. Yard Sign. Businesses and institutions may exhibit yard signs related to an activity or event having a specific duration, or the end of which is related to a specific action, subject to the following:
 - a. Yard signs shall be located outside of public rights-of-way. Yard signs shall be set back at least one foot from any property line and located within the landscaped setback.
 - b. Yard signs shall not interfere with either pedestrian or vehicular sight distance, any view corridor, or obstruct views to any existing business or existing permanent sign.
 - c. Yard signs shall be installed securely in the ground.
- I. Signs and Banners of a Civic Nature. The City Manager or designee may, upon written application to the Manager, issue administrative sign permits for temporary signs and banners announcing a community event sponsored by a charitable or educational group in the City at no more than two places in the City. The City Manager shall, prior to issuance of a permit, require recommendations regarding matters of safety, construction, and location from applicable City departments, and shall ensure that all the following conditions are fulfilled:
1. Each sign is required for the convenience or safety of the public;
 2. Each sign is directly related to an event that is clearly of a noncommercial nature directly related to the City;
 3. Each sign is of a temporary nature, and not to remain up longer than 14 consecutive days in any 12-month period; and
4. Insurance in the amount set by the City Attorney for such permits be provided.

(Ord. 2000 § 2, (2021))

§ 25.42.100. Nonconforming Signs.

- A. Change and Modification. A nonconforming sign or sign structure shall be brought into conformity with this chapter if it is altered, reconstructed, replaced, or relocated. A change in copy is not an alteration or replacement for purposes of this section.
- B. Maintenance. Nonconforming signs must be maintained in good condition. Maintenance required by this section shall include replacing or repairing of worn or damaged parts of a sign or sign structure in order to return it to its original state and is not considered to be a change or modification prohibited by Section 25.42.040 (Prohibited Signs).

C. Removal. Removal of a nonconforming sign, or replacement of a nonconforming sign with a conforming sign, is required when:

1. A nonconforming sign, or a substantial part of a nonconforming sign, is blown down, destroyed, or for any reason or by any means taken down, altered, or removed. As used in this subsection, "substantial" means 50 percent or more of the value of the entire sign structure, as determined by the Building Official; or
 2. The condition of the nonconforming sign or nonconforming sign structure has deteriorated and the cost of restoration of the sign to its condition immediately prior to such deterioration exceeds 50 percent of the value of the sign or sign structure prior to its deterioration, as determined by the Building Official; or
 3. The use of the nonconforming sign, or the property on which it is located, has ceased, become vacant, or been unoccupied for a period of 180 consecutive days or more.
- D. General Requirements. Where a legal nonconforming use exists, any signs to be erected shall require application to and approval by the Director. The number of signs permitted on the building or parcel, the size and nature thereof, and their location on the property shall be determined by the provisions of this title applicable to such property as if it were classified for the actual use then existing. However, the Director may modify such standards if it is determined that the use or condition of adjacent parcels makes such standards inappropriate because the illumination, location, or size of the signage would unreasonably interfere with the quiet enjoyment and use of one or more adjacent parcels.

(Ord. 2000 § 2, (2021))

CHAPTER 25.43 TRANSPORTATION DEMAND MANAGEMENT

§ 25.43.010. Purpose and Applicability.

A. Purpose. The purpose of this chapter is to:

1. Reduce the amount of traffic generated by new development and the expansion of existing development;
2. Reduce drive-alone commute trips during peak traffic periods by using a combination of services, incentives, and facilities;
3. Reduce vehicular emissions, energy usage, and ambient noise levels as a result of fewer vehicle trips, fewer vehicle miles traveled, and reduced traffic congestion;
4. Ensure that expected increases in traffic resulting from growth in employment opportunities in the City of Burlingame will be adequately mitigated;
5. Promote the more efficient utilization of existing transportation facilities and ensure that new developments are designed in ways to maximize the potential for alternative transportation usage;
6. Establish an ongoing monitoring program to ensure that the desired vehicle trip generation reduction is achieved.

B. Applicability. The requirements of this chapter apply to:

1. New multi-unit development of 10 units or more;
2. New nonresidential development of 10,000 square feet or more;
3. Additions to nonresidential buildings that are 10,000 square feet or more in size that expand existing gross floor area by 10 percent or more;
4. Establishment of a new use, change of use, or change in operational characteristics in a building that is 10,000 square feet or more in size that results in an average daily trip increase of more than 10 percent of the current use, based on the most recent Institute of Traffic Engineers (ITE) trip generation rates.

(Ord. 2000 § 2, (2021))

§ 25.43.020. Performance Requirements.

All projects subject to the requirements of this chapter shall incorporate measures to meet vehicle trip generation rates that are 20 percent lower than the standard rates as established in the most recent edition of the Institute of Transportation Engineers (ITE) trip generation manual.

(Ord. 2000 § 2, (2021))

§ 25.43.030. Trip Reduction Measures.

All projects subject to the requirements of this chapter shall implement any combination of the following measures to achieve the required minimum vehicle trip generation reduction. Guidelines listing the number of trips that are reduced per trip reduction measure are available from the City/County Association of Governments of San Mateo County (C/CAG).

1. Alternative Commute Subsidies/Parking Cash Out. Provide employees with a subsidy, determined by the applicant and subject to review by the Director, if they use transit or commute by other alternative modes.
2. Promotional Programs. Promotion and organization of events for the following programs: new tenant and employee orientation packets on transportation alternatives; flyers, posters, brochures, and emails on commute alternatives; transportation fairs; Spare the Air (June through October); Rideshare Week (October); trip planning assistance routes and maps.
3. Information Boards/Kiosks. Display of the following information in a prominent location, maintained by a designated TDM contact: transit routes and schedules; carpooling and vanpooling information; bicycle lanes, routes and paths and facility information; and alternative commute subsidy information.
4. Bicycle Connections. If a site is abutting a bicycle path, lane or route, provision of a bicycle connection close to an entrance to the building on the site.
5. Bicycle Parking, Short-Term. Secure short-term bicycle parking located within 50 feet of a main entrance to the building.
6. Bicycle Parking, Long-Term. Covered and secure long-term bicycle parking located within 75 feet of a main entrance. Long-term bicycle parking must be in at least one of the following facilities:
 - a. An enclosed bicycle locker;
 - b. A fenced, covered, locked or guarded bicycle storage area; or
 - c. A rack or stand inside a building that is within view of an attendant or security guard or visible from employee work areas.
7. Carpool and Vanpool Ride-Matching Services. Matching of potential carpoolers and vanpoolers by administering a carpool/vanpool matching program.
8. Free Preferential Carpool and Vanpool Parking. Ten percent of vehicle spaces reserved for carpools or vanpools, with a minimum of one space required. The preferential parking spaces shall be provided free of charge.
9. Guaranteed Ride Home. Guaranteed rides home in emergency situations for carpool, vanpool and transit riders. Rides shall be provided either by a transportation service provider (taxi or rental car) or an informal policy using company vehicles and/or designated employees.
10. Compressed Work Week. Allow employees or require tenants to allow employees to adjust their work schedule in order to complete the basic work requirement of five eight-hour workdays by adjusting their schedule to reduce vehicle trips to the worksite.
11. Flextime. Provide or require tenants to provide employees with staggered work hours involving a shift in the set work hours of all employees at the workplace or flexible work hours involving individually determined work hours.
12. Telecommuting. Provide or require tenants to provide opportunities and the ability for employees to work off site.
13. Passenger Loading Zones. Passenger loading zones for carpool and vanpool drop-off located near the main building entrance.

14. Direct Route to Transit. A well-lighted path or sidewalk utilizing the most direct route to the nearest transit or shuttle stop from the building.
 15. Shuttle Program. Provision of a shuttle program or participation in an existing shuttle program approved by the Director and subject to any fees for the existing program.
 16. Pedestrian Connections. Safe, convenient pedestrian connections provided from the project to surrounding public streets and, if applicable, trails. Under this requirement, lighting, landscaping and building orientation are designed to enhance pedestrian safety.
 17. On-Site Amenities. One or more of the following amenities provided on site: ATM, day care, cafeteria, limited food service establishment, dry cleaners, exercise facilities, convenience retail, post office, on-site transit pass sales.
 18. Showers/Clothes Lockers. Shower and clothes locker facilities free of charge.
 19. Transportation Management Association (TMA). Participation in or requirement for tenant to participate in a local TMA, the Peninsula Congestion Relief Alliance (Alliance) or a similar organization approved by the Director, that provides ongoing support for alternative commute programs.
 20. Land Dedication for Transit/Bus Shelter. Where appropriate, land dedicated for transit or a bus shelter provided based on the proximity to a transit route.
 21. Other Measures. Additional measures not listed in this chapter, such as child care facilities or an in-lieu fee that would be negotiated in a development agreement with the City.
- (Ord. 2000 § 2, (2021))

§ 25.43.040. Submittal Requirements.

All projects subject to the requirements of this chapter shall submit a transportation demand management (TDM) plan in conjunction with the development application. These plans must demonstrate that, upon implementation, they will achieve the required vehicle trip generation reduction and shall include the following:

1. Checklist. A completed checklist of the trip reduction measures chosen by the applicant pursuant to Section 25.43.030 above, above, Trip Reduction Measures.
2. Trip Generation. Estimated daily trip generation for the proposed use based on the ITE trip generation rates.
3. Implementation Plan. A description of how the required minimum vehicle trip generation reduction will be achieved and maintained over the life of the project, including, but not limited to, the transportation demand management goals targeted for the various measures.
4. Site Plan. A site plan that designates transportation demand management design elements including:
 - a. External: preferential parking areas, paid parking areas, bicycle connections, bicycle parking, location of on-site amenities, passenger loading areas, land dedicated for transit facilities and bus shelters, direct route to transit, and pedestrian connections.
 - b. Internal: showers/lockers, information boards/kiosks, ATM, dry cleaners, day care, convenience retail, post office, cafeteria, limited food service establishment, exercise facilities, on-site transit pass sales.

(Ord. 2000 § 2, (2021))

§ 25.43.050. Required Findings.

Prior to approval of a permit for a project subject to the requirements of this chapter, the Review Authority shall make both of the following findings:

1. The proposed trip reduction measures are feasible and appropriate for the project, considering the proposed use or mix of uses and the project's location, size, and hours of operation; and
2. The proposed trip reduction measures will ensure that the required vehicle trip generation reduction established for the project by this chapter will be achieved and maintained.

(Ord. 2000 § 2, (2021))

§ 25.43.060. Modifications and Changed Plans.

- A. Minor Modifications. The Director may approve minor modifications to an approved transportation demand management plan that are consistent with the original findings and conditions approved by the Review Authority and would result in the same target minimum vehicle trip generation reduction.
- B. Changed Plans. A change in an approved project that would result in the addition of 10 percent of the building area or a 10 percent increase in the number of average daily trips shall be treated as a new application.

(Ord. 2000 § 2, (2021))

§ 25.43.070. Monitoring and Evaluation.

- A. An annual TDM report is required for all projects subject to the requirements of this chapter, with the exception of new multi-unit developments with 25 or fewer units.
- B. Designated TDM Contact. Designation of an employee or resident as the official contact for the TDM program. The City shall be provided with a current name and phone number of the designated TDM contact who administers carpool and vanpool ride-matching services and promotional programs, updates information on the information boards/kiosks, and is the official contact for the administration of the TDM annual report.
- C. Report Preparation. A TDM annual report shall be prepared by a qualified, independent consultant and paid for by the owner (or if applicable, tenant) and submitted to the City of Burlingame annually. The initial, or baseline, driveway trip count report shall be conducted and submitted one year after the granting of a certificate of occupancy for 75 percent or more of the project and annually after that.
- D. Report Information. The TDM annual report shall consist of a quantitative measure of whether the volumes at the site's driveways are meeting the goal. The TDM annual report shall provide information about the level of alternative mode-uses and/or provide trip counts, and in the event a 20 percent reduction in peak-hour vehicle trips and reduction in overall parking demand is not met, the report shall explain how and why the goal has not been reached; in such a circumstance the annual report shall identify a work plan, to be approved by the City of Burlingame, which describes additional or alternative measures for implementation that would be necessary to enhance the TDM program to attain the TDM goal of a 20 percent reduction in peak-hour vehicle trips.
- E. Evaluation. The City may consider whether the employer/tenant has made a good faith effort to meet the TDM goals and may allow the owner (or if applicable, tenant) a six-month "grace period" to

implement additional TDM measures to achieve the 20 percent vehicle trip reduction.
(Ord. 2000 § 2, (2021))

CHAPTER 25.44 COMMERCIAL LINKAGE FEES

§ 25.44.010. Purpose.

The purpose of this chapter is to:

- A. Encourage the development and availability of housing affordable to a broad range of households with varying income levels within the City as mandated by State law, California Government Code Section 65580, and following.
- B. Offset the demand for affordable housing that is created by new development and mitigate environmental and other impacts that accompany new commercial development by protecting the economic diversity of the City's housing stock; reducing traffic, transit and related air quality impacts; promoting jobs/housing balance; and reducing the demands placed on transportation infrastructure in the region.
- C. Promote the City's policy to provide an adequate number of affordable housing units to the City's housing stock in proportion to the existing or projected need in the community, as identified by the Housing Element.
- D. Support the Housing Element goal of providing housing opportunities for those who work in Burlingame.
- E. Support the Housing Element goal of achieving increased affordability of housing.
- F. Support the Housing Element policy of developing of a variety of housing types that are affordable to very low-income and extremely low-income households.
- G. Support the Housing Element goal of preserving residential character by encouraging maintenance, improvement and rehabilitation of the City's neighborhoods and housing stock.

(Ord. 2000 § 2, (2021))

§ 25.44.020. Definitions.

As used in this chapter, the following terms shall have the following meanings:

"Administrator" means the Community Development Director of the City or other person designated by the City Manager.

"Builder" means any person, firm, partnership, association, joint venture, corporation, or any entity or combination of entities which seeks City approvals for all or part of a commercial development project.

"Building permit" includes full structural building permits as well as partial permits such as foundation-only permits.

"Commercial" use includes hotels, retail uses, restaurants, services, and offices.

"Commercial development project" means an application for a planning permit or building permit that includes the new construction of gross square feet of commercial space or the conversion of a residential use to a commercial use.

"Commercial linkage fee" means the fee paid by builders of commercial development projects to mitigate the impacts that such developments have on the demand for affordable housing in the City.

"First approval" means the first discretionary approval to occur with respect to commercial development

projects, or, for commercial development projects not requiring a discretionary approval, the issuance of a building permit.

"Planning permit" means any discretionary approval of a commercial project, including, but not limited to, a comprehensive or specific plan adoption or amendment, rezoning, tentative map, parcel map, conditional use permit, variances, or architectural review.

(Ord. 2000 § 2, (2021))

§ 25.44.030. Commercial Linkage Fees.

A. Initial fees shall be imposed on new commercial development projects as set forth in the City's Master Fee Schedule, as it may be updated time to time. Fees shall be based on the calculation of gross square feet of floor area, excluding enclosed parking areas, and shall include a credit for existing uses. Commercial linkage fees shall not exceed the cost of mitigating the impact of the commercial development projects on the need for affordable housing in the City.

B. For the purposes of this chapter, commercial use includes hotels, retail uses, restaurants, services, and offices.

(Ord. 2000 § 2, (2021))

§ 25.44.040. Fee Payment.

Any commercial linkage fee shall be paid in full prior to the issuance of the first building permit for the commercial development project subject to the fee or at a time otherwise specified by Council resolution. If no building permit is required, the fee shall be paid before a conversion of use may take place. The fee shall be calculated based on the fee schedule in effect at the time the building permit is issued.

(Ord. 2000 § 2, (2021))

§ 25.44.050. Exemptions.

A. The following commercial development projects are exempt from the provisions of this chapter:

1. Projects adding less than 5,000 square feet of net new square footage.
2. City buildings and facilities and those public facilities entitled to an exemption under law.
3. Projects that have established a vested right not to be subject to this chapter.
4. Applications under review by the Planning Commission that had been deemed complete at the time of adoption of the commercial linkage fees provided for in this chapter.

B. The Council may elect to waive payment of the commercial linkage fee if it finds that: (1) the commercial development project is dedicated to a public use owned and operated by other public agencies or a nonprofit public benefit corporation; and (2) the benefits to the community provided by such public use exceed those that would be provided by the payment of the commercial linkage fee. If the Council elects to waive commercial linkage fees pursuant to this provision, the public use of the site shall be guaranteed by a recorded document in a form acceptable to the City Attorney.

C. The Council by resolution may adopt additional exemptions from time to time.

(Ord. 2000 § 2, (2021))

§ 25.44.060. Below Market Rate Fund.

- A. Special Revenue Fund. A fund for the deposit of fees established under this chapter shall be established and may also receive moneys for housing from other sources.
- B. Purpose and Limitations. Moneys deposited in the fund shall be used to increase and improve the supply of housing affordable to moderate-, low-, very low-, and extremely low-income households. Such purpose includes the purchase of affordability covenants or similar initiatives whose purpose is to preserve existing affordable housing that may otherwise be lost due to market conditions. Moneys may also be used to cover reasonable administrative or related expenses associated with the administration of this chapter.
- C. Administration. The fund shall be administered by the Administrator, who may develop procedures to implement the purposes of the fund consistent with the requirements of this chapter and subject to any adopted budget of the City and generally applicable accounting and procurement processes.
- D. Expenditures. Fund moneys shall be used in accordance with the City's Housing Element or subsequent plans adopted by the City Council to maintain or increase the quantity, quality, and variety of affordable housing units or assist other governmental entities, private organizations or individuals to do so. Permissible uses include, but are not limited to, land acquisition, debt service, parcel assemblage, gap financing, housing rehabilitation, grants, unit acquisition, new construction, and other pursuits associated with providing affordable housing. The fund may be used for the benefit of both rental and owner-occupied housing.

(Ord. 2000 § 2, (2021))

§ 25.44.070. Administrative Relief/Appeal.

- A. The builder of a project subject to this chapter may request that the requirements of this chapter be waived or modified by the City Council, based upon the absence of any reasonable relationship or nexus between the impacts of the development and either the amount of the fee charged or the type of facilities to be financed.
- B. The application shall be made in writing and filed with the Director not later than:
 1. Twenty days prior to the public hearing before the Planning Commission on the development project application under this title, or
 2. If no hearing before the Planning Commission is required by this title, at the time of the filing of the application for a development permit.
- C. The application shall state in detail the factual basis for the claim of waiver, reduction, or adjustment.
- D. The Council shall consider the application at a public hearing held within 60 days after the filing of the fee adjustment application. If a reduction, adjustment, or waiver is granted, any change in use within the development project shall invalidate the waiver, adjustment, or reduction of the fee. The decision of the City Council is final.

(Ord. 2000 § 2, (2021))

§ 25.44.080. Enforcement.

- A. Payment of the commercial linkage fee is the obligation of the builder of a commercial development project. The City may institute any appropriate legal actions or proceedings necessary to ensure compliance herewith, including, but not limited to, actions to revoke, deny, or suspend any permit or development approval.

- B. The City Attorney shall be authorized to enforce the provisions of this chapter and all below market rate housing agreements, regulatory agreements, and all other covenants or restrictions placed on affordable units, by civil action and any other proceeding or method permitted by law.
- C. Failure of any official or agency to fulfill the requirements of this chapter shall not excuse any builder or owner from the requirements of this chapter. No permit, license, map, or other approval or entitlement for a commercial development project shall be issued, including, without limitation, a final inspection or certificate of occupancy, until all applicable requirements of this chapter have been satisfied.

(Ord. 2000 § 2, (2021))

§ 25.44.090. Cumulative Remedies.

The remedies provided for in this chapter shall be cumulative and not exclusive and shall not preclude the City from any other remedy or relief to which it otherwise would be entitled under law or equity.

(Ord. 2000 § 2, (2021))

CHAPTER 25.45 RESIDENTIAL IMPACT FEES

§ 25.45.010. Purpose.

The purpose of this chapter is to:

- A. Encourage the development and availability of housing affordable to a broad range of households with varying income levels within the City as mandated by State law, including California Government Code Section 65580 and related provisions.
- B. Offset the demand for affordable housing that is created by new development and mitigate environmental and other impacts that accompany new residential development by protecting the economic diversity of the City's housing stock; reducing traffic, transit, and related air quality impacts; promoting jobs/housing balance; and reducing the demands placed on transportation infrastructure in the region.
- C. Promote the City's policy to provide an adequate number of affordable housing units to the City's housing stock in proportion to the existing or projected need in the community, as identified by the Housing Element.
- D. Support the Housing Element goal of providing housing opportunities for those who work in Burlingame.
- E. Support the Housing Element goal of achieving increased affordability of housing.
- F. Support the Housing Element policy of developing a variety of housing types that are affordable to very low-income and extremely low-income households.
- G. Support the Housing Element goal of preserving residential character by encouraging maintenance, improvement, and rehabilitation of the City's neighborhoods and housing stock.

(Ord. 2000 § 2, (2021))

§ 25.45.020. Definitions.

As used in this chapter, the following terms shall have the following meanings:

"Administrator" means the Community Development Director of the City or other person designated by the City Manager.

"Affordable housing fund" means a separate fund or account designated by the City to maintain and account for all monies received pursuant to this chapter.

"Affordable ownership cost" means the sales price of a for-sale affordable unit resulting in projected average monthly housing payments, during the first calendar year of a household's occupancy, including interest, principal, mortgage insurance, property taxes, homeowners insurance, homeowners' association dues, if any, and a reasonable allowance for utilities, property maintenance, and repairs, not exceeding the sales prices specified by Section 50052.5 of the California Health and Safety Code and California Code of Regulations Title 25, Sections 6910-6924, as they may be amended from time to time.

"Affordable rent" means the total monthly housing expenses for an affordable rental unit not exceeding the rents specified by Section 50053 of the California Health and Safety Code and California Code of Regulations Title 25, Sections 6910-6924, as they may be amended from time to time. As used in this chapter, "affordable rent" shall include the total of monthly payments by the tenant for all of the following:

(1) use and occupancy of the rental unit and land and all facilities associated with the rental unit, including, but not limited to, parking, bicycle storage, storage lockers, and use of all common areas; (2) any additional separately charged fees or service charges assessed by the owner, other than security deposits; (3) an allowance for utilities paid by the tenant as established by the San Mateo County Housing Authority, including garbage collection, sewer, water, electricity, gas, and other heating, cooking, and refrigeration fuel, but not telephone service or cable N; and (4) any other interest, taxes, fees, or charges for use of the land or affordable unit or associated facilities and assessed by a public or private entity other than the owner and paid by the tenant.

"Affordable unit" means a dwelling unit which a builder proposes as an alternative to payment of the residential impact fee, as defined in this chapter and which is required to be rented at a rate affordable to very low-, low-, or moderate-income households, or sold at an affordable ownership cost to very low-, low-, or moderate-income households.

"Builder" (may also be referred to as developer) means any person, firm, partnership, association, joint venture, corporation, or any entity or combination of entities which seeks City approvals for all or part of a residential development project.

"Building permit" includes full structural building permits as well as partial permits such as foundation-only permits.

"Decision-making body" means the City staff person or body authorized to approve or deny an application for a planning or building permit for a residential development project.

"First approval" means the first discretionary approval to occur with respect to a residential development project or, for residential development projects not requiring a discretionary approval, the issuance of a building permit.

"For-sale unit" means a residential dwelling unit that may be sold individually in conformance with the Subdivision Map Act. For-sale units also include units that are converted from rental units to for-sale units.

"Low-income households" means households with incomes no greater than the maximum income for low-income households, as published annually by the County of San Mateo for each household size, based on United States Department of Housing and Urban Development (HUD) and the California Department of Housing and Community Development (HCD) income limits for San Mateo County, unless stated otherwise in this chapter.

"Market rate unit" means a new dwelling unit in a residential development project that is not an affordable unit.

"Median income" means the median income applicable to San Mateo County, as published annually by the County of San Mateo for each household size, based on median income data for San Mateo County published by the United States Department of Housing and Urban Development (HUD) and the California Department of Housing and Community Development (HCD), unless stated otherwise in this chapter.

"Moderate-income households" means households with incomes no greater than the maximum income for moderate-income households, as published annually by the County of San Mateo for each household size, based on United States Department of Housing and Urban Development (HUD) and the California Department of Housing and Community Development (HCD) income limits for San Mateo County, unless stated otherwise in this chapter.

"Planning permit" means any discretionary approval of a development project, including, but not limited to, a comprehensive or specific plan adoption or amendment, rezoning, tentative map, parcel map, conditional use permit, variance, or architectural review.

"Rental unit" means a dwelling unit that is intended to be offered for rent or lease and that cannot be sold

individually in conformance with the Subdivision Map Act.

"Residential development project" means an application for a planning permit or building permit at one location to create one or more additional dwelling units, convert nonresidential uses to dwelling units, subdivide a parcel to create one or more separately transferable parcels intended for residential development, or implement a condominium conversion, including development constructed at one time as well as in phases. "One location" includes all adjacent parcels of land under common ownership or control, the property lines of which are contiguous at any point, or the property lines of which are separated only by a public or private street, road, or other public or private right-of-way, or separated only by the lands owned or controlled by the builder.

"Residential floor area" means all horizontal areas of the several floors of such buildings measured from the exterior faces or exterior walls or from the center line of party walls separating two buildings, minus the horizontal areas of such buildings used exclusively for covered porches, patios, or other outdoor space, amenities and common space, parking, elevators, stairwells or stairs between floors, hallways, and between-unit circulation.

"Very low-income households" means households with incomes no greater than the maximum income for very low-income households, as published annually by the County of San Mateo for each household size, based on United States Department of Housing and Urban Development (HUD) and the California Department of Housing and Community Development (HCD) income limits for San Mateo County, unless stated otherwise in this chapter.

(Ord. 2000 § 2, (2021))

§ 25.45.030. Residential Impact Fees.

A. Initial fees shall be imposed on new residential development projects as follows:

	Impact Fee – Per Square Foot	
	Base	With Prevailing/Area Wage
Rental Multifamily – 11 units and above		
Up to 50 dwelling units/acre	\$17.00 / sq ft	\$14.00 / sq ft
51 to 70 dwelling units/acre	\$20.00 / sq ft	\$17.00 / sq ft
71 dwelling units/acre and above	\$30.00 / sq ft	\$25.00 / sq ft
For Sale Multifamily (Condominiums) 7 units and above		
	\$35.00 / sq ft	\$30.00 / sq ft

B. Fees shall be based on the calculation of the residential floor area as defined in this chapter and shall include a credit for existing uses. The Council may amend these fees through the public hearing process for the City's Master Fee Schedule. Residential impact fees shall not exceed the cost of mitigating the impact of the residential development projects on the need for affordable housing in the City.

C. Rental projects that convert to condominiums within 10 years of completion of construction would be subject to the fee differential between rental and for sale units as a condition of conversion. The fee differential shall be based on the fee structure in place at the time of conversion to condominiums, minus the fees originally submitted at the time of construction.

(Ord. 2000 § 2, (2021))

§ 25.45.040. Fee Payment.

Any residential impact fee shall be paid in full prior to the issuance of the first building permit for the residential development project subject to the fee or at a time otherwise specified by Council resolution. The fee shall be calculated based on the fee schedule in effect at the time the building permit is issued. (Ord. 2000 § 2, (2021))

§ 25.45.050. State Density Bonus.

For residential development projects that are granted a density bonus pursuant to California Government Code Section 65915 et seq. (the "State Density Bonus Law"), the residential impact fee shall apply to all market-rate units, including any additional market-rate units provided under the State Density Bonus Law. The residential impact fee shall not apply to affordable units provided under the State Density Bonus Law. The required residential impact fee shall be reduced to the extent that any affordable units mitigate the market rate units' impact on the need for affordable housing in the City. The Director may issue guidelines from time to time regarding the calculation of any fee reduction.

(Ord. 2000 § 2, (2021))

§ 25.45.060. Exemptions.

A. The following residential development projects are exempt from the provisions of this chapter:

1. Rental multifamily projects with a total of 10 units or fewer;
2. For sale multifamily (condominiums) with a total of six units or fewer;
3. Projects that have established a vested right not to be subject to this chapter;
4. Applications under review by the Planning Commission or Community Development Department that had been deemed complete at the time of adoption of the residential impact fees provided for in this chapter.

B. The Council may elect to waive payment of the residential impact fee if it finds that: (1) the residential development project is dedicated to a public use owned and operated by other public agencies or a nonprofit public benefit corporation; and (2) the benefits to the community provided by such public use exceed those that would be provided by the payment of the residential impact fee. If the Council elects to waive residential impact fees pursuant to this provision, the public use of the site shall be guaranteed by a recorded document in a form acceptable to the City Attorney.

C. The Council by resolution may adopt additional exemptions from time to time.

(Ord. 2000 § 2, (2021))

§ 25.45.070. Alternatives.

A. Alternatives Available to Projects Requiring an Impact Fee. As an alternative to compliance with the impact fee requirements included in this chapter, developers of residential projects may propose to mitigate the affordable housing impacts of such development through the construction of affordable units on site or through an alternative mitigation program proposed by the developer, such as the provision of off-site affordable units, donation of land for the construction of affordable units, or purchase of existing units for conversion to affordable units. Any such alternative must include a guarantee of affordability for a period of 55 years. The Commission may approve the provision of affordable units on site, consistent with the requirements set forth in subsection B., below, as part of

its review of the project. For all other alternatives, the Director shall analyze the proposal and provide advice to the Council which, in its sole discretion, shall determine whether the proposed alternative is sufficient to meet the objectives of this chapter.

- B. The provision of on-site affordable units in lieu of payment of residential impact fees shall be allowed as of right, provided the project meets the following criteria:

1. If a rental multifamily project provides 10 percent of the units on site to be affordable to moderate income households (in this instance 80 to 120 percent AMI) for a period of 55 years, the impacts of residential development on the need for affordable housing shall be deemed mitigated.
2. If a for-sale multifamily (townhome/condominium) project provides 10 percent of the units on site to be affordable to above-moderate income households (in this instance 120 to 150 percent AMI, with the price set at the 135 percent AMI level) for a period of 55 years, the impacts of residential development on the need for affordable housing shall be deemed mitigated.
3. Any affordable rental or for-sale units proposed as an alternative to the payment of the residential impact fee shall be subject to the requirements described in subsection A of this section.

- C. Approval of Off-Site Affordable Units. If a developer proposes off-site affordable units or any other alternative in the affordable housing plan required under Section 25.45.080 (Affordable Housing Plan and Agreement), the Council may, in its sole discretion, approve such a proposal if it finds the proposal meets the following conditions:

1. Financing or a viable financing plan, which may include public funding sources, is in place for the proposed affordable housing units; and
2. The proposed location is suitable for the proposed affordable housing, is consistent with the Housing Element, general plan, and zoning, and will not cause residential segregation; and
3. The proposed units will be maintained as affordable for a period of 55 years.

- D. Other Alternatives. The Council may consider an alternative mitigation program proposed by the developer, such as donation of land for the construction of affordable units, purchase of existing units for conversion to affordable units or alternatives to Section 25.45.090 (Standards for Development).

- E. Agreement with City for Financing. If the City enters into a financing agreement with the applicant, the parties may agree to alter the requirements of Section 25.45.090 (Standards for Development). (Ord. 2000 § 2, (2021))

§ 25.45.080. Affordable Housing Plan and Agreement.

- A. If the builder seeks an alternative to the payment of the residential impact fee pursuant to Section 25.45.070 (Alternatives), the application for the first approval of a residential development project for which the alternative is sought shall include an "affordable housing plan" that describes how the alternative will comply with the provisions of this chapter. No affordable housing plan is required if the builder proposes only to pay the residential impact fee.
1. Residential development projects requesting an alternative to payment of the residential impact fee require that an affordable housing plan be submitted in conformance with this chapter prior to the application being deemed complete.

2. The affordable housing plan shall be processed concurrently with all other permits required for the residential development project. Before approving the affordable housing plan, the decision-making body shall find that the affordable housing plan conforms to this chapter. A condition shall be attached to the first approval of any residential development project to require recordation of an affordable housing agreement, as described in this subsection, prior to the approval of any final or parcel map or building permit for the residential development project.
 3. The approved affordable housing plan may be amended prior to issuance of any building permit for the residential development project. A request for a minor modification of an approved affordable housing plan may be granted by the Director if the modification is substantially in compliance with the original affordable housing plan and conditions of approval. Other modifications to the affordable housing plan shall be processed in the same manner as the original plan.
 4. If required to ensure compliance with the approved affordable housing plan, affordable housing agreements acceptable to the Director or designee shall be recorded against the residential development project prior to or concurrently with and as a condition of approval of any final or parcel map, or issuance of any building permit, whichever occurs first. The affordable housing agreement shall specify the number, type, location, size, and phasing of all affordable units, provisions for income certification and screening of potential purchasers or renters of units, and resale control mechanisms, including the financing of ongoing administrative and monitoring costs, consistent with the approved affordable housing plan, as determined by the Director or designee.
- B. After approval of the application, the applicant shall enter into a regulatory agreement with the City. The terms of this agreement shall be approved as to form by the City Attorney's office and reviewed and revised as appropriate by the reviewing City official. This agreement shall be on a form provided by the City and shall include the following terms:
1. The affordability of very low-, lower-, and moderate-income housing shall be assured in a manner consistent with this chapter.
 2. An equity sharing agreement pursuant to Government Code Section 65915(c)(2).
 3. The location, dwelling unit sizes, rental cost, and number of bedrooms of the affordable units.
 4. A description of any bonuses and incentives, if any, provided by the City.
 5. Any other terms as required to ensure implementation and compliance with this section, and as applicable sections of State Density Bonus Law.

(Ord. 2000 § 2, (2021))

§ 25.45.090. Standards for Development.

All affordable units provided pursuant to Section 25.45.070 shall meet the following standards:

- A. The required affordable dwelling units shall be constructed concurrently with market-rate units unless both the final decision-making authority of the City and developer agree within the affordable housing agreement to an alternative schedule for development.
- B. The exterior design and construction of the affordable dwelling units shall be consistent with the exterior design and construction of the total project development and shall be consistent with any affordable residential development standards that may be prepared by the City.

- C. The affordable units shall have the same amenities as the market rate units, including the same access to and enjoyment of common open space, parking, storage, and other facilities in the residential development, provided at an affordable rent as defined in Section 25.45.020 or at affordable ownership cost as defined in Section 25.45.020. Developers are strictly prohibited from discriminating against tenants or owners of affordable units in granting access to and full enjoyment of any community amenities available to other tenants or owners outside of their individual units.
- D. A regulatory agreement, as described in Section 25.45.080 (Affordable Housing Plan and Agreement), shall be made a condition of the discretionary permits for all developments pursuant to this chapter. The regulatory agreement shall be recorded as a restriction on the development.
(Ord. 2000 § 2, (2021))

§ 25.45.100. Affordable Housing Fund.

- A. Special Revenue Fund. A fund for the deposit of fees established under this chapter shall be established and may also receive monies for housing from other sources.
- B. Purpose and Limitations. Monies deposited in the fund shall be used to increase, improve, and/or protect the supply of housing affordable to moderate-, low-, very low-, and extremely low-income households. Such purpose may include, but not be limited to, the construction of new affordable units, the purchase of affordability covenants or similar initiatives whose purpose is to preserve existing affordable housing that may otherwise be lost due to market conditions, and support to workforce households experiencing unanticipated short-term income disruptions. Monies may also be used to cover reasonable administrative or related expenses associated with the administration of this chapter.
- C. Administration. The fund shall be administered by the Administrator, who may develop procedures to implement the purposes of the fund consistent with the requirements of this chapter and subject to any adopted budget of the City and generally applicable accounting and procurement processes.
- D. Expenditures. Fund monies shall be used in accordance with the City's Housing Element, or subsequent plans adopted by the Council to maintain or increase the quantity, quality, and variety of affordable housing units or assist other governmental entities, private organizations or individuals to do so. Permissible uses include, but are not limited to, land acquisition, debt service, parcel assemblage, gap financing, housing rehabilitation, grants, unit acquisition, new construction, and other pursuits associated with providing affordable housing. The fund may be used for the benefit of both rental and owner-occupied housing.

(Ord. 2000 § 2, (2021))

§ 25.45.110. Administrative Relief/Appeal.

- A. The builder of a project subject to this chapter may request that the requirements of this chapter be waived or modified by the Council, based upon the absence of any reasonable relationship or nexus between the impacts of the development and either the amount of the fee charged or the type of facilities to be financed.
- B. The application shall be made in writing and filed with the Director not later than:
1. Twenty days prior to the public hearing before the Commission on the development project application under this title; or
 2. If no hearing before the Commission is required by this title, at the time of the filing of the application for a development permit.

3. The application shall state in detail the factual basis for the claim of waiver, reduction, or adjustment.

C. The Council shall consider the application at a public hearing held within 60 days after the filing of the fee adjustment application. If a reduction, adjustment, or waiver is granted, any change in use within the development project shall invalidate the waiver, adjustment, or reduction of the fee. The decision of the Council is final.

(Ord. 2000 § 2, (2021))

§ 25.45.120. Enforcement Affordable.

- A. Payment of the residential linkage fee is the obligation of the builder of a residential development project. The City may institute any appropriate legal actions or proceedings necessary to ensure compliance herewith, including, but not limited to, actions to revoke, deny, or suspend any permit or development approval.
- B. The City Attorney shall be authorized to enforce the provisions of this chapter and all below market rate housing agreements, regulatory agreements, and all other covenants or restrictions placed on affordable units, by civil action and any other proceeding or method permitted by law.
- C. Failure of any official or agency to fulfill the requirements of this chapter shall not excuse any builder or owner from the requirements of this chapter. No permit, license, map, or other approval or entitlement for a commercial development project shall be issued, including, without limitation, a final inspection or certificate of occupancy, until all applicable requirements of this chapter have been satisfied.
- D. The remedies provided for in this chapter shall be cumulative and not exclusive and shall not preclude the City from any other remedy or relief to which it otherwise would be entitled under law or equity.

(Ord. 2000 § 2, (2021))

CHAPTER 25.46 PUBLIC FACILITIES IMPACT FEES

§ 25.46.010. Definitions.

Words, when used in this chapter and in resolutions adopted thereunder, shall have the following meanings:

"Development permit" means any building permit, electrical permit, plumbing permit, demolition permit, moving permit, or any other permit required by this code for issuance before construction, reconstruction, remodeling, moving structures or any similar activity can be lawfully undertaken on a parcel of property in the City.

"Development project" means any project undertaken for the purpose of development. "Development project" includes a project involving the issuance of a permit for construction or reconstruction, but not a permit to operate.

"Fee" means a money exaction, other than a tax or special assessment, which is charged by the City to an applicant in connection with approval of a development project for the purpose of defraying all or a portion of the cost of public facilities related to the development project.

"Public facility" includes public improvements, public services, and community amenities.
(Ord. 2000 § 2, (2021))

§ 25.46.020. Collection of Public Facilities Impact Fees.

Except as otherwise provided in this chapter, public facilities impact fees shall be paid pursuant to this chapter before the issuance of any development permit.

(Ord. 2000 § 2, (2021))

§ 25.46.030. Conditions for Collection.

- A. The following public facilities impact fees are established and imposed on the issuance of development permits within the City as determined by resolution of the Council:
 1. General Facilities and Equipment. A development fee is established for general facilities and equipment.
 2. Libraries. A development fee is established for library facilities, equipment, and materials.
 3. Police. A development fee is established for police facilities and equipment.
 4. Parks and Recreation. A development fee is established for parks and recreation facilities and equipment.
 5. Streets and Traffic. A development fee is established for street sand traffic facilities and equipment.
 6. Fire. A development fee is established for fire facilities and equipment.
 7. Storm Drainage. A development fee is established for storm drainage facilities and equipment.
- B. In establishing and imposing the schedule and application of the public facilities impact fees by resolution, the Council will do the following:
 1. Identify the purpose of the fee;

2. Identify the use to which the fee is to be put;
3. Determine how there is a reasonable relationship between the fees used and the type of development on which the fee is imposed; and
4. Determine that there is a reasonable relationship between the need for the public facility and the impacts caused by the type of development project on which the fee is imposed.

(Ord. 2000 § 2, (2021))

§ 25.46.040. Deposit of Fees.

- A. Upon receipt of a fee subject to this chapter, the City shall deposit, invest, account for and expend the fees pursuant to Government Code Section 66006. The City shall retain fee interest accrued and allocate it to the accounts for which the original fee was imposed.
- B. Each fee collected pursuant to this chapter shall be deposited in a special fund created to hold the revenue generated by each such fee. Moneys within each such fund may be expended only by appropriation by the Council for specific projects which are of the same category as that for which the money was collected. In this regard, the following special funds are created and established for the purposes indicated:
 1. A General Facilities and Equipment Fund Is Established. The general facilities and equipment fund is a fund for payment of the actual or estimated costs of constructing and improving the general municipal facilities within the City, including any required acquisition of land.
 2. A Library Facilities, Materials, and Equipment Fund Is Established. The library facilities, material, and equipment fund is a fund for payment of the actual or estimated costs of library facilities, materials and equipment, including any required acquisition of land.
 3. A Police Facilities and Equipment Fund Is Established. The police facilities and equipment fund is a fund for payment of the actual or estimated costs of police facilities and equipment, including any required acquisition of land.
 4. A Parks and Recreation Facilities and Equipment Fund Is Established. The parks and recreation facilities and equipment fund is a fund for the payment of the actual or estimated costs of parks and recreation facilities and equipment, including any required acquisition of land.
 5. A Streets and Traffic Facilities and Equipment Fund Is Established. The streets and traffic facilities and equipment fund is a fund for the payment of the actual or estimated costs of streets and traffic facilities and equipment, including any required acquisition of land.
 6. A Fire Facilities and Equipment Fund Is Established. The fire facilities and equipment fund is a fund for payment of the actual or estimated costs of fire facilities and equipment, including any required acquisition of land.
 7. A Storm Drainage Facilities and Equipment Fund Is Established. The storm drainage facilities and equipment fund is a fund for payment of the actual or estimated costs of constructing and improving the storm drain facilities and for associated equipment, including any required acquisition of land.
- C. The City Manager shall provide a report on these funds to the Council no less than once a year in accordance with Government Code Section 66006.

(Ord. 2000 § 2, (2021))

§ 25.46.050. Computation of Fee.

- A. The uses in the development project approved by the City shall be utilized in the computation of fees required to be paid with respect to any property. If a parcel contains more than one use, then the applicable fees shall be prorated by square footage or dwelling units, as appropriate, attributable to each use.
- B. The fees shall be based on the uses, the number of dwelling units, and the amount of square footage to be located on the property after completion of the development project. New development that, through demolition or conversion, will eliminate existing development is entitled to a fee credit offset if the existing development is a lawful use under this title, including a nonconforming use.
- C. New development that will replace development that was partially or totally destroyed by fire, flood, earthquake, mudslide, or other casualty or act of God, is entitled to a fee credit offset if the development that was partially or totally destroyed was a lawful use under this title, including a nonconforming use, at the time of the destruction.
- D. All fees due under this chapter shall be determined and calculated by the Director or designee.
(Ord. 2000 § 2, (2021))

§ 25.46.060. Natural Disaster Fee Exemption.

No fee adopted pursuant to this chapter shall be applied by the City to the reconstruction of any residential, commercial or industrial development project that is damaged or destroyed as a result of a natural disaster as declared by the Governor of the State insofar as the reconstruction is substantially equivalent in size and use as defined under Government Code Section 66011.

(Ord. 2000 § 2, (2021))

§ 25.46.070. Exemption for Existing Buildings and Uses.

- A. The following shall be exempted from payment of applicable public facilities impact fees:
 - 1. Alterations, renovations or expansion of an existing residential building or structure where no additional dwelling units are created and the use is not changed.
 - 2. Alterations or renovations of an existing commercial or industrial building or structure where no expansion occurs and the use is not changed.
- B. For purposes of this section:
 - 1. "Expansion" shall be defined as any increase in the gross floor area of the existing building or structure.
 - 2. "Change of use" shall be defined as a change or intensification of the use of a portion or all of a building or structure in such a way that additional parking is required by this title.

(Ord. 2000 § 2, (2021))

§ 25.46.080. Fee Payment.

- A. Fees shall be paid at or before the time of issuance of the first required development permit for a development project. However, if the development project is a residential project as defined in Government Code Section 66007, then the time for payment of fees shall be governed by the provisions of Section 66007.

- B. The fee shall be determined by the fee schedule in effect on the date the vesting tentative map or vesting parcel map is approved, or the date a development permit is issued.
- C. When application is made for a new building permit following the expiration of a previously issued building permit for which fees were paid, a new fee payment shall not be required, unless the fee schedule has been amended during the interim; in this event, the appropriate increase or decrease shall be applied to permit issuance.
- D. In the event that development has already lawfully occurred on a parcel for which public facilities impact fees were imposed, fees shall be required only for additional square footage of development that was not included in computing a prior fee.
- E. When a fee is paid for a development project and that project is subsequently reduced so that it would have been entitled to a lower fee, the City shall issue a prorated refund of the paid fee.
- F. When a fee is paid for a development project and the project is subsequently and irrevocably abandoned in writing without any further activity beyond the obtaining of a first development permit, the payer shall be entitled to a refund of the fee paid, minus the administrative portion of the fee. A written request for a refund of a fee paid in connection with an expired or abandoned development project must be made to the Director within 120 days of the expiration of the permit. Failure to submit the request within this time limit shall constitute a waiver of any right to any refund of the fee, and the fee shall be retained in and expended from the fund to which it was deposited.

(Ord. 2000 § 2, (2021))

§ 25.46.090. In-lieu Construction or Provision of Facilities or Equipment.

A. In-lieu Credit.

- 1. A developer that has been required by the City to construct any facilities or improvements, or a portion thereof, referenced in a resolution adopted pursuant to this chapter as a condition of approval of a development permit may request an in-lieu credit of the specific public facilities impact fee for the same development. Upon request, an in-lieu credit of fees shall be granted for facilities or improvements that mitigate all or a portion of the need therefor that is attributable to and reasonably related to the given development.
- 2. Only costs proportional to the amount of the improvement or facility that mitigates the need therefor attributable to and reasonably related to the given development shall be eligible for in-lieu credit, and then only against the specific, relevant fees involved to which the facility or improvement relates.
- 3. Fees required under this chapter shall be reduced by the actual construction costs of the facilities or improvements that relate to the fee, as demonstrated by the applicant and reviewed and approved by the director of community development, and consistent with the provisions of subsections A.1. and A.2., above. Subject to the applicable provisions of subsection B., below, if the cost of the facilities or improvements is greater than required relevant fees, this chapter does not create an obligation on the City to pay the applicant the excess amount.
- 4. An amount of in-lieu credit that is greater than the specific fee required under this chapter may be reserved and credited toward the fee of any subsequent phases of the same development, if determined appropriate by the Director. The Director may set a time limit for reservation of the credit.

- B. Developer Construction of Facilities Exceeding Needs Related to Development Project. Whenever an applicant is required, as a condition of approval of a development permit, to construct any facility or improvement (or a portion thereof) referenced in a resolution adopted which is determined by the City to exceed the need therefor attributable to and reasonably related to the given development project, a reimbursement agreement with the applicant and a credit against the specific relevant fee which would otherwise be charged pursuant to this chapter on the development project shall be offered. The credit shall be applied with respect to that portion of the improvement or facility which is attributable to and reasonably related to the need therefor caused by the development, and shall be determined, administered and processed in accordance with and subject to the provisions of Section 25.46.140. The amount to be reimbursed shall be that portion of the cost of the improvement or facility which exceeds the need therefor attributable to and reasonably related to the given development. The reimbursement agreement shall contain terms and conditions mutually agreeable to the developer and the City and shall be approved by the Council. Reimbursement shall be provided from fees which are deposited into the relevant fund or funds by other applicants for development projects.
- C. Site-Related Improvements. Credit shall not be given for site-related improvements, including, but not limited to, traffic signals, right-of-way dedications, or providing paved access to the property, which are specifically required by the project to serve it and which do not constitute facilities or improvements specified in the resolution referenced in Section 25.46.030 of this chapter.
- D. Determination of Credit. The developer seeking credit and/or reimbursement for construction of improvements or facilities, or dedication of land or rights-of-way, shall submit such documentation, including, without limitation, engineering drawings, specifications, and construction cost estimates, and utilize such methods as may be appropriate and acceptable to the Director to support the request for credit or reimbursement. The Director shall determine credit for construction of improvements or facilities based upon either these cost estimates or upon alternative engineering criteria and construction cost estimates if the Director determines that such estimates submitted by the developer are either unreliable or inaccurate. The Director shall determine whether facilities or improvements are eligible for credit or reimbursement.
- E. Time for Making Claim for Credit. Any claim for credit must be made no later than the application for a building permit. Any claim not so made shall be deemed waived.
- F. Transferability of Credit – Council Approval. Credits shall not be transferable from one project or development to another.
- G. Appeal of Determinations of Director. Determinations made by the Director pursuant to this section may be appealed to the Planning Commission pursuant to Chapter 25.98 (Appeals and Calls for Review) within 10 days of the determination of the Director.

(Ord. 2000 § 2, (2021))

§ 25.46.100. Use of Funds.

- A. Funds collected from public facilities impact fees shall be used for the purpose of:
1. Paying the actual or estimated costs of constructing or improving the public facilities within the City or purchasing materials or equipment for the public facilities within the City to which the specific fee or fees relate, including any required acquisition of land or rights-of-way therefor; or
 2. Reimbursing the City for the development project's share of those public facilities already

- constructed by the City or to reimburse the city for costs advanced, including, without limitation, administrative costs incurred with respect to a specific public facility project; or
3. Reimbursing other developers who have constructed public facilities described in the resolution, where those facilities were beyond those needed to mitigate the impact of the earlier developer's project or projects.
 - B. In the event that bonds or similar debt instruments are issued for advanced provision of public facilities for which public facilities impact fees may be expended, impact fees may be used to pay debt service on such bonds or similar debt instruments to the extent that the facilities provided are of the type to which the fees involved relate.

(Ord. 2000 § 2, (2021))

§ 25.46.110. Conditions for Reimbursement.

- A. The City Manager shall report to the Council once each fiscal year regarding any portion of a fee remaining unexpended or uncommitted in an account five or more years after deposit and identify the purpose for which the fee was collected. The Council shall make findings at least once every fifth year thereafter with respect to any portion of the fee remaining unexpended or uncommitted in its account five or more years after deposit of the fee, to identify the purpose to which the fee is put and to demonstrate a reasonable relationship between the fee and the purpose for which it was charged.
- B. A refund of unexpended or uncommitted fees for which a need cannot be demonstrated along with accrued interest may be made to the current owner(s) of the development project(s) on a prorated basis. The City Manager may refund unexpended and uncommitted fees that have been found by the City Council to be no longer needed, by direct payment or by offsetting other obligations owed to the City by the current owners of the development project.
- C. If the administrative costs of refunding unexpended and uncommitted revenues collected pursuant to this section exceed the amount to be refunded, the Council, after a public hearing for which notice has been published pursuant to Government Code Section 6061 and posted in three prominent places within the area of the development project, may determine that the revenues shall be allocated for some other purpose for which the fees are collected subject to this chapter that serve the project on which the fee was originally imposed.

(Ord. 2000 § 2, (2021))

§ 25.46.120. Capital Improvement Plan.

- A. The City may adopt or incorporate a capital improvement plan which indicates the approximate location, size, time of availability, and estimates of costs for public facilities or improvements to be financed with public facility impact fees.
- B. The City Manager shall annually submit the capital improvement plan to the Council for adoption at a noticed public hearing.
- C. The public facility impact fee schedule adopted by the Council by resolution shall be annually reviewed by the Council for consistency with the capital improvement plan, and any necessary amendments shall be made by resolution of the Council.

(Ord. 2000 § 2, (2021))

§ 25.46.130. Procedure for Adoption of Fees.

The adoption of public facility impact fees is a legislative act and shall be enacted by resolution after a public hearing before the Council.

(Ord. 2000 § 2, (2021))

§ 25.46.140. Fee Adjustments or Waivers.

- A. A developer of any project subject to the fee described in this chapter may apply to the Director for reduction or adjustment to that fee, or a waiver of that fee, based upon the absence of any reasonable relationship or nexus between the impacts of the development and either the amount of the fee charged or the type of facilities to be financed.
- B. The application shall be made in writing and filed with the Director not later than:
 1. Twenty days prior to the public hearing before the Commission on the development project application under this title, or
 2. If no hearing before the Commission is required by this title, at the time of the filing of the application for a development permit.
 3. The application shall state in detail the factual basis for the claim of waiver, reduction, or adjustment.
- C. The Commission shall consider the application at a public hearing held within 60 days after the filing of the fee adjustment application. The decision of the Commission is subject to appeal to the Council pursuant to this title. If a reduction, adjustment, or waiver is granted, any change in use within the development project shall invalidate the waiver, adjustment, or reduction of the fee.

(Ord. 2000 § 2, (2021))

Article 4 **Regulations For Specific Land Uses And Activities**

CHAPTER 25.48 **STANDARDS FOR SPECIFIC LAND USES AND ACTIVITIES**

§ 25.48.010. Purpose and Applicability.

The purpose of this chapter is to establish standards for the location, site planning, development, and operations of certain land uses that are allowed within individual or multiple zoning districts, as set forth in Article 2 (Zoning Districts, Allowable Uses, and Development Standards), and for activities that require special standards to reduce their potential adverse impacts.

(Ord. 2000 § 2, (2021))

§ 25.48.020. Accessory Uses in Nonresidential Zoning Districts.

- A. Purpose and Applicability. This section establishes standards for the location, development, and operation of accessory uses, as defined in Chapter 25.106 (Land Use Definitions), for nonresidential zoning districts where allowed in compliance with Article 2 (Zoning Districts, Allowable Uses, and Development Standards). Unless more specific standards are presented elsewhere in this Article 4 (Regulations for Specific Land Uses and Activities) for unique accessory uses, the provisions in this section shall apply to accessory uses.
- B. Incidental Use. Any accessory use shall be incidental to, related, and clearly subordinate to a legal primary use established on the same parcel and shall not alter the primary use or serve property other than the parcel where the primary use is located.
- C. Maximum Percentage. For each tenant, any accessory use shall not exceed 25 percent of the floor area within the structure or equivalent area of the site.
- D. Creative Artisan and Small-Scale Manufacturing Accessory Uses. Notwithstanding other provisions in this title, the Director may authorize creative accessory uses that involve artisan or small-scale manufacturing, provided such accessory uses do not create any ascertainable vibration, noise, fumes, or other nuisances.

(Ord. 2000 § 2, (2021))

§ 25.48.030. Accessory Dwelling Units.

- A. Purpose and Applicability.
 1. The purpose of this chapter is to regulate accessory dwelling units (ADUs) and junior accessory dwelling units (JADUs) in compliance with California Government Code Sections 65852.2 and 65852.22. This chapter is intended to implement the Housing Element of the Burlingame General Plan by providing for additional housing opportunities. This will be accomplished by increasing the number of units available within existing neighborhoods while maintaining the primarily single-unit and multi-unit residential character of the area, and establishing standards for the development and occupancy of accessory dwelling units and junior accessory dwelling units to ensure that they are compatible with neighboring uses and structures, adequately equipped with public utility services, safe for human occupancy, and do not create unreasonable traffic and safety impacts.

2. In cases of conflict between this chapter and any other provision of this title, the provisions of this chapter shall prevail. To the extent that any provision of this chapter is in conflict with State law, the applicable provision of State law shall control, but all other provisions of this chapter shall remain in full force and effect.
 3. An ADU or JADU which conforms to the requirements of this chapter shall not be considered to exceed the allowable density for the lot upon which it is located and shall be deemed to be a residential use which is consistent with the existing General Plan and zoning designations for the lot.
- B. Definitions. The following terms shall have the following meanings for this chapter only and shall supersede the terms defined by Chapter 25.106 (Land Use Definitions):

"Accessory dwelling unit" or "ADU" means an attached or detached residential dwelling unit ancillary to a primary dwelling unit that provides complete independent living facilities for one or more persons and is located on a lot with a proposed or existing primary residence. An accessory dwelling unit may be between 150 and 1,000 square feet in size and shall comply with subsection H.3 (Maximum Size) of this section. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-unit or multi-unit dwelling is or will be situated. An accessory dwelling unit also includes an efficiency unit, as defined in Section 17958.1 of the Health and Safety Code, and a manufactured home, as defined in Section 18007 of the Health and Safety Code. This chapter recognizes three types of accessory dwelling units as defined below. Where a proposed accessory dwelling unit does not clearly fall into one of the defined types, the Director shall make a determination pursuant to Chapter 25.04 (Interpretation of the Zoning Ordinance).

¶Attached accessory dwelling unit" means an accessory dwelling unit that is constructed as a physical expansion (i.e., addition) of an existing primary dwelling unit, including construction of a new basement underneath a primary dwelling unit to accommodate an accessory dwelling unit.

¶Detached accessory dwelling unit" means an accessory dwelling unit that is constructed as a separate structure from the primary dwelling unit; or contained within the existing space of an accessory structure (as defined herein), including construction of a new basement underneath an accessory structure to accommodate an accessory dwelling unit.

¶Interior accessory dwelling unit" means an accessory dwelling unit that is contained within the existing space of a primary dwelling unit, including within its living area, basement, or attached garage; constructed as part of a proposed primary dwelling unit; or created from non-livable space of a multi-unit dwelling.

"Accessory structure" means a structure that is accessory and incidental to a dwelling located on the same lot.

"Efficiency kitchen" means a kitchen that includes each of the following:

- a. A sink and cooking facility with appliances (e.g., microwave, toaster oven or hot plate).
- b. A food preparation counter and storage cabinets that are of reasonable size in relation to the size of the junior accessory dwelling unit.

"Junior accessory dwelling unit" or "JADU" means a residential dwelling unit that:

- a. Is no more than 500 square feet in size;

- b. Is contained entirely within an existing or proposed single-unit dwelling;
- c. Includes its own separate sanitation facilities (bathroom containing a sink, toilet, and shower or tub), or may share sanitation facilities with the existing or proposed single-unit structure; and
- d. Includes an efficiency kitchen, as defined in subsection B.3 above.

"Kitchen" means a kitchen that includes each of the following:

- a. A sink and cooking facility (permanent stove and/or oven);
- b. A refrigerator with separate doors for the refrigerator and freezer compartments; and
- c. A food preparation counter and storage cabinets that are of reasonable size in relation to the size of the accessory dwelling unit.

"Living area" means the interior habitable floor area of a dwelling unit, including basements and attics, but does not include a garage or any accessory structure.

"Nonconforming zoning conditions" means a physical improvement on a property that does not conform with current zoning standards.

"Passageway" means a pathway that is unobstructed clear to the sky and extends from a street to the entrance of an accessory dwelling unit or junior accessory dwelling unit.

"Public transit" means a location, including, but not limited to, a bus stop or train station, where the public may access buses, trains, subways, and other forms of transportation that charge set fares, run on fixed routes, and are available to the public.

"Tandem parking" means a parking configuration where two or more automobiles are parked on a driveway or in any other location on a lot, lined up behind one another.

C. Applications and Processing.

1. Applications for ADU and JADU permits shall be in writing and filed with the Community Development Department on a form approved by the Director.
2. As established by Council resolution, a fee will be charged for an application for an ADU or JADU permit under this chapter. All ADUs and JADUs are also subject to building permit fees.
3. Within 60 days of receipt of a complete application, the Community Development Department staff shall ministerially process for approval any application for an ADU or JADU permit pursuant to this chapter. Incomplete applications will be returned with an explanation of what additional information is required. Upon finding that the ADU or JADU meets the requirements of this chapter, the application shall be approved ministerially without discretionary review or public hearing and the applicant may proceed to acquire a building permit. All ADUs and JADUs are categorically exempt from CEQA pursuant to Sections 15301 and 15303 of the CEQA guidelines.
4. If an application for an attached ADU or JADU is submitted with an application for an addition to an existing single-unit dwelling or construction of a new single-unit dwelling that is subject to design review or other discretionary permit for the same parcel, the application for the ADU or JADU permit shall not be acted upon until the application for design review or other discretionary permit is approved. Following the approval for design review or other discretionary permit for the primary dwelling unit, the ADU or JADU application will be

ministerially processed within 60 days of receipt of a complete application and approved if it meets the requirements of this chapter.

5. If the applicant requests a delay, the 60-day time period for approval shall be tolled for the period of the delay.
- D. Appeal. The applicant that requested the accessory dwelling unit permit may appeal the Director's denial of the request. The appeal shall be submitted to the Director in writing within 10 days after the date of the Director's decision. The appeal shall be heard by the Planning Commission in a public hearing pursuant to the procedures established for discretionary actions in Chapter 25.100.
- E. Revocation of Permit.
 1. Grounds. An ADU or JADU permit granted pursuant to this chapter may be revoked on any one or more of the following grounds:
 - a. Failure to comply with the requirements of this chapter; or
 - b. The ADU or JADU is no longer used for residential purposes; or
 - c. The parking required by this chapter is no longer provided.
 2. Notice. Written notice to revoke an ADU or JADU permit shall be served on the property owner, as shown on the last equalized assessment roll, either personally or by certified mail, and shall state:
 - a. The reasons for the proposed revocation.
 - b. That the proposed action will be taken by the Director unless a written request for a hearing before the Commission is requested within 15 days after the date of said notice. If no response is received, the Director will revoke the ADU or JADU permit as set forth in the notice.
 3. Hearing. If a hearing is requested, at least 10 days' notice thereof shall be given to the requested party. At the hearing, the property owner may call witnesses and present evidence in his or her behalf. Upon conclusion of the hearing, the Commission will determine whether or not the permit will be revoked. Such determination may be appealed to the Council in the same manner as for appeals taken on applications for the granting of conditional use permits or variances.
- F. Minimum Standards of Eligibility.
 1. No minimum lot area is required for creation of an ADU or JADU.
 2. An ADU or JADU shall only be allowed on a parcel which has been legally created in compliance with the Subdivision Map Act and Title 26 (Subdivisions), and where the ADU or JADU is developed with an existing or proposed single-unit dwelling, except for ADUs constructed on multi-unit residential properties pursuant to Section 25.48.030.J.
 3. ADUs may only be permitted in districts zoned to allow single-unit dwelling or multi-unit dwelling residential uses as a permitted use. ADUs are also permitted on any parcel that has a current and valid nonconforming single-unit or multi-unit residential use, so long as the ADU complies with all other portions of this chapter.
 4. JADUs may only be permitted in districts zoned to allow a single-unit dwelling residential use

as a permitted use. JADUs are also permitted on any parcel that has a current and valid nonconforming single-unit residential use, so long as the JADU complies with all other portions.

G. General Requirements and Restrictions. The following requirements and restrictions apply to all existing and new ADUs and JADUs, as applicable:

1. ADUs and JADUs shall comply with all applicable provisions of this title and all applicable building, health and fire codes. However, ADUs and JADUs shall not be required to provide fire sprinklers unless required for the primary single-unit dwelling or multi-unit dwelling structure.
2. All development standards contained in the underlying zoning district, including those in Article 2, shall apply to ADUs and JADUs unless they are inconsistent with the provisions of this chapter, in which case the development standards of this chapter shall apply.
3. Accessory Dwelling Units.
 - a. ADUs may be rented separately from the single-unit dwelling or multi-unit dwelling structure but may not be sold or otherwise conveyed separately from the other dwellings on the lot, except as provided for by Government Code Section 65852.26.
 - b. ADUs may not be rented for fewer than 30 consecutive calendar days.
 - c. ADUs are not subject to any owner-occupancy requirement.
4. Junior Accessory Dwelling Units.
 - a. JADUs may be rented separately from the single-unit dwelling but may not be sold or otherwise conveyed separately from the single-unit dwelling on the lot.
 - b. JADUs may not be rented for fewer than 30 consecutive calendar days.
 - c. JADUs are subject to an owner-occupancy requirement. A person with legal or equitable title to the property shall reside on the property in either the primary dwelling or JADU as that person's legal domicile and permanent residence. However, the owner-occupancy requirement of this paragraph does not apply if the property is entirely owned by another governmental agency, land trust, or housing organization. Prior to issuance of a building permit for a JADU, the owner shall record a covenant in a form prescribed by the city attorney, which shall run with the land and provide for the following:
 - i. A prohibition on the sale of the JADU separate from the sale of the single-unit dwelling;
 - ii. A restriction on the size and attributes of the JADU consistent with this section;
 - iii. A prohibition against renting the property for fewer than 30 consecutive calendar days; and
 - iv. A requirement that either the primary residence or the JADU unit be the owner's bona fide principal residence, unless the owner is a governmental agency, land trust, or housing organization.
5. If an ADU or JADU which was created within a single-unit dwelling, accessory structure or multi-unit dwelling structure is required to be removed or is voluntarily removed, the kitchen

facility shall be removed and the space shall be converted back to its original use. If an ADU was newly constructed:

- a. The space or structure shall be entirely removed; or
 - b. The kitchen facility shall be removed and the space shall be converted to a permitted use allowed within the underlying zoning district; or
 - c. The kitchen facility shall be removed and the applicant shall obtain the appropriate land use permit for the proposed use within the space.
6. Certificates of Occupancy. A certificate of occupancy for an ADU shall not be issued before a certificate of occupancy is issued for the primary dwelling unit.
7. Deed Restriction. Prior to issuance of a building permit for an ADU or JADU, a deed restriction must be recorded against the title of the property in the County Recorder's office and a copy filed with the Community Development Department. The deed restriction must run with the land and bind all future owners. The form of the deed restriction will be provided by the City and must provide that:
- a. The ADU or JADU shall not be sold separately from the primary dwelling.
 - b. The ADU or JADU is restricted to the approved size and to other attributes allowed by this section.
 - c. The deed restriction runs with the land and may be enforced against future property owners.
 - d. The deed restriction may be removed if the owner eliminates the ADU or JADU, as evidenced by, for example, removal of the kitchen facilities. To remove the deed restriction, an owner may make a written request of the City, providing evidence that the ADU or JADU has in fact been eliminated. The City may then determine whether the evidence supports the claim that the ADU or JADU has been eliminated. Appeal may be taken from the City's determination consistent with other provisions of this Code. If the ADU or JADU is not entirely physically removed but is only eliminated by virtue of having a necessary component of an ADU or JADU removed, the remaining structure and improvements must otherwise comply with applicable provisions of this Code.
 - e. The deed restriction is enforceable by the Director or his or her designee for the benefit of the City. Failure of this property owner to comply with the deed restriction may result in legal action against the property owner, and the City is authorized to obtain any remedy available to it at law or equity, including, but not limited to, obtaining an injunction enjoining the use of the ADU or JADU in violation of the recorded restrictions or abatement of the illegal unit.
- H. Development Standards for Accessory Dwelling Units. An ADU shall be constructed only in accordance with the following development standards:
1. Location and Number. Only one ADU shall be permitted per lot which contains an existing or proposed single-unit dwelling. ADUs may be located in any of the following:
 - a. Within the walls of an existing or proposed single-unit dwelling;
 - b. Attached to an existing or proposed single-unit dwelling;

- c. Within an existing accessory structure; or
 - d. Detached from the single-unit dwelling but located on the same lot as the existing or proposed single-unit dwelling.
2. Minimum Size. No ADU shall be smaller than the size required to allow an efficiency unit pursuant to Health and Safety Code Section 17958.1.
 3. Maximum Size. The maximum floor area for an ADU shall be 850 square feet or 1,000 square feet for two or more bedrooms.
 - a. Notwithstanding subsection H.3 above, if there is an existing primary dwelling, an attached ADU shall not exceed 50 percent of the living area of the existing primary dwelling.
 - b. If the ADU is created by converting space within an existing single-unit dwelling or accessory structure:
 - i. An expansion limited to 150 square feet beyond the physical dimensions of the existing single-unit dwelling or accessory structure is permitted strictly to accommodate ingress and egress to the ADU; this additional square footage shall be exempt from lot coverage and floor area ratio requirements. The side and rear setback requirements for the single-unit dwelling may be reduced to no less than four feet to accommodate an exterior stair and landing that provide required access to the ADU if it is located on the second story; and
 - ii. The ADU must have side and rear setbacks sufficient for fire and safety, as dictated by applicable building and fire codes.
4. Floor Area Ratio and Lot Coverage. An ADU measuring no more than 850 square feet in size shall be exempt from floor area ratio and lot coverage requirements (includes floor area located in basements or lower level areas). An ADU greater than 850 square feet shall comply with the floor area ratio and lot coverage regulations as specified by the applicable zoning district.
 5. Setbacks. An ADU shall conform to the following setback standards:
 - a. A setback of at least four feet is required from the side and rear property lines; however, no setbacks shall be required under the following circumstances:
 - i. Existing livable space or an existing accessory structure that is converted, in whole or in part, to an ADU;
 - ii. The detached ADU is constructed in the same location and to the same dimensions as an existing detached structure that is demolished solely for the purpose of constructing the ADU; or
 - iii. Construction of a new detached ADU entirely located within the rear 40 percent of the lot. If any portion of the detached ADU is located forward of the rear 40 percent of the lot, it shall comply with the setback requirements of the applicable zoning district in which it is located; for detached ADUs that are no greater than 850 square feet and no taller than 16 feet, no more than four-foot side or rear setbacks shall be required.
 - b. There shall be a minimum four-foot separation between a detached ADU and any other

structure on the lot, as measured between the exterior walls of the structures.

6. Maximum Height and Stories.

a. Detached ADUs.

- i. All detached ADUs shall be limited to one story in height and shall not be constructed above detached garages or detached accessory structures except for accessory dwelling units created entirely within an existing legal two-story detached accessory structure.
- ii. The maximum allowed building height for a detached ADU is 16 feet, as measured from highest adjacent existing grade to the top of the highest roof ridge and shall comply with the maximum allowed plate height requirements in subsections H.6.a.iii. and iv.
- iii. The maximum allowed plate height is nine feet, as measured from finished floor to the top of plate. The plate height may exceed nine feet, up to a maximum of 10 feet above finished floor, if the ADU is set back at least four feet from the side and rear property lines. Where the slope on a lot between the front and rear of the structure varies by more than two feet, the plate height shall be measured from average adjacent existing grade.
- iv. For detached ADUs containing a single slope, one side of the structure shall be allowed to have a plate height greater than nine feet; the plate height of walls closest to and parallel with side and rear property lines shall not exceed nine feet in height (or 10 feet in height if ADU is set back four feet from side and rear property lines).

b. Attached ADUs. Attached ADUs may be constructed on the first or second floor of an existing or proposed single-unit dwelling and shall be subject to the height requirements of the applicable zoning district in which it is located. If located within the Hillside Overlay Zone, attached ADUs shall not exceed 16 feet in height as measured from average adjacent grade around the single-unit dwelling.

7. Kitchen. The ADU shall contain a kitchen satisfying the following criteria:

- a. Contains a sink and cooking facility (permanent stove and/or oven);
- b. Contains a refrigerator with separate doors for the refrigerator and freezer compartments; and
- c. Contains a food preparation counter and storage cabinets that are of reasonable size in relation to the size of the accessory dwelling unit.

8. Entrance. An ADU shall have a separate exterior entrance from the main entrance to the existing or proposed single-unit dwelling. For an ADU located entirely on a second story, this shall require a separate interior or exterior stairway. The entrance to the ADU shall not face the same public street as the entrance to the single-unit dwelling, unless it is the only location determined to comply with applicable building and fire codes. A passageway from the ADU to a public street may be created but is not required.

9. Windows and Skylights. Windows and glazed openings shall be located at least three feet from any property line. Skylights shall be allowed on sloping roofs facing interior yards, on sloping

roofs facing side yards as long as the skylight is located at least 10 feet from property line, and on flat roofs. The placement of windows and skylights in ADUs shall comply with all applicable building and fire codes.

10. **Balconies/Decks.** Balconies, second story decks, and rooftop terraces are prohibited for all ADUs. A green roof shall not be considered a balcony, second story deck, or rooftop terrace.
 11. **Interior Connection.** Attached and interior ADUs may, but are not required, to contain an interior doorway connection between the single-unit dwelling and ADU.
 12. **Permanent Foundations.**
 - a. All ADUs shall be permanently attached to a permanent foundation.
 - b. A recreational vehicle, commercial coach, trailer, motor home, camper, camping trailer, boat, or similar vehicle shall not be used as an ADU.
 13. **Existing ADUs Built Before January 1, 1954.** For existing ADUs built before January 1, 1954 the following additional criteria shall be met:
 - a. The ADU shall conform to the requirements of the California Health and Safety Code Section 17920.3, and the Uniform Housing Code as adopted by Section 17922; and
 - b. Improvements may be made to the ADU so long as it conforms to the requirements of this chapter and corrects any violation of Health and Safety Code Section 17920.3 and the Uniform Housing Code.
- I. **Development Standards for Junior Accessory Dwelling Units.** A junior accessory dwelling unit shall be constructed only in accordance with the following development standards:
1. **Location.** The JADU may only be located within the walls of an existing or proposed single-unit dwelling. The JADU must have side and rear setbacks sufficient for fire and safety, as dictated by applicable building and fire codes.
 2. **Number.** Only one JADU shall be permitted per lot which contains an existing or proposed single-unit dwelling. A JADU may be allowed in conjunction with one detached ADU on the same lot as long as the ADU does not exceed 850 square feet.
 3. **Minimum Size.** No JADU shall be smaller than the size required to allow an efficiency unit pursuant to Health and Safety Code Section 17958.1.
 4. **Maximum Size.** The JADU shall not exceed 500 square feet in area. An expansion limited to 150 square foot beyond the physical dimensions of the existing single-unit dwelling is permitted strictly to accommodate ingress and egress to the JADU; this additional square footage shall be exempt from lot coverage and floor area ratio requirements. The side and rear setback requirements for the single-unit dwelling may be reduced to no less than four feet to accommodate an exterior stair and landing that provide required access to the JADU if it is located on the second story.
 5. **Kitchen.** The JADU shall contain an efficiency kitchen satisfying the following the criteria:
 - a. Contains a sink and cooking facility with appliances (e.g., microwave, toaster oven or hot plate).

- b. Contains a food preparation counter and storage cabinets that are of reasonable size in relation to the size of the JADU.
6. Bathroom. The JADU may have a separate bathroom or may share a bathroom with the single-unit dwelling. The bathroom shall contain a sink, toilet, and shower or tub. If the bathroom is shared, there must be a connecting door between the JADU and the single-unit dwelling.
7. Entrance. The JADU shall have a separate exterior entrance from the main entrance to the existing or proposed single-unit dwelling. The entrance to the JADU shall not face the same public street as the entrance to the primary dwelling, unless it is the only location determined to comply with applicable building and fire codes. A passageway from the ADU to a public street may be created but shall not be required.
8. A JADU is not considered a separate or new dwelling for purposes of fire safety or life safety.

J. Accessory Dwelling Units on Multi-Unit Residential Properties. The following requirements and restrictions apply to creation of ADUs on multi-unit residential properties:

1. For the purposes of this section, the term "multi-unit dwelling structure" means two or more residential units contained within one or more buildings on the same lot.
2. Conversion. A minimum of one and up to 25 percent of the existing dwelling units within a multi-unit dwelling structure may be created within existing non-livable space(s), including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages, provided that the dwellings comply with building and fire codes. An ADU shall not be created within any portion of the habitable area of an existing dwelling unit in a multi-unit structure. When calculating the number of allowed ADUs based on the percentage of existing multi-unit units, round down to the nearest integer.
3. New Detached ADUs. In addition to ADUs allowed by subsection J.2, up to two new detached accessory dwelling units may be allowed provided that the height does not exceed 16 feet and that minimum four-foot side and rear yard setbacks are maintained. These ADUs shall be subject to the standards, requirements, and restrictions of this chapter.
4. There shall be a minimum four-foot separation between a detached ADU and any other structure on the lot, as measured between the exterior walls of the structures.

K. Design. The design of accessory dwelling units shall conform with the following standards:

1. Accessory Dwelling Units – Conversions.
 - a. Accessory dwelling units contained within the existing space of an attached garage shall include removal of vehicle garage doors which shall be replaced with architectural features the same as those of the primary dwelling unit, including the same wall cladding, window type, and trim that remove any appearance that the structure was originally a garage. This wall shall contain at least one window that is consistent in size and type with other existing windows on the same building façade.
 - b. An existing detached garage that is converted to an accessory dwelling unit shall include removal of the vehicle garage door(s).

L. Parking.

1. Unless otherwise provided in this section, one off-street parking space shall be provided for the

ADU in addition to the off-street parking spaces required for the single-unit dwelling or multi-unit residential structure. All parking shall be provided on a hard, all-weather surface.

2. The parking space may be provided in setback areas or as tandem parking unless specific findings are made that parking in setback areas or tandem parking is not feasible based upon specific site or regional topographical or fire and life safety conditions.
3. No parking shall be required for an ADU in any of the following instances:
 - a. The ADU is located within one-half mile walking distance of public transit. For the purposes of this section only, public transit is defined as a location, including, but not limited to, a bus stop or train station, where the public may access buses, trains, subways, and other forms of transportation that charge set fares, run on fixed routes, and are available to the public.
 - b. The ADU is located within an architecturally and historically significant historic district.
 - c. The ADU is part of the proposed or existing primary residence or an existing accessory structure.
 - d. When on-street parking permits are required but not offered to the occupant of the ADU.
 - e. When there is an established car share vehicle stop located within one block of the ADU.
4. No parking shall be required for a JADU and any parking displaced by its construction, including conversion of all or part of an existing attached garage, are not required to be replaced.
5. When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an ADU or converted to an ADU, those off-street parking spaces are not required to be replaced.

M. Utilities and Impact Fees.

1. No ADU or JADU shall be permitted if it is determined that there is not adequate water or sewer service to the property, as determined by the City.
2. Except as provided in subsection M.3, an ADU may be required to have a new or separate utility connection, including a separate sewer lateral, between the ADU and the utility. A connection fee or capacity charge may be charged that is proportionate to the size in square feet of the ADU or its drainage fixture unit (DFU) values. Separate electric and water meters shall be required for the ADU.
3. The following ADUs shall be exempt from any requirement to install a new or separate utility connection and to pay any associated connection or capacity fees or charges:
 - a. Junior accessory dwelling units.
 - b. Standard ADUs converted from interior space, unless the unit is constructed within a new single-unit home.
4. Impact Fees.
 - a. No impact fees may be imposed on ADUs that are less than 750 square feet in size. For purposes of this section, "impact fees" include the fees specified in Sections 66000 and 66477 of the Government Code, but do not include utility connection fees or capacity

charges.

- b. For ADUs that have a floor area of 750 square feet or more, impact fees shall be charged proportionately in relation to the square footage of the primary dwelling unit.

N. Delay of Enforcement of Building Standard.

1. Prior to January 1, 2030, the owner of an ADU that was built prior to adoption of the ordinance codified in this chapter, may submit a written request to the Chief Building Official requesting that correction of any violation of building standards be delayed for five years. For purposes of this section, "building standards" refers to those standards enforced by local agencies under the authority of Section 17960 of the California Health and Safety Code.
2. The Chief Building Official will grant the application if the Chief Building Official determines that enforcement of the building standard is not necessary to protect health and safety. In making this determination, the Chief Building Official will consult with the Fire Marshal.
3. No applications pursuant to this section shall be approved on or after January 1, 2030. However, any delay that was approved by the City before January 1, 2030, shall be valid for the full term of the delay that was approved at the time of the approval of the application.
4. Until January 1, 2030, any notice to correct a violation of building standard that is issued to the owner of an ADU built prior to adoption of the ordinance codified in this chapter, shall include a statement that the owner has a right to request a delay in enforcement of the building standard for an ADU pursuant to this section.

(Ord. 2000 § 2, (2021))

§ 25.48.040. Adult Entertainment Businesses.

- A. Purpose. It is the intent of this section to prevent community-wide adverse economic impacts, increased crime, decreased property values, and the deterioration of neighborhoods that can be brought about by the concentration of adult-oriented businesses in close proximity to each other or proximity to other incompatible uses such as schools for minors, places of religious assembly, City athletic facilities, and residentially zoned districts or uses. The Council finds that it has been demonstrated in various communities that the concentration of adult-oriented businesses causes an increase in the number of transients in the area and an increase in crime, and in addition to the effects described above, can cause other businesses and residents to move elsewhere. It is, therefore, the purpose of this section to establish reasonable and uniform regulations to prevent the concentration of adult-oriented businesses or their close proximity to incompatible uses, while permitting the location of adult-oriented businesses in certain areas.

- B. Definitions. The following definitions apply to this section:

"Adult-oriented business" or "adult-oriented businesses" has the same meaning as defined in Section 25.106.020 (Definitions) of this code and incorporating into that term the definitions contained in that section.

"Places of religious assembly" are structures that are used primarily for religious worship and related religious activities.

"City athletic facility" means an athletic facility operated by or for the City and that regularly attracts minors to participate in or witness athletic skills or competition. The definition does not include a passive recreation area, such as open space, or a bicycle path, or similar trail or walking area.

"Establish" means and includes any and all of the following:

- a. The opening or commencement, or re-opening or recommencement, of any adult-oriented business as a new or restarted business; or
- b. The conversion of an existing business, whether or not an adult-oriented business, to any adult-oriented business as defined in this section; or
- c. The addition of any of the adult-oriented businesses defined in this section to any other existing adult-oriented business; or
- d. The relocation of any such adult-oriented business.

"School" means any child or day care facility, or an institution of learning for minors, whether public or private, offering instruction in those courses of study required by the California Education Code and maintained pursuant to standards set by the State Board of Education. This definition includes a nursery school, kindergarten, elementary school, middle or junior high school, senior high school, or any special institution of education, but it does not include a vocational or professional institution of higher education, including a community or junior college, college, or university.

C. Location Requirements.

1. No adult-oriented business shall be established or located in any zoning district in the City other than the Bayfront Commercial zoning district.
 2. Within this designated zoning district, an adult-oriented business shall not be established or located within the following minimum distances:
 - a. Within 1,000 feet of any other adult-oriented business.
 - b. Within 1,000 feet of any then-existing place of religious assembly, school, or City athletic facility.
 3. The distances set forth above shall be measured as a radius from the property lines on which the adult-oriented business is located to the property lines of the property so used without regard to intervening structures.
- D. Severability. If any section, subsection, subdivision, paragraph, sentence, clause, or phrase in this section 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 section or any part thereof. The Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase thereof irrespective of the fact that any one or more subsections, subdivisions, paragraphs, sentences, clauses, or phrases be declared unconstitutional, invalid, or ineffective.

(Ord. 2000 § 2, (2021))

§ 25.48.050. Alcohol Sales.

- A. Purpose. This section establishes regulations governing alcohol sales for off-site consumption.
- B. Performance Standards. Off-site sales of alcohol shall comply with the following requirements:
 1. No noise shall be audible beyond the area under the control of the alcohol licensee(s).

2. The licensee(s) shall be responsible for maintaining, free of litter, the area in front of and adjacent to the premises over which they have control.
3. Graffiti shall be removed from the premises and all parking lots under the control of the licensee(s) within 72 hours of application. If the graffiti occurs on a Friday or weekend day, or on a holiday, the licensee(s) shall remove the graffiti within 72 hours following the beginning of the next weekday.
4. The exterior of the premises shall be equipped with lighting of sufficient power to illuminate and make easily discernible the appearance and conduct of all persons on or about the premises. Additionally, the position of such lighting shall not disturb the normal privacy and use of any neighboring residences.
5. Loitering (loitering is defined as "to stand idly about; linger aimlessly without lawful business") is prohibited on any sidewalks.

(Ord. 2000 § 2, (2021))

§ 25.48.060. Cannabis (Marijuana) Regulations.

- A. Purpose. This section establishes regulations governing cultivation, possession, manufacture, distribution, processing, storing, labeling, or sale of cannabis (commonly known as "marijuana") and cannabis products, whether for medicinal or adult use. The City finds it necessary to establish such regulations in the interest of the public health, safety, and welfare to regulate all cannabis-related activities.
- B. Applicability. This section shall apply to the establishment of all land uses related to cannabis and cannabis products, whether for medicinal or adult use.
- C. Definitions. For the purposes of this section, the following words and phrases shall have the following meanings:

"Cannabis" (also known as "marijuana") means any or all parts of the plant *Cannabis sativa Linnaeus*, *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not, the seeds thereof, the resin or separated resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. "Cannabis" shall not include industrial hemp, as defined in Health and Safety Code Section 11018.5.

"Cannabis product" means cannabis that has undergone a process whereby the plant material has been transformed into a concentrate, including, but not limited to, concentrated cannabis, or an edible or topical product containing cannabis or concentrated cannabis and other ingredients.

"Commercial cannabis activity" means the cultivation, possession, manufacture, distribution, processing, storing, labeling, or sale of cannabis and cannabis products for commercial purposes, whether for profit or nonprofit, and for which a state license is required under Business and Professions Code Section 26000 et seq. Commercial cannabis activity shall not include delivery of cannabis and cannabis products as "delivery" is defined in State law.

"Cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.

"Fully enclosed and secure structure" means a code-compliant space within a building, greenhouse, or other structure which has a complete roof enclosure supported by connecting walls extending from the ground to the roof, which is secure against unauthorized entry, and which is accessible only through one or more locking doors.

"Indoor" means within a fully enclosed and secure structure as defined herein.

"Private residence" means a house, an apartment unit, a mobile home, or other similar dwelling.

- D. Prohibited Activities. To the fullest extent permitted by law, all personal and commercial cannabis activities and commercial cannabis businesses are prohibited in all zoning districts, except as explicitly permitted in this section.

This section acknowledges that commercial cannabis activity is illegal under federal law, while granting limited immunity from local prosecution to those medical and nonmedical cannabis activities that do not violate the restrictions and limitations set forth in this section or California law.

- E. Non-storefront Cannabis Retail Delivery. Non-storefront cannabis retail delivery is permitted in the City subject to the following requirements:

1. Zones Where Permitted.

- a. Delivery Permitted. Commercial delivery of cannabis to a fixed address within City limits is permitted throughout the City except at the following locations: schools, day care centers, youth centers, public parks and open space, public buildings, and eating or drinking establishments. All deliveries must be to a fixed address.
- b. Fixed Location Non-storefront Cannabis Retail Delivery Permitted. Fixed locations for non-storefront cannabis retail delivery businesses are prohibited everywhere in the City except in the Innovation Industrial (I/I) land use district (Rollins Road (RR) and Inner Bayshore (IB) zoning districts).

2. Conditional Use Permit Required. Fixed locations for non-storefront cannabis retail delivery businesses are only permitted in the zoning districts specified above with a conditional use permit approved by Planning Commission.

3. Distance Requirements. Fixed locations for non-storefront cannabis retail delivery businesses shall be sited a minimum of 600 feet from residential uses, schools, day care centers, and youth centers.

4. Operational Standards.

- a. Operator Permits. All non-storefront cannabis retail delivery operations must obtain and maintain a valid operator permit issued by the City pursuant to this section.
- b. Compliance with Law. All non-storefront cannabis retail delivery activities must be conducted in accordance with all applicable State laws and regulations, as may be amended from time to time, and all applicable local laws and regulations.
- c. Visibility. All cannabis, cannabis products, and any aspect of the delivery of cannabis that indicates the type of product(s) being delivered shall not be visible from the public right-of-way, exterior of a structure, and/or vehicle(s) where those commercial cannabis activities take place.
- d. All fixed location non-storefront cannabis retail delivery operations must comply with the provisions of a fire safety plan ensuring compliance with all applicable Fire Code and Building Code requirements prepared by a third-party engineer and approved by the City.
- e. Security in Vehicle.

- i. All cannabis and cannabis products shall be stored in a lockbox that is permanently secured to the vehicle during transport.
 - ii. All delivery vehicles shall include video and audio monitoring equipment that retains recordings for 30 days, has date and time stamped recordings, and video overlays that indicate which vehicle the recording is from.
 - iii. All delivery vehicles must be plainly marked and not include any overt or obvious indications of the products being distributed.
 - f. Security at Fixed Location Non-Storefront Cannabis Retail Delivery Business Locations. All fixed locations for non-storefront cannabis retail delivery businesses within the City must implement and maintain a security plan and surveillance system that complies with the requirements outlined in subsection M.1 of this section.
 - g. In-Transit Requirements.
 - i. Delivery vehicles may only travel between the delivery business locations and drop-off destinations while transporting cannabis and/or cannabis products.
 - ii. Deliveries are only permitted during the hours specified under State law and/or regulations.
 - iii. Only operators and/or employees of operators may be present in the delivery vehicle while transporting cannabis or cannabis products.
 - iv. All drivers shall carry valid identification and proof of employment at a permitted delivery facility.
 - v. All drivers shall carry an inventory log of cannabis and cannabis products being transported.
 - h. Vehicle Registration with Burlingame Police Department. All delivery vehicles must be registered with the Burlingame Police Department.
 - i. Recordkeeping Requirements. Operators shall keep the following records:
 - i. All delivery vehicle maintenance records.
 - ii. All delivery vehicle ownership records.
 - iii. All shipping manifests for completed and in-transit deliveries.
 - iv. A contemporaneous inventory log.
 - v. Delivery log including location, time and delivery driver.
 - vi. Quality-assurance details for all cannabis and cannabis products stored and/or delivered by operator, destruction or loss of any cannabis and/or cannabis products.
 - j. Operating Agreement. The City shall require delivery-only operations to enter into an operating agreement with the City, pursuant to subsection F, below.
- F. Operator Permit Required. No person shall engage in commercial cannabis activity or operate a commercial cannabis business pursuant to this section without possessing a valid operator permit

from the City and without possessing all other approvals or licenses that may be required pursuant to State law and regulations.

1. Additional permits or entitlements may be required depending on construction or improvements necessary for a building or site.
 2. Regardless of the number of sites zoned for commercial cannabis operations in the City, the total number of commercial cannabis operator permits granted for each State license type may be established or limited by City Council Resolution.
 3. The City may refuse to issue any discretionary or ministerial permit, license, variance or other entitlement, which is sought pursuant to this section, including zoning clearance for a building permit, where the property upon which the use or structure is proposed is in violation of the Burlingame Municipal Code, or any other local, State or Federal law.
 4. No property interest, vested right, or entitlement to receive a future permit to operate a commercial cannabis use shall ever inure to the benefit of such operator permit holder, as such permits are revocable. Operator permits issued pursuant to this section are specific to the operator, do not run with the land and are not transferable.
- G. Permit Types. Prior to engaging in any commercial cannabis business, individuals must obtain an operator permit from the City corresponding to the category of activity or enterprise. The following permit types are available in the City:
1. Fixed Location Non-Storefront Cannabis Retail Delivery Business Operator Permit (Address Within Permitted Land Use District in City).
 2. Cannabis Delivery Only Operator Permit (Commercial Cannabis Business Delivering to City Address). This permit shall only be issued to retail operations holding a valid license or permit for retail sale of cannabis issued by the State of California and by the local jurisdiction where the retail operation is located.
- H. Operator/Permit Holder Qualifications. All operator permit holders must meet the following minimum qualifications. The City reserves the right to require additional qualifications through the operator permit application procedures.
1. Operator permit holders and all employees and agents of said commercial cannabis business must be 21 years of age or older.
 2. Operator permit holders and all employees and agents of said commercial cannabis business shall be subject to a background check by the California Department of Justice and local law enforcement.
 3. Operator permits for commercial cannabis uses shall not be issued to any operators who have been convicted of a violent felony or any operators that have employees or agents that have been convicted of a violent felony. In addition, permits for commercial cannabis uses shall not be issued to operators (or operators that have employees or agents) who have been convicted of crimes (whether felony or misdemeanor) that involve crimes of moral turpitude.
 4. Operator permit holders must meet the minimum qualifications established by this chapter and by the State for the applicable State license type.
- I. Operator Permit Application. All applicants must submit applications to the Community

Development Director. Any confidential information submitted by applicants pursuant to this section shall be marked as such. Confidential information submitted to the City may be withheld from public disclosure in accordance with applicable law. Applications shall include, at a minimum, the following:

1. Business Operators' Information. All necessary information related to the business operator, including names, birth dates, addresses, social security numbers, relevant criminal history, relevant work history, names of businesses owned or operated by the applicant within the last 10 years, investor and/or partner information, and Assessor Parcel Number (APN) number of the parcel upon which the business will be located. Such private information will be exempt from disclosure to the public, pursuant to applicable law, to protect an individual's privacy interests and public health and safety.
2. Payment of Application Fee. Applicants shall submit the application fee amount with their applications.
3. Business License. Each applicant shall submit proof that either the City has issued the applicant a business license or proof that the applicant has submitted a City business license application.
4. Signed Indemnity Provision. To the fullest extent permitted by law, any actions taken by a public officer or employee under the provisions of this chapter shall not become a personal liability of any public officer or employee of the City. To the maximum extent permitted by law, operators shall defend (with counsel acceptable to the City), indemnify and hold harmless the City of Burlingame, and its respective officials, officers, employees, representatives, agents and volunteers (hereafter collectively called "City") from any liability, damages, costs, actions, claims, demands, litigation, loss (direct or indirect), causes of action, proceedings, prosecutions for violations of State or Federal law, or judgments (including legal costs, attorneys' fees, expert witness or consultant fees, City Attorney or staff time, expenses or costs) (collectively called "action") caused, in whole or in part, by operator's operation of a commercial cannabis business in the City or associated with any action against the City to attack, set aside, void or annul, any cannabis-related approvals and/or determinations. The City may elect, in its sole discretion, to participate in the defense of said action, and the operator shall reimburse the City for its reasonable legal costs and attorneys' fees. Operators shall be required to agree to the above obligations in writing and submit said writing as part of the operator permit application.
5. Fixed Location Non-Storefront Cannabis Retail Delivery Business Operator Permit Applications. Such applications also require:
 - a. Property Owner Permission. Written (and notarized) permission from the property owner and/or landlord to operate a commercial cannabis use on the site.
 - b. Employee Roster. Each application shall submit an employee roster with the names and birth dates of each proposed employee of the operation with a signed authorization from each such employee authorizing the City to conduct a background check.
 - c. Operating Plan. Each application shall submit a detailed operating plan identifying the features of the proposed business.
 - d. Security plan as required under subsection M.2 of this section.
 - e. Site Plans. Each application shall submit a detailed site plan identifying the layout and configuration of the proposed operation, as well as any proposed improvements to the site.

- f. Proof of Notice. Applicants must provide notice to properties and property owners within 300 feet of the boundaries of the property upon which the commercial cannabis business is proposed at least 15 days prior to submission of an application for a permit and must include proof of such notice with the operator permit application.
- g. Hazardous Materials. To the extent that the applicant intends to use any hazardous materials in its operations, the applicant shall provide a hazardous materials management plan that complies with all Federal, State, and local requirements for management of such substances. "Hazardous materials" includes any hazardous substance regulated by any Federal, State, or local laws or regulations intended to protect human health or the environment from exposure to such substances.
- h. Signed Affidavit. The property owner and applicant, if other than the property owner, shall sign the application and shall include affidavits agreeing to abide by and conform to the conditions of the permit and all provisions of the City of Burlingame pertaining to the establishment and operation of the commercial cannabis use, including, but not limited to, the provisions of this section. The affidavit(s) shall acknowledge that the approval of the operator permit shall, in no way, permit any activity contrary to the Burlingame Municipal Code, or any activity which is in violation of any applicable laws.

J. Permit Issuance, Validity, Rejection of Application, Revocation, Suspension, Renewal, and Transfer.

- 1. Cannabis Operator Permit Issuance. Cannabis operator permits shall require approval of Community Development Director or designee. Permit applicants must meet all operator and application requirements to be considered for permit issuance.
 - a. Cannabis operator permits shall be valid for one year from the date of issuance.
 - b. The City shall not issue any cannabis operator permit until the necessary State license(s) is obtained.
 - c. No Fixed Location Non-Storefront Cannabis Retail Delivery Business Operator Permit may be issued until the applicant obtains a conditional use permit from the Planning Commission.
 - d. No cannabis operator permit shall be issued until the operator has paid all required fees and applicable local and State taxes. Cannabis operator permit fees shall be set by resolution of the City Council.
- 2. Operator Permit Issuance Procedure. The Community Development Director, or designee, may design application forms and procedures specific to each permitted license type and require inspections of proposed facilities before issuing a permit under this section.
 - a. Applications shall be reviewed by City staff, as designated by the Community Development Director for completeness, sufficiency, and consistency with minimum qualifications. Fixed Location Non-Storefront Cannabis Retail Delivery Business Operator Permit applicants failing to meet minimum qualifications or application requirements will not be permitted to seek a conditional use permit from the Planning Commission.
 - b. Relevant City staff will engage in an inspection of the site and/or delivery vehicles to ensure compliance with the requirements of this chapter.

- c. If staff determines that a Fixed Location Non-Storefront Cannabis Retail Delivery Business Operator Permit applicant meets the minimum qualifications and the application complies with all of the requirements outlined in subsection D of this section and other applicable provisions of this chapter, said operator permit application will be granted pre-clearance and the applicant will be authorized to seek a conditional use permit from the Planning Commission. The applicant must seek a conditional use permit within one year from the date pre-clearance is issued. If an applicant has not sought a conditional use permit within the one-year period, the applicant's pre-clearance status will expire and a new application will have to be submitted in order to seek a conditional use permit. The Director may, in his or her sole discretion, extend an applicant's pre-clearance status if the Director determines that there is a reasonable basis for the delay and the information contained in the initial application is still accurate.
 - d. If a pre-cleared applicant successfully obtains a conditional use permit from the Planning Commission, the applicant will be issued an operator permit. If a pre-cleared applicant fails to obtain a conditional use permit, the City will not issue that applicant an operator permit.
3. Rejection of Applications/Revocation or Suspension of Operator Permit. The Community Development Director, or designee, has the authority and discretion to reject, suspend or revoke any application or permit. Applicants providing false or misleading information in the permitting process will result in rejection of the application and/or nullification or revocation of any issued permit. Grounds for rejection of application or suspension/revocation of permit, include, but are not limited to:
 - a. Providing incomplete, late, or unresponsive applications.
 - b. Making false or misleading statements to the City.
 - c. Any owner, employee, or agent having been convicted of a violent felony or crime of moral turpitude.
 - d. Any owner has had a cannabis-related license or approval revoked from another jurisdiction.
 - e. Failure to comply with any provisions of this chapter, the Zoning Code, State law, or any other applicable laws or regulations.
 - f. Unpaid fees, fines, or administrative penalties.
 - g. Facts or circumstances exist which indicate that the operation does or would very likely constitute a threat to public health, safety and/or welfare.
 - h. Failure to obtain the necessary planning approvals or revocation of said planning approval in accordance with this chapter and the Zoning Code.
 - i. The operation as proposed would violate any provision of State or local laws or regulations.
 - j. Failure to implement and maintain a Security Plan in conformance with subsection M.2 of this section.
 - k. Failure to implement and maintain a Fire Safety Plan in conformance with this chapter.

- l. The applicant has engaged in unlawful, fraudulent, unfair or deceptive business acts or practices.
 - m. The applicant's State license for commercial cannabis operations is suspended or revoked. The City shall not reinstate the permit until documentation is received showing that the State license has been reinstated or reissued. It shall be up to the City's discretion whether the City reinstates any permit.
 - n. State law permitting the use for which the permit was issued is amended or repealed resulting in the prohibition of such use, or the City receives credible information that the Federal government will commence enforcement measures against such businesses and/or local governments that permit them.
4. **Renewal.** Operators must renew operator permits each year to continue operating in the City. The Community Development Director shall have the authority and discretion to design renewal application procedures. Any renewal application shall require a site and/or vehicle inspection and submission of all information specified in subsection J of this section and approval of said application in accordance with the provisions of this chapter.
 5. **Transfer.** Operator permits are personal to the operator and are nontransferable. In the event that an operator sells, disposes of or otherwise conveys a cannabis business in the City, the purchaser or successors-in-interest shall obtain a new operator permit from the City prior to commencing operations. Purchasers and/or successors-in-interest are not required to obtain new conditional use permits for existing cannabis businesses provided that the transfer of the business occurs during the five-year term of the conditional use permit.
- K. **Operating Agreement.** The City shall require an operating agreement as a condition of receiving an operator's permit. Such operating agreement shall set forth the terms and conditions under which the commercial cannabis activity will operate, that are in addition to the requirements of the Burlingame Municipal Code. The terms and conditions may include, but are not limited to, the payment of fees, charges, and contributions as mutually agreed, and any such other terms which promote the public health, safety, and welfare and mitigate negative impacts of such use.
- L. **Appeals.** Applicants/operators may appeal the denial, suspension or revocation of a cannabis operator permit by filing a written notice of appeal with the City Manager or designee within 10 days after receipt of a denial or order of suspension or revocation from the Community Development Director. The City Manager or designee shall hold a hearing within 30 days of receiving the request for appeal where the applicant and the City may present evidence regarding the denial, suspension, or revocation of the permit. The City Manager or designee shall render his or her decision in writing on the appeal within 45 days after the date of the hearing. Said decision shall be final and no appeal may be taken to the City Council.
- M. **Commercial Cannabis Operation Security Requirements.**
1. **Approval of Security/Surveillance Plan.** All applicants for a Fixed Location Non-Storefront Cannabis Retail Delivery Business Operator Permits must submit a security plan demonstrating compliance with the provisions of this section. Prior to the issuance of any permit, the Chief of Police, or designee, must approve the security plan. Said plan must, in the Chief's determination, demonstrate the applicant's ability to operate a safe operation that does not encourage criminal activity and prevents the theft or diversion of cannabis.
 2. **Mandatory Elements of the Security Plan.** To be eligible for approval, the security plan must

provide for all the following components:

- a. Robbery Alarm System. Installation and maintenance of a central station silent robbery alarm system that is hidden from plain view, but easily accessible to authorized personnel. Alarm systems shall be installed and maintained in compliance with the Burlingame Municipal Code.
- b. Burglary Alarm System. Installation and maintenance of a central station silent intrusion alarm system. The silent intrusion alarm system shall include contact sensors covering each entrance/exit, each skylight, as well as interior motion sensors. Alarm systems shall be installed and maintained in compliance with the Burlingame Municipal Code.
- c. Security Guards. Employment of at least one uniformed security guard present during normal business hours to include one-half hour before and after normal business hours. The security guard shall be charged with preventing violations of the law, reporting suspicious persons, vehicles, circumstances, and all criminal offenses to the Police Department. Security guards shall be uniformed in such a manner so as to be readily identifiable as a security guard by the public and shall be duly licensed as a security guard as required by applicable provisions of the State law. The sole purpose of the security guard shall be to provide for the protection and safety of the business and its authorized personnel and said guard shall not be required to perform additional, non-security related duties within the business. The Chief of Police reserves the right to review the number of guards and may require that the number of guards be increased or decreased as necessary.
- d. Recordkeeping/Product Tracking. Implementation of a recordkeeping/product tracking system to ensure that all cannabis is accounted for and any loss or theft is easily discoverable in accordance with State law. These records shall be kept for at least one year.
- e. Employee Roster. Operator must keep a current and updated employee roster on-file with the Police Department with the names and addresses of all operator's employees.
- f. Video Surveillance System. Installation of a video surveillance system meeting the following criteria:
 - i. Cameras that record at a resolution of 1280 x 720 or higher;
 - ii. Cameras that record in accurate color with a surveillance monitor that displays in accurate color;
 - iii. Sufficient storage capacity to retain data from all cameras for a period of 30 days;
 - iv. An on-site monitor no smaller than 15 diagonal inches for viewing of images;
 - v. The ability to view and record footage at the same time;
 - vi. Accurate time and date stamps on recorded video images;
 - vii. Locked and secure location of system to prevent destruction or tampering from customers or employees. Access to the system shall be restricted to management;
 - viii. Cameras with clear and unobstructed view of the desired coverage areas;
 - ix. A dedicated and secured power source to prevent intentional or accidental deactivation; and

- x. Separate cameras dedicated to each processing area, loading or shipping area, each entrance/exit of the business, and the parking lot. The cameras shall be placed in locations that allow a clear, unobstructed view of the desired locations and shall be periodically evaluated to ensure compliance. Enough cameras shall be placed at each location to cover the entirety of the intended area to be captured.
- g. Prohibition on External Signage. The business shall not display any external signage or other visual clues as to the nature of the business, including, but not limited to, green lights, depictions of marijuana leaves, "420," or other common terms or symbols associated with cannabis.
- h. Prohibition of On-Site Sales/Public Access. No access by the general public may occur. No on-site sales to any customers may occur.
- i. Prohibition on Delivery Vehicle Signage. No pickup or delivery vehicles may contain or depict any signage or other visual clues as to the nature of the business, including, but not limited to, green lights, depictions of marijuana leaves, "420," or other common terms or symbols associated with cannabis.
- j. Prohibition on Cannabis in Plain View. All cannabis, cannabis products, and any aspect of the commercial cannabis operation that indicates the type of product(s) inside shall not be visible from the public right-of-way, exterior of the structure, and/or vehicle(s) where those commercial cannabis activities take place.
- k. Prohibition on Advertising Business Address. The business shall not identify the business address in any communications, advertisements and marketing, as required under Chapter 15 of Division 10 of the California Business and Professions Code. The business may only display the business name and license number.
- l. Unauthorized Access. All entrances to the building shall remain locked at all times to prevent unauthorized access from the exterior. The business shall utilize an electronic card key system to allow access for authorized personnel. The system shall record and log all entries/exits from the premises and such records must be retained for one year by the system.
- m. Security of Loading/Shipping Areas. Loading/shipping areas shall have a double security door design that securely isolates the loading/shipping area from the main warehouse/processing area of the building when pickups or deliveries are made.
- n. Drop Safes. Each cannabis business shall install, maintain, and use a time delay drop safe to store cash and limit the risk of robbery. Time delayed drop safes shall be rated at UL TL-15 or higher.
- o. Odor Control System. The business shall install, maintain, and use an odor control system to prevent cannabis odors from escaping and being detected within 10 feet outside the building.
- p. Implementation and On-Going Compliance. All businesses must implement and maintain the security systems and equipment required by this chapter in strict accordance with the approved security plan prior to commencing operations. If a business subject to this chapter does not meet or maintain the security standards required by this chapter, the business must take immediate steps to bring the security requirements into conformance

with the provisions of this chapter. Failure to comply with the requirements of an approved security plan is grounds for revocation of a permit and cessation of operations.

- N. Indoor Cultivation of up to Six Living Plants for Personal Use Permitted. Indoor cultivation of no more than six living cannabis plants for personal use is permitted in all zoning districts. No more than six living cannabis plants may be possessed, planted, cultivated, harvested, dried, or processed within a private residence at any one time, including within an accessory structure to a private residence that is fully enclosed and secure. The plants shall not be visible from a public place. Persons engaging in indoor cultivation must comply with State and local laws, including all applicable building, electrical fire, and water codes and regulations.
- O. Public Nuisance. The establishment, maintenance or operation of a cannabis retail establishment, manufacturing facility, testing facility, distribution facility, delivery-only operation, indoor commercial cultivation operation, outdoor cultivation of cannabis or any other commercial cannabis activity in violation of or in non-compliance with any of the requirements of this chapter or applicable provisions of State law or the Burlingame Municipal Code, is declared a public nuisance and, in addition to or in lieu of prosecuting a criminal action, shall be subject to any enforcement or abatement remedies available under the law and/or the City's Municipal Code. In addition, the City may enforce the violation of this chapter by means of civil enforcement through a restraining order, a preliminary or permanent injunction or by any other means authorized by the law.
- P. Administrative Procedure. The City Manager may adopt reasonable administrative procedures necessary to implement this section.
- Q. Conflict of Laws. In the event that any provision of this chapter is in conflict with State law or regulations, as may be amended from time to time, said State law or regulation shall control to the extent that said State law or regulation preempts local regulations. In the event of such preemption, all remaining portions of this chapter shall remain valid and enforceable.

(Ord. 2000 § 2, (2021))

§ 25.48.070. (Reserved)

§ 25.48.080. Communal Housing.

- A. Purpose. This section is intended to support housing options that can reduce housing costs by providing smaller units and that can provide opportunities for residents to engage communally and offer supportive services to each other, all while maintaining the residential character of the neighborhoods in which such housing is located.
- B. Standards. Communal housing units shall be developed, located, and operated in compliance with the following:
 1. Density Calculation. For the purpose of establishing allowable density, each bedroom of a communal housing project that is less than 400 square feet in size shall be considered equivalent to 0.5 residential density units.
 2. Unit Configuration.
 - a. Access. Entry access to all tenant rooms shall be through the interior of the building. No exit doors from individual tenant rooms shall lead directly to the exterior of the building.
 - b. Congregate Dining Facility. Where individual units do not include kitchen facilities, at

- least one congregate dining facility shall be located on site for use by residents.
- c. Bathrooms. Where individual units do not include bathrooms, each floor must contain at least one fully equipped bathroom, accessible from a common hallway, for every three units.
 3. Operational Plan. The Review Authority may request an operational plan that identifies roles and responsibilities, contact information, and operations. The operational plan may include, but is not limited to, how the applicant shall address the following:
 - a. On-Site Staff. On-site staff to provide security, property management, and oversight of resident conduct, including designation of a manager to serve as a liaison with the City.
 - b. Resident Responsibilities Policy. A policy defining resident responsibilities and behavioral expectations, as well as response to policy infractions.

(Ord. 2000 § 2, (2021))

§ 25.48.090. Day Care Centers.

- A. BFC Zone Pick-Up and Drop-Off Plan. Day care centers in the BFC zoning district shall be required to submit to the Director a plan and schedule for the pick-up and drop-off of children.
 1. Adequate Parking and Loading. The plan shall demonstrate that adequate parking and loading are provided to minimize congestion and conflict points on travel aisles and public streets.
 2. Client Agreement. The plan shall include an agreement for each parent or client to sign that includes, at a minimum:
 - a. A scheduled time for pick-up and drop-off with allowances for emergencies; and
 - b. Prohibitions of double-parking, blocking driveways of neighboring properties, or using driveways of neighboring properties to turn around.

- B. Day Care Center in Other Zones. Day care centers, where permitted in any other zoning district other than BFC, shall indicate on site plans submitted with applications the planned locations of pick-up and drop-off areas.

(Ord. 2000 § 2, (2021))

§ 25.48.100. Emergency Shelters—Permanent.

- A. Purpose. The requirements of this section apply only to emergency shelters where permitted or conditionally permitted pursuant to Division 2 (Zoning Districts, Allowable Uses, and Development Standards).
- B. Standards. Emergency shelters shall conform to all property development standards of the applicable zoning district, except as modified by these performance standards. The following standards shall apply:
 1. Smoking Areas. Shelters shall have designated smoking areas that are not visible from the street and that comply with all other laws and regulations.
 2. Outdoor Areas. There shall be no space for outdoor congregating in front of the building and no outdoor public telephones.

3. Refuse Area. There shall be a refuse area screened from view.
 4. Maximum Number of Persons/Beds. The emergency shelter shall contain no more than 24 beds.
 5. Exterior and Interior On-site Waiting and Client Intake Areas. Shelters shall provide a minimum of 100 square feet of interior waiting and client intake space. In addition, there shall be two office areas provided for shelter staff. Waiting and intake areas may be used for other purposes as needed during operations of the shelter.
 6. On-Site Management. On-site management and on-site security shall be provided during hours when the emergency shelter is in operation. The shelter shall be operated by a responsible agency or organization with experience in managing or providing social services.
 7. Distance to Similar Facilities. The shelter shall not be located within one-half mile from any other emergency shelter.
 8. Length of Stay. No individual resident shall be permitted to reside in the shelter for more than 60 consecutive days and a total of 120 days within a calendar year. Extensions up to a total stay of 180 days in a calendar year may be provided if no alternative housing is available.
 9. Management Plan. A management plan shall be required to address how the immediate sheltering needs of individuals who may be turned away from the shelter will be handled.
10. Parking. Parking shall be provided as set forth in Chapter 25.40 (Parking Regulations).

(Ord. 2000 § 2, (2021))

§ 25.48.110. Emergency Shelters—Temporary.

- A. Purpose and Applicability. The requirements of this section apply only to temporary emergency shelters where permitted or conditionally permitted pursuant to Article 2 (Zoning Districts, Allowable Uses, and Development Standards).
- B. Standards.
 1. Accessory Use. Temporary emergency shelters shall be permitted only as an accessory use to a permitted place of religious assembly or use operated by a nonprofit organization or government agency.
 2. Performance Standards. Temporary emergency shelters shall comply with the provisions of Section 25.48.100 (Emergency Shelters—Permanent), except subsections B.1, B.2, B.3, and B.5 shall not apply.
 3. Time Limit. Temporary emergency shelters shall operate for no more than six months within any consecutive 12-month period.

(Ord. 2000 § 2, (2021))

§ 25.48.120. Entertainment Businesses.

The provisions of Chapter 6.16 (Entertainment Businesses) of the Municipal Code shall apply.

(Ord. 2000 § 2, (2021))

§ 25.48.130. Fortunetelling and Psychic Service.

The provisions of Chapter 6.38 (Fortunetelling and Psychic Service) of the Municipal Code shall apply. (Ord. 2000 § 2, (2021))

§ 25.48.140. (Reserved)**§ 25.48.150. Live/Work Units.**

- A. Purpose and Applicability. The provisions in this section shall apply to live/work units. The development standards of this section are intended to facilitate the creation of new, adaptable live/work units in a manner that preserves the surrounding character, supports enhanced street level activity, maintains a consistent urban streetwall, and orients buildings and pedestrians toward public streets. Live/work units are intended to be designed with adequate workspace, higher ceilings, larger doors, sufficient natural light, open floor plans, and equipped with nonresidential finishes and features that support arts and production activities.
- B. Density/Floor Area Allocation. Live/work units consistent with the provisions of this section may be apportioned from the residential component and/or nonresidential allocations for a property. If apportioned from the residential component, the density shall be limited per the requirements of the zoning district.
- C. Limitations on Use. The nonresidential component of a live/work unit shall be a use allowed within the underlying zoning district pursuant to Article 2 (Zoning Districts, Allowable Uses, and Development Standards). Nonresidential/work is not required; however, each unit shall be designed to be adaptable and facilitate work activities per the provisions in this section. Nonresidential/work shall comply with the provisions of Chapter 25.72 (Home Occupation Permits).
- D. Floor Area Requirement. A live/work unit shall have a minimum floor area of at least 750 square feet. At least 150 square feet of a live/work unit shall be designated as suitable for workspace, and measure not less than 15 feet in at least one dimension and no less than 10 feet in any dimension. The area suitable for workspace for each unit shall be clearly demarcated on approved building plans.
- E. Separation of and Access to Individual Units. Access to each individual live/work unit shall be provided from shop fronts, directly from the sidewalk parallel to the primary or secondary street, or from common access areas, corridors, or halls. The access to each unit shall be clearly separate from other live/work units or other uses within the building.
- F. Location of Living Space – Ground Floor Units. Ground floor live/work units shall designate the front 20 feet of the unit as area suitable for workspace to maintain activity and commercial access along the frontage. Dedicated living space may be located in the rear portion of the ground level, provided the front 20 feet of the unit is designated as suitable for work.
- G. Ceiling Height. Ground floor live/work units shall have floor to ceiling height of 15 feet or greater, measured from top of floor to bottom of ceiling. Upper floor live/work units shall have floor to ceiling height of 10 feet or greater. A mezzanine space shall not be included in the calculation of minimum height for any floor or level.
- H. Integration of Living and Working Space. Areas within a live/work unit that are designated as living space shall be an integral part of the live/work unit and not separated (or occupied and/or rented separately) from the area designated for workspace.

- I. Client and Customer Visits. Client and customer visits to live/work units are permitted.
(Ord. 2000 § 2, (2021))

§ 25.48.160. Limited Corner Store Retail.

- A. Purpose and Applicability. The purpose of this section is to ensure that limited corner store retail, as defined in Chapter 25.106 (Land Use Definitions) and where permitted in Article 2 (Zoning Districts, Allowable Uses, and Development Standards), provide a local service and are compatible with surrounding and adjacent uses.
- B. Maximum Size. Gross floor area shall not exceed 2,000 square feet per business.
- C. Limitation on Food Preparation and Dining Area. Food preparation and dining space for freshly prepared foods for on-site consumption or take-out shall not exceed 20 percent of the store's gross floor area.
- D. Hours of Operation. Hours of operation shall be limited to 7:00 a.m. to 10:00 p.m.
- E. Security Bars. No permanently installed security bars shall be installed; only retractable or removable security features may be used.

(Ord. 2000 § 2, (2021))

§ 25.48.170. Low Barrier Navigation Center.

- A. Purpose and Applicability. The purpose of this section is to ensure that low barrier navigation centers, as defined in Chapter 25.106 (Land Use Definitions) and where permitted in Article 2 (Zoning Districts, Allowable Uses, and Development Standards), are allowed consistent with Government Code Section 65660.
- B. Standards. Low barrier navigation centers shall meet the following specific requirements:
 1. Services. Offer services to connect people to permanent housing through a services plan that identifies services staffing.
 2. Coordinated Entry System. Link to a coordinated entry system, so that staff in the interim facility or staff who co-locate in the facility may conduct assessments and provide services to connect people to permanent housing. "Coordinated entry system" means a centralized or coordinated assessment system developed pursuant to Section 576.400(d) or Section 578.7(a)(8), as applicable, of Title 24 of the Code of Federal Regulations, as those sections read on January 1, 2020, and any related requirements, designed to coordinate program participant intake, assessment, and referrals.
 3. Homeless Management Information System. Use a system for entering information regarding client stays, client demographics, client income, and exit destination through the local Homeless Management Information System as defined by Section 578.3 of Title 24 of the Code of Federal Regulations Section 65664.
 4. Housing First. Comply with Housing First according to Welfare and Institutions Code Section 8255 et seq.
- C. Process. Within 30 days of receipt of an application for a low barrier navigation center development, the Director shall notify the applicant of application completeness pursuant to Government Code Section 65943. Within 60 days of receipt of a completed application for a low barrier navigation

center development, the Director shall act upon its review of the application.
(Ord. 2000 § 2, (2021))

§ 25.48.180. Mobile Food Vending.

- A. Purpose and Applicability. The purpose of this section is to ensure that off-street food trucks, as defined in Chapter 25.106 (Land Use Definitions) and where permitted in Article 2 (Zoning Districts, Allowable Uses, and Development Standards), are compatible with surrounding and adjacent uses and do not create an adverse impact on adjacent properties by reason of noise, parking, and litter.
- B. Permit and Licenses Required. In addition to obtaining a temporary use permit pursuant to Chapter 25.82 (Temporary Use Permits), operators of food trucks shall comply with the following.
 - 1. Health Permit Required. The food truck operator must have a valid permit issued by the County Department of Health. All required County Health permits must be in the possession of the food truck operator at all times during operations within the City.
 - 2. Business License Required. The food truck operator must have a valid business license issued by the City. As part of its application for a business license, the food truck operator shall furnish to the City evidence of insurance, as deemed acceptable in the reasonable discretion of the City, against liability for death or injury to any person as a result of ownership, operation, or use of its vending vehicles.
 - 3. Duration and Hours of Operation. No food truck shall operate for more than two consecutive days in the same location, and shall only operate between 6:00 a.m. and 11:00 p.m., including set up and clean up. Food trucks operating more than two consecutive days shall require a minor conditional use permit.
 - 4. Written Approval of Owner. The written approval of the owner of the location shall be obtained. A copy of this approval shall be provided to the Director prior to operating at the location. The food truck operator shall maintain proof of the owner's approval in the vehicle. The person operating the food truck shall present this proof upon the demand of a peace officer or City employee authorized to enforce these provisions.
 - 5. Consolidation. At the discretion of the Director, the following requests may be reviewed and permitted as a single, consolidated operation: (a) requests to operate more than one food truck by the same applicant or food truck business owner, (b) multiple requests for mobile food vending vehicle on a private property; and (c) in conjunction with a temporary use permit for a larger event.
- C. Operational Requirements. Food truck operators on private property shall comply with the following requirements:
 - 1. Parking Location. The vehicle shall only be stopped, standing, or parked on surfaces paved with concrete, asphalt, or another all-weather material.
 - 2. Staffing. A minimum of one person shall attend a food truck during the permitted hours of operation.
 - 3. Food. Only the sale of food items for immediate consumption is permitted. Sale of food items in glass containers is prohibited.
 - 4. Vehicle Types. No food may be sold from a vehicle used a dwelling or recreational vehicle.

Only commercial vehicles with current registration with the State are allowed to operate as food trucks.

5. Litter Removal. The food truck and surrounding property shall be maintained in a safe and clean manner at all times. The food truck operator must remove litter caused by its products from any public and private property within a 25-foot radius of the vending vehicle's location.
 6. No Discharge of Liquid. The food truck operator shall not discharge any liquid (e.g., water, grease, oil, etc.) onto or into City streets, storm drains, catch basins, or sewer facilities. All discharges shall be contained and properly disposed of by the food truck operator.
 7. Noise. The food truck operator shall be subject to the noise provisions set forth in Section 10.40.035 (General Noise Regulations) of the Municipal Code. The operation shall at all times be conducted in a manner not detrimental to surrounding properties or residents by reason of lights, noise, activities, parking, or other actions. The operator shall prohibit loitering at the site and shall control noisy patrons on site and those leaving the premises. No amplified music or loudspeakers shall be permitted.
- D. Additional Conditions and Requirements. This section permits the Director or designee to exercise the discretion to review and request additional information, take authorized actions, and impose additional conditions that are more restrictive than allowed in this section.

(Ord. 2000 § 2, (2021))

§ 25.48.190. Outdoor Sales, Displays, and Storage.

- A. Purpose and Applicability. This section provides standards for seasonal sales, as defined in Chapter 25.106 (Land Use Definitions) and where allowed in compliance with Article 2 (Zoning Districts, Allowable Uses, and Development Standards).
- B. Temporary Sales of Christmas Trees and Other Agricultural Products. Upon approval of a temporary use permit, premises within nonresidential zoning districts may be used for the sale of Christmas trees, pumpkins, flowers, seasonal produce, and the like subject to the following requirements and any other conditions that the Director deems necessary:
 1. Sales shall be limited to Christmas trees, pumpkins, flowers, seasonal produce, and the like and related accessory items only, as specified in the letter of approval.
 2. Sales of Christmas trees shall not be conducted before Thanksgiving or after December 26th. The duration of pumpkin and seasonal produce sales shall be subject to Director approval.
 3. The site shall be maintained in a neat and orderly manner at all times. All sales items, sales equipment, temporary power poles, other temporary structures, and signs shall be kept behind a 10-foot setback from all street rights-of-way, and they shall be removed within 10 days after the close of the sale. Trash and recycling receptacles shall be provided in a convenient location for customers and shall be maintained in a manner such that the receptacles do not overflow.
 4. A camper or trailer for overnight security may be parked on site for the duration of the permit. Any such camper or trailer shall be set back at least 10 feet from the street right-of-way.
 5. The applicant may be required to post a refundable deposit, set by the Director, with the Community Development Department to ensure site clean-up. Deposit shall be in the form of a cashier's check or other form acceptable to the Director and shall be made prior to occupying the site.

6. Outdoor sales lots are subject to all fire safety measures, including location of fire extinguishers, as required by the Fire Marshal.
7. Any Christmas trees sold for use in public facilities shall be flame-proofed with a State Fire Marshal-approved material by a State-licensed application.
8. Applicants shall obtain a City business license. A copy of the Director's approval and the business license shall be posted in a conspicuous location at all times when the use is in operation.
9. The applicant shall secure a building permit for any structure requiring a permit and associated with the use. The plan shall show the proposed vehicular circulation pattern, parking layout, and location of structures. Plans shall also demonstrate compliance with Title 24 of the Code of Federal Regulations requirements for handicap accessibility.
10. The use shall comply with all requirements of the County Health Agency.
11. Restroom facilities shall be provided either on site or on a nearby property to the satisfaction of the Chief Building Official.
12. No sales or display shall take place in the public right-of-way.

C. Other Outdoor Sales and Storage.

1. Other outdoor sales and storage shall only be permitted in industrial zoning districts with issuance of a minor conditional use permit. Any outdoor storage of materials shall be limited to the accessory storage of goods sold or utilized by the principal use of the lot where allowed in the zoning district in compliance with Article 2 (Zoning Districts, Allowable Uses, and Development Standards). All stored materials shall be entirely screened from view from public rights-of-way by a minimum six-foot high solid fence or masonry wall. No materials shall be stacked or stored to be visible above the fence or wall.
2. Permanent outdoor sales and storage in commercial and mixed-use zoning districts is prohibited.

(Ord. 2000 § 2, (2021))

§ 25.48.200. Recycling Facilities.

- A. Purpose and Applicability. The provisions in this section shall apply to recycling facilities, as defined in Chapter 25.106 (Land Use Definitions) and where allowed in compliance with Article 2 (Zoning Districts, Allowable Uses, and Development Standards).
- B. Reverse Vending Machines.
 1. Accessory Use. Reverse vending machines may be installed as an accessory use to an allowed or conditionally allowed primary use on the same site.
 2. Location. Machines shall be located adjacent or as near as feasibly possible to the entrance of the host use and shall not obstruct pedestrian or vehicular circulation. Machines can be located against a wall but not in parking areas.
 3. Identification. Machines shall be clearly marked to identify the type of material to be deposited, operating instructions, and the identity and phone number of the operator or responsible person to call if the machine is inoperative.

4. Trash Receptacle. The owner or operator of the property shall provide a minimum 40-gallon garbage can for non-recyclable materials located adjacent to the reverse vending machine.

C. Small Recycling Collection Facilities.

1. Size. Recycling collection facilities shall not exceed a building site footprint of 500 square feet.
2. Equipment. No power-driven processing equipment, except for reverse vending machines, shall be used.
3. Location. Facilities shall be located at least 100 feet away from properties zoned for residential use and cannot occupy parking spaces required for the main use unless a parking study shows available capacity during the hours of recycling facility operation.
4. Setback. Facilities shall not be located within a required setback.
5. Containers. Containers shall be constructed of durable waterproof and rustproof materials and secured from unauthorized removal of material.
6. Identification. Containers shall be clearly marked to identify the type of accepted material, the name and telephone number of the facility operator, and the hours of operation.
7. Site Maintenance. Recycling facility sites shall be maintained clean, sanitary, and free of litter and any other undesirable materials.

(Ord. 2000 § 2, (2021))

§ 25.48.210. Rental or Lease of Vacant School Properties.

- A. Purpose and Applicability. The provisions of this section shall apply whenever all or part of real property owned by a public school district is to be rented, leased, or otherwise used for other than public school classroom or administration purposes by that school district.
- B. Conditional Use Permit Required. All uses of real property of a school district, whether individual classrooms or entire sites, other than for public school classroom or administration purposes of the district, shall be conditional uses requiring a conditional use permit pursuant to the procedures of Chapter 25.66 (Conditional Use Permits and Minor Use Permits).
- C. General Regulations. Considerations in granting, denying, or conditioning such a permit shall include, among others:
 1. Neighborhood character within the environs of the school site;
 2. Proximity to major streets and public transportation;
 3. On-site facilities available to the proposed lessee or other organization;
 4. Type of activity, hours of operation, and number of employees or others regularly visiting the property;
 5. Parking and traffic impacts on adjacent streets;
 6. Changes to the existing school district facilities;
 7. Possible continued use of the site by neighborhood children and adults;

8. Such neighborhood criteria as may be developed by the school district.
(Ord. 2000 § 2, (2021))

§ 25.48.220. Residential Care Facilities.

- A. Purpose and Applicability. This section establishes standards for the location, development, and operations for new residential care facilities that serve seven or more persons, as defined in Chapter 25.106 (Land Use Definitions) and where allowed in compliance with Article 2 (Zoning Districts, Allowable Uses, and Development Standards). These requirements are in addition to any applicable State and/or Federal requirements.
- B. Management and Operation. The property shall be operated in compliance with applicable State, Federal, and local laws.
- C. Standards. Residential care facilities for seven or more persons shall comply with all of the following.
 - 1. Setbacks. The setbacks of the underlying zoning district shall apply. However, the Review Authority may establish greater setbacks where deemed necessary for the safety, welfare, and protection of any adjacent property.
 - 2. Parcel Area. The minimum parcel area for a new residential care facility shall not be less than 20,000 square feet.
 - 3. Signs. Only one sign per street frontage shall be permitted identifying the facility. All signs shall conform to the requirements of Chapter 25.42 (Signs).
 - 4. Lighting. All outside lighting shall be arranged and shielded to prevent any glare or reflection, nuisance, inconvenience, or hazardous interference of any kind onto adjoining streets or property.
 - 5. Deliveries. For any facility located adjacent to a residential zoning district, all deliveries shall occur only between the hours of 7:00 a.m. and 8:00 p.m.
 - 6. Refuse Collection Areas. All outside refuse and recyclable materials collection areas shall be enclosed as required by Section 25.31.130 (Trash and Refuse Collection Areas).
- D. State Approval. Where a facility is required to be licensed by the State, written proof shall be submitted to the City that the appropriate State licensing agency will be able to issue all required licenses and specifying the maximum number of beds for which a license will be issued by such agency.

(Ord. 2000 § 2, (2021))

§ 25.48.230. Spas, Bathing, Tanning, and Massage Establishments.

- A. Purpose and Applicability. The purpose of this section is to supplement Chapters 6.39 (Massage Establishments), 6.40 (Spa and Bathing Establishments), and 6.42 (Tanning Facilities) of the Burlingame Municipal Code relating to spas, bathing establishments, tanning facilities, and massage establishments as defined by those chapters.
- B. Massage Establishments. Establishments with massage services that are incidental to a permitted use, such as massage services provided in a bona fide spa, beauty salon, or health facility are not subject to the distance requirements of Section 6.39.060(a)(1).

C. Retail Frontage Required. All spas, bathing establishments, tanning facilities, and massage establishments shall have primary access and frontage facing a public street.

D. Hours of Operation. All spas, bathing establishments, tanning facilities, and massage establishments shall be limited to the hours of 7:00 a.m. to 9:00 p.m. unless a conditional use permit is approved by the Planning Commission to allow use outside those hours.

(Ord. 2000 § 2, (2021))

§ 25.48.240. Supportive and Transitional Housing.

Supportive and transitional housing constitute a residential use of property and are subject only to those restrictions that apply to other residential uses of the same type in the same zoning district.

(Ord. 2000 § 2, (2021))

§ 25.48.250. Tasting Rooms as an Accessory Use.

A. Purpose and Applicability. This section establishes standards for the location, development, and operations for tasting rooms, as defined in Chapter 25.108 (General Definitions) where allowed as an accessory use to breweries, distilleries, and wineries in compliance with Article 2 (Zoning Districts, Allowable Uses, and Development Standards). Tasting rooms that are a primary use are included in the definition of bars and taverns, as defined in Chapter 25.106 (Land Use Definitions).

B. Accessory Use. Where permitted pursuant to Article 2 (Zoning Districts, Allowable Uses, and Development Standards), breweries, wineries, and distilleries may include tasting rooms serving wine, beer, or spirits to the public for the purpose of sampling the product produced or offered for sale, with the following restrictions:

1. Tasting rooms shall occupy no more than 25 percent of the floor area of the square footage of facility.
2. Tasting rooms may conduct temporary special events consistent with Section 25.48.260.F. (Other Temporary or Intermittent Uses and Special Events), provided the use of amplified music is limited to indoor only.
3. Sanitary facilities and potable water shall be provided to the public.
4. Applicable licenses from the State of California Department of Alcohol Beverage Control and compliance with the California Retail Food Code regulations are required.

(Ord. 2000 § 2, (2021))

§ 25.48.260. Temporary Uses.

A. Purpose and Intent.

1. The provisions codified in this section provide for certain temporary and intermittent uses as defined in Chapter 25.108 (General Definitions). It establishes standards and procedures to ensure that such uses are compatible with their surroundings and the intent of these regulations.
2. In approving a temporary or intermittent use, the Director may establish requirements related to, but not limited to, days and hours of operation, parking, temporary structures, and site planning, in addition to performance standards specified below. All such uses shall require issuance of a temporary use permit (see Chapter 25.82, Temporary Use Permits). The Director shall determine the extent to which any permanent on-site parking and other facilities may satisfy the

requirements for the proposed use. A temporary use approval is not intended to allow a land use that is not allowed in the primary zoning district, other than in the specific cases listed in subsection F. of this section.

- B. Accessory Building Used for Storage. A temporary accessory building, used solely for the storage of tools, materials, equipment, or implements, or as a field quarters incidental to the doing of any public work or to the construction, alteration, or repair of a building, structure, or other work for which a building permit has been issued pursuant to the provisions of this Code, may be erected and maintained. Such temporary accessory building shall be removed upon completion of the work. Acceptance of completion shall be withheld by the proper City official until such temporary accessory building is removed. No such temporary accessory building shall be placed by any person upon a public street or way, or any part thereof, unless such person first obtains a permit to do so from the City Engineer.
- C. Real Estate Sales Office in Tract. A temporary real estate sales office may be established in a residential development for the initial sale of property in that development, upon approval of a temporary use permit. Such an office may be located within a residence or a common or temporary building. If a temporary building is used, it shall be removed upon termination of the use.
- D. Mobile Home as Construction Office.
 - 1. A mobile home may be used as a temporary office at a construction site for not more than one year upon written approval of the Chief Building Official and subject to any conditions deemed necessary to protect health, safety, and welfare. Upon written request received prior to expiration, the use may be continued for six-month periods, not to exceed a total of 18 months, by the Chief Building Official.
 - 2. A temporary use permit is required to allow a mobile home as a temporary construction office when the mobile home is not located on the same property as the construction site. The same time limitations as stipulated in Section 25.48.260.D.1 above for an on-site mobile home would apply, with approvals for extensions of the use made by the Chief Building Official. Also, with the Chief Building Official's approval, the mobile home may be occupied by a resident guard or caretaker, provided it is properly connected to City utilities or other safe means of waste disposal is ensured.
- E. Parades, Carnivals, Fairs, Festivals. Use of privately owned property for parades, carnivals, fairs, and festivals requires approval of a temporary use permit (see Chapter 25.82, Temporary Use Permits). Where these events involve public property within the public rights-of-way, coordination with the Public Works Department is required. Where these events involve public property owned by the City of Burlingame, coordination with the City Manager's Office is required.
- F. Other Temporary or Intermittent Uses and Special Events. Upon approval of a temporary use permit, the Director may approve other temporary or intermittent uses, including, but not limited to, musical events, auctions, estate sales, clothing outlet sales, nonprofit benefits, parking lot sales, and car shows. At the discretion of the Director, certain small-scale events with limited duration, consisting of activities with no potential to detrimentally affect those working and living in the vicinity, may be allowed.

(Ord. 2000 § 2, (2021))

§ 25.48.270. Vehicle Fuel Sales and Accessory Service.

- A. Purpose and Applicability. This section establishes standards for the location, development, and

operations for vehicle fuel sales and accessory services, as defined in Chapter 25.106 (Land Use Definitions) and where allowed in compliance with Article 2 (Zoning Districts, Allowable Uses, and Development Standards).

- B. Required Conditions for Granting Permits for Vehicle Fuel Sales and Accessory Service Stations. Permits for vehicle fuel sales stations may not be granted unless the location of the station meets the following qualifications and restrictions:
1. The vehicle fuels sales and accessory service location is on an arterial street or commercial connector, as designated in the General Plan Mobility Element;
 2. Both sides of the street where the property is located are in either commercial or industrial districts;
 3. Conditional use permits for vehicle fuel sales and accessory service station may be granted if the proposed development plans are first approved as provided in Chapter 25.66 (Conditional Use Permits and Minor Use Permits), and upon showing that the development and maintenance of structures, fences, walls and screening, drainage, landscaping, lighting, spaces for storage of waste products, appurtenant equipment, vending machines and off-street parking serve the interest of the business community and the health, safety, peace, comfort, and general welfare of the public; and
 4. An economic feasibility report may be required to accompany an application for a conditional use permit at either a new or an expanded old location.

- C. Lapse of Conditional Use Permit for Nonuse. If the use for which a conditional use permit for a vehicle fuel sales and accessory service use has been granted is discontinued for a period of six consecutive months, such conditional use permit shall terminate, and the property shall then be subject to the permitted uses and regulations provided for in the zoning district in which such property is situated.

(Ord. 2000 § 2, (2021))

§ 25.48.280. Vehicle Sales—Heavy Equipment Rental and Storage.

- A. Location. Display and stored materials, including vehicles, shall not be located in front yard areas nor any required parking area.
- B. Surface. The entire area used for display or storage shall be surfaced with asphalt or an equally serviceable hard pavement surface. The surface shall be maintained in good condition.
- C. Screening. For any such use whereby the storage area abuts a property zoned for residential use or any property developed with a public or private school, the storage area shall be screened by a block wall or opaque fencing to a minimum height of eight feet.

(Ord. 2000 § 2, (2021))

§ 25.48.290. Urban Agriculture and the Keeping of Animals.

- A. Purpose and Applicability. This section establishes standards for the location, development, and operations of urban agriculture, greenhouses, keeping of small animal and fowl, and keeping of horses, as defined in Chapter 25.106 (Land Use Definitions) and where allowed in compliance with Article 2 (Zoning Districts, Allowable Uses, and Development Standards) and in this section.
- B. Urban Agriculture.

1. Permitted Activities. Urban agricultural uses are permitted, either as an accessory use or a primary use. Establishment of community gardens on vacant lots within the City may be permitted regardless of lot size.
2. Retail Sales of Products Produced on the Premises. The direct sale of products produced on the premises, including any roadside stands and signage, may be permitted in nonresidential and mixed-use zoning districts subject to issuance of a minor use permit.
3. Operational Standards.
 - a. Maintenance. Urban agriculture uses shall be maintained in an orderly manner, including litter removal, irrigation, weeding, pruning, pest control, and removal of dead or diseased plant materials.
 - b. Equipment. Use of mechanized farm equipment is prohibited in residential zoning districts. Landscaping equipment designed for household use is permitted.
 - c. Structures. Accessory structures intended to support urban agriculture, such as storage sheds, coop-houses, and greenhouses, are permitted subject to the regulations of the underlying zoning district.
 - d. Pollutants. Urban agriculture activities shall include best practices to prevent pollutants from entering the stormwater conveyance system and shall comply with all applicable Federal, State, and local laws, ordinances, and regulations.
 - e. Compost Piles. Compost piles and containers shall be set back at least 20 feet from residential buildings when an urban agriculture use abuts a residential land use.

C. Keeping of Animals.

1. Standards. The keeping of animals shall comply with Chapter 9.08 of the Municipal Code (Keeping).
2. Bees. Up to three beehives are permitted on any parcel as an incidental use to a permitted use, subject to the following standards:
 - a. Hives shall be placed on the parcel such that they are enclosed by fencing or similar barrier that prevents unauthorized access.
 - b. A permanent fresh water source shall be provided on the same parcel prior to the establishment of bee hives and maintained within 15 feet of the hives.

(Ord. 2000 § 2, (2021))

§ 25.48.300. Wireless Communications Facilities.

- A. Purpose. Based upon the principles of the Burlingame General Plan and the Specific Area Plans, the purpose of this chapter is to maintain and more importantly, to facilitate modernization of Burlingame's wireless infrastructure in a manner that improves the quality of the City's environment, the pleasant aesthetics of the City's neighborhoods, the City's architectural traditions dating to the early 20th century and the visual quality in the nonresidential areas of the City. More specifically, the purpose of this chapter is to regulate, as allowed by state and federal law and regulations, the design and location of wireless facilities in the City of Burlingame in a manner that recognizes the community benefits of communications technology, which provides clear guidance to the

communications industry but also recognizes the strong need to preserve the City's aesthetic traditions.

The objectives of this section include:

1. Promoting wholesome, attractive, harmonious and economic use of property, building construction, civic service, activities and operations in conformity with and preserving the overall aesthetics of City neighborhoods.
 2. Ensuring the character of City neighborhoods and preserving the century old architectural traditions of Burlingame.
 3. Reducing, through the use of stealth designs and concealment elements, the visual effects of wireless facilities throughout the City on public and private property.
 4. Encouraging the installation of wireless facilities at locations where other such facilities already exist without aesthetically overwhelming those locations with additional facilities.
 5. Encouraging the installation of such facilities in locations to minimize potential adverse aesthetic impacts.
 6. Creating a transparent and open process by which City staff, citizens, and communications providers can collaboratively achieve solutions to the placement of wireless facilities to achieve these goals where City retains discretion regarding placements.
 7. Encouraging industry to adopt best practices in all deployments, to utilize designs to minimize visual impacts, to share with the City future plans for deployments so that the cumulative impacts can be planned for, understood, and mitigated.
- B. Definitions. For the purpose of this section, certain words and terms are hereby defined. Words used in the singular number shall include the plural and the plural the singular; unless more specifically defined, the word "building" is interchangeable with the word "structure," the word "shall" is mandatory and not discretionary. All equipment not specifically described herein shall be regulated in conformity with that equipment described herein which is most substantially similar, from a functionality standpoint. Reference to "facility" is interchangeable with "wireless communications facility" unless otherwise noted.
- "Antenna" shall mean any system of wires, poles, rods, reflecting discs, or similar devices used in wireless communications for the transmission or reception of electromagnetic waves when such system is operated or operating from a fixed location.
- "Applicant" or "provider" shall mean the person or entity applying for a permit to install wireless communications facilities.
- "Base station" shall mean, as defined in 47 C.F.R. Section 1.6100(b)(1), or any successor provision, any structure or equipment at a fixed location that enables FCC-licensed or authorized wireless communications between user equipment and a communications network. The term does not encompass a tower as defined in this subpart or any equipment associated with a tower.
- a. The term includes, but is not limited to, equipment associated with wireless communications services such as private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.
 - b. The term includes, but is not limited to, radio transceivers, antennas, coaxial or fiber-

optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration (including distributed antenna systems and small-cell networks).

- c. The term includes any structure other than a tower that, at the time the relevant application is filed with the State or local government under this section, supports or houses equipment described in subsections 3.a and 3.b of this section that has been reviewed and approved under the applicable zoning or siting process, or under another State or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing such support.
- d. The term does not include any structure that, at the time the relevant application is filed with the State or local government under this section, does not support or house equipment described in subsections 3.a. and 3.b. of this section.

"Collocation" shall mean the mounting or installation of transmission equipment on a legally existing base station or tower as defined:

- a. For the purposes of any eligible facilities request, the same as defined by the FCC in 47 C.F.R. Section 1.6100(b)(2), as may be amended, which defines that term as "the mounting or installation of transmission equipment on an eligible support structure for the purpose of transmitting and/or receiving radio frequency signals for communications purposes." As an illustration and not a limitation, the FCC's definition means to add transmission equipment to an existing facility and does not necessarily refer to two or more different facility operators in the same location; and
- b. For all other purposes, the same as defined in 47 C.F.R. Section 1.6002(g)(1) and (2), as may be amended, which defines the term collocation as: (i) mounting or installing an antenna facility on a pre-existing structure, and/or (ii) modifying a structure for the purpose of mounting or installing an antenna facility on that structure.

"Eligible facilities request" shall mean any request for modification of a legally existing tower or base station that does not substantially change the physical dimensions of such tower or base station as defined in 47 C.F.R. Section 1.6100(b)(3), or any successor provision.

"Major wireless facilities" shall mean any and all new wireless facilities or modifications to existing wireless facilities that are not otherwise exempt from this chapter and that do not qualify as small cell facilities, collocations, temporary facilities or eligible facilities requests.

"Microwave antenna" shall mean a bowl-shaped antenna used to link communication sites together by wireless transmission of voice or data in a specific directional pattern.

"Monopole" shall mean a free-standing pole like a slim line, flagpole, or similar structure.

"Owner" shall mean the person or entity that has legal ownership or control over the tangible wireless communications facilities.

"Personal wireless services" shall mean those services as defined in 47 U.S.C. Section 332(c)(7)(C)(i) or any successor provision, current examples of which include, but are not limited to, commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services.

"Public rights-of-way" shall mean any portion of any land dedicated, condemned or established and improved for use as a public thoroughfare for vehicular use and owned, maintained or managed by the City. Public right(s)-of-way includes public streets, roads, lanes, and alleys (including portions used for sidewalks, medians, and parkways). For the purposes of this section, the public right(s)-of-

way includes public utility easements and does not include private streets.

"Roof-mounted" shall mean any type of facility in which antennas are mounted on the roof, parapet or similar feature of a structure and extends past the roofline of the building.

"Residential zoning district" shall mean the R-1, R-2, R-3, and R-4 residential zoning districts as delineated on the City of Burlingame zoning map.

"Satellite dish" shall mean any device incorporating a reflective surface that is solid, open mesh, or bar configured that is shallow dish, cone, horn, or cornucopia shaped and is used to transmit and/or receive electromagnetic signals. This definition is meant to include, but is not limited to, what are commonly referred to as satellite earth stations, TVROs, and satellite microwave antennas.

"Small cell facility" shall have the same meaning as "small wireless facility" in 47 C.F.R. Section 1.6002(l), or any successor provision (which is a personal wireless services facility that meets the following conditions that, solely for convenience, have been set forth below):

- a. The facilities:
 - i. Are mounted on structures 50 feet or less in height including their antennas as defined in this section; or
 - ii. Are mounted on structures no more than 10 percent taller than other adjacent structures;
 - iii. Do not extend existing structures on which they are located to a height of more than 50 feet or by more than 10 percent, whichever is greater.
- b. Each antenna associated with the deployment, excluding associated antenna equipment (as defined in the definition of antenna), is no more than three cubic feet in volume;
- c. All other wireless equipment associated with the structure, including the wireless equipment associated with the antenna and any pre-existing associated equipment on the structure, is no more than 28 cubic feet in volume;
- d. The facilities do not require antenna structure registration under C.F.R. Part 17;
- e. The facilities are not located on Tribal lands, as defined under 36 C.F.R. Section 800.16(x); and
- f. The facilities do not result in human exposure to radiofrequency radiation in excess of the applicable safety standards specified in 47 C.F.R. Section 1.1307(b).

"Stealth facilities" shall mean facilities designed to look like something other than a wireless facility.

"Support structure" shall mean any structure capable of supporting a base station, as defined in 47 C.F.R. Section 1.6002(m) or any successor provision.

"Temporary facility" shall mean any wireless communication facility intended or used to provide wireless services on a temporary or emergency basis, such as a large-scale special event in which more users than usual gather in a single location or following a duly proclaimed local or state emergency as defined in Government Code Section 8558 requiring additional service capabilities. Temporary facilities include, without limitation, cells on wheels (also referred to as COWs), sites on wheels (also referred to as SOWs), cells on light trucks (also referred to as COLTs), or other similar wireless facilities: (a) that will be in place for no more than six months, or such other longer time as the City may allow in light of the event or emergency; (b) for which required notice is provided

to the FAA; (c) that do not require marking or lighting under FAA regulations; (d) that will not exceed the height limit in the applicable zone; and (e) that will either involve no excavation or involve excavation only as required to safely anchor the facility, where the depth of previous disturbance exceeds the proposed construction depth (excluding footings and other anchoring mechanisms) by at least two feet.

"Tower" shall mean, as defined in 47 C.F.R. Section 1.6100(b)(9), or any successor provision, any structure built for the sole or primary purpose of supporting any FCC-licensed or authorized antennas and their associated facilities, including structures that are constructed for personal wireless services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul, and the associated site. This definition does not include utility poles.

"Utility pole" shall mean any structure designed to support electric, telephone, and similar utility lines. A tower is not a utility pole.

"Wireless communications facilities" and "facilities" shall mean any transmitters, antenna structures, equipment cabinets, concealment, meters, switches, cabling, and other types of facilities used for the provision of wireless services at a fixed location, including, without limitation, any associated tower(s), support structure(s), and base station(s).

- C. Applicability. This section shall apply to all wireless communication facilities which transmit and/or receive electromagnetic signals in order to provide services, including, but not limited to, personal communications services (such as mobile telephone services, internet services, location and monitoring services, data, e-mail, texting, streaming video and audio and paging), fixed microwave services, and mobile data services. This chapter shall apply to the entire area within the City of Burlingame city limits, including all zoning districts, and all public property except public rights-of-way. This chapter shall not be applied or interpreted, to prohibit or to have the effect of prohibiting wireless communications services or telecommunications services, to regulate the placement, construction or modification of wireless communications facilities on the basis of the environmental effects of radio frequency ("RF") emissions, provided that such facilities comply with Federal Communications Commission ("FCC") regulations, or to unreasonably discriminate among providers of functionally equivalent wireless communications services. Where conflict occurs between the provisions of this chapter and any other City codes, ordinances, resolutions, guidelines or regulations, the more restrictive provision shall control unless otherwise specified or mandated by law.

This chapter shall not apply to:

1. Wireless communications facilities that are located completely enclosed within a permitted structure, are incidental to a permitted use in that structure, and are not located within a residential zoning district.
2. Hand-held mobile, marine, and portable radio transmitters and/or receivers which are not affixed to land or a structure.
3. Wireless communications facilities required on a temporary basis not to exceed 14 consecutive days provided any necessary building permit or other approval is obtained and the landowner's written consent is provided to the City in advance of placement.
4. Traditional terrestrial radio and television mobile broadcast facilities.
5. A single ground-mounted or building-mounted antenna not exceeding the maximum height permitted by this chapter including any mast, subject to the following restrictions:

- a. Satellite Dish 39.37 Inches (one meter) or Less. A satellite dish antenna 39.37 inches (one meter) or less in diameter: (i) intended for the sole use of a person occupying the same parcel to receive direct broadcast satellite service, including direct-to-home satellite service, or to receive or transmit fixed wireless signals via satellite; or (ii) a hub or relay antenna used to receive or transmit fixed wireless services that are not classified as telecommunications services, is permitted anywhere on a lot provided it does not exceed the height of the ridgeline of the primary structure on the same parcel;
 - b. Non-Satellite Dish 39.37 Inches (one meter) or Less. A dish antenna 39.37 inches (one meter) or less in diameter or diagonal measurement: (i) intended for the sole use of a person occupying the same parcel to receive video programming services via multipoint distribution services, including multichannel multipoint distribution services, instructional television fixed services, and local multipoint distribution services, or to receive or transmit fixed wireless signals other than via satellite; or (ii) a hub or relay antenna used to receive or transmit fixed wireless services that are not classified as telecommunications services, is permitted anywhere on a lot.
6. Amateur radio antennas meeting the following requirements:
 - a. That are completely enclosed within a permitted building; or
 - b. That consist of a single wire not exceeding one-fourth inch in diameter. Such wire antennas may be located in setback areas provided the antenna does not extend above the maximum building height in the district; or
 - c. That consist of a single ground-mounted vertical pole or whip antenna not exceeding 50 feet in height in residential zone classifications or 105 feet in height in nonresidential zone classifications, measured from finish grade at the base of the antenna, and not located in any required setback area. Support structures or masts for pole or whip antennas shall conform to standards set out in the California Building Standards Code. A building permit may be required for the support structure or mast.
 7. Like kind equipment replacements that consist solely of replacing or changing equipment in an existing cabinet, vault, or shroud that does not increase pre-existing visual or noise impacts and has the same or less RF emissions. The existing equipment must have been approved by the City and the equipment must be in compliance with all permit conditions. Qualifying like kind equipment replacements that do not require City approval consist of upgrades or exchanges of equipment that are substantially similar in appearance and the same or less in size, dimensions, weight, and RF emissions to the then-existing and approved equipment. This exemption does not apply to generators.
 8. Wireless communications facilities which are proposed to be located in the public rights-of-way. These are subject to permitting under Chapter 12.11 of this code.
- D. Nonconforming Facilities. Any wireless communication facility that was lawfully erected prior to the effective date of the ordinance codified in this chapter shall not be required to meet the requirements of this chapter. The nonconforming wireless communications facilities shall be allowed to continue as they exist as of the effective date of the ordinance codifying these regulations, but will be considered as lawful nonconforming legal uses and shall be subject to the restrictions of Article 5 (Nonconformities) of this title. The foregoing notwithstanding, non-conforming wireless communication facilities shall be required to comply with the requirements of this chapter if any nonconforming facility or component of a nonconforming facility is modified or when the permittee

applies to renew its permit, at which time the provisions of the revised ordinance shall apply in full force going forward as to such facility.

E. Permit Requirement.

1. Permit Requirement for Location of Wireless Communications Facilities. No wireless communication facility shall be constructed, erected, placed, or modified anywhere within the City without first obtaining a permit pursuant to the requirements of this section and without obtaining any permits required under any other applicable State, Federal, or local laws or regulations, unless exempt pursuant to subsection C (Applicability) of this section. Applications for approval of a wireless communication facility shall be submitted to and processed by the Planning Division of the Community Development Department and shall be reviewed and either approved, modified or denied by the Director or the Planning Commission, depending upon the application's classification as defined in this section.
2. Administrative Use Permit. An administrative use permit for wireless communications facilities shall be required for the installation or modification of any facility that qualifies as a small cell facility, eligible facilities request, temporary facility or collocation, and such application shall be considered by the Community Development Director. Notice of the proposed approval on such Administrative Use Permit application shall be provided in accordance with Section 25.48.300.N.
3. Conditional Use Permit. Major wireless facilities shall require a conditional use permit. A conditional use permit application for wireless communication facilities shall be submitted to and processed by the Community Development Department to determine that the proposed facility complies with all the requirements of this section and with all the applicable requirements of other chapters of the Burlingame Municipal Code. Once the application is complete, it shall be placed on the action calendar of the next available Planning Commission meeting for consideration. A conditional use permit for wireless communication facilities may be granted only after a public hearing before and approval by the Commission. Notice of such conditional use permit application shall be provided in accordance with Section 25.48.300.L.

F. Voluntary Pre-Application Meeting. Prior to filing an application for a use permit for the installation or modification of wireless communication facility, an applicant is encouraged to schedule a pre-application meeting with the Community Development Department to discuss the proposed facility, all of the requirements of this section, and any potential impacts of the proposed facility. The applicant will be encouraged to perform an early-stage outreach with residents and property owners near the proposed facilities in order to address and, if possible, resolve any impacts of the proposed facilities on the surrounding neighborhood. Conducting this voluntary pre-application meeting shall not initiate any applicable "shot clock."

G. Appeals.

1. Administrative Use Permit for Wireless Communications Facilities.
 - a. Any person adversely affected by a decision of the Director pursuant to this chapter may appeal the Director's decision to the Hearing Officer who may decide the issues *de novo*, and whose written decision will be the final decision of the City. An appeal by a wireless infrastructure provider must be taken jointly with the wireless service provider that intends to use the personal wireless communications facility.
 - b. All appeals must be filed within five days of the effective date of the written decision of

the Director, unless the Director extends the time therefor. An extension may not be granted where extension would result in approval of the application by operation of law. Where the Director grants an application based on a finding that denial would result in a prohibition or effective prohibition under applicable Federal law, the decision shall be automatically appealed to the Hearing Officer.

2. Conditional Use Permit for Wireless Communications Facilities.
 - a. Any person adversely affected by a decision of the Planning Commission pursuant to this chapter may appeal the Commission's decision to the City Council who may decide the issues *de novo*, and whose written decision will be the final decision of the City.
 - b. All appeals must be filed within 10 calendar days of the effective date of the decision of the Commission, unless a different period is specified by the Commission. The City may extend the time period for filing an appeal for due cause but an extension may not be granted where such extension would result in approval of the application by operation of law.
3. All Appeals.
 - a. In order to request an appeal, the appellant shall submit to the City Clerk a request specifying the decision being appealed and the appellants full name and contact information, along with a full amount of the appeal fee in the manner directed in the Director's or Commission's decision notice. The appeal shall be considered invalid if the appeal fee is not paid in full.
 - b. Any appeal hearing shall be conducted so that a timely written decision may be issued in accordance with applicable law.
 - c. If a timely and complete request for appeal is not submitted, the Director's or the Commission's decision shall be deemed final.

H. Contents of Permit Application.

1. Conditional Use Permit. An applicant for a wireless communication facility conditional use permit shall complete and submit an application to the Community Development Department for review and processing, upon the form published by the Director, which may be updated from time to time. In addition to any requirements specified by the application form, the wireless communication facility conditional use permit application shall at minimum require submission of the following:
 - a. Name, address, phone number, email address of:
 - i. The owner of the proposed facility;
 - ii. The applicant if different than owner;
 - iii. The proposed service provider that plans to make use of the facility.
 - b. A clear written description of the proposed facility that includes the number of antennas, the location and length of fiber/cable, the location and dimensions of all related equipment (cabinets, generators, batteries, cooling, transmitters, hubs etc.).
 - c. A site plan with photos or photo-simulations, depicting the location and dimension of the

proposed wireless communication facilities and of the existing surrounding area features including structures, roads, trees, and similar items.

- d. A map illustrating the estimated coverage area (search area) for the proposed wireless communication facility.
 - e. Visual impact demonstrations using clear, accurate and readable photo-simulations of all of the proposed wireless communication facilities. The simulations must contain dimensions, height measurements and color, size and shape (proper coloration and blending of the facility with the proposed site) of the proposed facilities in order to facilitate determination of potential visual impacts.
 - f. If applicable, a landscape plan that shows existing vegetation, indicating any vegetation proposed for removal, and identifying proposed plantings by type, size and location and a description of applicant's proposed landscape maintenance schedule for the life-time of the facility.
 - g. Information regarding potential environmental impacts (e.g., noise, visual, traffic, etc.) that may result from the installation of the wireless communication facility.
 - h. Certification by a qualified third party that the proposed wireless communication facility will comply with applicable radio frequency (RF) emission standards as established by the FCC. Such documentation may be satisfied by a written demonstration of compliance with FCC Bulletin OET-65, as amended.
 - i. Written description of any noise, light and/or heat generated by the facility, including, but not limited to, retractable monopole motors, antenna rotators, power generation, cooling equipment and similar items.
 - j. If applicable, an explanation for any deviation of the proposed facility from any of the design standards or other requirements of this chapter. Deviations are discouraged and shall only be granted by waiver or where required by State or Federal law.
2. Administrative Use Permit. An applicant for an administrative use permit for wireless communication facility shall complete and submit an application to the Community Development Department for review and processing, upon the form published by the Director, which may be updated from time to time. In addition to any requirements specified by the application form, the wireless communication facility administrative use permit application shall at minimum require submission of the information required under subsection H.1. above, except subsection H.1.d. is not required for an eligible facilities request.
 3. Incomplete Application. To promote efficient review and timely decisions, if the applicant fails to tender a substantive response to the Community Development Department within 90 calendar days after the Director deems the application incomplete in a timely written notice to the applicant, the Director may, in the Director's discretion, deny the application for a conditional use permit or an administrative use permit without prejudice to submit a new application and associated fees for the same proposed facility.
 4. Third Party Review. At the applicant's expense, the City may require verification of the applicant's submitted technical data by a qualified independent third party selected by the City.
- I. Application Fee. The application shall be accompanied by an application fee in an amount necessary to recover the City's reasonable cost of processing the application. The fee shall be set by resolution

of the City Council and included in the City's master fee schedule. Failure to include the fee with the application shall render the application incomplete and no action will be taken on the application until the fee is paid.

J. General Requirements.

1. State or Federal Requirements. All wireless communication facilities shall meet or exceed current standards and regulations of the FCC, the FAA, and any other agency of the State or Federal government with the authority to regulate wireless communication facilities. If such standards and regulations are changed and are made applicable to existing facilities, the owners of the facilities governed by this chapter shall bring such facilities into compliance with such revised standards and regulations within six months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling State or Federal agency. Failure to bring wireless communication facilities into compliance with such revised standards and regulations shall constitute grounds for the removal of the facilities at the owner's expense, revocation of any permit or imposition of any other applicable penalty.
2. Building Codes and Safety Standards. To ensure the structural integrity of wireless communication facilities, the owner shall ensure that the facility is constructed and maintained in compliance with standards contained in applicable State or local building codes and the applicable standards that are published by the Telecommunications Industry Association, as amended from time to time. If, upon inspection, the City concludes that a wireless communication facility fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner and the opportunity to be heard as afforded by the applicable building code, the owner shall have 90 days to bring such facility into compliance with such standards. Failure to bring such facility into compliance within said 30 days shall constitute grounds for the removal of the facility at the owner's expense, revocation of any permit or imposition of any other applicable penalty.

K. Wireless Communications Facility Design and Location Standards and Standard Conditions of Approval.

1. By resolution, the City Council will provide Wireless Communications Facilities Design and Location Standards which shall describe the design and location standards, and provide pictorial examples of stealth designs for wireless communication facilities, preferred types of screening, landscaping and camouflaging, preferred locations for ground-mounted, roof-mounted and side-mounted facilities and dimensions for height, setback and bulk. The Community Development Department will update the Standards for City Council approval from time to time in order to consider the inclusion of new technologies, innovations and current best examples which would further the goal of reducing the impacts of facilities. The pictorial examples are examples of facilities which may comply with the design standards contained in the Standards. However, the design standards and the findings of the reviewing authority shall have precedence over the pictorial examples. Because of the speed of technological change and the time between updates of the City Standards, the applicant should understand that the pictorial examples are intended to assist the applicant in choosing potentially preferred designs, but are not intended to suggest that such examples will be approved or that such examples are mandated.
2. The Standards document may include photos and descriptions of:
 - a. Monopoles that blend into surrounding vegetation, and avoid guy wires, while still meeting safety standards.

- b. Facilities utilizing existing towers to extend wireless service area.
 - c. Stealth structures and design features which exhibit uniform consistency in size, character and color to that of the surrounding environment (e.g., public art, foliage, trees, buildings, rocks, church steeples or other structures, including samples of size and coloring).
 - d. Ground-mounted, roof-mounted, and side-mounted facilities with dimensions, and measurements for height, setback and bulk of the facilities.
3. By resolution, the City Council will adopt Standard Conditions of Approval which shall describe the standard conditions that shall apply to all permits granted pursuant to this chapter or by operation of law, unless modified by the approving authority.
- L. Conditional Use Permit – Notice of Public Hearing to Property Owners – Action by Planning Commission.
- 1. Notice of Public Hearing. Once the application and all supporting information and documentation has been received, notice of a public hearing before the Planning Commission regarding the conditional use permit for wireless communications facilities shall be given according to the provision of Chapter 25.100 (Public Hearings and Notice). Notice shall be mailed to all owners of property which lies within a radius of 300 feet of the proposed wireless communication facility.
 - 2. Notice Posted on Site. The notice of public hearing shall also be posted in a conspicuous location on or near the site of the proposed facilities
 - 3. Action by Planning Commission. On the time and date set for the public hearing, the Commission shall conduct the public hearing regarding the application for conditional use permit for wireless communication facilities and shall take action pursuant to Section 25.100.060 (Decision and Notice) of this title.
- M. Administrative Use Permit – Notice of Project to Property Owners – Action by Community Development Director.
- 1. Notice. Once the application and all supporting information and documentation have been received and reviewed by the Community Development Department, notice of the proposed decision shall be given to the applicant and all owners of property which lies within a radius of 300 feet of the proposed facilities and any alternative sites identified by the applicant. The following information shall be provided:
 - a. Project description and site plan as provided in the application.
 - b. Map which accurately and clearly depicts location of entire project as provided in the application.
 - c. A summary of the proposed decision.
 - d. The effective date of the proposed decision and how to submit an appeal.
 - 2. Additional Information. More detailed information, including, but not limited to, photo simulations, elevations, and alternatives analysis, as provided in the application, shall be placed on the City's website and this information shall be referenced in the notice.
- N. Renewal. An applicant may renew a conditional use permit or an administrative use permit for

wireless communication facilities pursuant to the provisions of this section.

1. At least 120 days prior to the expiration of the term of the permit, the applicant shall complete and submit a renewal application to the Director. The application shall be in the same form as the application for a new facility permit as specified in this section and processed in accordance with Section 25.48.300.H corresponding to the applicable permit requested for the facility.
2. The renewal application shall be accompanied by a fee designed to recover the reasonable cost of processing the application. Failure to include the fee with the renewal application shall render the application incomplete and no action will be taken on it until the fee is paid.

O. Findings for Approval.

1. General Findings for Approval for All Wireless Facilities Subject to This Section. No use permit for the installation or modification of a wireless communication facility, other than eligible facilities requests, shall be approved unless, on the basis of the application and other materials or evidence provided in review thereof, the applicable approval authority finds the following:
 - a. The facility complies with all applicable requirements of this chapter, including all requirements for the requested permit; all application requirements; and all applicable design, location, and development standards, or has a waiver thereof; and
 - b. The facility meets applicable requirements and standards of Federal and State law, including all applicable general orders of the California Public Utilities Commission.
2. Additional Findings for Temporary Facilities. No permit shall be approved for a temporary facility unless, on the basis of the application and other materials or evidence provided in review thereof, the following findings are made:
 - a. The facility qualifies as a temporary facility; and
 - b. There is an adequate need for the facility (e.g., wireless communication facility relocation or large-scale event).
3. Findings for Eligible Facilities Requests. No permit shall be approved for an eligible facilities request unless, on the basis of the application and other materials or evidence provided in review thereof, the following findings are made:
 - a. The proposed collocation or modification meets each and every one of the applicable criteria for an eligible facilities request stated in 47 C.F.R. Sections 1.6100(b)(3)-(9), or any successor provisions, after application of the definitions in 47 C.F.R. Section 1.6100(b). The reviewing authority shall make an express finding for each criterion;
 - b. The proposed facility complies with conditions associated with the siting approval of the construction or modification of the eligible support structure or base station equipment, except to the extent preempted by 47 C.F.R. Sections 1.6100(b)(7)(i) through (iv), or any successor provisions; and
 - c. The proposed facility will comply with all generally applicable laws.

P. Waivers of Requirements.

1. The reviewing authority may grant waivers of the requirements for wireless communications facilities subject to this section if it is determined that the applicant has established that denial

of an application or strict adherence to the location and design standards would:

- a. Prohibit or effectively prohibit the provision of personal wireless services, within the meaning of Federal law; or
 - b. Otherwise violate applicable laws or regulations; or
 - c. Require a technically infeasible design or installation of a wireless facility.
2. If that determination is made, said requirements may be waived, but only to the minimum extent required to avoid the prohibition, violation, or technically infeasible design or installation.

(Ord. 2000 § 2, (2021))

Article 5 Nonconformities

CHAPTER 25.50 GENERAL NONCONFORMING PROVISIONS

§ 25.50.010. Purpose and Intent.

- A. Within the zoning districts established by this Title 25 or amendments that may later be adopted, there exists or will exist lots, structures, and uses of land and structures which were lawful before the adoption or amendment of this title but which no longer comply. The intent of this Article 5 (Nonconformities) is to permit those nonconformities to continue until they are removed or required to be terminated, but not to encourage their continuance. Such uses and structures are declared to be incompatible with permitted uses, structures, and standards in the zoning districts involved, and it is intended that they shall not be enlarged upon, expanded, or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same zoning district, except as may be expressly permitted in this article.
- B. The eventual intent is that nonconformities, including certain classes of nonconforming uses, nonconforming structures of nominal value, and certain uses not meeting parking, performance, or screening standards, are to be altered to conform.
- C. It is also the City's intent to encourage and accommodate the renovation of designated historic structures that may be nonconforming with respect to development standards, and therefore to provide additional relief from the provisions of this article with regard to correcting nonconformities.
(Ord. 2000 § 2, (2021))

§ 25.50.020. Applicability.

- A. The provisions of this article shall apply to all legally established nonconforming lots, structures, and land uses. A mere change in ownership or tenancy without any change in use, occupancy, or development shall not affect any of the legal nonconforming rights, privileges, and responsibilities provided under this article.
- B. This article shall not apply to any use or structure established in violation of the previously adopted Zoning Ordinance for the City, unless the use or structure presently conforms to the provisions of this Zoning Code.
(Ord. 2000 § 2, (2021))

§ 25.50.030. Establishment of Legal Nonconforming Status.

- A. The provisions of this article shall regulate the continuation, termination, and modification of lots, structures, and uses which were lawfully established, but which no longer conform to the provisions of this title due to a change in zoning district boundaries or a change in the regulations for the zoning district in which it is located. A mere change in ownership or tenancy without any change in use, occupancy, or development shall not affect any of the legal nonconforming rights, privileges, and responsibilities provided under this article.
- B. Lots, structures, and uses not having previously acquired proper permits are illegal and subject to immediate abatement.

- C. Any nonconforming use or structure that becomes specifically authorized under the terms of some approval pursuant to this title, other than approval of an extension, expansion, change, or early termination of nonconformity, shall henceforth be governed by the terms of such approval and shall no longer be considered to be a nonconformity unless and until such approval expires or is revoked.
- D. Whenever any lot or structure is rendered nonconforming within the meaning of this article solely by reason of: (1) dedication to, or customary purchase by, the City for any public purpose; or (2) eminent domain proceedings which result in the acquisition by the City of a portion of the subject property, the same shall not be deemed nonconforming within the meaning of this article.
- E. The effective date of the Zoning Ordinance codified in this title or previous Zoning Ordinance codified herein shall determine the time of beginning for all existing nonconformities.

(Ord. 2000 § 2, (2021))

§ 25.50.040. Proof of Legal Nonconformity.

- A. Burden of Proof. The property owner shall have the burden to prove the claim of legal nonconformity and the related protected status that comes with that claim. The property owner shall provide sufficient evidence to the satisfaction of the Director that the subject property or use is a legal nonconformity as specified in this article.
- B. City Not Responsible. The City is not responsible to prove the absence of a legal nonconformity.
- C. Director's Determination.
 - 1. To exert a claim of legal nonconformity, the property owner shall submit sufficient written evidence to the Director justifying that the nonconformity is legal and subject to the protected status specified in this article.
 - 2. The Director shall consider the evidence and other available facts and make a determination as to the legality of the nonconformity and the available protections provided by this article.
 - 3. The Director's determination of legal nonconformity shall be appealable to the Commission in compliance with Chapter 25.98 (Appeals).

(Ord. 2000 § 2, (2021))

§ 25.50.050. Maintenance and Repairs.

Routine maintenance and repair of uses, structures, or lots, as defined by the Uniform Building Code, which do not increase or alter the nonconformity may be performed. Such maintenance and repairs may not extend the area of nonconformity, and structural alterations may be made only when required by law to assure the safety of occupants. Any maintenance activity or repairs to a structure for which the value of such maintenance or repairs exceeds 50 percent of the market value of the structure shall be considered substantial construction, as defined by this title, and shall affect the nonconforming status of the structure as set forth in this article.

(Ord. 2000 § 2, (2021))

§ 25.50.060. Revocation.

The Commission may revoke the right to continue a nonconforming use or structure if it deems, based on facts presented to the Commission, that the nonconforming use or structure will have a negative impact on its surroundings. Revocation procedures, including notice and hearing, shall be in compliance with the

provisions specified in Sections 25.88.040 (Modifications) and 25.88.050 (Revocations and Suspension).
(Ord. 2000 § 2, (2021))

**CHAPTER 25.52
NONCONFORMING LOTS**

§ 25.52.010. Use of Legal Nonconforming Lots.

Any lawfully created lot which becomes nonconforming with regard to lot area, street frontage, lot width, lot depth, or accessibility may continue indefinitely with the nonconformity and may be developed and used as if it were a conforming lot.

(Ord. 2000 § 2, (2021))

§ 25.52.020. Modification of Legal Nonconforming Lots.

Legal nonconforming lots may not be modified in any manner that increases the degree of nonconformity. Where feasible, lot modifications, such as through lot merger or lot line adjustment, are encouraged to eliminate or minimize the degree of nonconformity.

(Ord. 2000 § 2, (2021))

CHAPTER 25.54 NONCONFORMING STRUCTURES

§ 25.54.010. Continuation of Legal Nonconforming Structures.

- A. May Be Continued. Any legally established nonconforming structure that does not conform to the provisions of this title with regard to maximum permitted height, minimum required setback, lot coverage, and floor area ratio may be continued indefinitely.
- B. Alterations and Additions. Alterations and additions may be made to a nonconforming structure, provided that there shall be no increase in the discrepancy between existing conditions and the standards for the zoning district, and provided that the alteration and addition does not qualify as substantial construction, as defined in this title, or result in the reconstruction of any part of the building envelope that is nonconforming, with the following exceptions:
 - 1. Floor Area Ratio and Lot Coverage.
 - a. Reallocation. Floor area of structures that exceed the maximum floor area ratio (FAR) and/or lot coverage for the zoning district in which the property is located may be reallocated within other areas of the building as long as the discrepancy between the existing condition in the FAR or lot coverage and applicable zoning district standards is not increased and further provided, that any new construction meets all other applicable development standards.
 - b. Exception for Residential Structures. Notwithstanding the provisions of subsection B.1.a. above, if the reallocated floor area encroaches into the maximum height limit or declining height envelope, a special permit, as set forth in Chapter 25.78 (Special Permits) of this title, may be requested to permit the encroachment, and where the Commission can make the finding that approval of the special permit will provide for the architectural integrity of the structure to be maintained.
 - c. Exception for Front Porches and Detached Garages. Nonconforming front porches and one-story detached garages may be rebuilt in the same location and footprint, including encroachment into any required setback. Reconstruction of an existing nonconforming detached garage shall be limited to a two-car garage or a maximum of 450 square feet.
 - 2. Increase in Residential Units Prohibited. Any increase in the number of residential units of nonconforming structures designed and occupied for residential use shall be prohibited, except as may be permitted for accessory dwelling units pursuant to Section 25.48.030 (Accessory Dwelling Units) of this title.
 - 3. Limitations on Construction. The following applies to any alteration of or addition to a nonconforming structure.
 - a. No more than 50 percent of the exterior first floor walls of the nonconforming structure shall be removed to allow for the alteration or addition to occur. Any alteration or addition inconsistent with this limit shall require that all nonconformities be brought into compliance with the development standards in place at the time of issuance of building permits for the alteration or addition.
 - b. For projects where not more than 50 percent of the existing walls are removed and/or no portion of the nonconforming wall is removed, those nonconforming walls that remain in

place shall be demonstrated to the satisfaction of the building official to be in sound structural condition, capable of supporting all proposed new construction, and pest free, and shall not be removed as part of the new construction.

- c. For the purposes of this subsection, "removed" shall include the removal, reinforcement, or significant alteration of wall studs or any other integral structural support feature.
- d. In the event that any deviation from these limitations and approved plans occurs through the building permit and construction processes, the applicant/developer shall lose all prior nonconforming rights, and all applicable zoning district standards shall apply.
4. Exceptions for Designated Historic Structures. The provisions of subsection B.3 above shall not apply to alterations of and additions to designated historic structures. Through the special permit process, as set forth in Chapter 25.78 (Special Permits), a property owner may be granted the ability to remove more than 50 percent of the exterior first floor walls, provided that the primary building façade and any other key contributing feature, as determined by the Planning Commission, are maintained.
5. Limitation on Extent of Addition to Residential Structure. In the event of any addition to a nonconforming residential structure located in a nonresidential zoning district, the floor area of such structure may be increased by up to 50 percent of the floor area of the existing structure without a requirement to bring any nonconformity into compliance with the applicable zoning district standards.

(Ord. 2000 § 2, (2021))

§ 25.54.020. Utilities.

This chapter shall not be construed or applied to require the removal of a Federal or State regulated public utility's structures or structures which house or support operating electrical and mechanical equipment only used to provide service to the public, nor to prohibit structural alteration required to accommodate the equipment, provided that there is no change of use or enlargement of the lot area devoted to the use, and provided further that any existing variation from height limits and established setbacks in the applicable zone not be increased.

(Ord. 2000 § 2, (2021))

§ 25.54.030. Damage to or Destruction of Legal Nonconforming Structures.

- A. Any nonconforming structure which is damaged or destroyed by any means to the extent of 50 percent or more of its current market value, as determined by a licensed appraiser, may be rebuilt or used thereafter only in compliance with the regulations of the zoning district in which it is located. Exceptions shall apply to multi-unit housing, as set forth in Section 25.54.040 (Residential Structures – Exceptions).
- B. Any nonconforming structure other than a multi-unit residential structure which is damaged or destroyed by any means to the extent of less than 50 percent its current market value, as determined by a licensed appraiser, may be rebuilt to its original condition and the same occupancy and use resumed.
- C. Any nonconforming structure in the Broadway Mixed-Use zoning district which is partially or totally destroyed by catastrophe or natural disaster may be rebuilt to its pre-existing size and dimensions if the same amount of parking is provided on site as existed before the loss.

D. Unless a building permit is obtained within a period of one year of determination of market value by a licensed appraiser and rebuilding has been initiated within six months of the issuance of a building permit and pursued to completion, or longer time period as may be granted by the Commission pursuant to Section 25.88.030 (Time to Implement – Time Extensions), the nonconforming status of the structure shall expire.

(Ord. 2000 § 2, (2021))

§ 25.54.040. Residential Structures—Exceptions.

- A. Single-Unit Residential Structures. Notwithstanding the provisions Section 25.54.030 (Damage to or Destruction of Legal Nonconforming Structures), a nonconforming primary single-unit residential structure which is partially or totally destroyed by catastrophe or natural disaster may be rebuilt to its pre-existing size and dimensions, provided that any nonconforming use in such structure may not be continued. In the event of disagreement regarding the size or dimensions of the pre-existing structure, the property owner shall have the burden of proof. If any increase in size or floor area are made to such structure as a part of reconstruction or remodel the structure shall be subject to the provisions of Section 25.54.010.B (Alterations and Additions).
- B. Multi-Unit Residential Structures. Notwithstanding the provisions Section 25.54.030 (Damage to or Destruction of Legal Nonconforming Structures), an involuntarily damaged or destroyed multi-unit residential nonconforming structure located in any zoning district except the Innovation Industrial zoning district may be reconstructed or replaced with a new structure with the same footprint (including preexisting nonconforming setbacks), height, and number of dwelling units in compliance with current Building and Fire Code requirements and pursuant to Government Code Sections 65852.25 and 65863.4.

(Ord. 2000 § 2, (2021))

§ 25.54.050. Off-Site Relocation.

When a structure is relocated to another lot, the structure shall be made conforming in all respects with the provisions of this Title 25 and all other applicable laws and regulations, unless any conditions of approval applied to the relocation specifically identify alternative standards.

(Ord. 2000 § 2, (2021))

CHAPTER 25.56 NONCONFORMING USES

§ 25.56.010. Continuation of Legal Nonconforming Uses.

Any use of structure or land which was a lawfully existing use at the effective date of this Title 25 or amendments thereto which does not conform to the use regulations for the zoning district in which it is located may be continued for such time and in such manner as is set forth in this chapter.

(Ord. 2000 § 2, (2021))

§ 25.56.020. Restriction on Extension of Legal Nonconforming Uses.

- A. No Physical Expansion. No nonconforming use shall be extended within the structure where it exists beyond the confines of the structure which it occupies or the location upon which it is situated, except as specified below.
 - 1. The changes are, in and of themselves, in conformance with the provisions of this Title 25.
 - 2. The changes are limited to minor alterations, improvements, or repairs that do not increase the degree of nonconformity present and do not constitute or tend to produce an expansion or intensification of a nonconforming use.
 - 3. The changes are required by other laws.
- B. Change in Operating Conditions. A nonconforming use shall not be permitted to increase in intensity of operation. An increase in intensity shall include, but not be limited to, extended hours of operation, substantial remodeling, or an increase in the number of seats or service areas for bars and food establishments.

(Ord. 2000 § 2, (2021))

§ 25.56.030. Change of Use.

- A. The Director may authorize a change from a legally established nonconforming use to the same or similar nonconforming use upon making the finding that the use is similar in character to the existing nonconforming use and does not have the potential to result in adverse impacts on surrounding uses.
- B. Whenever any part of a building, structure, or land occupied by a nonconforming use is changed to or replaced by a use conforming to the use regulations of the zoning district, such premises shall not thereafter be used or occupied by any nonconforming use, even though the building may have been originally designed or constructed for the prior nonconforming use.

(Ord. 2000 § 2, (2021))

§ 25.56.040. Discontinuance of Legal Nonconforming Uses.

- A. Automatic Change Due to Abandonment of Use. If any legal nonconforming use is discontinued for a period of 180 consecutive days or more, subsequent use of the property shall be in conformance with the provisions of this Title 25. Maintenance of a valid business license shall of itself not be considered a continuation of the use. Remodeling or active marketing shall not constitute abandonment of a nonconforming use so long as such activity complies with the applicable City construction codes and is completed within 12 months of receiving a building permit.
- B. Change of Use Because of Dilapidation. When any building or land which has been used other than

in conformity with the zoning district in which it is located and which the Council, after due notice and hearing, has found that the use has become dangerous or injurious to the public health, safety, or welfare by reason of dilapidation, neglect, decay, or otherwise, such use shall cease, and any subsequent use shall comply with the use regulations of the applicable zoning district.

- C. Removal of Structure. If any structure which is occupied by a nonconforming use is removed, the subsequent use of the subject property shall be in conformance with this Title 25.
(Ord. 2000 § 2, (2021))

§ 25.56.050. Destruction of a Structure Containing a Legal Nonconforming Use.

Any conforming structure containing a legal nonconforming use which is damaged or destroyed by any means to the extent of 50 percent or more of its current market value, as determined by a licensed appraiser, may be rebuilt or used thereafter only in compliance with the regulations of the zoning district in which it is located.

(Ord. 2000 § 2, (2021))

CHAPTER 25.58 OTHER NONCONFORMING PROVISIONS

§ 25.58.010. Nonconforming Parking.

- A. Generally. Any nonconformity with respect to parking spaces or improvements may continue indefinitely, except that with any change of use, or an expansion or intensification of use, the additional parking required for the change, expansion, or intensification shall be in full compliance with the parking provisions specified in Chapter 25.40 (Parking Regulations).
- B. Broadway Mixed Use – Exception. In the Broadway Mixed-Use zoning district, additional parking shall not be required if a structure is totally destroyed by catastrophe or natural disaster so long as the uses in the new structure are the same size as existed before the loss.

(Ord. 2000 § 2, (2021))

§ 25.58.020. Nonconformities Regarding Fences.

- A. Legally established fencing shall be allowed to continue. Where nonconforming fencing is to be replaced with new fencing, it will be subject to the requirements specified in Section 25.31.070 (Fences, Walls, and Hedges).
- B. Any fences and landscaped buffers that are required along property lines shall be provided at the time of any expansion or intensification of a nonresidential use, unless this requirement is modified or waived through the approval of a minor modification, granted in compliance with Chapter 25.74 (Minor Modifications).

(Ord. 2000 § 2, (2021))

§ 25.58.030. Nonconforming Landscaping.

Where a nonresidential property has nonconforming landscaping with regard to required landscaping coverage, type of landscaping, or other landscaping requirement, such nonconformity may continue and shall not be required to be brought into compliance with applicable standards. However, the property owner or agent, at the time of submittal of any discretionary land use application for the property, shall be required to submit a landscape plan to show how existing landscaped areas will be improved to comply with the provisions of Chapter 18.17 (Water Conservation in Landscape) of the Municipal Code and the California Code of Regulations Sections 490-495, Chapter 2.7, Division 2 Title 23 Model Water-Efficient Landscape Ordinance.

(Ord. 2000 § 2, (2021))

Article 6 **Permit Processing Procedures**

CHAPTER 25.60 **GENERAL PROVISIONS**

§ 25.60.010. Purpose and Applicability.

This article establishes the overall structure for the application, review, and action on City-required permit applications and identifies and describes those discretionary permits and other approvals required by this Zoning Code in Table 6-1: (Review Authority). The provisions of this article shall apply to all properties in the City.

(Ord. 2000 § 2, (2021))

§ 25.60.020. Ministerial and Administrative Permits and Actions.

A. Administrative Permits and Actions. Except when combined with legislative actions or other non-administrative actions defined in this article, the Director, also defined in this Zoning Code as the designee of the Director, is the designated Review Authority for the following quasi-judicial permits and actions. The Director, at the Director's sole discretion, may elevate the level of review to a higher Review Authority.

1. Accessory Dwelling Unit Permit. A ministerial permit established for the purpose of providing the Director the authority to review and ensure compliance of accessory dwelling unit applications with all provisions of Section 25.48.030 (Accessory Dwelling Units).
2. Administrative Use Permit. An administrative permit providing for the review of certain wireless communications facilities, as identified in Section 25.48.300 (Wireless Communications Facilities).
3. Design Review – Minor. An administrative review process providing for review of projects specified in Section 25.68.020.D (Design Review – Minor) for compliance with the provisions of this Zoning Code and with any site plan or architectural design guidelines adopted by the City and as provided in Chapter 25.68 (Design Review).
4. Hillside Area Construction Permits. An administrative permit providing for the review of certain development projects in the designated hillside area, as identified in Chapter 25.70 (Hillside Area Construction Permits).
5. Home Occupation Permits. An administrative permit authorizing the operation of a specified home-based occupation in a particular location in compliance with the provisions specified in Chapter 25.72 (Home Occupation Permits).
6. Minor Modifications. An administrative action, granted in compliance with Chapter 25.74 (Minor Modifications), to allow specified exceptions to specified development standards of this Zoning Code for the purpose of creating flexibility in implementing those standards to accommodate unique design approaches and to recognize unique physical conditions present on individual parcels.
7. Minor Use Permits. An administrative permit authorizing the operation of a specific use of land or a structure in a particular location in compliance with the provisions of this Zoning Code and in compliance with procedures specified in Chapter 25.66 (Conditional Use Permits and Minor

Use Permits).

8. Reasonable Accommodations. An administrative permit authorizing limited modifications to properties to accommodate a person with specified disabilities and physical limitations in compliance with specific criteria and performance standards and in compliance with procedures specified in Chapter 25.76 (Reasonable Accommodations).
 9. Sign Permits. An administrative permit authorizing a variety of signs, including individual signs for promotional advertising, in compliance with specific provisions and conditions of this Zoning Code and Chapter 25.42 (Signs). Temporary signs may also be approved in conjunction with a temporary use permit issued in compliance with Chapter 25.82 (Temporary Use Permits).
 10. Temporary Use Permits. An administrative permit authorizing specific limited-term uses in compliance with specified conditions and performance criteria specified in Chapter 25.82 (Temporary Use Permits).
 11. Zoning Ordinance Interpretations. An administrative interpretation of certain provisions of this Zoning Code to resolve ambiguity in the regulations and to ensure their consistent application in compliance with Chapter 25.02 (Interpretation of the Zoning Code).
- B. Quasi-Judicial Permits and Actions. Except when combined with legislative actions, the Commission is the designated Review Authority for the following quasi-judicial permits and actions. Additionally, the Director may refer review of administrative permits and actions to the Commission. A public hearing is required for the following quasi-judicial actions in compliance with Chapter 25.100 (Public Hearings and Notice).
1. Comprehensive Sign Programs. A process through which permissible on-site signage is reviewed by the Director to provide for a coordinated, complementary program of signage within a single development project consisting of multiple tenant spaces. See Chapter 25.42 (Signs).
 2. Conditional Use Permits. A permit authorizing the operation of a specific use of land or a structure in a particular location in compliance with the provisions of this Zoning Code and the procedures specified in Chapter 25.66 (Conditional Use Permits and Minor Use Permits).
 3. Density Bonus for Affordable Housing. An action authorizing a residential density bonus in compliance with Chapter 25.33 (Affordable Housing and Density Bonus).
 4. Design Review – Major. A discretionary review process providing for review of projects specified in Section 25.68.020.C (Design Review – Major) for compliance with the provisions of this Zoning Code and with any site plan or architectural design guidelines adopted by the City and as provided in Chapter 25.68 (Design Review).
 5. Special Permits. A discretionary review process to allow for minor deviations from applicable development standards and design criteria in all zoning districts in response to the prevailing character of a neighborhood or district, as determined by the Director, provided the findings contained in Chapter 25.78 (Special Permit) can be made.
 6. Variances. An action granting exception to the development standards of this Zoning Code in cases where strict compliance would result in a unique hardship, in compliance with Chapter 25.84 (Variances).
- C. Legislative Actions. The designated Review Authority for all legislative actions is the Council, with

recommendations from the Commission. A public hearing is required for the following legislative actions in compliance with Chapter 25.100 (Public Hearings and Notice).

1. General Plan Text/Map Amendments. An action authorizing either a text amendment to the General Plan or a map amendment changing the General Plan land use designation of a particular property in compliance with Chapter 25.96 (Amendments to the Zoning Code, Zoning Map, and General Plan).
2. Specific Plans and Amendments. A regulatory document prepared in compliance with Government Code Section 65450 et seq., for the systematic implementation of the General Plan for a particular area, as specified in Chapter 25.80 (Specific Plans).
3. Zoning Code Text/Zoning Map Amendments. An action authorizing either a text amendment to this Zoning Code or a map amendment changing the zoning designation of particular property in compliance with Chapter 25.96 (Amendments to the Zoning Code, Zoning Map, and General Plan).

Table 6-1: Review Authority

Type of Action	Applicable Code Section	Role of Review Authority ⁽¹⁾		
		Director	Commission	Council
Legislative Actions				
General Plan Amendments	25.96	Review	Recommend	Decision
Specific Plans and Specific Plan Amendments	25.80	Review	Recommend	Decision
Zoning Map Amendments	25.96	Review	Recommend ⁽²⁾	Decision
Zoning Code Amendments	25.96	Review	Recommend ⁽²⁾	Decision
Planning Permits and Approvals; Administrative and Ministerial Actions				
Accessory Dwelling Unit Permit		Issue	Appeal of Denial only	—
Administrative Use Permit	25.48.300	Decision	Appeal	Appeal
Conditional Use Permits	25.66	Review	Decision	Appeal
Condominium Permits	26.32.020	Review	Decision	Appeal
Design Review – Major	25.68	Review	Decision	Appeal
Design Review – Minor	25.68	Decision	Call for Review	Appeal
Fence Exceptions	25.74	Review	Decision	Appeal
Hillside Area Construction Permits	25.70	Decision	Call for Review	Appeal
Home Occupation Permits	25.72	Decision	Appeal	Appeal
Interpretations of Zoning Ordinance	25.04	Decision	Appeal	Appeal
Minor Modifications – 2 or fewer	25.74	Decision	Call for Review	Appeal

Table 6-1: Review Authority

Type of Action	Applicable Code Section	Role of Review Authority ⁽¹⁾		
		Director	Commission	Council
Minor Modifications – 3 or more and/or requested with another discretionary permit	25.74	Review	Decision	Appeal
Minor Use Permit	25.66	Decision	Call for Review	Appeal
Reasonable Accommodations	25.76	Decision	Appeal	Appeal
Sign Permits	25.42.050	Decision	—	—
Sign Program – Master	25.42.060	Decision	Decision	Appeal
Special Permits	25.78	Review	Decision	Appeal
Temporary Use Permits	25.82	Decision	Appeal	Appeal
Variances	25.84	Review	Decision	Appeal

Notes:

(1) "Issue" means that the Director is the final Review Authority and appeals are limited to appeals of a permit denial.

"Review" means that the Director provides information regarding consistency with Zoning Ordinance requirement and the General Plan, but no recommendation is provided.

"Recommend" means that the Review Authority makes a recommendation to a higher decision-making body. "Decision" means that the Review Authority makes the final decision on the matter.

"Appeal" means that the Review Authority may consider and decide upon appeals to the decision of a prior decision-making body, in compliance with Chapter 25.98 (Appeals).

"Call for Review" means that an interested party, upon receiving notice of planned Director action, requests that the item be scheduled for Planning Commission consideration.

(2) See Section 25.96.040.B (Denial by Commission) regarding Planning Commission denial.

(Ord. 2000 § 2, (2021))

§ 25.60.030. Additional Permits May Be Required.

A land use on property that complies with the permit requirement or exemption provisions of this Zoning Code shall also comply with the permit requirements of other Municipal Code provisions and any permit requirements of other agencies before construction or use of the property is commenced. All necessary permits shall be obtained before starting work or establishing a new use. Nothing in this Zoning Code shall eliminate the need to obtain any permits required by any other Municipal Code provisions or any applicable county, regional, State, or Federal regulations.

(Ord. 2000 § 2, (2021))

§ 25.60.040. Unlawful to Use Property Until Authorization Granted.

It is unlawful for any person to use any land or building for any purpose requiring the granting of any

required permit or authorization unless such permit or authorization has been issued.
(Ord. 2000 § 2, (2021))

**CHAPTER 25.62
APPLICATION PROCESSING PROCEDURES**

§ 25.62.010. Purpose.

- A. Procedures. This chapter provides procedures and requirements for the preparation, filing, initial processing, and review of applications for the land use entitlements required by this Zoning Code.
- B. Failure to Follow Requirements. Failure to follow the procedural requirements shall not invalidate City actions taken in the absence of a clear showing of intent not to comply with this Zoning Code.
(Ord. 2000 § 2, (2021))

§ 25.62.020. Multiple Permit Applications.

- A. Concurrent Filing. An applicant for a development project that requires the filing of more than one application pursuant to this Zoning Code shall file all related applications concurrently, together with all application fees required by Section 25.62.040 (Application Fees), unless these requirements are waived by the Director.
- B. Concurrent Processing. Multiple applications for the same project shall be processed concurrently and shall be reviewed—and approved or denied—by the highest Review Authority designated by this Zoning Code for any of the applications. For example, a project for which applications for zoning map amendment and a conditional use permit are filed shall have both applications decided by the Council, instead of the Commission being the final decision-making authority for the conditional use permit as otherwise required by Table 6-1 (Review Authority). In the example cited, the Commission would still hear all the applications (the zoning map amendment and the conditional use permit) and forward recommendations to the Council.

(Ord. 2000 § 2, (2021))

§ 25.62.030. Application Preparation and Filing.

- A. Application Contents. Applications for amendments, entitlements, and other matters pertaining to this Zoning Code shall be filed with the Community Development Department in the following manner:
 1. The application shall be made on forms furnished by the Department.
 2. The necessary fees shall be paid in compliance with the City's fee resolution.
 3. The application shall be accompanied by the information identified in the Department handout for the particular application. The requested information may include exhibits, maps, materials, plans, reports, and other information required by the Department that describe clearly and accurately the proposed work, its potential environmental impact, and its effect on the terrain, existing improvements, and the surrounding neighborhood.
- B. Status of Application. Acceptance of the application does not constitute an indication of approval by the City nor of the application being deemed complete. If an applicant fails to provide all of the information required in the application or any additional information required in support of the application, the application will not be deemed complete.
- C. Eligible Applicants. Applications shall be made by the owners of a property or their agents with the written consent of the owner.
- D. Pre-Application Conference.

1. A prospective applicant is encouraged to request a pre-application conference with the Director or designee before completing and filing a permit application required by this Zoning Code.
2. The purpose of a pre-application conference is generally to:
 - a. Inform the applicant of City requirements as they apply to the proposed project;
 - b. Discuss the City's review process, possible project alternatives, or modifications; and
 - c. Identify information and materials the City will require with the application, including any necessary technical studies and information anticipated for the environmental review of the project.
3. Neither the pre-application review nor the provision of information and/or pertinent policies shall be construed as either a recommendation for approval or denial of the application or project by the City's representative.
4. Failure of the City's representative to identify all required studies or all applicable requirements at the time of pre-application review shall not constitute a waiver of those studies or requirement.
5. An applicant is encouraged to perform an early-stage outreach with residents and property owners near proposed projects to address and, if possible, resolve any concerns that interested persons may have regarding potential impacts of proposed project on surrounding neighborhoods and properties.
6. A pre-application conference does not establish the date for determining a preliminary application to be complete for the purposes of implementing the provisions of Government Code Section 65589.5(o).

(Ord. 2000 § 2, (2021))

§ 25.62.040. Application Fees and Cost Recovery.

A. Filing Fees Required.

1. The Council shall, by resolution, establish a schedule of fees for amendments, entitlements, and other matters pertaining to this Zoning Code to ensure that the City is reimbursed for its costs of providing services to applicants for development projects and to the extent advisable, provide uniformity with respect to such provisions. The schedule of fees may be changed or modified only by resolution of the Council.
2. The City's processing fees shall be cumulative. For example, if an application for design review also involves a variance, both fees shall be charged.
3. Processing shall not commence on an application until required fees have been paid. Without the application fee, the application shall not be deemed complete.
4. Fees shall include fees and deposits collected by the City to administer provisions of this Zoning Code. The City shall determine through Council adoption of a fee schedule the instances in which a fee covering all costs or a deposit from which City costs are deducted shall be collected.
5. Each applicant for or operator of a development project, as well as the owner of the subject property, if different, shall be liable for payment of all fees associated with the development project.

6. Costs shall include, but not be limited to, field investigations, preparation of necessary reports; preparation of site maps; preparation of environmental reviews; producing, posting and mailing notices or legal publications; legal review; review of applications; defense of administrative and/or judicial challenges to the project approval(s).

B. Refunds and Withdrawals.

1. Recognizing that filing fees are utilized to cover City costs of public hearings, mailing, posting, transcripts, and staff time involved in processing applications, refunds due to a disapproval are not allowed.
2. In the case of a withdrawal, the Director may authorize a partial refund based upon the pro-rated costs to date and determination of the status of the application at the time of withdrawal. The Council may establish a refund schedule in the City's fee resolution.

(Ord. 2019 § 3, (2023); Ord. 2000 § 2, (2021))

§ 25.62.050. Eligible Applicants.

- A. An application may only be filed by the owner of the subject property or a lessee or authorized agent of the property owner with the written consent of the property owner. With the Director's approval, a lessee with the exclusive right to use the property for a specified use may file an application related to that use.
- B. The application shall be signed by the owner of record or may be signed by the lessee or by authorized agent of the property owner if written authorization from the owner of record is filed concurrently with the application.

(Ord. 2000 § 2, (2021))

§ 25.62.060. Initial Application Review.

A. Review for Completeness.

1. Criteria for Review. The Director shall review each application for completeness and accuracy before it is accepted as being complete and officially filed. The Director's determination of completeness shall be based on the City's list of required application contents and related additional written instructions provided to the applicant in any pre-application conference and/or during the initial application review period. The provisions of Governmental Code Section 65589.5(o) shall apply until such time such section is no longer law.
2. Notification of Applicant. As required by Government Code Section 65943, within 30 calendar days of application filing, the applicant shall be informed, in writing, either that the application is complete and has been accepted for processing, or that the application is incomplete and that additional information, specified in the Director's letter, shall be provided. This requirement shall not apply to any legislative actions.
3. Submittal of Additional Information.
 - a. When the Director determines that an application is incomplete, the time used by the applicant to submit the required additional information shall not be considered part of the time within which the determination of completeness shall occur.
 - b. The additional specified information shall be submitted in writing or electronically, as required by the Director.

- c. The Director's review of any information resubmitted by the applicant shall be accomplished in compliance with subsection A.1, above, along with another 30-day period of review for completeness for each resubmittal necessary.
 - 4. Environmental Information. Upon review of an initial application or after an application has been accepted as complete, the Director may require the applicant to submit additional information needed for the environmental review of the project in compliance with the California Environmental Quality Act (CEQA) and the CEQA Guidelines.
 - 5. Expiration of Application. If an applicant fails to provide the additional information specified in the Director's letter within 180 days following the date of the letter, the application shall expire and be deemed withdrawn without any further action by the City, unless an extension is approved by the Director for good cause shown. After the expiration of an application, future City consideration shall require the submittal of a new, complete application and associated filing fees.
- B. Referral of Application. At the discretion of the Director, or where otherwise required by this Zoning Code or State or Federal law, an application may be referred to any public agency that may be affected by or have an interest in the proposed project.
- C. Multi-Unit Residential and Mixed-Use Developments. Where a multi-unit residential development or mixed-use development in which at least two-thirds of the square footage consists of residential use, and where such developments qualify for streamlined processing pursuant to Government Code Section 65400 et seq., the provisions of Government Code Sections 65400 et seq. shall apply.
- D. Wireless Communications Facilities. The provisions of subsections A and B above shall not apply to wireless communications facilities. The review for completeness and the processing of such applications shall comply with applicable Federal Communication Commission regulations.

(Ord. 2000 § 2, (2021))

§ 25.62.070. Environmental Review.

- A. CEQA Review. After acceptance of a complete application, the project shall be reviewed in compliance with CEQA to determine whether:
- 1. The proposed project is exempt from the requirements of CEQA;
 - 2. The proposed project is not a "project" as defined by CEQA;
 - 3. A Negative Declaration may be issued;
 - 4. A Mitigated Negative Declaration may be issued; or
 - 5. An Environmental Impact Report (EIR) and related documents shall be required.
- B. Compliance with CEQA. These determinations and, where required, the preparation of appropriate environmental documents, shall comply with CEQA and the CEQA Guidelines.
- C. Special Studies Required. One or more special studies, paid for in advance by the applicant, may be required to complete the City's CEQA compliance review. These studies shall become public documents, and neither the applicant nor any consultant who prepared the studies shall assert any rights to prevent or limit the documents' availability to the public.

(Ord. 2000 § 2, (2021))

§ 25.62.080. Project Evaluation and Staff Reports.

- A. Application Evaluation. The Director or designee shall review all completed applications to determine whether they comply and are consistent with the provisions of this Zoning Code, other applicable provisions of the Municipal Code, the General Plan, applicable Specific Plan, and CEQA.
- B. Staff Report Preparation. For those application approvals requiring a public hearing, a staff report shall be prepared describing the conclusions about the proposed land use and development as to its compliance and consistency with the provisions of the Zoning Code, other applicable provisions of the Municipal Code, and the actions, goals, objectives, and policies of the General Plan.

(Ord. 2000 § 2, (2021))

**CHAPTER 25.64
(RESERVED)**

**CHAPTER 25.66
CONDITIONAL USE PERMITS AND MINOR USE PERMITS**

§ 25.66.010. Purpose and Applicability.

- A. The City recognizes that certain uses, due to the nature of use, intensity, or size, require special review to determine if the use proposed, or the location of that use, is compatible with surrounding uses, or through the imposition of development and use conditions, can be made compatible with surrounding uses. To ensure compatibility with zoning regulations and surrounding properties, conditional uses require special consideration. The conditional use permit and minor use permit are provided for this purpose.
- B. Approval of a conditional use permit or minor use permit is required to authorize proposed land uses specified by Article 2 (Zoning Districts, Allowable Uses, and Development Standards) as being allowable in the applicable zone when subject to the approval of a conditional use permit or minor use permit.

(Ord. 2000 § 2, (2021))

§ 25.66.020. Application Requirements.

An application for a conditional use permit or minor use permit shall be filed and processed in compliance with Section 25.68.050 (Application Filing). The application shall include the information and materials specified in the most up-to-date Department handout for conditional use permit and minor use permit applications, together with the required fee. It is the responsibility of the applicant to provide evidence in support of the findings required by Section 25.66.060 (Required Findings for conditional use permits and minor use permits), below.

(Ord. 2000 § 2, (2021))

§ 25.66.030. Action by Director for Minor Use Permits.

- A. The Director shall review and process an application in accordance with the standards set forth in this Article 6.
- B. Once the application and all supporting information and documentation have been received and the application deemed complete, notice of the application shall be given according to the provision of Section 25.88.050.B (Notice). Notice shall be given to all property owners within 300 feet of the subject property. The notice shall also state that, unless a written request for a public hearing is received by the Community Development Department within 10 days after the date of the notice, the Director shall take action on the application and may either grant or deny the minor use permit and may impose conditions as applicable. The Director shall issue a written determination that shall state the findings for the decision.
- C. If a written request for a public hearing is received, the Director shall schedule the application for a public hearing before the Planning Commission at the next available Commission hearing in accordance with Chapter 25.100 (Public Hearings and Notice). The person filing the written request may be charged a fee to cover hearing costs.

(Ord. 2000 § 2, (2021))

§ 25.66.040. Review Procedures for Conditional Use Permits.

- A. Investigation by Director. Following receipt of a completed application, the Director shall make an

investigation of the facts bearing on the case to provide the information necessary for action consistent with the purpose of this chapter. A staff report shall be prepared pursuant to Section 25.62.080 (Project Evaluation and Staff Reports).

B. Notice and Hearings.

1. A public hearing before the Planning Commission shall be required for all conditional use permits.
2. A public hearing shall be scheduled once the Director has determined the application complete.
3. Noticing of the public hearing shall be given in compliance with Chapter 25.100 (Public Hearings and Notice).

(Ord. 2000 § 2, (2021))

§ 25.66.050. Conditions of Approval.

In approving a conditional use permit or minor use permit, the Review Authority may impose any conditions deemed reasonable and necessary to ensure that the approval will comply with this chapter, State law, and with the findings required by Section 25.66.060 (Required Findings for conditional use permits and minor use permits). Such requirements and conditions may address, but not be limited to, location, construction, maintenance, operation, site planning, traffic control, and time limits for the permit. The Review Authority may require tangible guarantees or evidence that such conditions are being, or will be, complied with.

(Ord. 2000 § 2, (2021))

§ 25.66.060. Required Findings for Conditional Use Permits and Minor Use Permits.

Before a conditional use permit and minor use permit may be granted, the Review Authority shall make the following findings:

- A. The proposed use is consistent with the General Plan and any applicable specific plan.
- B. The proposed use is allowed within the applicable zoning district and complies with all other applicable provisions of this Zoning Code and the Municipal Code.
- C. The design, location, size, and operating characteristics of the proposed activity will be compatible with the existing and future land uses in the vicinity.
- D. The site is physically suitable in terms of:
 1. Its design, location, shape, size, and operating characteristics of the proposed use to accommodate the use, and all fences, landscaping, loading, parking, spaces, walls, yards, and other features required to adjust the use with the land and uses in the neighborhood;
 2. Streets and highways adequate in width and pavement type to accommodate public and emergency vehicle (e.g., fire and medical) access;
 3. Public protection services (e.g., fire protection, police protection, etc.); and
 4. The provision of utilities (e.g., potable water, schools, solid waste collection and disposal, storm drainage, wastewater collection, treatment, and disposal, etc.).
- E. The measure of site suitability shall be required to ensure that the type, density, and intensity of use

being proposed will not adversely affect the public convenience, health, interest, safety, or general welfare, constitute a nuisance, or be materially injurious to the improvements, persons, property, or uses in the vicinity and zoning district in which the property is located.

(Ord. 2000 § 2, (2021))

§ 25.66.070. Permit to Run with the Land.

- A. A conditional use permit or minor use permit approved in compliance with the provisions of this chapter shall continue to be valid upon a change of ownership of the business, parcel, service, structure, or use that was the subject of the permit application in the same area, configuration, and manner as it was originally approved in compliance with this chapter.
- B. In addition to securing a business license, any new applicant seeking to operate a previously approved use in substantial compliance with an existing conditional use permit or minor use permit shall submit a project description (e.g., narrative and/or a site and floor plan) to the Director ensuring that the new operation would be in compliance with the previous use and that the new applicant agrees to operate in full compliance with the previously issued conditions of approval. A fee may be imposed for the review of the project description and conditions of approval in compliance with the City's fee resolution.

(Ord. 2000 § 2, (2021))

CHAPTER 25.68 DESIGN REVIEW

§ 25.68.010. Purpose.

The purpose of this chapter is to provide processes for the appropriate review of development projects to ensure that all approved site and structural development:

- A. Is compatible with the physical and environmental characteristics of the site and surrounding properties, with the intent to minimize conflicts;
- B. Provides for safe and convenient access and circulation for pedestrians and vehicles;
- C. Exemplifies the best professional high-quality design practices;
- D. Allows for and encourages individual identity for specific uses and structures;
- E. Encourages the maintenance of a distinct neighborhood and/or community identity;
- F. Minimizes or eliminates negative or undesirable visual impacts;
- G. Provides for the adequate dedication of land for public purposes and the provision of public infrastructure associated with the subject development; and
- H. Implements General Plan policies, applicable design guidelines, and any other applicable City planning-related documents.

(Ord. 2000 § 2, (2021))

§ 25.68.020. Applicability and Types of Design Review.

- A. Design Review Required. No one shall construct any structure, or relocate, rebuild, or significantly enlarge or modify any existing structure or site until design review has been completed and approved in compliance with this chapter and a building permit has been issued.
- B. Two Levels of Design Review. Two levels of design review are hereby established, and the thresholds set forth below shall apply to design review.
- C. Design Review – Major. Major design review is a discretionary Planning Commission review process that includes public notice with a public hearing conducted as is required for all Commission actions. The following shall be subject to major design review.
 - 1. Single-Unit and Two-Unit Dwellings. Single-unit and two-unit dwellings in any zone consisting of any of the following:
 - a. Construction of a new single-unit or two-unit dwelling.
 - b. Addition to or construction of a second story or higher.
 - c. Substantial construction as defined in this title.
 - d. A single-unit or two-unit dwelling addition having a plate height greater than nine feet above existing finished floor.
 - e. An increase to the existing plate line exceeding nine feet above existing finished floor. This subsection shall not apply to construction which includes lowering the existing

finished floor height.

- f. Construction of a new garage attached to a single-unit dwelling. Alteration or reconstruction of an existing attached garage to be continued use as a garage shall not be subject to design review.
 - g. Any roof-top mounted mechanical equipment, except solar panels or other energy efficient installations which are pre-empted from such review by State or Federal law.
2. Multi-Unit Dwellings. Multi-unit dwellings in any zone consisting of any of the following:
 - a. Construction of a new multi-unit dwelling.
 - b. Addition to or construction of a second story or higher.
 - c. Substantial construction as defined in this title.
 - d. Changes to more than 50 percent of the front façade, including doors and windows.
 3. Commercial, Industrial, Mixed Use, Educational, and Institutional. Any commercial, industrial, mixed use, educational, or institutional development in any zone consisting of any of the following:
 - a. Construction of a new building.
 - b. Addition to or construction of a second story or higher.
 - c. Substantial construction as defined in this title.
 - d. Change to more than 50 percent of the front façade, including doors and windows.
 - e. Change to more than 50 percent of any façade facing a public or private street or parking lot, including doors and windows.
 4. BAC Zoning District and Parcels with Frontage along California Drive and Highland Avenue between Burlingame Avenue and Howard Avenue. In addition to the requirements of subsections C.1, 2, and 3 of this section, major design review shall be required in the Burlingame Avenue Commercial (BAC) zoning district and parcels with frontage along California Drive and Highland Avenue between Burlingame Avenue and Howard Avenue for any development that involves any change to the front façade or any façade facing a public or private street or parking lot, including doors and windows, unless it qualifies for minor design review under subsection D.
- D. Design Review – Minor. Minor design review is a Director-level review process that includes public notice as set forth in Section 25.68.070 (Minor Design Review Process). Minor design review shall apply to the BAC zoning district and parcels with frontage along California Drive and Highland Avenue between Burlingame Avenue and Howard Avenue. In these applicable areas, any façade improvement that meets any of the following criteria shall be subject to minor design review:
1. Changes in material on the front façade that are determined by the Director to be equal to or higher quality than the existing material to be replaced.
 2. Any other minor changes that are determined by the Director to comply with the Design Guidelines of the Burlingame Downtown Specific Plan.

(Ord. 2000 § 2, (2021))

§ 25.68.030. Exceptions.

The following shall be exceptions to the requirement for design review.

A. Single-Unit and Two-Unit Dwellings. Additions of second stories or higher to single-unit and two-unit dwellings shall be exempt from design review if they meet all of the following criteria and are not subject to design review under Section 25.68.020.C.1.c, d and e (Design Review – Major):

1. Project consisting of an addition or uncovered deck that totals 100 square feet or less;
2. The roof pitch of the addition is compatible with or matches the existing roof pitch; and
3. The height of the roof ridge of the addition complies with building height requirements and is not higher than the highest roof ridge of the existing dwelling.

B. Commercial, Industrial, and Mixed-Use Zoning Districts.

1. Any façade with 25 feet or less of a parking lot or public or private street frontage.
2. New or replacement awnings when the façade or building is not subject to design review.

(Ord. 2000 § 2, (2021))

§ 25.68.040. Design Review Consultant Lists.

- A. With the approval of the Planning Commission, the Director shall establish a list of design professionals available to advise the Director and Commission on applications in residential districts made under this chapter. The persons included on the list shall be persons in the business of residential design who have practiced their design profession involving residential designs in the City and who are willing to contract with the City to provide advisory services under this chapter.
- B. For applications involving commercial, industrial, mixed use, educational, and institutional development applications, with the approval of the Commission, the Director shall establish a list of design professionals who shall be persons in the business of commercial design and who are willing to contract with the City to provide advisory services under this chapter.

(Ord. 2000 § 2, (2021))

§ 25.68.050. Application Filing.

An application for design review shall be filed and processed in compliance with Section 25.68.050 (Application Filing). The application shall include the information and materials specified in the most up-to-date Division handout for design review applications, together with the required fee. It is the responsibility of the applicant to provide evidence in support of the findings required by Section 25.70.030 (Findings), below. The schematic design plans submitted with the application shall demonstrate the architectural details of the proposal, and in the case of an addition, of the existing structure and the addition. (Ord. 2000 § 2, (2021))

§ 25.68.060. Major Design Review Application Review and Processing.

- A. Study Session. Upon completion of an application, the application and design plans shall be referred to the Planning Commission for study. The study meeting shall be noticed in accordance with the provisions for Planning Commission notice in this title. If, at the study meeting, the Commission determines that only minor changes are needed, or that the requested changes can be adequately addressed by the project design professional, the Commission may order that the application be

exempt from subsection B below. If the Commission makes such an order, the application will proceed directly to hearing under subsection C, D, or E below, as applicable. Criteria for review by the Commission shall be established by the Director, based on design guidelines contained in the adopted specific plan for the area or other applicable design guidelines.

- B. Design Review Appointee. The Commission may refer the application for further design review by a design review consultant on the established list. The plans submitted shall be referred by the Director on a random basis to an appointed professional described above in Section 25.68.040 (Design Review Consultant List) for review and comment. The appointee shall conduct an analysis using as the criteria the design guidelines contained in the adopted specific plan for the area or other applicable design guidelines. In the course of review, the appointee may request additional information from the applicant. Upon completion, the appointee shall prepare a report identifying how the plans do or do not conform with applicable design guidelines. The report shall be forwarded to the Commission for action and consideration pursuant to subsections C, D, and E below. No mailed notice of the appointee's review shall be required.
- C. Single-Unit and Two-Unit Dwellings. A major design review application for any single-unit or two-unit dwelling in any zoning district shall be reviewed by the Commission for the following considerations:
 - 1. Consistency with any applicable design guidelines;
 - 2. Compatibility of the architectural style with that of the existing character of the neighborhood;
 - 3. Respect for the parking and garage patterns in the neighborhood;
 - 4. Architectural style and consistency and mass and bulk of structures, including accessory structures;
 - 5. Interface of the proposed structure with the structures on adjacent properties;
 - 6. Landscaping and its proportion to mass and bulk of structural components;
 - 7. In the case of an addition, compatibility with the architectural style and character of the existing structure as remodeled; and
 - 8. For two-unit dwellings, compliance with the objective design standards adopted by ordinance or resolution.
- D. Multi-Unit Dwellings. A major design review application for multi-unit dwellings in any zoning district shall be reviewed by the Commission for the following considerations:
 - 1. Consistency with any applicable design standards and guidelines;
 - 2. Respect for the mass and fine scale of adjacent buildings even when using differing architectural styles;
 - 3. Maintaining the City's tradition of architectural diversity;
 - 4. Privacy of residents both on the property and on adjacent properties with regard to window placement and location of outdoor private and common open space areas;
 - 5. Incorporating materials that are of high quality and weather well;
 - 6. Accommodating convenient and safe pedestrian access to primary entrances from the streets

- immediately serving the development;
7. Landscaping and its proportion to mass and bulk of structural components; and
 8. Compliance with the objective design standards adopted by ordinance or resolution.
- E. Commercial, Industrial, and Mixed-Use Zoning Districts. A major design review application for a property in commercial, industrial, and mixed-use zoning districts shall be reviewed by the Commission for the following considerations:
1. For mixed-use developments having two-thirds or more of the total gross floor area dedicated to residential use, compliance with the objective design standards adopted by ordinance or resolution;
 2. Support of the pattern of diverse architectural styles in the area in which the project is located;
 3. Respect and promotion of pedestrian activity in commercial and mixed-use zoning districts by placement of buildings to maximize commercial use of the street frontage and by locating off-street parking areas so that they do not dominate street frontages;
 4. For commercial and industrial developments on visually prominent and gateway sites, whether the design fits the site and is compatible with the surrounding development;
 5. Compatibility of the architecture with the mass, bulk, scale, and existing materials of surrounding development and appropriate transitions to adjacent lower-intensity development and uses;
 6. Architectural design consistency by using a single architectural style on the site that is consistent among primary elements of the structure and restores or retains existing or significant original architectural features; and
 7. Provision of site features such as fencing, landscaping, and pedestrian circulation that complement on-site development and enhance the aesthetic character of district in which the development is located.
- F. Burden of Proof. The applicant shall bear the burden of demonstrating to the satisfaction of the Commission that the applicant's design and project comply with the design criteria set forth in subsection C, D, or E above, as applicable.
- G. Commission Action. The Commission may deny, deny without prejudice, approve, or approve with conditions any application under this section.
- H. Required Findings. Any decision to approve a major design review application pursuant to this chapter shall be supported by written findings addressing the criteria set forth in this chapter. In making such determination, the following findings shall be made:
1. The project is consistent with the General Plan and is in compliance with all applicable provisions of this title, all applicable design guidelines, all other City ordinances and regulations, and most specifically, the standards established in subparagraphs C, D, and E above, as applicable.
 2. The project will be constructed on a parcel that is adequate in shape, size, topography, and other circumstances to accommodate the proposed development; and

3. The project is designed and arranged to provide adequate consideration to ensure the public health, safety, and general welfare, and to prevent adverse effects on neighboring property.

(Ord. 2000 § 2, (2021))

§ 25.68.070. Minor Design Review Application Review and Processing.

- A. Review. Upon making the determination that a minor design review application is complete, the Director or designee shall review the application for consistency with any applicable design guidelines and prepare written findings indicating how the application does or not comply with applicable design guidelines. Prior to preparing the findings and any conditions of approval, the Director may give the applicant the opportunity to revise plans to achieve compliance.
- B. Public Notice of Action. Upon completion of the findings and determination that the application complies with applicable design guidelines, notice shall be given to all property owners within 300 feet of the subject property. The notice shall also state that, unless a written request for a public hearing is received by the Community Development Department within 10 days after the date of the notice, the Director shall take action on the application and shall grant the minor design review and may impose conditions as applicable. The Director shall issue a written determination that shall state the findings for the decision.
- C. Call for Review of the Director's Action. If a written request for a public hearing is received, the Director shall schedule the application for a public hearing before the Planning Commission at the next available Commission hearing in accordance with Chapter 25.100 (Public Hearings and Notice). The person filing the written request may be charged a fee to cover hearing costs.
- D. Director or Commission Action. The Director—or the Commission on a Call for Review—may deny, deny without prejudice, approve, or approve with conditions any application under this section.
- E. Required Findings. Any decision to approve a minor design review application pursuant to this chapter shall be supported by written findings addressing the criteria set forth in this chapter. In making such determination, the following findings shall be made:
 1. The changes to the façade are minor in nature, and the change in materials are equivalent to or higher quality than the material being replaced;
 2. The blend of mass, scale and dominant characteristics of the façade change are consistent with the existing structure's design and with the existing façades on the block; and
 3. The changes to the façade are found to be compatible with the design and character chapter of the Burlingame Downtown Specific Plan and the Commercial Design Guidebook.

(Ord. 2000 § 2, (2021))

§ 25.68.080. Post-Decision Procedures.

The procedures and requirements in Chapter 25.88 (Permit Implementation, Extensions, Modifications, and Revocations), and those related to appeals and revocation in Article 7 (Zoning Code Administration) shall apply following the decision on a major design review and minor design review application.

(Ord. 2000 § 2, (2021))

**CHAPTER 25.70
HILLSIDE AREA CONSTRUCTION PERMITS**

§ 25.70.010. Purpose and Applicability.

- A. The purpose of this chapter is to provide processes for the review of certain hillside development proposals to ensure compliance with the provisions of Section 25.20.040 (Hillside Overlay Zone) and Chapter 25.68 (Design Review).
- B. The provisions of this chapter shall apply to all areas in the City located within the Hillside Overlay (H) Zone, as shown on the Zoning Map.
- C. The requirements of Chapter 25.68 (Design Review) shall apply to Hillside Area Construction Permits for such projects that trigger design review pursuant to Section 25.68.020 (Applicability and Types of Design Review).

(Ord. 2000 § 2, (2021))

§ 25.70.020. Application Filing.

- A. Design Review and Hillside Area Construction Permit. New construction that triggers design review pursuant to Section 25.68.020 (Applicability and Types of Design Review) shall file an application for both design review and a Hillside Area Construction Permit following the application filing requirements of Section 25.68.050 (Application Filing).
- B. Hillside Area Construction Permit Only. New construction that does not trigger design review shall require the filing of an application for a Hillside Area Construction Permit. Such application shall be filed and processed in compliance with Section 25.68.050 (Application Filing). The application shall include the information and materials specified in the most up-to-date Department handout for Hillside Area Construction Permit applications, together with the required fee. It is the responsibility of the applicant to provide evidence in support of the findings required by Section 25.70.030 (Required Findings for Hillside Area Construction Permits), below.
- C. Story Poles. Prior to filing an application for a Hillside Area Construction Permit, an applicant is encouraged to install story poles to help visualize the proposed addition or new structure and assess potential view impacts on neighboring properties. In review of the application, the Commission may require that story poles be installed. Story poles shall be installed as specified in the most up-to-date Department handout for Story Pole Installation Requirements.

(Ord. 2000 § 2, (2021))

§ 25.70.030. Application Review and Processing.

- A. Design Review and Hillside Area Construction Permit. New construction that requires design review shall follow the application review and processing procedures pursuant to Section 25.68.060 (Major Design Review Application Review and Processing).
- B. Hillside Area Construction Permit Only.
 1. Once the application and all supporting information and documentation have been received and the application deemed complete, notice of the application shall be given according to the provision of Section 25.100.060 (Decision and Notice). Notice shall be given to all property owners within 100 feet of the subject property. The notice shall also state that, unless a written request for a public hearing is received by the Community Development Department within 10

days after the date of the notice, the Director shall take action on the application and may either grant or deny the Hillside Area Construction Permit and may impose conditions as applicable. The Director shall issue a written determination that shall state the findings for the decision.

2. If a written request for a public hearing is received, the Director shall schedule the application for a public hearing before the Planning Commission at the next available Commission hearing in accordance with Chapter 25.100 (Public Hearings and Notice). The person filing the written request may be charged a fee to cover hearing costs.

(Ord. 2000 § 2, (2021))

§ 25.70.040. Findings.

- A. Design Review and Hillside Area Construction Permit. In addition to the required findings for design review pursuant to Sections 25.68.060.C. (Major Design Review) and 25.68.070 (Minor Design Review Application Review and Processing), the following additional findings shall be made for any permit in the Hillside Overlay Zone:
 1. The project is consistent with the purpose of the Hillside Overlay Zone.
 2. The project complies with the development standards found in Section 25.20.040.B through I.
 3. The placement of the proposed construction does not have a substantial impact on adjacent properties or on the character of the immediate neighborhood.
- B. Hillside Area Construction Permit Only. The following findings shall be made for any permit in the Hillside Overlay Zone:
 1. The project is consistent with the purpose of the Hillside Overlay Zone in Section 25.20.040.A.
 2. The project complies with the development standards found in Sections 25.20.040.B through I.

(Ord. 2000 § 2, (2021))

CHAPTER 25.72 HOME OCCUPATION PERMITS

§ 25.72.010. Purpose and Applicability.

- A. Purpose. It is the purpose of this chapter to:
 - 1. Allow for the conduct of home occupations that are deemed incidental to, and compatible with, surrounding residential uses;
 - 2. Recognize that a residential property owner or resident has a limited right to conduct a small business from a legal residence, and that a neighbor, under normal circumstances, would not be aware of its existence;
 - 3. Maintain the residential character of residential neighborhoods; and
 - 4. Prevent the use of home occupations from transforming a residential neighborhood into a commercial area.
- B. Applicability. No person shall commence or carry on any home occupation within the City without first having procured a permit from the Director. The Director shall issue a permit when the applicant shows that the home occupation meets all requirements of this chapter. Every home occupation shall fully comply with all City, County, and State codes, ordinances, rules, and regulations.
- C. Permit Not Transferable. No home occupation permit shall be transferred or assigned, nor shall the permit authorize any person, other than the person named therein, to commence or carry on the home occupation for which the permit was issued.

(Ord. 2000 § 2, (2021))

§ 25.72.020. Business License Required.

Every home occupation permittee shall obtain and maintain a valid business license.

(Ord. 2000 § 2, (2021))

§ 25.72.030. Excluded Operations.

The following occupations and those considered to be of similar character by the Director shall be specifically prohibited as home occupations:

- A. Contractor's office where employees report or assemble as a part of the job for other than administrative or bookkeeping purposes; office only is permitted.
- B. Barbershop or beauty salon.
- C. Carpentry, cabinet making, and welding/metal work.
- D. Massage studio.
- E. Automobile repairing or painting.
- F. Medical clinic.
- G. Hospital.

- H. Kennel or other boarding of pets.
- I. Medical or dental offices.
- J. Any other activity or use, as determined by the Director to not be compatible with residential activities and/or to have the possibility of affecting the health or safety of residents, because of the potential for the use to create dust, glare, heat, noise, noxious gasses, odor, smoke, traffic, vibration, or other impacts, or would be hazardous because of materials, processes, products, or wastes.

(Ord. 2000 § 2, (2021))

§ 25.72.040. Application Filing, Processing, and Review.

Applications for home occupation permits shall be filed, in writing, with the Director by the person who intends commencing or carrying on a home occupation. The application shall be upon forms furnished by and in the same manner prescribed by the Director. Where the applicant is not the owner of the lot on which the home occupation is proposed to be conducted, the application shall be accompanied by the written consent of the owner or his/her agent.

(Ord. 2000 § 2, (2021))

§ 25.72.050. Findings and Decision.

- A. Within 10 working days after the filing of an application for a home occupation permit, the Director shall either issue or deny the permit and shall serve notice of such action upon the applicant by mailing a copy of such notice to the applicant at the address appearing on the application. The Director's decision shall be final unless an appeal is filed pursuant to Chapter 25.98 (Appeals and Calls for Review).
- B. The Director (or the Commission on a referral or appeal) may approve a home occupation permit application, with or without conditions, only if it first makes all of the following findings. Failure of the Review Authority to make all of the following findings shall result in denial of the home occupation permit application.
 - 1. The proposed home occupation will be consistent with the General Plan, any applicable specific plan, and the development and design standards of the subject residential zone;
 - 2. The proposed home occupation shall meet all of the requirements of this section and will be located and conducted in full compliance with all of the standards specified in Chapter 25.72 (Home Occupation Permits) and all conditions imposed on the home occupation permit;
 - 3. The proposed home occupation will not be detrimental to the public convenience, health, interest, safety, or welfare, or materially injurious to the properties or improvements in the immediate vicinity; and
 - 4. The proposed home occupation will not interfere with the use or enjoyment of neighboring existing or future residential development and will not create traffic or pedestrian hazards.

(Ord. 2000 § 2, (2021))

§ 25.72.060. Compliance with Standards and Conditions.

- A. Compliance Required. Home occupations shall comply with the applicable locational, developmental, and operational standards identified in this section as well as any conditions imposed on the home occupation permit.

B. Required Standards. Each home occupation shall comply with all of the following standards.

1. Located Indoors. Except for such outdoor uses as teaching swimming or tennis, activities shall be confined within the primary dwelling unit or a permitted accessory structure and shall not occupy required parking, open space, or yard.
2. Merchandise. Any merchandise produced on the premises or directly related to and incidental to the service offered shall not be sold directly from the premises, either at wholesale or retail, except by mail or other similar parcel shipping method.
3. Storage. Equipment or materials associated with the business shall be displayed, stored, and maintained indoors and not in any required parking areas.
4. Building Appearance. The exterior appearance of the building shall not be altered to accommodate the business, and the occupation shall be conducted in a manner which does not cause the premises to differ from its residential character in colors, materials, construction or lighting, or by the emission of sounds, noises, smoke, odors, vibrations, liquid or solid waste, television or radio interference, or create other nuisance.
5. Residency. All persons engaged in the conduct of a home occupation must be a resident, except that one nonresident is permitted.
6. Parking. On-site parking shall meet the standards required for the residential use.
7. Mechanical and Electrical Equipment. Only mechanical or electrical equipment incidental to a dwelling shall be maintained or installed.
8. Customer Visits. Customer visits shall be limited to daily visits typically associated with a residential use of property. In the case of instruction, such as music lessons or tutoring, no more than three students shall be permitted at any one time.

(Ord. 2000 § 2, (2021))

§ 25.72.070. Cottage Food Operation Requirements.

A. General. A use qualifies as a cottage food operation by meeting all the following requirements:

1. The use is consistent with the definitions set forth in Section 113758 of the California Health and Safety Code, as it may be amended from time to time;
2. The owner of the cottage food operation has registered with the County of San Mateo Environmental Health Services Division;
3. The owner of the cottage food operation has obtained a permit from the Director by meeting all requirements set forth in this section;
4. The owner of the cottage food operation complies with subsection B, below; and
5. The use complies with all other sections of this code, except where otherwise indicated.

B. Cottage Food Operation Standards. A cottage food operation shall:

1. Maintain a valid and current registration from the County of San Mateo for as long as operations continue;
2. Produce and sell only foods on the approved food products list as promulgated by the State

Public Health Officer pursuant to California Health and Safety Code Section 114365.5;

3. Submit to inspections by local enforcement agency representatives after receipt of a consumer complaint giving rise to a suspicion that unsafe food has been produced by the cottage food operation, or that the cottage food operation has violated this section; and
4. Operate in compliance with all applicable Federal, State, and local laws, including, but not limited to, California Health and Safety Code Sections 113758, 113789, 114021, 114023, 114088, 114365, 114390, 114405, and 114409, as they may be amended from time to time.

(Ord. 2000 § 2, (2021))

§ 25.72.080. Permit Expiration.

Home occupation permits shall immediately expire upon discontinuance of the home occupation.
(Ord. 2000 § 2, (2021))

§ 25.72.090. Inspections.

The Director shall have the right at any time during normal City Hall business hours, upon request, to enter and inspect the premises subject to a home occupation permit in order to verify compliance with permit conditions of approval.

(Ord. 2000 § 2, (2021))

§ 25.72.100. Acknowledgement by Applicant.

A home occupation permit shall not be valid until signed by the applicant, with the signature acknowledging the applicant's full understanding and agreement with all of the conditions, and agreement to waive any right to later challenge any conditions imposed as unfair, unnecessary, or unreasonable.

(Ord. 2000 § 2, (2021))

§ 25.72.110. Changes in Home Occupation.

A change in the type of home occupation activity (e.g., a change from one allowed activity to another allowed activity) conducted by the original resident/permittee shall also require a new home occupation permit and business license before conducting an allowed home occupation.

(Ord. 2000 § 2, (2021))

CHAPTER 25.74 MINOR MODIFICATIONS

§ 25.74.010. Purpose and Applicability.

The purpose of the minor modification process is to provide a procedure that allows for minor deviations from the development standards applicable to a property in order to promote integrated design approach and quality; respond to conditions on adjacent properties and within a neighborhood or district; and/or respond to unique conditions on a property due to topography, parcel configuration, the presence of protected trees, and natural features warranting protection.

(Ord. 2000 § 2, (2021))

§ 25.74.020. Minor Modification Applicability.

A minor modification application may be submitted only for the following deviations from development standards. If more than two minor deviations are requested for a subject property, the Director shall refer the application to the Planning Commission for review, with a fully noticed public hearing required.

A. R-1 and R-2 Zoning Districts.

1. A maximum increase in residential lot coverage up to 41 percent.
2. A maximum decrease in a required side or rear setback by up to 20 percent.
3. A maximum of 20 percent increase in height limit in fence and hedge requirements, except in the required front setback area, where no increase shall be permitted.
4. A maximum of 10 percent reduction in any dimension of aisles, driveways, or parking spaces.
5. Encroachment of a structure up to one foot into the required side yard setback of seven feet six inches on corner lots if the encroachment does not exceed 10 percent of the frontage and does not affect sight lines for motor vehicles, pedestrians, or cyclists, as determined by the City Engineer.
6. Encroachment by the primary structure into the required 15-foot rear setback of a one-story single-unit home for up to 25 percent of the structure, provided no portion of the structure extends closer than 12 feet to the rear property line.
7. Detached garages of 650 square feet or less that have no bathrooms, unless otherwise permitted by this Code, and which comply with Section 25.31.020.C (Accessory Structures in R-1 and R-2 Districts).
8. Extending an existing first floor wall which encroaches into the side setback no closer than three feet to the property line.

B. Commercial, Mixed-Use, and Downtown Zoning Districts. In the C-1, BFC, CMU, BRMU, RRMU, NBMU, and Downtown zoning districts, the following shall qualify, except as noted:

1. A maximum 10 percent reduction in any dimension of aisles, driveways, or parking spaces within parking lot, provided no more than 10 percent of the parking spaces in a project may be affected by the dimensional adjustment.
2. Increase in compact parking stalls up to 30 percent for commercial uses.

C. Industrial Zoning District. In the Industrial Innovation zoning district:

1. A maximum of 10 percent reduction in any dimension of interior parking lot aisles or parking spaces, provided no more than 20 percent of the parking spaces in a project may be affected by the dimensional adjustment
 2. Increase in compact parking stalls up to 30 percent for a commercial or industrial building.
- (Ord. 2000 § 2, (2021))

§ 25.74.030. Application Review and Processing.

- A. Application Review. The Director shall review the application for compliance with the provisions of this title and act to approve, approve with conditions, or deny a minor modification application.
 - B. Public Notice for Minor Modification. Notice of the intent to approve a minor modification application, or approve with conditions, shall be mailed by the Director to the applicant and all owners of property within 100 feet of the exterior boundaries of the subject property. The notice shall state that any interested party may file an appeal to the Planning Commission of the Director's intended decision within the 10-day period stated in the notice. In the event the Director acts to deny the application, no public notice shall be required. However, the Director shall notify the applicant of the right to appeal the denial to the Planning Commission.
 - C. If an appeal is received, the Director shall schedule the appeal for a public hearing before the Planning Commission at the next available Commission hearing in accordance with Chapter 25.100 (Public Hearings and Notice). The person filing the appeal may be charged a fee to cover hearing costs.
- (Ord. 2000 § 2, (2021))

§ 25.74.040. Findings.

In acting to approve or approve with conditions a minor modification application, the Director or appeal body shall be required to make the following findings, supported by written evidence.

The minor modification:

- A. Is consistent with the General Plan.
 - B. Will not adversely affect neighboring properties.
 - C. Will not be detrimental to the health, safety, or general welfare of the persons residing or working on the site or in the vicinity.
 - D. Is justified by specified environmental features, site conditions, location of existing improvements, or historic development patterns of the property or neighborhood.
- (Ord. 2000 § 2, (2021))

**CHAPTER 25.76
REASONABLE ACCOMMODATIONS**

§ 25.76.010. Purpose and Applicability.

- A. Purpose. The purpose of this chapter is to provide a formal procedure to request reasonable accommodation for persons with disabilities seeking equal access to housing under the Federal Fair Housing Act and the California Fair Employment Act (the Acts) in the application of zoning laws and other land use regulations, policies and procedures, and to establish relevant criteria to be used when considering such requests.
- B. Applicability. In order to make specific housing available to an individual with a disability, any person may request a modification or exception to the rules, standards, and practices for the siting, development, and use of housing or housing-related facilities that would eliminate regulatory barriers and provide a person with a disability equal opportunity to housing of his or her choice. Typical improvements which may be considered for reasonable accommodation provisions include ramps, walls, handrails, elevators or lifts, or other similar physical improvements necessary to accommodate a person's disability. The reasonable accommodation would allow exceptions to setback, lot coverage and floor area provisions of this title that are deemed necessary to accommodate these improvements.
- C. Definition. A person with a disability is a person who has a physical or mental impairment that limits or substantially limits one or more major life activities, anyone who is regarded as having such impairment, or anyone who has a record of such impairment. This chapter applies only to those persons who are defined as disabled under the Acts.
- D. Limitations. This chapter shall be interpreted and applied in accordance with the Acts, and nothing in this chapter shall be deemed to create greater rights than exist under the Acts.

(Ord. 2000 § 2, (2021))

§ 25.76.020. Application Filing and Review.

- A. Application Requirements. In addition to the application filing requirements set forth in Chapter 25.62 (Application Processing Procedures), an applicant for a reasonable accommodation shall provide the following information, as well as any information stated on the application form.
 - 1. The current use of the property.
 - 2. The basis for the claim that the individual is considered disabled under the Acts, including supporting medical documentation from a qualified medical expert in support of the request for accommodation.
 - 3. The Zoning Code provision or other City regulation or policy from which the reasonable accommodation is being requested.
 - 4. An explanation of why the reasonable accommodation is necessary to make the specific property accessible to the individual.
- B. Review.
 - 1. The Director shall have the authority to consider and take action on requests for reasonable accommodation. The application shall be reviewed ministerially without discretionary review or public hearing. If the application is granted because the requirements are met and the findings made, the applicant may proceed with a building permit. If the application is denied due to a

lack of evidence with regard to claims made and the inability to make all of the findings set forth in Section 25.76.030 (Findings and Decision) below, the applicant shall have the right to appeal that decision to the Planning Commission pursuant to the provisions of this title.

2. If the application is submitted concurrent with an application requiring discretionary review, the procedures for the discretionary review shall be followed.

(Ord. 2000 § 2, (2021))

§ 25.76.030. Findings and Decision.

A. Findings. Any decision on an application under this chapter shall be supported by written findings addressing the criteria set forth in this section. In making a determination regarding the reasonableness of a requested accommodation, the following findings shall be made:

1. The housing that is subject to the request for reasonable accommodation will be used for an individual with a disability under the Acts.
2. The request for reasonable accommodation is necessary to make specific housing available to an individual with a disability under the Acts.
3. The requested reasonable accommodation does not impose an undue financial or administrative burden on the community and does not require a fundamental alteration to the City's zoning requirements, development standards, policies, or procedures.
4. The requested reasonable accommodation would not adversely impact surrounding properties or uses.
5. There are no reasonable alternatives that would provide an equivalent level of benefit without requiring a modification or exception to the City's applicable rules, standards, and practices.

B. Decision. The Director shall issue a written determination of the action and may grant or deny the accommodation request based on the request meeting the findings outlined in this chapter.

(Ord. 2000 § 2, (2021))

**CHAPTER 25.78
SPECIAL PERMIT**

§ 25.78.010. Purpose and Applicability.

- A. Purpose. The special permit is established for the purpose of allowing the structures and development approaches specified in this chapter that are not permitted as a matter of right but which may be considered compatible and appropriate if such uses or features are designed or arranged on a site or in a structure in a particular manner and in accordance with conditions imposed by the Planning Commission.
- B. Applicability. In its review of a special permit application, the Commission may impose such requirements and conditions with respect to location, construction, architectural features, architectural consistency within the structure, site planning, and time limits for the special permit as it deems necessary for the protection of adjacent properties, the streetscape, the neighborhood, and the public interest. Such deviations may apply to, but not be limited to, building height, variety of roofline on a structure, daylight plane angle, façade articulation, and exterior finish materials.

(Ord. 2000 § 2, (2021))

§ 25.78.020. Structures and Development Approaches in the R-1 Zoning District Requiring a Special Permit.

- A. Applicability. The following are structures and development approaches allowed in the R-1 zoning district with a special permit:
 1. Attached garages for single-unit dwellings. A special permit shall not be required for replacement of an existing attached garage and for existing attached garages that are extended no more than 10 feet in length. In all cases the attached garage shall comply with the minimum required front setback requirements in Section 25.10.045 (Special Front Setback Requirements).
 2. Construction exceeding the limits of the declining height envelope.
 3. Building height exceeding 30 feet, but not to exceed 36 feet.
 4. A detached garage or other accessory structure, other than an accessory dwelling unit, exempt from setback restrictions when located within the rear 40 percent of the lot.
 5. A detached garage or other accessory structure, other than an accessory dwelling unit, that is in the rear of the lot and that is more than 28 feet in width or depth.
 6. Plate height exceeding maximum indicated in Table 25.10-2 (Residential Zoning Districts Development Standard).
 7. Any second-floor deck or balcony up to a maximum of 75 square feet and/or to exceed the minimum required side setback for a second-floor deck or balcony. Second-floor decks and balconies shall not be designed as viewing platforms and shall consider surrounding context, including window location of adjacent properties.
- B. Required Findings. Any decision to approve a special permit application in the R-1 zoning district pursuant to this chapter shall be supported by written findings addressing the criteria set forth in this chapter. In making such determination, the following findings shall be made:
 1. The blend of mass, scale, and dominant structural characteristics of the new construction or

addition are consistent with the existing structure's design and with the well-defined character of the street and neighborhood;

2. The variety of roof line, façade, exterior finish materials, and elevations of the proposed new structure or addition are consistent with the existing structure, street, and neighborhood;
3. The proposed project is consistent with the residential design guidelines adopted by the City; and
4. Removal of any trees located within the footprint of any new structure or addition is necessary and is consistent with the City's reforestation requirements, and that the mitigation for the removal that is proposed is consistent with established City policies and practices.

(Ord. 2000 § 2, (2021))

§ 25.78.030. Structures and Development Approaches in the R-2 Zoning District Requiring a Special Permit.

- A. Applicability. The following are structures and development approaches allowed in the R-2 zoning district with a special permit:
1. Building height exceeding 30 feet, but not to exceed 36 feet.
 2. Construction exceeding the limits of the declining height envelope.
- B. Required Findings. Any decision to approve a special permit application in the R-2 zoning district pursuant to this chapter shall be supported by written findings addressing the criteria set forth in this chapter. In making such determination, the following findings shall be made:
1. The blend of mass, scale, and dominant structural characteristics of the new construction or addition are consistent with the existing structure's design and with the well-defined character of the street and neighborhood;
 2. The variety of roof line, façade, exterior finish materials, and elevations of the proposed new structure or addition are consistent with the existing structure, street, and neighborhood;
 3. The proposed project is consistent with the residential design guidelines adopted by the City; and
 4. Removal of any trees located within the footprint of any new structure or addition is necessary and is consistent with the City's reforestation requirements, and that the mitigation for the removal that is proposed is consistent with established City policies and practices.

(Ord. 2000 § 2, (2021))

§ 25.78.040. Structures and Development Approaches in the R-3 and R-4 Zoning Districts Requiring a Special Permit.

- A. Applicability. The following are structures and development approaches allowed in the R-3 and R-4 zoning districts with a special permit:
1. Any proposal utilizing Tier 2 development standards to exceed the maximum building height. Additional building height provided in Tier 2 may only be allowed with the applicant's provision of community benefits approved by the Review Authority.
 2. Buildings exceeding maximum height limits in the R-3 Zoning District within the Anita Road

Overlay (Section 25.20.010) and within the Rollins Road Residential Overlay (Section 25.20.070), and in the R-4 District within the R-4 Incentive Overlay (Section 25.20.060).

3. If a circular drive is provided, a reduction of the required front setback landscaping to 45 percent of the lot area within the required front setback.
- B. Required Findings. Any decision to approve a special permit application in the R-3 and R-4 zoning districts pursuant to this chapter shall be supported by written findings addressing the criteria set forth in this chapter. In making such determination, the following findings shall be made:
1. The proposed modification to standards respects and preserves the character of the neighborhood in which the project is located;
 2. The proposed modification to standards results in a project that is designed and arranged to provide adequate consideration to ensure the public health, safety, and general welfare, and to prevent adverse effects on neighboring properties;
 3. The additional development capacity is consistent with General Plan goals and policies; and
 4. The project conditions of approval, a development agreement, or some other form of binding agreement will be in place to ensure provision of the required community benefits (if applicable).

§ 25.78.050. Structures and Development Approaches in the BAC, HMU, MMU, BMU, DAC, CAC, CAR, CMU and BRMU Zoning Districts Requiring a Special Permit.

- A. Applicability. The following are structures and development approaches allowed in the BAC, HMU, MMU, BMU, DAC, CAC, CAR, CMU and BRMU zoning districts with a special permit:
1. Buildings exceeding maximum height limits, with the exception of the HMU zoning district.
 2. Architectural features in excess of the maximum building height which do not extend more than 10 feet above the maximum height and do not occupy more than 10 percent of the roof area. The architectural features shall be reviewed as a part of the design review process outlined in Chapter 25.68 (Design Review).
- B. Required Findings. Any decision to approve a special permit application pursuant to this chapter shall be supported by written findings addressing the criteria set forth in this chapter. In making such determination, the following findings shall be made:
1. Building Height.
 - a. The proposed modification to standards respects and preserves the character of the neighborhood in which the project is located;
 - b. The proposed modification to standards results in a project that is designed and arranged to provide adequate consideration to ensure the public health, safety, and general welfare, and to prevent adverse effects on neighboring properties; and
 - c. The additional development capacity is consistent with General Plan goals and policies.
 2. Architectural Features.
 - a. The architectural features enhance the overall design of the development; and

- b. The architectural features are designed and arranged to provide adequate consideration to ensure the public health, safety, and general welfare, and to prevent adverse effects on neighboring properties.

(Ord. 2000 § 2, (2021))

§ 25.78.060. Structures and Development Approaches in the BFC, I-I, RRMU, and NBMU Zoning Districts Requiring a Special Permit.

- A. Applicability. The following are structures and development approaches allowed in the BFC, I-I, RRMU, and NBMU zoning districts with a special permit:
 1. Any proposal in the RRMU and NBMU zoning districts utilizing Tier 2 or Tier 3 development standards to exceed the maximum building height. Additional building height provided in Tier 2 or Tier 3 may only be allowed with the applicant's provision of community benefits approved by the Review Authority.
 2. Buildings exceeding maximum height limits in the BFC and I-I zoning districts.
- B. Required Findings. Any decision to approve a special permit application pursuant to this chapter shall be supported by written findings addressing the criteria set forth in this chapter. In making such determination, the following findings shall be made:
 1. The proposed modification to standards respects and preserves the character of the neighborhood in which the project is located;
 2. The proposed modification to standards results in a project that is designed and arranged to provide adequate consideration to ensure the public health, safety, and general welfare, and to prevent adverse effects on neighboring properties; and
 3. The additional development capacity is consistent with General Plan goals and policies.

(Ord. 2000 § 2, (2021))

§ 25.78.070. Community Benefits in the BFC, I-I, RRMU, and NBMU Zoning Districts Requiring a Special Permit.

- A. Applicability. In the BFC, I-I, RRMU, and NBMU zoning districts, a special permit application is required for any proposal utilizing Tier 2 or Tier 3 development standards as provided in the respective chapter. Additional development capacity provided in Tiers 2 and 3 may only be allowed with the applicant's provision of community benefits approved by the Review Authority. The value of the benefit shall be proportional to the value of the additional development capacity provided in Tiers 2 and 3, as determined by the Review Authority.
- B. Required Findings. Any decision to approve a special permit application for additional development capacity as provided in Tiers 2 and 3 shall be supported by written findings addressing the criteria set forth in this chapter. In making such determination, the following findings shall be made:
 1. The value of the community benefits provided is proportional to the value derived from the additional development capacity provided in Tiers 2 and 3;
 2. The additional development capacity will not pose adverse impacts on the public health, safety, and general welfare, nor on neighboring properties in particular;
 3. The additional development capacity is consistent with General Plan goals and policies; and

4. The project conditions of approval, a development agreement, or some other form of binding agreement will be in place to ensure provision of the required community benefits.

(Ord. 2000 § 2, (2021))

§ 25.78.080. Review Procedures for Special Permits.

A. Investigation by Director. Following receipt of a completed application, the Director shall make an investigation of the facts bearing on the case to provide the information necessary for action consistent with the purpose of this chapter. A staff report shall be prepared pursuant to Section 25.62.080 (Project Evaluation and Staff Reports).

B. Notice and Hearings. A public hearing before the Planning Commission shall be required for all special permits in compliance with Chapter 25.100 (Public Hearings and Notice).

(Ord. 2000 § 2, (2021))

§ 25.78.090. Conditions of Approval.

In approving a special permit, the Commission, or City Council on appeal, may impose any conditions deemed reasonable and necessary to ensure that the approval will comply with this chapter, State law, and with the findings required by this chapter. The Commission may require tangible guarantees or evidence that those conditions are being, or will be, complied with.

(Ord. 2000 § 2, (2021))

CHAPTER 25.80 SPECIFIC PLANS

§ 25.80.010. Purpose and Applicability.

- A. Purpose. This chapter provides a method for preparing, processing, reviewing, and adopting Specific Plans in compliance with Government Code Section 65450 et seq., or as that section may be amended or replaced from time to time. In addition, this chapter provides a method for amending Specific Plans to ensure their continued effectiveness and responsiveness to market demands over time. A Specific Plan is intended to provide for flexibility in the establishment of land use regulations by allowing for innovative use of land resources and development; a variety of building, development, and housing types; land use mixes; site design; development concepts; and effective and safe pedestrian and vehicular circulation.
- B. Applicability. A Specific Plan may be prepared for any property or group of properties in the City for the purpose of implementing the General Plan. As a matter of City policy, the Council may establish a minimum project area requirement for the preparation of a Specific Plan.

(Ord. 2000 § 2, (2021))

§ 25.80.020. Initiation of Specific Plans.

A Specific Plan or its amendment may be initiated in the following manner:

- A. City Council. By the majority consensus of the City Council; or
- B. Property Owner(s). By an application being filed by the owner(s) of one or more parcels, or the owner's authorized agent, that would be the subject of the Specific Plan. If the property for which a Specific Plan or Specific Plan amendment is proposed is held in multiple ownerships, all the owners or their authorized agents shall join in filing the application. If initiated by a property owner(s), a pre-application conference as specified in subsection C, below is required.
- C. Pre-Application Conference Required. A pre-application conference with the Director is required before the filing of a specific plan application. The City may establish fees for the pre-application conference.
 - 1. The purpose of the pre-application conference is to allow the property owner(s) or property owner's agent to obtain information before entering into commitments requiring that the applicant incur substantial expense in the preparation of plans, surveys, and other data.
 - 2. The preliminary consultations shall include, but are not limited to, the following:
 - a. Proposed land uses to be developed within the project area;
 - b. Development concepts to be employed;
 - c. Schematic plans, illustrative material, and narrative sufficient to describe the general relationships between land uses, and the intended design character and scale of principal features; and
 - d. A preliminary time schedule for development, including quantitative data (e.g., population, building units, land use acreage, and other data) sufficient to illustrate phasing of development and potential impact on public service requirements.

3. Pre-application review shall not constitute any representation on the part of the City that a Specific Plan will be prepared or approved for the property or that any other application pending or otherwise will be approved.

(Ord. 2000 § 2, (2021))

§ 25.80.030. Specific Plan Contents.

A Specific Plan shall contain all information required by Government Code Section 65450 et seq., as well as any additional information that may be stated on the City's application for a Specific Plan.

(Ord. 2000 § 2, (2021))

§ 25.80.040. Application Filing and Processing.

- A. Filing. An application for a Specific Plan or an amendment shall be filed and processed in compliance with Chapter 25.62 (Application Processing Procedures). The application shall include the information and materials specified by the most up-to-date Department handout for Specific Plan applications, together with any required fee.
- B. Investigation by Director. Following receipt of a completed application, the Director shall make an investigation of the facts bearing on the case to provide the information necessary for action consistent with the purpose of this chapter. A staff report shall be prepared pursuant to Section 25.62.080 (Project Evaluation and Staff Reports).
- C. Notice and Hearings.
 1. A public hearing before the Planning Commission shall be required for all Specific Plans. Noticing of the public hearing shall be given in compliance with Chapter 25.100 (Public Hearings and Notice).
 2. At the conclusion of the public hearing, the Commission shall indicate by resolution whether the Specific Plan or Specific Plan amendment is recommended to the Council for approval, approval in modified form, or denial.
 3. The Council, after receipt of the report and recommendations of the Commission, shall hold a public hearing in compliance with Chapter 25.100 (Public Hearings and Notice) to consider the Specific Plan or the Specific Plan amendment. The Council may approve, approve with modifications, or deny a proposed Specific Plan or Specific Plan amendment. Approval of the Specific Plan or Specific Plan amendment shall be by ordinance.

(Ord. 2000 § 2, (2021))

§ 25.80.050. Findings and Decision.

The Commission may recommend approval and the Council may approve a Specific Plan or Specific Plan amendment only if it first makes all of the following findings:

- A. The proposed Specific Plan or Specific Plan amendment is consistent with the General Plan, including its goals, policies, and implementation programs.
- B. The proposed Specific Plan or Specific Plan amendment is a desirable planning tool to implement the provisions of the General Plan.
- C. The proposed Specific Plan or Specific Plan amendment will not adversely affect the public health, safety and general welfare or result in an illogical land use pattern.

D. In the case of a Specific Plan amendment, that the amendment will not create internal inconsistencies within the Specific Plan and is consistent with the purpose and intent of the Specific Plan it is amending.

(Ord. 2000 § 2, (2021))

CHAPTER 25.82 TEMPORARY USE PERMITS

§ 25.82.010. Purpose and Applicability.

- A. Purpose. The purpose of this chapter is to allow for short-term activities that would be compatible with adjacent and surrounding uses when conducted in compliance with this chapter.
- B. Temporary Use Defined. For purposes of this chapter, a temporary land use activity is defined as a land use that is interim, non-permanent, and/or seasonal in nature, and lasting from one to 30 days, and generally not more than 30 consecutive days in duration. Temporary uses shall consist of the following categories.
 - 1. Exempt Temporary Uses. Exempt temporary uses, as identified in Section 25.82.020 (Exempt Temporary Uses), that do not require issuance of a temporary use permit.
 - 2. Allowed Temporary Uses. Non-exempt temporary uses, including special events, as identified in Section 25.82.030 (Allowed Temporary Uses), that require a temporary use permit.

(Ord. 2000 § 2, (2021))

§ 25.82.020. Exempt Temporary Uses.

The following minor and limited duration temporary uses are exempt from the requirement for a temporary use permit. Uses that do not fall within the categories defined below shall comply with Section 25.82.030 (Allowed Temporary Uses).

- A. Construction Sites – On-site.
 - 1. On-site contractors' construction/storage uses in conjunction with an approved construction project on the same parcel.
 - 2. Security personnel may be present during non-construction hours.
 - 3. The construction and/or storage use shall be removed immediately upon completion of the construction project, or the expiration of the companion building permit authorizing the construction project, whichever occurs first.
- B. Emergency Facilities. Emergency public health and safety needs/land use activities, as determined by the Director.
- C. Garage and Yard Sales. Garage and yard sales (i.e., personal property sales) conducted as required by Chapter 6.22 (Merchandise Sales from Residences).
- D. Publicly Owned Property. Events that are to be conducted on publicly owned property by the government entity owning the subject property.

(Ord. 2000 § 2, (2021))

§ 25.82.030. Allowed Temporary Uses.

The following temporary uses shall be allowed subject to the issuance of a temporary use permit.

- A. Contractor Construction Sites – Off-site. The temporary use of a site for an off-site contractor construction, staging, or storage area(s). The permit may be effective for up to 180 days and extended in 180-day increments, with Director approval, or the expiration of the companion building permit

authorizing the construction project, whichever occurs first.

B. Farmers' Markets. Farmers' markets may occur under the terms established by a temporary use permit specific to that operation.

C. Special Events.

1. Amusement rides, arts and crafts exhibits, auctions, carnivals, circuses, concerts, fairs, festivals, flea markets, food markets/events, outdoor entertainment/sporting events, rummage sales (not garage or yard sales), and swap meets limited to 14 consecutive days or fewer, or six two-day weekends, within a 12-month period. When an annual plan is submitted to and approved by the Director, the frequency and duration of these special events may be extended.
2. Outdoor display and sale events conducted by a retail business, including auto dealerships, holding a valid business license issued in compliance with Municipal Code Title 6 (Business Licenses and Regulations) may be allowed a maximum of six outdoor sale events in a calendar year (excluding City-sponsored activities). Any single outdoor sale event shall be no longer than seven consecutive days in duration. When an annual plan is submitted to and approved by the Director, the frequency and duration of these special events may be extended.
3. Outdoor meetings and group activities/assemblies for seven consecutive days or fewer within a calendar year.
4. Seasonal sales (e.g., Halloween pumpkin sales and Christmas tree sales lots), provided that the activity shall be associated with a recognized holiday and shall be held for no more than 45 consecutive days during the time period of the associated holiday.
5. Athletic events, parades, and public assemblies occurring on or within the public rights-of-way or other publicly owned property.
6. Car washes, limited to one event each month for each site, not exceeding two days in length, and prohibited on any property developed with a residential use. Sponsorship shall be limited to charitable, educational, fraternal, religious, schools, or service organizations directly engaged in civic or charitable efforts, or to tax exempt organizations in compliance with 501(c) of the Federal Revenue and Taxation Code.

C. Temporary Residential Real Estate Sales Offices. One temporary real estate office, provided that:

1. The office shall be used only for the sale of residential property located on the property on which the office is located.
2. The temporary real estate office shall be removed at the end of one year following the date of issuance of the last occupancy permit for the property on which the office is located.
3. If any housing units on the property have not been sold at the end of the original one-year period, the Director may approve extensions for the continuation of the real estate office on a month-to-month basis.

D. Temporary Structures. A temporary classroom, office, or similar portable structure, including a manufactured or mobile unit, may be approved, for a maximum period of 12 months, as an accessory use or as the first phase of a development project, on sites located within the commercial, industrial, mixed-use, and research and development zones of the City.

E. Temporary Work Trailers.

1. A trailer or mobile home may be used as a temporary work site for employees of a business during construction or remodeling of a permanent commercial, industrial, mixed-use, or research and development structure when a valid building permit is in force, or upon demonstration by the applicant, to the satisfaction of the Director, that the temporary work site is a short-term necessity while a permanent work site is being obtained.

2. A permit for temporary work trailer(s) may be approved for up to 12 months.

F. Other Similar Temporary Uses. Similar temporary uses that, in the opinion of the Director, are compatible with the subject zone and surrounding land uses.

(Ord. 2000 § 2, (2021))

§ 25.82.040. Application Filing.

An application for a temporary use permit shall be filed no less than two weeks prior to the date on which the temporary use is planned to commence. The Director may waive this time period requirement based on circumstances which prevent a timely filing.

(Ord. 2000 § 2, (2021))

§ 25.82.050. Action by the Director.

The Director may approve a temporary use permit for a temporary use that would be operated in compliance with Section 25.82.070 (Conditions of Approval), or the Director may deny the application or defer action and refer the application to the Council for review and final decision.

(Ord. 2000 § 2, (2021))

§ 25.82.060. Findings and Decision.

A. Director's Review. The Director shall review the application and shall record the decision in writing with the findings on which the decision is based.

B. Required Findings. The Director (or the Council on a referral or appeal) may approve a temporary use permit application, with or without conditions, only after first making all of the following findings:

1. The operation of the requested temporary use at the location proposed and within the time period specified will not endanger, jeopardize, or otherwise constitute a menace to the public convenience, health, safety, or general welfare;
2. The operation of the requested temporary use will not be detrimental to adjoining properties through the creation of excessive dust, light, noise, odor, or other objectionable characteristics;
3. The proposed parcel is adequate in size and shape to accommodate the temporary use without detriment to the enjoyment of other properties located adjacent to and in the vicinity of the subject parcel;
4. The proposed parcel is adequately served by streets or highways having sufficient width and improvements to accommodate the kind and quantity of traffic that the temporary use will or could reasonably be expected to generate;
5. Adequate temporary parking to accommodate vehicular traffic to be generated by the use will be available either on-site or at alternate locations acceptable to the Director; and

6. The applicant agrees in writing to comply with any and all of the conditions imposed in the approval of the temporary use permit.

(Ord. 2000 § 2, (2021))

§ 25.82.070. Conditions of Approval.

- A. May Impose Conditions. In approving a temporary use permit application, the Director (or the Council on a referral or appeal) may impose conditions that are deemed reasonable and necessary to ensure that the permit would be in full compliance with the findings required by Section 25.82.060 (Findings and Decision).
- B. Appropriate Conditions. The conditions may address any pertinent factors affecting the operation of the temporary event or use, and may include, but are not limited to, the following:
 1. Fixed period of time;
 2. Operating hours and days;
 3. Temporary pedestrian and vehicular circulation;
 4. Regulation of nuisance factors;
 5. Regulation of temporary structures;
 6. Litter, sanitary, and medical facilities;
 7. Waste collection, recycling, and/or disposal;
 8. Police/security and safety measures;
 9. Signs;
 10. Performance bond or other security;
 11. Limitations on alcoholic beverage sales; and
 12. Compliance with other Municipal Code applicable provisions.

(Ord. 2000 § 2, (2021))

§ 25.82.080. Condition of Site Following Temporary Use.

Each site occupied by a temporary use shall be cleaned of debris, litter, or any other evidence of the temporary use upon completion or removal of the use and shall continue to be used in compliance with this title.

(Ord. 2000 § 2, (2021))

CHAPTER 25.84 VARIANCES

§ 25.84.010. Purpose and Applicability.

- A. Purpose. The purpose of this chapter is to ensure that:
 - 1. Variances are only approved when, because of special circumstances applicable to a property, the strict application of this title denies the owner of the property privileges enjoyed by other property located nearby and in an identical zone; and
 - 2. Specific findings are required and associated conditions are applied that would work together to guarantee that the variance shall not constitute an approval of special privilege(s) inconsistent with the limitations upon other property in the vicinity and zone in which the subject property is located.
- B. Applicability. The Commission, or Council on appeal, may approve a variance that allows for any adjustment from any of the development standards required by this title only after first making the findings specified in Section 25.84.030 (Findings and Decision).
- C. Limitations. This chapter does not grant the power to approve variances to allow land uses or activities in a zoning district that are explicitly prohibited.

(Ord. 2000 § 2, (2021))

§ 25.84.020. Application Filing and Review.

- A. Filing. An application for a variance shall be filed and processed in compliance with Chapter 25.62 (Application Processing Procedures). The application shall include the information and materials specified in the Department handout for variance applications, together with the required fee. It is the responsibility of the applicant to provide evidence in support of the findings required by Section 25.84.030 (Findings and Decision). Initial review of the application, including time requirements and requests for information, shall be as provided in Section 25.62.060 (Initial Application Review).
- B. Project Review Procedures. Following receipt of a completed application, the Director shall investigate the facts necessary for action consistent with the purpose of this chapter.
- C. Notice, Hearings, and Appeals.
 - 1. A public hearing shall be required with the Planning Commission on a variance application. Notice of the public hearing shall be given and the hearing shall be conducted in compliance with Chapter 25.100 (Public Hearings and Notice).
 - 2. The Commission's decision is appealable to the Council in compliance with Chapter 25.98 (Appeals).

(Ord. 2000 § 2, (2021))

§ 25.84.030. Findings and Decision.

A variance may be granted provided that the Commission, or the Council on appeal, finds, after a full investigation and public hearing, that all the following are true:

- A. There are exceptional or extraordinary circumstances or conditions applicable to the property involved that do not apply generally to property in the same zoning district;

- B. The granting of the application is necessary for the preservation and enjoyment of a substantial property right of the applicant, and to prevent unreasonable property loss or unnecessary hardship;
- C. The granting of the application will not be detrimental or injurious to property or improvements in the vicinity and will not be detrimental to the public health, safety, general welfare or convenience; and
- D. That the use of the property will be compatible with the aesthetics, mass, bulk, and character of existing and potential uses of properties in the general vicinity.

(Ord. 2000 § 2, (2021))

§ 25.84.040. Precedents.

Each application shall be reviewed on an individual case-by-case basis and the approval of a prior variance is not admissible evidence for the approval of a new variance.

(Ord. 2000 § 2, (2021))

§ 25.84.050. Conditions of Approval.

In approving a variance application, the Commission, or Council on appeal, may impose conditions deemed reasonable and necessary to ensure that the approval would be in compliance with the findings required by Section 25.84.030 (Findings and Decision).

(Ord. 2000 § 2, (2021))

§ 25.84.060. Runs with the Land.

Variances shall run with the land and confer the rights granted to and conditions placed upon the applicant onto subsequent property owners.

(Ord. 2000 § 2, (2021))

**CHAPTER 25.86
(RESERVED)**

**CHAPTER 25.88
PERMIT IMPLEMENTATION, EXTENSIONS, MODIFICATIONS, AND REVOCATIONS**

§ 25.88.010. Purpose.

This chapter provides requirements for the implementation, or "exercising," of the permits or approvals required by this title, including time limits and procedures for approving extensions of time, modifying approved permits, and revoking permits.

(Ord. 2000 § 2, (2021))

§ 25.88.020. Effective Dates of Permits.

A. Approvals, Permits, and Variances.

1. An Accessory Dwelling Unit Permit, Design Review – Minor approval, Hillside Area Construction Permit, Home Occupation Permit, Minor Modification approval, minor use permit, Reasonable Accommodation approval, or temporary use permit shall become effective immediately upon expiration of any appeal period. If an appeal is filed, such permit or approval shall become effective immediately upon the final appeal decision.
2. A Conditional Use Permit, Design Review – Major approval, special permit, or variance shall become effective 10 days following the actual date the decision was rendered by the applicable Review Authority, unless an appeal is filed in compliance with Chapter 25.98 (Appeals) prior to the effective date. If an appeal is filed, such permit or approval shall become effective immediately upon rendering of the final appeal decision.
3. Denial of a request for approval, permit, or variance becomes effective the date of determination.

B. Agreements, Plans, and Amendments.

1. Council actions to adopt or amend a development agreement, a Specific Plan, this title, or the Zoning Map following receipt of a recommendation from the Commission shall become effective on the 30th day following the date the ordinance is actually adopted by the Council.
2. Council actions to adopt or amend the General Plan shall become effective upon the adoption of the resolution by the Council.

(Ord. 2000 § 2, (2021))

§ 25.88.030. Time to Implement—Time Extensions.

- A. Time Period. To ensure continued compliance with the provisions of this title, a permit or approval shall be issued within 24 months following the effective date of the permit or approval, unless, by conditions of the permit or approval, a different (either greater [up to a maximum of 36 months] or lesser) time is prescribed, or the permit or approval shall be deemed void, unless an extension is approved in compliance with Section 25.88.030.C (Time Extensions).
- B. Reasonable Limits. Any time limit set by the applicable Review Authority shall be reasonable, based upon the size and the nature of the proposed project.
- C. Time Extensions.
 1. The Director shall have the authority to extend the period specified in subsection A, above, for

up to 12 months.

2. The applicant's written request for an extension of time shall be on file with the Department at least 30 days before expiration of the permit or approval, together with any filing fee.
 3. No public hearing shall be required. However, the Director may require a public hearing in compliance with Chapter 25.100 (Public Hearings and Notice) if deemed appropriate by the Director.
 4. In the event the Director denies the request for extension, the applicant may, within 15 days of the decision, appeal the decision in compliance with Chapter 25.98 (Appeals).
 5. Findings Required. An extension of the permit or approval may be granted only if the Director first makes all of the following findings:
 - a. There have been no changes in circumstances or law that would preclude the Director from making the findings upon which the original approval was based; and
 - b. Appropriate evidence has been provided by the applicant to document that the extension is required due to a hardship that was not the result of personal action(s) undertaken by the applicant.
- D. Further Extensions Deemed New Application. An application for an extension of the permit or approval in excess of 36 months following the original date of approval (original 24 months plus up to an additional 12 months) shall be treated as a new application.
- E. Effect of Expiration. Where the permit or approval has expired and/or has been deemed void:
1. No further action is required by the City;
 2. No further reliance may be placed on the previously approved permit or approval;
 3. The applicant shall have no rights previously granted under the permit or approval;
 4. The applicant shall file a new application(s) and obtain all required approvals before construction can commence or an allowable use may be implemented; and
 5. The new application(s) shall be subject to the regulations in effect at time of submittal.

(Ord. 2000 § 2, (2021))

§ 25.88.040. Modifications.

A. Conformance Required.

1. A development or new land use allowed by a permit or approval authorized by this chapter shall be in substantial compliance with the approved drawings and plans and any conditions of approval imposed by the Review Authority, except where changes to the project are approved in compliance with this section.
2. An applicant shall request any desired changes to a permit or approval to the Director in writing and shall also furnish appropriate supporting materials and an explanation of the reason(s) for the request.
3. Requested changes may involve changes to one or more conditions imposed by the Review Authority or actual changes to the operation, use, or physical characteristics of the project (e.g.,

hours of operation, expansion of a use, etc.) as originally proposed by the applicant or approved by the Review Authority.

4. Changes shall not be implemented until first approved by the applicable Review Authority in compliance with this section and may be requested either before or after construction or establishment and operation of the approved use.
- B. Notice of Hearing. If the matter originally required a noticed public hearing, the Review Authority shall hold a public hearing, except for the minor changes outlined below in subsection C. Notice shall be given in compliance with Chapter 25.100 (Public Hearings and Notice).
- C. Minor Changes by Director. The Director, following criteria established by the Planning Commission from time to time, may authorize minor changes to an approved site plan, architecture, or the nature of the approved use only if the changes:
 1. Are consistent with all applicable provisions of this title and the spirit and intent of the original approval; and
 2. Do not involve a feature of the project that was:
 - a. A basis for findings in a Negative Declaration, Mitigated Negative Declaration, or Environmental Impact Report for the project;
 - b. A basis for conditions of approval for the project; or
 - c. A specific consideration by the Review Authority in granting the permit or approval.
 3. Do not involve any expansion or intensification of the use or structure.

(Ord. 2000 § 2, (2021))

§ 25.88.050. Revocations and Suspensions.

- A. Grounds. Any permit or approval previously granted or issued under this title may be revoked or suspended on any one or more of the following grounds:
 1. That the approval was obtained by fraud or misrepresentation;
 2. That the use for which such approval was granted is not being exercised;
 3. That the use for which such approval was granted has ceased to exist or has been suspended for one year or more;
 4. That the conditional use permit or variance is being, or has been, exercised contrary to the terms or conditions of such approval, or in violation of any statute, ordinance, law or other regulation; and
 5. That the use for which approval was granted was so exercised as to be detrimental to the public health, safety, or welfare or so as to constitute a nuisance.
- B. Notice. Written notice to revoke or modify a permit or approval shall be served on the permittee and property owner, as shown on the last equalized assessment roll, either personally or by form providing proof of delivery, and shall state:
 1. The reasons for the proposed revocation, suspension, or modification; and

2. That the proposed action will be taken by the Director unless a hearing before the Planning Commission is requested within 15 days after the date of the notice. If no response is received, the Director shall forthwith revoke, suspend or modify the variance or permit as set forth in the notice.
- C. Hearing. If a hearing is requested, at least 10 days' notice shall be given to the requested party. At any such hearing, the permittee or property owner shall be given the opportunity to be heard, and he or she may call witnesses and present evidence in his or her behalf. Upon conclusion of such hearing, the Planning Commission shall determine whether or not the permit or approval shall be suspended or revoked. Such determination may be appealed to the Council.

(Ord. 2000 § 2, (2021))

§ 25.88.060. Findings to Revoke or Suspend.

In acting to revoke or suspend a permit or approval, the Review Authority shall make the following findings:

- A. Circumstances under which the permit or approval was granted have been changed by the applicant to a degree that one or more of the findings required to grant the original permit or approval can no longer be made;
- B. Permit issuance was based on misrepresentation by the applicant, either through the omission of a material statement in the application, or in public hearing testimony;
- C. One or more conditions of approval have been violated, or have not been complied with or fulfilled;
- D. Failure or refusal to allow inspections for compliance; or
- E. Improvements authorized by the permit or approval are in violation of any code, law, ordinance, regulation, or statute, or the use or structure is being operated or maintained in a manner which constitutes a nuisance.

(Ord. 2000 § 2, (2021))

**CHAPTER 25.92
(RESERVED)**

Article 7 Zoning Code Administration

CHAPTER 25.94 ADMINISTRATIVE RESPONSIBILITY

§ 25.94.010. Purpose.

This chapter describes the authority and responsibilities of the City Council, Planning Commission, Director of Community Development, and Community Development Department Planning Division staff in the administration of this Title 25.

(Ord. 2000 § 2, (2021))

§ 25.94.020. Planning Agency Defined.

The Planning Commission, the Director of Community Development, and the Community Development Department Planning Division staff shall function as the Planning Agency and as the Advisory Agency, when so required or authorized, in compliance with Government Code Section 65100.

(Ord. 2000 § 2, (2021))

§ 25.94.030. City Council.

The City Council, referred to in this Title 25 as the Council, in matters related to the City's planning process shall perform the duties and functions prescribed in this title, which include the following:

- A. Review Authority on Specified Legislative Planning Matters. Final legislative decisions on development agreements and amendments, Zoning Code amendments, General Plan amendments, specific plans and amendments, Zoning Map amendments, related California Environmental Quality Act (CEQA) environmental documents, and other applicable policy or Zoning Code matters related to the City's planning processes.
- B. Appeals. The review of appeals filed from Commission decisions.
- C. Compliance. The functions listed above shall be performed in compliance with Table 6-1 (Review Authority) and CEQA.
- D. Imposition of Conditions. In making decisions on applications, the Council may impose conditions it deems reasonable and necessary to implement the General Plan, any applicable specific plans, and the Municipal Code standards that apply to development, and to further the public health, safety, and general welfare of the community.

(Ord. 2000 § 2, (2021))

§ 25.94.040. Planning Commission.

The Planning Commission, referred to in this Title 25 as Commission, shall be established and have the powers and duties set forth in Chapter 3.40 (Planning Commission) of the Municipal Code.

(Ord. 2000 § 2, (2021))

§ 25.94.050. Clerk to Keep Record of Recommendations and Orders.

The City Clerk shall keep and maintain a record of all recommendations of the Commission and of all

orders made by the Commission and Council.
(Ord. 2000 § 2, (2021))

§ 25.94.060. Design Review Panel.

- A. With the approval of the Commission, the Director shall appoint one or more design professionals to advise the Director and Commission on applications in residential districts made under this title. The panel appointees shall be persons in the business of residential design who have practiced their design profession involving residential designs in the City and who are willing to contract with the City to provide advisory services specified in this title and Article 6 (Permit Processing Procedures) in particular.
- B. For applications in the commercial, industrial, and mixed-use districts, with the approval of the Commission, the Director shall appoint one or more design professionals who shall be persons in the business of commercial design and who are willing to contract with the City to provide advisory services specified in this title and Article 6 (Permit Processing Procedures) in particular.

(Ord. 2000 § 2, (2021))

§ 25.94.070. Director.

- A. Appointment. The Community Development Director, referred to in this Title 25 as the Director, shall be appointed by the City Manager.
- B. Duties and Authority. The Director shall:
 - 1. Have the responsibility to perform all of the functions designated by State law;
 - 2. Perform the duties and functions prescribed in this Title 25, including Table 6-1 (Review Authority), Government Code Section 65901 et seq., and CEQA;
 - 3. Have the authority to defer action on an application and refer the request to the Commission for consideration and final action;
 - 4. Perform other responsibilities assigned by the Council, Commission, or City Manager; and
 - 5. Delegate the responsibilities of the Director to Department staff under the supervision of the Director.
- C. Imposition of Conditions. In making decisions on applications, the Director may impose conditions the Director deems reasonable and necessary to implement the General Plan, any applicable specific plans, and the Municipal Code standards that apply to development, and to further the public health, safety, and general welfare of the community.

(Ord. 2000 § 2, (2021))

**CHAPTER 25.96
AMENDMENTS TO THE ZONING CODE, ZONING MAP, AND GENERAL PLAN**

§ 25.96.010. Purpose.

This chapter provides procedures for the amendment of this Zoning Code, the Official Zoning Map, and the General Plan whenever the Council determines public necessity and general welfare require an amendment.

(Ord. 2000 § 2, (2021))

§ 25.96.020. Initiation of Amendment.

- A. Who May Initiate. Upon application of any property owner, or on the initiative of a majority of the Commission or the Council, land within the City may be classified within a zoning district, or reclassified from one zoning district to another, in the manner provided in this chapter.
- B. No Obligation to Consider Formally. An application for a General Plan or Zoning Map amendment shall be construed as a suggestion only. The City shall not be required to hold any public hearings merely because an application has been filed. The Council shall have the authority to indicate whether an application for an amendment may be accepted.

(Ord. 2000 § 2, (2021))

§ 25.96.030. Processing, Notice, and Hearings.

- A. Application Filing and Processing.
 1. If initiated by the filing of an amendment application in compliance with Section 25.96.020 (Initiation of Amendment), the application shall be processed in compliance with Chapter 25.62 (Application Processing Procedures).
 2. The application shall include the information and materials specified in the Department handout for amendment applications, together with the required fee in compliance with the Council's fee schedule.
 3. It shall be the responsibility of the applicant to provide evidence in support of the findings required by Section 25.96.060 (Findings and Decision).
- B. Timing of General Plan Amendments. The mandatory elements of the General Plan may be amended up to four times in a single calendar year, as authorized by and subject to the provisions of Government Code Section 65358.
- C. Public Hearings Required. The Commission and Council shall each conduct one or more public hearings regarding the amendment.
- D. Notice and Hearing. Notice of the public hearings shall be provided and the hearings shall be conducted in compliance with Chapter 25.100 (Public Hearings and Notice) and as specified in Government Code Sections 65353, 65355, 65854, and 65856.

(Ord. 2000 § 2, (2021))

§ 25.96.040. Commission's Action on Amendment.

- A. Recommendation to Council.

1. All Amendments. After a public hearing, the Commission shall forward a written recommendation, and reasons for the recommendation, to the Council whether to approve, approve in modified form, or deny the proposed amendment, based on the findings identified in Section 25.96.060 (Findings and Decision), below.
2. Recommendation for Approval of Zoning Code or Zoning Map Amendments. A recommendation for approval or approval in modified form of a Zoning Code or Zoning Map amendment shall require only a majority vote of the Commission.
3. Recommendation for Approval of General Plan Amendments. A recommendation for approval or approval in modified form of a General Plan amendment shall require the affirmative vote of not less than a majority of the total voting members of the Commission in compliance with Government Code Section 65354.

B. Denial by Commission.

1. A recommendation against the proposed amendment shall require only a majority vote.
2. The Commission may act to deny an application without prejudice, meaning that the applicant shall not lose any rights or privileges regarding his/her ability to submit a new application at a later date.

(Ord. 2000 § 2, (2021))

§ 25.96.050. Council's Action on Amendment.

A. Approval.

1. All Amendments. Upon receipt of the Commission's recommendation to approve or approve in modified form a proposed amendment, the Council shall conduct a public hearing and either approve, approve in modified form, or deny the proposed amendment based on the findings identified in Section 25.96.060 (Findings and Decision), below.
2. Approval of Zoning Code or Zoning Map amendments. The action by the Council to approve the Commission's recommendation regarding a Zoning Code or Zoning Map amendment shall be by a majority vote of the members present, adopted by ordinance, and shall be final and conclusive.
3. Approval of General Plan Amendments. The action by the Council to approve the Commission's recommendation regarding a General Plan amendment shall require the affirmative vote of not less than a majority of the total voting members in compliance with Government Code Section 65356, adopted by resolution, and shall be final and conclusive.

B. Referral to Commission.

1. If the Council proposes to adopt a substantial modification(s) to the amendment not previously considered by the Commission, the proposed modification shall be first referred to the Commission for its recommendation in compliance with Government Code Sections 65356 and 65857.
2. Failure of the Commission to report back to the Council within the time limits identified in Government Code Sections 65356 and 65857 following the referral shall be deemed approval by the Commission of the proposed modification(s).

(Ord. 2000 § 2, (2021))

§ 25.96.060. Findings and Decision.

An amendment to this Zoning Code, the Official Zoning Map or the General Plan may be approved only if all the following findings are first made, as applicable to the type of amendment.

A. Findings for General Plan Amendments.

1. The amendment is internally consistent with all other provisions of the General Plan;
2. The proposed amendment will not be detrimental to the public interest, health, safety, convenience, or welfare of the City; and
3. The affected site is physically suitable in terms of design, location, operating characteristics, shape, size, topography; is suitable in terms of the provision of public and emergency vehicle access and public services and utilities; and is served by highways and streets adequate in width and improvement to carry the kind and quantity of traffic the proposed use would likely generate to ensure that the proposed use(s) and/or development will not endanger, jeopardize, or otherwise constitute a hazard to the property or improvements in the vicinity in which the property is located.

B. Findings for Zoning Code and Zoning Map Amendments.

1. The proposed amendment is consistent with the General Plan and any applicable specific plan;
2. The proposed amendment will not be detrimental to the public interest, health, safety, convenience, or welfare of the City;
3. The proposed amendment is internally consistent with other applicable provisions of this Zoning Code; and
4. Specific to Zoning Map amendments, the affected site is physically suitable in terms of design, location, operating characteristics, shape, size, topography; is suitable in terms of the provision of public and emergency vehicle access and public services and utilities; and is served by highways and streets adequate in width and improvement to carry the kind and quantity of traffic the proposed use would likely generate to ensure that the proposed use(s) and/or development will not endanger, jeopardize, or otherwise constitute a hazard to the property or improvements in the vicinity in which the property is located.

(Ord. 2000 § 2, (2021))

§ 25.96.070. Prezoning Annexations.

- A. Prezoning Required. Before the annexation to the City of any property, the sponsor of any annexations shall file an application for rezoning of the subject property to be annexed, and the City shall establish the zoning district(s) which will be in effect on the effective date of the annexation.
- B. Same as Zoning Map Amendments. The process for rezoning property to be annexed to the City shall be the same as is specified in this chapter for Zoning Map amendments.
- C. Compliance with Plans. The zoning shall be in compliance with the General Plan and any applicable specific plan.
- D. Rezoning.
 1. Any property lying outside the corporate limits of the City but adjacent to and within its sphere

of influence may be prezoned with a City zoning district in compliance with Government Code Section 65859 and this chapter.

2. If any property has been prezoned in this manner, the assigned zoning district shall become effective at the same time the annexation of the property becomes effective.

(Ord. 2000 § 2, (2021))

§ 25.96.080. Effective Dates.

- A. General Plan. A General Plan amendment shall become effective immediately upon the adoption of a resolution by the Council.
- B. Zoning Code and Zoning Map. A Zoning Code or Zoning Map amendment shall become effective on the 31st day following the adoption of an ordinance by the Council.

(Ord. 2000 § 2, (2021))

**CHAPTER 25.98
APPEALS AND CALLS FOR REVIEW**

§ 25.98.010. Purpose.

This chapter establishes procedures for the appeal of determinations and decisions rendered by the Commission and Director, and for calls for review.

(Ord. 2000 § 2, (2021))

§ 25.98.020. Appeal and Calls for Review Subjects and Jurisdiction.

- A. Ministerial and Administrative Permits and Actions. Ministerial permits and actions, as defined in Section 25.60.020.A (Ministerial and Administrative Permits and Actions), may be appealed or called for review to the Commission.
- B. Quasi-Judicial Permits and Actions. Quasi-judicial permits and actions, as defined in Section 25.60.020.B (Quasi-Judicial Permits and Actions), may be appealed or called for review to the Council.
- C. Legislative Actions. When the Commission recommends denial of an application to amend the Zoning Code, Zoning Map, or General Plan, such action is automatically forwarded to the Council for action; no appeal is required.
- D. Enforcement Actions. Appeal of enforcement actions relating to violations of this Title 25 shall follow the procedures found in Title 1 of the Burlingame Municipal Code.

(Ord. 2000 § 2, (2021))

§ 25.98.030. Filing and Processing of Appeals and Calls for Review.

A. Eligibility.

1. Who May Appeal. An appeal or call for review in compliance with this chapter may be filed by any aggrieved person, except that in the case of a decision on a quasi-judicial permit or action, an appeal may only be filed by a person who, in person or through a representative, appeared at the public hearing in connection with the decision being appealed, or who otherwise informed the City in writing of the nature of his/her concerns before the hearing.
2. Call for Review on Administrative Permits.
 - a. Any person may request a call for review by the Planning Commission for any Director action on an administrative permits for which notice has been given. Such call for review shall be provided in writing and shall be accompanied by payment of any required fee.
 - b. The following permits are subject to a call for review:
 - i. Minor design review;
 - ii. Hillside Area construction permit;
 - iii. Minor modifications – two or fewer;
 - iv. Minor use permit;
 - v. Administrative use permit.

3. Call for Review by Commissioners and Councilmembers.
 - a. Any Commissioner may initiate a call for review of a Director's determination or decision by filing a written request with the Department before the effective date of the action.
 - b. Any Council member may initiate a call for review of a Commission's or Director's determination or decision by filing a written request with the City Clerk before the effective date of the action.
 - c. No fees are required.
 4. Limitations on Denial by the Commission. If an application has been denied by the Commission, or if an application or a portion thereof is approved, an appeal may be made by the applicant or any interested person.
 5. Accessory Dwelling Unit Permits. A permit for an accessory dwelling unit may only be appealed in the case of a denial.
- B. Timing and Form of Appeal or Call for Review. An appeal or call for review shall be submitted in writing and shall specifically state the pertinent facts and the basis for the appeal or call for review.
1. Contents of Appeal or Call for Review. The pertinent facts and the basis for the appeal shall include, at a minimum, the specific grounds for the appeal, where there was an error or abuse of discretion by the previous Review Authority in the consideration and action on the matter being appealed, and/or where the decision was not supported by the evidence on the record.
 2. Appeal to Be Filed Within 10 Days. An appeal shall be filed with the Department or City Clerk, as applicable, within 10 calendar days following the actual date the decision was rendered. If the 10th day is a holiday, the appeal period shall be extended to the next business day.
 - a. Appeals addressed to the Commission shall be filed with the Department.
 - b. Appeals addressed to the Council shall be filed with the City Clerk.
 3. Call for Review to Be Filed Within 10 Days. A call for review of a proposed Director action shall be filed with the Department within 10 calendar days of the date stated on the notice. If the 10th day is a holiday, the appeal period shall be extended to the next business day.
 4. Filing Fee. The appeal or call for review shall be accompanied by the filing fee identified in the planning fee schedule, except for calls for review filed by a member of the Commission or Council. The filing fee shall not be refundable following the end of the time period in which an appeal may be filed.
 5. Suspension of Action. Once an appeal or call for review is filed, any action on the associated project is suspended until the appeal or call for review is processed and a final decision is rendered by the applicable Review Authority.
 6. Withdrawal of an Appeal or Call for Review. Any person who has filed an appeal or call for review may withdraw such appeal or call for review prior to the posting of the meeting agenda. If the item has been scheduled for public hearing, the Commission or Council must place the item on the agenda for consideration.
- C. Report and Scheduling of Hearing.

1. When an appeal or call for review has been filed, the Director shall prepare a report on the matter, including all the application materials in question, and schedule the matter for a public hearing by the appropriate Review Authority identified in Table 6-1 (Review Authority) within 45 days of the filing of the appeal or call for review.
2. Notice of the hearing shall be provided and the hearing shall be conducted in compliance with Chapter 25.100 (Public Hearings and Notice).
3. Any interested party may appear and be heard regarding the appeal or call for review.

D. Decision.

1. The appeal hearing shall be de novo, and the issues that may be raised and considered by the Review Authority are not limited to those raised by the appellant, and may include any aspect of the proposed project, whether or not originally considered as part of the decision being appealed.
2. The Review Authority may:
 - a. Affirm, affirm in part, or reverse the action, determination, or decision that is the subject of the appeal, based upon findings of fact about the particular case. The findings shall identify the reasons for the action on the appeal, and verify the compliance or noncompliance of the subject of the appeal with this title; or
 - b. Adopt additional conditions of approval which may address issues or concerns related to and/or other than the subject of the appeal.
3. If new or different evidence is presented on appeal, the Commission or Council may refer the matter to the Director or Commission, as applicable, for further consideration.
4. In the event of a tie vote by the Review Authority on an appeal, the decision being appealed shall stand.
5. Provision of Notice of Decision.
 - a. Following the final decision on an application for a permit or other approval required by this title, the City shall provide notice of its final decision to the appellant, applicant, property owner/owner's representative, and to any person who specifically requested notice of the City's final action.
 - b. The notice of the final decision shall contain applicable findings, conditions of approval, and the reporting/monitoring requirements deemed necessary to mitigate any impacts and protect the public convenience, health, interest, safety, or general welfare of the City.

E. Effect of Decision.

1. The determination and order of the Commission or, if appeal or call for review is had under the foregoing provisions, the determination and order of the Council, is final and conclusive upon the applicant.
2. No same or similar application with reference to the same premises shall be filed for a period of one year from the date of the order.
3. Final action by the applicable Review Authority shall be effective in compliance with the

provisions of Section 25.88.020 (Effective Dates of Permits) if no additional appeals are filed in compliance with this chapter.

(Ord. 2000 § 2, (2021))

**CHAPTER 25.100
PUBLIC HEARINGS AND NOTICE**

§ 25.100.010. Purpose.

This chapter provides procedures for public hearings required by this title. When a public hearing is required, advance notice of the hearing shall be given, and the hearing shall be conducted, in compliance with this chapter.

(Ord. 2000 § 2, (2021))

§ 25.100.020. Notice of Hearing.

When this title requires a noticed public hearing before a decision on a permit or for another matter, the public shall be provided notice of the hearing in compliance with Government Code Sections 65090, 65091, 65094 and 66451.3, and Public Resources Code 21000 et seq., and as required by this chapter.

- A. Content of Notice. Notice of a public hearing shall include all of the following information, as applicable.
 1. Hearing Information. The date, time, and place of the hearing and the name of the Review Authority; a brief description of the City's general procedure concerning the conduct of hearings and decisions (e.g., the public's right to appear and be heard); and the phone number, street address, and email address of the Department where an interested person could call or visit to obtain additional information.
 2. Project Information. A general explanation of the matter to be considered and a general description, in text and/or by diagram, of the location of the property that is the subject of the hearing.
 3. Statement on Environmental Document. If a proposed Negative Declaration, Mitigated Negative Declaration, or Environmental Impact Report has been prepared for the project in compliance with the California Environmental Quality Act (CEQA) and the City's CEQA Guidelines, the hearing notice shall include a statement that the Review Authority will also consider approval of the proposed Negative Declaration or Mitigated Negative Declaration, or certification of the final Environmental Impact Report, as applicable.
- B. Method of Notice Distribution. Notice of a public hearing or any noticing requirement required by Article 6 for a planning approval shall be given as follows, as required by Government Code Sections 65090 and 65091.
 1. Mailing. Notice shall be mailed or delivered to the following at least 10 days before the scheduled hearing, or for other noticing requirements:
 - a. Project Site Owner(s) and the Applicant. The owner(s) of the property being considered in the application or the owner's authorized agent, and the applicant.
 - b. Local Agencies. Each local agency expected to provide roads, schools, sewage, streets, water, or other essential facilities or services to the property which is the subject of the application, whose ability to provide those facilities and services may be significantly affected.
 - c. Affected Owners. All owners of real property, as shown on the latest adopted tax roll of the County, located within a radius as defined below of the exterior boundaries of the

parcel that is the subject of the hearing or noticing requirement pursuant to Article 6 (Permit Processing Procedures).

i. 500-Foot Radius Required.

- (A) All legislative actions pursuant to Table 6-1 (Review Authority);
- (B) Any commercial, industrial, or institutional development exceeding 10,000 square feet of construction, whether new construction or addition to existing development;
- (C) Any attached residential development consisting of five or more units; and
- (D) Any combination of (B) and (C) above.

ii. 300-Foot Radius Required. All planning permits and approvals and all administrative and ministerial actions pursuant to Table 6-1, except for those specified in subsections B.1.c.i and iii, and any permits pursuant to subsection B.1.c.iii that are called for review or appealed to the Commission.

iii. 100-Foot Radius Required.

- (A) Administrative use permit;
- (B) Design review – minor;
- (C) Minor modifications – two or fewer;
- (D) Hillside Area construction permits not requiring design review;
- (E) Master Sign Programs.

iv. No Radius Notification Required. Appeals of interpretations of the Zoning Code, accessory dwelling unit permits, home occupation permits, reasonable accommodation approvals, sign permits, and temporary use permits do not require noticing of affected owners.

d. Persons Requesting Notice. Any person who has filed a written request for notice with the Director and has paid the required fee for the notice.

e. Other Person(s). Any other person(s), whose property might, in the judgment of the Director, be affected by the proposed project.

2. Alternative to Mailing. If the number of property owners to whom notice would be mailed in compliance with subsection B.1, above, is more than 1,000, the Director may choose to provide the alternative notice allowed by Government Code Section 65091(a)(3).

3. Publication and Posting.

a. Publication or Posting. Notice shall be published at least once in a newspaper of general circulation in the City at least 10 days before the scheduled hearing or posted at least 10 days before the scheduled hearing in at least three public places within the City, including one public place in the area affected by the proceeding.

b. Additional Notice. In addition to the types of notice required above, the Director may

provide any additional notice with content or using a distribution method (e.g., posting on the City's website) as the Director determines is necessary or desirable.

- c. Projects Involving CEQA Action. For any application requiring environmental review pursuant to CEQA, posting and notice shall be provided as required by CEQA.

(Ord. 2000 § 2, (2021))

§ 25.100.030. Scheduling of Hearing.

After the completion of any environmental document required by CEQA and a Department staff report, a matter requiring a public hearing shall be scheduled on the next available agenda (Director, Commission, or Council, as applicable) reserved for public hearings, but no sooner than any minimum time period established by State law.

(Ord. 2000 § 2, (2021))

§ 25.100.040. Hearing Procedure.

- A. Time and Place of Hearing. A hearing shall be held at the date, time, and place for which notice was given.
- B. Continued Hearing. Any hearing may be continued from time to time without further notice, provided the chair of the hearing body announces the date, time, and place to which the hearing will be continued before the adjournment or recess of the hearing.
- C. Deferral of Final Decision. The Review Authority may announce a tentative decision and defer action on a final decision until appropriate findings and/or conditions have been prepared.

(Ord. 2000 § 2, (2021))

§ 25.100.050. Recommendation by Commission.

After a public hearing on a proposed Specific Plan or amendment, or an amendment to this Zoning Code, the General Plan, or the Zoning Map, the recommendation and findings of the Commission and the minutes of the Commission meeting shall be forwarded to the Council. A copy of the recommendation shall be mailed to the applicant and property owner/owner's representative, except that a denial by the Commission on amendments is not required to be forwarded to the Council but can be appealed to the Council pursuant to Chapter 25.98 (Appeals).

(Ord. 2000 § 2, (2021))

§ 25.100.060. Decision and Notice.

- A. Decision.
 1. The Review Authority may announce and record its decision on the matter being considered at the conclusion of a scheduled hearing or defer action and continue the matter to a later meeting agenda in compliance with Section 25.100.040 (Hearing Procedure), above.
 2. The decision of the Council on any matter shall be final and conclusive.
- B. Notice of Decision.
 1. Provision of Notice. Following the final decision on an application for a permit or other approval required by this title, the City shall provide notice of its final action to the applicant, property owner/owner's representative, and to any person who specifically requested notice of

the City's final action.

2. **Contents of Notice.** The notice of the final decision shall contain applicable findings, conditions of approval, reporting/monitoring requirements deemed necessary to mitigate any impacts and protect the public convenience, health, interest, safety, or general welfare of the City, and the procedure for appeal.

(Ord. 2000 § 2, (2021))

§ 25.100.070. Effective Date of Decision.

Final action by the applicable Review Authority shall be effective in compliance with the provisions of Section 25.88.020 (Effective Dates of Permits), if no additional appeals are filed in compliance with Chapter 25.98 (Appeals).

(Ord. 2000 § 2, (2021))

**CHAPTER 25.102
ENFORCEMENT PROVISIONS**

Note: Enforcement provisions for the Zoning Code are established in Title 1, General Provisions, of the Burlingame Municipal Code.

**CHAPTER 25.103
DEVELOPER INDEMNIFICATION**

§ 25.103.010. Purpose.

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

(Ord. 2000 § 2, (2021))

§ 25.103.020. Definitions.

"Developer" means any applicant for a permit or entitlement for development.

"Development" means a land use permit or entitlement under the Burlingame Municipal Code and shall include determinations under the California Environmental Quality Act (CEQA); and shall also include, but not be limited to, determinations regarding the General Plan, Specific Plan, Precise Plan, or zoning modification or amendment, use permit, variance, zoning permit, architectural or design review permit, planned unit development permit, planned community permit, modifications to permits, sign permit, building permit, subdivision and parcel maps, condominium permits, and all other discretionary permits processed by the City.

(Ord. 2000 § 2, (2021))

§ 25.103.030. Indemnity Required.

Any developer who applies for a permit or other approval for development from the City shall, as a condition of such application and process, indemnify, defend (with counsel of City's choosing), and hold harmless the City, its officers, employees, agents, and public officials, and the Pooled Liability Assurance Network Joint Powers Authority (PLAN JPA) from any and all claims and lawsuits from third party(s) involving or related to the City's consideration and/or approval of the developer's application for development.

(Ord. 2000 § 2, (2021))

**CHAPTER 25.104
DEVELOPMENT AGREEMENTS**

§ 25.104.010. Citation and Authority.

This chapter is adopted in accordance with Government Code Section 65867.

(Ord. 2000 § 2, (2021))

§ 25.104.020. Purpose.

- A. The purpose of this chapter is to strengthen the public planning process, encourage private participation and comprehensive planning, and reduce the economic costs of development by providing an option to both the City and developers to enter into development agreements.
- B. In defining the provisions of any development agreement executed in compliance with this section, each provision shall be consistent with the language of this section, State law and the agreement itself. Should any discrepancies between the meaning of these documents arise, reference shall be made to the following documents, and in the following order of precedence:
 1. The provisions of Federal or State law;
 2. The plain terms of the development agreement itself; and
 3. The provisions of this section.

(Ord. 2000 § 2, (2021))

§ 25.104.030. Applicability.

The procedures and requirements set forth in this chapter shall apply to all development agreements proposed by developers and entered into by the City Council.

(Ord. 2000 § 2, (2021))

§ 25.104.040. Pre-Application Study Session.

Prior to formal application submittal, a pre-application Planning Commission study session shall be required.

- A. A person having a legal or equitable interest in real property may apply for a pre-application development agreement study session. The Community Development Director shall prescribe the pre-application form for development agreements. The applicant shall pay the fee for a study session set by City Council resolution and updated from time-to-time.
- B. The City may require an applicant to submit such information and supporting data as the Community Development Director considers necessary for a pre-application development agreement study session application, and as provided in a submittal checklist which may be updated from time-to-time.
- C. Following the staff review, a Planning Commission pre-application study session for the proposed development agreement shall be agendized. Staff and the applicant will present the proposed project to the Planning Commission. Following the project presentation, the Planning Commission will be invited to make individual comments on various aspects of the proposal. Such comments shall confer no vested rights upon the applicant to proceed and the City may thereafter reject the formal application even though it complies with the approved pre-application request. In conformance with State law, no formal direction or decision-making will take place until a project has undergone

appropriate environmental review, public hearings, and evaluation for consistency with adopted City codes and plans.

(Ord. 2000 § 2, (2021))

§ 25.104.050. Forms, Information and Fees.

- A. A person having a legal or equitable interest in real property may apply for a development agreement. The Community Development Director shall prescribe the application form for development agreements.
- B. The City may require an applicant to submit such information and supporting data as the Community Development Director considers necessary to process the application.
- C. Each application shall be accompanied by the key terms of the development agreement proposed by the applicant.
- D. The applicant shall reimburse the City for all its reasonable and actual costs, fees, and expenses, including legal counsel and special counsel fees, for preparation and review of an application for a development agreement. This reimbursement includes the applicant reimbursing the City for all its reasonable and actual costs, fees and expenses, including legal counsel and special counsel fees, incurred in the negotiation of the development agreement. The City Council may by resolution fix the schedule of fees and charges imposed for the filing and processing of each development agreement application and negotiation, and for the annual review.

(Ord. 2000 § 2, (2021))

§ 25.104.060. Review of Application.

- A. The Community Development Director shall review the application and determine any additional information necessary to process the application. After the required information is received, a staff report and recommendation shall be prepared and shall state whether or not the agreement, as proposed or in an amended form, would be consistent with the General Plan and any applicable specific plan and shall describe the public benefits provided by the proposed agreement.
- B. Dependent upon policy implications, unique or unusual circumstances, the size of the project, or other factors determined by the Community Development Director to be significant enough to warrant additional review and engagement, the Community Development Director shall have the discretion to require a Planning Commission public workshop and/or another public vetting opportunity after the study session but prior to the public hearings on the development application.

(Ord. 2000 § 2, (2021))

§ 25.104.070. Notice of Public Hearing.

- A. The timing and manner of giving notice of public hearings on the development agreement shall be as prescribed in Government Code Section 65867.
- B. The notice to consider adoption of the development agreement shall contain:
 1. The time and place of the hearing;
 2. A general explanation of the matter to be considered, including a general description of the area to be affected; and
 3. Other information required by law or which the Community Development Director considers

necessary or desirable.
(Ord. 2000 § 2, (2021))

§ 25.104.080. Review by Planning Commission.

- A. The Planning Commission shall hold a public hearing on the development agreement and shall make a written recommendation to the City Council.
- B. The Planning Commission's recommendation shall include a determination whether or not the proposed development agreement:
 - 1. Is consistent with the objectives, policies, general land uses and programs specified in the general plan and any applicable specific plan; and
 - 2. Is consistent with the zoning and other land use regulations applicable to the property.

(Ord. 2000 § 2, (2021))

§ 25.104.090. Decision by City Council.

- A. The City Council shall hold a public hearing, after which it may accept, modify or disapprove the recommendation of the Planning Commission.
- B. The City Council may not approve the development agreement unless it finds that the provisions of the agreement are consistent with the General Plan and any applicable specific plan and are consistent with the zoning and other land use regulations applicable to the property.

(Ord. 2000 § 2, (2021))

§ 25.104.100. Approval of Development Agreement.

If the City Council approves the development agreement, it shall do so by the adoption of an ordinance. The agreement takes effect upon the effective date of the ordinance, unless the ordinance specifies a later date.

(Ord. 2000 § 2, (2021))

§ 25.104.110. Amendment or Cancellation.

- A. The parties may mutually agree to amend or cancel in whole or in part the development agreement previously entered into.
- B. The procedure for proposing and adopting an amendment to or cancellation in whole or in part of the development agreement is the same as the procedure for entering into an agreement.

(Ord. 2000 § 2, (2021))

§ 25.104.120. Recordation.

- A. Within 10 days after the City enters into the development agreement, the City Clerk shall have the agreement recorded with the county recorder.
- B. If the parties to the agreement amend or cancel the agreement as provided in Section 25.104.110 or modify or terminate the agreement as prescribed in Section 25.104.140 for failure of the applicant or its successor in interest to comply in good faith with the terms or conditions of the agreement, the City Clerk shall have notice of such action recorded with the County Recorder.

(Ord. 2000 § 2, (2021))

§ 25.104.130. Periodic Review.

- A. The City shall review the development agreement every 12 months from the date the agreement is entered into. It is the applicant's or the applicant's successor in interest's responsibility to apply in a timely fashion for the annual review and pay any applicable review fees. The applicant or its successor in interest is responsible for submitting substantial evidence of good faith compliance with the development agreement with the application for annual review. The date for the annual review may be modified either by agreement between the parties or at the City's initiation, upon recommendation of the Community Development Director, and by an affirmative vote of a majority of the City Council.
- B. The Community Development Director shall give notice to the applicant or its successor in interest that the City intends to undertake the review of the development agreement. Notice shall be given at least 10 days in advance of the time at which the matter will be considered by the City Council.
- C. The City Council shall conduct a public hearing determine whether the applicant or its successor in interest is in good faith compliance with the terms of the agreement. The burden of proof, by substantial evidence, of good faith compliance shall be upon the applicant or its successor in interest.
- D. The City Council shall determine, based on substantial evidence, whether or not the applicant or its successor in interest has, for the period under review, complied in good faith with the terms and conditions of the agreement.
- E. If the City Council determines, based on substantial evidence, that the applicant or its successor in interest has complied in good faith with the terms and conditions of the agreement during the period under review, the review for that period is concluded.
- F. If the City Council determines, based on substantial evidence, that the applicant or its successor in interest has not complied in good faith with the terms and conditions of the agreement during the period under review, the City Council may terminate or modify the agreement as provided in Section 25.104.140.

(Ord. 2000 § 2, (2021))

§ 25.104.140. Modification or Termination.

- A. If the City Council determines, based upon substantial evidence, that the applicant or its successor in interest has not complied in good faith with the terms and conditions of the agreement during the period under review, the City Council may terminate or modify the agreement as provided in this section.
 - 1. Before modifying or terminating the agreement, the City shall give notice to the applicant or its successor in interest containing:
 - a. The time and place of the hearing;
 - b. A statement as to whether the City proposes to terminate or to modify the development agreement; and
 - c. Other information which the City considers necessary to inform the applicant or its successor in interest of the nature of the proceedings.

2. At the time and place set for the hearing on modification or termination, the applicant or its successor in interest shall be given an opportunity to be heard.
3. The City Council may refer the matter back to the Planning Commission for further proceedings or for report and recommendation.
4. The City Council may impose those conditions to the action it takes as it considers necessary to protect the public health, safety, or welfare.
5. The decision of the City Council is final.

(Ord. 2000 § 2, (2021))

Article 8 Definitions

CHAPTER 25.105 PURPOSE

§ 25.105.010. Purpose and Applicability.

This article provides definitions of the technical and other terms and phrases used in Title 25 (Zoning) as a means of providing consistency in its interpretation. Where any definition in this article may conflict with definitions in other titles of the Municipal Code, these definitions shall prevail for the purposes of this Zoning Code, except as may otherwise be specified. If a word is not defined in this chapter or in other provisions of the Municipal Code, the most common dictionary definition is presumed to be correct.
(Ord. 2000 § 2, (2021))

§ 25.105.020. Organization.

This article is subdivided into the following chapters:

- A. Chapter 25.106 (Land Use Definitions) applies to land uses and activities identified in Tables 25.10-1 (Zoning Districts Use Regulations), 25.12-1 (Commercial and Industrial Zoning Districts Use Regulations), 25.14-1 (Mixed-Use Zoning Districts Use Regulations), 25.16-1 (Downtown Zoning Districts Use Regulations), and 25.18-1 (Public/Institutional, Parks and Recreation, and Tidal Plan/Bay Zoning Districts Use Regulations).
- B. Chapter 25.108 (General Definitions) applies to all other terms used in Title 25.
(Ord. 2000 § 2, (2021))

CHAPTER 25.106 LAND USE DEFINITIONS

§ 25.106.010. Purpose and Applicability.

The definitions in this chapter apply to land uses and activities identified in Tables 25.10-1 (Zoning Districts Use Regulations), 25.12-1 (Commercial and Industrial Zoning Districts Use Regulations), 25.14-1 (Mixed-Use Zoning Districts Use Regulations), 25.16-1 (Downtown Zoning Districts Use Regulations), and 25.18-1 (Public/Institutional, Parks and Recreation, and Tidal Plan/Bay Zoning Districts Use Regulations).

(Ord. 2000 § 2, (2021))

§ 25.106.020. "A" Definitions.

Accessory Dwelling Unit (ADU). As defined in Section 25.48.030 (Accessory Dwelling Units) of this title.

Accessory Use. See "Use, Accessory."

Adult Entertainment Uses. Any establishment which as a regular or substantial course of conduct performs or operates as an adult bookstore, merchandise, or video store, adult theater, adult motion picture theater, adult cabaret, adult model studio, adult hotel/motel, or any other business establishment which as a regular and substantial course of conduct offers to its patrons products, merchandise, services or entertainment characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical parts. "Adult-oriented business" does not include those uses or activities, the regulation of which is preempted by State law. "Adult-oriented business" shall also include any establishment which, as a regular or substantial course of conduct, provides or allows performers, models, actors, actresses or employees to appear in any place in lingerie or similar attire which does not opaquely cover specified anatomical parts.

Air Courier, Terminal, and Freight, Services. Transportation facilities for handling freight, with or without storage and maintenance facilities. This classification does not include local messenger and local delivery services.

Animal Care Services

Kennel. The commercial provision of shelter/kenneling for dogs, cats, other household animals, and horses (where allowed), including activities associated with such shelter (e.g., feeding, exercising, grooming, and incidental medical care).

Grooming. The commercial provision of bathing and trimming services for dogs, cats, and other household animals permitted by the Municipal Code. Overnight boarding is not included with this use (see "Kennel").

Pet Hotel. A business that primarily provides supervised care for overnight and extended indoor boarding facilities that mimic a home or hotel setting for dogs, cats, and other domestic animals. Ancillary services include training, spa and grooming treatments, and day-care in supervised group indoor and/or outdoor play areas. Facilities include operational means and/or sound attenuation measures to diminish perceived odors and sound.

Veterinarian. Establishments where household animals receive medical and surgical treatment and may be temporarily boarded (more than one-night stay) in association with such medical or surgical treatment. Short-term animal boarding may be provided as an accessory use.

Assembly Facilities

Community Assembly Facility. A facility for public or private meetings, including community centers, banquet centers, religious assembly facilities, civic and private auditoriums, union halls, meeting halls for clubs, and other membership organizations. This classification includes functionally related facilities for the use of members and attendees such as kitchens, multi-purpose rooms, classrooms and storage. It does not include gymnasiums or other sports facilities uses that represent more than 20 percent of overall square footage, convention centers, or facilities, such as day care centers and schools that are separately classified and regulated.

Religious Assembly Facilities. Any facility specifically designed and used to accommodate the gathering of persons for the purposes of fellowship, worship, or similar conduct of religious practices and activities. This definition includes functionally related internal facilities (i.e., kitchens, multi-purpose rooms, storage, etc.) and residences for clergy. Other establishments maintained by religious organizations, including full-time educational institutions, hospitals and other related operations, are classified according to their respective activities.

Auto Repair. See "Vehicle Services and Repair."

Auto Sales. See "Vehicle Sales."

Auto Rentals. See "Vehicle Services and Repair, Vehicle Rentals."

(Ord. 2000 § 2, (2021))

§ 25.106.030. "B" Definitions.

Banks and Financial Institutions. A bank, savings and loan, credit union, or other financial institution that provides retail banking services to individuals and businesses. These uses include only those institutions engaged in the on-site circulation of cash money. This classification does not include "Check Cashing and Pay Day Loan Establishments."

Bars, Taverns. See "Eating and Drinking Establishments, Bars and Taverns."

Bed and Breakfast. A building or group of buildings providing 15 or fewer bedrooms or suites that are rented for overnight lodging for payment for periods of fewer than 30 consecutive calendar days, with a common eating area for guests and where meals may be provided. This use classification does not include hotels and motels (see "Hotels and Motels") or hostels (see "Hostels").

Boarding House. See "Communal Housing."

Breweries, Distilleries, Wineries. An establishment which produces ales, beers, meads, hard ciders, wine, liquor and/or similar beverages on-site. Also includes incidental sale of beverages for on-site and off-site consumption in keeping with the regulations of the Alcohol Beverage Control (ABC) and Bureau of Alcohol, Tobacco, and Firearms (ATF). Establishments may provide food service that is subordinate to the production and sale of alcoholic beverages.

Building Materials and Contractor Services. Establishments providing goods and services to contractors and individuals and carrying a full line of building materials, appurtenances and decorator items (including hardware, plumbing, electrical, heating, air-conditioning, or building supplies, tools and equipment, plants and garden products, patio furniture, swimming pools, spas, and hot tubs, lighting fixtures and cabinets, paint, carpeting, floor coverings or wallpaper) to facilitate the improvement, rehabilitation and maintenance of individual dwellings. All merchandise other than plants is kept within an enclosed building or fully screened enclosure and fertilizer, soil, soil amendments are stored and sold in package form only. Tools may be available for rent.

Business Services. Establishments providing goods and services to other businesses and individuals on a fee or contract basis, including printing and copying, advertising and mailing, equipment rental and leasing,

office security, custodial services, photo finishing, including associated delivery services with two or fewer fleet vehicles on site.

(Ord. 2000 § 2, (2021))

§ 25.106.040. "C" Definitions.

Caretaker Quarters. A permanent residence that is secondary or accessory to the primary use of the property, and used for housing a caretaker employed on the site of any nonresidential use where needed for security purposes or to provide 24-hour care or monitoring of people, animals, equipment, or other conditions on the site.

Check Cashing and Pay Day Loan Establishments. A commercial land use that generally includes some or all of a variety of financial services, including cashing of checks, warrants, drafts, money orders, or other commercial paper serving the same purpose; deferred deposit of personal checks whereby the check casher refrains from depositing a personal check written by a customer until a specific date pursuant to a written agreement; money transfers; payday advances; issuance of money orders; making consumer or auto-title loans; and similar uses. This category does not include State or Federally chartered banks, savings associations, credit unions, or industrial loan companies. It also does not include retail sellers that are primarily engaged in the business of selling consumer goods, such as consumables to retail buyers, and that cashes checks or issues money orders as a service to its customers (for a fee not exceeding two dollars) incidental to their main purpose or business.

Commercial Recreation, Large Scale. Recreational facilities where visitors are participant actors rather than spectators. Examples include outdoor facilities such as amusement and theme parks, water parks, swimming pools; driving ranges, golf courses, miniature golf courses, riding stables; and indoor facilities such as large fitness centers, gymnasiums, handball, badminton, racquetball, dance hall and tennis club facilities; ice-skating or roller-skating rinks; trampoline and bounce house establishments; bowling alleys; and electronic game and amusement centers. This classification may include snack bars and other incidental food and beverage services to patrons. Bars or restaurants with alcohol sales shall be treated as a separate use and shall be regulated accordingly, even when operated in conjunction with the entertainment and recreation use.

Commercial Recreation, Small Scale. Commercial establishments that offer specialized programs in personal fitness, recreation, or dance, provided in an individual or group setting. Typical uses include classes or instruction in fitness, martial arts, yoga, and dance. Commercial recreation, small scale may also include rehearsal studios, pool and billiard lounges.

Communal Housing. Shared living quarters without separate kitchen facilities for each room or unit, where five or more rooms or beds are rented individually to tenants under separate rental agreements, with or without meal service included. This classification includes convents and monasteries, rooming and boarding houses, dormitories and other types of organizational housing intended for long-term occupancy (more than 30 consecutive calendar days) but excludes "Lodging and Similar Uses," and "Residential Care Facilities," "Supportive Housing," and "Transitional Housing."

Community Assembly Facility. See "Assembly, Community Assembly Facility."

Community Open Space. Usable open space areas including plazas and parks that may be privately or publicly owned but which are open and available for public use.

Convenience Store. See "Food and Beverage Sales, Convenience Store."

Corner Store Retail. See "Retail Stores, Limited Corner Store."

Cottage Food Operation. A use located within a dwelling where certain low-risk food products that do not require refrigeration are made and sold, and as defined in Section 113758 of the California Health and

Safety Code.
(Ord. 2000 § 2, (2021))

§ 25.106.050. "D" Definitions.

Day Care Center. Establishments providing non-medical care for persons on a less than 24-hour basis other than "Family Day Care, Small" or "Family Day Care, Large." This classification includes nursery schools, preschools, and day care facilities for children or adults, and any other day care facility licensed by the State of California. Such use must comply with all applicable State regulations, and specifically those set forth in the California Health and Safety Code commencing with Section 1596.70, to be considered a general day care facility.

Donation Box, Outdoor. A bin, storage shed, or similar facility established as an outdoor, accessory use to a primary use for the purpose of providing a collection location for donated clothes, shoes, and small household items. Such facilities generally are established by a charitable or nonprofit organization.

Drive-Through or Drive-Up Facilities. An establishment that sells products or provides services to occupants in vehicles, including drive-in or drive-up windows and drive-through services. Examples include banks, and pharmacies. Does not include "click and collect" facilities in which an online order is picked up in a stationary retail business without use of a drive-in service (see "Retail Stores, General"). Does not include drive-through fast food (see "Restaurant, Drive-Through" within "Eating and Drinking Establishments"). Does not include drive-in theaters or gas stations (see "Vehicle Fuel Sales and Accessory Service").

Dwellings. See "Single-Unit Dwelling," "Two-Unit Dwellings," "Multi-Unit Dwellings," or "Accessory Dwelling Unit."

(Ord. 2000 § 2, (2021))

§ 25.106.060. "E" Definitions.

Eating and Drinking Establishments

Bars and Taverns. Any establishment that sells or serves alcoholic beverages for consumption on the premises and is holding or applying for a public premises license from the State Department of Alcoholic Beverages and in which persons under 21 years of age are restricted from the premises. References to the establishment shall include any immediately adjacent area that is owned, leased, or rented, or controlled by the licensee. This use includes stand-alone tasting rooms where alcoholic beverages are sold and consumed on-site and any food service is subordinate to the sale of alcoholic beverages. This use does not include adult entertainment businesses.

Night Clubs. Any establishment in which all of the following features are made available: (1) Alcoholic beverages served or consumed on the premises; (2) Floor space provided for dancing or standing or both for patrons in conjunction with an entertainment activity, provided that floor space utilized for patrons to view television or similar media shall not be construed to constitute floor space provided for dancing or standing or both for patrons in conjunction with an entertainment activity; and (3) Music or other sound that is amplified through speakers for the purpose of entertaining patrons, except for sound associated with television or similar media being viewed by patrons and music provided exclusively as background entertainment for dining patrons. In any case where the above features are only incidental to a private event not open to the general public such as a wedding reception, banquet, non-profit event or similar function, such features shall not be construed to constitute a nightclub. Does not include adult entertainment businesses.

Outdoor Dining. A dining area with seats and/or tables located outdoors of a sit-down restaurant,

fast food, or other food service establishment. Outdoor dining is located on-site entirely outside the walls of the contiguous structure or enclosed on one or two sides by the walls of the structure with or without a solid roof cover.

Restaurants, Drive-Through. Restaurants providing food and beverage services to occupants in vehicles, including drive-in or drive-up windows and drive-through services. Does not include "click and collect" facilities in which an online order is picked up in a stationary retail business without use of a drive-in service.

Restaurants. Restaurants providing food and beverage services, which may include the sales of alcoholic beverages for consumption on the premises. Takeout or delivery service may be provided. This use includes microbreweries where the sale and consumption of alcoholic beverages are subordinate to on-site food service. This classification also includes catering businesses or bakeries that have a storefront retail component.

Tasting Room. An establishment that offers wine, beer, or liquor for consumption on the premises, and those products are manufactured or rectified on the premises or at an off-site location associated with the premises. Tasting rooms may include food sales. See Section 25.48.250 (Tasting Rooms as an Accessory Use).

Elderly and Long-Term Care. Establishments that provide 24-hour medical, convalescent, or chronic care to individuals who, by reason of advanced age, chronic illness, or infirmity, are unable to care for themselves, and is licensed as a skilled nursing facility by the State, including, but not limited to, rest homes and convalescent hospitals. Does not include "Residential Care Facilities" or "Hospitals and Clinics."

Emergency Shelter

AEmergency Shelter, Permanent. A facility or use, which provides temporary housing (six months or less) for homeless individuals or families, as defined in Section 50801 of the California Health and Safety Code. Supplemental services may include, but are not limited to, meals, day care, medical assistance, and counseling.

Bemergency Shelter, Temporary. A facility or use, which provides temporary housing (six months or less) for homeless individuals or families, as defined in Section 50801 of the California Health and Safety Code and is established in association with an on-site church or nonprofit institution and the use does not occur continuously at any one location for more than six months of any 12-month period. Supplemental services may include, but are not limited to, meals, day care, medical assistance, and counseling.

Cow Barrier Navigation Center. A Housing First, low barrier, temporary, service-enriched shelter focused on helping homeless individuals and families to quickly obtain permanent housing. Low barrier includes best practices to reduce barriers to entry, such as allowing partners, pets, storage of personal items, and privacy. See Government Code Section 65660.

Extended-Stay Hotels. A building or group of buildings containing lodging accommodations of one or more rooms typically let for periods of a week or more and that contain standard kitchens and appliances and other facilities to support such extended occupancy. To constitute an extended stay hotel, each hotel room must contain kitchen facilities to include a range cooktop, microwave or conventional oven, refrigerator, and sink, and must allow stays longer than 30 days.

(Ord. 2000 § 2, (2021))

§ 25.106.070. "F" Definitions.

Family Day Care. A day-care facility licensed by the State that is located in a single-unit residence or other dwelling unit where a resident of the dwelling provides care and supervision for children under the age of 18 for periods of fewer than 24 hours a day.

Family Day Care, Small. A facility that provides care for eight or fewer children (or capacity limits for small family day cares as set forth by the State, see Health and Safety Code Section 1596.78), including children who reside at the home and are under the age of 10. See Health and Safety Code Section 1596.78.

Family Day Care, Large. A facility that provides care for nine to 14 children (or capacity limits for large family day cares as set forth by the State, see Health and Safety Code Section 1596.78), including children who reside at the home and are under the age of 10. See Health and Safety Code Section 1596.78.

Food and Beverage Sales. Retail sales of food and beverages for off-site preparation and consumption.

Alcohol Sales Store. A retail establishment engaged in the sale of alcoholic beverages as a primary use, including beer, wine, distilled spirits, hard liquor, and/or any other alcoholic beverages and regulated by the Department of Alcoholic Beverage Control. Does not include grocery stores, convenience stores, warehouse stores, or other alcohol sales authorized as part of an off-site wine tasting room or food and beverage product manufacturing.

General Market. Retail food markets of food and grocery items for off-site preparation and consumption. Typical uses include supermarkets (less than 75,000 square feet - see "Retail Stores, Large Format"), neighborhood grocery stores, and specialty food stores, such as retail bakeries with less than 20 percent of floor space dedicated to customer seating; candy, nuts, and confectionary stores; meat or produce markets; vitamin and health food stores; cheese stores; and delicatessens. This classification may include small-scale specialty food production such as pasta shops with retail sales. May include secondary uses within the store for visitor convenience, such as banking services, retail sales of non-food items, and a pharmacy.

Convenience Store. A retail establishment with not more than 3,000 square feet of gross floor area, offering retail sales of food, beverage, and small convenience items primarily for off-premises consumption. Sale of alcoholic beverages is limited to beer and wine only in conjunction with an ABC License Type 20. This classification excludes tobacco stores, liquor stores, delicatessens, confectioneries, and specialty food markets, or grocery stores having a sizeable assortment of fresh fruits and vegetables, and fresh-cut meat, fish, or poultry. Also see "Alcohol Sales" and "General Market."

Food Preparation (Catering). Businesses preparing and/or packaging food for off-site consumption, excluding those of an industrial character in terms of processes employed, waste produced, water used, and traffic generation. Typical uses include catering kitchens, bakeries with onsite retail sales, and small-scale specialty food production. Food Preparation may also be considered accessory to allowed restaurant uses.

Food Processing and Production. Facilities that manufacture package, label, or store food for consumption off site and does not provide products directly to a consumer. Uses do not include any retail components.

Funeral Services and Cemeteries. An establishment primarily engaged in the provision of services involving the care, preparation, or disposition of human remains and conducting memorial services. Typical uses may include crematories, columbaria, mausoleums, mortuaries, funeral chapels, and funeral homes. May include areas for living quarters for funeral home/mortuary manager.

(Ord. 2000 § 2, (2021))

§ 25.106.080. "G" Definitions.

Gas Station. See "Vehicle Fuel Sales and Accessory Service."

Government Buildings and Facilities. A building or structure owned, operated, or occupied by a governmental agency to provide a governmental service to the public; in some circumstances, government buildings and facilities may not be open to the public.

Grocery Store. See "Food and Beverage Sales, General Market."

(Ord. 2000 § 2, (2021))

§ 25.106.090. "H" Definitions.

Home Occupations. The conduct of a business within a dwelling unit or residential site with the business activity being subordinate to the residential use of the property.

Hospitals and Clinics. State-licensed facilities providing medical, surgical, psychiatric, or emergency medical services to sick or injured persons. This classification includes facilities for inpatient or outpatient treatment, including substance-abuse programs as well as training, research, and administrative services for patients and employees. This classification excludes veterinaries and animal hospitals (see "Animal Care, Sales, and Services").

Hospital. A facility providing medical, psychiatric, or surgical services for sick or injured persons primarily on an in-patient basis, and including ancillary facilities for outpatient and emergency treatment, diagnostic services, training, research, administration, and services to patients, employees, or visitors.

Medical Clinic. A facility providing medical, psychiatric, or surgical service for sick or injured persons exclusively on an out-patient basis, including emergency treatment, diagnostic services, administration, and related services to patients who are not lodged overnight. Services may be available without a prior appointment. This classification includes licensed facilities such as blood banks and plasma centers, and emergency medical services offered exclusively on an outpatient basis such as urgent care centers. This classification does not include private medical and dental offices that typically require appointments and are usually smaller scale; see "Medical and Dental Offices."

Hostels. An establishment with guest rooms or suites that may be private or common which are rented to the public for overnight lodging for periods of fewer than 30 consecutive calendar days to transient patrons. Hostels cater primarily, but not exclusively, to travelers who arrive by bicycle, train, or other nonautomotive vehicles, and are generally an inexpensive form of lodging. This use classification does not include bed and breakfasts (see "Bed and Breakfast"), hotels and motels (see "Hotels and Motels"), or home sharing or short-term rentals.

Hotels and Motels. An establishment with guest rooms or suites, with or without kitchen facilities, rented to the public for overnight lodging for periods of fewer than 30 consecutive calendar days to transient patrons, but not providing room rentals on an hourly basis. These establishments may provide additional services, such as conference and meeting rooms, restaurants, bars, personal services, shuttle services, retail services, or recreational facilities available to guests or to the public. A hotel or motel may include ancillary facilities such as common meeting rooms, dining facilities, and guest amenities. This use classification does not include bed and breakfasts (see "Bed and Breakfast") or hostels (see "Hostels").

(Ord. 2000 § 2, (2021))

§ 25.106.100. "I" Definitions.

Industrial. Establishments engaged in the manufacturing of finished parts or products, either from raw

materials or previously prepared materials, within an enclosed structure. Includes processing, fabrication, assembly, treatment, testing (e.g., laboratories), packaging, incidental office storage, sales, and distribution of the parts or products; and large-scale/bulk laundry and dry-cleaning plants. Excludes vehicle/equipment rentals ("Vehicle Sales, Heavy Equipment Sales and Rental").

Light Industrial. The manufacture and/or processing of consumer-oriented goods in a manner that does not produce noticeable odors, air emissions, or other environmental effects, and that has limited associated trucking activity. Light industries generally require limited amounts of raw materials to produce goods. Examples of light industries include, but are not limited to, the manufacture of electronic instruments, equipment, and appliances; brewery and alcohol production, pharmaceutical manufacturing; and production apparel manufacturing.

Heavy Industrial. The manufacture and/or processing of materials and goods utilizing large quantities of raw materials, and generally requiring high capitalization and production of large quantities of output. Heavy industry often sells output to other business users rather than consumers. Characteristics of heavy industry include, but are not limited to, heavy trucking activity, noise, emissions requiring federal or state environmental permits, use of large quantities of hazardous materials as defined by the U.S. Environmental Protection Agency, and requirement for specialized permits from Federal and State occupational health and safety agencies. This classification does not include recycling (see "Recycling Facilities") or the processing of animals.

(Ord. 2000 § 2, (2021))

§ 25.106.110. "J" Definitions.

Reserved.

§ 25.106.120. "K" Definitions.

Reserved.

§ 25.106.130. "L" Definitions.

Laboratories/Research and Development. A facility for scientific research, and the design, development and testing of electrical, electronic, magnetic, optical, computer, and telecommunications components in advance of product manufacturing, and the assembly of related products from parts produced off site, where the manufacturing activity is secondary to the research and development activities. Examples of this use include, but are not limited to, pharmaceutical, chemical and biotechnology research and development, medical labs, therapeutic discovery, genomic research, molecular diagnostics, soils and materials testing labs, vivarium, and forensic labs and other similar or related uses. This type of facility is distinguished from office-based research and development (see "Offices, Research and Development") in its orientation more toward testing and analysis than product development or prototyping; an industrial research and development facility may typically include this type of lab. The "medical lab" subset of this land use type is oriented more toward specimen analysis and processing than direct blood drawing and specimen collection from patients (see "Hospitals and Clinics") but may also include incidental specimen collection.

Light Industrial. See "Industrial, Light Industrial."

Limited Corner Store Retail. See "Retail Stores, Limited Corner Store."

Liquor Store. See "Food and Beverage Sales, Alcohol Sales Store."

Live/Work Unit. A unit that combines a workspace and incidental residential occupancy occupied and used by a single household. Live/work units have been constructed for such use or converted from commercial or industrial use and structurally modified to accommodate residential occupancy and work activity in

compliance with the California Building Code. Live/work units shall include a dedicated working space that is reserved for and regularly used by one or more occupants of the unit. Live/work space includes, but is not limited to, a dedicated work space with an incidental sleeping area, a food preparation area, and a full bathroom including bathing and sanitary facilities which satisfy the provisions of applicable codes. Live/work units can include renter-occupant and/or owner-occupant.

Low Barrier Navigation Center. See "Emergency Shelter, Low Barrier Navigation Center."
(Ord. 2000 § 2, (2021))

§ 25.106.140. "M" Definitions.

Market, General. "See Food and Beverage Sales, General Market."

Medical Clinics. See "Hospitals and Clinics."

Medical Office. "See Offices, Medical or Dental."

Micro unit. A form of multifamily housing; a small, self-contained, single-occupancy apartment that include space for sleeping (provided as part of the primary living area or as no more than one bedroom), sitting, a kitchenette, and a bathroom, ranging in size up to 450 square feet; this definition is independent of an accessory dwelling unit and junior accessory dwelling unit.

Mixed-Use Developments. An approach to land use development that involves integrating two or more different types of uses on the same property as part of a unified development. Generally, mixed-use development consists of commercial and residential uses integrated either vertically in the same structure or group of structures, or horizontally on the same development site where parking, open spaces, and other development features are shared. In a mixed-use development, both uses are considered primary uses of the land. Light industrial and commercial uses may also co-exist on the same site as a mix of uses but are not referred to as mixed-use developments.

Multi-Unit Dwellings. Three or more attached or detached residential units on a single lot. Types of multi-unit dwellings include rowhouses, townhouses, garden apartments, senior housing developments, and multi-story apartment buildings. Multi-unit dwellings may also be combined with nonresidential uses as part of a mixed-use development.

(Ord. 2000 § 2, (2021))

§ 25.106.150. "N" Definitions.

Night Club. See "Eating and Drinking Establishments, Night Clubs."

Nurseries and Garden Centers. Establishments primarily engaged in retailing nursery and garden products—such as trees, shrubs, plants, seeds, bulbs, and sod—that are predominantly grown elsewhere. These establishments may sell a limited amount of a product they grow themselves. Fertilizer and soil products are stored and sold in package form only. This classification includes wholesale and retail nurseries offering plants for sale. This classification also includes farm supply and feed stores.

(Ord. 2000 § 2, (2021))

§ 25.106.160. "O" Definitions.

Offices

Co-Working. A facilitated environment that may contain desks or other workspaces and facilities and is used by a recognized membership who share the site in order to interact and collaborate with each other as part of a community. Rules for membership and participation in the co-workspace are available to the public. Fabrication tools are limited to those that do not generate noise or pollutants

in excess of what is customary within a typical office environment.

Medical or Dental. Office use providing consultation, diagnosis, therapeutic, preventive, or corrective personal treatment services by doctors, dentists, chiropractors, acupuncturists, optometrists, and similar medical professionals, medical and dental laboratories within medical office buildings but excluding clinics or independent research laboratory facilities and hospitals (see "Hospitals and Clinics"), and similar practitioners of medical and healing arts for humans licensed for such practice by the State of California. Incidental medical and/or dental research within the office is considered part of the office use, where it supports the on-site patient services.

Professional. Offices of firms or organizations providing professional, executive, management, or administrative services, such as accounting, architectural, computer software design, engineering, graphic design, interior design, investment advisors and brokers, insurance offices, legal offices, real estate and mortgage offices and services, and tax preparation offices, but excluding banks and savings and loan associations (see "Banks and Financial Institutions").

Research and Development. Offices of firms or organizations engaged in study, testing, design, analysis and experimental development and testing of products, processes or services, including incidental prototype manufacturing of products or provisions of services to others among other similar related services, but does not include the general or mass production of the product. Includes electronic research firms or pharmaceutical research laboratories, and similar or related business types. Excludes medical testing and analysis and manufacturing, except of prototypes.

Open Space and Conservation Uses. Any parcel or area of land or water that is essentially unimproved and devoted to an open-space use as defined in this section, and that is designated on a local, regional, or state open-space plan as any of the following:

- A. Open space for the preservation of natural resources including, but not limited to, areas required for the preservation of plant and animal life, including habitat for fish and wildlife species; areas required for ecologic and other scientific study purposes; rivers, streams, bays, and estuaries; and coastal beaches, banks of rivers and streams, and watershed lands.
- B. Open space used for the managed production of resources, including, but not limited to, forest lands, rangeland, agricultural lands and areas of economic importance for the production of food or fiber; areas required for recharge of groundwater basin; bays, estuaries, marshes, rivers, and streams that are important for the management of commercial fisheries; and areas containing major mineral deposits, including those in short supply.
- C. Open space for outdoor recreation, including, but not limited to, areas of outstanding scenic, historic, and cultural value; areas particularly suited for park and recreation purposes, including access to beaches and rivers and streams; and areas that serve as links between major recreation and open-space reservations, including utility easements, banks of rivers and streams, trails, and scenic highway corridors.
- D. Open space for public health and safety, including, but not limited to, areas that require special management or regulation because of hazardous or special conditions such as earthquake fault zones, unstable soil areas, floodplains, watersheds, areas presenting high fire risks, areas required for the protection of water quality and water reservoirs and areas required for the projection and enhancement of air quality.

Outdoor Dining. See "Eating and Drinking Establishments."

Outdoor Storage. The storage of various materials outside of a structure other than fencing, either as an

accessory or primary use.

Outdoor Temporary and/or Seasonal Sales. The temporary outdoor use of property for retail sales for a specified duration of time.

(Ord. 2000 § 2, (2021))

§ 25.106.170. "P" Definitions.

Parking Facilities

Parking Facility, Primary Use. A public or private space dedicated to accommodating vehicle parking stalls, backup area, driveways, and aisles and in which vehicle parking is the primary use of the site. Includes surface parking lots and parking structures/garages.

Parking Facility, Accessory Use. Surface lots and structures for use of occupants, employees, or patrons on the subject site or offering parking to the public for a fee when such use is not incidental to another on-site activity.

Park and Fly, Accessory. Surface lots and structures for vehicle parking associated with airport travel. As an accessory use to hotels, Accessory park and fly is intended to service hotel patrons. As an accessory use to office developments, accessory park and fly may function as a separate paid-to-park program not affiliated with patrons of the office development.

Park and Fly, Primary Use. Surface lots and structures for vehicle parking associated with airport use where vehicle parking is the primary use of the site. Primary use park and fly is not permitted.

Park and Recreation Facilities, Public. Parks, playgrounds, recreation facilities, trails, wildlife preserves, and related open spaces, all of which are noncommercial. This classification also includes noncommercial playing fields, courts, gymnasiums, public swimming pools, picnic facilities, tennis courts, and public golf courses, botanical gardens, as well as related food concessions or community centers within the facilities.

Personal Services, General. Provision of recurrently needed services of a personal nature. This classification includes barber shops and beauty salons, seamstresses, tailors, day spas, massage services (where massage practitioners are certified pursuant to the Business and Professions Code Section 4612), dry cleaning agents (excluding large-scale bulk dry cleaning plants), shoe repair shops, photocopying, photo finishing services, tattoo and body piercing services, and travel agencies mainly serving the general public. Non-surgical and minimally invasive treatments such as injectable fillers, photorejuvenation, facials and skin peels, microneedling, laser skin resurfacing and hair removal and other similar treatments related to beauty and wellness are permitted as ancillary to the personal service use. Non-surgical and minimally invasive treatment services are permitted as a primary use if the business space has no street frontage (e.g., is located in an enclosed mall building or contains a layout with inward facing storefronts with no street frontage).

Personal Services, Specialized. Personal services that may tend to have a potentially offensive effect upon surrounding areas and which may need to be dispersed to minimize their adverse impacts. Examples of these uses include check cashing stores, fortune tellers, palm and card readers, and psychics.

Pet Hotel. See "Animal Care Services, Pet Hotel."

Public Assembly. See "Assembly Facilities, Community Assembly Facility."

(Ord. 2000 § 2, (2021))

§ 25.106.180. "Q" Definitions.

Reserved.

§ 25.106.190. "R" Definitions.

Recycling Facilities. A facility for receiving, temporarily storing, transferring and/or processing materials for recycling, reuse, or final disposal. This use classification does not include facilities that deal with animal matter, nor does it include waste transfer facilities that operate as materials recovery, recycling, and solid waste transfer operations, which are classified as utilities.

Light Processing. A facility used to sort, store and/or process recyclable materials. Processing means the preparation of material for efficient shipment, or to an end-user's specifications, by such means as baling, briquetting, compacting, flattening, grinding, crushing, mechanical sorting, shredding, cleaning, and remanufacturing. Light processing facilities are limited to baling, briquetting, crushing, compacting, grinding, shredding and sorting of source-separated recyclable materials and repairing of reusable materials sufficient to qualify as a certified processing facility. A light processing facility shall not shred, compact, or bale ferrous metals other than food and beverage containers.

Reverse Vending Machine(s). Facilities with an automated mechanical device that accepts, sorts, and processes recyclable materials and issues a cash refund or a redeemable credit slip. Processing and sorting is not conducted on site.

Small Collection. A facility available for the general public for the recycling of California Redemption Value (CRV) products such as glass, aluminum cans, and plastic beverage containers as defined by the State's Department of Resources Recycling and Recovery. Small collection facilities occupy an area of not more than 500 square feet, and may include a mobile unit, reverse vending machines or a grouping of reverse vending machines, kiosk-type units which may include permanent structures, or unattended containers placed for the donation of recyclable materials.

Research and Development. "See "Laboratories/Research and Development."

Residential Care Facilities. Facilities that are licensed by the State to provide permanent living accommodations and 24-hour primarily non-medical care and supervision for persons in need of personal services, supervision, protection, or assistance for sustaining the activities of daily living. Living accommodations are shared living quarters with or without separate kitchen or bathroom facilities for each room or unit. This classification includes facilities that are operated for profit as well as those operated by public or not-for-profit institutions, including hospices, nursing homes, convalescent facilities, and group homes for minors, persons with disabilities, and people in recovery from alcohol or drug addictions. This use classification excludes "Transitional Housing," "Supportive Housing," and "Elderly and Long-Term Care," which are defined separately.

Residential Care, General. A facility that requires a State license or is licensed by the State to provide 24-hour primarily non-medical care and supervision for more than six persons. May include residential living quarters for more than six terminally ill persons.

Residential Care, Limited. A facility that requires a State license or is State licensed and provides 24-hour nonmedical care and supervision for six or fewer persons. May include residential living quarters for more than six or fewer terminally ill persons.

Residential Care, Senior. A housing arrangement chosen voluntarily by the resident, the resident's guardian, conservator, or other responsible person, where residents are 60 years of age or older and where varying levels of care and supervision are provided as agreed to at the time of admission or as determined necessary at subsequent times of reappraisal. This classification includes continuing care retirement communities and life care communities licensed for residential care by the State of California. Facilities with six or fewer persons are excluded from this definition (see "Residential Care, Limited").

Restaurants. See "Eating and Drinking Establishments."

Retail Stores

General. The retail sale or rental of merchandise not specifically listed under another use classification. This classification includes department stores, clothing stores, furniture stores, pet supply stores, hardware stores, and businesses retailing goods such as: toys, hobby materials, handcrafted items, jewelry, cameras, photographic supplies and services (including portraiture and retail photo processing), medical supplies and equipment, pharmacies, electronic equipment, sporting goods, kitchen utensils, hardware, appliances, antiques, art galleries, art supplies and services, paint and wallpaper, carpeting and floor covering, office supplies, bicycles, and new automotive parts and accessories (excluding vehicle service and installation). Retail sales may be combined with other services such as office machine, computer, electronics, and similar small-item repairs. Retail sales include spaces to make your own art (e.g., pottery, paintings, etc. that serve walk-in customers and appointment slots for groups).

Bimited Corner Store. A retail establishment intended to serve a residential area, with no more than 2,000 square feet of gross floor area, which sells primarily food products, household items, hardware, newspapers, and magazines. Limited corner store retail may be located on a corner lot or mid-block.

Large Format. Any singular retail use, whether stand alone or within a multi-building development, wherein said single-use building occupies at least 75,000 square feet of gross leasable area, typically requires high parking to building area ratios, and has a regional sales market, including membership warehouse clubs. May include secondary uses within the store for visitor convenience, such as grocery and prepared food and drink sales, banking services, and a pharmacy.

Retail Sales, Specialized. Retail uses that may tend to have a potentially offensive effect upon surrounding areas and which may need to be dispersed to minimize their adverse impacts. Examples of these uses include adult stores, tobacco/smoke/vape shops, and pawn shops.

(Ord. 2000 § 2, (2021))

§ 25.106.200. "S" Definitions.

Schools, Primary and Secondary. Facilities for primary or secondary education, including public schools, charter schools, private schools, and parochial schools having curricula comparable to that required in the public schools of the State. This use classification excludes "Tutoring and Educational Centers."

Short-Term Rental. The use or possession of or the right to use or possess any room or rooms, or portions thereof in any dwelling unit for residing, sleeping or lodging purposes for less than 30 consecutive calendar days, counting portions of days as full calendar days.

Single-Unit Dwelling. A dwelling unit designed for occupancy by one household which is not attached to or located on a lot with commercial uses or other dwelling units, other than an accessory dwelling unit. This definition also includes individual manufactured housing units installed on a foundation system pursuant to Health and Safety Code Section 18551.

Storage, Personal ("Self-Storage"). Facilities offering enclosed storage with individual access for personal effects and household goods including mini-warehouses and mini-storage. This use excludes workshops, hobby shops, manufacturing, or commercial activity.

Studios, Arts. Small-scale instructional facilities or a small practice space for the individual artist, musician, or any individual practitioner of the activities defined here, typically accommodating one group of students at a time, in no more than one instructional space. Examples include individual and group instruction and training, production rehearsal, photography and the processing of photographs

produced only by users of the studio facilities. Also includes production studios for individual filmmakers, musicians, painters, sculptors, photographers, and other artists. These uses may also include accessory retail sales of products related to the services provided.

Supportive Housing. The term Supportive Housing (per Government Code Section 65582[f], as may be amended) shall mean a dwelling unit occupied by a target population, with no limit on length of stay, that is linked to on-site or off-site services that assist the supportive housing resident(s) in retaining the housing, improving their health status, and maximizing their ability to live and, when possible, work in the community. A target population means persons with low incomes having one or more disabilities, including mental illness, HIV or AIDS, substance abuse, or other chronic health conditions, or individuals eligible for services provided under the Lanterman Developmental Disabilities Services Act (Welfare and Institutions [W&I] Code Section 4500) and may include—among other populations—adults, emancipated youth, families, families with children, elderly persons, young adults aging out of the foster care system, individuals exiting from institutional settings, veterans, and homeless people. Supportive housing may be designed as a residential group living facility or as a regular residential use and includes both facilities that provide on-site and off-site services.

(Ord. 2000 § 2, (2021))

§ 25.106.210. "T" Definitions.

Temporary Uses. A use of land that is designed, operated, and occupies a site for a limited specified period of time.

Theaters, Live. A theater, concert hall, auditorium, or similar establishment which, for any fee, regularly features live performances. This use may include incidental food and beverage services to patrons. Does not include adult entertainment businesses.

Theaters, Movie or Similar. Facilities for indoor display of films, motion pictures, or closed-circuit television pictures before an individual or assemblage of persons, whether such assemblage be of a public, restricted or private nature, except a home or private dwelling. This classification may include incidental food and beverage services to patrons. Does not include adult entertainment businesses.

Trade Schools. Public or private post-secondary schools providing occupational or job skills training for specific occupations, including business and computer schools, trade schools and apprenticeship programs, management training, and technical training schools. Excludes personal instructional services such as music lessons and tutoring.

Transit Facility. A facility or location with the primary purpose of transfer, loading, and unloading of passengers and baggage. May include facilities for the provision of passenger services such as ticketing, restrooms, lockers, waiting areas, passenger vehicle parking and bus bays, for layover parking, and interior bus cleaning and incidental repair. Includes rail and bus terminals but does not include terminals serving airports or heliports.

Transitional Housing. Transitional housing (per Government Code Section 65582[h], as may be amended) shall mean buildings configured as rental housing developments but operated under program requirements that require the termination of assistance and recirculating of the assisted unit to another eligible program recipient at a predetermined future point in time that shall be no less than six months from the beginning of assistance. Transitional housing may be designed as a residential group living facility or as a regular residential use and includes both facilities that provide on-site and off-site services.

Tutoring and Educational Centers. A business where supplemental educational instruction in specific subjects and skills is provided to school-age children, as well as teenagers and adults for college and exam preparation.

Two-Unit Dwellings. No more than two residential units located on a single lot, not including an accessory dwelling unit. The residential units may be located in a single building that contains two residential units (also known as a duplex) or in two detached buildings.

(Ord. 2000 § 2, (2021))

§ 25.106.220. "U" Definitions.

Urban Agriculture. Cultivation on the premises of fruits, vegetables, plants, flowers, herbs, and/or ornamental plants intended to produce food, fibers, or other plant products for personal use or for on- or off-site sale.

Use. The purpose for which land or the premises of a building, structure, or facility thereon is designed, arranged, or intended, or for which it is or may be occupied or maintained.

Use, Accessory. A use that is customarily associated with, and is incidental and subordinate to, the primary use and located on the same parcel as the primary use.

Use, Primary. A primary, principal, or dominant use established, or proposed to be established, on a parcel.

Utility Structures and Service Facilities, Small. Facilities necessary to support established uses involving only minor structures, such as electrical distribution lines, electric substations; and underground water and sewer lines.

Utility Structures and Service Facilities, Large. Generating plants; solid waste collection, including transfer stations and materials recovery facilities; solid waste treatment and disposal; water or wastewater treatment plants; and similar facilities of public agencies or public utilities, including corporation and maintenance yards.

(Ord. 2000 § 2, (2021))

§ 25.106.230. "V" Definitions.

Vehicle Fuel Sales and Accessory Service. An establishment engaged in the retail sale of vehicle fuels or the retail sale of these fuels in combination with activities, such as providing minor vehicle repair services; selling automotive oils, replacement parts, and accessories; and/or ancillary retail and grocery sales and automated vehicle washing. Does not include body and fender work or "heavy" repair of trucks or other motor vehicles (see "Vehicle Sales" and "Vehicle Services and Repair").

Vehicle Sales

Auto and Light Truck. A retail establishment selling new or used automobiles, trucks and vans, motorcycles, personal watercraft and all-terrain vehicles, and similar vehicles. May also include the sale, installation, and servicing of related equipment and parts, incidental to vehicle dealerships. Does not include mobile home, recreational vehicle, or watercraft sales (see "Heavy Equipment Sales and Rental"); tire recapping establishments (see "Vehicle Services and Repair"); businesses dealing exclusively in used parts; or "Vehicle Fuel Sales and Accessory Service," which are separately defined.

Heavy Equipment Sales (and Rental). Sales, servicing, rental, fueling, and washing of large trucks, trailers, tractors, and other heavy equipment used for construction, moving, agricultural, or landscape gardening activities, as well as boats, mobile homes, and recreational vehicle/campers. Examples include cranes, earth moving equipment, tractors, combines, heavy trucks, etc. Includes large vehicle operation training facilities. Sales of new or used automobiles are excluded from this classification (see "Vehicle Sales, Auto and Light Truck").

Vehicle Services and Repair. The service and repair of motor vehicles in an enclosed building, including the repair or replacement of engines and transmissions, body and fender repair, and the installation of nonfactoryinstalled products.

Car Wash. Washing, waxing, detailing, or cleaning of automobiles or similar light vehicles, including self-serve washing facilities.

Major (Major Repair/Body Work). Major repair of automobiles, motorcycles, recreational vehicles, or trucks including light-duty trucks (i.e., gross vehicle weights of less than 10,000 pounds) and heavy-duty trucks (i.e., gross vehicle weights of more than 10,000 pounds). Examples of uses include full-service motor vehicle repair garages; body and fender shops; brake shops; machine shops, painting shops; towing services, and transmission shops. Does not include vehicle dismantling or salvage and tire retreading or recapping.

Minor (Minor Repair/Maintenance). Minor repair of automobiles, motorcycles, recreational vehicles, or light trucks, vans or similar size vehicles (i.e., vehicles that have gross vehicle weights less than 10,000 pounds) including installation of electronic equipment (e.g., alarms, audio equipment, etc.); servicing of cooling and air conditioning, electrical, fuel and exhaust systems; brake adjustments, relining and repairs; oil and air filter replacement; wheel alignment and balancing; tire sales, service, and installation shops; shock absorber replacement; chassis lubrication; smog checks; engine tune-ups; and installation of window film, and similar accessory equipment.

Vehicle Rental. Rental of automobiles, motorcycles, mopeds, motorized scooters, recreational vehicles, trucks, and similar vehicles and equipment powered by a motor, including on-site storage and incidental maintenance that does not require pneumatic lifts.

Vehicle Storage. The storage of operative or inoperative vehicles. These uses include storage of towed vehicles, impound yards, and storage lots for buses and recreational vehicles, but does not include vehicle dismantling or off-site airport parking.

Veterinary Services. See "Animal Care Services."

(Ord. 2000 § 2, (2021))

§ 25.106.240. "W" Definitions.

Warehousing/Logistics. Facilities for storage and distribution without sales to the public on site or direct public access. In a warehousing use, the owner and operator of the warehouse is the owner of the goods or is the entity that offers the goods for sale or resale. This use normally operates from a warehouse or office having little or no display of merchandise and are not designed to solicit walk-in traffic. This classification excludes the storage of hazardous chemical, mineral, and explosive materials. Does not include personal storage (mini storage) facilities offered for rent or lease to the public (see "Storage, Personal"); or warehouse facilities in which the primary purpose of storage is for wholesaling (see "Wholesaling"); or building materials sales and services (see "Building Materials and Contractor Services").

Wholesaling. Indoor storage and sale of goods to other firms for resale, storage of goods for transfer to retail outlets of the same firm, or storage and sale of materials and supplies used in production or operation. Wholesalers are primarily engaged in business-to-business sales but may sell to individual consumers through mail or internet orders. They normally operate from a warehouse or office having little or no display of merchandise and are not designed to solicit walk-in traffic. Does not include building materials sales and services (see "Building Materials and Contractor Services").

Wireless Communication Facilities. Wireless telecommunication facilities consist of commercial wireless communication systems, including, but not limited to, cellular, PCS, paging, broadband, data transfer, and

any other type of technology that fosters wireless communication through the use of portable electronic devices. A facility includes all supporting structures and associated equipment. Use also included facilities where the antennae are mounted on the roof or top of a building or structure, or the side of a building or structure, other than on a standalone facility. See Section 25.48.300 (Wireless Communications Facilities) for specific definitions.

(Ord. 2000 § 2, (2021))

§ 25.106.250. "X" Definitions.

Reserved.

§ 25.106.260. "Y" Definitions.

Reserved.

§ 25.106.270. "Z" Definitions.

Reserved.

CHAPTER 25.108 GENERAL DEFINITIONS

§ 25.108.010. General.

For the purpose of this title, the plural includes the singular, the masculine includes the feminine and neuter, and vice versa, except as otherwise provided. Other terms used in this title shall be defined as set forth in this chapter.

(Ord. 2000 § 2, (2021))

§ 25.108.020. "A" Definitions.

Abutting/Adjoining. Contiguous to; having district boundaries or lot lines in common (i.e., not separated by an alley, public or private right-of-way, or street). See also "Adjacent."

Access. A way of approaching or entering a property, including ingress (the right to enter) and egress (the right to leave).

Acreage, Gross. The total land area in acres within a defined boundary, including any area for rights-of-way, public streets, and dedications of land for public use.

Acreage, Net. That portion of gross acreage exclusive of public streets, rights-of-way, and dedications of land for public uses.

Addition. Construction which extends or increases the building envelope.

Adjacent. The condition of being near to or close to but not necessarily having a common dividing line. Two properties that are separated by an alley, public or private right-of-way, street (other than a principal arterial), public access easement, or creek, river, stream, or other natural or artificial waterway shall be considered as adjoining one another. See also "Abutting/Adjoining."

Affordable Housing. "Affordable housing" and "affordable units" shall collectively mean units qualifying as "very low," "lower," and "moderate" income units as used in this title and in State Density Bonus Law.

Alley. A public or private way providing a secondary means of access to public or private property.

Allow. A directive to give permission or to grant a right.

Alter, Alterations. Any change, addition or modification in construction or occupancy.

Applicant. Any person, firm, partnership, association, joint venture, corporation, entity, or any combination thereof, who seeks the grant of an entitlement or other approval required by this title.

Arbor. A free-standing structure that is substantially open to the passage of light and air on the roof and all sides, and serves to roof a gate, driveway, or walkway. "Substantially open" as used in this definition means that the sides and roof of the arbor are at least 60 percent open around any given point across each side and the roof.

Attic. The area located between the top plate of the uppermost habitable floor and the roof or ridge of a building, as further defined in the Building Code as adopted by the City of Burlingame.

Average Maximum Unit Size. The maximum value allowed when averaging the square footage of gross floor areas of all residential units in a project.

Alcoholic Beverage. Alcohol, spirits, liquor, wine, beer, and every liquid or solid containing alcohol, spirits, wine, or beer which contains one-half of one percent or more of alcohol by volume and which is fit for beverage purposes either alone or when diluted, mixed, or combined with other substances, and sales of which require a State Department of Alcoholic Beverage Control license.

(Ord. 2000 § 2, (2021))

§ 25.108.030. "B" Definitions.

Balcony. A platform, enclosed by a parapet or railing, projecting from an exterior wall of a building and open to the sky. A balcony may be either cantilevered or supported from below.

Basement. The portion of a building between floor and ceiling that is wholly or partially underground. Where more than two feet of any portion of the basement's height is above the existing grade next to the basement, a basement shall be counted as a story.

Bay Window. A window or group of windows that extends outward from a wall of a building forming a projection from a building. "Bow," oriel, and similar projecting windows shall be included in this definition. Some bay windows may have window seats.

Bedroom. Any space in a dwelling unit which contains a minimum of 70 square feet of floor area with no dimension less than seven feet and contains one or more windows and a door, unless it is one of the rooms listed below or common spaces. A room having the potential of being a bedroom shall be considered a bedroom for parking calculation purposes, unless the doorway access to the room with potential for being a bedroom is only through another bedroom.

Hallway	Den
Bathroom	Mezzanine
Living room, family room, dining room	Laundry room
Kitchen/breakfast nook	Garages
Attics	Other non-habitable spaces

Block. Property so designated on an official map of the City or part of the City or bounded by streets or street and railroad right-of-way or by streets or street and unsubdivided acreage.

Builder. Any person, firm, partnership, association, joint venture, corporation, or any entity or combination of entities which seeks City approvals for all or part of a commercial development project.

Building. Any structure with substantial walls and roof securely affixed to the land and entirely separated on all sides from any structure by space or by walls in which there are no communicating doors, windows or openings; and which is designed or intended for the shelter, housing or protection of persons, animals or chattels.

Building, Main. A building in which the primary use of the lot is conducted on which it is situated.

Building, Accessory. See Structure, Accessory.

Building Official. City of Burlingame Building Official, or someone designated by him or her to act on his or her behalf.

Building Permit. Includes full structural building permits as well as partial permits such as foundation-only permits.

(Ord. 2000 § 2, (2021))

§ 25.108.040. "C" Definitions.

Carport. A roofed motor vehicle shelter open on one or more sides.

City. The City of Burlingame.

City Engineer. The City Engineer of the City of Burlingame Public Works Department, or someone designated by him or her to act on his or her behalf.

Commercial Development Project. An application for a planning permit or building permit that includes the new construction of gross square feet of commercial space or the conversion of a residential use to a commercial use.

Commercial Linkage Fee. The fee paid by builders of commercial development projects to mitigate the impacts that such developments have on the demand for affordable housing in the City.

Commission. The Planning Commission of the City of Burlingame.

Community Development Department or Department. The Community Development Department of the City of Burlingame.

Conditionally Permitted. Allowed subject to approval of a conditional use permit or minor use permit.

Council. The City Council of the City of Burlingame.

County. The County of San Mateo.

Courtyard. An open space, unobstructed from the ground to the sky, that is bounded on two or more sides by the walls of a building that is on the same lot.

Curb Level. The level of the established curb in front of a building measured at the center of such front. Where no curb level has been established, the City Engineer shall establish such curb level or its equivalent for the purpose of this section.

(Ord. 2000 § 2, (2021))

§ 25.108.050. "D" Definitions.

Deck. A platform, either freestanding or attached to a building, that is supported by pillars or posts. See also "Balcony."

Declining Height Envelope. An inclined plane beginning at a stated height above grade at a side property line and extending toward the center of the site at a stated upward angle. (See Section 25.10.055)

Demolition. The act of reconstructing, removing, taking down or destroying all or portions of an existing building or structure.

Den. A room which is open on at least one side; does not contain a wardrobe, closet, or similar facility; and which is not designed for sleeping.

Density. The number of dwelling units per unit of land. The Burlingame Zoning Code refers to density in terms of dwelling units per acre (du/ac).

Density Bonus. The following terms shall have the following meanings when used in Section 25.33.010 (Density Bonus). All other terms shall be interpreted consistent with the meaning set forth in the State Density Bonus Law (Government Code Sections 65915 through 65918).

Affordable Units. Collectively means units qualifying as "very low," "lower," and "moderate" income units.

Applicant. Any person, firm, partnership, association, joint venture, corporation, entity, or any combination thereof, who seeks a density bonus and/or concessions.

Child Care Facility. A child day care facility other than a family day care home, including, but not

limited to, infant centers, preschools, extended day care facilities, and school-age child care centers.

Concessions. Interchangeable with "incentives," unless otherwise indicated. The meaning shall be consistent with Government Code Section 65915(k).

Density Bonus. A density increase over the otherwise maximum allowable residential density as of the date of the application.

Housing Development. The meaning set forth in Government Code Section 65915(i).

Incentives. Interchangeable with "concessions," unless otherwise indicated. The meaning shall be consistent with Government Code Section 65915(k).

Lower Income. The same definition set forth in Health and Safety Code Section 50079.5.

Moderate Income. The same definition set forth in Health and Safety Code Section 50093.

Specific Adverse Impact. The same definition as set forth in Government Code Section 65589.5(d)(2).

Very Low Income. The same definition as set forth in Health and Safety Code Section 50105.

Deny without Prejudice. Meaning that in the denial of an application authorized by this title, none of the rights or privileges of the individual or entity involved are considered to be lost or waived.

Department. The Community Development Department of the City of Burlingame.

Detached Accessory Dwelling Unit. See "accessory dwelling unit."

Development. The physical extension and/or construction of urban land uses. Development activities include but are not limited to subdivision of land; construction or alteration of structures, roads, utilities, and other facilities; installation of septic systems; grading; deposit of refuse, debris, or fill materials; and clearing of natural vegetation cover (with the exception of agricultural activities). Routine repair and maintenance activities are not considered as "development."

Director. The Community Development Director of the City of Burlingame, or his or her designee.

District. A portion of the City within which certain uses of land and buildings are permitted or prohibited and in which other buildings or land restrictions may be specified as set forth herein.

Driveway. Roadway providing the most direct access for vehicles from a right-of-way to a garage, dwelling, other structure or parking space.

(Ord. 2000 § 2, (2021))

§ 25.108.060. "E" Definitions.

Easement. A recorded right or interest in the land that belongs to someone else and which entitles the holder to some use, privilege, or benefit out of or over said land.

Electric Vehicle Charging Equipment. Any level of electric vehicle supply equipment station that is designed and built in compliance with Article 625 of the California Electrical Code and delivers electricity from a source outside an electric vehicle into a plug-in electric vehicle. Also referred to as charging station or charging equipment.

(Ord. 2000 § 2, (2021))

§ 25.108.070. "F" Definitions.

Façade. Façade means:

1. The exterior walls of a building or structure exposed to public view; or
2. The walls viewed by a person not inside the building; or
3. For a tenant space within a larger building, the portion of the exterior walls that corresponds to the interior space occupied by the tenant or business establishment; or
4. Any awnings on or attached to the exterior walls that meet the definition of façade.

Fee. A fee, charge, deposit or exaction collected by the City.

Fence. A structure of wood, masonry, metal, or other solid material built on or close to a property line for the purpose of physically separating properties.

First Approval. With regard to a commercial linkage fee, means the first discretionary approval to occur with respect to commercial development projects or, for commercial development projects not requiring a discretionary approval, the issuance of a building permit.

Floor Area, Gross. The total area enclosed within a building, including closets, stairways, and utility and mechanical rooms, measured from the outside face of the walls.

Floor Area, Net. The gross floor area less areas stipulated by Section 25.30.060 (Determining Floor Area).

Floor Area Ratio (FAR). The floor area of the building or buildings on a site or lot divided by the area of the site or lot.

Foot-Candle. A unit of measure of the intensity of light falling on a surface, equal to one lumen per square foot or the intensity of light from a standardized candle burning at one foot from a given surface.

Footprint. The gross floor area to the outside of the exterior walls plus roof overhangs, eaves, balconies, and decks and trellises over outdoor areas. Footprint applies to first floor area and floor areas of the floors above the first which extend beyond first floors.

Frontage. All property fronting on one side of the street between intersecting or intercepting streets, or between a street and right-of-way, waterway, end of dead-end street, or City boundary measured along the street line.

(Ord. 2000 § 2, (2021); Ord. 2019 § 3, (2023))

§ 25.108.080. "G" Definitions.

Garage. A building, or portion thereof, containing accessible and usable enclosed space designed, constructed, and maintained for the parking or storage of one or more motor vehicles.

General Plan. A legal document which takes the form of a map and accompanying text adopted by the local legislative body. The plan is a compendium of policies regarding the long-term development of a jurisdiction. The State requires the preparation of seven elements or divisions as part of the plan: land use, housing, circulation, conservation, open space, noise, safety, and environmental justice. Additional elements pertaining to the unique needs of an agency are permitted.

Government Code. The Government Code of the State of California.

Grade. The average of the existing ground level at the center of all walls of a building. In case walls are parallel to, and within five feet of, a sidewalk, the ground level shall be measured at the sidewalk.

AGrade, Adjacent. The level of the soil immediately next to a structure or proposed structure.

Brade, Curb. The curbline grade at the lot lines established by the city engineer.

Grade, Existing. The grade on a site prior to any grading or movement of soil for additional construction.

Drade, Natural. The elevation of the ground surface in its natural state or as determined by the City Engineer who may refer to original subdivision and subdivision grading plans if available.

Greenhouse Window. A three-sided window with shelf or shelves. It is set into a wall and projects from the face of the structure. It is not meant to be used for sitting, enclosed storage, or as a walking area.

Ground Floor. The first floor of a building other than a cellar or basement that is closest to finished grade. (Ord. 2000 § 2, (2021))

§ 25.108.090. "H" Definitions.

Habitable Area. Any area within a structure defined as habitable area by the Uniform Building Code.

Hedge. A compact planting of any type of plant or shrub which acts or is intended to act as a fence.

Height, Building. See Chapter 25.30 (Rules of Measurement).

Height, Ceiling. The distance between the floor and the lowest ceiling joist, pipe, or similar construction above the floor.

High Quality Transportation Corridor. See "Transportation Corridor, High Quality."

Historic Resources. The following terms used in Chapter 25.35 (Historic Resources) of this title shall have the following meanings:

Adaptive Reuse. Repurposing a designated historic resource for different uses or functions than those for which it was originally designed while retaining the original historic features of the resource.

Alteration. Any change or modification, through public or private action, to the character-defining or significant exterior physical features of properties affected by this title. Such changes may be changes to or modification of structure, architectural details, or visual characteristics, grading, surface paving, the addition of new structures, and the placement or removal of any significant objects such as signs, plaques, light fixtures, street furniture, walls, fences, steps, plantings, and landscape accessories affecting the significant visual and/or historical qualities of the property.

Demolition. Any act or process that destroys in part or in whole a historic resource.

Designated Historic Resource. A parcel or part thereof on which a historic resource is situated and any abutting parcel or part thereof constituting part of the premises on which the historic resource is situated, and which has been designated an historic resource in the Burlingame Historic Register, California Register of Historic Places, and/or National Register of Historic Places.

Historic Resource. Improvements, buildings, structures, signs, or other objects of scientific, aesthetic, educational, cultural, architectural, or historical significance to the owner, citizens of the City and the State of California, the Bay Area region, or the nation which may be eligible for local designation for historic preservation by the City pursuant to the provisions of this title. A historic resource is either included in the Register or may be added in accordance with Section 25.35.060 (Historic Resource Designation Procedures).

Improvement. Any building, structure, fence, gate, landscaping, tree, wall, parking facility, work of art, or other object constituting a physical feature of real property, or any part of such feature.

Inventory. The October 6, 2008 Inventory of Historic Resources – Burlingame Downtown Specific Plan, which identifies resources in the City which may be considered historical.

Ordinary Maintenance and Repair. Any work, for which a building permit is not required by law, where the purpose and effect of such work is to correct any deterioration of or damage to a structure or any part thereof and to restore the same to its condition prior to the occurrence of such deterioration or damage.

Preservation. The identification, study, protection, restoration, or acquisition of historic resources.

Register. The Burlingame Historic Register, which is a document containing a listing of properties in the City that: (1) contain an officially designated historic resource, whereby such designation has been applied by a formal process by a federal, State, or local government agency; and (2) have been identified as having a resource with characteristics that qualify it for receiving an official designation historic resource designation.

Secretary of the Interior Standards for Rehabilitation. The standards promulgated by the National Park Service that provide guidance for the preservation, rehabilitation, restoration, and reconstruction of historic properties.

Significant Feature. The natural or human-made elements embodying style or type of historic resource, design, or general arrangement and components of an improvement, including, but not limited to, the kind, color, and texture of the building materials, and the type and style of all windows, doors, lights, signs, and other fixtures appurtenant to such improvement.

Household. One or more persons living together in a single dwelling unit, with common access to, and common use of, all living and eating areas and all areas and facilities for the preparation and storage of food; who share living expenses, including rent or mortgage payments, food costs and utilities; and who maintain a single mortgage, lease, or rental agreement for all members of the household.

(Ord. 2000 § 2, (2021))

§ 25.108.100. "I" Definitions.

Improved Space. Any area within a structure for which a building permit was issued for the interior finish of the area. Improved space may or may not be habitable under current California Building Code requirements.

Impervious Surface. A surface that is incapable of being penetrated by water, including buildings and paved surfaces such as parking, sidewalks, and roads.

(Ord. 2000 § 2, (2021))

§ 25.108.110. "J" Definitions.

Reserved.

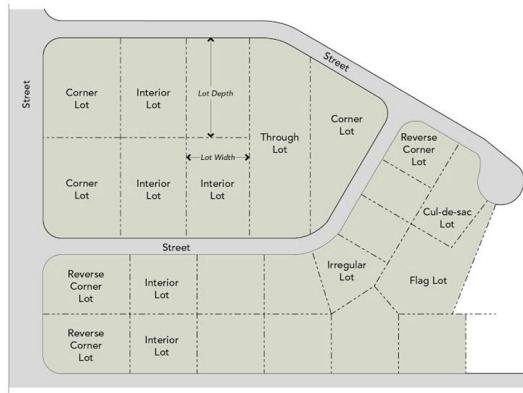
§ 25.108.120. "K" Definitions.

Reserved.

§ 25.108.130. "L" Definitions.

Loft. See "Mezzanine" when referring to an interior floor space of an occupiable or habitable structure.

Lot. A single parcel of land, usually fronting on a street, into which an urban block is usually divided for the construction of a building or for a use, as such lot is shown and delineated on the latest official map thereof on file with the County Recorder or, if subsequently resubdivided, as described in the deed of the owner.



Lot Area. The total horizontal area within the boundary lines of a lot.

Lot, Corner. A lot on a corner fronting on two intersecting streets.

Lot, Coverage. The proportion of the area of the footprint of a building in relation to the area of the lot on which its stands.

Lot, Depth of. See Section 25.30.050 (Measuring Lot Width and Depth).

Lot, Interior. A lot other than a corner lot.

Lot Line, or Property Line. The established division line between parcels of land, public or private.

Lot, Standard and Substandard. Any lot with at least 50 feet of street frontage and lot area at least equal to the minimum lot size designated for the area of the City by the map attached to Ordinance 712 and any amendments thereto. "Substandard lot" means any other lot.

Lot, Through. A lot having frontage on two parallel or approximately parallel streets.

Lot, Width of. See Section 25.30.050 (Measuring Lot Width and Depth).
(Ord. 2000 § 2, (2021))

§ 25.108.140. "M" Definitions.

Major Transit Stop. See "Transit Stop, Major."

Market Value. The highest price a willing buyer would pay and a willing seller would accept, both being fully informed and in an open market, as determined by an appraiser, the City Building Official, or other qualified professional.

Mezzanine. A partial or intermediate level of a building interior containing floor area without enclosing interior walls or partitions and not separated or partitioned from the floor level below or access way (stairs and/or landing) leading to the mezzanine from the floor below by a wall or any other partitions. Spaces

designated as lofts or mezzanines that do not fully conform to this definition shall be deemed a "bedroom." Municipal Code. The City of Burlingame Municipal Code. (Ord. 2000 § 2, (2021))

§ 25.108.150. "N" Definitions.

Nonconforming Structure. A structure that does not conform to the yard coverage, height, setback, or other physical dimensional requirements.

Nonconforming Use. A use that does not conform to the permitted or conditional use, including parking that does not conform to the permitted or conditional use regulations in the zone in which it is situated. (Ord. 2000 § 2, (2021))

§ 25.108.160. "O" Definitions.

Onsite. Located on the lot that is the subject of discussion.

Open Space.

Open Space, Common. Open space that is accessible to all dwelling units on the site in the form of courtyards, landscaping, pedestrian paths, and recreational facilities.

Open Space, Private. Open space that is accessible directly from the living area of a dwelling unit in the form of a fenced yard or patio, a deck, or balcony.

Open Space, Usable. Indoor or outdoor area designed and intended to support residents' passive or active use and located on the same parcel as the dwelling units for which it is required. Usable open space shall not include any portion of parking areas, streets, driveways, sidewalks, or turnaround areas.

(Ord. 2000 § 2, (2021))

§ 25.108.170. "P" Definitions.

Parcel. The basic unit of land entitlement. A designated area of land established by plat, subdivision, or otherwise legally defined and permitted to be used or built upon. See also "Lot."

Parking Area. An area of a lot, structure, or any other area, including driveways, which is designed for and the primary purpose of which is to provide for the temporary storage of operable motor vehicles.

Parking Space, Automobile. Space within a parking area of a building exclusive of driveways, ramps, columns, office and work areas, for the temporary parking or storage of one automobile.

Parking, Bicycle. A covered or uncovered area equipped with a rack or racks designed and usable for the secure, temporary storage of bicycles.

Parking, Tandem. The parking of one vehicle behind another; except for parking for an accessory dwelling unit where tandem parking is defined as two or more vehicles that are parked on a driveway or in any other location on a lot, lined up behind one another.

Planning Commission or Commission. The Planning Commission of the City of Burlingame.

Planning Division. The Planning Division of the Community Development Department of the City of Burlingame.

Planning Permit. With regard to commercial linkage fee, means any discretionary approval of a commercial project, including, but not limited to, a comprehensive or specific plan adoption or amendment,

rezoning, tentative map, parcel map, conditional use permit, variances, or architectural review.

Plate Height. The vertical measurement from the top of the finished floor to the top of the plates.

Plate Line. A member on top of a stud wall such as a top plate on which joists or rafters rest to support an additional floor or roof or to form a ceiling.

Porch. A structure attached to a building, usually roofed and open-sided, and often at the entrance. It may be supported from the roof, screened, or glass enclosed.

Premises. Land and/or buildings or other improvements thereon.

Prezone. Pursuant to Government Code 65859, a legislative act of the City to apply a zoning designation or designations to a property or properties within the City's designated sphere of influence to specify the zoning that will apply to that property or properties upon annexation to the City.

Project. Any proposal for a new or changed use or for new construction, alteration, or enlargement of any structure that is subject to the provisions of this title. This term includes, but is not limited to, any action that qualifies as a "project" as defined by the California Environmental Quality Act.

Public Resources Code. The Public Resources Code of the State of California.

Public Works Department. City of Burlingame Public Works Department.

Public Works Director. The City of Burlingame Public Works Director, or someone designated by him or her to act on his or her behalf.

(Ord. 2000 § 2, (2021))

§ 25.108.180. "Q" Definitions.

Reserved.

§ 25.108.190. "R" Definitions.

Real Property. Land and improvements, if any, including anything permanently affixed to the land, such as buildings, walls, fences, and paved areas.

Recreational Vehicle. Any trailer, camper, motor home, boat, or other vehicle designed and intended for traveling and recreational purposes.

Review Authority. The body responsible for making decisions on zoning and related applications.
(Ord. 2000 § 2, (2021))

§ 25.108.200. "S" Definitions.

Setback. The area between a lot line or property line and the setback line.

Setback, Front. The minimum distance required between a structure and the front property line.

Setback, Interior Side. The area between the side lot line and the structure when there is an adjacent parcel on the side of a lot.

Setback Line. The line which is the required minimum distance from the lot front or any other lot line that establishes the area within which any structure may be erected or placed.

Setback, Rear. The minimum distance required between a structure and the rear property line.

Setback, Street Side. The area between the side lot line and the structure on the street side of a corner

lot.

Shoreline Infrastructure. Modifications along the shoreline to meet the required elevation for protection against future flood and sea level rise conditions, as well as environmental enhancements and trails. This infrastructure can be natural or nature-based, hardened, or a hybrid system that combines both.

Sidewalk. A paved, surfaced, or leveled area, paralleling and usually separated from the street, used as a pedestrian walkway.

Signs. The following definitions shall apply to signs and sign-related regulations.

A-Board or A-Frame Sign. See "Portable (A-Board) Sign."

Abandoned Sign. Any lawfully erected sign, sign structure, advertising structure, or display that is not operated or maintained for a period of one year or longer. The following conditions shall be considered as the failure to operate or maintain a sign: (1) the sign displays advertising for a product of service that is no longer available; (2) the sign displays advertising for a business that is no longer licensed; (3) the sign advertises a business that is no longer doing business on the parcel where the sign is located; (4) the sign has a purpose for which the purpose has lapsed; or (5) the sign is blank.

Above-Roof Sign. A sign which extends above a roof or parapet of a building, including a mansard roof, and which is wholly or partly supported by such buildings.

Alter; Alteration. Any change in the depth, height, area, materials, location, or type of display of an existing sign but shall not be construed to prevent normal or periodic maintenance, upkeep, or repair of a sign or change of copy (e.g., rewiring, repainting).

Animated. The movement or the optical illusion of movement of any part of the sign structure, design, or pictorial segment, including the movement of any illumination or the flashing or varying of light intensity, or the automatic changing of all or any part of the facing of a sign.

Awning Sign. Any sign that is painted or applied to the face, valance, or side panel of a projecting structure consisting of a frame and a material covering, attached to and wholly supported by a building wall and installed over and partially in front of doors, windows, or other openings in a building.

Banner Sign or Banner. A temporary sign composed of cloth, canvas, plastic, fabric, or similar lightweight, nonrigid material that can be mounted to a structure with screws, cord, rope, cable, or a similar method. This sign type does not include flags (see "Flags").

Billboard. See "Off-Premises Advertising (General Advertising) Sign."

Bunting. A lightweight fabric in single or multiple colors used for decoration.

Cabinet, Cabinet Sign. A type of sign that contains all the text and/or logo symbols within a single enclosed frame with flat or shaped panels that is mounted to a wall or other surface (cabinet). Such sign structures typically use slide-in panels to display the message to the public.

Canopy. A permanent roof-like structure of rigid materials extending from the main entrance of a structure and is typically supported by posts at the corners farthest from where the canopy attaches to the structure.

Canopy, Fueling Station. A roof-like structure, typically consisting of supporting columns, at a fueling station that covers the fueling islands and surrounding fueling area.

Canopy Sign. A sign that meets any one or more of these criteria: (1) a sign mounted on a permanent canopy; (2) a traditional industry term for the variable message portion of a canopy sign; and/or (3) an integral sign and permanent canopy.

Change of Copy. Changing of the face or letters on a sign.

Changeable Copy. Sign copy designed to be used with removable graphics which will allow changing of copy.

Commercial Message. Message concerning primarily a proposed economic transaction or the economic interests of the sign sponsor or audience.

Conforming Sign. A sign that is legally installed in accordance with Federal, State, and local permit requirements and laws.

Content-Neutrality; Time, Place, and Manner Regulations. Consistently applicable, nondiscriminatory sign regulations that specify—without reference to the content of the message—when, how, and where a sign can be displayed, with physical standards such as, but not limited to, height, size, and location, that allow the sign to be readable.

Copy. The message or content of a sign, which may include letters, numbers, figures, and/or images.

Digital Sign. A variable message sign that utilizes computer-generated messages or some other electronic means of changing copy. These signs generally include displays using LEDs (light emitting diodes), CCDs (charge coupled devices), plasma, or functionally equivalent technologies to display a series of still images or full motion, usually remotely programmable and changeable, and are sometimes referred to as "digital signs" and "LED signs."

Directional Sign. A sign located adjacent to a pedestrian or vehicle travel way that is internal to a site or complex, intended to provide orientation and safety assistance.

Double-Faced Sign. A sign constructed to display its message on two parallel opposing (back-to-back) faces.

Externally Illuminated Sign. A sign that is illuminated by a light source that is located on the exterior of the sign or nearby and directed toward and shines on the face of a sign.

Façade. The side of a building below the eaves or parapet wall.

Face. The surface area on a sign where advertising copy is displayed.

Feather Sign. A temporary sign constructed of cloth, canvas, plastic fabric, or similar lightweight, non-rigid material, typically taller than it is longer, and supported by a single vertical pole mounted into the ground or on a portable structure. This sign type does not include flags (see "Flags").

Flag. A fabric, cloth, plastic, vinyl, canvas, leather, or other similar material sheet of square, rectangular, or triangular shape that is attached to a staff cord and mounted on a pole. This sign type includes official flags of national, State, or local governments. This sign type does not include feather signs (see "Feather Sign"), banners (see "Banner"), or pennants (see "Pennant").

Flashing Sign. A sign that contains an intermittent or sequential flashing light source. Generally, the sign's message is constantly repeated, and the sign is most often used as a primary attention-getting device.

Afreestanding Sign. A sign that is supported by one or more uprights, braces, poles, or other similar structural components that are not attached to a building or buildings.

Afrontage, Building. The distance measured along the wall or walls of the building abutting on a public or private way, including public and private parking lots, from which public access is provided to the premises. The building frontage does not include alleys, porte-cochères, and other drive-through structures.

Afrontage, Parcel. The distance along the parcel line or lines abutting upon a street, easement, or public or private parking lots, giving access to the property.

Afrontage, Tenant. The width of a building occupied by a business tenant that fronts on a public street or faces a plaza, courtyard, pedestrian corridor or walkway, or parking lot, where customer access to the building is available. Width is measured as the widest point on an architectural elevation.

Afrontage, Street. The portion of the building or property which faces or abuts a street(s).

Allegal Sign. A sign that meets any one or more of these criteria: (1) a sign erected without first complying with all ordinances and regulations in effect at the time of its construction and erection or use; (2) a sign which is a danger to the public or is unsafe; (3) a sign which is a traffic hazard not created by relocation of streets or highways or by acts of the City or County; and/or (4) a sign that is a public nuisance as defined under Chapter 1.16 (Abatement of Nuisances) in the Burlingame Municipal Code.

Alluminated. Signs or individual letters in which an artificial source of light is used to make the message readable and includes both internally and externally lit signs.

Aternally Illuminated Sign. A sign that is illuminated by a light source contained inside the sign.

ALD. Light Emitting Diode.

Algo. An established identifying symbol or mark associated with a business or business entity.

Maintenance. Cleaning, painting, changing copy, general servicing, and repairing as a routine procedure to preserve and keep in working order. Maintenance may include the replacement of parts with like kind parts as such parts fail.

Marquee. A permanent roofed structure attached to and supported by the building and projecting from the building face and generally used to post or otherwise display copy associated with the on-site business. See also "Canopy."

Marquee Sign. A sign attached to a marquee.

Menu Board. A permanently installed sign with changeable copy (electronic message or manual) for the purpose of providing product and/or service information for drive-through service, where allowed, at a business where customers remain seated in a vehicle occupying a drive-through service lane.

Message. See "Copy."

Monument Sign. A freestanding ground sign with low overall height and the appearance of having a solid base. A monument sign includes any decorative base, cap, and trim.

Multi-Faced Sign. A sign constructed to display its message on three or more connected faces.

Neon Sign. A sign illuminated by or utilizing neon tubing, and/or related inert gases, or products that produce the same or similar effect as neon, such as flexible light-emitting diode (LED) neon-like tubing which is visible to the viewer.

Noncommercial Message. Debate or commentary on topics of public concern; for example, politics, religion, philosophy, science, or art.

Noncommercial Sign. Any sign that is not commercial. Noncommercial signs include: (1) advertising displays erected by nonprofit organizations for fundraising and related purposes; and (2) signs containing political, civic, public service, or religious messages.

Nonconforming Sign. Any permanent sign or temporary sign, including its physical structure and supporting elements, which was lawfully erected and maintained in compliance with all applicable laws in effect at the time of original installation, but which does not now comply with the provisions of Chapter 25.42 (Signs).

Off-Premises Advertising (General Advertising) Sign. A permanent sign in a fixed position that meets any one or more of these criteria: (1) the sign is routinely used for general advertising for hire; (2) the sign is used to display commercial advertising for a business not located on the same premises as the sign; (3) the sign is a separate economic unit, not an accessory or auxiliary use serving the principal use on the land; and/or (4) the message display area is made available to message sponsors other than the owner. Off-premises advertising sign may also be referred to as "billboard" or "outdoor advertising sign" in other sections of the Municipal Code.

On-Premises Sign. A sign whose message and design relates to a business, event, goods, profession, or service being conducted, sold, or offered at the location where the sign is erected.

Painted Sign. A sign erected by means of painting the copy and all related material directly upon any portion of a building or other structure. This definition includes commercial murals.

Placed. See definition in Section 25.108.170 ("P" Definitions).

Banners. A triangular or irregular piece of fabric or other material, whether or not containing a message of any kind, commonly attached by strings or strands intended to flap in the wind. This sign type does not include flags (see "Flag").

Permanent Sign. A sign constructed of durable materials and attached to a building, structure, or the ground in a manner that will resist environmental loads such as wind, and precludes ready removal or movement of the sign, and intended to exist for the duration of time that the use or occupant is located on the premises.

Person. Any person, firm, partnership, association, corporation, company, or organization of any kind.

Placed. Erected, constructed, posted, painted, printed, tacked, glued, carved, or otherwise fastened, affixed, or made visible in any manner.

Pole Sign. An elevated freestanding sign that is supported by one or more exposed poles that are permanently attached directly into or upon the ground.

Portable (A-Board) Sign. A sign that is not permanently affixed to a structure or the ground. Portable (A-Board) signs generally include A-frame structures or similar low-profile signs, and are usually hinged at the top, or attached in a similar manner, and widened at the bottom to form a shape similar

to the letter "A." Portable (A-Board) signs may also be referred to as a sandwich board sign. Other variations of such signs may also be in the shape of the letter "T" (inverted) or the letter "H." This definition does not include feather signs.

Porte-Cochère. A permanent roof-like structure of rigid materials attached to a drive-through establishment and typically supported by posts or pillars at the corners farthest from where the porte-cochère attaches to a drive-through establishment. Porte-cochères are large enough for vehicles to pass through and/or underneath.

Porte-Cochère Sign. Any sign placed on a porte-cochère façade.

Premises. See definition in Section 25.108.170 ("P" Definitions).

Projecting Sign. A building-mounted sign with faces projecting from and perpendicular to the building fascia.

Pylon Sign. A freestanding sign that is supported and in direct contact with the ground or one or more solid, monumental structures or pylons that are architecturally treated as part of the overall sign design and which typically has a sign face with a vertical dimension that is greater than its horizontal dimension. A pylon sign includes any decorative base, cap, and trim.

Repair. To reconstruct, rebuild or undertake restoration after a substantial degree of neglect and deterioration has occurred.

Rooftop Sign. A sign erected, constructed, or placed upon or over a roof of a building, including a mansard roof, and which is wholly or partly supported by such buildings.

Sign. A structure, device, figure, display, message placard, or other contrivance, or any part thereof, situated indoors, which is designed, constructed, intended, or used to advertise, provide information in the nature of advertising, provide historical, cultural, archaeological, or social information, or direct or attract attention to an object, person, institution, business, product, service, event, policy, or location by any means, including words, letters, logos, figures, designs, symbols, fixtures, colors, illumination, or projected images. The following do not fall within the definition of a sign for the purposes of this title.

1. Architectural or decorative features of buildings (not including lettering, trademarks, or moving parts).
2. Graphic images that are visible only from above, such as those visible only from airplanes or helicopters, but only if not visible from the street surface or public right-of-way.
3. Holiday and cultural observance decorations that are on display for not more than 60 calendar days per year (per parcel or use) and which do not include commercial advertising messages.
4. Manufacturers' marks on tangible products that identify the maker, seller, provider, or product and which customarily remain attached to the product even after sale.
5. Murals, painted or otherwise attached or adhered, with images or representation on the exterior of a structure that are visible from a public right-of-way or neighboring property; do not contain commercial advertisement (is noncommercial in nature); and are designed in a manner so as to serve as public art, enhance public space, and provide inspiration.
6. Colored or illuminated elements that contain no lettering, numbers, trademarks, or logos,

and are located on a wall or canopy.

7. News racks and newsstands.
8. Merchandise on display and available for immediate purchase.
9. Shopping carts.
10. Symbols embedded in architecture such as symbols of noncommercial organizations or concepts including, but not limited to, religious or political symbols, when such are permanently integrated into the structure of a building; the definition also includes foundation stones and cornerstones.
11. Vehicle and vessel insignia as shown on street-legal vehicles and properly licensed watercraft including, but not limited to, license plates, license plate frames, registration insignia, noncommercial messages, messages relating to the business of which the vehicle or vessel is an instrument or tool (not including general advertising for hire), and messages relating to the proposed sale, lease, or exchange of the vehicle or vessel.
12. Vending machines that do not display off-site commercial messages or general advertising messages.

Sign Area. See Section 25.42.070 (Calculation of Sign Height and Area) for specific rules for measuring the area of different sign types.

Sign Copy. All portions of a sign displaying a message, including text, symbols, emblems, logos, or representations, but not including the supporting structures, decorative features, or base of a sign.

Sign Copy, Channel. Sign copy with three-dimensional individual letters, symbols, emblems, logos, or representations, with an open back or front, illuminated or not illuminated, that are affixed to a building or to a freestanding sign structure with translucent faces, reverse lit channel letters, or push-through acrylic panels.

Sign Copy, Illuminated Channel. Channel sign copy with either an internal light source with an opaque face or an internal light source with a translucent face. The background illumination portion of illuminated channel sign copy is commonly referred to as halo lighting.

Sign Copy, Push-Through. Sign copy routed out of aluminum or other sign material and then pushed through the routed area to provide depth.

Sign Face. The area of a sign on which copy is intended to be placed.

Sign Structure, Supporting Structure. The structural portion of a sign securing the sign to the ground, a building, or to another structure including, but not limited to, columns, crossbeams, and braces.

Single Face Sign. A sign with only one face plane.

Shopping Center. A commercial development under unified control consisting of four or more separate commercial establishments sharing a common building, or which are in separate buildings that share a common entranceway or parking area.

Sky. Sign. Any sign attached to, painted on or suspended from a balloon, kite, or similar object secured to real or personal property within the City.

Temporary Sign. A sign that is intended to be displayed for a definite and limited period of time and

which is not permanently installed, affixed, or maintained on a building or structure.

Three-Dimensional Sign. Any sign which is a three-dimensional, sculptured, or molded representation of an animate or inanimate object that identifies, advertises, or otherwise directs attention to a product or business.

Trademark. A word or name which, with a distinctive type or letter style, is associated with a business or business entity in the conduct of business.

Vehicle Sign. Any sign or device placed on, mounted on, or affixed to a motor vehicle, freight, flatbed or storage trailer, or other conveyance. Vehicle signs shall not include signs wrapped on a vehicle actively being used to load, transport, or unload persons, goods, or services in the normal course of business.

Visibility. The quality of a letter, number, graphic, or symbol which enables the observer to distinguish it from its surrounds or background.

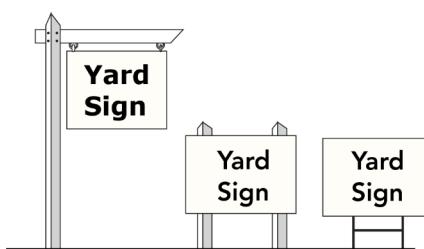
Wall Sign. Any sign attached to, or erected against the wall, parapet, with the exposed face of the sign in a line approximately parallel to the plane of the building or structure wall. This definition includes painted signs, including commercial murals, individual letters or logos, primary wall signs, and secondary wall signs.

Width. The measurement of a sign, base of a sign, building, or façade at its full extent from side to side.

Window Area. The area within the perimeter window frames and glass doors located on a business frontage or street frontage.

Window Sign. Any sign that is applied or attached to a window or located within two feet of a window in such a manner that it can be seen from the exterior of the structure.

Yard Sign. Any temporary sign placed in the ground or attached to a supporting structure, posts, or poles, that is not attached to any building, not including banners.



Site. A lot, or group of contiguous lots, that is proposed for development in accordance with the provisions of this title and is in a single ownership or under unified control.

State. The State of California.

Story. That portion of any building included between the surface of any floor and the surface of the next floor above it, and if there be no floor above it, then the space between such floor and the ceiling next above it. See also the definition of "attic."

Street. The land dedicated to, or condemned for, or established by, use as a public thoroughfare, or a public

or private thoroughfare which affords principal means of access to abutting property.

Street Line. The property line or boundary between a street right-of-way and abutting property.

Structure. Anything constructed or erected that requires location on the ground or attachment to something having location on the ground, including swimming pools, but excluding driveways, sidewalks, patios, or parking spaces.

Structure, Accessory. Any building or structure measuring over 30 inches in height, the use of which is incidental to the main building on the same lot.

Structure, Main. See "Building, Main."

Structure, Temporary. A structure without any foundation or footings and which is intended to be removed when the designated time period, activity, or use for which the temporary structure was erected has ceased.

Substantial Construction. Construction of a wholly new building, or removal or reconstruction of 50 percent or more of the exterior walls of a building; change to accessory structures is not included in this definition.

(Ord. 2000 § 2, (2021))

§ 25.108.210. "T" Definitions.

Temporary or Intermittent Use. A use allowed for a limited duration consisting of activities that represent a variation from the normal business operations. Examples include, but are not limited to, parking lot sales, benefits, and special events. See Section 25.48.260 (Temporary Uses).

Trailer. A vehicle designed for carrying property or persons on its own structure and for being drawn by a motor vehicle.

Transit Stop, Major. An existing rail transit station, a ferry terminal served by either a bus or rail transit service, or the intersection of two or more major bus routes with a frequency of service interval of 15 minutes or less during the morning and afternoon peak commute periods.

Transportation Corridor, High Quality. An existing or planned fixed-route bus corridor with headway of 15 minutes or better during both the morning and evening peak commute periods.

Trellis. A structure with a roof made of repetitive members open to the sky and supported by posts, open on all sides. See also "Arbor."

(Ord. 2000 § 2, (2021))

§ 25.108.220. "U" Definitions.

Use Permit. A discretionary permit, such as a minor use permit or conditional use permit, which may be granted by the appropriate City of Burlingame to provide for the accommodation of land uses with special site or design requirements, operating characteristics, or potential adverse effects on surroundings, which are not permitted as of right but which may be approved upon completion of a review process and, where necessary, the imposition of special conditions of approval by the permit granting authority.

(Ord. 2000 § 2, (2021))

§ 25.108.230. "V" Definitions.

Vehicle. A device by which any person or property may be propelled, moved, or drawn upon a highway, excepting a device moved by human power.

Vending Machine. An automated mechanical device that ejects consumer products, including, but not limited to, snack food items, non-alcoholic beverages, electronic devices, and movies, and that accepts cash, debit, and/or credit.

(Ord. 2000 § 2, (2021))

§ 25.108.240. "W" Definitions.

Window. An opening in an exterior wall, normally glazed, to admit light and/or air.

Window, Bay. See "Bay Window."

Window, Greenhouse. See "Greenhouse Window."

(Ord. 2000 § 2, (2021))

§ 25.108.250. "X" Definitions.

Reserved.

§ 25.108.260. "Y" Definitions.

Yard. An open space that lies between any structure and the nearest lot line and is on the same property as the structure.

Yard, Front. A yard extending across the front of the lot between the inner side lines and measured between the front line of the lot and the front line of the building.

Yard, Rear. A yard extending across the width of the lot, and measured between the rear line of the lot and the rear line of the main building.

Yard, Side. A yard between the building and the side line of the lot and extending from the street line of the lot to the rear yard.

(Ord. 2000 § 2, (2021))

§ 25.108.270. "Z" Definitions.

Zoning District (or "Zone" or "Zone District"). An area of the City delineated on the official zoning map, designated by name or abbreviation as provided in the regulations codified in this title.

(Ord. 2000 § 2, (2021))

SUBDIVISIONS

Title 26

SUBDIVISIONS

	Chapter 26.04 GENERAL PROVISIONS	
§ 26.04.010.	Scope.	§ 26.12.050. Hearing and order on application for variance.
§ 26.04.020.	"Map act" defined.	§ 26.12.060. Conditions for granting variance.
§ 26.04.021.	Advisory agency.	§ 26.12.070. Finality of decision on variance.
§ 26.04.030.	Application of title.	§ 26.12.080. Waiting period before filing new application for variance.
§ 26.04.040.	Recording of map and establishing of regulations.	
	Chapter 26.08 TENTATIVE AND FINAL MAPS	Chapter 26.16 PHYSICAL DESIGN OF IMPROVEMENTS
§ 26.08.010.	Filing tentative maps.	§ 26.16.010. Minimum design requirements established.
§ 26.08.020.	Hearings on tentative map by commission.	§ 26.16.020. Water mains and fire hydrants.
§ 26.08.021.	Hearings on tentative map by council.	§ 26.16.030. Fire alarm systems and connections.
§ 26.08.030.	Action upon final map.	§ 26.16.040. Width of streets.
§ 26.08.040.	Regulations regarding nature, accuracy and completeness of maps.	§ 26.16.050. Width of sidewalks.
§ 26.08.050.	Agreement for public improvements.	§ 26.16.060. Grades for drainage.
§ 26.08.060.	Layout of streets.	§ 26.16.070. Curb design.
§ 26.08.070.	Flood hazard protection.	§ 26.16.080. Maximum length of cul-de-sacs.
§ 26.08.075.	Creek lots.	§ 26.16.090. Storm drain system.
§ 26.08.080.	Dedications.	§ 26.16.100. Utilities.
§ 26.08.090.	Alignment, grades and widths of streets, easements and rights-of-way—Lot width and area.	§ 26.16.110. Street lighting.
	Chapter 26.12 PUBLIC WORKS REQUIREMENTS	§ 26.16.120. Street trees.
§ 26.12.010.	Public works defined.	§ 26.16.130. Street signs.
§ 26.12.020.	Standard specifications.	§ 26.16.140. Grading, excavating and earth moving.
§ 26.12.030.	Submission of plans and specifications.	§ 26.16.150. Checking and endorsement of city engineer.
§ 26.12.040.	Application for variance.	§ 26.16.151. Fees and charges.
	Chapter 26.20 SALE OF LOTS	Chapter 26.20 SALE OF LOTS
		Unlawful to sell lots except from recorded map—Remedies.

Chapter 26.24 SUBDIVISION OF LESS THAN FIVE LOTS		Chapter 26.32 CONDOMINIUM CONVERSION PERMITS
§ 26.24.010.	Subdivision of land where no additional lot is created.	§ 26.32.010. Purpose.
§ 26.24.020.	Examination of map—Recommendation by city engineer.	§ 26.32.020. Condominium conversion permit required.
§ 26.24.030.	Subdivision of land creating two to four lots.	§ 26.32.025. Conversion prohibited for twenty or fewer units or less than 20,000 square feet if commercial office, or industrial.
§ 26.24.040.	Dedication of easements—Offer to do work.	§ 26.32.030. Application requirements.
§ 26.24.050.	Action of planning commission and council on tentative map.	§ 26.32.040. Physical elements report.
§ 26.24.060.	Submission of final map.	§ 26.32.050. Additional submittals.
§ 26.24.070.	Preparation and certification of final map.	§ 26.32.060. Acceptance of reports.
§ 26.24.080.	Setting markers.	§ 26.32.070. Copy to buyers.
§ 26.24.090.	Fees for checking and inspections.	§ 26.32.080. Physical standards for condominium conversions.
Chapter 26.30 CONDOMINIUM SUBDIVISIONS		§ 26.32.085. Minimum project requirements.
§ 26.30.010.	Purpose.	§ 26.32.090. Hearing.
§ 26.30.020.	New construction permit required.	§ 26.32.100. Hearing considerations.
§ 26.30.025.	Conversion permit.	§ 26.32.110. Findings.
§ 26.30.028.	Conversion from stock cooperative to condominium.	Chapter 26.33 DESIGNATED UNITS, PURCHASE AND SALE RESTRICTIONS AND TENANT PROTECTIONS
§ 26.30.030.	Community apartments.	§ 26.33.010. Inclusion of provisions in covenants, conditions and restrictions.
§ 26.30.040.	Definitions.	§ 26.33.020. Designated units.
§ 26.30.050.	Initiated projects.	§ 26.33.030. Resale of units purchased at original sale.
§ 26.30.060.	Basic standards.	§ 26.33.040. Limit of quantity of units purchased.
§ 26.30.070.	Minimum project requirements.	§ 26.33.050. Candidate qualifications for association membership.
§ 26.30.080.	Time limits.	§ 26.33.060. Tenant provisions.

CHAPTER 26.04 GENERAL PROVISIONS

§ 26.04.010. Scope.

The procedure for filing subdivision maps and regulating public improvements on lands designated on such maps shall be as provided in this title.

(Ord. 541 § 1, (1953); Ord. 1032 § 1, (1975))

§ 26.04.020. "Map act" defined.

"Map act," as used in the following sections, applies and refers to that certain act of the legislature of the state of California entitled the "Subdivision Map Act" as the same is in effect as of March 1, 1975, and thereafter amended, and which appears in the Government Code of the state of California.

(1941 Code § 1986, Ord. 541, (1953); Ord. 1032 § 2, (1975))

§ 26.04.021. Advisory agency.

The planning commission shall constitute the "advisory agency" whenever said term is used in the Map Act.

(Ord. 1032 § 3, (1975))

§ 26.04.030. Application of title.

When any parcel of land within the city of Burlingame is to be divided or subdivided into two or more separate lots or parcels and where such subdivision requires the enlarging or changing the boundaries of, or necessitating the performance of work by the city in, or on, any public streets, highways, alleys, lanes, parks, squares, courts, sidewalks, places or parking lots, all the provisions of the following sections of this title shall apply.

(1941 Code § 1987, Ord. 541, (1953))

§ 26.04.040. Recording of map and establishing of regulations.

Every person, firm, corporation, partnership or association who proposes to subdivide a parcel of land in the city under the conditions set forth in Section 26.04.030, shall first cause a map to be made thereof and have the same recorded in the office of the county recorder of San Mateo County in accord with the requirements of the said "Map Act" and of this title.

Subdivision regulations governing the preparation and filing of maps, both tentative and final, are hereby established and are set forth in the following sections.

(1941 Code § 1988, Ord. 541, (1953))

CHAPTER 26.08 TENTATIVE AND FINAL MAPS

§ 26.08.010. Filing tentative maps.

The subdivider shall file three copies and one reproducible tracing thereof of every tentative map with the city engineer.

(1941 Code § 1989, Ord. 541, (1953); Ord. 1032 § 4, (1975))

§ 26.08.020. Hearings on tentative map by commission.

Within 50 days after the tentative map has been filed, the commission shall report on the proposed subdivision and shall recommend approval, conditional approval or disapproval and shall submit a report of its findings to the council.

A report as to conformity to the general plan, required pursuant to Section 65402 of the Government Code, may be included as part of and at the same time as the action taken by the commission on such division of land. Such report is not required for a proposed subdivision which involves:

- (a) The disposition of the remainder of a larger parcel which was acquired and used in part for street purposes;
- (b) Acquisitions, dispositions or abandonments for street widening; or
- (c) Alignment projects; provided that the advisory agency expressly finds that any such disposition for street purposes, acquisitions, dispositions, or abandonments for street widening, or alignment projects is of a minor nature.

(1941 Code § 1990, Ord. 541, (1953); Ord. 1032 § 5, (1975))

§ 26.08.021. Hearings on tentative map by council.

At its next regular meeting following the filing of the commission's report, the council shall fix the hearing date at which the tentative map will be considered by it, which date shall be within 30 days thereafter. Notice shall be given to the subdivider at least five days before the hearing.

At the hearing the council shall hear testimony of the subdivider and witnesses in his or her behalf, and the testimony of representatives of the commission and any witnesses in its behalf. The council may also hear the testimony of any other competent persons. Testimony shall include matters respecting the character of the neighborhood in which the subdivision is to be located, the kinds, nature and extent of the improvements, the quality and kinds of development to which the area is best adapted, and any other phase of the matter into which it may wish to inquire.

Upon conclusion of hearing and within the 30 days after the hearing is fixed, the council shall approve, conditionally approve or disapprove the tentative map, and make such findings as are appropriate and not inconsistent with the provisions of the Map Act or this title.

Each or all of the time limits may be extended by mutual consent of the subdivider and the commission or council, as the case may be. If no action is taken within the time limits, or the time so extended, the tentative map shall be deemed approved and the clerk of the council shall certify such approval.

(Ord. 1032 § 6, (1975))

§ 26.08.030. Action upon final map.

After the approval, or conditional approval, of the tentative map, the subdivider may survey the subdivision or any part thereof, and prepare a final map in accordance with the approved tentative map. He or she shall file the final map with the council within 90 days after the approval of the tentative map. An extension of 90 days may be granted by the council upon application by the subdivider.

The council shall within 10 days after the filing of the final map, or at its next regular meeting after the meeting at which it receives the map, whichever is later, consider the final map. If the final map then meets all of the requirements of the Map Act and of this code, and the rulings of the commission and the council, the council shall then approve the final map.

The council shall at that time also accept or reject any or all offers of dedication, and shall, as a condition precedent to the acceptance of any streets or easements, require that the subdivider, at its option, either improve or agree to improve the streets and easements, install sanitary sewers, storm drainage systems, lighting systems and water supply systems, all in accordance with standards established under this code.
(1941 Code § 1911, Ord. 541, (1953); Ord. 1032 § 7, (1975))

§ 26.08.040. Regulations regarding nature, accuracy and completeness of maps.

Regulations covering the nature, accuracy and completeness of survey are established and the city engineer is designated as the official to whom maps shall be submitted for checking before submission to the commission and council. The regulations are as follows:

- (a) The tentative map shall indicate the width and approximate grades of all streets, highways or ways shown thereon, radius of all curves, approximate dimensions of all lots, relation of proposed streets and ways to existing streets, approximate location and cross-sections of all watercourses, approximate location of all easements for sewers, drainage and public utilities, proposed name of tract or title of maps, and proposed street names and system of numbering lots and blocks.

The tentative map shall show thereon, or be accompanied by reports and written statements from the subdivider giving essential information regarding the following matters: (1) source of water supply; (2) type of street improvement and utilities which the subdivider proposes to install; (3) proposed method of sewage disposal; (4) proposed stormwater sewer or other means of drainage; (5) protective covenants to be recorded; (6) proposed tree planting; (7) detailed grading plan of area to be subdivided where cuts and fills are to be made.

- (b) The final map when submitted shall be accompanied by at least three blueline prints thereof and shall be accompanied by: (1) a title guarantee or letter from a reputable title company showing clear evidence of ownership; (2) tax receipts and special assessment receipts or clear evidence that all taxes and special assessments have been paid; (3) traverse sheet showing the mathematical closure of outside boundaries of the tract and of each lot and block thereof.
- (c) Title sheet shall contain the title, name of the tract, name of the city and of the county, a "subtitle" or description of all the property being subdivided, by reference to maps which have previously been recorded or by reference to a plat of the U.S. survey. References to tracts and subdivisions in the description must be spelled out and worded identically with the original records and reference to book and page of record must be complete.

The name of licensed surveyor or engineer, date of survey, scale and basis of bearings must be shown. Every sheet must show the title, scale, north point and sheet number and the relation between the different sheets shall be shown. Sheets shall be eighteen inches by 26 inches, drawn in black

waterproof ink on good tracing cloth. There shall be a border of two inches on the left and one inch on the other three sides. The number of each sheet and the total number of sheets comprising the map shall be stated on each sheet, and its relation to each adjoining sheet shall be clearly shown. Scale shall be not less than 100 feet to the inch.

- (d) Lots shall be numbered in numerical order commencing with the numeral "1" with no omissions. There must be no duplication of numbers in any block. No prefix or suffix as "1-A," "8-2," etc. is allowed. Blocks shall be either numbered or lettered in numerical or alphabetical order commencing with either the numeral "1" or letter "A." Such letters or numbers shall be shown clearly and must not be so drawn as to obliterate any dimensions or courses. Blocks must be shown entirely on one sheet. Streets shall be named and each name shall be submitted for approval by the city engineer and chief of the fire department.

The bearing and length of every lot line, block line and boundary line and the length, radius, tangent, arc, length and central angle of all curves, and the bearing of radial lines to each lot corner on a curve must be shown.

- (e) The map shall show the total width of all streets; the width of existing dedications and of the portions being dedicated; the width of each side of a centerline where one is shown; the widths of railroad right-of-way, easements for flood control, and drainage channels and any other easement.

Easements for storm drains, sewers, and for light and air (setback lines) shall be denoted by fine dotted lines. Distances and bearings on the side lines of lots which are cut by any such easement must be arrowed or so shown that the map will indicate clearly the actual length of the lot lines. The width of the easement or the length and bearings of the lines thereof and sufficient ties thereto to locate definitely the easement with respect to the subdivision must be shown. The easement must be clearly labeled and identified and, if already of record, its recorded reference given.

If the easement is being dedicated by the map, it shall be properly set out in the owner's certificate and dedication. Before recording, the map shall be certified by the chairperson and secretary of the planning commission, the city engineer, and the city clerk on behalf of the council.

Affidavits, certificates and acknowledgements may be legibly stamped or printed upon the map with opaque ink or lettered legibly with black India ink. All legal forms and notes used in certificates, etc., are subject to approval by the city attorney.

- (f) Permanent monuments shall be set at all boundary corners and angle points and, in case of long tangents, at intervals of approximately 1,000 feet. Within the subdivision, monuments shall be set on long tangents at intervals no greater than one thousand feet (1,000), and at the beginning and end of all curves. Monuments are subject to approval by the city engineer before approval of the map and must be so designed that they will be readily available for inspection after the completion of the subdivision. Monuments shall be placed at the intersection of center lines of streets and at the beginning and end of curves of streets.

All such monuments together with stakes, monuments and evidences found on the subdivided area, shall be clearly shown on the map.

The exterior boundary of the land included within the subdivision shall be indicated by a colored border. The corners of adjoining subdivisions or portions thereof shall be so shown as to identify the tract in relation to adjoining subdivisions and streets.

- (g) The survey procedure and practice shall conform with the standards of the city engineer. If any

shortage or excess is found on the ground between monuments, compared with the original record, any division of the total must bear its proportion of the excess or shortage.

- (h) Upon adoption and recording of final map, five blue-line print copies, one of which shall be upon cloth, shall be filed in the office of the city engineer.

(1941 Code § 1992, Ord. 541, (1953))

§ 26.08.050. Agreement for public improvements.

If at the time of filing the final map, the streets depicted upon the final map, or some thereof, shall already be improved by street surfacing, curbs, culverts, bridges, drains or other structures necessary to use of such streets, or to the proper drainage thereof, and such other improvements as are hereinafter described, in accordance with city requirements, then and in that event the subdivider shall, prior to the approval of the final map, enter into an agreement with the city whereby, in consideration of the acceptance by the city of the streets offered for dedication, such subdivider shall agree to furnish the labor, material and equipment necessary therefor, and to complete the work within a certain time specified in the agreement.

In order to insure the city that this work will be duly completed, the subdivider shall furnish a good and satisfactory bond guaranteeing the faithful performance of the work and any repairs and replacements, or the cost of such repairs and replacements, together with a deposit for utilities hereinafter mentioned in a sum equal to the estimated cost of such improvements and shall also file a good and sufficient bond for the security of material and labor in a sum equal to one-half of the estimated cost thereof. The bonds and guarantees shall remain in effect for a period of one year following the completion of the work in order to insure against errors or inadequacies in the work. Such bonds must be furnished by a surety company and be approved by the city attorney or in lieu thereof, each bond must be signed by two good and sufficient sureties who must meet the requirements for sureties of the statutes of the state of California satisfactory to the city attorney. Such sureties may be required to justify before him or her. The agreement must show the names of all streets to be improved, and the bonds themselves shall be signed by the record owners of the subdivision, as principals on such bonds.

The subdivider may, in lieu of the aforesaid contract, furnish the city with a good and satisfactory agreement, by which he or she shall agree within such time as may be required by the council, to initiate, and so far as may be within his or her power, to consummate proceedings under an appropriate special assessment act or ordinance for the formation of a special assessment district covering such subdivision, or part thereof, for the financing and construction of the designated improvements upon the streets, highways, and ways dedicated upon such map together with the necessary improvements for water supply, drainage, sewerage and lighting required by the council.

Either of these contracts shall include, as a part thereof, an agreement to replace, repair, or to pay to the owner the entire cost of replacement or repairs, any and all property damaged or destroyed by reason of such work done, whether the property be owned by the United States, the state of California, the city of Burlingame, a public or private corporation, any person whomsoever, or any combination of such owners.

The subdivider shall further therein agree to file with the city clerk, prior to the commencement of such work, a written statement signed by the subdivider and each public utility corporation involved to the effect that the subdivider has made the deposit legally required by such public utility for the connection of any and all public utilities to be supplied by such corporation within such subdivision.

(1941 Code 1993, Ord. 541, (1953))

§ 26.08.060. Layout of streets.

The street layout of any subdivision shall conform as far as is practicable with other streets and highways in the immediate vicinity, and the streets and highways shown upon each subdivision map shall be in alignment with existing adjacent streets and in general conformity with the plan made for the most advantageous development of the area. Where a new subdivision adjoins acreage likely to be subdivided later, all new streets may be required to be dedicated through to the boundary lines of the tract. Whenever a dead-end street or cul-de-sac is shown on a subdivision map, an adequate turning circle will be required. (1941 Code § 1944 (a), Ord. 541, 1953))

§ 26.08.070. Flood hazard protection.

The city council may disapprove a tentative or final map or maps of a subdivision where flood hazard or inundation may be expected to occur and require protective improvements to avoid such hazards as a condition precedent to approval of such map or maps. Such protective improvements as may be recommended by the city engineer and required by the city council shall become a part of the agreement for subdivision improvement.

(1941 Code § 1994 (b), Ord. 541, (1953))

§ 26.08.075. Creek lots.

No parcel containing a creek or any area within the 100-year-flood or flow depth lines of a creek shall be subdivided unless each resulting lot has frontage on a public street and unless at least 60% or more of each resulting lot is contiguous land beyond the 100-year-flood or flow depth line of said creek.

For the purposes of this section: (a) a creek is defined as one of those watercourses so designated and detailed in the large scale map in the city engineer's office titled "1989 Creek Map," based upon the Storm Drainage Study, Project, No. 910, and dated January 16, 1989; (b) the 100-year-flood or flow depth line shall be determined by the city engineer, based upon said Storm Drainage Study and such other information as he or she may require from the subdivider.

(Ord. 1407 § 1, (1990))

§ 26.08.080. Dedications.

Dedication of all streets, highways, public ways, easements for utilities and storm drains, and public planting strips, where such dedications are necessary for public use, shall be required as a condition precedent to the approval of the final map or maps.

(1941 Code § 1944 (c), Ord. 541, (1953))

§ 26.08.090. Alignment, grades and widths of streets, easements and rights-of-way—Lot width and area.

Street alignment, grades and widths of easements and rights-of-way for drainage and sanitary sewers shall be shown on the map and must comply with the requirements of this code. Minimum lot width and area shall comply with the requirements of this code.

(1941 Code § 1944 (d), Ord. 541, (1953))

CHAPTER 26.12 PUBLIC WORKS REQUIREMENTS

§ 26.12.010. Public works defined.

Public works for the purpose of this title are defined as structures, utilities and appurtenances on, above or below the ground, which have been, or are to be, installed, constructed or reconstructed for the use and convenience of the general public or the residents of the area served by such works, including, but not limited to, streets, sidewalks, surface and subsurface storm drainage facilities, street lighting, sanitary sewerage facilities, gas, water, electric and telephone services, street signs, easements and drainage grades on private properties abutting, or having any effect upon, such public works.

(1941 Code § 1966, Ord. 541, (1953))

§ 26.12.020. Standard specifications.

Structural design details, methods and materials are not specified in this code. Such details shall conform with "standard specifications" for the construction of public works as are compiled by the city engineer. Such specifications may be changed from time to time at the option of the city engineer, but such changes shall in no way affect the validity of regulations or requirements contained herein.

(1941 Code § 1966, Ord. 541, (1953))

§ 26.12.030. Submission of plans and specifications.

Prior to commencing construction of public works, complete plans and specifications shall be submitted to the city engineer on standard size sheets for his or her examination and determination of conformity with the regulations and requirements of this code and the "standard specifications." A minimum period of 30 days shall be allowed for such examination and determination. Failure of plans or specifications to conform with the requirements and regulations may prohibit the construction of such proposed public works. Construction shall not be contracted for or commenced until the city engineer shall have signified his or her approval thereof, in writing, either on such plans and specifications, or otherwise.

(1941 Code § 1966, Ord. 541, (1953))

§ 26.12.040. Application for variance.

In the event that the city engineer rejects, or orders a modification of, such plans, the developer or subdivider may file an application for a variance with the city clerk. The application shall be set for hearing before the city council in not less than 10, nor more than 30 days following such filing. Notice in writing shall be given to the applicant, and to such other persons as may be interested at least 10 days prior to such a hearing.

(1941 Code § 1966, Ord. 541, (1953))

§ 26.12.050. Hearing and order on application for variance.

At such hearing the council shall hear applicant and such other persons as may be interested in such application and may require such testimony and evidence as it may deem pertinent to the matter. On conclusion, the council may grant or deny such variance, or make such order for modification as it may deem advisable.

(1941 Code § 1966, Ord. 541, (1953))

§ 26.12.060. Conditions for granting variance.

No such variance shall be granted unless the council has found all of the following to be true:

- (a) That there are exceptional or extraordinary circumstances or conditions applicable to the proposed plan or works, which do not apply generally to plans or works of a similar character, so that a denial would result in undue property loss;
- (b) That such variance would be necessary for the preservation and enjoyment of a property right of the applicant;
- (c) That the granting of such variance would not be materially detrimental to the public health, safety and welfare, or injurious to the property or improvements of other property owners or the quiet enjoyment of such property or improvement.

(1941 Code § 1966, Ord. 541, (1953))

§ 26.12.070. Finality of decision on variance.

The decision of the council shall be final and binding on the applicant.

(1941 Code § 1966, Ord. 541, (1953))

§ 26.12.080. Waiting period before filing new application for variance.

In the event that such variance is denied, or that an order for modification thereof has been made and applicant is unwilling or unable to comply with such an order, applicant shall be barred for a period of one year from the date of such decision from filing a new application for the same or similar variance.

(1941 Code § 1966, Ord. 541, (1953))

CHAPTER 26.16 PHYSICAL DESIGN OF IMPROVEMENTS

§ 26.16.010. Minimum design requirements established.

There are established minimum design requirements for streets, ways, alleys, water mains, storm drainage systems and other public improvements. The minimum standards so established shall apply to all lands within the city or to be annexed to the city and to all subdivisions or resubdivisions of such lands. The minimums so established may be lowered or revised for topographical reason or when hardship to the developer may exist only upon the recommendation of the planning commission and action by the council in the same manner as provided for variances in Chapter 26.12 of this code.

(1941 Code § 1997, Ord. 541, (1953))

§ 26.16.020. Water mains and fire hydrants.

Water mains shall be not less than six inches in diameter, except that in exceptional circumstances, smaller sizes may be approved by the city engineer; provided, however, that the installation of larger pipes may be required upon recommendation of the city engineer and the chief of the fire department to meet circumstances of extra hazard. The fire chief and city engineer must approve the location of fire hydrants and a map of water lines, fire hydrants and feeders shall be prepared and filed in the offices of the fire chief and city engineer.

(1941 Code § 1997 (1), Ord. 541, (1953))

§ 26.16.030. Fire alarm systems and connections.

Necessary fire alarm systems or extensions of the existing fire alarm system, including their connection to the central control panel and the enlargement of the central control panel caused by any such connections, shall be installed as ordered by the chief of the fire department.

The developer or subdivider may file an application for a variance from the order of the chief of the fire department and notices thereof shall be given, hearing held and testimony and evidence taken by the city council in the same manner as is provided for in Chapter 26.12 of this code in cases of an application for a variance from an order of rejection or modification by the city engineer, and a variance may be granted by the city council upon findings of all of the things to be true which are required for the granting of a variance from an order of the city engineer.

(1941 Code § 1997 (1-a), Ord. 588, (1955))

§ 26.16.040. Width of streets.

The minimum width of the pavement of major streets shall be 64 feet; of secondary streets, 40 feet; and of minor streets, 34 feet; all measured between the faces of curbs. The minimum width of alleys, private ways and divided streets, shall be 20 feet, measured between the curbs, separating strip, or other limitations to the traveled way. The minimum width of islands or dividing strips in divided street shall be three feet when no electroliers are located therein and six feet when such obstructions exist.

(1941 Code § 1997 (2), Ord. 541, (1953))

§ 26.16.050. Width of sidewalks.

Sidewalks shall be located adjacent to curbs and shall have a minimum width of five feet, measured from the inside of the monolithic curb and gutter. Sidewalks shall have a minimum thickness of four inches of "Class A" concrete. In all residential districts, a strip contiguous to the sidewalk for planting or other

municipal purposes shall he or she provided with a minimum width of four and one-half (4-1/2) feet.
(1941 Code § 1997 (3), Ord. 541, (1953))

§ 26.16.060. Grades for drainage.

Streets shall have a minimum crown of three inches in 15 feet of pavement width. Alleys shall have a straight slope to a low center of two inches in 10 feet of pavement width. Sidewalks shall have a straight slope of one-quarter inch per foot of width with the low side toward the gutter. Grade of streets shall be not less than three-tenths per cent nor greater than 15%.

(1941 Code § 1997 (4), Ord. 541, (1953))

§ 26.16.070. Curb design.

All curbs shall have a straight face at an approximate right angle to the top surface of the gutter and shall be ordinarily six inches in height from the flow line of the gutter. The city engineer may vary this height to meet unusual conditions. All curbs shall be cast monolithic with gutters. Wherever possible, expansion joints shall be placed to become an extension of the lot lines. At no time shall true expansion joints be spaced at more than 60 foot intervals and the distance between dummy and true expansion joints shall be no less than 15 feet. The minimum width of the gutter shall be 18 inches.

Curbs shall have a minimum radius of 20 feet at the face of the curb in all residential districts. All circles in courts or cul-de-sacs shall have a minimum radius of 32 feet at the face of the curb.
(1941 Code § 1997 (5), Ord. 541, (1953))

§ 26.16.080. Maximum length of cul-de-sacs.

The maximum length of cul-de-sacs shall be restricted to 250 feet as measured from the right-of-way line of the street from which the cul-de-sac enters to the center of the turning circle at the cul-de-sac end.
(1941 Code 1997 (6), Ord. 541, (1953))

§ 26.16.090. Storm drain system.

All storm drainage systems shall be so designed as adequately to remove storm water from the area served at the maximum rainfall rate of one inch per hour. Runoff factor, subject to variations because of the nature and use of the terrain, shall be clearly stated and shall meet with the approval of the city engineer. Where the drainage of the upstream waters is a contributing factor to the flooding of lower areas, the drainage system shall be of such size as to accommodate such conditions. Structures, water retention basins, drainage canals or other improvement of storm water drainage may be required, and the city council may deny approval of the final map in the event that such requirements are not met.

Storm water shall, under no circumstances, be introduced into the sanitary sewage systems but shall be confined to the surface and subsurface storm drainage systems and facilities provided.

Lots shall be so graded as to assure storm water runoff to the facilities provided for the area. Building permits will not be issued for any lot having a finish grade such as to cause runoff of storm water in any direction other than one that will so properly dispose of it. On hillside development, where the contour of the terrain makes it impossible or impractical to drain water to the frontage street, special requirements for such drainage will be imposed by the city engineer.

(1941 Code § 1997 (7), Ord. 541, (1953))

§ 26.16.100. Utilities.

In all residential areas, telephone and power poles and lines shall be located in the rear of lots or along lot lines and shall not be permitted in the street right-of-way or in the front of lots abutting the street right-of-way.

Water mains and fire hydrants for domestic supply and fire fighting purposes shall be installed. The water mains shall be laid under the street, parallel to the curb, and in an area between four and six feet from the curb line, and with a minimum cover of 30 inches. A map showing the size and location of such pipes and hydrants, and stating the material of which such pipes are made and the date of their installation and approval, shall be filed in the office of the city engineer.

Sewer mains shall be laid in the center line of all streets. The size of sewers, the grade and depth at which they shall be laid, and the installation of sewerage pumps, where such are necessary, shall be subject to approval by the city engineer. All sewer laterals shall be indicated on plans giving location of lot corner and the depth of the lateral. Laterals and mains shall be accurately located in accordance with the plans and their location indicated on the permanent sewer records of the city.

(1941 Code § 1997 (8), Ord. 541, (1953))

§ 26.16.110. Street lighting.

Adequate lighting of all streets, highways and alleys shall be provided in all new subdivisions. No subdivision map shall be finally approved until an agreement to provide such lighting has been signed by the subdivider or assessment proceedings for such purpose shall have been instituted.

Street lighting shall be accomplished by the installation of metal standards carrying pendant luminaires and the electricity shall be supplied from underground conduit. Sizes and types of standards, luminaires, wires and conduits shall meet with the approval of the city engineer. Spacing of electroliers and the size and type of luminaires shall be sufficient to furnish not less than a minimum light intensity over the entire street right-of-way.

Wherever existing trees or other plants are to be preserved in the street right-of-way, electroliers shall be located in such manner as to receive minimum interference from such trees or plants.

(1941 Code § 1997 (9), Ord. 541, (1953))

§ 26.16.120. Street trees.

Provision shall be made for the planting of trees in residential areas, and such portions of the subdivision as may be required by the planning commission for "green belts" or highway buffers and the location and variety of such trees shall be indicated. The superintendent of parks shall inform the city engineer regarding the suitability of species and spacing. Trees shall be selected for size, growth and ultimate age characteristics, root type, adaptability to climatic and soil conditions, and conformity to existing trees within the area.

(1941 Code § 1997 (10), Ord. 541, (1953))

§ 26.16.130. Street signs.

All intersections shall be equipped with street signs which shall be mounted in such manner, height and location as to conform with the standards for street signs for the city of Burlingame.

(1941 Code § 1997 (11), Ord. 541, (1953))

§ 26.16.140. Grading, excavating and earth moving.

Wherever quantities of earth, either within street right-of-way or on abutting property, are to be graded, relocated, added to the natural ground line or removed, the source and disposition of such material shall be clearly indicated in the plans and the effect upon drainage flow shall be shown.

Whenever cuts or fills are made, the final slope shall be such as to permanently resist the action of erosion, slip or other natural forces tending to alter the established grade or location. Greater slopes may be permitted when structural means such as rip rap fences, retaining walls or other approved methods are employed. Complete plans and specifications of the proposed grades and the retaining method must be submitted to the city engineer for his or her approval.

(1941 Code § 1997 (12), Ord. 541, (1953))

§ 26.16.150. Checking and endorsement of city engineer.

After receiving copies of the final map, the city engineer shall examine the map as to correctness of surveying data, mathematical data and computations, and all other matters as require checking to insure compliance with the provisions of the "Map Act" and this code. If the final map is found to be in compliance, the city engineer shall endorse his or her approval thereon.

(1941 Code § 1997 (13), Ord. 541, (1953); Ord. 1032 § 8, (1975))

§ 26.16.151. Fees and charges.

For each subdivision including those described in Section 26.24.010 of this code, an amount established by resolution of the council shall be deposited with the city engineer when the tentative map is filed. A charge for checking shall also be made by the city engineer. The charge shall be sufficient to reimburse the city for all costs connected with such project. Such charges shall be included with the cost of engineering incidental to the subdivision improvements, if any. Any surety bonds required for faithful performance shall not be released until all city engineering charges are paid.

(Ord. 1032 § 9, (1975))

**CHAPTER 26.20
SALE OF LOTS**

§ 26.20.010. Unlawful to sell lots except from recorded map—Remedies.

No person shall sell, or offer for sale, any subdivision or part thereof, until a map thereof has been made, certified, endorsed, acknowledged and recorded in all respects as provided in the "Map Act" and this code. No person shall sell, or offer for sale, any subdivision or part thereof, by reference to any map other than such recorded map, or a true and accurate copy thereof. No person shall contract for the sale, sell or offer to sell any subdivision or part thereof, by metes and bounds description.

Nothing contained in this code shall be deemed to bar any legal, equitable or summary remedy to which the city may be entitled because of a sale, or offer to sell, contrary to the provision of the "Map Act," or of this code.

(1941 Code § 1995, Ord. 541, (1953))

CHAPTER 26.24 SUBDIVISION OF LESS THAN FIVE LOTS

§ 26.24.010. Subdivision of land where no additional lot is created.

When land which is a part of a previously recorded subdivision is combined with other land of a recorded subdivision for the purpose of creating a larger or smaller parcel or to create a single parcel of adjoining lots and where the addition or deletion does not require the installation of any public improvements or public works other than the installation of sewer and water laterals, a map shall be prepared showing the existing and proposed boundaries of the property. Four copies of the map shall be filed with the city engineer together with a filing fee of \$20.

(Ord. 859 § 1, (1966))

§ 26.24.020. Examination of map—Recommendation by city engineer.

On receipt of the map, the city engineer shall forthwith examine the same to ascertain whether or not the lots are of the width and area prescribed by this code, have been provided with any necessary easements of adequate width and proper location and design for sanitary sewerage, drainage and other public utility purposes, and whether or not the streets and highways adjacent to the land proposed to be subdivided are properly located and of sufficient width to meet neighborhood traffic needs.

In the event that the city engineer finds that the map has met the requirements referred to in this section and that all other requirements have been adequately fulfilled, he or she shall recommend the approval of the planning commission.

(Ord. 859 § 1, (1966))

§ 26.24.030. Subdivision of land creating two to four lots.

When land, either within previously subdivided property or unsubdivided acreage, is divided for the purpose of creating two, three or four lots, a tentative map shall be prepared. Four copies of the map shall be filed with the city engineer.

(Ord. 859 § 1, (1966))

§ 26.24.040. Dedication of easements—Offer to do work.

In the event that easements for sanitary sewers, drainage purposes or other public utilities are required, the city engineer shall so notify the person filing the map and the person shall offer to the city to dedicate the required easements before the map may be approved. The easements shall be properly drawn on the map. Where improvements are necessary and required and where additions to water or sewer lines must be constructed, the subdivider shall offer to do the work in accordance with the standard specifications of the city. The requirements may include widening or extension of public streets and installation of utilities on public or private property.

Where frontage on a public street is impossible or impractical, the planning commission may recommend an easement or easements providing ingress from and egress to a public street in lieu of street frontage. In any case, the city shall be made an owner of the easement.

The map shall show the following:

- (a) Location and size of water and sewer mains;
- (b) Width and location of any existing easements;

- (c) Location and dimension of streets;
- (d) Location of any proposed street widening or extension if required;
- (e) Building setback lines;
- (f) Location of any proposed public utilities and any easements necessary for such utilities;
- (g) Dimensioned showing of any existing structures and notations regarding removal or remodeling of same;
- (h) Existing and proposed contours of land and proposed elevation at lot corners.

The city engineer shall examine the map and submit it to the planning commission together with his or her recommendations.

(Ord. 859 § 1, (1966); Ord. 895 § 1, (1969))

§ 26.24.050. Action of planning commission and council on tentative map.

At its next regular meeting following the submission of the map and the recommendations of the city engineer, the planning commission shall consider the map. The commission shall make its decision upon such consideration as, but not limited to, the following:

- (a) Recommendations of the city engineer;
- (b) Compatibility of proposed lots to pattern of existing lots in the neighborhood; reverse corner lots or key lots shall not be introduced into a neighborhood where such lots do not now exist;
- (c) Accessibility to safety services. The commission may consider grade of access roads or easements and require that such grade is not excessive or beyond the capacity to traverse by safety equipment;
- (d) Proposed grading and contours of the finished sites. The commission may require as a condition that the finished contour of the building site or sites reasonably conform with the neighborhood pattern where such pattern exists;
- (e) Compliance with creek lot requirements set forth in Section 26.08.075.

If the map meets all the requirements of the code and does not require the dedication of easements or the construction of any public work, a final map may be prepared without reference to the city council.

Notification of the hearing shall be mailed to the person filing the map and to all owners of contiguous property.

If the map requires the dedication of easements or the construction of any public work, the tentative map shall be filed with the city clerk, together with the recommendations of the planning commission, for the consideration of the city council at its next regular meeting following the action of the commission. The council may accept or disapprove the action of the commission, but no substantive changes shall be made on the map without reference to the commission for its recommendation.

(Ord. 859 § 1, (1966); Ord. 895 § 2, (1969); Ord. 1407 § 2, (1990))

§ 26.24.060. Submission of final map.

Within a period of 18 months after approval or conditional approval of the tentative map, the subdivider

shall prepare and submit a final map. The planning commission shall examine the map and, after a public hearing, recommend approval or conditional approval. The final map shall be substantially in accord with the tentative map. Following the public hearing, the map and the recommendations of the planning commission shall be submitted to the city council.

The city council, at its next regular meeting following the submittal, shall approve the map if it conforms to all of the rulings made at the time of the approval of the tentative map and to such changes as may have been required by conditional approval.

The city council at that time shall also accept, accept subject to improvement, or reject any or all offers of dedication and, unless the streets and easements have been improved and accepted, shall, as a condition precedent to the acceptance of any streets or easements, provide for the improvement of streets or easements in accordance with the standards of the city or the rulings of the city engineer applicable at the time of the approval of the tentative map.

The city council may require the subdivider to:

- (1) Enter into an agreement with the city upon mutually agreeable terms to thereafter improve the streets and easements at the subdivider's expense; or
- (2) Enter into a contract with the city upon mutually agreeable terms to thereafter initiate and consummate proceedings under an appropriate special assessment act for the financing and installation of all of the required improvements.

(Ord. 859 § 1, (1966))

§ 26.24.070. Preparation and certification of final map.

The final map shall be prepared in accordance with the requirements of Section 66445 of the Government Code of the state of California or as the code is subsequently amended. Certificates shall appear on the final map of the surveyor or civil engineer, of the city engineer and of all parties having any record title interest in the real property subdivided, as well as a form for the filing of the map by the county recorder, all as provided in the Code. Failure to file the final map with the county recorder within 180 days from the approval of such map shall terminate all proceedings. Any subdivision of the same land shall require the filing of a new map. Said filing date may be extended by mutual agreement of the subdivider and the council.

(Ord. 859 § 1, (1966); Ord. 1032 § 10, (1975))

§ 26.24.080. Setting markers.

Upon approval of the final map, the surveyor shall set property corner markers in accordance with the final approved map. In the event that previously set markers do not coincide with the map as filed, markers shall be replaced or map amended so that physical location of marks and filed map agree.

(Ord. 859 § 1, (1966))

§ 26.24.090. Fees for checking and inspections.

An amount of \$20 shall be deposited with the city engineer when the tentative map is filed. A charge for checking the maps and for all costs, including inspections, connected with the project shall be made by the city engineer in an amount sufficient to reimburse the city.

(Ord. 859 § 1, (1966))

CHAPTER 26.30 CONDOMINIUM SUBDIVISIONS

§ 26.30.010. Purpose.

This chapter is adopted to ensure each condominium project supports sound community planning; supports the economic, ecological, social and aesthetic qualities of the community; and supports the public health, safety and general welfare. Review criteria are needed to adequately evaluate residential, commercial and industrial condominium subdivisions and insure that they are consistent with the purposes of this chapter, the city's general plan, its implementing zoning, and this code.

(Ord. 1706 § 2, (2003))

§ 26.30.020. New construction permit required.

Before final approval and issuance of any building permit for any condominium or condominium project, a developer, builder or other person seeking to construct such a project shall first apply for and obtain from the planning commission a condominium permit. A condominium permit shall be issued only:

- (a) Upon approval of the planning commission, or city council upon appeal or review, finding that the project conforms to the provisions of Chapter 26.30 and to all applicable zoning regulations of Title 25 of this code; and
- (b) Upon payment of fees in the amount required by this code and resolution of the city council.

Applications for condominium new construction permits shall be evaluated and processed pursuant to the procedural requirements set forth for conditional use permits in Title 25 of this code.

(Ord. 1015 § 1, (1974); Ord. 1706 § 2, (2003))

§ 26.30.025. Conversion permit.

Any developer, builder or other person seeking to convert an existing structure to a condominium shall first apply for and obtain from the planning commission a condominium conversion permit pursuant to Chapter 26.32. Condominium conversions shall be limited to a parcel containing structures with a total of more than 20 residential units or with commercial, office, or industrial structures with a total of more than 20,000 square feet. Applications for condominium conversion permits shall be evaluated and processed pursuant to the procedural requirements set forth for conditional use permits in Title 25 of this code.

(Ord. 1015 § 1, (1974); Ord. 1206 § 1, (1981); Ord. 1706 § 2, (2003))

§ 26.30.028. Conversion from stock cooperative to condominium.

- (a) Notwithstanding any other provision of this code, including any provision of Chapter 26.32, a stock cooperative as defined in Section 1351 of the Civil Code may be converted to a condominium as defined in Section 783 of the Civil Code if all of the following are met:
 - (1) The stock cooperative was legally organized and created pursuant to state and local law in effect at the time of the organization and creation, and the stock cooperative has continued in uninterrupted existence until the date of the conversion; and
 - (2) A tentative map and final map for a condominium are filed and approved by the council as provided in Chapter 26.08 in the forms provided for other condominium maps under this title; and

- (3) All persons renting units in a cooperative are provided all tenant rights under state and local law, including, but not limited to, rights respecting first refusal, notice, and displacement and relocation benefits as described in Section 26.33.060.
- (b) If the stock cooperative conversion is exempt from the Subdivision Map Act pursuant to Government Code Section 66412, then subsection (a)(2) shall not apply to the conversion application. Instead, the application shall be reviewed by the planning commission for conformance with Section 66412 and subsections (a)(1) and (a)(3) of this section, and upon approval by the commission, the city will certify conformance with Section 66412 and this section in a form to be recorded with the county recorder.
- (c) Procedures for filing and approval of applications under this section, as well as appeals from decisions made, shall follow Sections 26.08.020, 26.08.021 and 26.08.030, as applicable, and Section 25.16.060.

(Ord. 1829 § 2, (2008))

§ 26.30.030. Community apartments.

Community and cooperatively owned apartments or commercial, office, or industrial units shall be subject to the same restrictions, conditions, requirements and application fees as new condominiums and condominium conversions under Chapter 26.32.

(Ord. 1015 § 1, (1974); Ord. 1706 § 2, (2003))

§ 26.30.040. Definitions.

For the purpose of this title, the following words and phrases shall have the following definitions:

"Common areas" means the entire project, excepting all units therein granted or reserved.

"Community or cooperatively owned" means a development in which an undivided interest in the land is coupled with the right of exclusive occupancy of an apartment or space within a commercial building located thereon. For all purposes of this code, community or cooperatively owned structures shall be subject to the same restrictions, conditions and regulations as condominiums.

"Condominium" means an estate in real property consisting of an undivided interest in common in a portion of a parcel of real property together with a separate interest in space in a residential, industrial or commercial building on such real property such as an apartment, office or store. A condominium may include, in addition, a separate interest in other portions of real property. Such separate interest may, with respect to the duration of its enjoyment, be either (1) an estate of inheritance or perpetual estate, (2) an estate for life, (3) an estate for years, such as a leasehold or sublease hold, or (4) a right of use. For the purposes of this chapter, a townhouse is a condominium.

"Condominium project" means the entire parcel, or portion thereof, or real property, including all structures thereon, subdivided or to be subdivided, for the purpose of constructing or converting existing structures to condominium units.

"Conversion" means a proposed change in the ownership interest of a parcel or parcels of land, together with the existing or added structures, some of which were previously occupied, from that established to the type of ownership interest defined as community apartments, stock cooperative, or condominiums.

"Open space" means that area of a lot which is:

- (1) Open and unobstructed from the ground to the sky; or

- (2) Open and unobstructed from the ground to roof eaves or balconies above the ground floor; or
- (3) Area covered by swimming pools and swimming pool equipment enclosures, or other recreation-oriented construction and equipment or decks, including such areas as designated and equipped exercise facilities, meeting rooms, or other improved areas approved by the planning commission.

"Units" means the elements of a condominium which are not owned in common with the owners of other condominiums in the project.

(Ord. 1015 § 1, (1974); Ord. 1706 § 2, (2003); Ord. 1810 § 2, (2007))

§ 26.30.050. Initiated projects.

No condominium project, regardless of when initiated, for which a building permit has been issued shall be exempt from the requirements of obtaining a condominium permit or condominium conversion permit unless actual construction has commenced.

(Ord. 1015 § 1, (1974))

§ 26.30.060. Basic standards.

The following condominium standards shall apply to all land and structures proposed as a part of a condominium project and shall be evaluated and processed pursuant to the procedural requirements set forth for conditional use permits in Title 25 of this code. No condominium project or portion thereof shall be approved or conditionally approved in whole or in part unless the planning commission, or city council upon appeal or review, has reviewed and found the project conforms to the following on the basis of its effect on: sound community planning; the economic, ecological, social and aesthetic qualities of the community; and on public health, safety and general welfare:

- (a) The overall impact on schools, parks, utilities, neighborhoods, streets, traffic, parking and other community facilities and resources;
- (b) Conformity with the general plan, including the housing element, and zoning density and design regulations;
- (c) A detailed development and site plan of the project including: the location, treatment and sizes of structures; separation between living units and along property lines; parking layout, access areas and exterior elevations; location and use of common areas and other designated open space and security provisions; and location of loading zone and trash enclosure, including recycling area, and mechanical equipment;
- (d) A detailed landscaping plan indicating sun and shade patterns on the site, the types and sizes of landscaping materials retained and to be installed, and their suitability to the sun and shade conditions on the site;
- (e) A detailed lighting plan indicating location and nature of lighting and lighting fixtures on all structures and in the common areas;
- (f) A copy of conditions, covenants and restrictions and any condominium agreements for the project setting forth the occupancy and management policies for the project;
- (g) For each condominium unit, floor plans indicating the total floor area, the number, type and size of rooms, the type of separation walls; provisions for achieving sound control and privacy; provisions for insulating exterior walls and roof from heat and cold; and location of hot water heaters, furnaces

and storage areas within each unit and in the common areas; and

- (h) Provisions for the dedication of land or easements for street widening, public access or other public purposes, where necessary, and in accordance with established planned improvements.
- (Ord. 1015 § 1, (1974); Ord. 1706 § 2, (2003); Ord. 1810 § 3, (2007))

§ 26.30.070. Minimum project requirements.

Except as otherwise provided by law, in approving or conditionally approving any condominium project, the following shall be required:

- (a) Parking.

- (1) For multiple-family residential condominiums, there shall be off-street parking as required by Chapter 25.70 of this code and at least one parking space shall be in the ownership of each residential unit. No on-site parking spaces shall be rented or leased to any on- or off-site person. Compact parking spaces shall be allowed in residential condominium development in the following ratio, but only if no unistall parking for required parking spaces is used:

Required Parking Spaces	Allowable Compact Spaces
1—10	1
10—20	2
Over 20	3

- (2) On-site guest parking spaces shall be provided for all residential condominium and cooperative developments. Guest parking spaces shall be held in common ownership, shall not be rented or assigned to residents or non-residents, and shall not be sold or transferred except with the sale of all units as a single entity. Guest parking spaces may be designed to compact standards as defined in Chapter 25.70. Guest parking spaces shall be provided in residential condominium and cooperative development in the following ratio:

Number of Dwelling Units	Required Guest Parking Spaces
2—4 units	1
5—15 units	2
15 or more	3

- (3) Except for residential condominium developments in the El Camino North (ECN) district with a lot front on El Camino Real and with no frontage on any other street, all residential condominium developments shall provide an area for on-site deliveries.
- (4) For commercial condominiums and commercial uses in mixed use residential condominiums, there shall be off-street parking as required by this code, which may include compact parking as allowed in Chapter 25.70. However, if any unistall parking is used for any required parking, no compact parking is allowed.
- (5) Parking requirements compliant with the American Disabilities Act shall be provided on site as required by the California Building Code as adopted by this code.

(b) Access, Vehicular Driveways, and Parking Areas.

- (1) All private streets, driveways, and parking areas shall be improved and constructed with a structural section in accordance with city standards. They shall be designed and maintained to insure access for municipal services to any dwelling unit therein.
- (2) Only temporary parking for service vehicles shall be allowed in the driveway between the front property line and the face of the building. Calculation of private open space and common open space at ground level shall not include any vehicular driveways or parking areas.

(c) Setback Requirements. Front, side, and rear setbacks shall be as required by the zoning district regulations applicable to the real property being developed.

(d) Conditions, Covenants and Restrictions Agreements. Conditions, covenants and restrictions agreements shall contain, but not be limited to, adequate provisions for maintenance, repair and upkeep of all structures, site landscaping and other on-site improvements; provisions that in the event of destruction or abolishment, reconstruction shall be in accordance with codes in effect at the time of such reconstruction; and provisions for dedication of land or establishment of easements for street widening or other public purpose. Covenants, conditions and restrictions shall describe: powers, duties, rights and obligations set forth in Civil Code Section 1355; the proposed form of owners' association; and suggested by-laws, maintenance agreements, use restrictions, and special funds to cover emergency repairs; and require and enforce that on-site parking spaces be owned or assigned to condominium owners or held in common ownership by the condominium association shall be used only by bicycles or currently registered and operable motor vehicles as defined by the Vehicle Code.

(e) Landscaping and Open Space Standards.

- (1) Front setback landscaping for residential condominium or cooperative development. Landscaping is required between the front property line and face of the building equal to and not less than 50% of the lot area within the required front setback. Emphasis should be placed on minimizing turf and ground cover areas and on planting larger scale and more vertical plant material which will frame and screen the view of the structure from the street. If a circular drive is provided a special permit may be requested to reduce the required front setback landscaping to 45% of the lot area within the required front setback.
- (2) Site landscaping shall be suitable for the specific sun/shade environment of the lot.
- (3) Private open space for residential condominium or cooperative development. Private open space shall be provided for each unit and shall be contiguous and directly accessible to each unit, except in the ECN district where private open space shall not be required for dwelling units on the ground floor. Private open space may be paved or landscaped and shall be screened or fenced for the privacy of the residential unit when located within four feet of established grade. Decks and balconies when designated for outdoor use may be used to satisfy this requirement. The following minimum standards for private open space shall apply:
 - (A) Seventy-five square feet for each ground floor unit with no dimension of the designated area less than 10 feet;
 - (B) Seventy-five square feet for each unit above the ground floor with no dimension of a designated area less than three and one-half (3-1/2) feet.
- (4) Common open space for residential condominium and cooperative development. In addition to private open space, open space accessible to or enjoyed by all project residents shall be provided

at not less than 100 square feet per dwelling unit, with no dimension of any designated common open space area to be less than 15 feet. Such common areas may be designed for passive or active use, and include landscaping or paving, provided such paving does not exceed 50% of the total required area. Common open space areas may be provided within the required rear setback area, or when the rear setback is inadequate, the open space may be provided on appropriately designed, rooftop areas.

- (5) Common open space for commercial and industrial condominium developments. Common open space may be provided above the first floor, but is not required.
- (f) Project Plans and Submittals. Project plans shall indicate accessibility for owners, guests, employees and customers to parking, storage, recreation and service areas; separation between living units and along property lines; provisions for security; orientation with respect to surrounding buildings and land uses; the location and type of utilities, building services and separate facilities for individual units and access easements to make repairs including:
- (1) Separate gas and electric meters and separate water shutoff valves; individual residential unit climate controls and any proposed climate zones (based on types of unit uses) for non-residential condominium projects;
 - (2) Shock mounting of mechanical equipment to reduce sound transfer;
 - (3) Flexible connectors for electrical and plumbing connections;
 - (4) Sound levels shall satisfy adopted noise element criteria and all state standards;
 - (5) Other reports may be required by the city as a condition for approving a condominium permit including an economic report, social impact of relocation procedures; report of structural condition; report on building compliance with all building, fire and zoning codes for proposed uses; certificate of occupancy; and sufficient additional information prepared by licensed professionals to evaluate the soundness of the conversion proposed project.

(Ord. 1015 § 1, (1974); Ord. 1706 § 2, (2003); Ord. 1810 § 4, (2007))

§ 26.30.080. Time limits.

A condominium permit granted or issued pursuant to this title shall become null and void when the tentative map for the condominium project expires because no final map has been filed in accordance with state law and this code, rather than the expiration time limit for planning approvals specified in Chapter 25.16.

(Ord. 1810 § 5, (2007))

**CHAPTER 26.32
CONDOMINIUM CONVERSION PERMITS**

§ 26.32.010. Purpose.

The city finds and determines that condominiums differ from buildings in which all units are in a single ownership in numerous respects and for the benefit of public health, safety and welfare, condominium projects should be treated differently. The city therefore states its express intent to adopt regulations for the conversion of existing buildings to condominium or cooperative ownership. Condominium conversion regulations are for the protection of displaced tenants and the purchasers of condominiums and cooperatively owned buildings. The purposes of this chapter are therefore:

- (a) To establish criteria for conversion of the existing multiple family rental housing to condominiums, community apartments, cooperatively owned property, and any other subdivision which is a conversion of existing rental housing, commercial, office or industrial buildings;
- (b) To reduce the impact of such conversions on residents in rental housing and tenants in commercial, office and industrial buildings who may be required to relocate due to the conversion to condominium ownership by providing for procedures for notification and adequate time and assistance for such relocation;
- (c) To assure that adequate information as to about the physical conditions of the structure which is offered for purchase is made available to purchasers of converted housing, commercial, office or industrial spaces;
- (d) To insure that converted properties achieve a high degree of appearance, quality and safety and is consistent with the general plan and zoning goals of the city;
- (e) To provide a reasonable balance of ownership and rental housing in the city and a variety of choices of tenure, type, price, and location of housing; and
- (f) To maintain a supply of rental housing for elderly, handicapped, and low and moderate income persons.

(Ord. 1206 § 2, (1981); Ord. 1707 § 2, (2003))

§ 26.32.020. Condominium conversion permit required.

Before final approval and issuance of any building permit for any condominium conversion project, a developer, builder or other person seeking to construct such a project shall first apply for and obtain from the planning commission a condominium conversion permit. Such condominium conversion permit shall be issued only:

- (a) Upon approval of the planning commission, or city council upon appeal or review, after it determines that the project has adequately met all the disclosure and upgrade requirements for conversion as required in this chapter or the planning commission has waive the requirement based on findings related to the property; and
- (b) Upon approval of the planning commission, or city council upon appeal or review, after it determines that such the project conforms to all applicable zoning regulations of Title 25 of this code; and
- (c) Upon the payment of fees in the amount required by Section 26.24.090 and council resolution.

Applications for condominium new construction permits shall be evaluated and processed pursuant

to the procedural requirements set forth for conditional use permits in Title 25 of this code.
(Ord. 1206 § 2, (1981); Ord. 1707 § 2, (2003))

§ 26.32.025. Conversion prohibited for twenty or fewer units or less than 20,000 square feet if commercial office, or industrial.

No application shall be accepted, and no conversion shall be allowed, for any residential project which will produce 20 or fewer condominium units or if in a commercial, office or industrial structure, containing less than 20,000 square feet of building area.

(Ord. 1206 § 2, (1981); Ord. 1707 § 2, (2003))

§ 26.32.030. Application requirements.

No application for a condominium conversion project shall be accepted for any purpose unless the application includes the following:

- (a) A site plan based on a site survey with at least the following details shown to scale:
 - (1) The location, height, gross floor area and proposed uses for each existing structure to remain and for each proposed new structure;
 - (2) The location, use and type of surfacing for all open storage areas;
 - (3) The location and type of surfacing for all driveways, pedestrian ways, vehicle parking areas and curb cuts;
 - (4) The location, height and type of materials for walls or fences;
 - (5) The location of all landscaped areas, the type of landscaping and method of irrigation;
 - (6) The location and description of all recreational facilities;
 - (7) The location, size and number of parking spaces to be used in conjunction with each condominium unit;
 - (8) The location, type and size of all drainage pipes and structures;
 - (9) The location and type of all on-site and nearest off-site fire hydrants;
 - (10) A detailed lighting plan indicating location and nature of lighting and lighting fixtures on the site and structure and in the common areas;
 - (11) The location, type and size of all on-site and adjacent overhead utility lines; and
 - (12) A grading plan showing existing contours, building pad elevations and percent slope for all driveways and parking areas.
- (b) Fully dimensioned elevation plans for all structures on the site, showing the architectural features and type of material of construction.

(Ord. 1206 § 2, (1981); Ord. 1707 § 2, (2003))

§ 26.32.040. Physical elements report.

A report on the physical elements of all structures and facilities shall also be submitted with the application.

The report shall include, but not be limited to, the following:

- (a) A report detailing the structural condition of all elements including structures, paving and fences of the property including, but not limited to, foundations, electrical, plumbing, utilities, walls, ceilings, windows, recreational facilities, fire protection sprinklers, alarms, mechanical equipment, roof, parking facilities and appliances, including all appliances installed in each unit. Such report shall be prepared by a registered civil or structural engineer.

Regarding each such element, the report shall state, to the best knowledge or estimate of the professional preparing the report, when such element was built, the condition of each element, when the element was replaced, the approximate date upon which the element will require replacement, the remaining useful life of the element, the cost of replacing the element, and any variation to the physical condition of the element from the current zoning and from the California Building Code as adopted by this code and in effect on the date of the report. The report shall identify any defective or unsafe elements and set forth the proposed corrective measures to be employed, including making all structures compliant with the California Building and Fire Codes as adopted by this code and in effect at the time the report is submitted to the city.

- (b) A report containing acoustical test data which indicates the noise attenuation characteristics of existing party walls and ceilings. The data for such report shall include a representative sampling of units involved in the project, but in no case fewer than two dwelling units, and shall be compiled by a qualified licensed acoustical engineer experienced in the field of acoustical testing and engineering. The consultant shall be selected by the community development department and shall perform the sampling in areas or units as approved or directed by the community development department.
- (c) A report prepared by a licensed civil engineer evaluating the prospects for providing separate utilities for the individual units.
- (d) A study of off-street parking, on-site maneuvering and parking stall access provided on site prepared by a licensed civil engineer.
- (e) A report from a licensed structural pest control operator, approved by the community development department, on each structure and each unit within the structure.
- (f) A report prepared by a licensed soils engineer on any known soil and geological conditions regarding soil deposits, rock formations, faults, groundwater and landslides in the vicinity of the project, and a statement regarding any known evidence of soils problems relating to the structures. Reference shall be made to any previous soils reports for the site and a copy submitted with the report.
- (g) A statement of repairs and improvements to be made by the subdivider necessary to refurbish and restore the project to achieve a high degree of appearance and to achieve full compliance with the current, applicable requirements of the California Building and Fire Codes and requirements of the zoning code.
- (h) Provisions for the dedication of land or easements for street widening, public access or other public purpose, where necessary, and in accordance with established planned improvements.

(Ord. 1206 § 2, (1981); Ord. 1707 § 2, (2003); Ord. 1810 § 6, (2007))

§ 26.32.050. Additional submittals.

The following shall also be submitted with the application:

- (a) A draft declaration of the covenants, conditions and restrictions, conforming to Department of Real

Estate requirements, which would be applied on behalf of any and all owners of condominium units within the project. The draft declaration shall include, but not necessarily be limited to, the conveyance of units, the assignment of parking, an agreement for common area maintenance, including facilities and landscaping (together with an estimate of any initial assessment fees anticipated for such maintenance), description of a provision for maintenance of all vehicular access areas within the project; and an indication of appropriate responsibilities for maintenance of all utility lines and services for each unit, provide for on-going maintenance of landscaping and physical facilities on the site including all structures and fencing, and designation of the responsibility to the condominium association to require and enforce that all onsite parking spaces shall be used only by operating vehicles and not for storage of boats, camper shells or other personal possessions. The declaration shall include all provisions required pursuant to tenant retention and relocation requirements of Chapter 26.33 of this code.

- (b) Specific information concerning the demographic characteristics of the project, including, but not limited to, the following:
 - (1) Square footage and number of rooms in each unit;
 - (2) Rental rate history for each type of unit for previous two years;
 - (3) Monthly vacancy rate for each month during the preceding two years;
 - (4) Composition of existing tenant households, including household size, length of residence, age of tenants, and whether receiving federal or state rent subsidies or number of employees by tenant and rents charged for commercial, industrial, and office uses;
 - (5) Proposed sales price of units;
 - (6) Proposed homeowners association fee;
 - (7) Proposed financing; and
 - (8) Names and addresses of all tenants.

When the developer can conclusively demonstrate that some of this information is not available, this requirement may be modified by the director of community development.

- (c) Signed copies from each tenant of a notice of intent to convert as required by this code, or for tenants from whom a notice of intent to convert is not submitted by applicant, proof of notice by certified mail to such tenants. At the election of the applicant, the copies of the notice of intent to convert and the proof of notice shall be submitted after the filing of the application, provided that such copies and proof shall be submitted prior to any public hearing on the proposed conversion.
 - (d) Signed consent to the conversion by the tenants of at least a majority of the units.
 - (e) Any other information which, in the opinion of the director of community development, will assist in determining whether the proposed project will be consistent with the purposes of this code.
- (Ord. 1206 § 2, (1981); Ord. 1707 § 2, (2003); Ord. 1806 § 38, 39, (2007))

§ 26.32.060. Acceptance of reports.

The final form of the site plan, physical elements report and other submitted documents shall be as approved by the city. The reports in their accepted form shall remain on file with the community

development department for review by any interested persons.
(Ord. 1206 § 2, (1981); Ord. 1707 § 2, (2003); Ord. 1806 § 40, (2007))

§ 26.32.070. Copy to buyers.

A summary of all reports required by this code, in a form approved by the community development department, shall be provided to each person executing any purchase, rental or other agreement to purchase or occupy a unit in the project. Copies of the full reports shall be made available at all times at the sales office and shall be posted at various locations, as may be required by the city, at the project site.
(Ord. 1206 § 2, (1981); Ord. 1707 § 2, (2003); Ord. 1810 § 7, (2007))

§ 26.32.080. Physical standards for condominium conversions.

(a) Adequate Physical Conditions. To achieve the purpose of this chapter, the planning commission shall require, except as may otherwise be provided in this code, that all units to be converted to condominium conform to the Burlingame Municipal Code in effect at the time of tentative map approval, including all building and fire codes.

All violations of the city code and all required modifications of units of the project must be corrected prior to the approval of the final map, or, upon approval of the planning commission, funds shall be adequately escrowed, prior to the closing of escrow of a unit, to assure completion thereafter of such corrective work.

(b) Specific Physical Standards. In addition to any other requirements, the following specific standards and requirements shall be met:

(1) Fire Prevention—Smoke Detectors and Sprinklers. Each condominium unit whether residential, commercial, industrial or office, shall be provided with a fire sprinkler system and approved detectors of products of combustion other than heat conforming to the California Building and Fire Code standards as adopted by this code.

(2) Sound Transmission.

(A) Shock Mounting of Mechanical Equipment. All permanent mechanical equipment, such as motors, compressors, pumps and compactors which are determined by the chief building official to be a source of structural vibration or structure-borne noise shall be shock mounted with inertia blocks or bases and/or vibration isolators in a manner approved by the chief building official.

(B) Noise Standards. The structure shall conform to all exterior and interior sound transmission standards of the California Building Code and the city's general plan. In those cases where present standards cannot reasonably be met, the planning commission may require the applicant to notify potential buyers of the noise deficiency currently existing within these units.

(3) Utility Metering.

(A) The consumption of gas and electricity within each unit shall be separately metered so that the unit owner can be separately billed for each utility. A water shut-off valve shall be provided for each unit or for each plumbing fixture. The planning commission may find at the time of approval that individual metering of gas and electricity is impractical and excessively expensive and waive those requirements. Each unit having individual meter(s)

or heater(s) shall have access to its own meter(s) and heater(s) which shall not require entry through another unit.

- (B) Each unit shall have its own panel, or access thereto, for all electrical circuits which serve the unit.
- (4) Private Storage Space. Each unit shall have at least 200 cubic feet of enclosed, weather-proofed, and lockable private storage space in addition to guest, linen, pantry and clothes closets customarily provided. Such space may be provided in any location approved by the planning commission, but shall not be divided into two or more locations. In cases where the developer can demonstrate that this standard cannot reasonably be met, this standard may be modified by the planning commission.
- (5) Laundry Facilities in Residential Projects. For residential projects, either a laundry area in each unit or common laundry areas shall be provided; provided such facilities shall consist of not less than one automatic washer and dryer for each common five units or fraction thereof. In such cases where the developer can demonstrate that this standard cannot reasonably be met, this standard may be modified by the planning commission.
- (6) Landscape Maintenance. All landscaping shall be restored or replanted as necessary taking into consideration shade and sun patterns on the site and shall be irrigated and maintained to achieve a high degree of appearance and quality; front setback landscaping may be 50% to provide for an on-site delivery area and, with a special permit, landscaping may be reduced to 45% of the front setback if a circular driveway is provided; if the front setback is altered to provide on-site parking for delivery vehicles or to provide a circular driveway, the front setback shall be relandscaped with the emphasis on planting large scale and more vertical plant material which will frame and screen the view of the structure from the street and turf and ground cover areas in the front setback shall be minimized.
- (7) Condition of Equipment and Appliances. The developer shall provide written certification to the buyer of each unit at the close of escrow that any dishwashers, garbage disposals, stoves, refrigerators, hot water tanks, air conditioners and any other major appliances that are provided are in operable working condition as of the close of escrow. At such time as the homeowners association takes over management of the development, the developer shall provide written certification to the association that any pool and pool equipment (filter, pumps, chlorinator) and any appliances and mechanical equipment to be owned in common by the association is in operable working condition.
- (8) Refurbishing and Restoration. All main buildings, structures, fences, patio enclosures, carports, accessory buildings, sidewalks, driveways, landscaped areas and additional elements as required by the community development department shall be refurbished and restored as necessary to achieve a high degree of appearance, quality and safety.

(Ord. 1206 § 2, (1981); Ord. 1707 § 2, (2003); Ord. 1806 § 41, (2007); Ord. 1810 § 8, (2007))

§ 26.32.085. Minimum project requirements.

Except as otherwise provided by law, in approving or conditionally approving any condominium project, the same minimum requirements shall be met for parking, access, vehicular driveways, parking areas, setbacks, landscaping and open space, and project plans and submittals as required by Section 26.30.070 of this chapter.

(Ord. 1707 § 2, (2003); Ord. 1810 § 9, (2007))

§ 26.32.090. Hearing.

At the time of the hearing on the tentative map, the planning commission shall also hold a hearing on the conversion permit. Notice of the hearing shall be given to all tenants of the proposed conversion and posted on the property.

(Ord. 1206 § 2, (1981); Ord. 1707 § 2, (2003))

§ 26.32.100. Hearing considerations.

At the hearing on the application for conversion to condominiums, the planning commission shall consider the following:

- (a) The opinions of the tenants of the project as to whether the proposed conversion protects their interests;
- (b) Whether or not the amount and impact of the displacement of tenants, if the conversion is approved, would be detrimental to the health, safety or general welfare of the community;
- (c) The role that the commercial, industrial, office or apartment structure plays in the existing rental market for that use and whether this role is substantially altered by the proposed conversion in the light of the tenant protection provisions in this code. Particular emphasis should be placed on the evaluation of rental structures to determine if the existing building is serving low and moderate income tenants, or special groups of tenants such as elderly or handicapped;
- (d) If applicable, whether or not lower cost home ownership opportunities will be increased by the conversion of apartments to condominiums, stock cooperatives or community apartments; and
- (e) Whether tenants will have substantial difficulty in obtaining comparably priced facilities.

(Ord. 1206 § 2, (1981); Ord. 1707 § 2, (2003))

§ 26.32.110. Findings.

The planning commission shall not issue a permit for condominium conversion unless the planning commission finds that:

- (a) All provisions of this chapter are met;
- (b) The proposed conversion is consistent with the city's general plan;
- (c) The proposed conversion will conform to this code and other applicable code provisions, if any, in effect at the time of tentative map approval, except as otherwise provided in this chapter or specifically excepted by the planning commission; and
- (d) The overall design and physical condition of the condominium conversion achieves a high degree of appearance, quality, and safety.

(Ord. 1206 § 2, (1981); Ord. 1707 § 2, (2003))

**CHAPTER 26.33
DESIGNATED UNITS, PURCHASE AND SALE RESTRICTIONS AND TENANT
PROTECTIONS**

§ 26.33.010. Inclusion of provisions in covenants, conditions and restrictions.

The provisions of Sections 26.33.020 to 26.33.050 shall apply to all condominium conversions and shall be contained in the declaration of covenants, conditions and restrictions.

(Ord. 1206 § 3, (1981))

§ 26.33.020. Designated units.

- (a) The party proposing the conversion shall designate a quantity of units totaling not less than 10% of the units in the project to be converted. The designated units shall include those units occupied by senior or handicapped tenants, as defined below, at the time the notice to convert is given. If the number of units occupied by senior or handicapped tenants at the time the notice to convert is given is larger than 10%, the initial number of designated units shall be the number of units occupied by senior or handicapped tenants at the time the notice to convert is given; provided, that when the initial number of designated units is more than 10% of the units in the project due to their occupancy by seniors or handicapped, as designated units cease to be occupied by senior or handicapped tenants, such units shall cease to be classified as designated units until their number is reduced to the required 10%.
- (b) For purposes of this section, seniors shall be defined as persons 62 years of age or older and handicapped shall be defined as persons who have a physical or mental handicap which substantially limits one or more major life activities, including caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.
- (c) The designated units are subject to the following restrictions:
 - (1) Occupancy by Seniors or Handicapped. The designated units shall be occupied by persons who are seniors or handicapped. However, if a designated unit is occupied by husband and wife, only one spouse need be senior or handicapped. Also, a surviving spouse of a senior who was married to the senior and occupied a designated unit at the date of death of his or her spouse shall be allowed to occupy the designated unit regardless of the age of the surviving spouse.
 - (2) Lease of Designated Units. Upon conversion, any senior or handicapped tenant as of the date notice to convert was given shall have the right to enter into a lifetime lease for the unit which the senior or handicapped tenant occupies. The lease shall provide that rental increases shall not occur more frequently more than once per year and each rental increase shall be limited to a maximum of 50% of the increase in the Consumer Price Index for the San Francisco-Oakland Metropolitan Area.

(Ord. 1206 § 3, (1981))

§ 26.33.030. Resale of units purchased at original sale.

No unit purchased from the developer shall be sold within one year from the date of such purchase except for good cause amounting to a substantial change in the circumstances of the original buyer occurring after the date of the purchase. Upon any such resale or proposed resale, the developer shall have the right to repurchase the unit at a price equal to the price the unit was acquired by the original buyer plus interest and costs of purchase paid by said original buyer; the intent here being to make the original buyer whole if the

developer elects such a repurchase.
(Ord. 1206 § 3, (1981))

§ 26.33.040. Limit of quantity of units purchased.

No buyer shall be permitted from the developer more than 5% of the total units available for sale other than units designated for seniors and handicapped persons.
(Ord. 1206 § 3, (1981))

§ 26.33.050. Candidate qualifications for association membership.

If permitted by the California Department of Real Estate, the declaration of covenants, conditions and restrictions for the project shall provide that only owners who occupy a unit shall qualify as candidates for election to the board of directors of the condominium association for the project.
(Ord. 1206 § 3, (1981))

§ 26.33.060. Tenant provisions.

The following shall apply to all conversions of residential units to condominiums:

- (a) Notice of Intent. A notice of intent to convert shall be delivered to each tenant. The form of notice shall be on a form prepared by the community development department and shall inform tenants of all rights provided under this section. It shall be mailed or otherwise delivered within five days of filing the application.
- (b) Leases for Continuing Tenants. Any tenant who does not wish to purchase a unit but who wishes to continue renting and gives notice of such intention within the time set forth herein shall be offered a lease of not less than two years, to take effect upon approval of the final map for the project. The lease shall provide for rent increases which shall not exceed 5% per year. Base rent for such leases shall be the rent in effect at the time the conversion application is filed with the city.
- (c) Tenants' Right of First Refusal. In conformity with the applicable California Government Code sections, existing tenants of any unit shall be given a nontransferable right of first refusal to purchase the unit which they occupy at a price no greater than the price offered to the general public. Notice of exercise of such right must be given as provided herein.
- (d) Notice of Tenant's Election. Each tenant shall have 90 days from the date of issuance by the California Department of Real Estate of the Subdivision Public Report or from the commencement of sale of the units, whichever date is later, to declare the tenant's election:
 - (1) Lease. To lease a unit;
 - (2) Purchase. To purchase a unit; or
 - (3) Vacate. To neither lease nor purchase a unit, but instead to vacate the project.

Failure of a tenant to declare an intent within the time designated shall be deemed an election by the tenant to neither purchase nor lease any unit but instead to vacate the project.

- (e) Vacating Units by Nonpurchasing or Nonleasing Tenants and Payment of Moving Expenses. Each tenant of the project at the time the application for conversion has been filed who (a) has not previously given notice of his or her intent to move, (b) elects not to purchase or lease a unit or who

is silent on the notice of right to buy or lease as provided herein, and (c) is not in default of the obligations of the rental agreement or lease under which he or she occupies his or her unit, shall have not less than one year from the approval date of the conversion permit or final subdivision map, whichever is later, to find substitute housing and relocate. The developer shall notify each such tenant immediately prior to the time of final map approval of the anticipated date required to vacate the unit and when the one-year period shall commence. Evidence of delivery of such a notice to each such tenant shall be submitted prior to approval of the final map. The developer shall pay each such tenant his or her actual moving expenses, provided that developer's obligation for a tenant's moving expenses shall not exceed four times the monthly rent paid by such tenant for his or her unit prior to tentative map approval as provided herein. A tenant commencing occupancy of a unit after the application for conversion is filed shall not be entitled to moving expenses. Tenants eligible to receive the moving expenses shall receive such expenses at the time they relocate.

- (f) Increase in Rents. The rent of any tenant in the project for which an application for a conversion permit has been filed shall not be increased for one year from the time of filing of the application and thereafter no more than once each year until the unit is sold or until the subdivision application is denied or withdrawn. Any rental increase during such period shall not exceed one-half of the increase in the Consumer Price Index for the San Francisco-Oakland Metropolitan Area.
- (g) Termination by Tenant. Any tenant shall have the right to terminate any lease or rental agreement for a unit within the project to be converted without any penalty whatsoever after notice has been given of the intention to convert if such tenant notifies the developer in writing 30 days in advance of such termination.
- (h) Alternative Accommodations. The developer shall provide alternate comparable accommodations, including moving expenses, for such period the tenant is displaced or his or her unit is rendered uninhabitable by remodeling or other conversion procedures.
- (i) Notice to New Tenants. After submittal of the tentative map, any prospective tenants shall be notified in writing of the intent to convert prior to leasing or renting any unit.

(Ord. 1206 § 3, (1981); Ord. 1806 § 42, (2007))